



Policing Labour in Canada

Alan Hall & Willem De Lint

To cite this article: Alan Hall & Willem De Lint (2003) Policing Labour in Canada, Policing & Society, 13:3, 219-234, DOI: [10.1080/10439460308035](https://doi.org/10.1080/10439460308035)

To link to this article: <https://doi.org/10.1080/10439460308035>



Published online: 27 Oct 2010.



Submit your article to this journal [↗](#)



Article views: 442



View related articles [↗](#)

POLICING LABOUR IN CANADA

ALAN HALL and WILLEM DE LINT

Department of Sociology and Anthropology, University of Windsor, Canada

(Received August 2002; In final form January 2003)

Recent research on the policing of labour disputes suggests that there have been substantial historical changes in policing practices and policies in North America and Europe. Much of the literature points to a postwar movement from reactive policing grounded in the threat and use of force to a more preventive consent-based approach which relies on communication, negotiation and self-policing. At the same time, there have been conflicting reports of increased use of police force and confrontation with labour in some countries such as Britain, while police actions in a number of recent anti-globalization protests in Canada, the United States and Europe have demonstrated readiness of the police to use substantial force in certain public disorder situations. These developments speak to the need to examine more fully the ways in which the police construct their role and the role of labour unions in labour strikes and public protests. Based on interviews with police in 38 different cities and 10 provincial jurisdictions across Canada, this article looks at the ways in which the police understand and implement policies in strike and protest situations. It is argued that the police in most services have constructed a minimalist role for themselves in “normal” strike and protest situations which is grounded in processes of responsabilization, flexible policing and privatization. As they understand most situations, the “best way” to maintain order is to limit the show and use of force, while relying on negotiation and persuasion to resolve conflicts, and civil court or labour board proceedings and the threat of court imposed fines. At the same time, in contexts where the police perceive a clear threat to public interest or safety, in particular when unions or more typically other radical groups refuse to play by the rules of the game, police thinking shifts markedly to the view that extraordinary force is necessary and justified both to prevent and control public disorder.

Keywords: Canada; Labour; Protests; Strikes; Accommodation; Coercion; Public interest

INTRODUCTION

Recent events in Genoa, Washington, Seattle, Vancouver, Quebec City and Windsor, Ontario have raised widespread concerns about the police use of force in public order situations. In Canada, police actions in several public order incidents have led to public inquiries sharply critical of police practices (Estey 1996; RCMP Complaints Commission 2001a, 2001b, 2002). More broadly, critics of the police have also pointed to the formation and deployment of heavily armed public order and quick response teams as further indications of a trend towards more repressive policing (Hills 1995; Kraska and Kappeler 1997; Pugliese and Bronskill 2001). Legislative changes prior to and

Correspondence to: Willem de Lint, Department of Sociology and Anthropology, University of Windsor, 156–3 South Chrysler Hall, 401 Sunset Avenue, Windsor, Ontario, Canada. This research was supported with a grant from the Social Sciences and Humanities Research Council of Canada.

since September 11 in several Western countries including Canada have also raised concerns about less consensual and “neutral” police practices. During the mid- to late 1990s, particular incidents, including the fatal shooting of a Native protester in Ontario, several major labour and anti-poverty confrontations at the Ontario Legislature and the police use of pepper spray and mass arrests during the 1997 Asia Pacific Economic Cooperation (APEC) meetings in Vancouver have produced as yet unsubstantiated accusations of direct political interference as the basis for police aggression (Pue 2000; Rapaport 1999).

For some, these developments bring to mind Stuart Hall’s authoritarian state thesis, developed to explain shifts in Britain during the 1980s. Hall (1980) argued that the decline of state welfarism, together with the emergence of neo-conservatism, compelled a movement away from consent-based forms of control over labour and other problem populations (see also Hillyard and Percy-Smith 1988; Garland 2001; Innes 2001). Following this line of argument, with particular reference to the 1984–1985 coal miners strike, and adopting the standard critical view of the police as a political arm of the state, a number of researchers have suggested that the British police made a generalized shift during the 1980s towards more aggressive confrontation (Waddington 1992; Hills 1995; Reiner 1998; Uglow 1988).

While police actions in various anti-globalization protests demonstrate the readiness of the police to deploy and use force in various “high stakes” contexts, there is an emerging research literature on mass public order that challenges the proposition that there has been a generalized shift within policing towards coercion in public order situations (Geary 1985; Della Porta and Reiter 1998; McPhail *et al.* 1998; de Lint and Hall 2002). Indeed, Continental European and North American research suggests that public order policing standards and practices have increasingly *de-emphasized* the use of force as the principal method of public order policing, stressing instead proactive prevention through communication, negotiation, self-policing and restraint in the use of arrest powers (Della Porta and Reiter 1998: 28; MacKenzie and Plecas 2001; King 1997). In the case of the United States, McPhail *et al.* (1998) indicate that public order policing has changed substantially since the 1960s when police used what they refer to as a style of “*escalated force*” policing, which relied heavily on the threat and use of force to exercise control. They argue that in the 1980s and 1990s, the police largely shifted to a “*negotiated management*” approach that recognized the right to protest with increased tolerance for community disruption and minimal use of force. In Canada, King’s (1997) study of the policing of Natives by the Royal Canadian Mounted Police (RCMP) and the Ontario Provincial Police, Latornell’s (1993) review of strike policing policies of several police services in Ontario and our own case study of strike policing in Windsor, Ontario (de Lint and Hall 2002) all suggest that many police services have moved to adopt what Della Porta and Reiter (1998) refer to as a “softer” approach to public order policing. Similar arguments have been made about developments in Italy, France, Spain, Germany and other European countries, some of which have long histories of state-centred repressive police (Della Porta 1998; Fillieule and Jobard 1998; Jaime-Jimenez and Reinares 1998; Wisler and Kriesi 1998; Winter 1998).

