Research Framework for a Review of Community Justice in Yukon
Community Justice – Results/Performance Measurement/Accountability

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1. Key Themes (to be explored)

- Some **lessons learned with performance measurement** include:

  o It is important to have a strategic plan in place prior to the development of a performance measurement framework.

  o There needs to be community support for the development of accountability tools such as a performance measurement framework.

  o Capacity needs to be built within the community to continue the performance measurement activities.

  o Communication within each community and between First Nations about the types of performance measurement activities developed and implemented is important. See 5.3

Do these factors exist in the Yukon community justice initiative?

- For the 2002-03 budgeting process the Yukon Department of Justice, as with other departments, prepared an accountability plan. See 3.1
  o For its budget of ~$34M, the plan outlines three areas of responsibility, five goals and the corresponding objectives, key strategies, output as well as outcome indicators.
  o Community Justice is set out as follows:
    - Goal 4: To provide community justice services:
    - Objectives: To work with communities and First Nations to deliver policing, crime prevention and other community based justice services, to meet public safety and security needs.
    - Key Strategy: To explore the effectiveness of community justice initiatives
    - Output: Evaluation Framework for community justice initiatives
    - **Outcome: Increased understanding of community justice activities, roles and responsibilities; Preliminary understanding of critical components of community justice in Yukon.**
- Aboriginal Justice Strategy – Cost Shared Component – Community Justice: See 5.1
  o Activities – funding, consultations and general support
  o Outputs –
    - funded agreements for community justice programs;
      - Indicators - Number and types of agreements signed in each region;
    - agreements, processes and mechanisms amongst stakeholders;
      - Indicators - Number and nature of agreements, including letters of agreements, protocols, MOUs, etc and their reach
    - funded agreements for incremental training, communication events/tools
      - Indicators - Number and type of events funded;
  o Outcomes (immediate) -
    - **improved community capacity to address justice issues;**
      - Indicators – community justice coordinators and volunteers are better equipped to address justice issues; effective protocols with justice personnel are developed, signed and implemented; community justice programs have effective networks with other service providers to ensure that program clients will receive the necessary services
    - **improved acceptance and collaboration amongst justice stakeholders;**

- Indicators - Increased involvement of AJD in intra/ interdepartmental and intergovernmental committees; Extent to which information is shared among the networks of justice stakeholders
  - **informed and knowledgeable stakeholders;**
  - **increased public awareness of Aboriginal justice issues**
    - Indicators - Number trained in proportion the number needing training; Participant feedback on use of training; Extent to which the target population has been reached by public awareness activities as part of community justice programs or as separate initiatives
- Outcomes (intermediate) –
  - **Improved Service delivery**
  - **Improved Community awareness/participation;**
  - **Positive Change in community attitude towards the justice system through outreach;**
    - Indicators - increased confidence by mainstream justice stakeholders that is illustrated by increase in number and/or complexity of cases referred; Proportion of referrals; Proportion and types of offences being diverted; Profile of offenders; Profile/level of involvement of volunteers; Level of community awareness of community justice program; Increased community confidence in how justice issues are addressed; Extent of collaboration among stakeholders
- Outcomes (ultimate)
  - **Increased aboriginal community responsibility for local administration of justice**
    - Indicators - Community members have confidence in how justice issues are addressed; Community justice programs are able to address more complex matters; Community members develop skills to administer laws under self-government
  - **Reduced victimization, crime and incarceration rates of Aboriginal people**
    - Indicators: Community crime and victimization rates; Number of Aboriginal people charged; Number of Aboriginal people coming before the courts; Incarceration rates of Aboriginal people; Perceptions of community members of crime and awareness of community-based solutions
– **Depending which community justice project is reviewed – are the stated bjectives/outputs/outcomes similar to ones expressly stated by Yukon Justice or that the Federal Aboriginal Justice Strategy? Should there not be congruency between these stakeholders before a proper comprehensive review could be conducted? Should there not be congruency to ensure success?**
– The range of restorative/community justice outcome measures include:
  - Improve victim satisfaction,

  - Improve offender satisfaction,
  - Improve restitution,
  - Improve compliance
  - Reduce recidivism
  - Provide more culturally relevant responses to offending
  - Reduce custodial sentences;

  - Enhance community safety and protection
  - Build/improve community capacity to deal with conflict - offenders/victims
  - Develop conflict resolution/participatory skills – better relationships – respect/understanding
  - Develop community self-reliance

  - Improve response to problems
  - Address causes not problems
  - Reduce crime by increasing offender accountability to victims and community

    o   Increase public confidence in the justice systems and public perception of the fairness of the criminal justice system

    o   Coordinate community, government and family resources – reallocate investment from processing crime to healing individuals, families, communities – professionals to community resources

–   If the community equates "justice" with improved deterrence, notwithstanding what has been said here, then its program must be evaluated using more conventional, "objective" measures such as offence rates.

–   However, if community members agree that their ultimate objective is just-ness and the hypothesized long-term social advantages of just-ness, its program must be evaluated through subjective measures.

Element of the Results Based Management Framework	Yukon Justice	Justice Canada (Aboriginal Justice Strategy)	Community Justice Project and respective Communities
Goal	To provide community justice services:		
Objectives	To work with communities and First Nations to deliver policing, crime prevention and other community based justice services, to meet public safety and security needs.		
Key Strategy	To explore the effectiveness of community justice initiatives		
Activities		funding, consultations and general support	
Output	Evaluation Framework for community justice initiatives	funded agreements for community justice programs; agreements, processes and mechanisms amongst stakeholders; funded agreements for incremental training, communication events/tools	
Immediate Outcome		improved community capacity to address justice issues; improved acceptance and collaboration amongst justice stakeholders; informed and	

		knowledgeable stakeholders; increased public awareness of Aboriginal justice issues	
Intermediate Outcome		Improved Service delivery Improved Community awareness/participation; Positive Change in community attitude towards the justice system through outreach;	
Ultimate Outcome	Increased understanding of community justice activities, roles and responsibilities; Preliminary understanding of critical components of community justice in Yukon.	Increased aboriginal community responsibility for local administration of justice Reduced victimization, crime and incarceration rates of Aboriginal people	

– **The level of accountability** – at both the financial and organizational levels – is the same whether the project is funded for $7,000 or $70,000. Such pan-accountability approach is problematic because project workers must use the resources to operate the project, not to focus on reporting requirements for provincial/territorial and federal government departments. See 5.13.1

– **Community Justice Programs – Community Accountability**: with some shift from direct justice program delivery to program funding, some communities now manage some of the justice program resources provided by both federal and territorial governments.

   o Accordingly, communities will eventually need to develop their own frameworks for reporting/being accountable to its own members on the justice program – governmental reporting/accountability requirements may be viewed as being developed in isolation from reporting/accountability needs of individual communities.

   o As a result, communities will need to develop a variety of community-based approaches reporting to their own membership on their own program vision, goals/objectives, priorities, traditions, activities and contribution to outcomes/achievements. This in turn will support effect management of community justice programs and support accountability to community members.

– Measurement in the public sector is less about precision and more about increasing understanding and knowledge. It is about increasing what we know about what works in an area and thereby reducing uncertainty. This view of measurement implies that we can almost always measure things, and in particular the contribution a program is making. That is, we can almost always gather additional data and information that will increase our understanding about a program and its impacts, even if we cannot "prove" things in an absolute sense. We need to include softer and qualitative measurement tools in our concept of measurement in the public sector. **There are other internal**

and external factors at play in addition to the community justice program and it is therefore usually not immediately clear what effect the community justice program has had or is having in producing the outcomes in question. See 5.14

– **Results Based Management can make a major contribution to the effectiveness of capacity development programs when they are designed as collaborative efforts in which accountability, risk and credit are shared.** It should be an approach to capacity development that should be integrated into the daily routines of program design and management by partner communities. See 5.22

  o The trend towards results-based management has been accompanied by increasing attention to indicators. To be useful, indicators for capacity development should be simple, provide "information for management action", be tied to incentives and information systems, be appropriate to the context and focus on both the short and the long-term. Quantitative indicators need to be supplemented by informed judgement and common sense. Indicators must reflect the fact that some of the most important results of capacity development are process outcomes (e.g. strategies adopted, degree of participation by key stakeholders) rather than 'substantive'. Simply focusing on 'substantive' results can diminish the effectiveness of these types of programs.

  o A results-based management approach is best suited to capacity development if it focuses on 'performance management' (management for results) as opposed to 'performance measurement" (management by results). The former seeks to assess, verify and demonstrate results while the latter focuses more on experimentation, iteration, process, learning and responsiveness.

– **It is important to recognize the risk of failures of restorative justice – one that is shared among all justice systems –** one that is inherent to experience of doing justice. Perhaps the most serious risk is the potential backlash against justice reform that will surely accompany the failure of the initiative if it should prove unable to deliver on its promised results (i.e., victim-offender reconciliation, reduced recidivism, reduced crime, community healing).

2. Research Questions

Taken together, the following factors comprise an accountability framework.

2.1. Origin and Rationale/Context:

Is the context for community justice clearly described?
Is the need clearly defined and supported by a brief, sound analysis of the gap between current and desired societal conditions?
Do stakeholders have a good understanding of each other's need/gap analysis in community justice?
Is the need/gap analysis same/shared? Is it different? Compatible?

2.2. Mandate/Strategic Outcomes/Objectives

Are strategic outcomes/objectives of community justice clearly stated and consistent with the overall mandate of the community/government/other stakeholders?
Do stakeholders have a good understanding of each other's strategic outcomes/objectives in community justice?
Are the objectives the same/shared? Are the objectives different? Compatible?

2.3. Governance

Are roles and responsibilities within the community/government/other stakeholder structure responsible for community justice established?
Do stakeholders have a good understanding of each other's roles/responsibilities in community justice?
Are the roles/responsibilities the same/shared? Are they different? Compatible?

2.4. Client/Target Populations

Are the intended intermediate and final clientele(s) of community justice identified?
Do stakeholders have a good understanding of each other's client/target populations in community justice?
Are the client/target populations the same/shared? Are they different? Compatible?

2.5. Delivery Approach

 - see also chapter on Activities/Services/Approaches
Is the way community justice intended to reach its clientele or target population with its services/activities/approaches well articulated?
Do stakeholders have a good understanding of each other's delivery approach in community justice?
Are the delivery approaches to reach client/target populations the same/shared? Are they different? Compatible?

2.6. Planned Outcomes/Benefits

Are planned outcomes defined in terms of the benefits to Canadians or to any other final target population over the funding period?
Do stakeholders have a good understanding of each other's planned outcomes/benefits in community justice?
Are the planned outcomes/benefits same/shared? Are they different? Compatible?

2.7. Resources – "

Are the resources allocated over the funding period, including separate funds committed by them identified?
Are the way these funds will be used to implement community justice over that period also discussed?
Do stakeholders have a good understanding of each other's resources allocation/implementation in community justice?
Are the resource allocation/implementation same/shared? Are they different? Compatible?

2.8. Linkages

Is it possible to outline the community justice project design that describes the linkages between activities, outputs and outcomes at every level?

Do stakeholders have a good understanding of each other's linkages between activities/outputs/outcomes in community justice? Are linkages same/shared? Are they different? Compatible?

2.9. Audits/Evaluations/Reviews

Financial Audits: Are independent financial audits conducted of the project's financial statements? How often? By whom? Was there follow-up on these audits?
Self Evaluation: Has the project undertaken any previous internal self evaluations of its operations and/or impact? What conclusions did these evaluations reach? Was there follow-up on these evaluations?
External Evaluation/Review: Has the project undertaken any previous external evaluations of its operations and/or impact? By whom? What conclusions did these evaluations reach? Was there follow-up on these evaluations?

2.10. Reporting

What kinds of reports are produced for the community justice programs? By whom?
How much time is spent on compiling the reports?
Who uses the information in the reports?
How is the information used? Improve program delivery? Enhance communication? Enhance accountability?
Are the reports useful? To whom?

Has training been provided on how to report, to keep records?
Has education been provided on the utility of reporting/record keeping – ie. essential for evaluation purposes; create statistical summaries that help programs improve; to build on successes of community justice; to learn from challenges of community justice; seen to be legitimate/credible

2.11. Transparency

Is the process of determining funding transparent?
Is the process of determining policies determined?
Are the actions of the stakeholders transparent to one another?
Is the program available to all citizens?
How does the program remain open to the public? Members of the community have the opportunity to
- view the proceedings
- participate in the proceedings (to learn about restorative processes and the results of restorative programs)
- # of open council meetings where community justice was discussed
- # of community meetings where community justice was discussed
- annual reports made available to members
- letter explaining the financial statements in non-accounting terms sent to community members
- community committees to consult with the community on various projects

2.12. Results - Process

Who is accountable for the results? To whom?
Who is accountable for the processes? To whom?
Is there a system in place to address complaints/issues from other stakeholders?

2.13. Aligning Responsibility/Capacity

Is capacity in place to be accountable for community justice?
Is there sufficient financial, human and physical resources?
Is there sufficient training or guidance?
Is there sufficient administrative capacity?
Is there a plan to address the gaps?

2.14. Broad Accountability Frameworks

Based on the answers given above, what are the accountability frameworks/mechanisms for each of the stakeholders in community justice?

Are these frameworks/mechanisms similar, different or compatible?

3. Relevant Documents, Studies and Practices – Yukon

3.1. Yukon Territorial Government - Department of Justice – Accountability Plan [1]

Accountability Statement
– This Accountability Plan for the year commencing April 1, 2002 was prepared under my direction in accordance with the government's commitments to accountability and the government's accounting policies. All of the government's policy decisions with material economic or fiscal implication of which I am aware have been considered in preparing the Plan.
– The department's priorities outlined in the Accountability Plan were developed in the context of the government's corporate plans. I am committed to achieving the planned results laid out in this Accountability Plan…..signed by the Minister of Justice

Overview
– The Yukon is embracing significant challenges and opportunities, including:
   o settlement of land claims,
   o devolution of federal government responsibilities,
   o economic, community and infrastructure development; and
   o the delivery of health, education, and justice services.
– As Yukoners meet these challenges and opportunities, they rely on the Department of Justice to provide a range of programs and services for individuals, families and communities.
– The role of the Department of Justice is to:
   o administer the justice system,
   o provide services that contribute to public safety and security and
   o provide legal services to the Government of Yukon.
– The Department provides the support that enables the Minister of Justice to fulfill the role of legal advisor to the Commissioner in Council.
   o The Minister has the constitutional responsibility to provide legal advice and conduct litigation on behalf of the Crown and government departments.
   o The Minister, as the guardian of the public interest, has the duty to ensure that the affairs of the government are conducted in accordance with the Rule of Law, and to uphold and promote the Rule of Law.
   o This is the reason that maintaining the independence of the Minister of Justice is an important constitutional principle.
– The Department's programs and services range from crime prevention, policing, court services and the prosecution of offences under territorial legislation, to correction and probation services, and programs for victims and offenders.
   o In fulfilling its responsibility to individuals, families, and communities, the Department works with other departments, First Nations, communities, community justice committees, and non-government organizations (e.g. the Yukon Legal Services Society, Kaushee's Place, Fetal Alcohol Society Yukon, Salvation Army, Crime Prevention Yukon, Yukon Public Legal Education Associations etc.).
– Some of the major justice issues in the Yukon are:
   o personal and Community Safety
   o the implications of drug and alcohol abuse for personal and community safety
   o crime prevention
   o responsibility to victims
   o rehabilitation of offenders
   o community Justice Services
   o a growing interest in Alternate Dispute Mechanisms
– Some of the key ways in which the Department responds to these issues is highlighted below:
   o The Department works with the RCMP to ensure that policing services are provided throughout the Yukon.
      • Each year, the Department and the RCMP prepare a Shared Directional Statement, which outlines the priorities for the year.

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[1] Yukon Territorial Government - Department of Justice – Accountability Plan – 2002

o The Department provides services to operate the courts and prosecutes offences under territorial legislation.
o The Maintenance Enforcement Program which helps families access court-ordered support is delivered through Court Services.
o Safety and security are "everyone's business", but the Department has a special responsibility to ensure, or to help ensure, that individuals and communities are safe and secure.
o The Department works with the RCMP, other departments, governments, non-government organizations and communities to help address the conditions and problems that bring people into contact with the justice system.
o The Department supports community initiatives to address some of the social and economic causes of crime by providing project funding through the
  • Crime Prevention and Victim Services Trust Fund,
  • the Youth Investment Fund, the Kids Recreation Fund and
  • by participating in the allocation of the Community Mobilization Fund allocated to the Yukon by the National Crime Prevention Centre
o Many of the Department's crime prevention initiatives are focused on children and youth (eg. Youth Leadership Project, the Prevention of Bullying Working Group, the Youth Service Canada Project, etc.)
o While there is no one reason that individuals get in trouble with the law, an over-riding concern is the issue of alcohol, and increasingly, drug addiction.
  • This affects more than the justice system and there is a need to work co-operatively with individuals, families, communities, non-government organizations and government departments to help prevent and address problems resulting from alcohol and drug abuse.
  • The Department contributes to addressing this issue by providing alcohol and drug programs to offenders and their families independently and in partnership with Alcohol and Drug Services.
o The Department of Justice contributes to personal and community safety through programs for offenders and victims.
  • Offenders sentenced to two years less a day are located at the Whitehorse Correctional Centre.
    • This facility and the programs it offers are currently under redevelopment.
      • The building will be replaced and the programs will be refocused.
    • The Department also provides probation services and other community-based programs for offenders located in the community (e.g. Anger Management Program).
o Victims of family violence or other crimes may need support throughout their contact with the justice system.
  • They are assisted through the information, personal and group counselling services provided by the Family Violence Prevention Unit.
  • Victims and offenders are also assisted through the Domestic Violence Treatment Court, an option for offenders who plead guilty and willing to seek treatment.
    • This pilot project has been created to determine if this approach can be useful in reducing recidivism and supporting victims.
  • Victims of other types of crime may also need assistance in participating in proceedings as their case moves through the justice system.
    • The assistance that may be provided to victims includes: emergency shelter, childcare, therapy and court support.
o The Department works with communities to develop and provide community based justice services, as an alternative, where appropriate, to the traditional "court" services model.
  • This could include alternatives to the adversarial process in resolving family and civil disputes. (There are some out-of-court processes in the "court system".)
  • Community justice projects have been established in nine communities.
  • Projects are developed with communities, based on their needs.
  • The Department funds the projects, provides information and training and works closely with communities, CYFN Courtworkers, other government departments, the RCMP and the Federal

Government of Justice in supporting and developing and enhancing, community healing initiatives. Plans are underway to evaluate these initiatives.

- o   Other services funded in whole or in part through the Department include:
  - • the Yukon Legal Services Society
  - • the Human Rights Commission,
  - • the Coroner's Office and the
  - • Public Administrator's Office.
- o   The Department of also works with the federal, provincial, and territorial governments to help address national justice issues of concern to Yukoners and all Canadians.
  - • Some of the major national justice issues include:
    - • security measures to prevent or respond to terrorism,
    - • child victims,
    - • public notification of sex offenders – the establishment of a national sex offender registry,
    - • intermittent and conditional sentences,
    - • First Nations policing,
    - • community justice,
    - • family law and
    - • family violence.

- –   The Department of Justice is organized along the following functional lines for the administration of a variety of programs and services that focus on different aspects of justice. Those functional areas are:

  - o   **Community Justice and Public Safety**: Programs and services in this area are delivered by the

    - ▪ Coroner's Office,

    - ▪ Community Justice,

    - ▪ Community Corrections,

    - ▪ Adult Probation,

    - ▪ the Whitehorse Correctional Centre,

    - ▪ Crime Prevention, and

    - ▪ Victim Services/Family Violence Prevention.

  - o   **Legal and Regulatory Services:** Programs and services in this area are delivered by Court Services and by Legal Services.

    - ▪ Court Services provides administrative, enforcement and support services to the courts, the judiciary and other participants in the judicial process.

      - o   Court Services consists of Court Operations, Court Administration, Trial Coordinator, the Maintenance Enforcement Program, and the Sheriff's Office.

      - o   Court Services also administers the Child Support Initiatives, a federally funded program that ensures fair and consistent awarding of child support.

    - ▪ Legal Services includes Legislative Counsel, the Aboriginal Law Group, the Solicitors Group and the Litigation Unit.

    - ▪ The regulatory services provided in this area include the Public Administrator, Yukon Utilities Board and Land Titles.

- o **Management Services:** Services in this area are delivered by Policy and Communications, Finance, Systems and Administration, and Human Resources.

- The Department of Justice is headquartered in Whitehorse and has offices in the following communities to deliver the following services:
  - o Dawson City (Court Registry, Victims Services, Probation Services), and
  - o Watson Lake (Court Registry, Victims Services, Probation Services).
- VISION
  - The Department works in active partnerships to foster healthy and safe communities that are part of a just and peaceful society.
- MISSION
  - The Department of Justice, in accordance with the rule of law, administers a system of justice that is fair, humane, responsive and equitable; and contributes to order and safety for individuals, families and communities.
- VALUES
  - The Department of Justice acknowledges the fundamental importance of balance, respect, and fiscal responsibility, in the delivery of programs and services to clients.

  - The Department's strength comes from its employees. We encourage employee participation and innovation and we value:
    - personal integrity
    - responsibility
    - leadership
    - cooperation
    - collaboration
    - accountability
    - client service
  - The Department of Justice values and applies a balanced approach to the delivery of justice services.
    - This means working in collaboration and cooperation with other departments, communities, governments, First Nations and non-government organizations, to deliver justice services to individuals, families and communities.
    - The Department recognizes that some justice services can be effectively delivered by the Department, while other services are best delivered in partnerships or by other organizations on behalf of government (e.g. legal aid services).
  - The Department recognizes the fundamental importance of personal integrity in building relationships with citizens, organizations, communities, governments and First Nations.
    - The Department values and applies respectfulness and trust in building and maintaining relationships; and is committed to ensuring respect for the rule of law in the administration of a justice system that is fair, humane, responsive and equitable.
  - The Department encourages and demonstrates leadership and accountability in delivering programs and services.
    - Client needs must be met using responsible, focused and cost-effective approaches and in so doing, the Department must demonstrate fiscal responsibility and the wise stewardship of resources on behalf of the citizens it serves.
- Primary Responsibilities
  - The Department of Justice has been entrusted to serve the public on behalf of the Government of Yukon, by fulfilling three equally important primary responsibilities, under which the Department delivers its programs and services. Those primary responsibilities are:

- administering the justice system in the Yukon,
- providing services that contribute to public safety and security, and
- providing legal services to the Government of Yukon.

