

Haldimand PSB Address to Haldimand Council

February, 08 2022

Mayor, Members of Council; - as Chair of your Police Services Board and on behalf of the Board I am requesting your support in lobbying the Provincial government for change in policing methods that affect Haldimand county and the province at large.

The OPP are using a policy document "A Framework for Police Preparedness for Indigenous Critical Incidents" (OPP Framework) as a cookie cutter solution to Indigenous grievances and protests. Community concerns and complaints occur when this document is used to address any lawless act that may occur from a protest. This OPP response to any associated lawlessness simply has not worked in Haldimand County.

The residents of Caledonia, Haldimand county and beyond have expressed their disapproval in how the OPP are handling local incidents of Indigenous lawlessness, yet the OPP are reluctant to change their enforcement strategy. This strategy results in a potentially dangerous situation with the potential of causing not only property damage, but personal injury to innocent citizens and first responders. The social costs and the psychological trauma associated with the current one-sided OPP response to Indigenous criminal activity is unacceptable.

"The lack of accountability for the overall policy of the OPP with respect to Caledonia is inexcusable in a country and province that is simultaneously committed both to enforcing the rule of law and to reaching just land settlements with Indigenous people." (Professor Andrew Sancton, UWO)

The OPP's total reliance on the OPP Framework, a policy which seems to empower some people and may be leading society down a slippery slope to anarchy. Anarchy affects the well-being of everyone, Indigenous and non-Indigenous people.

The Board has concerns regarding a troubling incident that occurred in November/December 2021.

On November, 18 2021 at 17:00hrs - 1492 Land Back Lane posted on social media – *"The Highway #6 Bi-Pass is blocked in solidarity with Wet'suwet'en. We demand the immediate release of everyone arrested today at Gidimt'en checkpoint including our spokesperson Skyler Williams".*

The blocking of a road is the Criminal offence of "Intimidation". If convicted of this offense a person may be punished by a jail term of not more than 5 years.

As per previous road blockades the noticeable OPP response was to set up manned police barricades north and south of the Indigenous blockade on Hwy.#6. The OPP then re-routed all traffic onto class "B" roads. This created a dangerous situation for all motorists as the detour routes are not designed for the increased volume of traffic.

Community concerns that were raised regarding this OPP response included:

Whether the OPP will actually investigate this blockade as a criminal incident, make arrests and/or prefer charges.

Can this blockade be really classified as a "sanctioned" Indigenous critical incident or protest?

Who ordered the closing of the Highway?

Have all the people who participated in the Blockade been identified, arrested or charged?

The Board is aware of actual demonstrations that occurred in Toronto on **November 20, 2021** and in Hamilton on **November 21, 2021**. Demonstrators blocked major downtown roads in both communities for approximately a 4-hour period. Demonstrators proclaimed their support for Wet'suwet'en territory, got their message out to the public then left. Their actions were a minor inconvenience, but their actions are tolerable behavior in a democracy like Canada. Unfortunately, here locally the Hwy#6 blockade continued from **November 18 at 17:00hrs until Dec. 07 approximately 19 days**. This action goes beyond a simple protest, yet no police action was undertaken to end the local blockade.

On **November 22, 2021** at approximately 8:00am a group of supporters of the Land Defenders marched down Argyle Street to the main intersection of Caledonia, allegedly in support of the Wet'suwet'en people of British Columbia. This group announced that they intended to shut down the main intersection of Caledonia for a few hours. The OPP provided a police escort for the group assisting the Land Defenders with traffic free worries and allowed them to walk down the middle of Argyle Street to the demonstration site and back.

At this particular point of time all the individuals arrested in the Wet'suwet'en matter had been released including Mr. Williams from custody in B.C. – The original demand of the Land Defenders had been met. Questions from the community include: -Why was Hwy#6 not reopened for another 15 days? – What did the OPP do to encourage the Land Defenders to leave, or open the road? – Why didn't the OPP, the police agency of jurisdiction, clear the road as the stated reasons for the protest had in fact been resolved?