Although this literature is suggestive, very few studies have looked in depth across a large number of police services at the implementation of what our police informants call “liaison policing”. In addition, most have relied on a fairly narrow review of police documents and policies and/or a limited number of interviews with police only. However, the need to look more closely at current practices and thinking within the

police and its impact on the groups in question is especially evident given the apparent contrast between the research findings on police policy and the numerous recent occurrences of violence in a large number of events. Indeed, in predicting the relative incursion of “authoritarian state” politics over sites of labour contest, what is needed is much more sensitivity to the interplay of various horizontal and vertical factors. For instance, the likelihood of violence would appear to be related to the extent of symbolic value invested in a particular challenge and also to its ready politicization or *depoliticization* by agents of public authority and other parties to the challenge. Key is the degree to which, indeed, police have been drawn into seeing labour strikes as a “law and order” issue requiring the show of authority to which Hall refers.

There is reason to believe that, unlike the case, especially, of Great Britain, the involvement of organized labour in mass protests or public demonstrations may be seen by Canadian police as *decriminalizing*. As many have argued, Canada has moved much more slowly than Britain, the United States, New Zealand and many European countries to reverse postwar labour gains (Price 1995; Kumar 1993; Dannon 1995). Canadian unions exercise influence and constraint on the picket lines, they achieve meaningful gains and employers are even today reluctant to resort to replacement workers. Certainly, the establishment of the Northwest Mounted Police and the Ontario Provincial Police in 1873 and 1909 respectively can be linked to key labour control issues (cf. Brown and Brown 1973; Higley 1984). In addition, there are tensions in Canadian labour relations within the broader context of globalization and, arguably, the emergence of some post-Fordist strands. However, the past four decades has only seen periodic outbursts of violence rather than a sustained capital-state partnership to reduce union power on the picket line. In traditional Canadian practice, police have not been mobilized to politicize against labour as a kind of symbolic opponent. Consequently, there is a basis for arguing that police have been able to take a more conciliatory approach precisely because the postwar model of Fordist consent-based labour relations is still substantially intact.¹

In this article, we report on a Canada-wide study specifically focusing on the policing of strikes by major provincial and municipal police services. Our main objective is to document the extent to which the “softer” approach has developed within and across different services in Canada, to identify the main operational and ideological parameters of the approach, and then to discuss the implications of the approach for labour and the conduct of strikes. Although the focus of the article is confined to labour disputes, we also draw in a comparison of policies and practices in social protest situations as an initial effort to begin understanding the way in which the police differentiate groups and public order situations as sites for accommodation and restraint. Ultimately, we seek to present current policing policies as entrenching a new understanding of labour disputes as a private matter in which visible police coercion cannot be routinely expected. Given current considerations of the status of public policing in the maintenance of the public interest (Loader and Walker 2001) and public order (Hobbs *et al.* 2002), our findings may be understood as a qualified success story: the liaison police officers we interviewed actively brokered a version of the limits and interests of the state fairly consistent with the *status quo ante* of welfare liberalism. How long this rapprochement

¹ A fairly critical indicator of this is the persistence of legislation in some provinces such as Quebec and British Columbia of bans against replacement workers. Even in Ontario, where the ban was rescinded in the 1995 reform, very few employers have tried to use replacement workers.

can persist given capital mobility, increasingly radicalized “protest” politics and more politicized policing, is uncertain.

RESEARCH METHODS

This article reports on phone interviews with labour liaison officers from 38 major police services across Canada (service population > 100,000), follow-up in-depth interviews with multiple police officers at various ranks in four police services ($N = 20$), interviews with union officials ($N = 15$), and observations and archival research on selected strikes and protests in four Canadian cities. The main purpose of the phone interviews was to document the similarities and differences in current police policies and practices regarding the policing of labour disputes. They were also taken to gain general information on when, how and why these policies developed. All municipal or regional forces across Canada with populations over 100,000 were contacted, along with the three provincial forces and several RCMP provincial detachments for a total of 38 interviews. The interviews were conducted between January and June of 2000 and took an average of 40 minutes to complete.

There were four main sets of questions. One set of open-ended questions focussed on a description of the current policy and its procedures and administration; a second set of close-ended questions was aimed at assessing the major practices and implementation of the policy; a third set concentrated on the history of the policy; and a final set asked about the role and impact of private security in labour disputes. Respondents were generally the officers responsible for administering or implementing their force’s labour disputes policy. The interviews with Quebec officers were conducted in French. Police services’ written policies and any other relevant training or publicity materials were also collected.²

SETTING THE CONTEXT: POLICING IN A NEO-CONSERVATIVE CANADA

Before discussing the results of our research, it may be useful to review the organization of policing and labour law in Canada and provide some sense of the political context. Canada has three levels of public police: the federal level, which includes the RCMP; the provincial level, which includes the Surete du Quebec, the Ontario Provincial Police and the Newfoundland Constabulary (restricted ironically to St John’s); and the municipal (including regional) level, which ranges from very large police services such as the Toronto Police Service to small agencies consisting of a handful of officers. The RCMP is also contracted to provide provincial and some municipal policing, with some municipalities also contracting policing up to the provincial agencies. While the RCMP and provincial police services would normally have no public order role where municipal police authorities exist, they may be called in for major events such as the Organization of American States (OAS) meetings in Windsor, Ontario in June 2000.

Labour law in Canada is largely a provincial responsibility and is governed with

² A second phase of the study is now underway. This includes a continuation of more detailed interviews with police officers and management from selected police services, and interviews with union and community representatives. This aspect of the study also involves a continuation of on-site observations of strikes and protests and interviews with picketers.

some variation across the provinces. The government-protected rights to unionize, collectively bargain and strike were in the main established on a country-wide basis during the Second World War (Russell 1995). These rights also came with a number of significant restrictions, including a requirement to submit to government conciliation and a ban on strikes for the length of time covered by the collective bargaining agreement. For some, these requirements help to explain a relatively active strike history in postwar Canada (Huxley 1979; Jamieson 1971; Palmer 1992), which also ushered in a period of substantial growth in union membership and sustained wage improvements that lasted into the 1970s. Public sector unionization also developed a strong prominence in Canadian labour movement during the 1960s and 1970s following the introduction of federal and provincial legislation recognizing the public sector right to unionize and collectively bargain, although governments often placed significant restrictions on the public sectors' right to strike (Smaller 1995).