Note: the output indicators/outcome indicators are under development in 2002

Primary Responsibility 1: Administering the justice system in the Yukon: The Department is responsible for maintaining an independent, impartial and accessible justice system.

The Department fulfills this responsibility by ensuring that the courts receive the support that they require to operate efficiently and effectively, and that the independence of the judiciary is maintained.

This means that while the Department provides for the operation of the courts, it does not influence or interfere with judicial responsibilities or decisions. The Law Courts are located in Whitehorse, and court registries are located in Dawson City, Watson Lake and Whitehorse.

The Territorial Court travels to Yukon communities on regularly scheduled "court circuits", to provide the types of court services that can be provided in the communities.

Goals	Objectives	Key Strategies	Output Indicators	Outcome Indicators	2002-03 Estimate ($000's)
Goal 1: To promote accessible resolution of civil and family disputes.	1.1 To make court ordered support for families more accessible to families.	To complete the implementation of the Inter-Jurisdictional Support Orders Act, as part of a national initiative to simplify the process and time involved in obtaining inter-jurisdictional court-ordered support.	Proclamation of the Inter-Jurisdictional Support Orders Act. Establishment of mechanisms (software, steering committee, regulations) to implement the Inter-Jurisdictional Support Orders Act.	Reduced time in getting support from parties living outside the Yukon, once an application has been filled with the Maintenance Enforcement Program. Capacity to implement the Act for parties living outside the Yukon.	$6,925
	1.2 To provide a range of dispute resolution mechanisms designed to reduce the re-offence rate	To complete the evaluation of the Domestic Violence Treatment Option.	Evaluation report of the Domestic Violence Court Treatment Option (DVTO).	Better understanding of the factors leading to the DVTO effectiveness, including cost-effectiveness of DVTO, reduction in offending behaviour, higher participation in treatments programs.	
		To explore options to improve the processing of family and civil disputes.	Establishment of victim and offender monitoring systems	Better tracking of changes in offending behaviour, in particular, reductions in offending behaviour. Better tracking of victim safety.	

Primary Responsibility 2: Providing services that contribute to public safety and security: The Department fulfills this responsibility to the public

By providing corrections and probation services at the Whitehorse Correctional Centre and in the community,

by managing the RCMP contract,

by providing programs for offenders and victims of family violence and other crime, and

by providing crime prevention programs.
In addition, the Department works with community justice committees to deliver community justice services in some communities.

Goals	Objectives	Key Strategies	Output Indicators	Outcome Indicators	2002-03 Estimate ($000's)
Goal 2: To provide for the operation of the corrections system and the safe, effective, custody, control, supervision and reintegration of offenders.	2.1 To provide correctional programs and facilities.	To foster the development of addiction treatment programs through the use of public, volunteer and non-profit agencies at WCC.	Schematic designs for new Whitehorse Correctional Centre (WCC)	Improved safety, living and working conditions for offenders and staff Reduced concerns about WCC operations by fire marshal and others.	$22,110
		To develop an integrated model of case management for offenders in WCC, on probation or serving conditional sentences in community.	Integrated case management model, including policies, procedures and systems.	Improved case management of offenders by WCC, Probation Services, Family Violence Prevention Unit, and community agencies	
	2.2 To work with other departments, communities, governments, First Nations and non-government organizations to improve the programs and services provided to offenders, their families and communities.	To develop a community-based program delivery model for offenders.	Risk Needs Assessment Project report Development of working relationships with community based organizations and First Nations.	More comprehensive understanding of offender needs More effective program delineation regarding roles and responsibilitie for program delivery between WCC and communities.	
Goals	Objectives	Key Strategies	Output Indicators	Outcome Indicators	

Goals	Objectives	Key Strategies	Output Indicators	Outcome Indicators	
Goals3: To provide services to victims and ensure that their issues are understood throughout the justice system.	To work with communities, governments, First Nations and non-government organizations to better understand the needs of victims, their families and communities, in order to improve programs and services.	To develop a client satisfaction survey by September 30, 2002.	Survey reflecting client satisfaction with programs for victims.	Increased involvement of victims in assessing service offerings. Increased understanding of effectiveness of programs for victims, including areas that are working and gaps.	
		To develop a plan to effectively respond to historic sexual abuse issues.	A plan that would equip the Department of Justice to deal with reports of historic sexual abuse.	A process for responding to needs related to historic sexual abuse as addressed by the Department of Justice.	
		To work with other departments to develop a coordinated response to victims.	Inter-agency plan for a coordinated response to needs of victims.	Improved statement of agency roles, responsibilities and effectiveness. More effective service and program delivery.	
Goals	**Objectives**	**Key Strategies**	**Output Indicators**	**Outcome Indicators**	
Goal 4: To provide community justice services.	To work with communities and First Nations to deliver policing, crime prevention and other community based justice services, to meet public safety and security needs.	To review and revise the Public Notification Protocol.	Revised Yukon Public Notification Protocol	Clear process for notification of the public high-risk offenders. Improved public understanding of the protocols for managing high-risk offenders.	
		To complete the annual review of the RCMP/Dept of Justice shared Vision Statement	Shared Directional Statement (RCMP and Justice)	Statement of joint Justice and RCMP priorities to guide programs and services.	
		To explore the effectiveness of community justice initiatives.	Evaluation Framework for community justice initiatives.	Increased understanding of community justice activities, roles and responsibilities. Preliminary understanding of critical components of community justice in Yukon.	

		To assess current crime prevention programs work with Non-Government Organizations and other departments such as Health and Social Services and Education to develop programs that target children and youth.	Regular meetings between affected government Departments. Annual Crime Prevention project reports with a focus on 'what works'.	Improved communication between affected government Departments. Shared understanding between government and non-government organizations (NGOs) about factors regarding 'what works' in crime prevention.	
		To complete the implementation of the Teslin Tlingit Council Administration of Justice Agreement.	Implementation plan for Teslin Tlingit Council (TTC) Administration of Justice Agreement. Establishment of a Peacemaker Court based on TTC clan system to deal with matters under TTC laws for TTC citizens.	Provision of law making authority on settlement land in most areas of territorial jurisdictional Teslin Tlingit Council.	

Primary Responsibility 3: Providing legal services to the Government of Yukon: The Department, through its Legal Services branch, fulfills this responsibility by providing government departments and crown corporations with legal services and advice.

If Legal Services does not have the resources to provide legal services to government, then it obtains those services from the legal community and oversees the delivery of those services to government.

Goals	Objectives	Key Strategies	Output Indicators	Outcome Indicators	2002-03 Estimate ($000's)
Goal 5: To provide high quality and cost effective legal services to government.	To provide or manage the provision of a range of legal services and advice to departments and crown corporations, and to conduct litigation on behalf of the Crown.	To coordinate the implementation of mirror legislation for an effective transfer of federal legislative authority to the Yukon Government.	Increased capacity of in-house counsel.	Increased cost-effectiveness of legal services across government. Development of internal legal capacity. Increased effectiveness in utilizing legal expertise.	$4,968
Total Expenditures					**$34,003**

LINK TO CORPORATE PLAN AND CROSS DEPARTMENT INITIATIVES

Government Priority	Department Objective	Links to Other Departments
Addressing Substance Abuse Problems	2.1 To provide correctional programs and facilities and work with others to provide programs to meet the needs of offenders, families and communities.	To foster the development of addiction treatment programs through the use of public, volunteer and non-profit agencies at WCC.
Maintaining Quality Health Care	2.1 To provide correctional programs and facilities and work with others to provide programs to meet the needs of offenders, families and communities.	To foster the development of addiction treatment programs through the use of public, volunteer and non-profit agencies at WCC.
Achieving Devolution	5.1 To provide or manage the provision of legal services and advice to departments and crown corporations and conducting litigation on behalf of the Crown.	To coordinate the implementation of mirror legislation for an effective transfer of federal legislative authority to the Yukon Government.

4. Relevant Documents, Studies and Practices – Other Northern Territories

4.1. Inuit Women and the Nunavut Justice System – 2000 [2]

Increasing Public Confidence and Judicial Accountability
- The efforts to enhance the public's knowledge of the system and its players is important step to enhancing it's confidence in both.
  - o In particular, an increased awareness of the work of the courts, JPs and committees will also equip community members to evaluate the performances of these players. Also, it is anticipated that with an increase in people's knowledge of the roles of these various justice players, more community members will be encouraged to participate as JPs or committee members.
  - o Ultimately, confidence in JPs, committees and the judicial process, in particular the confidence of Inuit women, rests with the individuals selected or appointed to perform these roles
- The need continues for an improved mechanism to screen candidates for all judicial positions – community justice committees, JPs and the courts—regarding their awareness of gender, racial and cultural bias.
  - o Engaging Inuit women and men in the selection and appointment processes and the development of a more transparent system of discipline of justice personnel is essential.
  - o These reforms will help to encourage, rather than deter, women turning to the justice system.
  - o They will also help to convey the message that women are valued in the community and that violence against women will not be tolerated.
  - o They will help dispel the impression Inuit women have that a judicial response to sexual assault is weighted in favour of an accused at the expense of the rights of the victim.
- The effort to enhance the public's knowledge of the system and its players is an important step in increasing public confidence in both.
  - o In particular, an increased awareness of the work of the courts, JPs and committees will equip community members to evaluate the performances of these players.
  - o The need continues for an improved mechanism to screen candidates for all judicial positions – community justice committees, JPs and the courts – regarding their awareness of gender, racial and cultural bias. Inuit women and men must be involved in selecting and appointing justice personnel.
  - o The discipline process for justice personnel must be transparent, with Inuit women involved in developing this process.

Monitoring and Evaluation
- Many of the challenges identified in this report highlight the need for some mechanism to assess beforehand and monitor and evaluate the impacts of the system and its alternatives.
  - o Moreover, since the potential for JP courts and community-based justice committees to further victimize women is no less than that of the existing system, it is equally important that mechanisms be in place to respond to complaints about the committees or JPs and their determinations.
- The prerogative writ remains in place for JPs, however there seems to be little, if any, discussion regarding how to deal with complaints involving community justice committees or how participants can seek redress.
- There is a need to establish a system of evaluation and monitoring of the impact of these reforms.
  - o The burden should not remain with Inuit women to continually speak out after the justice system has harmed them.
  - o As discussed, to speak out is a risky proposition in the communities.
- Evaluation and monitoring of the administration of justice, including such matters as the use of jury trials, community-based justice committees, JP decisions, are effective means of keeping officials and the public informed on how the system is operating.

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[2] Department of Justice Canada, Research Report, Research and Statistics, Mary Crnkovich and Lisa Addario with Linda Archibald Division, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf.

- It is worth noting that under the federal Aboriginal Justice Strategy, the federal government will provide financial support of up to 50% (and in some instances 70% in any one year) of the costs of a justice program arrangement agreed to by the territorial government and the Aboriginal community.
  - o However, there are criteria that the communities must meet before the federal department will enter the agreement to implement the programs. The criteria include the following:
    - ▪ the *Charter* and the *Criminal Code* will apply to the program;
    - ▪ the community supports the initiatives, established through reports of consultations with the communities
    - ▪ the community demonstrates that support through financial assistance or in-kind community support;
    - ▪ the initiative also has the support of the territorial government;
    - ▪ women in the community play a significant role in all stages of the development, negotiation and implementation of the arrangements;
    - ▪ the program meets the community's needs;
    - ▪ the goals of the justice program can be met in a timely fashion, and at reasonable cost;
    - ▪ interrelated services such as police, health, education, substance abuse, welfare, child protections, and other services must be in place and that these services must be coordinated with the justice programs; and
    - ▪ programs have accountability mechanisms to ensure open decision making, that decisions are free from inappropriate influence, and conflict of interest guidelines are in place.
- While these criteria are admirable, there do not appear to be any criteria that apply once the program is in place in order to monitor or evaluate whether the ongoing operation of the program continues to adhere to the criteria identified above.
- Many of the challenges identified in this report highlight the need for some mechanism to assess beforehand and monitor and evaluate the impacts of the system and its alternatives.
  - o Moreover, since the potential for JP courts and community-based justice committees to further victimize women is no less than that of the existing system, it is important that mechanisms be in place to respond to complaints about the committees or JPs and their determinations.
  - o The prerogative writ remains in place for JPs, however there seems to be little, if any, discussion regarding how to deal with complaints involving community justice committees or how participants can seek redress.
- There is a need to establish a system of evaluation and monitoring of the impact of these reforms.
  - o The burden should not remain with Inuit women to continually speak out after the justice system has harmed them.
- Evaluation and monitoring of the administration of justice, including such matters as the use of jury trials, community-based justice committees, JP decisions, are effective means of keeping officials and the public informed on how the system is operating.

Accountability - Community Power Imbalances – Religion[3]
- In one community there was a request made to the judge by a group that had assumed responsibility for working with offenders who return to the community, to have a sexual assault case diverted out of the court to them.
  - o Members of this group had worked with the accused and felt he should not have to go through the court system.
  - o The specific case involves an assault alleged to have taken place 24 years ago.
  - o The complainant in the case, now an adult was 13 years old at the time of the alleged assault.
  - o The community's response to this particular incident and more specifically, this group's response to the judge for the reason's for having the matter diverted, raised a number of concerns and issues for

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[3] Pauktuutit, Inuit Women and the Administration of Justice, Pauktuutit, Phase II: Project Reports -Progress Report #2 (January 1, 1995 - March 31, 1995) -Appendix #6 - Minutes of Proceedings and Evidence from the Standing Committee on Justice and Legal Affairs Respecting: Bill C -41, Tuesday February 28, 1995, Witnesses: Inuit Women's Association of Canada. cited in Department of Justice Canada, Research Report, Research and Statistics, Mary Crnkovich and Lisa Addario with Linda Archibald Division, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf.

Pauktuutit while at the same time demonstrating how alternative measures can be result in greater injustices than the current system for the victims.

- o In the letter sent to the judge, the group presents its reasons for having the matter diverted to them. We would like to read a portion of this letter:
  - ▪ " [Our group] during our last meeting agreed to help the accused after his last court appearance. [The accused] attended the last [group] meeting to ask for our help. He has recognized the function of the [group] and asked for our help regarding him being charged with a sexual offence which happened years ago. [He] was charged for an incident that happened many years ago and from what [he] has said, [he] has already let this pass when he confessed his sins in church. We [the group] are proposing, instead of going through court, we [the group] can handle this through counselling [the accused]. [The accused] also commented that at the time, [the victim] had told him that she was having boyfriends now.
  - ▪ We [the group] know of [the victim], when she was young, she used to go out with everybody, even older men, she is divorced from her husband... and now married to [someone else]. And for a Christian to go back to the past and persecute someone is not fair, to just get back at what happened many years ago. Especially at a person who has confessed his sins to let go of the past. We [the group] all agreed that we should help out the accused. [The accused] was also very concerned about his wife and children and what this would do to his family." (p. 85:14)

Issues of Fundamental Justice
- Alternative measures, like the judicial proceedings they replace, would be required to adhere to the principles of fundamental justice and other basic tenets of the system.
  - o For example, the need for judicial impartiality in resolving these matters is a strongly held founding principle of the system.
  - o When it comes to alternative measures, this would also have to apply in our view.
  - o In other words, political leaders cannot be given decision-making roles in any alternative measure because of this principle. (p: 85:16)
- Likewise alternative measures, like judicial proceedings, must be designed, in our view to seek out the truth NOT hide it.
  - o If this cannot be achieved, it would seem the specific alternative measure could not be used. We believe this view of ours is shared by the highest court in Canada. (p. 85:16)
- We are not lawyers, so we cannot discuss the Supreme Court rulings in such cases as R v. Seaboyer, [1991], R. v. B (K.G) [1993] and R. v. L. (D.O) [1993] from the legal perspective, but we do want to raise some points from these cases as they relate to alternative measures.
  - o In these cases, the court addressed the principles of fundamental justice from the rights of the accused.
  - o In the most recent of the three cases, the R. v. L. case, Madame Justice McLaughlin that when explains that when looking at this constitutional issue before the court, it has to be looked at in context.
  - o She says that it is necessary to look at the broader political, social and historical context to be truly meaningful.
  - o The context in which Judge McLauglin looks at the section 7 and 11(d) rights of the accused is the context of child sexual abuse in Canadian society.
  - o She reminds us the same Court agreed that a particular right or freedom may have a different value depending on the context.
  - o She acknowledges the parallel between the historical discrediting of children and women who report sexual assaults.
  - o She goes on to state that, " the innate power imbalance between the numerous young women and girls who are victims of sexual abuse at the hands of almost exclusively male perpetrators cannot be underestimated when 'truth' is being sought before a male-defined criminal justice system."
- The rights of the accused should then be assessed in terms of the context of the specific case.
  - o It seems this balancing of rights exercise done by the Supreme Court has not been adequately reflected in Section 717. (2). (pp. 85:16-17)

- o In this same case, Madame Justice L'Hereux-Dubé informs us that "the goal of the court process is truth seeking and to that end, the evidence of all those involved in judicial proceedings must be given in a way that is most favourable to eliciting truth. ...If the criminal justice system is to effectively perform its role in deterring and punishing child sexual abuse, it is vital that the law provide a workable, decent and dignified means for the victim to tell her story to the court."
- When we take these remarks of the Supreme Court of Canada in these decisions and the experiences of Inuit women into consideration with respect to the alternative measures proposed in Bill C-41, it is not only recommended but necessary that there be an explicit statement under section 717.2, which prohibits the use of alternative measures to deal with a person alleged to have committed either an indictable offence or summary conviction offence of sexual assault, child sexual assault or spousal abuse. (p. 85:17)

4.2. A Framework for Community Justice in the Western Arctic – 1999[4]

Accountability

- Accounts by CJSs of their reporting requirements varied, from saying that their job description "requires only an annual report" to "no real reports are required, only verbal ones twice a year".
  - ° Most do not provide accounts of their own activities except verbally in twice annual meetings.
  - ° Apparently written reports had been an expectation at an earlier point in the program's history but these were seldom done and did not seem to be considered by anyone as particularly useful.
  - ° CJSs communicate informally with the Director when they have a need for information or assistance but have very little communication with one another (except for one "team" of two CJSs who have an agreement between them with respect to their division of labour in two regions - one handles all of the budget and financial administration).
- Four of the five CJSs are located outside of Yellowknife, being a resident of one of the communities in the region they are serving.
  - ° Since their responsibilities are primarily to provide assistance to communities in the same area, they operate in relative isolation from both the Division and one another.
  - ° Without a routine reporting format regarding their activities and achievements, there is a dearth of information which can be provided by the Division when the role of the CJS has been questioned.
  - ° Community respondents as well as several coordinators and committees often asked "what do they do?"
  - ° In many cases, local government representatives have neither met nor seen the CJS in their community.
  - ° This is not necessarily because CJSs have not been there, but may be due to lack 'of regular communication from CJSs about their activities.
  - ° Although the role of the CJS, as originally envisioned and broadly understood, is widely regarded as being of potential value to the communities, few respondents now consider it to be fulfilling this potential.
- Most Aboriginal and non-Aboriginal persons with whom we spoke feel that local accountability of the CJS to the communities served should be established.
  - ° It was suggested that, at the very least, they could meet with Chief and council to report on their activities.
  - ° Some respondents would like to see a work plan from the CJS so that they know what to expect.
  - ° These respondents also feel that communities should have input to this work plan or be able to provide guidance and direction.

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[4] Campbell Research Associates, Kelly & Associates, Smith & Associates, prepared for Government of Northwest Territories, Department of Justice, A Framework for Community Justice in the Western Arctic – June 1999

- One of the key functions of the CJSs is to maintain the funding accountability link between communities/committees and the Division.
  - ° This is exercised through their obtaining the six-month and year-end reports so that the funding can be provided to communities.
  - ° While some CJSs find that this process takes considerable time and they have to "chase" communities for these documents, others did not indicate any major problems in this respect.
  - ° Some coordinators and committees do not see the reporting requests as being difficult; often the First Nation administration or sponsoring agency handles the financial matters.
- Others have, however, encountered a range of problems with the accountability requirements:
  - ° preparation of year-end financial reports is in the hands of the sponsoring organization which is dealing with a number of government-required reports; many of their other year-end statements are for substantial sums and these take priority;
  - ° committees without coordinators have no dedicated person to put together the information;
  - ° coordinators of committees that are chartered societies must prepare their own reports; these coordinators lack specific training and experience in preparing financial statements and find that it takes a significant amount of time in the midst of their other responsibilities (one coordinator said that it takes a full week to do the year-end report);
  - ° CJSs are either difficult to reach or not very helpful in responding to requests for assistance;
  - ° although no one disputed the need for financial accountability, some coordinators/committees do not understand the need for other information or exactly what type is being asked for.
- Most coordinators/committee members reported that they are maintaining minutes of meetings and records of their activities.
  - ° Some receive regular financial updates from the sponsoring organization.
  - ° Several have also instituted reporting processes to the RCMP regarding diversions and their outcomes.
  - ° In most cases, coordinators indicated that they regularly provide reports about these to their committees.

Conclusions
- Accountability on the part of the CJSs to both their employer (i.e., the Community Justice Division) and to communities needs to be strengthened.
  - ° CJSs are the primary link between the Department and the communities and, as such, carry the responsibility of ensuring that the Community Justice Division is informed about the program's operation and that it is addressing community justice needs to the extent that its mandate allows.
  - ° As the key agents of the program, CJSs need to be providing more information, including accountability for their own role, to the Community Justice Division.