On **November 14, 2021** Wet'suwet'en elected Chief and Council released a public statement calling for the immediate end to the escalating conflict at the Coastal Gaslink natural gas pipeline crossing the Morice river. The statement indicates that a few members of the Gidimt'en Clan do not represent the collective views of the Clan or of most Wet'suwet'en people. The announcement then indicates *"the blockade will be removed one way or the other"*. Community questions arising from this announcement - Did the OPP know of this document? - What investigation did the OPP conduct? - Do the OPP communicate with the RCMP?

On **December 01, 2021** the TWO ROW TIMES an Indigenous newspaper from Six Nations published an editorial entitled: "Land Back Lane, domestic abuse and having the bravery to tell someone"

This editorial was disturbing to read as it involved the Domestic assault of an Indigenous woman.

Upon reading the article the reader discovers that an Indigenous woman of Ongwehonwe descent was assaulted by her partner who is an Indigenous man. This assault allegedly took place in October 2021. This man, after the assault occurred, allegedly was picked up by Mr. Williams and taken to the "Land Back Lane" site on McKenzie Road in Caledonia. The article alleges that when you're hiding from police for domestic assault, or any other criminal matter, Land Back Lane may be a place of safety.

In the article the editor posed a question: - *"Are there efforts at Land Back Lane to protect anyone wishing to evade police, not connected to land defense?"* A good question. Can the OPP assure our community, and the Six Nations community that Land Back Lane is not a safe haven for criminals, or those wanted by police, or that criminal offences are not being committed on that site?

The Editorial also indicated that on Land Back Lane's official Facebook page — there was a posted video of the wanted man (Domestic Assault), behind a barricade on a portion of the Highway 6 bypass, mocking the OPP. - This information was released to the public on December 01, 2021.

The Land Defenders had control of the highway until December 07 and were being closely monitored by the OPP as per the Framework guidelines. The Framework document was the official guide for the OPP strategy on the Hwy #6 blockade. - Was the OPP aware of this wanted person at the barricades? - Has this wanted man been arrested? - or - is he still being harbored at Land Back Lane?

The OPP and society in general were cautioned by justice Linden. At the conclusion of the Ipperwash Inquiry, Commissioner Sidney Linden stated: *"Police discretion is fundamental to reducing the potential for violence at Aboriginal occupations and protests. Discretion may involve whether, when or how enforcement action is taken to address alleged breaches of the law. This concept is easily misunderstood. It does not mean that anyone is above the law or that police services should have different standards for Aboriginal people. Nor does it mean that the rule of law and public order are somehow subservient to Aboriginal interests".*

On **December 07, 2021** the NATIONAL POST published an Opinion article

"We are Wet'suwet'en and the Coastal GasLink pipeline protesters do not represent us"

"Our issue is that our traditions and way of life are being misrepresented and dishonoured by a small group of protesters, many of whom are neither Gidimt'en nor Wet'suwet'en, but nonetheless claim to be acting in our name to protest natural gas development."

"The protesters have also taken it upon themselves to invite violent people into our territories. We are not violent people. We settle our issues with dialogue and respect. We do not need "warriors" from other First Nations or non-Wet'suwet'en protesters to protect us or speak for us, especially when so many Gidimt'en and so many Wet'suwet'en do not support them."

"We want the protesters to cease their blockades and for them to stop misleading people and making false claims about our laws."

Did the OPP not know of this? - Do the OPP communicate with the RCMP on Indigenous issues?

When reviewing all the information regarding the Hwy#6 blockade it appears the OPP applied their Framework Document to an incident that may not be related to a sanctioned critical Indigenous incident or had wide community support from the Six Nations community.

The passivity of the current approach under the OPP Framework even in the face of actions that are not supported by the wider indigenous community allow a small group of people who may not have wide support, to decide when the highway will be blocked and when it will be reopened.

The only solution is to request government to conduct a public review of the OPP Framework and a review on how the OPP actually investigate Indigenous incidents to determine if they are genuine or not.