For some analysts, the 1980s and 1990s are best viewed as a return to coercion in industrial relations, led substantially by a state intent on moving away from the Wagnerian protections for union organizing and collective bargaining (Palmer 1992; Panitch and Swartz 1993). Yet, as is also pointed out (e.g., Russell 1990, 1995), legislative reforms have not been uniformly neo-conservative, in part because social democratic governments were elected in a number of provinces at different points in time during the 1990s. Even within contexts where the governments have espoused strong neo-conservative tendencies, labour reforms, albeit regressive, have largely left the basic union rights intact. Certainly, nothing like what happened in New Zealand in 1991 has even been proposed for Canada (Dannon 1995). As compared to the United States or Britain, the union declines in Canada have been limited and, indeed, in some sectors, there are persistent signs of union challenges to corporate and state demands for concessions (Kumar 1993; McBride 1995; Price 1995; Russell 1990, 1995).³ On the other hand, it is widely acknowledged that both private and public sector unions have been weakened by globalization and corporate and state downsizing, as evidenced by declines in union wages, density, certifications and strike activity (Russell 1995; Palmer 1992).

THE “STRIKE LIAISON” APPROACH: CONSTRUCTING THE UNION AS RESPONSIBLE AND STRIKES AS PRIVATE MATTERS

Results of phone interviews show that most services reported that there was a major shift to “liaison approach policing” in the early to mid-1990s. A further one-quarter of the services identified the 1980s as the period when they adopted this “new approach”.⁴ During a later time frame, some provincial governments, including Ontario, also

³ This is not meant to suggest that unions in Canada are not struggling with substantial changes in labour markets, technologies, industrial relations practices and regressive labour reforms. However, it is meant to qualify the extent to which those changes represent a fundamental shift from Fordist industrial relations and Wagnerian state labour law in Canada (Russell 1999).

⁴ Of the 38 police services interviewed, 33 had written policies pertaining to the policing of labour disputes or strikes. A total of 21 of these services had distinct and separate policies for strikes and labour disputes, while the remainder had “public order” or “crowd control” policies that addressed or incorporated procedures for labour strike situations. Three municipal forces and two provincial forces reported no written policies relating specifically to strike situations, although all but two of these were operating in ways consistent with the other forces. Three provincial jurisdictions had also established province-wide standards for all police services, although in some cases, these were much less detailed than the policies established by specific police services.

introduced province-wide policing standards for labour disputes (and for some public order situations) that reflected the new communication- and negotiation-oriented approach.⁵ Many municipal services cited particular strike events in their jurisdictions as watersheds that prompted the shift, others presented the shift as more incremental, developed from reflection on various events (de Lint and Hall 2002). In the latter case, our interviews suggested that the police largely came to realize over time that unions could be relied upon to control their members under most circumstances and that close policing was not only unnecessary, but frequently harmful (Interviews A5, B3, C1).

Here, we focus on understanding the more common trends rather than examining the differences between services and locales.⁶ In almost all cases (95 per cent), the adoption of the new approach represented the first official development of a separate written policy or standards for labour disputes. In most cases, the labour dispute policy was initially developed in isolation from the development of crowd control or other public order policies or programmes. Now, many services have integrated or cross-referenced policies that deal with crowd control, public order and labour disputes, and many have located their industrial dispute personnel within public order or public safety units.

In terms of organizational structure, the major change in most services involved the specialization of a labour liaison function that involved assigning personnel to perform the function. This function was usually performed on a part-time basis, with time allocated depending on the number of strikes and the demands of the strikes for liaison intervention. These liaison positions were housed in a variety of departments or units within services – most in public order units, community relations or emergency planning. While all services presented these specialized liaison positions as critical to their approach, requiring a high level of expertise in communication skills and conflict resolution, very few of the services provided any extra training, nor did the selection procedures for the positions require specialized education or experience.

Procedurally, most police services report that they make contacts with both parties prior to or just after a strike begins. A few services are proactive in monitoring negotiations and labour board reports, but the majority rely on either management or the union to contact them initially. Following this initial contact, the liaison officer, who is usually in civilian attire, sets up a face-to-face meeting with both parties. These meetings, usually held individually with each party at the outset of a strike, are to inform both parties about the role of the police, the rights of each party and provide details on criminal offences and the civil law. Most police services (72 per cent) also reported that they use the initial meeting to recommend the development of a strike protocol between the employer and the union regarding delay times for vehicles and people, placement of the picket line, etc. Some services (21 per cent) indicate that they often get involved directly in mediating the development of the protocol. (Although recent court decisions in Ontario (e.g., *Ogden Entertainment v. Retail/Wholesale Division, USWA, Local 440*, Court of Appeal for Ontario, 17 April 1998) have reportedly discouraged direct police involvement in such negotiations (Interviews BP3

⁵ The introduction of provincial standards by the Ontario government in 1996 was largely in response to recommendations from the major police services, most of which had already moved in this direction.

⁶ Some of the differences in adoption follow provincial lines, with services from British Columbia and Ontario being generally ahead of services from Quebec; most of the Atlantic provinces; and Saskatchewan, Alberta and Manitoba. On the other hand, provincial variations in adoption do not accord with right-leaning versus left-leaning provincial politics. Some of the late adopters were social democratic, while others were neo-conservative governments.

and AP2⁷; Observations, Industrial Liaison Policing Workshop, Hamilton, Ontario, 2001)). The liaison officers then monitor the strike, usually by making occasional visits to the picket line and by reading uniform patrol reports. Patrol, bike or foot patrols are used to check on the picket line at intervals, which vary depending on the situation, but police services do not post uniform officers at a location unless there are specific incidents. If conflicts or problems emerge on the picket line, the liaison does the initial investigation. The liaison officer also mediates resolutions to the conflicts between the pickets and the employer that develop during the strike, and responds to other issues such as public safety or traffic concerns through negotiation with pickets and the employer. If there are concerns or complaints of a criminal nature, the liaison in most services attempts to stay out of it – “keeping their hands clean” as one liaison officer put it (Interview B7). In the service of maintaining this neutrality, supervising or uniformed officer are often brought in to investigate criminal accusations. For many services, the ideal is to “keep the uniforms out of it” (Interview C1), but less structured policy allow even the initial investigation to be conducted by uniformed officers.