Recommendations
- More regular written reporting is necessary from the CJSs, both to the Division to fulfil their accountability as employees and to communities to maintain their accountability for services being provided.
- Reporting to the Division and to the communities by the CJSs should be based on their work plans and indicate which activities have been carried out, which have not, the reason why not, problems encountered and any needs for resources or assistance.
  - ° The optimal reporting period to the Division can be determined by the Director in consultation with the CJSs but should be at least quarterly.
  - ° Reporting to the communities should also be done on a regular basis through meetings with local governments, especially at the beginning of the fiscal year to discuss the work plan.

- ° Committees and local governments can subsequently be sent copies of part or all of the CJSs' written reports to the Division.

- CJSs should meet with committees/coordinators/sponsoring organizations (or by telephone/e-mail if necessary) when contribution agreements have been sent to go through the agreement and ensure that it will not get "lost" among other paper work.
    - ° At the same time, the reporting requirements and types of information requested should be fully explained and a time-frame specifically set out for these.
    - ° The CJS must systematically follow-up at an early enough point with committees/coordinators/sponsoring organizations and provide assistance if needed.

- A forum for committees to be able to share their current efforts in collecting and maintaining information as well as the uses made of this information should be provided by the Community Justice Division.
    - ° Three coordinators/committees in the eight visited communities are now developing systems to track their activities and decisions.
    - ° Their models and experience may meet the needs of both other communities and the Division.

- A simplified reporting form, standard for all committees/coordinators, needs to be designed and provided to committees/coordinators/sponsoring organizations as part of the contribution agreement package.
    - ° In one or two pages, the key data requirements can be set out in a check-off, fill-in-the-blanks, yes/no format.
    - ° Among the questions to be included should be to identify any problems affecting their functioning which they have encountered, either with the Division or with other parties, as wet! as any needs that may have emerged.

- While the Community Justice Division requires information from communities, it also has a responsibility to provide communities with adequate and current information about its own activities, developments in Territorial justice system processes and practices, potential funding sources, changes in legislation or legal interpretations that may affect the work being carried out by committees.
    - A periodic newsletter, including this as well as other information about community justice, should be prepared and distributed to the coordinators by the Division.
    - Creation of a web-site for the program should be considered as an increasing number of communities are gaining access to the internet.
    - The costs of internet access should be provided by the program.

Concerns
Community Accountability

- Concerns have been raised by key respondents and in the literature about community accountability in general and accountability mechanisms in restorative justice decision- making.
    - This has led to the voicing of cautions in the development of community justice programs.
    - Care must be taken to ensure that family and kinship networks and the community power hierarchy do not compromise the administration of justice.

Community Justice – Results/Performance Measurement/Accountability

As In any community, there Is a danger of a tyranny of community In which certain individuals and groups of residents, particularly those who are members of vulnerable groups, find themselves at the mercy of those in positions of power and influence.. (Griffiths & Hamilton, 1996, pp.187-188)

According to respondents in the Northwest Territories, the issue of internal community politics has, in many cases, discouraged individuals from participating in community justice committees making decisions about the appropriate disposition of persons diverted from the mainstream justice system.

It has also been suggested in the literature that 'true participatory justice' is difficult to achieve because those communities in need of holistic, restorative-based justice programs are often the most dysfunctional. While these communities are encouraged to become involved in the disposition and sanctioning process, they may have only limited capacity or interest to do so. Many individuals interviewed in the Northwest Territories indicated a need for healing on the part of committee members so that they will be better able to assist others with the kinds of problems that have brought them into conflict with the law. Some respondents also feel that healing is required by community members in general and that this can help overcome difficulties in establishing and maintaining an effective community justice committee. The Community Justice Initiative has recognized this need through including healing workshops as one of the legitimate uses of community justice funding.

Reporting and Record-Keeping

– Reporting and record-keeping continue to be an issue in many jurisdictions.
  o Some contend that the absence of adequate training is responsible for insufficient documented reports and poor record-keeping, as was expressed by most respondents in the Northwest Territories.
  o Regardless of the reason, reports and records are essential for evaluation purposes and to create important statistical summaries that help programs to improve and community justice to build on its successes.

Reporting and Record-Keeping - It is important to maintain records of cases dealt with to provide a statistical basis for evaluating the project's success and to ensure compliance with appropriate diversion guidelines.

FINAL EVALUATION FRAMEWORK

Goals and Objectives

Goals	Objectives
1. To increase the capacity, role scope and impact of communities in addressing their own justice issues in order to decrease dependence on the formal justice system	1.1 To increase the number of cases dealt with in GNWT communities through alternative measures
	1.2 To document key elements of community-based justice processes on a case-by-case basis that reflect current capacity, role, scope and impacts within communities
	1.3 To assess the impacts of committees by comparing rates of recidivism in those cases which have been diverted to the community justice committee with those which have gone through the mainstream justice process
	1.4 To increase community capacity by increasing the number of active justice committees from 15-17

Community Justice – Results/Performance Measurement/Accountability

Goals	Objectives
	1.5 To increase the scope of community justice committees by assisting two well-functioning committees to accept diversions of: a. persons with previous criminal records b. offences against the person 1.6 To increase the scope of communities by assisting the development of alternative discipline processes in the school system (e.g., restitution and peace projects, family group conferences)
2. To promote awareness of interest in, and activities related to community justice	2.1 To <u>collect</u> and <u>organize</u> data that will be useful to describe community justice initiatives to the community and the media 2.2 To distribute information on community justice initiatives by: • Preparing a quarterly newsletter • Creating a web site • Preparing an annual report • Conducting information sessions
3. To support communities involved in community justice initiatives	3.1 To provide regular, comprehensive training to community constables and RJCs that will enable them to: • Assist communities to identify needs and goals • Develop / maintain effective justice committees • Develop relationships of trust with community groups and with individuals • Ensure program accountability 3.2 To develop appropriate working relationships at the community and territorial level with: • RCMP • Federal Crown • Corrections • Other relevant government and non-government agencies (victims and women's groups)
Goals	**Objectives**
3. To support communities involved in community justice initiatives (cont'd)	3.3 To help community groups and/or justice committees to identify training needs that will help them deliver effective community justice initiatives 3.4 To coordinate and/or provide regular training to community groups and/or justice committees that will enable them to deliver effective community justice initiatives, as identified in objective 3.3 3.5 To create a guide on restorative justice

Goals	Objectives
	3.6 To create an interdepartmental working group on healing and restorative justice
	3.7 To fund a justice conference with the Dene Nations which:
	• Ensures wide participation of community justice committee representatives
	• Supports/creates internet access by all communities
	• Involves training on "new" and "old" ideas
	• Ensures victim and offender issues are addressed
4. To ensure financial accountability of the community justice division	4.1 To require completion by <u>all</u> justice committees or other designated local authority of a work plan, prior to receiving funding, showing how the community intends to use funds during the fiscal year
	4.2 To require completion by all justice committees or other designated local authority of a year-end report describing how funds were used
	4.3 To create, distribute and require completion of standardized financial report forms from RJCs
	4.4 To ensure that RJCs contact justice committees or coordinators when contribution agreements have been sent out to explain signing and reporting requirements
5. To balance needs of victims and offenders in the operation of community justice projects	5.1 To increase awareness of specific victim and offender needs and ways those can be addressed through restorative justice processes
	5.2 To ensure that victims are fully informed about and have significant opportunities to participate in community justice processes
	5.3 To create linkages between justice committees, victims, women's groups and other government agencies that support victims
6. To devolve increased responsibility to appropriate regional aboriginal organizations or governments	6.1 To create a devolution policy which supports the transfer of initiatives to regional aboriginal organizations or governments

4.3. The New Justice: Some Implications for Aboriginal Communities - 1997[5]

Findings
- **Accountability***:* It is critical that there is accountability in community-justice initiatives.
  - This is a paramount issue if members are to see the community-based structures as legitimate and credible.

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[5] LaPrairie, Carol. The New Justice: Some Implications for Aboriginal Communities .Ottawa: Department of Justice, 1997. Cited in Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf

4.4. Inuit Women and the Administration of Justice, Phase II - 1995[6]

Accountability - Lack of guidelines
- There are no guidelines set down in a law for the use of sentencing circles, only the criteria being set down by judges in their decisions. Yukon Territorial Court Judge Barry Stuart is recognized as the person who introduced this alternative measure to Canada.
   - It was first used in case in which he presided over in the Yukon, in that case, *R. v. Mose*s, he described sentencing circles as a means of "empowering community members to resolve their own issues, restoring people's sense of collective responsibility and improving the capacity of communities to heal individuals and families and ultimately to prevent crime".
- The experiences to date with the use of these circles in Inuit communities and other aboriginal communities when dealing with sexual abuse and spousal assault have not been positive for the victims.
   - It would seem that alternative measures must adhere to the safeguards already provided in the existing system.
      - For example, within judicial proceeding the principles of judicial independence and impartiality are basic tenets.
      - This too should be the case for alternative measures.
   - In other words, this would mean that community political leaders cannot be given decision-making roles in alternative measures.
      - To date this has not been the case.

- **Accountability - Lack of Evaluations of Existing Community-based initiatives**
   - There have been no formally evaluations done on the circles, yet we have learned that in these circles, when they are dealing with sexual assault or spousal assault, seldom can victims speak freely.
      - Pauktuutit, through its Justice Project has begun to conduct its own evaluation of the use of sentencing circles for sexual assaults and spousal abuse cases.(p: 85:15)

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[6] Pauktuutit, Inuit Women and the Administration of Justice, Pauktuutit, Phase II: Project Reports -Progress Report #2 (January 1, 1995 - March 31, 1995) -Appendix #6 - Minutes of Proceedings and Evidence from the Standing Committee on Justice and Legal Affairs Respecting: Bill C -41, Tuesday February 28, 1995, Witnesses: Inuit Women's Association of Canada cited in Department of Justice Canada, Research Report, Research and Statistics, Mary Crnkovich and Lisa Addario with Linda Archibald Division, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf.

5. Relevant Documents, Studies and Practices – Other Canadian

5.1. Aboriginal Justice Strategy – Logic Model/Ongoing Performance Measurement Strategy

The AJS Logic Model

Community Justice Program Component	Aboriginal Justice Learning Network	Policy Development	Self Government

Activities

Funding	Consultations and general support	Funding	Training and Development Funding	Policy research and development	Self Government Capacity Building funding

Outputs

Funded agreements for community justice programs	Agreements, processes and mechanisms amongst stakeholders	Funded agreements for incremental training, communication events/tools	Funded agreements for training and development targeting priority areas	Policy reports, briefing notes, program guidelines, and models for local administration of	Funded agreements for self government training, communication events/tools

Outcomes (immediate)

Improved community capacity to address justice issues	Improved acceptance and collaboration amongst justice stakeholders	Informed and knowledgeable stakeholders; increased public awareness of Aboriginal justice issues	Increased community knowledge of models and processes of community justice programs; increased involvement of women, victims' groups, youth, Métis, urban Aboriginals, and under-represented Regions	Improved knowledge of needs and factors that may influence community participation in self-government negotiations and/or justice policy affecting	Improved knowledge of the issues and processes that surround the enforcement and administration of law

Outcomes (intermediate)

Improved service delivery, community awareness/participation; positive change in community attitude towards the justice system through outreach	Improved justice policy development affecting Aboriginal people

Outcomes (ultimate)

Increased Aboriginal community responsibility for local administration of justice	Mainstream justice system more responsive to needs of Aboriginal people

Reduced victimization, crime and incarceration rates of Aboriginal people

Introduction

As part of the federal government management framework Results for Canadians, public service managers are expected to define anticipated program results, focus on results achievement, measure performance regularly, and to use the information to improve efficiency and effectiveness. To facilitate this process, effective April 1, 2001, Treasury Board requirements call for a Results-Based Management and Accountability Framework (RMAF) on all programs involving transfer payments. This RMAF details the objectives of the Aboriginal Justice Strategy (AJS), the expected outcomes, and a framework for monitoring, reviewing and reporting on its progress and activities for the 2002-2007 mandate.

Profile

Origin and Rationale

"It is a tragic reality that too many Aboriginal people are finding themselves in conflict with the law. Canada must take the measures needed to significantly reduce the percentage of Aboriginal people entering the criminal justice system, so that within a generation it is no higher than the Canadian average." *Speech from the Throne, Jan 2001*

Numerous public inquiries, task forces and commissions on Aboriginal people and the Canadian justice system have concluded that the present justice system has failed Aboriginal people. A growing body of statistical information further indicates that Aboriginal people have high contact rates with police and disproportionately high rates of arrest, conviction and imprisonment. Profiles of Aboriginal offenders, incarcerated in federal and provincial correctional institutions, reveal indicators of significant social and economic marginalization, including low levels of academic achievement and high levels of unemployment and family dysfunction. Considering these and other factors affecting Aboriginal communities (e.g.: Residential Schools, Fetal Alcohol Spectrum Disorder, alcohol/substance abuse), it is clear that the needs of the Aboriginal population are truly complex.

Given this complexity, the federal government is responding with a continuum of policies, programs and initiatives to address the disproportionate rates of crime, incarceration and victimization experienced by Aboriginal people. Examples of policies, programs and initiatives along the justice continuum include, but are not limited to, the Aboriginal Justice Strategy, the Native Courtworker Program, the First Nation Policing Policy, the Youth Justice Renewal Fund Aboriginal Community Capacity Building, and the Aboriginal Community Corrections Initiative. Although these programs and initiatives each operate within their separate mandates and authorities, they are linked by a common purpose to contribute towards improving conditions of Aboriginal people within Canadian society.

As part of that continuum, the purpose of the AJS is to focus on strengthening the capacity of Aboriginal communities to reduce crime and victimization through increased community involvement in the local administration of justice. This increased capacity will contribute to the development of more appropriate responses to Aboriginal over-representation and, over the longer term, reduce the percentage of Aboriginal people coming in contact with the criminal justice system. Furthermore, as more Aboriginal people become involved in justice administration, a greater understanding of Aboriginal needs will evolve and, consequently, contribute to the necessary conditions for sustainable improvements within the mainstream justice system.

During the previous mandate, the AJS provided leadership towards developing key relationships with community and provincial/territorial stakeholders. By coordinating key institutional players and leveraging resources, strong cost sharing partnerships evolved over a relatively short timeframe. However, given the complexity of the issues being addressed, much work remains to continue those relationships so that they are sustainable and support Aboriginal justice initiatives over the longer term.

Delivery Approach

The AJS provides the program and policy framework whereby the federal and provincial/territorial governments cost-share (on 50/50 basis) community justice programming that is based on the principle that solutions to the challenge of Aboriginal over-representation must be found within the existing provisions of the Canadian justice system. Therefore, AJS eligible program models apply existing approaches for community involvement in justice administration (e.g.: mediation, diversion, community advice on sentencing, etc.).

The AJS will also provide funding for a new Training and Development Component to address under representation in Regions or in program models such as mediation. Grants and contributions will cover 100% of the eligible expenses for 2002-2004 to complete the initial program development work, and then will begin to decrease over the duration of the mandate as the communities move into cost-shared funding arrangements with provincial and territorial governments.

Additionally, a new Self-Government Capacity Building Component of the fund has been established to support the development in the local administration and enforcement of Aboriginal laws. The AJS will provide contributions up to 100% of the eligible expenses for this component of the fund.

The objectives of the AJS are:

- to assist Aboriginal people to assume greater responsibility for the administration of justice in their communities;
- to reflect and include Aboriginal values within the Canadian justice system; and
- over the long term, along with other justice programs, contribute to a decrease in the rate of victimization, crime and incarceration among Aboriginal people in communities operating AJS programs.

The key activities in fulfilling those objectives are:

- Community Justice Program Component
- Aboriginal Justice Learning Network
- Training and Development Component
- Policy Development
- Self-Government Negotiations
- Self-Government Capacity Building Component

These activities operate jointly, supporting and complementing one another in meeting the objectives of the overall strategy. For example, Policy Development provides policy analysis to strengthen other activities such as the Community Justice Program Component and Self-Government Negotiations.

The Community Justice Program Component

Through program models such as diversion, community sentencing, mediation in civil matters, and Tribal courts, this activity supports Aboriginal communities in implementing culturally relevant community justice programs that allow them to assume a significant role in working with offenders and resolving civil and criminal disputes in their communities.

These four models attempt to capture the breadth of activities that are taking place at the community level and represent how the AJS is organized:

- *Diversion/alternative measures programs* are generally established under provisions of the Criminal Code or the Young Offenders Act. These programs remove offenders from the mainstream court systems into community processes that set more culturally appropriate remedies or sanctions for the offences;

- *Community sentencing programs* provide for a range of approaches, such as sentencing advice to courts through Elders' advisory panels or circle sentencing initiatives, community circles (with or without the intervention of a court), and other peacemaking processes;

- *Mediation* involves the intervention in disputes of an impartial, neutral third party, who assists the parties in coming to a resolution of the dispute. This person has no decision making power, but instead facilitates mutual resolution on the part of the parties. Mediation programs address non-criminal disputes, such as family or civil cases. Mediation, as one of four program models funded by the AJS, is not to be confused with mediation as a process used by many of the programs; and

- *Tribal Courts* are First Nation courts whose jurisdiction has been recognized under First Nation law as well as under provincial and territorial legislation or under the Indian Act.

Once a community justice program proposal has been approved, communities work with the Aboriginal Justice Directorate (AJD) and the respective provincial/territorial ministries, to develop, implement and maintain their programs in continuous consultation with mainstream justice providers (e.g., crown prosecutors, police, courts, etc.). Funding is provided through bilateral or trilateral funding arrangements (contribution agreements) that include regular reporting to address the accountability requirements of all levels of governments.

Each community justice program has overall responsibility of running their daily operations; the federal/provincial/territorial (FPT) governments are responsible for providing funds, expert advise and facilitating linkages with mainstream justice stakeholders and other social service providers.

Outcomes for the Community Justice Program Component include:

- improved community capacity to address justice issues;
- improved acceptance and collaboration amongst justice stakeholders;
- improved service delivery, community awareness and participation; and
- positive change in community attitude towards the justice system.

The Aboriginal Justice Learning Network

The Aboriginal Justice Learning Network (AJLN) acts as a vehicle for communication between Aboriginal communities, community justice workers, justice professionals, and all levels of government. The AJLN provides forums for Aboriginal communities to exchange best practices, and stay informed about developments and creative solutions to Aboriginal justice issues. It supports training and information sharing on alternative, restorative justice processes that are consistent with Aboriginal values and traditions, and helps to ensure that Aboriginal women participate as full partners in both the development and implementation of community justice programs. The AJLN also manages the Training and Development Component, and plays a lead role in supporting evaluation activities at the community level.

Outcomes of the AJLN include:

- informed and knowledgeable stakeholders; and
- an increase in public awareness of Aboriginal justice issues.

Training and Development Component

The 2001 Final Evaluation of the AJS echoed feedback from community programs in identifying the need for sustainable training and support for program development as a key component for their success. The AJLN will manage a new Training and Development Component, which focuses on community capacity building in order to address under representation:

- in Regions such as the Atlantic Region;
- in Community Program models such as Mediation and Tribal Courts;
- in target populations, such as Urban Aboriginals, Métis, and off-reserve Aboriginals; and,
- in the role of women, victims' groups, and youth in restorative justice initiatives.

A Federal/Provincial/Territorial Working Group will establish a criteria for accepting proposals, based on the priority this group assigns for these identified under represented areas.

Objectives of the Training and Development Component include:

- *Training* to support the development of new programs that meet the priority areas established in the criteria;

- *Community Development* to address the training and/or developmental needs of Aboriginal communities that currently do not have community-based programs funded through the AJS;

- *Program Development* to support existing AJS community programs that are proposing to expand into a priority area established in the criteria or to improve the existing program.

A Review Committee will decide what proposals meeting the criteria are approved. The Review Committee will be composed of five members:

Rotating Members:	• AJS Regional Co-ordinator for the Region of the proposal;
	• 1 member of the AJLN Advisory Committee (will be member that represents Region of proposal)
Non-rotating Members:	• 1 member of the AJLN
	• AJS Program Analyst
	• 1 member of the Financial Community Development Sub-Committee (sub-committee of the AJLN Advisory Committee)

Outcomes of the Training and Development Component include:

- Increased community knowledge of models and processes of Aboriginal restorative justice initiatives;

- Improved community capacity to address justice issues in under-represented Regions, program models, and target populations; and

- Improved service delivery, community awareness and participation.

Policy Development

The Policy Development component works to develop a community of professions and resources that will support Aboriginal justice as a key priority in Canadian society. Through strategic partnerships, AJD facilitates horizontal efforts,

analysis, and support activities relating to Aboriginal community justice at the intradepartmental, interdepartmental and intergovernmental levels:

- *Intradepartmental activities* will focus on ensuring that the range of departmental programs relating to aboriginal people is, within their respective mandates and authorities, consistent and complementary in their policy and program delivery approaches. These programs would include those for victims, youth, restorative justice and crime prevention, amongst others.

- The AJD will participate in the Department's Multi-Issue Working Group to share information and expertise, identify opportunities for joint support of projects, avoid duplication in the review of funding proposals, and to provide consistent information on funding applicants.

- *Interdepartmental activities* will develop stronger, more strategic and more collaborative linkages with other federal programs operating in justice-related matters with aboriginal communities. This objective will be pursued through the Interdepartmental Committee on Aboriginal Issues (ICAI), which the AJD will coordinate and which meets at least 4 times per year, as well as through a number of other vehicles.

- *Intergovernmental activities* will continue under the existing FPT Working Group on the AJS to discuss and evaluate the effectiveness of the AJS in the context of the shared objective to address the over-representation of Aboriginal people coming into contact with the criminal justice system. Comprised of representatives from various provincial/territorial ministries, it will meet at least twice a year through formal meetings and tele/video conferencing.