The Board is not saying get rid of the OPP Framework, but it does need a public, independent, third-party review. In fact, the Commissioner for the Ipperwash enquiry Mr. Justice, Sidney Linden stated in regards to the OPP use of their framework for the DCE occupation that it - *"raises important political,*

financial and operational questions about the sustainability of this approach, whether it is a best practice or not.” The Framework should be subject to independent, third -party evaluation noting that “the reaction of many Ontarians to the policing at Caledonia” demonstrated the need for “transparent and publicly accessible policies and with explanations for police decision-making.”

“However beautiful the strategy, you should occasionally look at the results.” — Winston Churchill

There is a solution: - Change the OPP Policing Model –

The OPP currently operate under a “Police Independence Model” where the police answer only to the law with respect to law enforcement decisions. They have full independence and no one is allowed to interfere with their investigations.

The Board however believes that all citizens would be better served by the OPP if the policing model was changed to a “Democratic Policing Model”. In this model of policing the Minister of the Solicitor General is responsible (by written and public directives as recommended by the Ipperwash Inquiry) for policing operational responsibility.

The Democratic policing Model is currently being practiced in other Democracies such as Australia and New Zealand where they define the legitimate scope of political direction and police independence. Democratic Policing has been studied and recommended by numerous people and the Board will elaborate on three studies completed by Canadians who are considered experts in their fields of studies.

The **Hon. Justice Sidney B. Linden**, past co-chair of the Ontario Judicial Council and a member of the board of the National Judicial Institute. Served as chair of the board of Legal Aid Ontario from 1999 to 2004, Commissioner of the Ipperwash Public Inquiry from 2004 to 2007.

Professor Andrew Sancton a Rhodes Scholar, Bachelor of Philosophy, PHD, University of Western Ontario; past president of the Canadian Association of Programs in Public Administration and a board member of the Institute of Public Administration of Canada.

Professor Kent Roach, CM, FRSC, Professor of Law and Prichard Wilson Chair in Law and Public Policy, University of Toronto, he was one of four academics awarded a Trudeau Fellowship in recognition of his research and social contributions. In 2015, he was appointed a Member of the Order of Canada.

Justice Linden: - Ipperwash Inquiry Report released on **May 30, 2007** there were recommendations by Justice Linden to the Province of Ontario on how to avoid violent conflicts in the future. Justice Linden’s recommendations #71 through to #73 advised the Ontario Government to revise the Police Services Act to give authority to the Solicitor General to provide policy to the OPP. Linden recommended the adoption of a “Democratic Policing Model” for the OPP.

Prof. Sancton: - wrote an article titled “Democratic policing”: Lessons from Ipperwash and Caledonia. It was published in the journal Canadian Public Administration in **2012**. He wrote that if the Democratic model of policing were in place in 2006 when the Caledonia occupation began, *“the minister responsible for the OPP would have had a decision to make: does he issue a policy directive to the OPP or not?” If the answer was yes, he would have had to make the directive public; if the answer was no, “the minister would have had to have been publicly responsible for not having issued a policy.”*

At the very minimum, Mr. Sancton said, OPP commissioners should be *“required to defend their own policy decisions publicly.”*

Prof. Roach: - wrote a paper titled “Police Government Relations and Police Independence” released on **June 01, 2017.**

Professor Roach was in favor of a Democratic Model of Policing with clearly defined roles for the Government (Ministerial) authority and Police Independence as it pertained to conducting and control of investigations.

In the conclusion of the professor’s paper, he offers several hypotheses as to why this reform hasn’t occurred. The Board found this one to be interesting:

“Another slightly more sinister hypothesis is that it may be in the interests of governments and police to keep police government relations unclear if not opaque. Both political responsible authorities and police leaders may not be overly eager to accept the responsibility that will come with greater transparency about police government relations. But such transparency is needed if the public is to be able to hold both politically responsible authorities and the police accountable for actions that significantly shape the type of society we live in.”

The Haldimand Police Services Board is requesting Council members to speak loud and clear for the 48,000 people living in our community. Demand accountability and change from our government.

It is time for the Ontario Government to act, the Board requests council to lobby the Province for change: 1) - Order a public Independent third-party review of the OPP policy “A Framework for Police Preparedness for Indigenous Critical Incidents” and 2) - adopt a “Democratic Model of Policing for the OPP.”

Brian Haggith, Chair
Haldimand Police Services Board