The police characterized their previous approach as entirely reactive and situational in dealing with labour disputes. There was no differentiation between labour disputes and other public order matters, and the police relied on force or the show of force as a primary method of crowd control.⁸ They acknowledged that their respective police services were generally much more ready to use force and arrest powers as major tools for keeping and restoring order on the picket line. Police respondents also reported that there was rarely any prior or ongoing communications with labour or the employer. They routinely performed duties at management’s request, including routine escorting of people and vehicles. There was also a lack of formal organizational structure or specialized personnel relating to labour policing. Many police informants recognized that their agencies were not acting in a neutral fashion because the police services were largely or exclusively responding to the employers’ direction and needs. As one liaison officer put it: “of course we weren’t neutral, we were basically doing the bidding of the employer – they’d call us and up and tell us they want us to open up the line and off we’d go” (Interview A9).

“LIAISON POLICING”

Policing may be understood in terms of the accessing of troublesome individuals and problem populations (de Lint 2003). The art and craft of policing, but also the question of the deployment of governmental resources, involve determining which sites demand penetration by these “agents of the interstices” and which may be governed at a distance. Our interview data show us that labour strikes attract only the qualified interest of public police. Open-ended questions about current policy yielded the general principle that strikes are a civil rather than a criminal matter, and the following additional points:

- Police are not servants of management.

⁷ AP, BP, CP, and DP refer to in-depth taped interviews with police.

⁸ This historical view of the past was also largely “confirmed” in more in-depth interviews with a smaller number of retired or long-term police officers who had been involved in labour policing prior to the shift ($N = 8$).

- Direct intervention or involvement on picket lines is limited to breaches of the peace, safety concerns and criminal acts.
- Police presence at or surveillance of strikes is minimized.
- Police offer expert advice and promote dialogue to further self-regulation.

Defining the strike as a civil matter is the foundation of police refusal to open picket lines to escort management, replacement workers, equipment or product through the line. Since the strike is a civil matter, police perceive that they ought not be involved in crossing or challenging a picket line in the service of one party. They interpreted this as a change from a traditional reactive posture and past willingness to be provocative by using force in opening picket lines:

They [the employers] used to call us on a frequent basis prior to any strike and they'd dictate to us that we're gonna bring people in here and we want access and that's the way it is going to be. We don't do that [now]. We will meet with both sides, advise them of our neutrality, and that if they have difficulty with obstructed entrances, if they have difficulty with the number of pickets, then there's a civil process in place and that's the Labour Relations Board. They can seek injunctions there [or in the courts]. (Interview C2)

Pickets still do not have the legal right to delay or block access to private property, and using physical force (i.e., the picket line) to achieve that outcome is still a criminal act. Police partially explain the reduced need for police intervention as due to declining union violence on the picket line. However, police now actively avoid trouble by discouraging management or public efforts to cross the picket line. "We would only intervene if a serious criminal offence was involved. I don't consider blocking vehicle access to be a serious criminal offence, so we would look for the employer to get a civil injunction" (Interview C2). Tactically, the police seek to delay confrontations as long as possible, negotiate resolutions if possible and await court resolutions if imposed. In fact, very few charges are reportedly laid by the police, with most services (80 per cent; $N = 31$) citing charges at no more than 10 per cent of the strikes. Along with resource issues, the avoidance of arrests and uniformed intervention is motivated by maintenance of the neutral status.

By calling in investigators and reacting immediately to incidents and complaints, police seek to make the line of "criminality" *appear* as clear as possible so that the union leaders may know where it can be drawn for their members. Most services emphasize that they will arrest strikers if there is criminal behaviour, outlined in their initial meetings and communications.⁹ To this end, brochures are routinely distributed that provide the legal definitions of various criminal offences such as "causing a disturbance", "assault", "uttering threats", "intimidation", "mischief", "dangerous driving", etc. Services reported, and union and company informants tend to confirm, a strict policy of responding quickly and consistently to any accusations or complaints of criminal behaviour.

At the same time, as a number of liaison officers maintained, the line regarding legal and illegal picketing needs to be somewhat opaque: there is room to move as the strike proceeds and neither union nor police are backed into a corner at which they feel compelled to act/react (Interview B3). Especially with union representatives, which liaison officers see as critical to their capacity to act as mediators, flexibility and

⁹ Although the police are more likely to use the parameters of "safety" as the basis for their decisions to intervene rather than criminality.

tolerance regarding the enforcement of the law are seen as important elements underlying their capacity to maintain neutrality.

Police take on some important coordinating and mediating functions. By meeting with both parties before or just after a strike begins, they try to *educate* the leaders of both sides regarding the limits of the police role – clearly stating they will not intervene to break open picket lines or monitor the strike unless there are criminal offences.

We went from reacting to labour disputes to being proactive – providing information to both unions and employers in the hopes that labour would be encouraged to know their rights and responsibilities and communicate those to their respective management and picket captains. (Interview B6).

Police also selectively tutor on the law, emphasizing to each party the rights and powers of the other. Liaisons are actively involved in both mediating and managing “trouble” on picket lines – using various dispute resolution principles and tactics to achieve resolutions without the need for uniformed police presence or court intervention. Tactics include playing to the union or employer interests, pointing to pitfalls or negative consequences, providing alternative less problematic actions, allowing the leadership to introduce the modifications to save face and helping to gain concessions from one side to use as a carrot for the other side. The emphasis is on education and communication to encourage self-regulation or self-control.