- Further intergovernmental activities are accomplished through bilateral Memoranda of Understanding (MOU) negotiated between Canada and the respective provincial/territorial government. These MOUs provide the framework and broad conditions for government support of community-based Aboriginal justice programs.

- AJD actively participates on the FPT Working Group on Victims Issues, the FPT Working Group on Restorative Justice as well as any further FPT working groups/committees that contribute to the development of a body of knowledge and practice that is required to sustain success on Aboriginal justice issues.

Self-Government Negotiations

The self-government negotiations activity provides legal/policy advice and support to self-government and claims negotiators where 'administration of justice' provisions are under consideration.

Self-Government Capacity Building Component

Community-based programs funded through the AJS deal primarily with the mainstream justice system. Consequently, these programs do not address the challenges Aboriginal communities face, either in by-law administration or, for communities in self-government negotiations, in the enforcement of their own laws.

The objectives of the Self-Government Capacity Building Component include:

- to develop and disseminate information to Aboriginal communities about effective approaches to the administration and enforcement of laws;

- to assist Aboriginal governments to develop the necessary capacity to develop, administer, and enforce their laws;

- to assist Aboriginal communities to understand the civil and regulatory aspects of the Canadian justice system; and

- to assist Aboriginal communities who are in self-government negotiations to enhance capacity and to develop models (which may operate as mechanisms or processes) for the enforcement of their laws.

The policy group will manage a Self-Government Capacity Building Component in conjunction with INAC and Aboriginal Affairs (Privy Council Office) that will focus on the development of pilot projects and resource material to support capacity building in the local administration and enforcement of Aboriginal laws. This component is separate from activities related to the implementation phase of self-government agreements.

Outcomes of the Self-Government Component include:

- Improved community knowledge of the issues and processes that surround the enforcement and adjudication of laws.

- Improved community capacity to administer and enforce their own laws.

- Increased Aboriginal community responsibility for the local administration of justice.

Program Overview

Federal Partners

Through the AJD, the Department of Justice is responsible for the management of the AJS in consultation with Indian and Northern Affairs Canada (INAC) and the Solicitor General Canada (SGC). This consultation occurs through bilateral, issue specific meetings as well as through the interdepartmental and intergovernmental forums mentioned above. It is imperative that these three departments jointly ensure that Aboriginal policy development within their respective departments is mutually supportive of the AJS and efforts are made to harmonize federal programming opportunities, where possible, in Aboriginal communities.

INAC provides funding as well as advisory to ensure consistent and complimentary federal Aboriginal policy, through direct involvement with local community justice committees and active participation on AJS working groups at the interdepartmental and intergovernmental levels.

INAC's responsibilities include:

- ensuring that AJS activities are consistent with INAC investments in First Nations and Inuit social programming;

- supporting the re-emergence of First Nations and Inuit modes of governance and capacity-building in Aboriginal communities; and

- supporting the development of local justice models as communities move towards self-government.

Similarly, interdepartmental cooperation must occur in the policy development milieu as SGC pursues it objectives under the First Nations Policing Program (FNPP) and the Aboriginal Community Corrections Initiative (ACCI). SGC provides advisory support through its participation on the Interdepartmental Committee on Aboriginal Issues and the

FPT Working Group on AJS. Collaborative project partnerships will continue to contribute to horizontal efforts on Aboriginal justice issues.

SGC's responsibilities include:

- ensuring consistency in federal Aboriginal policy development;

- working closely with the AJS through the ACCI to improve efficiency when working with provincial/territorial colleagues; and

- capitalizing on existing relationships and processes on a program by program basis.

To facilitate advisory support and policy development consistency, AJD chairs the Interdepartmental Committee on Aboriginal Issues (ICAI). The ICAI acts as an information forum, supports the development of strategic approaches and provides opportunities for roundtable discussions on emerging issues and priorities. These conversations will contribute to program improvements as well as the broader policy discussions related to Aboriginal justice within INAC, SGC and other federal departments that participate on the ICAI.

Provincial/Territorial Partners

Within the Canadian justice system, the federal government is responsible for enacting federal legislation (Criminal Code, Youth Justice Act, etc) while provincial/territorial governments are generally responsible for the administration of justice (police, crown, etc). There are times, however, when federal and provincial/territorial jurisdictions overlap in the interest of developing better policies and programs for Canadians. This aspect of shared jurisdiction emphasizes the importance of provincial/territorial engagement and support when negotiating meaningful justice agreements in Aboriginal communities. For example, diversion programs, where the community facilitates restitution and access to community services for an offender, must have the consent and active participation of police and crown. Similarly, sentencing circles and advisory panels require a court receptive to such practices.

Provincial/territorial governments, through ministries that may vary from region to region (e.g., Attorney General, Social Services, Justice, etc.), are responsible for funding, for harmonizing their government policies and processes, providing advice and facilitating the necessary horizontal collaboration that will contribute to the success of the AJS.

The provincial/territorial officials meet with the community and federal counterparts (AJD Regional Coordinators) on a regular basis as well as within the FPT Working Group on AJS. Each provincial/territorial department has its own set of reporting and accountability provisions and efforts are made to harmonize with community and federal requirements wherever possible through the respective contribution agreements.

Community Partners

Recognizing that many Aboriginal communities experience rates of victimization and incarceration well above national norms, community safety and appropriate justice interventions are community goals that are very important. These needs are addressed through AJS innovations (e.g., diversion, mediation, restorative justice strategies, etc.) that enable greater community responsibility and action, consistent with the goals of the self-government and other federal Aboriginal and justice policies.

Community justice programs are responsible for the daily operations of their program as well as the ongoing reporting and accountability requirements outlined in the contribution agreements that provide program funding. Community justice programs are also responsible for maintaining the necessary contacts with the mainstream justice system and the community, that are imperative to the long term success and sustainability of their initiative.

The AJS seeks to address the over-representation of Aboriginal people in contact with the criminal justice system by increasing Aboriginal community participation and reflecting Aboriginal values in the mainstream justice system. In 2002-07, the AJS will undertake measures that address the needs of Aboriginal communities by supporting existing community justice programs, participating in self-government negotiations pertaining to administration of justice, supporting training, development and self-government capacity building, and continuing to advocate for change in the justice system through the Aboriginal Justice Learning Network.

Through strategic investments of AJS funds, the following outcomes will evolve under the various activities outlined below and illustrated on the AJS logic model:

Activity: Funding under the community justice program component

Funds are provided to implement community justice programs (CJPs) that rely on existing strengths and shared values of the community. CJPs contribute to the local capacity to address justice issues and increase self reliance in a number of ways. Specifically, community volunteers receive training in areas such as mediation training, family group conferencing, general knowledge of the justice system, the *Criminal Code*, victims issues, as well as the roles and responsibilities as a committee member, etc. By recruiting and training local volunteers these learned skills are retained in the community, and contribute to acceptance and ownership of local alternatives to the mainstream justice system.

CJPs deliver services through holistic approaches to community justice. This requires that networks be created with other social service providers for interagency responses to the underlying issues relating to crime and victimization. Additionally, community justice programs develop relationships and protocols (informal and/or formal) with key stakeholders in the mainstream justice system (e.g.: police, Crown, judiciary, probation, etc.).

All of this leads to a stage where the community justice program is recognized as a service provider that is capable of managing local justice administration and responds to referrals from key stakeholders and other agencies (e.g., child welfare organizations, family services etc.). While improving relationships between community and mainstream justice stakeholders, the community justice program becomes a viable alternative to the mainstream justice system. Broader community awareness and participation evolves not only through direct volunteerism, but also by recognizing the program as a collective benefit to the community at large.

Through outreach efforts, the collective benefits are achieved as the broader community begins to embrace the community-based approach and understands that an offender will be held accountable within the community for unacceptable behaviours. A strengthening of social cohesion occurs by providing community members with a forum where they can meaningfully contribute to the community as a whole; and the individual's behaviour begins to change as more direct responses to the underlying issues are addressed through holistic models. Combined, these elements contribute to the positive change in community attitude towards the justice system as well as long-term sustainability of the community justice program.

Activity: Consultations and general support to CJPs

All community justice programs are funded through negotiated processes that include the community justice programs, the provincial/territorial government and the federal government. Commencing at the early stages of development, the CJP must work with the various authorities to ensure that their processes are constructed within acceptable justice policy perimeters and these understandings are captured in the associated contribution agreement.

Once a community justice program is implemented, there needs to be further agreements, processes and mechanisms (e.g., diversion protocols, referral processes, etc.), amongst justice stakeholders (community, provincial/territorial, and federal) to ensure the program operates with the appropriate authorities and that justice policy is jointly developed and shared. As CJPs thrive, we can expect to see improved acceptance and collaboration amid justice stakeholders as these local responses are seen as appropriate and viable alternatives to the mainstream justice system.

In parallel, the AJD collaborates with federal/provincial/territorial partners to share information and collaborate, where possible, fostering a supportive environment for community justice programs. This is achieved through MOUs, FPT Working groups and liaison between federal and provincial/territorial officials.

Activity: Funding under the Aboriginal Justice Learning Network

While the community justice programs concentrate efforts at the local level, the Aboriginal Justice Learning Network (AJLN) provides funds to support incremental training/learning events and communication events/tools such as conferences, workshops, etc., at a national level. These activities provide opportunities to bring together mainstream and community stakeholders to discuss issues of mutual interest and further serve to nurture an environment that promotes reform in the mainstream justice system and support for community based justice processes. Communication tools, such as the website and newsletter, are developed to increase the opportunities for stakeholders to access information and each other.

The efforts of the AJLN lead to informed and knowledgeable stakeholders and evolve into a national network that links mainstream and community stakeholders as well as to increase public awareness of Aboriginal justice issues. By way of example, AJLN activities contribute, at the community level, to the pragmatic learning of justice committees as well as mainstream justice personnel that informs the referral process (e.g., when offenders should / should not be referred, and at what point in the process, etc.); and at the FPT level, to the broader context that supports the necessary collaboration of justice stakeholders, on the broader policy decisions through harmonized Aboriginal justice policy development.

Activity: Funding under the Training and Development Component

The AJLN manages the Training and Development Component, which provides funds for community capacity building to address identified gaps in community justice programs. Activities include funding proposals that support the development of new programs that may have limited capacity to deliver their own alternative justice project. These proposals will increase community knowledge of the models, processes, and issues surrounding Aboriginal restorative justice initiatives. Additionally, this component will fund community and program development to address the training and capacity needs of justice programs not funded through the AJS, or existing AJS programs proposing to expand into an identified target area. Training and development activities support the range of needs required to improve community capacity to address justice issues, including skills to enhance the use of program models such as mediation and tribal courts. Consequently, the activity processes described in the *Funding under the community justice program component* are relevant to this activity as communities become ready to deliver alternative justice programs under the AJS.

Through discussions with community and federal/provincial/territorial government representatives, criteria and approval processes will be established to ensure that the AJS expands strategically into under represented areas. The working groups and committees that have been created to foster these discussions and processes increase participation and collaboration amongst justice stakeholders.

Investments in existing or new AJS community programs will reflect priority areas, to ensure that service delivery, community awareness and participation increases in under-represented Regions and community program models. Other priority areas include expanding services to Métis, urban and off-reserve Aboriginal populations, and supporting the participation of women, victims' groups, and youth in community justice programs. Overall, these activities lead to improved service delivery, as more communities are ready to implement a broader range of models.

Activity: Policy research and development

As reports, briefing notes, program guidelines and models for local administration of justice are developed, there is increased knowledge of the needs and factors that may influence justice policy affecting Aboriginal people. These activities also contribute to increased knowledge around AJS priorities (e.g., program models and regional equity) and, as community justice program results and evaluations provide direction, this contributes to broader justice policy development. Given the collaborative nature of the AJS approach, policy planning information and products are

endorsed and utilized by justice stakeholders in efforts to improve integration of knowledge on Aboriginal justice and contribute to a mainstream justice system that is more responsive to the needs of Aboriginal people.

Ultimately, with increased Aboriginal responsibility for local justice administration and a mainstream justice system that is more responsive to the needs of Aboriginal people, this will have an impact on reducing victimization, crime and incarceration rates in Aboriginal communities with CJPs.

Activity: Self-Government Capacity Building Component

While the Training and Development Component focuses on expanding Aboriginal community knowledge and capacity on restorative justice initiatives within mainstream justice, the Self-Government Capacity Building Component provides funds to support incremental training opportunities and communication tools to develop and disseminate information to Aboriginal communities about effective approaches to the administration and enforcement of laws. Communication tools, such as the development of an user-friendly information web-site, would provide easy access for Aboriginal communities to locate and build upon their knowledge of the issues and processes that surround the enforcement and adjudication of laws.

Performance Measurement Strategy

The performance measurement strategy is articulated along a number of dimensions that include outputs, the immediate and intermediate outcomes, performance indicators and the data sources to be used. AJS performance measurement tables are found in Annex A. Two important factors will impact the measurement of outcomes under the 2001-2002 fiscal year.

- Short length of program experience - the majority of the 90 existing programs funded in 2001-2002 have been operating, on average, for two to three years. As identified in the AJS Final Evaluation, this is a relatively short operating period given the complexity of the issues being dealt with, the local capacity issues that are being identified and the multiplicity of relationships that must be honed and supported for these programs to be successful;

- Resource Limitations: – The "2001-2002 " year mandate allows for the continuation of existing programs at existing funding levels rather than expanding or entering into new programs and activities. Consequently, much of Aboriginal Justice Directorate's (AJD) current efforts will focus on commencing discussions towards developing tools that, under the renewed mandate, will support such collaborative outputs as a national data base, web based information sharing tools and annual reporting on AJS.

Key elements of the AJS 2002-2007 performance measurement strategy include:

- Baseline data that will be compiled through existing material such as the AJS Trends Report, the mid-term and final evaluation as well as demographic information available from DIAND and the Canadian Centre for Justice Statistics.

- Ongoing collection of information that is to measure the effectiveness of the AJS. This will be accomplished by comparing the information on AJD/AJLN files against performance indicators outlined in Annex A of this document.

- Developing an annual reporting strategy on AJS activities.

Accountability Mechanisms

Appropriate accountability mechanisms and practices are in place to measure and monitor outcomes. These mechanisms include, but are not limited to:

- regular submission of community justice program activity reports and financial statements;
- ongoing discussions between community justice program and AJD regional coordinators;
- ongoing discussions between AJD and provincial/territorial stakeholders, including FPT Working Group meetings;
- regular interaction/discussions with federal stakeholders, with particular emphasis on key partners (SGC and INAC).

Evaluation strategy
AJD Reporting Responsibilities

During this 2002-2007 fiscal year, the AJD will be responsible for:

- developing a strategy for producing an annual AJS report that will be based on the performance measurement strategy found in this RMAF as well as governmental and non-governmental trends relating to Aboriginal justice and information from various provincial/territorial working groups and relationships;

- developing a strategy for establishing a long term approach for collecting data from community justice programs in a consistent manner under the renewed mandate; and

- developing a strategy for establishing and coordinating the federal/provincial/territorial (FPT) Working Group sub committee on AJS performance measurement, referred to as the Key Stakeholders Working Group (KSWG). This KSWG will submit a report to the broader FPT Working Group that will outline proposed performance.

A progress report on these activities will be included the Departmental Performance Report for fiscal year 2001-2002.

Community Justice – Results/Performance Measurement/Accountability

Outputs	Performance Indicators	Data Source	Responsibility for Collection	Timing / Frequency of Measurement		
				Ongoing	Formative Evaluation	Summative Evaluation
1. Funded agreements for community justice programs	Number and types of agreements signed in each region	AJS files	AJD	√	√	√
2. Agreements, processes and mechanisms amongst stakeholders	Number and nature of agreements, including letters of agreements, protocols, MOUs, etc. and their reach	AJS files	AJD	√	√	√
3. Funded agreements for incremental training, communication events / tools	Number and type of events funded	AJLN files	AJLN	√	√	√
4. Policy reports, briefing notes, program guidelines and models for local administration of justice	Community forums held to discuss models/ options presented to communities in the context of self-government negotiations	AJD files survey of community and negotiators	AJD third party evaluators	√	√	√
	Identification of issues that have priority in the particular community	AJS files	AJD	√	√	√
	Policy products (e.g., research reports, briefing notes)	AJS policy files and documents	AJD	√	√	√
5. Funded agreements for Training and Development.	Number and type of agreements signed in each region	AJLN files	AJLN	√	√	√
6. Funded agreements for incremental training and communication tools.	Number and type of events and tools funded.	AJD files	AJD	√	√	√

Community Justice – Results/Performance Measurement/Accountability

Immediate Outcomes	Performance Indicators	Data Source / Method	Responsibility for Collection	Timing / Frequency of Measurement		
				Ongoing	Formative Evaluation	Summative Evaluation
5. Improved community capacity to address justice issues	As a result of training, Community justice coordinators and volunteers are better equipped to address with justice issues	AJS files Survey of community justice coordinators	AJD Third party evaluators	√	√	√
	Effective protocols (e.g., developed, signed and implemented)	AJS files Case studies Interviews with mainstream justice	AJD Third party evaluators	√	√	√
	Community justice programs have effective networks with other service providers to ensure that program clients receive the necessary services	AJS files Case studies	AJD Third party evaluators	√	√	√
6. Improved acceptance and collaboration amongst justice stakeholders	Increased involvement of AJD in intra/ interdepartmental and intergovernmental committees	AJD Files	AJD	√	√	√
	Extent to which information is shared among the networks of justice stakeholders	Interviews with justice stakeholders	Third party evaluators	√	√	√
7. Informed and knowledgeable stakeholders; increased public awareness of Aboriginal justice issues	Number trained in proportion the number needing training	AJLN files	AJLN	√	√	√
	Participant feedback on use of training	interviews	Third party evaluators	√	√	√
	Extent to which the target population has been reached by public awareness activities as part of community justice programs or as separate initiatives	AJLN files interviews Survey of community members in selected areas	AJLN Third party evaluators	√	√	√
8. Improved knowledge of needs and factors that may influence community participation in self-government negotiations and/or justice policy affecting Aboriginal people	Increased understanding of what makes an effective community justice program	Review of AJD policy /self-government files	AJD Third party evaluators	√	√	√
	Extent to which the issues identified during the negotiations of administration of justice provisions are used to inform broader Aboriginal justice policy within DOJ	Review of AJD policy files Interviews with key informants	AJD Third party evaluators	√	√	√

Community Justice – Results/Performance Measurement/Accountability

Immediate Outcomes	Performance Indicators	Data Source / Method	Responsibility for Collection	Timing / Frequency of Measurement		
				Ongoing	Formative Evaluation	Summative Evaluation
9. Increased community knowledge of models and processes of Aboriginal restorative Justice initiatives; improved community capacity to address justice issues in under-represented Regions, program models, and target populations.	As a result of training, community justice stakeholders have a better understanding of target areas in justice issues.	• AJLN files • interviews • survey of community members in selected areas	• AJLN • 3rd party evaluators	√	√	√
	As a result of training, community justice coordinators and volunteers are better equipped to address identified target areas in restorative justice programs	AJS files Survey of community justice coordinators	AJD Third party evaluators	√	√	√
	Greater balance within AJS in identified target areas such as Regions, program models, target populations, and involvement of women, victims' groups, and youth.	• AJS files • survey of community members in selected areas	• AJD • 3rd party evaluators	√	√	√
10. Improved community knowledge of the issues and processes that surround the enforcement and adjudication of laws.	Number that have accessed information in proportion to the number needing information.	• AJD files	• AJD	√	√	√
	Participant feedback on information.	• Survey of community members in selected areas.	• 3rd party evaluators	√	√	√

Intermediate Outcomes	Performance Indicators	Data Source / Method	Responsibility for Collection	Timing / Frequency of Measurement		
				Ongoing	Formative Evaluation	Summative Evaluation
9. Improved service delivery, community awareness and participation; positive change in community attitude towards the justice system through outreach	increased confidence by mainstream justice stakeholders that is illustrated by increase in number and/or complexity of cases referred	• Review of AJD database • interviews with justice personnel	• AJD • Third party evaluators	√	√	√
	Proportion of referrals	• Review of AJD database • Police/court records	• AJD • Third party evaluators	√	√	√
	Proportion and types of offences being diverted	• Review of AJD database • Police/court records	• AJD • Third party evaluators	√	√	√
	Profile of offenders	• Review of AJD database	• AJD	√	√	√

Community Justice – Results/Performance Measurement/Accountability

Intermediate Outcomes	Performance Indicators	Data Source / Method	Responsibility for Collection	Timing / Frequency of Measurement		
				Ongoing	**Formative Evaluation**	**Summative Evaluation**
	Profile/level of involvement of volunteers	• AJD files • AJLN files	• AJD • AJLN	√	√	√
	Level of community awareness of community justice program	• survey of community members in selected areas	• third party evaluators		√	√
	Increased community confidence in how justice issues are addressed	• survey of community members in selected areas	• third party evaluators		√	√
	Extent of collaboration among stakeholders	• interviews with all stakeholders	• third party evaluators		√	√
10. Improved justice policy development affecting Aboriginal people	Results and lessons learned from community justice programs and research provide direction for policy development	• Review of AJD policy files • Interviews with justice stakeholders	• Third party evaluators			√

Ultimate Outcomes	Performance Indicators	Data Source / Method	Responsibility for Collection	Timing / Frequency of Measurement		
				Ongoing	Formative Evaluation	Summative Evaluation
11. Increased Aboriginal community responsibility for local administration of justice	Community members have confidence in how justice issues are addressed	• Interviews	• Third party evaluators			√
	Community justice programs are able to address more complex matters	• Review of AJD files • Interviews of community justice coordinators and mainstream justice personnel	• AJD • Third party evaluators	√		√
	Community members develop skills to administer laws under self-government	• Interviews of community justice coordinators and community political leaders	• Third party evaluators			√
12. Mainstream justice system is more responsive to the needs of Aboriginal people	Integration of community justice programs into mainstream justice system	• Interviews with community, community justice coordinators and mainstream justice personnel	• Third party evaluators			√
	Impacts/changes to policy, procedures, the number and proportion of cases diverted	• Interviews with judges, Crown attorneys, defense counsel, and community justice coordinators • Review case law • Police/RCMP statistics	• Third party evaluators			√

				Timing / Frequency of Measurement		
13. Reduced victimization, crime and incarceration rates of Aboriginal people	Community crime and victimization rates Number of Aboriginal people charged Number of Aboriginal people coming before the courts	• Analysis of Police / RCMP statistics • Victimization Surveys	• Third party evaluators			√
	Incarceration rates of Aboriginal people	• CCJS data	• Third party evaluators			√
	Perceptions of community members of crime and awareness of community-based solutions	• Survey of Community Justice Coordinators • Survey of community members	• Third party evaluators			√

5.2. Survey of Pre-charge Restorative Justice Programs [7]

The Benefits of Restorative Justice and Development Issues.
Restorative justice initiatives have demonstrated a range of benefits the formal justice system does not offer: for individual victims and offenders a more meaningful and satisfactory way of dealing with the impacts of an offence and generally high levels of satisfaction; for justice personnel, swifter justice, greater personal involvement and satisfaction, and considerable cost savings; for communities a more flexible approach and opportunities for greater involvement in justice decisions.

5.3. Performance Measurement Frameworks For Self-Evaluating Community Programs - Report On Four First Nations Experiences- 2002[8]

Executive Summary

Purpose of the Report

– This report is a summary of the experiences of four First Nation communities that participated in a pilot project to develop their own results-based performance measurement frameworks to enhance their accountability practices.

  o It serves to provide other First Nations with examples and ideas for consideration if they choose to undertake the development of their own framework.

  o It includes a description of each community, the approach they used to develop their framework and presents best practices and lessons learned which could assist others with enhanced practices in performance measurement.

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[7] Shaw, Margaret and Frederick Jané, Department of Sociology & Anthropology, Concordia University, Montréal, Québec, Network for Research on Crime and Justice, Survey of Pre-charge Restorative Justice Programs, http://qsilver.queensu.ca/rcjnet/projects/execsum.htm

[8] Department of Indian Affairs and Northern Development, Performance Measurement Frameworks For Self-Evaluating Community, Programs A Summary Report On Four First Nations Experiences, February 2002 http://www.ainc-inac.gc.ca/pr/pub/ae/ev/97-13_e.html, Performance Measurement Frameworks For Self-Evaluating Community Programs A Summary Report On Four First Nations Experiences, (PDF 92 Kb) in PDF format.

Community Justice – Results/Performance Measurement/Accountability

Background

–   With a departmental shift from direct program delivery to program funding, First Nation governments now manage most of the program resources provided by the federal government through financial transfer agreements.

–   Several First Nations have expressed interest in developing their own frameworks for reporting to members on program performance as departmental reporting requirements are viewed as being developed in isolation from the reporting needs of individual First Nations.

    o   As a result, First Nations have developed a variety of community-based approaches reporting to their membership on program goals, activities, and achievements.

–   An evaluation of the Experiences to Date with Financial Transfer Arrangements conducted by Indian and Northern Affairs Canada's (INAC) Departmental Audit and Evaluation Branch (DAEB) in October 1996, found that many First Nations are making use of evaluation as a tool to generate information on the performance of community programs, and many expressed a desire for increased expertise in this area.

    o   The evaluation recommended that INAC and First Nations work together to implement a limited number of projects aimed at promoting the use of performance measurement and evaluation as supports for community-level accountability.

–   In response to this recommendation, A First Nations Working Group on Performance Measurement was established in 1998 by INAC to work on a pilot project to develop performance measurement frameworks for First Nations by First Nations.

–   Five First Nations indicated an interest in participating in the pilot project to develop a performance measurement framework as a tool for accountability reflecting their own unique practices, traditions, goals and priorities.

    o   Four of the five First Nations have continued to take part in the pilot project and have reported on their experiences with the development of a performance measurement framework.

–   A resource tool, "First Nation Self-Evaluation of Community Programs Guidebook", was developed by INAC in partnership with First Nations to assist with the development of the performance measurement frameworks.

    o   The guidebook presents the benefits of using performance measurement as an internal program management and accountability tool, identifies the key elements of a framework for measuring and reporting on the performance of community programs, and provides practical tools to support First Nations that want to develop their internal framework for measuring performance and accounting for results.

–   After four of the pilot project performance frameworks were developed a workshop was held to report on the experiences with the project.

    o   Following the workshop, in-depth telephone interviews were held with approximately fifteen individuals, participants and consultants from the four communities, departmental representatives, and representatives from First Nation Organizations, to gather information to develop a summary of the projects and their activities.

    o   In addition, a collection of First Nation annual reports were reviewed to identify others that may be using advanced performance measurement practices.

    o   Informal contact was made with other First Nations outside of the pilot project to determine if they have developed a performance measurement framework similar to the pilot project.

    o   This review was unable to identify others that have developed practices at the same level as those in the pilot project.

Best Practices and Lessons Learned

– During the workshop and key participant interviews, several key lessons learned were identified. The following is a synopsis of these lessons learned.

– **It is important to have a strategic plan in place prior to the development of a performance measurement framework.**

    o   All of the pilot First Nations stressed the importance of having some form of strategic plan in place prior to developing a performance measurement framework.

    o   This ensures that everyone involved in developing the framework are aware of why they are undertaking the process and that the framework will reflect the values and goals of the community.

– **There needs to be community support for the development of accountability tools such as a performance measurement framework.**

    o   The pilot First Nations stressed the need for strong leadership within the community to support the implementation of a performance measurement framework, and support from members in the community to ensure that the framework reflects the community's vision.

    o   The most effective way to gain support is to undertake a community-driven approach to develop the framework.

– **Capacity needs to be built within the community to continue the performance measurement activities.**

    o   The pilot First Nations also indicated it is important to have the capacity to implement, monitor and evaluate the performance measurement activities by developing expertise within the First Nation.

    o   Two of the pilot First Nations found that an effective way to develop the expertise within their First Nations was to hire a consultant that provided training in the areas of performance measurement and strategic planning.

– **Communication within each community and between First Nations about the types of performance measurement activities developed and implemented is important.**

    o   To ensure continued support for performance measurement activities, it is important to communicate regularly with community members.

    o   The pilot First Nations also stressed the importance of being aware of the activities being undertaken in other First Nations.

    o   By sharing lessons learned and best practices, First Nations would be able to improve their own accountability practices.

Conclusion

    – This pilot project provided an opportunity for the participating First Nations to increase their knowledge of performance measurement and develop accountability tools that will benefit their communities both in the present and future.

- All four First Nations indicated that this was a beneficial project since they were able to develop performance measurement frameworks that define success in their own terms, based on their own priorities and which once implemented can enhance their accountability practices.

Measuring Performance for Success

In 1997, our communities were invited by the Department of Indian Affairs and Northern Development to participate in an exciting, challenging and ambitious First Nations-led pilot project on performance measurement. This project presented us with the opportunity to improve our processes and practices for planning, measuring, reporting and dealing with accountability issues.

At this particular time, we feel there are several issues that need to be addressed. First of all, we feel the current external accountability relationships with funding agencies often do not serve our internal management and accountability needs. We also believe the current internal and external reporting practices tend to focus on how our resources are allocated, rather than on what we have achieved. However, the overriding rationale behind our communities' desire to take on this challenge is based on our need to define success on our own terms, based on our priorities. Therefore, the pilot project was developed to address these issues and make improvements in how we measure performance. Our communities set out to develop a performance measurement framework in the belief that this management tool will be beneficial in improving the way we provide our programs and services.

Our projects focussed primarily on a framework for setting performance targets and measurements. Based on our experiences, we believe it is also important to develop strategic plans and take a broader performance management approach to support a performance measurement framework.

We invite you to read this summary about our projects, our experiences, and our successes with this project. We feel this has been a worthwhile project, and that any First Nation would benefit from making improvements in performance measurement. We want to provide the best programs and services for our communities, and we feel this project has helped us move in the right direction.

Sincerely,

Members of the First Nations Working Group on Performance Measurement

Chief Jean-Guy Whiteduck,
Kitigan Zibi Anishinabeg First Nation
(Quebec)

Chris Bolton,
Hartley Bay First Nation
(British Columbia)

Doug McLeod,
Lac La Ronge Indian Band
(Saskatchewan)

Tammy Drew,
Miawpukek First Nation
(Newfoundland)

Section 1 - Introduction

Purpose of the Report

This report is a summary of the experiences of four First Nations communities that participated in a pilot project to develop their own results-based performance measurement frameworks to enhance their accountability practices. It serves to provide other First Nations with examples and ideas for consideration if they choose to undertake the development of their own framework. It includes a description of each community, the approach they used to develop their framework and presents best practices and lessons learned which could assist others with enhanced practices in performance measurement.

Background

With a departmental shift from direct program delivery to program funding, First Nation governments now manage most of the program resources provided by the federal government through financial transfer agreements. Over the past decade, the introduction of more flexible funding arrangements has provided many First Nation governments with greater options for managing programs in ways that reflect the objectives and priorities of their membership. Although, First Nations have been provided greater control over programming in their communities, the federal government remains responsible for defining requirements to ensure accountability for program funding.

However, First Nations have developed a variety of their own community-based approaches to accountability including a variety of experiences with reporting to their membership on program goals, activities, and achievements. In 1991, an initiative by First Nation representatives on the National Steering Committee on Development Indicators developed generic examples of indicators for use in monitoring the results of community development programs[1].

A study conducted by the Auditor General of Canada on Accountability Practices from the Perspective of First Nations in September 1996, noted that First Nations recognize the importance of effective accountability, and have articulated a clear sense of the essential accountability factors. Yet the overall view of the First Nations participating in the study was that in practice the accountability mechanisms between the department and First Nations are not working well for them as they do not sufficiently help First Nations meet their own accountability obligations to their constituents. Departmental reporting requirements are viewed as being developed in isolation from the reporting needs of individual First Nations.

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[1] Some of these examples are referred to in the *First Nation Self-Evaluation of Community Programs Guidebook*, October 1998. Http://www.ainc-inac.gc.ca/pr/pub/ae/sp/97-13 e.html

Consequently, several First Nations have expressed interest in developing their own frameworks for reporting to members on program performance as evaluation and ongoing performance reporting are fundamental tools for ensuring accountability. An "Evaluation of the Experiences to Date with Financial Transfer Arrangements" (October, 1996) conducted by Indian and Northern Affairs Canada's (INAC), Departmental Audit and Evaluation Branch (DAEB) found that many First Nations are making use of evaluation as a tool to generate information on the performance of community programs, and many expressed a desire for increased expertise in this area. The evaluation recommended that INAC and First Nations work together to implement a limited number of projects aimed at promoting the use of performance measurement and evaluation as supports for community-level accountability.

In response to this recommendation, a First Nations Working Group on Performance Measurement was established in 1998 by INAC to work on a pilot project to develop performance measurement frameworks for First Nations by First Nations. This group was responding to increased interest in measuring program performance to determine how well programs were performing, whether programs could work better and to determine if programs were meeting community goals and priorities. At the same time, there is an expectation from First Nation citizens that their governments account for their achievements by reporting regularly to the membership. This has created an interest in accountability, self-evaluation and performance measurement activities.

Five First Nations indicated an interest in participating in the pilot project to develop a performance measurement framework as a tool for accountability reflecting their own unique practices, traditions, goals and priorities. Four of the five First Nations have continued to take part in the pilot project and have reported on their experiences with the development of a performance measurement framework.

A resource tool, "First Nation Self-Evaluation of Community Programs Guidebook", was developed by INAC in partnership with First Nations to assist with the pilot projects. The guidebook promoted self-evaluation as a tool to continually improve policies and programs to effectively and efficiently achieve community objectives. It presented the benefits of using performance measurement as an internal program management and accountability tool; identified the key elements of a framework for measuring and reporting on the performance of community programs; and provided ideas, alternatives and practical tools to support First Nations in the development of their internal framework for measuring performance and accounting for results.

After four of the pilot project performance frameworks were developed a workshop was held with invited participants from the First Nations Working Group on Performance Measurement, representatives from INAC, Aboriginal Financial Officers Association of Canada and the Assembly of First Nations. During the workshop, reports on experiences with the project were presented and discussed. Discussion was also held on how the information generated can be shared with others and how the guidebook could be improved.

Following the workshop, in-depth telephone interviews were conducted with fifteen individuals, participants and consultants from the four communities, departmental representatives, and representatives from First Nation Organizations, to gather information to assist with developing a summary of the projects and their activities. In addition, a collection of First Nation annual progress reports were reviewed to identify others that may be using advanced performance measurement practices. Contact was made with other First Nations outside of the pilot project to determine if they or others have developed performance measurement frameworks. This review was unable to identify others that have developed similar practices as those in the pilot project.

Performance Measurement

Before reviewing information on the projects, it is important to be familiar with the concept of performance measurement. Performance measurement is a process used to ensure performance targets/indicators from the strategic and business plans of an organization, or in this case, a First Nation, are being met effectively and efficiently. Performance measurement supports better decision-making, focuses actions, and leads to improved outcomes and accountability.

The success of performance measurement activities often lies with the type and number of performance measurement practices being used in the framework to measure performance and with the selection of performance targets/indicators.

The ideal framework is cyclical and consists of practices that link the First Nation's strategic direction statements:

- to the action plan;
- to a system that collects relevant information for measurement based on performance expectations; and
- to the reporting of results to key stakeholders.

This ideal framework calls for the cycle to repeat itself as performance evaluation of the measured results may call for corrective action and adjustments to the strategic and action plans.

Section 2 - Communities and Their Approaches

The four communities that participated in the pilot project each had their own reasons for involvement in the project, but they all felt that a performance measurement framework was a vital component to the current and future accountability to their community. All four communities expressed their desire to be able to define success on their own terms, based on their priorities, and indicated that the current accountability relationships do not allow for the range of freedom that is needed to do so. They wanted to use this project to improve the way in which programs and services are administered and reported in their communities.

This section provides information on the communities and the approaches they used during the pilot project. Some of the communities started by developing strategic plans, while others had goals and priorities already identified. Furthermore, some communities already used accountability measures, while others relied on externally imposed measurements, directed by external funding agencies. Despite the differences in their situations, all four communities found the process in developing the frameworks just as beneficial as the performance measurement framework itself.

Kitigan Zibi Ashinabeg First Nation

Community Description

> The Kitigan Zibi Anishinabeg First Nation community is located in Quebec, approximately 130 km north of Ottawa, and is adjacent to the town of Maniwaki. As of December 31, 1998, the membership population of the community was 2,383 with an on-reserve population of 1,411. The First Nation's land base covers an area of approximately 18,465 hectares. The major languages spoken in the community are English, followed by Algonquin and French.

Purpose for Participating

As one of the pilot First Nations, the Kitigan Zibi Anishinabeg decided to implement a performance measurement framework in their community. The Kitigan Zibi Band Council understood that with proper long-term planning, the existing resources available in the community could be used more efficiently through a performance measurement framework, and they could ensure the current services being offered to the community could be maintained and improved.

Approach

The First Nation decided that in addition to a performance measurement framework, it was necessary to develop and implement a comprehensive strategic plan. This would ensure that all of the departments would work together on common goals to improve existing services and be more transparent to the community. Therefore, a strategic plan was developed that incorporated a performance measurement framework.

Accordingly, their efforts focussed more on strategic planning and the activities necessary to construct a strategic plan rather than solely on a performance measurement framework.

To begin the process of developing their strategic plan, a committee was formed by two representatives from the Band Council, one from each of the Police Council, Education Council, Health and Social Services, and directors from each service sector/department. This committee was responsible for developing the vision and mission statements.

A consultant was hired to prepare a workshop and training session for the committee members on standard steps required for the development of a strategic plan. Following the training sessions, the committee identified the different areas of concern for the community, and a full-time Strategic Planner was hired to prepare situational analysis reports on each of the major community sectors including their strengths, weaknesses, opportunities, and constraints.

The First Nation also decided to implement certain performance measurement and evaluation objectives to compliment or improve on existing self-evaluation mechanisms and procedures already in place. Therefore, the plan incorporated internal and external performance measures and evaluation schedules that would provide the Band Administration the necessary tools to ensure that the strategic objectives are met within the allocated budgets.

Following the establishment of the strategic goals, objectives, and performance measurement framework, the Strategic Planner/Facilitator completed a draft of a strategic plan and presented it to the committee.

What was Developed

A five year Strategic Plan was developed for the fiscal years 2000 to 2005. The Strategic Plan outlines the community's vision and mission statements, identifies areas within the community which require program development, lists the goals and objectives for community projects and programs, and provides a framework for measuring and evaluating program performance.

The community vision statement allowed First Nation to focus the efforts of the various sectors in their community and help them work together towards a common goal. From this community vision, each sector could then assess its mission in terms of how it supports the overall vision.

The following is their **vision statement**:

The Kitigan Zibi Anishinabeg, through its peoples, shall strive to achieve a balanced society where every member has an equal opportunity to fulfill their individual potential in a safe, sustainable environment on traditional lands, where their spiritual, cultural, physical and mental well-being can be achieved and where their basic human needs can be attained.

Their mission statement is a detailed statement on the role the community wants to play in order to support the vision statement, and to identify specific strategic areas where the organization wants to intervene. The following is their **mission statement**:

The Kitigan Zibi Anishinabeg through the strength of its people and through the principles of cooperation and coordination by its community service sectors, shall strive for a healthy community, with each sector developing and implementing specific goals through a process which supports the community's strategic goals.

A total of thirteen areas of concern were identified within the community during the strategic planning process. A situational analysis was conducted on each of these thirteen areas, from which a series of thirty-six goals and objectives were developed. Seventeen of these goals were identified as priority goals and were put into the Strategic Plan. The following is an example of one of the priority goals.

Table 1
Kitigan Zibi Anishinabeg Priority Goal Employment

Goal: Employment	• Maintain employment opportunities in the community at the 1999 levels and continually strive to obtain 100% employment for its members • Strive to reduce the social assistance levels by 20% over the next 5 years
Priority	• High
Starting Point (baseline for monitoring)	• Use number of permanent and seasonal jobs maintained in the community by sector for 1999
Budget	• Use funding from global funding agreements to maintain employment levels
Monitoring Period(s)	• Yearly evaluations using audit/results by sector
Department(s) Responsible for Development	• Education Council • Administration • Police • Health and Social Services

For each goal, information was generated to indicate the degree of priority, the starting point for monitoring performance (or baseline information), budget, monitoring periods, and responsibilities. This information is to provide direction for the development of operational plans and required reporting.

The First Nation felt that it was important to develop its own definitions of what results it was looking for and develop its own criteria to measure the performance and success of the different programs and services delivered to the community.

Other performance measurement and evaluation activities that were identified within the strategic plan include: annual audit of the Band's budget by an accountant, independent evaluations of each program every five years, audit and evaluation reports shared with community members, annual community satisfaction surveys, review budget expenditures in relation to annual allocations every four months.

Next Steps

Kitigan Zibi now has a community strategic plan, which incorporates some initial performance measurement tools that they will take to the community. Upon receiving assent from the Strategic Planning Committee, a final report will be completed and presented to the community membership to obtain official approval.

Once the strategic plan is approved, financial regulation and reporting requirements will be considered and a reporting manual will be developed to support the performance measurement activity and to enhance accountability.

Hartley Bay First Nation

Community Description

The Hartley Bay community is located on the coastal area of British Columbia, approximately one hour south of Prince Rupert by plane. Hartley Bay has a population of 624, with 183 on reserve. The reserve covers an area of 642 hectares. Predominant languages are English and Tsimshian.

Purpose

The Village Council and Administration of Hartley Bay felt this project offered them the perfect opportunity to enhance their commitment to continuous improvement and excellence. They hoped this project would enable them to build on the informal strategic plan they already have in place which outlines their community goals.

Approach

A consulting firm was hired to assist with the development of a performance plan. The consultants interviewed Council members, program administrators and elders to obtain their input on the development of the performance plan and how the plan should be implemented.

The previously articulated community goals provided guidance in the development of necessary program objectives, key performance measures, and targets for the program activities. Data sources to support the measurement were generated and linked. Reporting plans and templates were established to assist with the on-going reporting to community members and to provide information to assist with the review of program performance.

What Was Developed

A performance plan was developed based on the three major goals which provide direction for the various programs operated in the community:

1. Preserving and Strengthening Ayalk - "The Law of the People" & "The Way We Govern Ourselves"
2. Building Healthy Families - "People Who Walk the Right Way"
3. Developing and Sustaining Quality of Life - "Self-Reliant People"

The following eleven programs designed to achieve the community goals were identified in the performance plan: Education, Health Services, Social Services, Housing, Gitga'at Treaty Process, Village Administration, Special Projects, Economic Development, Salmon Enhancement, Natural Resources, and Village Public Works/Public Safety.

For each community program the performance plan outlines the objectives activities, performance measures, performance targets and reporting schedule. The following page is an example of the Housing program for the 2000-2001 year.

Table 2: Hartley Bay Housing Performance Measures

Program	Housing
Objectives	To provide safe and sanitary housing through the construction of homes that meet individual needs and upgrading existing homes to extend their life
Activities	• Housing construction, renovation and maintenance • New subdivision • Housing administration according to Hartley Bay Housing Policy and Direction of Housing Committee
Performance Measures	• Number of houses built this year • Number of houses renovated this year • Reduction in number of overcrowded household (compared to previous year) • Reduction in number of people on housing waiting list (compared to previous year) • Reduction in rent arrears (compared to previous year)
Performance Targets	• Build 6 houses this year • Renovate 6 houses this year • New housing to reduce overcrowded houses by 30% • Number of people on the housing waiting list to go down by10% as a result • Administration of the housing policy to reduce the amount of rent arrears by 15% compared to last year
Reporting Schedule	• Monthly report to Council • Quarterly statistics to Council • Annual performance report to community

The plan also outlines a general framework for performance monitoring. Figure 1 illustrates the components in the Program Performance Monitoring Framework that are to be reviewed on a regular basis to ensure they continue to reflect the community's vision, goals and program objectives.