Although police report that they do not suggest any specific terms for the protocol, unions report, and police acknowledge, that police do try to influence its content, if not initially, then later if certain “problems” develop. Police report that their major concerns are safety and traffic problems, and on that basis they seek to reshape or influence picket line protocols and behaviour in substantial ways. One union strike coordinator recalls that the police came back to her almost daily for the first two weeks because of traffic concerns: “asking us to modify and re-modify our delay times and procedures”. This union respondent reported that they did modify their protocol, although often not precisely in the way requested. The unions report that they often modified their picket behaviour where they thought the police requests were “reasonable” – that is, where safety and traffic problems were seen as valid foundations for modifications. Critically for our union informants, such adjustments were interpreted as “negotiated outcomes”, not as products of police or legal coercion. “They came to me several times to say that our protocol was not working – that it was tying up traffic and causing safety problems. Each time I would try to find a workable balance – we tried to accommodate their concerns because I felt it was reasonable from a safety standpoint” (Interview A8). Indeed, within their understanding of what it means to be “good” negotiators and mediators, the police do not generally move in with fixed bottom lines, but seek to find a middle ground.

At the same time, the courts impose downward pressure on the police to attempt to resolve the problem, as it were, “in the interstices”. One of the standard conditions that must be met before a judge will grant an injunction is a prior effort by the complainant to seek police assistance (*Ogden Entertainment v. Retail/Wholesale Division, USWA, Local 440*, Court of Appeal for Ontario, 17 April 1998). In practice, “assistance” means an effort to mediate a solution and convince the two parties to come to an agreement to resolve the dispute. If this fails, then the parties are advised to go to civil court or the labour board, which can place severe restrictions on picket lines including complete picket bans. Some employers, according to the police, often the smaller “mom and pop” operations, will attempt to pull the police into aggressive action prior to any effort to

seek injunctions, sometimes by going over the head of the labour liaison officers to senior ranks or municipal politicians. This seems to be vigorously resisted by most police services on the position that “the dispute is a civil matter”.

While there are some legal judgements in which judges appear critical of the police refusal to act more forcefully, the general tendency is to accept the approach as an important element of keeping the peace (*S.R. McKay v. Attorney General of Nova Scotia*, Nova Scotia Court of Appeal, 15 July 1994; *Canada Post v. CUPW (Canadian Union of Postal Workers)*, British Columbia Supreme Court, 18 November 1991). Within the in-depth interviews with four police services, police report that they seek to maintain this position of non-intervention as long as possible, and that this includes refusing to use force even if the initial injunction is not obeyed (e.g., Interviews A2, A7, B3, B5, C1, C2, D1, D2.). If an injunction is broken, the police will attempt to mediate and gain compliance through persuasion. If this fails, the complainant is advised to go back to the courts or labour board for a resolution, which often means seeking a court enforcement order to comply. Critically for the police, the court may allocate specific penalties such as hefty fines for non-compliance. This is the principal threat that the police look for as a means of forcing union compliance.¹⁰

DISTANCED EXPERTS

It appears there has been a shift in the line police draw regarding legal and criminal actions. Police have restricted the range of situations recognizing the public interest for police intervention.¹¹ Our findings indicate that there is a deliberate, strategic approach that more clearly modifies the “rules of engagement” to seek and implement alternatives to the display of uniformed personnel, arrests and force. This view “talks up” or reproduces the centrality of civil courts and labour boards; if the employer or the union is disturbed by the actions of the other they are advised to seek resolution through civil process. In Canada, police construct their role as expert advisers to the picket site, which is as a site of civil jurisdiction *unless* criminal acts are observed or public safety and peace are observably at risk. Police self-construction as impartial consultants offering specialist knowledge is consistent with “policing at a distance” (cf. Rose and Miller 1992).¹²

Two elements that play a role in the police construction of themselves as distanced experts are safety and trust. “Safety” is a flexible and powerful construction that police and the unions themselves use in exercising self-discipline. Police liaisons report that they always seek to use union sensitivity to public responses or perceptions as a tactical tool in their efforts to persuade. Most liaison police were careful to avoid any threat of using force in these discussions telling the unions that “it’s up to them”, while pointing out that certain consequences (e.g., accidents) could work against their cause. As

¹⁰ The Sheriff’s office is usually charged with enforcing this order, but the police can be called in by the Sheriff for assistance, although even here some police services argue that they are reluctant to intervene quickly. For the most part, they claim that this is rarely necessary since the threat of substantial fines is usually sufficient.

¹¹ This is not to say that considerable enforcement discretion was not used “in the past” prior to the introduction of this approach (Geary 1985; De Lint and Hall 2002).

¹² Indeed the labour liaison officers define themselves and their approach in quite the opposite fashion—as proactive rather than reactive. It should be noted that the survey suggests that there may be some important differences between police services in the extent to which they are actively involved in managing strike situations which may also be tied to the level of specialization established by the service. Our ongoing research will be exploring these differences.

explained by labour informants, a significant motivation behind compliance in many cases was concern about public perception and response to potential accidents and disruption. While some union informants express awareness that the police are consciously playing to the union's concerns or interests, they acknowledge that they nevertheless frequently concur and comply because they are convinced by the arguments.

"Trust" is another significant factor in the liaison relationship. Liaison officers place a high value on the development of a relationship of trust with the picket coordinators and captains and, to some extent, with managers. As one liaison officer put it: "If you lie to them, you are dead – they won't have anything to do with you from then on." Liaison officers argue that it is crucial to keep all confidences throughout the strike, again as long as these did not involve questions of criminal conduct or safety.

If a union official comes and tells me that they are going to have a rally tomorrow or they are planning to bring in a flying squad to slow up things a little, and some do give me this kind of "heads up", I cannot pass that along to the employer or that's it for me, they won't listen to a thing I say after that. And the same thing if an employer tells me a truck is going through the line at such and such as time, I'm not going to go and tell the union that unless I get the permission of the employer. (Interview B3)

Many liaison officers spoke specifically of strategies by which confidences were established, including that of giving the impression of some sympathy for the justice of strikers' or managers' aims.¹³ Establishing themselves as a putative buffer between the union and the employer, and even sometimes the 'regular' police, is an important element of confidence establishment. As one liaison officer recounted: "I often say to them listen, the police are going to have to come in if you don't move, I think I can get them to back off if you agree to" (Interview B7). Practical assistance – which can sometimes mean providing traffic support for a march or even convincing a sergeant or another officer to back away from threats of charges – is another element of the effort to develop a close relationship of trust. In exercising themselves as trustworthy confidantes, police liaison officers distance themselves from the role of "law enforcement" and present themselves as a dispute resolution resource.