Community Justice – Results/Performance Measurement/Accountability

Figure 1 - Harley Bay General Framework for Performance Monitoring
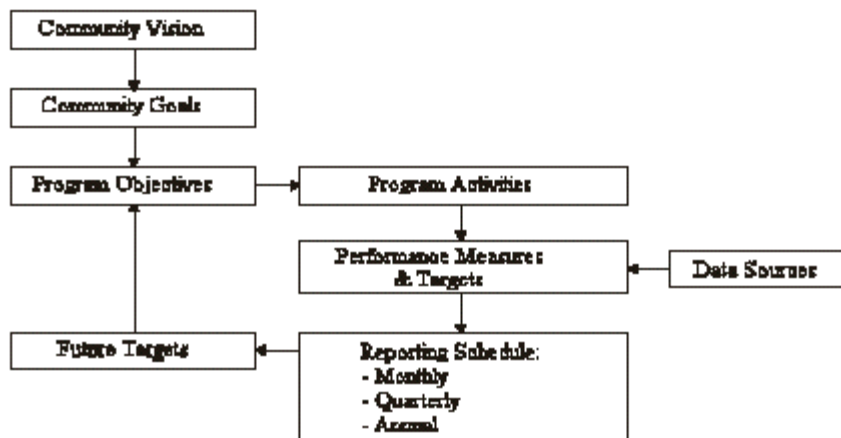
The performance plan also provides templates for reporting on each program monthly and quarterly, a framework for preparing the first annual report, and a sample community satisfaction survey.

The Annual Community Satisfaction Survey allows community members to rate service performance based on sixteen key services and to compare this service for the current year in relation to the previous year. The survey also seeks feedback on how services could be improved, what new programs should be offered and list three priorities for the Council to address in the next year.

The monthly reporting forms provide information on the program and its objectives, on program highlights/achievements, meetings/committees attended, training activities and data related to the performance targets. The annual reports provide information on each program and its vision, report on what was done, how council performed the previous year, the amounts budgeted and spent, explanations for savings or over-runs, and they indicate the plans for the next year.

Next Steps

Hartley Bay has provided community members with information on the Gitga'at Performance Plan and have requested their feedback prior to implementation.

Once implemented, the focus will be on assisting program managers to become comfortable with the new performance measurement activities and making it a part of the regular practice.

Miawpukek First Nation

Community Description

The Miawpukek (Conne River) community is located on the Bay d'Espoir, on the southern shore of Newfoundland, and lies 560 km from St. John's. The Miawpukek First Nation has an on reserve population of approximately 700 people. The community covers an area of some 14 square miles. Predominant languages are English and Mi'kmaq.

Purpose

The Miawpukek First Nation is, by their own words, "very accountable" when it comes to governance and administrative structure, and they are proud of their accomplishments in this field. Even so, they still want to improve the ways in which their community is served.

Approach

The Miawpukek First Nation recognized the need for strategic planning and had taken the steps to develop mini-strategic plans for each program as this project was underway. However, the concept of performance measurement itself was new to the community. Thus, they followed the guidebook closely in the construction of their framework.

The Miawpukek First Nation hired a consulting firm to document community expectations for performance with existing operations and processes already in place for continuous improvement within the Band Council and administration. However, the use of a consulting firm for the consultation process proved to be less beneficial than first anticipated. The work conducted by the consultant was later amended by the Miawpukek First Nation and the Results Based Performance Framework Steering Committee.

The consultation process included a series of four focus groups and twelve key informant interviews. The focus groups included more than thirty members of the community, ten percent of Miawpukek's adult population.

Senior management from the First Nation also identified various goals which were used to develop an integrated performance measurement framework that balances community expectations and goals with program direction, organization and fiscal capability.

What Was Developed

A Results Based Performance Framework was developed and outlines the community expectations, performance targets and measurements, and reporting plans. The following figure illustrates the framework which was developed:

Figure 3 – Miawpukek Results Based Performance Framework

Field research and consultation undertaken by the Miawpukek First Nation during the project yielded a series of six strongly held and consensual expectations that the community has for the Council: accountability, self-sufficiency, security, consistency, integration, communication. These expectations are to serve as a template for every program and policy step that the Miawpukek First Nation Council and its administration take in their planning and program delivery.

Also through the consultations, four areas of community life were identified as priority areas for Council to focus on in the future: Education, Health, Economic Development and Local Governance. Performance targets and measures were identified for each of these areas.

The following is an example of the performance targets, program plans, and measurements that was designed for the community Health Services:

Table 3: Miawpukek Health Targets, Plan and Long Term Measures

Performance Targets	Program Plan (How/Why)	Performance Measures
• Regular access to physician services from within the community	• Assess business case for half-time physician position	• Proportion of physician consultations inside and outside community
• Access to a greater variety of medical diagnostic services within the community	• Discuss tele-health options with nurses in clinic • Arrange for familiarization tour of tele-health services for nurses in clinic • Discuss tele-health partnership with relevant service providers and develop pilot applications • Arrange pilot trials of tele-health diagnostic and consultative services	• Proportion of diagnostic services inside and outside the community
• Access to pharmaceutical services within the community	• Develop business case/plan for pharmaceutical service	• Establishment and viability of pharmaceutical service
• Develop senior citizens residential facility in Miawpukek	• Discuss senior citizens complex with elders • Identify alternative scales and financials for senior citizens facility	• Occupancy rate and return on investment of senior citizens facility

In addition to the four community areas, a need to improve communication and to ensure accountability for community members by the First Nation Council and administration was identified. The following initiatives were suggested to address this: posting Council agendas, Council meet with community members; maintain the Steering Committee on Results Based Performance Framework to ensure the monitoring of performance as well as annually conduct focus groups to discuss the priority areas; annually produce a performance report to Council on the priority areas.

A draft reporting form for the performance framework was developed. It was proposed that this annual sectoral report go to a Performance Framework Steering Committee. Each program would record inputs such as financial and human resources, activities that have occurred, performance targets, achievements/results for outputs, outcomes and key success factors. The report would also include room for analysis information and notes.

Next Steps

Additional training and work on developing databases will be done to ensure the relevant information is available to assist with the desired performance measurement activities.

Once the initial data on the four community areas has been gathered, more specific performance targets and measurements will be developed and in later years additional areas (e.g. Public Works) will be included.

Also as a result of this project the First Nation has decided to develop a more comprehensive strategic plan to replace the individual plans they have for each program.

Lac La Ronge Indian Band

Community Description

> The Lac La Ronge First Nation is located in northern Saskatchewan and encompasses six geographically-disperse reserves: La Ronge, Stanley Mission, Grandmother's Bay, Sucker River, Hall Lake and Little Red River. There are currently 4,348 people in the community. English and Cree are the predominant languages of this First Nation.

Purpose

Historically, as with other First Nations, the Lac La Ronge Indian Band has been reliant on financial performance measures developed by external funding agencies. While these measures were important, they failed to take into account the perspectives of the First Nation, its priorities, and vision for the future. Thus, the leaders of the Lac La Ronge communities saw this project as an opportunity to develop a managerial performance framework that reflected the First Nation's goals and beliefs. The Lac La Ronge Indian Band have worked toward the development of an initial performance measurement framework aimed to increase their efficiency, effectiveness, and accountability.

Approach

The first step in the development of their performance measurement framework was to put together a project team that would spearhead the initiative. Once the project team was assembled, a consultant was hired to provide project management and performance measurement expertise. Since it was recognized that Band involvement was a critical success factor for the project, the consultant provided training to the project team who then took over the project themselves.

The Project Team determined that formal interviews with the Chief, Council, and community members were not required because the Chief and Councilors already supported the project, the Project Team were well informed of community priorities and issues since many were Program Directors, and the community goals had been previously determined and documented in annual reports and program plans.

Instead of interviews, the Project Team members reviewed program specific information on the four programs: Housing and Public Works, Education and Post Secondary, Health, and Social Development, which represented approximately 80% of the First Nation's budget. The documents reviewed include: recent program plans; annual results for each program; data related to programs including inputs; outputs and outcomes; previously collected INAC performance measurements including program audits; and general information such as council policies and procedures, relevant council meeting minutes, audited financial statement for the First Nation, recent management monthly reports and recent community reports.

The project team participated in two workshops to develop their performance measures, targets, and reporting requirements. This was a group process and it focussed on strategic performance measurements only, rather than a comprehensive list of all existing and possible performance measurements. An Indicator Development Template was used by participants to identify what the indicators would be, how they would be measured, and supported. Some examples of questions included in this template are "What are the components and data sources of the performance indicator?", "How often will the performance data be collected?", "Who will report on the performance data?", and "Who will receive the performance report"?.

After receiving training in the development and use of performance measurement tools and consulting with program directors and various councilors, the project team developed a number of performance indicators to be applied to each of the programs indicated.

What Was Developed

The performance measurement framework that the Lac La Ronge Indian Band developed was based on community goals that define 'success' for their community. Four key programs, Housing and Public Works, Education and Post-Secondary, Health and Social Development,

were selected to be the focus of this framework. For each program, performance indicators and targets were developed to determine success of these programs in terms of whether they are realizing the community's goals. The following table provides an example of the Housing and Public Works program.

Table 4: Lac La Ronge Performance Measures for Housing & Public Works

Program	Community Goal	Program Plans	Performance Indicator	Performance Targets
Housing & Public Works	• Improve quality of housing	• Provide adequate housing for all band members	• Number of band members with adequate housing	• by 2004 reduce the % of non-adequate housing from 25% to 15%

A proposed reporting system was developed that will involve meetings, newspapers, cable television, distribution of pamphlets, budgets, annual report and audited statements. An annual report prepared by the Program Directors and Executive Director will include community goals, actual and target performance results for each indicator, explanation of why target results were or were not achieved and future targets.

Next Steps

A plan has been developed to continue with the development of indicators, data collection to establish baselines and set targets for performance indicators, and further consultation.

In order to reflect performance measurement responsibilities, Band job descriptions and the performance evaluation process will need to be adjusted.

The First Nation has also decided to develop a formal strategic plan that will assist them with their performance measurement activities.

Summary of the First Nations Pilot Projects

While each community started on the same road and with the same destination, the paths they chose for the journeys were different. Accordingly, there are some variations in the approach each pilot community used as well as in what they produced. The table on the following page is a summary of the information presented in this section which highlights the differences between the four pilot communities.

Table 5: Summary of Each First Nation's Pilot Project

First Nation	Approach	What Was Produced	Next Steps
Kitigan Zibi	• Strategic Planning Committee formed • Consultant provided training • Strategic Planner conducted situational analysis • Workshops, Meetings, Interviews	Community Strategic Plan	• Obtain official approval • Financial and reporting regulations will be developed
Hartley Bay	• Consultant to help develop plan • Key informant Interviews	Performance Plan	• Request feedback from community • Assist program managers with integrating new practices
Miawpukek	• Steering Committee • Consultant conducted data collection • Focus Groups & Key Informant Interviews	Results Based Performance Framework	• Expand framework to include other areas • Develop database • Develop a more comprehensive strategic plan
Lac La Ronge	• Project Team • Consultant trained Project Team • Review of Program and Band documents	Performance Measurement Framework	• Plans to develop indicators, set targets, establish baselines • Adjust job descriptions, evaluation process • Develop formal strategic plan

The next section will highlight best practices and lessons learned from the pilot projects that can be beneficial for other First Nations undertaking the development of their own performance measurement framework.

5.4. Restorative Justice - A Program for Nova Scotia - 2001[9]

Goals and Objectives of the Initiative

Primary Goals:

 1. Reduce Recidivism

Recidivism rates are too high. It has been shown that face-to-face meetings with victims can have a profound effect on the future behaviour of offenders. The nature of the restorative process provides an opportunity to focus on the underlying causes of the criminal behaviour and the constructive reintegration of the offender into the community.

 2. Increase Victim Satisfaction

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[9] Restorative Justice - A program for Nova Scotia, Update 2001, http://www.gov.ns.ca/just/rj/rj-update.htm

The victim's voice is rarely heard in the formal justice system. By having a forum in which they can discuss the impact of the offence, and assist in the identification of the reparative measures to be taken, victims will derive greater satisfaction.

Secondary Goals:

1. Strengthen Communities
2. Increase Public Confidence in the Justice System

The existing formal justice agencies have assumed primary responsibility for crime prevention   and crime control. As a result, communities have become increasingly alienated from the justice system. A restorative approach invites the participation of communities in achieving reconciliation between offenders and those harmed through the commission of an offence. Greater participation by communities and victims, and evidence of a more effective justice process will enhance public confidence.

5.5. Governance Do's & Don'ts -2001[10]

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[10] Mel Gill, 200, The Institute On Governance, Governance Do's & Don'ts: Lessons from Case Studies On 20 Canadian Non-profits

The Institute On Governance

GOVERNANCE DO'S & DON'TS:
Lessons from Case Studies On 20 Canadian Non-profits
EXECUTIVE SUMMARY

There are approximately 175,000 Canadian voluntary sector/non-profit organizations in Canada, and more than 78,000 of these are registered charities. These groups provide a variety of services for the benefit of the Canadian public, including community service, arts, recreation, religion, social services, education and health. They account for some $90 billion in annual expenditures, assets of $109 billion and about 12% of Canada's Gross Domestic Product. They employ 1.3 million Canadians and benefit from the service of some 7.5 million volunteers. Sixty per cent of their revenues derive from various levels of government.[1] The effective governance of these organizations is therefore clearly in the national interest.

The primary objectives of this research were to:
- Learn from organizations doing a particularly good job of governance, as well as derive lessons from organizations that have experienced major problems;
- Develop a better understanding of how governance practices in non-profit organizations need to be adapted to take into account a variety of factors that influence governance needs and functions;
- Identify alternative governance models available to boards and create a coherent framework for understanding these models;
- Provide support to boards and executive directors in understanding what governance practices and policies may best suit or serve their particular organization;
- Discover and develop a foundation of knowledge on which to build additional tools and resources to assist non-profit organizations in creating effective governance practices.

Responses derived from interviews and a Governance Self-Assessment Checklist completed by board members and the CEO's were analyzed in conjunction with relevant documentation to assess the governance practices of 20 non-profit organizations in Canada.

Overall, we found that interest in governance issues has increased tremendously during the past decade. This has been spurred by aggressive promotion of the Carver 'Policy Governance' model, and increased demands for greater public accountability generated by governance problems in a number of high profile cases. At the same time, alternative governance models have not been readily accessible or well understood. As a result, many non-profits have attempted, with limited success and, often, considerable frustration, to implement the 'Policy Governance' model or adapt it for their own purposes.

This research identified several models currently used by non-profit boards in Canada. They are referred to in this report as: 'Operational', 'Collective', 'Management', 'Traditional', 'Policy Governance', 'Corporate' and 'Constituent Representational'. We found most boards use a hybrid of these models created by applying practices drawn from two or more models to different aspects of their mission or responsibilities.

We examined how a number of factors influence governance practices. These factors included: who 'owns' the non-profit; different processes for board selection; the impact of size, complexity

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[1] *"Building on Strength: Improving Governance and Accountability In Canada's Voluntary Sector"*, Report of the Panel on Accountability and Governance in the Voluntary Sector (Broadbent Report) Ottawa 1999p13.

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The Institute On Governance

and geographic scope; mandate; form of incorporation; financial circumstances; organizational history; knowledge about alternative governance models; personal and political agendas; and critical events and transitional phases. Although others also had significant influence, we concluded that the most important factors in determining an appropriate governance model were the size and complexity of the organization.

Boards and CEO's rated their overall governance effectiveness between 70% and 75% of their preferred ideal on the Governance Self-Assessment Checklist used in these studies. Areas of greatest strength were Board Culture and Board Structure. Human Resources Stewardship, Performance Monitoring and Risk Management were generally acknowledged as requiring improvement. Although 30% of the organizations had experienced serious financial crises at some point during the past decade, the Financial Stewardship of current boards was generally strong. These conclusions were supported by an analysis of documents and interviews with key informants.

The *Major Concerns of Boards* identified through this research included: director liability; financial viability; adopting more 'business-like' practices while maintaining human service values; how to 'add value' to the organization; finding the right balance between 'policy focus' and knowledge of operations; improving succession planning for board and staff; strengthening board orientation; developing clarity between the respective roles of board and senior management; improving measurement of board, CEO and organizational performance; and improving communication with stakeholders.

Signs of a Board in Trouble included: excessive turnover of CEO's or board members; difficulty recruiting credible board members; rapid depletion of reserve funds; chronic unplanned or unmanaged deficits; role confusion between board and CEO; low attendance or participation in meetings; poor management of meetings; factionalism; underground communications; unresolved conflicts; failure to address conflicts of interest; decision deadlock; disrespect for organizational norms and policies; and poor communication with funders and other key stakeholders.

We also identified the following *Keys to Success:*
- Strong board *and* staff leadership
- A positive working relationship between board and CEO
- Role clarity
- Strong agreement of key stakeholders on organizational values, mission and objectives
- Respect for organizational norms, board policies and decisions
- Good board development practices and teamwork
- Regular, objective assessment of board, CEO and organizational performance
- High levels of trust and low levels of conflict
- Constructive resolution of conflicts and 'conflicts of interest'
- A good balance between organizational stability, flexibility, innovation and enterprise
- Consensus or 'near-consensus' decision-making
- Effective management of meetings and board work

The keys to success are easy to articulate, but the doors to good governance are difficult to unlock during the normal course of human interactions and organizational politics. It takes resolute commitment to open communications and a good deal of hard work. The early warning signs of trouble ahead are usually easy to discern. Boards and funding authorities need to be vigilant for these and to take remedial action before, rather than after, crises erupt.

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5.6. Sector Wide Approaches, Accountability-200[11]

[11] Mark Schacter, Sector Wide Approaches, Accountability and CIDA: Issues and Recommendations
Institute On Governance www.iog.ca Prepared for: Policy Branch Canadian International Development Agency
January, 2001

Executive Summary

Effective accountability is central to the achievement of development goals. Citizens of donor countries expect their donor agencies to be accountable to them for sound management of aid budgets, aimed at contributing to meaningful development results. Donor agencies expect recipient country governments to be accountable for using aid resources in line with agreed plans and expectations. Citizens of developing countries expect their own governments to be accountable for using available resources (domestic and well as external aid) in ways that promote agreed social and economic development goals. When all these forms of accountability are working well, the result is healthy, sustained pressure on donor agencies and recipient governments to make effective and efficient use of development assistance.

"Sector Wide Approaches" (SWAps) present important challenges to the design and management of accountability relationships involving donors, developing countries and the people of developing countries who are the ultimate intended beneficiaries of development assistance. This paper describes and analyzes accountability issues arising in SWAps, and recommends responses by CIDA to those issues.

As the opening paragraph suggests, this paper focuses on challenges arising in connection with three kinds of accountability relationships:

- accountability between the donor agency and its own government and public;

- accountability between the donor agency and the developing country government;

- accountability between the developing country government and its citizens.

The shift from project-based delivery of development assistance to SWAps has implications for the accountability relationships between all of these parties. Most obviously, it involves a redrawing of the lines of accountability between donors and the developing country governments to which they provide assistance. But it affects other accountability relationships as well. Involvement in SWAps is, for example, forcing donor agencies to find new ways of accounting for their performance to their home governments and their publics.

SWAps also focus attention on accountability between the developing country government and its own people, who are the ultimate intended beneficiaries of development assistance. This vital relationship has often been masked by the fragmented, project-by-project approach to development assistance which minimized the apparent need to factor the developing country's governance environment into assistance strategies. The SWAp by its very nature makes it more difficult to ignore the impact of governance on development assistance.

Figure 1 (p. 24) provides a hypothesis of how the move from project-based assistance to SWAps is affecting these fundamental accountability relationships. Under the traditional

(project-based) paradigm (upper half of Figure 1), the focal point for accountability is the relationship between the external donor agency and the field-based project agency – the Canadian Executing Agency (CEA), to use CIDA terminology. A project agency such as a CEA has a distinct identity from regular government departments in the developing country. Its reporting and accountability framework is weighted toward the donor's *own project management needs and reporting requirements*, rather than toward the project's intended beneficiaries in the developing country. The result is that in the poorest, most aid-dependent countries, sectors such as health and education are little more than a series of unilateral project interventions, each financed by a different donor, and each with its own unique set of accountability arrangements between individual donors and "their" projects.

Under the accountability paradigm that is intended to occur under a SWAp (see the lower half of Figure 2), the main locus of accountability shifts from a multiplicity of semi-autonomous project agencies to the core government institutions of the developing country. This implies a significant change in both the *direction* and the *quality* of accountability relationships.

If CIDA wishes to adopt the "sector-wide approach" as a central element of the way it does business with developing countries, then it must *re-think the management of accountability relationships among key stakeholders in development assistance*. This implies launching a process of organizational and culture change within CIDA. It will be difficult and risky, but based on what we know now, it would appear to promise a significant payoff in terms of enhancing CIDA's effectiveness as a development agency.

In particular, the Agency must turn its mind to:

- ***holding itself accountable to Parliament and the public in a way that reflects its shared accountability with other development partners***

  ⇒ There is an important distinction between CIDA *managing for* development results and CIDA being accountable for showing that its inputs have been the *direct cause* of development results.[1] The sector-wide approach, with its emphasis on shared accountability and multi-partner collaboration under the umbrella of developing country leadership, highlights this distinction. The developmental goals of the SWAp are not consistent with attempts by CIDA (or any other donor) to attribute particular development results exclusively to its own inputs. Without departing from the sound underlying principles of Results Based-Management (RBM), CIDA should adjust its use of RBM to the reality that it is often impossible to draw direct causal links between CIDA inputs and development outcomes. CIDA's reporting to Parliament and the public should downplay the attribution to itself of development results, and

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[1] This is consistent with the discussion of operational results and development results found in CIDA's "Accountability Framework." See CIDA (1998).

Research Framework for a Review of Community Justice in Yukon
Community Justice – Results/Performance Measurement/Accountability

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concentrate instead on accountability for the logic of its interventions in light of desired development results. *(See recommendations at pp. 11 to 14.)*

- *the way it handles the accountability relationship between itself and the developing country government*

  ⇒ For its own management and accountability purposes, CIDA will always need to hold the developing country government accountable for its use of Canadian development resources. However, CIDA must adopt ways of meeting its own accountability requirements that acknowledge that the primary concern, from a development perspective, *is not* accountability by the developing country government to CIDA. The Agency must strike a balance between its own accountability needs and the issue that *is* of primary developmental importance: the accountability shared by CIDA, the developing country and other stakeholders for the success of the sector program. *(See recommendations at pp. 18 to 20.)*

- *incorporating a broad governance perspective into the design and implementation of SWAps*

  ⇒ The success of SWAps depends on the capacity but also the *willingness* of the developing country government to support the design and implementation of effective sector programs. This is unlikely to happen in the absence of a robust accountability relationship between the developing country government and its citizens. No approach to a SWAp can ignore broader questions of accountability and governance in the developing country. CIDA must do a better job of *building governance knowledge and expertise into* the design and implementation of SWAps. A governance perspective must not be viewed as an "add-on" to a SWAp; rather, it is a fundamental constituent. *(See recommendations at p. 21 to 22).*

5.7. The Effectiveness Of Restorative Justice Practices: A Meta-Analysis - 2001[12]

– As shown in Table 2, studies commonly included one or more of the following outcome measures:
  o victim satisfaction,
  o offender satisfaction,
  o restitution,
  o compliance and
  o recidivism reduction.

5.8. When Accountability Fails: A Framework for Diagnosis and Action – 2001 [13]

– The paper describes a simple analytical framework that is intended to help understand relationships between public institutions of accountability and government agencies, diagnose accountability problems in a public sector context and develop practical strategies for solving accountability problems.

- In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.[14]

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[12] Department of Justice Canada, Research and Statistics Division, Jeff Latimer, Craig Dowden Danielle Muise, "The Effectiveness Of Restorative Justice Practices: A Meta-Analysis", 2001, http://canada.justice.gc.ca/en/ps/rs/rep/meta-e.pdf
[13] Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml
[14] C. Rossiter, ed., The Federalist Papers (New York: New American Library, 1961). The quotation is from Federalist Paper No. 51, published in 1988. cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

Power and accountability

- "Power, and the need to control it, define the basic bargain between those who govern and those who are governed."[15]
    - o Citizens grant sweeping powers to the political executive: to tax, to spend and to make and enforce policies and laws.
    - o In return, citizens demand accountability.
    - o They expect the government to explain and justify publicly the way it uses its power, and to take prompt corrective action when things go wrong.
    - o Accountability, viewed in this way, serves two purposes. Its political purpose is to check the might of the political executive — it is a mechanism for minimizing abuse of power.
    - o Its operational purpose is to help ensure that governments operate effectively and efficiently.

Institutions of accountability

- Formal attributes of democratic government — universal suffrage and multi-party elections — are necessary but not sufficient to ensure healthy accountability between citizens and government.
    - o This is demonstrated in many young democracies of the developing world, which remain "haunted by old demons that they had hoped to exorcise with democratic rule: violations of human rights, corruption, clientelism, patrimonialism, and the arbitrary exercise of power."[16]
- Direct accountability to citizens via the ballot box must be accompanied by the State's willingness to restrain itself by creating and sustaining independent public institutions empowered to oversee its actions, demand explanations, and, when circumstances warrant, impose penalties on the government for improper or illegal activity.

Horizontal versus vertical accountability

- In a well functioning State, therefore, the government is subjected to accountability that is both *imposed upon it* from outside by citizens, and accountability that it imposes *upon itself* through public institutions empowered to restrain the political executive.
    - o Theorists refer to this important distinction as "vertical" accountability (by the State to citizens) versus "horizontal" accountability (by the State to its own public institutions of accountability)[17].
- Vertical accountability may include citizens acting through the electoral process or indirectly via civic organizations ("civil society") or the news media.
- Horizontal accountability, which covers the range of public entities created by the State to check its own abuses and inefficiencies, may be exercised by:
    - o the judiciary;
    - o the legislature;[18]
    - o auditors general;
    - o anti-corruption bodies;
    - o electoral and human-rights commissions;
    - o ombudsmen,
    - o public-complaints commissions,
    - o privacy commissions, etc.

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[15] A. Schedler, "Conceptualizing Accountability," in A. Schedler, L. Diamond and M.F. Plattner, eds., The Self-Restraining State: Power and Accountability in New Democracies (Boulder and London: Lynne Rienner Publishers, 1999) cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[16] A. Schedler, "Conceptualizing Accountability," in A. Schedler, L. Diamond and M.F. Plattner, eds., The Self-Restraining State: Power and Accountability in New Democracies (Boulder and London: Lynne Rienner Publishers, 1999) cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[17] G. O'Donnell, "Horizontal Accountability in New Democracies," in Schedler et. al, eds., op. cit., note 2; L. Diamond, "Institutions of Accountability," Hoover Digest, No. 3 (1999). cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[18] Being both a State institution and a channel for the expression of citizens' concerns, the legislature has characteristics of an institution of vertical as well as horizontal accountability. (Author's conversation with Larry Diamond).). cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

- Governments cannot always be relied upon to respect rules and institutions that constrain their own ability to act. They [...] understand that institutions of [horizontal] accountability limit their freedom of action and ... contain the potential to bring them into painful and embarrassing situations. So why should they be interested in establishing them?[19]
- Governments are more likely to bind themselves through institutions of horizontal accountability under circumstances where citizens will punish them for failing to do so.
    - Horizontal accountability must therefore be buttressed by strong vertical accountability.
    - The effective operation of vertical accountability, through the electoral process, the news media and concerted civic action, causes governments to take seriously the perils of failing to sustain horizontal accountability[20]
    - This paper focuses on institutions of horizontal accountability which, because of their formal public authority, are looked upon to play the dominant role in restraining executive power.[21]

When accountability fails...

- When accountability fails—when the state breaks its bargain with citizens — many things can go wrong.
    - Public funds may be misappropriated or stolen, public officials may routinely demand bribes, public contracts and public posts may be unfairly awarded, public services may be delivered poorly or not at all.

- Because the consequences of failed accountability can be dire, it is important to understand how accountability can fail, which in turn determines what may be done to fix it.
    - In introducing the simple model of the "accountability cycle," we suggest that there are at least three distinct ways — determined by three distinct points in the accountability cycle — in which accountability can fail; and that each mode of failure has distinct implications for strategies to set things right.
    - The model is a caution against a "one-size-fits-all" approach to accountability.
    - Intervention strategies that are appropriate for one mode of failure may be misguided in relation to the other two.

The "Accountability Cycle"

- At the core of the analytical model is an accountability cycle set within contextual factors.

The accountability cycle models the internal logic of the relationship between an institution of accountability (IA) and a unit of the executive branch of government. [22]The cycle has three stages: **information**, **action** and **response**.

- **Stage 1 — Information:** Information is the critical input into the IA.
    - An IA's effectiveness in holding a government agency accountable depends, before anything else, on the degree to which it can obtain — either directly from the government or indirectly from other sources — relevant, accurate, and timely information about the activities of the executive.[23]

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[19] A. Schedler, "Restraining the State: Conflicts and Agents of Accountability," in Schedler et. al, eds., op. cit., note2. cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[20] A. Schedler, "Restraining the State: Conflicts and Agents of Accountability," in Schedler et. al, eds., p.334 cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[21] World Bank, The State in a Changing World. World Development Report 1997 (New York: Oxford University Press, 1997), p. 99. cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[22] See P.G. Thomas, "The Changing Nature of Accountability," in B.G. Peters and D.J. Savoie, eds., Taking Stock: Assessing Public Sector Reforms (Ottawa: Canadian Centre for Management Development, 1998), p. 353. See also Schedler, "Conceptualizing Accountability," op.cit., note 2, p. 15. cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[23] K.M. Dye and R. Stapenhurst, Pillars of Integrity: The Importance of Supreme Audit Institutions in Curbing Corruption (Washington: Economic Development Institute of the World Bank, 1998). G. Caiden, "Dealing with Administrative Corruption," in T. Cooper, ed., Handbook of Administrative Ethics, (New York: Marcel Dekker, 1993). cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

- **Stage 2 — Action:** Based upon the information it is able to obtain, the IA must then act.
  - It should produce demands upon the political executive to explain and justify its actions.
  - Developments at this stage of the cycle depend upon the capacity and willingness of the IA, first, to evaluate and analyze information, and, second, to use its analysis as a basis for making demands on the executive for explanation and justification of its actions.
- **Stage 3 — Response:** The IA's effectiveness is determined, ultimately, by the appropriateness and timeliness of the reaction it is capable of eliciting from the executive.
  - Developments at this stage depend upon the degree to which the executive feels compelled to respond to the IA.
- The accountability cycle provides a simple template for understanding and evaluating the performance of any IA on the basis of three broad questions.
  - What information can the IA obtain about the government's activities; how relevant, accurate, timely and comprehensive is the information?
  - How well is the IA able to analyze the information, and develop action-oriented conclusions?
  - What kind of response is the IA able to generate from the executive?
- Viewing IAs through the accountability cycle framework may help establish an order of priority for addressing accountability problems.
  - The model suggests a rough rule-of-thumb: address problems at the information stage before tackling the action stage, and address problems at the action stage before tackling the response stage.
    - First, focus on the primary binding constraint: the flow of information between the government and a given IA.
      - No meaningful accountability is possible without a minimum quantity and quality of information being available to an IA.
      - Analyze and address questions related to the quantity, quality, timeliness and relevance of information available to the IA.
    - Second, assuming the information hurdle can be over-come, address the IA's capacity to gather and analyze information, to transform its analysis into coherent demands upon the government, and to communicate effectively with government.
    - Third, assuming the IA has adequate capacity to place demands upon the government, consider whether the IA has sufficient power or influence to elicit a meaningful response from the executive.
      - Attempt to understand the nature of the relationship between the IA and the executive.

Contextual factors

- The accountability cycle does not operate in a vacuum. The model provides a starting point for diagnosis, but to under-stand the roots and implications of the diagnosis, it is necessary to look beyond the inner workings of the IA-government relationship.[24]
  - At every stage of the accountability cycle, an IA's capacity to interact with the executive is affected by social, political and economic forces that are outside the IA's control.
  - These contextual factors help explain why an IA functions or fails to function, and provide guideposts to effective remedial strategies.
- The attitude of political and bureaucratic leaders toward accountability is a crucial contextual factor. Insufficient high-level commitment to robust public-sector accountability critically constrains the effective functioning of IAs because horizontal accountability, by its very nature, cannot happen unless the government allows it. "There is no way to ignore or bypass the centers of state power. Unless they consent to institutionalize 'self-restraint,' the road to horizontal accountability is blocked."[25]

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[24] K.M. Dye and R. Stapenhurst, Pillars of Integrity: The Importance of Supreme Audit Institutions in Curbing Corruption (Washington: Economic Development Institute of the World Bank, 1998). G. Caiden, "Dealing with Administrative Corruption," in T. Cooper, ed., Handbook of Administrative Ethics, (New York: Marcel Dekker, 1993). note 10. cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[25] Schedler, op.cit., note 2, p. 339. See also M. Schacter, "Lessons from Experience in Supporting Sound Governance," ECD Working Paper Series No. 7 (Washington: World Bank Operations Evaluation Dept., 2000). cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

o   The role played by civil society in pressuring the government for accountability is another key contextual factor, and one that highlights the link between horizontal and vertical accountability noted above. The degree to which civil society can articulate and mobilize demand for accountable government is likely to have an important impact on strengthening the position of IAs with respect to the political executive[26]

Practical implications

1. Public-sector accountability problems— together with their causes and impacts—are numerous and diverse. They affect public agencies in all countries.

2. The accountability cycle model may help development agencies and their country partners analyze and prioritize problems concerning IAs. The framework is meant to provide a basis for designing and implementing strategies to strengthen accountability as a countervailing force to inefficiency, waste, corruption and other ills that afflict the public sector when accountability to citizens is weak.

3. It may also be of use in the developed world. In Canada, for example, it may be applicable to the effective functioning of accountability institutions such as the Auditor General, Parliament, the Privacy Commission, provincial ombudsmen, etc. The framework may have immediate relevance in Canada to the need for strong Aboriginal governance. There is a rising sense of urgency concerning weak public accountability in Canada's First Nations—a problem linked to ineffective institutions of accountability[27]

4. This paper has described a step-by-step approach to addressing accountability problems that follows the three stages of the accountability cycle.

    4.1. As a practical matter, efforts to build capacity in IAs may end up spilling simultaneously across all three of the cycle— information, action and response. But given the need to concentrate scarce resources where they are likely to have the greatest effect, it is useful to have an analytical basis for focusing efforts on strengthening IAs in one of the three areas. The accountability cycle offers a basis for making the necessary choices.

5. This is relevant to development assistance agencies, which have shown a tendency to focus accountability interventions on building the capacity of IAs.

    5.1. In other words, they have targeted the action stage of the accountability cycle by providing training, equipment and technical assistance to IAs and their personnel. Such interventions have their place, to be sure.

    5.2. But if they are undertaken without reference to the other two points of the accountability cycle— information and response—then their results will surely be disappointing.

    5.3. Capacity-building in an IA will have limited effect if, as is the case in many young democracies, the IA remains starved of information and/or is faced with a government that feels little or no compulsion to respond.

5.9. Guide for the Development of Results-based Management/Accountability Frameworks - 2001[28]

Section 1. Introduction to the Results-based Management and Accountability Framework

This is a guide to assist managers and evaluation specialists in establishing a foundation to support a strong commitment to results, a prime responsibility of public service managers. As outlined in the management framework for the federal government, *Results for Canadians*, public service managers are expected to define strategic outcomes, continually focus attention on results achievement, measure performance regularly and objectively, learn from this information and adjust to improve efficiency and effectiveness.

The Results-based Management and Accountability Framework (RMAF) is intended to serve as a blueprint for managers to help them focus on measuring and reporting on outcomes throughout the lifecycle of a policy, program or initiative.

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[26] J. Tendler, Good Government in the Tropics (Baltimore and London: The Johns Hopkins University Press, 1997); World Bank, Assessing Aid.What Works, What Doesn't, and Why (New York: Oxford University Press, 1998) cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[27] J. Graham, "Getting the Incentives Right: Improving Financial Management of Canada's First Nations," IOG Policy Brief No. 8 (Ottawa: Institute On Governance, 2000). cited in Schacter, Mark When Accountability Fails: A Framework for Diagnosis and Action, ISUMA, Canadian Journal of Policy Research, Volume 2 N° 2 • Summer 2001 • http://www.isuma.net/v02n02/schacter/schacter_e.shtml

[28] *Adapted from* Government of Canada, Treasury Board Secretariat, Guide for the Development of Results-based Management and Accountability Frameworks, August 2001, http://www.tbs-sct.gc.ca/eval/pubs/RMAF-CGRR/rmaf-cgrr-01-e.asp

Community Justice – Results/Performance Measurement/Accountability

This document describes the components of a Results-based Management and Accountability Framework and to offer some guidance to managers and evaluation specialists in their preparation.

What is a RMAF?

Whether related to a policy, program or initiative, a Results-based Management and Accountability Framework is intended to help managers:

- describe clear roles and responsibilities for the main partners involved in delivering the policy, program or initiative - a **sound governance structure**;

- ensure clear and logical design that ties resources to expected outcomes - a **results-based logic model** that shows a logical sequence of activities, outputs and a chain of outcomes for the policy, program or initiative;

- determine appropriate performance measures and a **sound performance measurement strategy** that allows managers to track progress, measure outcomes, support subsequent evaluation work, learn and, make adjustments to improve on an ongoing basis;

- set out any **evaluation work** that is expected to be done over the lifecycle of a policy, program or initiative; and

- ensure **adequate reporting** on outcomes.

If successfully developed, the Framework should represent:

- an understanding between the partners on what they aim to achieve, how they plan to work together to achieve it, and how they will measure and report on outcomes;

- a tool for better management, learning and accountability throughout the lifecycle of a policy, program or initiative; and

- an early indication that the policy, program or initiative is set up logically - with a strong commitment to results - and with a good chance to succeed.

Why Do We Need a RMAF?

The management framework for the federal government, *Results for Canadians*, sets up the expectation that managers will focus on measuring progress toward the attainment of the results of their policies, programs and initiatives such that ongoing improvements can be made. The Treasury Board (TB) *Policy on Transfer Payments* formalises the requirement for a RMAF as part of a TB submission, and the TB *Evaluation Policy* indicates that there are other occasions when a RMAF may provide benefits to managers, even when not required under the TB *Policy on Transfer Payments*.

The Government direction and policy is to provide members of Parliament and the public with relevant, accurate, consolidated, and timely information on how tax dollars are being spent and what Canadians receive as a result. The Government of Canada is committed not only to measuring and reporting on results, but also to establishing clear standards against which actual performance will be reported.

Three parliamentary instruments are crucial in working towards these objectives. Departmental Reports on Plans and Priorities (RPP), which are tabled in the spring along with the government's Main Estimates, report on the rationale for initiatives and establish the strategic outcomes against which actual performance will be measured. Departmental Performance Reports (DPR) are Estimates documents, which are tabled in the fall. They report on achievements against the strategic outcomes that were established in the departmental RPP. The third key document is Managing for Results which is also tabled each fall, along with the DPR, as part of the "Fall Reporting Package." This government-wide report on performance is now being refocused to summarise Canada's progress within a set of key societal indicators.

All three of these reports are tabled in Parliament by the President of the Treasury Board and may be referred to the relevant Standing Committee of the House of Commons for further review.

The form and focus of departmental planning and reporting is drawn from an organisation's Planning, Reporting and Accountability Structure (PRAS). The Departmental PRAS, a Treasury Board approved document, provides the framework by which the RPP and DPR are developed and resources are allocated to most federal organisations. The PRAS requires departments and agencies to clearly outline the shared outcomes they want to achieve on behalf of Canadians.

The RMAF should be prepared at the outset of a policy, program or initiative, ideally at the time when decisions are being made about design and delivery approaches. When the RMAF is part of a Treasury Board submission, it's approval is implicit. RMAFs prepared outside a Treasury Board submission process, however, need to proceed through an approval process given that the RMAF represents a serious commitment to results measurement and reporting.

In order to better meet commitments under the *Social Union Framework Agreement (SUFA)* to improve accountability and transparency to Canadians, managers should consult the *SUFA Accountability Template* in the development of RMAFs. This comprehensive template, which reflects all aspects of SUFA accountability provisions, is the basis of a pilot project in support of the Federal Government's SUFA accountability commitments.

Although RMAFs generally address most of the measurement and reporting requirements in the SUFA template, there are specific areas that may require examination. These include areas related to: mechanisms to engage Canadians in the development and review of social policies and outcomes; establishment of mechanisms for Canadians to appeal administrative practices; use of comparable indicators where appropriate; and tracking Canadians' understanding of the Federal contribution to policies, programs and initiatives.

Continuum of Results Measurement

The measurement of results is not an isolated activity. Rather, the process of measuring results begins with the design of a policy, program or initiative and evolves over time. Different results-measurement activities occur at different points in time, but always as part of the ongoing management of a policy, program or initiative. This continuum, from the initial consideration of performance measurement, through performance monitoring to formative and summative evaluation, is presented in Exhibit 1.1.

The diagram offers a pictorial view of the key stages and the process required to develop performance measures for any given policy, program or initiative. While shown as a linear process, it must be stated that performance measurement development is iterative and therefore review and feedback are critical parts of the process.

The development of a RMAF would involve stages 0 to 3 in this continuum - in essence, establishing the commitment for outcomes measurement. This is not an end in itself however. The ability to measure and report on results requires the 'implementation' of the RMAF - and this takes managers through stages 4 to 6, and lays the groundwork for evaluation activities (i.e. stages 7 and 8).

While program managers are accountable and need to be integrally involved in every stage, most organisations have specialists who can facilitate the development and implementation of results measurement. Notably, evaluators, key to stages 7 and 8, can also play a useful facilitation role in stages 0, 1 and 2. Likewise, information management specialists could be key advisors in stages 3 and 4. This is discussed in more detail in a later section of this Guide.

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Who Should Be Involved in the Development of a RMAF?

There are three key parties involved in the development and implementation of a Results-based Management and Accountability Framework: managers, evaluation specialists and, in the case of those involving Treasury Board submissions, analysts of the Treasury Board Secretariat.

Managers hold the primary responsibility for the development of the RMAF. Managers are:

- responsible for ensuring that the content of the framework is accurate and that it reflects the design and operation of the policy, program or initiative, as well as all reporting requirements; and

- responsible for implementing the RMAF, that is, ensuring that data are collected and reported on accordingly.

Evaluation specialists can be an effective support to managers in this process:

- working with managers, evaluators can provide important guidance and technical expertise throughout the development and implementation of the Results-based Management and Accountability Framework; and

- assisting in the development of the logic model, facilitating development of an appropriate set of performance measures and advising on key methodologies and measurement issues implicit in the performance measurement and evaluation strategies.

When RMAFs are developed to meet a Treasury Board commitment, **analysts of the Treasury Board Secretariat** can advise departmental managers and evaluators on general requirements related to the framework before it is approved by the departmental Minister and submitted to the Board. As such, it may be helpful to consult with this group during the preparation of a RMAF.

What are the Guiding Principles for this Process?

The development and implementation of a Results-based Management and Accountability Framework should be conducted under the following guiding principles:

- ***utility*** - to ensure that managers can use the framework to explain their policies, programs and initiatives to Canadians and to institute sound performance measurement approaches and manage for results.