There are indications that the trust between the police and labour is not simply reflected in the development of personal relationships between liaison officers and labour representatives. The police willingness to minimize their involvement in monitoring and managing the picket line implies that police services accept that unions can be trusted to "play by the rules" in strike situations. This construction of unions as self-regulating and lawful also helps to explain why police report very few efforts in gathering significant intelligence on unions or upcoming strikes. Other than an initial phone call or meeting with the union, many services simply rely on the union or the employer to notify them of upcoming strikes. With relatively few exceptions, police do not feel the need to place public order resources on standby nor do they develop contingency plans for potential public order or emergency situations during specific strikes, again because the risk of any major confrontation is seen as too low to warrant the effort and use of resources.

If there is an exception to this rule, it seems to be police preparation for large public sector strikes at the municipal or provincial level. In a recent public sector strike in Ontario, for example, a number of municipal police services and the provincial police

¹³ This is not to say that the liaison officers are never actually sympathetic to the union cause. As one officer put it: "It is hard not to identify a little with them when you are yourself negotiating for better wages."

established special task forces to coordinate the policing of the strike in its various locations. Interestingly, public sector unions in general are more likely to complain about police actions during strikes. While police tend to see the public sector unions as more passive than the larger private sector unions such as CAW (Canadian Auto Workers) and the USWA (United Steel Workers of America), they acknowledge that they tend to get more involved in public sector strikes because there are larger questions of access to public buildings (e.g., prisons, schools, universities, hospitals) and public traffic problems that do not tend to arise with most private sector strikes. Union-organized marches and larger social protests such as the Ontario Days of Action in the mid-1990s attract more efforts to gather intelligence and mobilize public order resources and contingency planning, but unlike the recent anti-globalization protests in Vancouver, Windsor, Toronto, Ottawa and Quebec City, the police presence was minimized and the unions were largely left to martial themselves. As police see it, the potential for trouble in social protest situations is rarely from union members and more from “radical” groups that refuse to protest in a lawful manner.

As they make this adaptation, police are also observing how the site of industrial disputes is being occupied once again by those who offer, as Hobbs *et al.* (2002: 366) put it: “private violence as commercial resource”. At present, the police appear to be ceding ground in this “interstitial area” (Hobbs *et al.* 2002: 366), bringing their own violence monopoly (cf. Bittner 1970) back into play strictly to curb some of the excesses of private security. There is a growing use of specialized private security services to perform various strike-related functions that public police will no longer perform. The primary visible role of security in these situations is video surveillance, but they can provide other services including escorting management and replacement workers through the picket line. Although they have no legal right to use force to achieve that goal, security firms use bulky security guards and special vehicles as methods of intimidation. Spot interviews with pickets on the picket line and interviews with labour leaders suggest that the union people often view the police as “helping” to control the behaviour of the security services. We observed this directly at one strike where the police arrested two security guards who tried to push their vehicle through the line. The vehicle and equipment inside the vehicle were severely damaged by the strikers in full view of the police. However, according to the liaison person, the police did not act against the strikers because they saw the security guards as having provoked the strikers.

CONCLUSIONS

The emergence of specific labour liaison policies since the 1980s suggests that Canadian police are defining and applying their role in a substantially different manner. Consistent with community policing, the main thrust of the current approach is to control behaviour through education, communication and negotiation. The emphasis is on avoiding the deployment of substantial police resources by encouraging responsibility and self-policing, and by delaying police mobilization through a drawn out process of negotiations and legal procedures.¹⁴

¹⁴ Indeed the employers are the ones who the liaison officers complain about the most because they are demanding more direct and rapid action—indeed, the employers are the ones who the liaison officers complain about the most because they are demanding more direct and rapid actions.

The general police withdrawal from activities related to the picket line greatly reduces the potential for police violence, but it arguably enhances the strike leverage of unions when they have the numbers and organizational strength to mount strong picket lines and when they deal with employers who must meet the demands of just-in-time contracts. It also presents some significant challenges to those employers interested in maintaining production during strikes. This raises the prospect of a potential backlash from corporate and political centres for more aggressive police intervention, especially given the enhanced mobility of firms. Here it is noteworthy that employers have sought to fill the space vacated by public police by hiring private security firms specializing in labour strikes.

However, employer reaction to what is arguably a condition contrary to ideal expectations is not easily simplified. Preliminary indications of research we are undertaking as part of our study suggests that many of the larger employers¹⁵ do not see the lack of police intervention as problematic because they do not attempt to continue production on site during strikes. While labour law in most provinces allows the use of ‘scabs’ or replacement workers, shutting down unionized production must show a cost-benefit margin for replacing a large workforce and factor in the immediate and long-term impact of picket line violence on future labour relations.¹⁶ Instead, in the manufacturing sector at least, the increased emphasis on contracting out allows the displacement of production to increasingly to smaller operations. Larger companies dependent on supplier networks are also readily able to shift to other firms in the supplier network to make up the difference. Smaller companies also have the capacity to shift production to other plants in their operations. This may help to explain why there appears to be few indications of major corporate efforts to lobby for changes in law or policing practices. Ironically, immediate pressure for regressive changes in policing policies and law regarding picketing rights may come not from private industry but from government “employers”. Following a recent public service strike in Ontario, there were reports that the government was considering introducing legal reforms that would place more restrictions on picketing rights.¹⁷

How do we reconcile the development of this liaison policing approach in the face of the enormous mobilization of police force in recent anti-globalization protests? Are public protests seen by police as qualitatively different situations requiring a more aggressive response? Strikes are confined to particular physical spaces and typically involve two main known parties. In the current context, unions are seen as durable organizations that can be trusted to play by the rules, have a stake in a positive relationship with police, and may thus stand to lose in a contest of wills with police and the state. Conversely, public protests are generally seen by police as offering less certainty and more risk. Protest organizers, even where labour plays a key role, tend to include a host of often deliberately non-compliant and diffused leaderships. More militant political groups are understood to be resistant to self-regulation and unpredictable in their compliance with the rules and norms of “peaceful protest” (Olsen 1968). In addition, public protests obviously and unquestionably involve the public,

¹⁵ Of 500 or more employees per plant.

¹⁶ The major unions in Canada continue to react vigorously and aggressively against the use of scabs.

¹⁷ However, the government did not move to introduce those reforms, possibly because, as claimed by a number of our senior police informants, police services were strongly opposed to the changes. As one put it: “this would force us back to the old days of pitched battles between police and strikers, and we don’t want any of that” (Interview B2).

disallowing police retreat on the grounds that there is no police interest. Public protests expressly claim the exercise of political rights and challenge policy of the state. Finally, they take place in public spaces and attract diverse political groups. Protests like anti-globalization, anti-capitalism or anti-war demonstrations are often direct challenges to the legitimacy of federal executive authority, and in this way produce destabilizing anxieties (including worries about foreign investment) on the part of executive powers. In this context, police clearly see challenges to the state as implicating them directly. Currently, the lexicon of economic and national security is sufficient to mobilize exceptional policing that includes the suspension of civil and political rights where these threats are perceived.

Nevertheless, this is a contingent distinction that can change both generally and in specific situations. Police do not see the need to mount extensive intelligence efforts or mobilize large shows of force at all protests. At the labour-organized Days of Action in 1995–1996, which shut down Ontario’s major cities and involved as many as 200,000 people in the streets, police left discipline largely to the unions (although they were prepared for the possibility of trouble with out-of-sight standby public order units). A variety of incidents in Canada also suggests that police vary their behaviour in strike situations or contexts – that they will move to intervene more frequently, aggressively and speedily where they think public interest or public safety demands it (Rapaport 1999; Estey 1996). Where employers challenge unions more aggressively in the use of replacement workers and unions respond vigorously (as happened recently at a CAW-organized truck assembly plant strike in Chatham, Ontario), the potential for confrontation and violence also increases substantially and police will use force and criminal law to restore order.¹⁸

In sum, while police have trained and equipped themselves to use overwhelming force in particular situations and contexts where they define the public interest and political or legal authority in jeopardy (Pue 2000), this does not mean that police services in Canada are becoming generally more coercive or repressive (Waddington, 1993, 1994a, 1994b). Indeed, our data suggests that both senior and front-line police officials have no interest in returning to an activist and aggressive posture in dealing with strikes, or for that matter, public protests, and will resist efforts that draw them in. If the contrast between the policing of strikes and anti-globalization protests shows anything, it is not that police reject their role as a force for public order, but rather that they are selective about when they use force and on whom they use it.

To make sense of the development of relative public police invisibility in labour strikes and the concurrent visibility of public police in “high stakes” contexts, we need to recognize that Canada has not yet suffered a generalized crisis in hegemony and consent. As Michael Burawoy (1985) has argued, a modified form of hegemony still ties workers’ and union interests to support for capitalism and the state. The liaison approach to policing labour has adapted, in our view, to the persistence of routinized, institutionalized labour relations that discourages confrontation on the part of unions and workers. Police are largely realizing their own interests by bringing their practices in line with a labour relations regime of consent-based controls. And, in the context of

¹⁸ For example, during a public sector strike, one police service quickly moved to mobilize its public order unit because a major commercial bridge was being blocked. During another provincial public sector strike, police were much more aggressive with public unions when access to prisons and courts were challenged. Some university unions also reported constant pressure from the police to relax their picket line restrictions when the resulting traffic problems disrupted local commerce.

neo-liberal off-loading of state services, labour relations no longer warrant nor require a major expenditure of public resources. What remains to be analyzed is just *how*, in neo-conservative, neo-liberal Canada, sites of conflict are being radically re-interpreted by police, labour and government in terms of public and private interests.

References

- Bittner, E. (1970) *The Functions of the Police in Modern Society*. National Institute of Mental Health, Chevy Chase, MD.
- Brown, L. and Brown C. (1973) *An Unauthorized History of the RCMP*. Lewis & Samuel, Toronto.
- Dannin, E. (1995) Brother, can you spare a no wage job? Labour law reform in New Zealand. In: Gonick, C. et al., *Labour Gains, Labour Pains: 50 Years of PC 1003*. Society for Socialist Studies/Fernwood, Winnipeg/Halifax, pp. 405–434.
- de Lint, W. (2003) Keeping open windows: Police as access brokers, *British Journal of Criminology* 43(2), 280–305.
- de Lint, W. and Hall, A. (2002) Making the pickets responsible: Policing labour at a distance in Windsor, Ontario, *Canadian Review of Sociology and Anthropology* 39(1), 1–27.
- Della Porta, D. (1998) Police knowledge and protest policing: Some reflections on the Italian case. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 228–252.
- Della Porta, D. and Reiter, H. (1998) Introduction. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 1–34.
- Estey, W.Z. (1996) *Report of the Commission of Inquiry into Events of March 18, 1996 at Queen's Park*. Ontario Ministry of the Attorney General, Toronto.
- Fillieule, O., and Jobard, F. (1998) The policing of protest in France: Toward a model of protest policing. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 70–90.
- Garland, D. (2001) *The Culture of Control*. Oxford University Press, Oxford.
- Geary, R. (1985) *Policing Industrial Disputes: 1893–1985*. Cambridge University Press, Cambridge.
- Hall, S. (1980) *Drifting Into the Law and Order Society*. Cobden Trust, London.
- Higley, D. (1984) *O.P.P.: The History of the Ontario Provincial Police Force*. Queen's Printer, Ottawa.
- Hills, A. (1995) Militant tendencies: Paramilitarism in British police, *British Journal of Criminology* 35(3), 450–456.
- Hillyard, P. & Percy-Smith, J. (1988) *The Coercive State*. Fontana, London.
- Hobbs, D. et al. (2002) "Door lore": The art and economics of intimidation, *British Journal of Criminology* 42(2), 352–370.
- Huxley, C. (1979) The state, collective bargaining and the shape of strikes in Canada, *Canadian Journal of Sociology* 4(2), 223–239.
- Innes, M. (2001) Control creep, *Sociological Research Online* 6(3). Available online at: <http://www.socresonline.org.uk/6/3/innes.html>.
- Jaime-Jimenez, O. and Reinares, F. (1998) The policing of mass demonstrations in Spain: From dictatorship to democracy. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 166–187.
- Jamieson, S. (1971) *Times of Trouble: Labour Unrest in Canada, 1900–1967*. Queens Printer, Ottawa.
- King, M. (1997) Policing and public order issues in Canada: Trends for change, *Policing and Society* 8(1), 47–76.
- Kraska, P. and Kappeler, V. (1997) Militarizing the American police: The rise and normalization of paramilitary units, *Social Problems* 44(1), 1–17.
- Kumar, P. (1993) *From Uniformity to Divergence: Industrial Relations in Canada and the United States*. IRC Press, Kingston, Ontario.
- Latonnell, J. (1993) *Violence on the Picket Line: The Law and Police Response*. IRC Press, Kingston, Ontario.
- Loader, I and Walker, N. (2001) Policing as public good: Reconstituting the connection between policing and the state, *Theoretical Criminology* 5(1), 9–38.
- MacKenzie, I. and Plecas, D. (2001) Policing public order in Canada, *Police Practice and Research* 2(1–2), 27–51.
- McBride, S. (1995) Coercion and consent: The recurring corporatist temptation in Canadian labour relations. In: Gonick, C. et al., *Labour Gains, Labour Pains: 50 Years of PC 1003*. Society for Socialist Studies/Fernwood, Winnipeg/Halifax, pp. 79–96.

- McPhail, C., Schweingruber, D. and McCarthy, J. (1998) Policing protest in the US: 1960–1995. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 49–69.
- Olsen, M. (1968) Perceived legitimacy of social protest actions, *Social Problems* **15**(Winter), 297–310.
- Palmer, B. (1992) *Working Class Experience: Rethinking the History of Canadian Labour – 1800–1991*, 2nd edn. McLelland & Stewart, Toronto.
- Panitch, L. and Swartz, D. (1993) *The Assault on Trade Union Freedoms: From Wage Controls to Social Contracts*. Garamond, Toronto.
- Price, J. (1995) Post PC 1003: A return to coercion or new directions for labour? In: Gonick, C. et al., *Labour Gains, Labour Pains: 50 Years of PC 1003*. Society for Socialist Studies/Fernwood, Winnipeg/Halifax, pp. 253–284.
- Pue, W. (2000) Policing, the rule of law and accountability in Canada: Lessons from the APEC Summit. In: Pue, W. (ed.), *Pepper in Our Eyes: The APEC Affair*. UBC Press, Vancouver.
- Pugliese, D. and Bronskill, J. (2001) Keeping the public in check, *Ottawa Citizen*, 18 August 2002.
- Rapaport, D. (1999) *No Justice, No Peace: The 1996 OPSEU Strike Against the Harris Government in Ontario*. McGill-Queen's University Press, Montreal/Kingston.
- RCMP Complaints Commission (2001a) *Chair's Final Report with Respect to the Events of May 2–4, 1997 in the Communities of Saint Sauveur and Saint Simon, New Brunswick*. Royal Canadian Mounted Police, Ottawa, 22 March.
- RCMP Complaints Commission (2001b) *Commission Interim Report into the Complaints Relating to the RCMP Conduct During the Asia Pacific Economic Cooperation Conference, Vancouver, BC in November 1997*. Royal Canadian Mounted Police, Ottawa, 31 July.
- RCMP Complaints Commission (2002) *Chair's Final Report into the Complaints Relating to the RCMP Conduct During the Asia Pacific Economic Cooperation Conference, Vancouver, BC in November 1997*. Royal Canadian Mounted Police, Ottawa, 25 March.
- Reiner, R. (1998) Policing protest and disorder in Britain. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 35–48.
- Rose, N. and Miller, P. (1992) Political power beyond the state, *British Journal of Sociology* **43**(2), 173–201.
- Russell, B. (1990) *Back to Work: Labour, State and Industrial Relations in Canada*. Nelson, Scarborough, Ontario.
- Russell, B. (1995) Labour's "Magna Carta"? Wagnerism in Canada at fifty. In: Gonick, C. et al., *Labour Gains, Labour Pains: 50 Years of PC 1003*. Society for Socialist Studies/Fernwood, Winnipeg/Halifax, pp. 177–192.
- Russell, B. (1999) *More with Less: Work Reorganization in the Canadian Mining Industry*. University of Toronto Press, Toronto.
- Smaller, H. (1995) The Teaching Profession Act in Canada. In: Gonick, C. et al., *Labour Gains, Labour Pains: 50 Years of PC 1003*. Society for Socialist Studies/Fernwood, Winnipeg/Halifax.
- Uglove, S. (1988) *Policing Liberal Society*. Oxford University Press, New York.
- Waddington, D. (1992) *Contemporary Issues in Public Disorder*. Routledge, London.
- Waddington, P.A.J. (1993) Dying in a ditch: The use of police powers in public order, *International Journal of the Sociology of Law* **21**, 335–353.
- Waddington, P.A.J. (1994a) *Liberty and Order: Policing Public Order*. UCL Press, London.
- Waddington, P.A.J. (1994b) Coercion and accommodation: Policing public order after the Public Order Act, *British Journal of Sociology* **45**(3), 367–385.
- Wisler, D and Kriesi, H. (1998) Public order, protest cycles and political process: Two Swiss cities compared In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 91–116.
- Winter, M. (1998) Police philosophy and protest policing in the Federal Republic of Germany, 1960–1990. In: Della Porta, D. and Reiter, H. (eds), *Policing Protest: The Control of Mass Demonstrations in Western Democracies*. University of Minnesota Press, Minneapolis, MN, pp. 188–212.