- ***shared ownership*** - to meet the needs of all stakeholders and with the active involvement of managers, to ensure that information needs of managers, as well as formal accountability requirements are met;

- ***transparency*** - to ensure that all stakeholders understand what outcomes are expected as well as how and when they will be measured;

- decision- and action-oriented - to ensure that information needed by managers and other stakeholders is available when it is required for key decisions;

- ***credibility*** - to ensure that professional standards <u>(see note)</u> are adhered to and that the framework establishes realistic commitments for measurement and reporting; and

- ***flexibility*** - to respond to the ever-changing context within which policies, programs and initiatives operate, the framework needs to be regularly revisited and adapted as necessary.

While there is not a specific required length for a RMAF, to be most useful the final document should consist of a concise presentation of each of the necessary components of a RMAF. A framework might be as short as 10 to 15 pages and, preferably, no longer than 30 to 35 pages. Managers should use their judgement in making decisions about the level of detail required, considering issues such as whether the information exists elsewhere (and thus does not need to be replicated in great detail) and maximising the probability that the document will be utilised (thereby restricting length to a manageable size).

The next sections of this document guide the reader through the components of a RMAF and the steps involved in their development. Key concepts from a lexicon developed for use by Treasury Board in the context of performance measurement and evaluation are presented in Annex A.

Note: See for example, Appendix B: Evaluation Standards for the Government of Canada, of the Treasury Board *Evaluation Policy*

Section 2. Components of a RMAF

The Results-based Management and Accountability Framework addresses the requirement for both ongoing performance measurement as well as the need for longer-term evaluation planning. Ultimately, the Framework incorporates the principles of performance measurement and evaluation into all stages of policy, program or initiative management.

The Results-based Management and Accountability Framework contains several components:

1. **Profile** - a concise description of the policy, program or initiative, including a discussion of the background, need, target population, delivery approach, resources, governance structure and planned results.

2. **Logic Model** - an illustration of the results chain or how the activities of a policy, program or initiative are expected to lead to the achievement of the final <u>(see note)</u> outcomes.

3. **Ongoing Performance Measurement Strategy** - a plan for the ongoing measurement of performance, including the identification of indicators for the outputs and outcomes in the logic model and a measurement strategy describing how these indicators will be collected, how often and at what cost.

4. **Evaluation Strategy** - a plan for the evaluation of the policy, program or initiative, including the identification of formative and summative evaluation issues and questions, the identification of associated data requirements, and a data collection strategy which will serve as the foundation for subsequent evaluation activities. 5. Reporting Strategy - a plan to ensure the systematic reporting on the results of ongoing performance measurement as well as evaluation, to ensure that all reporting requirements are met.

For each component, the purpose, a suggested process to be undertaken in developing it, and the product of the process are described in the next section.

Note: The word "final" is used in this Guide to denote the broad, longer term outcomes of a policy, program, or initiative

Section 3. Steps in the Process of Developing a RMAF

The preparation of a Results-based Management and Accountability Framework is a systematic and methodical process through which various aspects of a policy, program or initiative and its performance are considered. This section of the Guide takes managers and evaluation specialists through the distinct steps in this process - the product of each step being a key element of the final framework.

Criteria for the self-assessment of a Results-based Management and Accountability Framework are presented in Annex B. These criteria can be used to help make decisions about the content and level of comprehensiveness to include in a framework. Treasury Board Secretariat analysts will use these criteria as they assess the frameworks submitted to Treasury Board.

Profile

a. Purpose

This section of the framework concisely describes the policy, program or initiative. This description should provide to an independent reader a clear understanding of what the policy, program or initiative is intended to achieve as well as an appreciation for how it intends to do so. A necessary part of this is to clearly set the context. Thus, the profile should include brief descriptions of the:

- **origin** of the policy, program or initiative and a demonstration of the identified need to which the policy, program or initiative responds;

- **delivery approach**, including a clear statement of the roles and responsibilities of the main partners and how the policy, program, or initiative is intended to reach its clientele;

- **resources** allocated to the organisation over the funding period and how the funds will be used to implement the policy, program or initiative over this period;

- primary intended **beneficiaries** (the clients or target population);

- **planned results** (the benefits that departments have committed to over the funding period);

- **final outcomes** (which could also be strategic outcomes) to be achieved, or benefits intended to be provided to citizens through a policy, program or initiative; and

- **governance structure**, from the perspective of accountability and particularly in the context of policies, programs or initiatives which involve multiple partners. Who are the key stakeholders and what are their roles and responsibilities?

b. Process

Much of the work required to complete the profile is often carried out during the development of initial planning documents for the policy, program or initiative. Thus, the profile development process often consists of the review of existing documentation, including Business Plans or MOUs. Some of the necessary information however, will not have been developed for these other purposes and will have to be prepared as part of the profile.

Managers, designers and delivery personnel, and other knowledgeable stakeholders should be consulted through interviews or other forms of discussion. These consultations provide a perspective on whether the "document-based" profile matches the "reality-based" profile of the policy, program or initiative, according to those who know it best. As such, the consultations help to clarify whether there have been any adjustments to the design of the policy, program or initiative or to the target client group during implementation, as well as whether there is agreement among all partners as to strategic outcomes. Further, these consultations can help to fill in gaps in the necessary profile information.

c. Product

The profile should be a concise description of the policy, program or initiative which gives an independent reader a clear understanding of what it intends to achieve, why, with what resources and what target population it intends to reach. It should also clearly describe the delivery strategy and the governance structure for the policy, program or initiative.

Logic Model

a. Purpose

A logic model identifies the linkages between the activities of a policy, program or initiative and the achievement of its outcomes. It succinctly clarifies the set of activities that make up a policy, program or initiative and the sequence of outcomes that are expected to flow from these activities. As such, a logic model serves as a "roadmap", showing the chain of results connecting activities to the final outcomes and, thus, identifying the steps that would demonstrate progress toward their achievement. The logic model serves as a tool with multiple uses:

- to clarify for managers and staff the linkages between activities, outputs and the expected outcomes of the policy, program or initiative. In so doing, it will serve to clarify and distinguish the expected immediate, intermediate and ultimate outcomes;

- to communicate externally about the rationale, activities and expected results of the policy, program or initiative;

- to test whether the policy, program or initiative "makes sense" from a logical perspective; and

- to provide the fundamental backdrop on which the performance measurement and evaluation strategies are based (i.e., determining what would constitute success).

b. Process

The recommended process for developing a logic model is to undertake methodical, interactive and inclusive work with knowledgeable personnel in the area.

- Managers should consider partnering with their departmental or agency evaluation specialists in the development of the logic model. The combination of the subject area expertise of policy, program or initiative personnel with the logic model experience of evaluators affords an effective way of developing such a model in a timely fashion.

To develop a logic model, it is necessary to identify each of the following components:

- **Activities** - What are the key activities that staff are engaged in under the policy, program or initiative? That is, what are the key activities intended to contribute to the achievement of the outcomes (as opposed to the administrative activities necessarily undertaken to provide the infrastructure for the policy, program or initiative)

- **Outputs** - What are the outputs of the key activities. That is, what demonstrates that the activities have been undertaken? Outputs are the products or services generated by the activities and they provide evidence that the activity did occur.

- **Immediate outcomes** - What are the short-term outcomes that stem from the activities and outputs? Outcomes in a logic model typically have an action word associated with them (e.g., "increased", "improved") and represent the consequences of the activities and outputs.

- **Intermediate outcomes** - What are the next links in the chain of outcomes that occur, flowing from the activities and outputs and occurring after the immediate outcomes have been achieved? These outcomes could be considered to be medium-term.

- **Final outcomes** - What are the final outcomes of the policy, program or initiative, or, why are these activities being engaged in? These are generally outcomes that take a longer time period to be realised, are subject to influences beyond the policy, program or initiative itself, and can also be at a more strategic level.

It is important to realise that the logic model represents a diagram of the policy, program or initiative theory, that is, how a set of activities is expected to lead to the intended outcomes. There are some elements of policies and initiatives, however, which are not typically depicted in a logic model. These elements which are not included are:

- the specific, step-by-step operational details about how a policy, program or initiative is delivered; and

- organisational or infrastructure-related activities, which are also focused on process and include activities such as hiring staff, purchasing equipment or carrying out accountability responsibilities - although these are crucial policy, program or initiative activities, they are not included in the logic model.

To develop a logic model, the team needs to identify, in turn, the key elements in each of these components of the logic model. One effective process is to develop the model in a group working session, facilitated by an evaluation specialist. Individuals with different perspectives from the policy, program or initiative would then contribute to the development of the model. Depending on the complexity of the policy, program or initiative, the full model could be elaborated in a one- or two-day session. The final product would represent a shared understanding of the underlying logic of the policy, program or initiative.

There are several different styles of logic model presentation, and each organisation should use the format most appropriate for their internal audience. Flexibility is paramount, as long as the core components of the logic model are presented (i.e., activities, outputs and outcomes). For example, some organizations may choose to present their logic model in a table rather than in the flow chart style presented here (Exhibit 3.1). Similarly, there is no specific number of levels of outcomes that need to be presented. While many logic models show the three described here (immediate, intermediate and final), some may only have two, while others may have more. The determining factor is whether the logic model appropriately depicts the sequence of outcomes resulting from the activities and outputs. Two possible versions of logic models are presented in Exhibits 3.1 and 3.2 below.

EXHIBIT 3.1
"Flow Chart" Logic Model

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The format suggested by Exhibit 3.1 is to present the information of a logic model in a diagram which resembles a flow chart. In this format, each component is presented across a row of the model. The expected chain of events from the activities through to the final outcomes appears as the linkages connecting the boxes.

Using this approach to logic model development, members of the team would first brainstorm about what they see as the key activities of their policy, program or initiative. The results of the individual brainstorming are then shared and discussed as a group, and a final set of agreed-upon activities is identified as the first row of the model. This row would be the top row in Exhibit 3.1.

The members of the team then return to individual brainstorming to identify the outputs that are associated with each of the already-identified activities of the policy, program or initiative. An activity might have several different outputs (goods and services or other products), and there will be one set of outputs for each activity box in the top row of the model. Again, the results of the individual brainstorming are shared and discussed and a final set of agreed-upon outputs added to the model, as the second row.

This process is repeated for each subsequent component: in particular, the immediate and intermediate outcomes. Thus, participants brainstorm about what would be the first outcomes they would expect to see happen because of the activities and outputs. Following discussion and agreement, the group would move to the next level of outcomes in the chain of results. Finally, the logic model should end with the identification of the final outcomes.

Experience has shown that some groups may find it useful to start their logic model work with the identification of final outcomes, that is, to begin with this last row of the model, and then move to the activities and work down, to fill in the middle of the model. Each organisation or group will need to decide for themselves which starting point works best for them. It can be helpful to refer back to statements of strategic outcomes in planning documents to verify that they are represented in the logic model.

The development of the 'flow chart' type of logic model (Exhibit 3.1) typically proceeds more smoothly if the "wiring" or connections from elements of one row to another are not added into the model until the component boxes for the full model have been identified. Thus, the final stage should be identifying the specific linkages through the model. These linkages illustrate the theorised causal connections from the activities to the outcomes.

Another version of a logic model is provided in Exhibit 3.2 below. This is an approach that describes the logic of a policy, program or initiative through a 'results chain'. Note that the results chain can include multiple inputs, activities, outputs or outcomes.

EXHIBIT 3.2
'Results Chain' Logic Model

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The logic model should be accompanied in the RMAF by a short explanatory text that describes what is implied within each box on the model as well as a brief discussion of external or environmental factors that may influence the degree to which the policy, program or initiative is expected to successfully achieve its final outcomes. This discussion provides an opportunity to identify outcomes in the logic model that are beyond the direct influence or control of the policy, program or initiative, but to which the policy, program or initiative contributes.

It is important to realise that the development of a logic model is an iterative process. Following the development through the group working session, it is advisable to critically review the product and make any adjustments deemed necessary.

Finally, once developed, it is often helpful to solicit the feedback of:

- individuals who are familiar with the policy, program or initiative but who were not part of the working session, to verify that all necessary elements are represented in the model; and

- evaluation specialists, to ensure the elements of the model are appropriate.

c. Product

The final product of this process is a one-page logic model, which clearly identifies the linkages from the activities through associated outputs to the sequence of expected outcomes, with detail presented in accompanying text. This succinct description of what a policy, program or initiative is doing and what it expects to achieve through these activities becomes an important reference for subsequent stages of the RMAF development. It is also a useful stand-alone product that departmental managers can use to provide the necessary context and rationale for their program, policy or initiative.

Ongoing Performance Measurement Strategy

Identification of Performance Indicators

a. Purpose

Ongoing performance measurement is the regular collection of information for monitoring how a policy, program or initiative is doing at any point in time. It can be used to report on the level of attainment of planned results and on performance trends over time.

To develop an ongoing performance measurement strategy, the first step is to clearly identify the key pieces of information that need to be collected (i.e., the performance indicators) in order to determine the progress of the policy, program or initiative toward the achievement of its final outcomes as described in the logic model.

- More specifically, performance indicators need to be identified which will show whether an output was produced or a specific outcome was achieved.

Ongoing performance measurement provides regular snapshots of the performance of a policy, program or initiative. Through this monitoring, it serves as a descriptive tool about how the policy, program or initiative is doing.

- It is important to realise that ongoing performance measurement does not address the issues of how an outcome was achieved or why a strategic outcome was or was not realised. Explanations of how or why outcomes were achieved comes from evaluation, which is discussed in greater detail in a later section of this guide.

Performance measurement information provides managers with knowledge they require in order to manage their policy, program or initiative on an ongoing basis. It can provide reassurance that outcomes are unfolding as expected, or can serve as an early warning that the planned results are not occurring (which could lead to a decision for additional research, such as through evaluation, to determine why). Performance measurement and evaluation are also inextricably connected - ongoing performance measurement could be considered to be part of evaluation. The ongoing performance monitoring information that has been regularly collected is utilised in periodic evaluations (which focus more in-depth on explaining the outcomes achieved) of a policy, program or initiative.

Client feedback or client satisfaction information could also be considered a special type of performance measure. While satisfaction in and of itself is not typically considered an outcome of a policy, program or initiative (i.e., it is more typically an indication of the quality of an output), assessments of client satisfaction can provide valuable information to contribute to policy, program or initiative improvements and thereby, potentially enhance the probability that outcomes will be achieved.

b. Process

The key tool that is required to develop the set of indicators has already been created at this stage of the development of the Results-based Management and Accountability Framework, namely the logic model. This ensures that the performance measurement strategy is based on a sound, logical foundation and will allow the testing of the theory behind how policy, program or initiative outcomes are expected to be realised.

The process to identify potential performance indicators involves going through each row of the logic model, except the activities row, and determining what specific piece of information or particular data would be required to assess whether each output has been produced or outcome achieved. For example:

- If an output is a type of document, the indicator that would demonstrate that the output had been produced might simply be the number of documents produced.

- If an immediate outcome is an increase in awareness of a particular issue within a target group, an indicator might be the actual level of awareness among members of this target group. The reach of a policy, program or initiative is therefore also important to consider at this point.

Performance indicators can be quantitative (i.e., based on numbers or objective information) or qualitative (i.e., narrative or subjective information). At this stage in the RMAF development, however, the goal is not to also identify how the indicators will actually be collected; this is addressed in the development of the measurement strategy. Here, the focus is on identifying the particular pieces of information necessary to answer the questions of whether an output was produced or outcome achieved. Annex C presents an example of a table that can be used to organise and present the indicators.

c. Product

This stage in the process produces a concise set of performance indicators (e.g., one to three) for each output and outcome outlined in the logic model. These indicators will serve as a key element of the ongoing performance measurement strategy.

Measurement Strategy

a. Purpose

A measurement strategy is required to establish a realistic plan for the collection of necessary data for ongoing performance measurement. At this stage, the products of the previous activities should be consolidated into measurement tables to organise the strategy. An example of a set-up for a measurement table is presented in Annex C although flexibility in the format of presentation to meet the needs of organizations is acceptable (see note 1).

The measurement strategy outlines parameters for the measurement of the key performance indicators. For each indicator, the measurement strategy should clearly indicate through what method the information will be collected, by

whom, and how often. Consideration should also be given to whether there is a need for baseline information to be collected for any indicators at the outset. Estimated costs for data collection and analysis should also be identified in this strategy.

Implementation of the measurement strategy ensures that information on outcomes is available when it is required. As such, it is critical that this work be carried out in the context of the information needs of managers as well as accountability and reporting commitments.

b. Process

The set of performance indicators previously identified serves as the starting point for this stage of the RMAF development. For each indicator, several things need to be identified: the data source and collection method; the timing and frequency of the data collection; and the responsibility for measurement. To the degree possible, the cost of measurement should also be articulated, usually by methodology rather than indicator, as one methodology might be used to collect information on several indicators.

With respect to method, performance indicators tend to come from one of three primary sources:

- administrative data - information that is already being collected in policy, program or initiative files or databases, or could be collected with adjustments to regular processes;

- primary data collection - information that needs to be collected through specialised data collection exercises such as focus groups, expert panels or surveys; and

- secondary data - data that have been collected for other purposes, but which could also be used in this context, such as national statistics on health or economic status, for example.

In determining the method to be utilised, other considerations include the type of data needed (i.e., qualitative or quantitative) and the specific source of the data (i.e., clients, general public, specific files, policy, program or initiative documents, etc.).

In terms of identifying the timing of data collection, those indicators that are part of ongoing performance monitoring will be collected regularly, and "regularly" will need to be defined differently for each indicator. For example, some indicators might need to be collected at each transaction; others may only need to be collected annually. Indicators that need to be collected as part of baseline information should also be flagged. It should be noted that the final outcomes of a policy, program or initiative are usually not part of regular performance measurement as they are typically difficult to measure as well as to attribute to particular activities.

Once a comprehensive set of performance indicators and associated measurement strategies has been identified, a smaller set of the best indicators needs to be identified. Criteria to consider in winnowing the set of indicators include:

- reliability, validity and credibility of the indicator;

- cost-effectiveness in terms of cost to collect and process; and

- whether it is directly linked to the output or outcome in question.

Evaluation specialists can be of particular assistance in the identification of performance indicators as well as in the selection of the "best" final set of indicators. Information management and/or information technology personnel can also contribute to this process, particularly if the implementation of the ongoing performance measurement strategy necessitates a data system design or redesign.

The ongoing performance measurement strategy should be linked to the actual implementation of the policy, program or initiative. The development of the measurement strategy should also be guided by acknowledgement of what is practical

and reasonable to implement. The most rigorous data collection strategy will fail if it is too labour-intensive or expensive to be implemented.

c. Product

The product of this stage of the RMAF development is a detailed and realistic performance measurement strategy that indicates what data will be collected, how (including by whom) and when, as well as providing the linkages between the data collection and the outputs and outcomes in the logic model. It also identifies the estimated cost for this data collection.

Evaluation Strategy

Identification of Evaluation Issues and Questions

a. Purpose

A key component of the Results-based Management and Accountability Framework is the elaboration of an evaluation strategy for the policy, program or initiative. Evaluation provides a periodic opportunity to take an in-depth look at how a policy, program or initiative is doing. The primary focus is usually on being able to bring about improvements to facilitate the achievement of outcomes or to determine the degree to which the policy, program or initiative led to the achievement of desired outcomes (i.e., attribution). Evaluations typically occur at two points in the lifecycle of a policy, program or initiative:

- the first is relatively early on in the life of a policy, program or initiative (e.g., normally within the first two years), in which case the focus of the questions is on examining management issues of how the policy, program or initiative is being implemented, whether adjustments are necessary and whether progress toward the achievement of the outcomes is occurring (often called **formative** or **mid-term evaluations**);

- the second is after a policy, program or initiative has been in place long enough to realistically expect that some outcomes may have been achieved (e.g., normally within five years of policy, program or initiative start-up), and the focus of the questions is on the degree to which these outcomes have been achieved as well as to determine the contribution of the policy, program or initiative to these achieved outcomes (often called **summative evaluations**).

The first step in developing an evaluation strategy involves identifying the issues and associated questions that need to be addressed during the periodic evaluations. The identification of the evaluation issues and questions provides a guide for the development of the strategy that ensures all essential issues will be addressed during later evaluation. A key benefit to the identification of issues at this stage is that these are then used to elaborate a set of data requirements and data collection strategies, which, on implementation, helps to ensure that information necessary for evaluation is available when it is needed. As such, the evaluation strategy needs to be linked to the ongoing performance measurement strategy as some evaluation data requirements will be met through ongoing performance measurement activities.

Evaluation issues are the broad areas which need to be explored within an evaluation while evaluation questions are the more specific research questions that need to be answered in order to be able to address each evaluation issue. Some issues and questions might only be relevant during a formative evaluation, others only in the context of a summative evaluation and yet some might be relevant during both. Every policy, program or initiative will have its own unique set of evaluation issues as well as intended schedule for evaluation. For example, initiatives of a limited timeframe may require a formative evaluation after being in place for only a year, whereas longer-term policies, programs or initiatives may require a formative evaluation after two or three years of operation.

b. Process

As presented in Appendix B: <u>Evaluation Standards for the Government of Canada</u>, of the Treasury Board *Evaluation Policy*, there are three primary issue areas for evaluation that need to be considered:

- **Relevance** - Does the policy, program or initiative continue to be consistent with departmental and government-wide priorities, and does it realistically address an actual need?

- **Success** - Is the policy, program or initiative effective in meeting its intended outcomes, within budget and without unwanted negative outcomes? Is the policy, program or initiative making progress toward the achievement of the final outcomes?

- **Cost-Effectiveness** - Are the most appropriate and efficient means being used to achieve outcomes, relative to alternative design and delivery approaches?

For every policy, program or initiative, consideration must be given to these key evaluation issues (i.e., relevance, success and cost-effectiveness). Relevance issues might include whether the policy, program or initiative is the most appropriate response to an identified need. There may also be issues around whether the identified need which led to the implementation of the policy, program or initiative has changed. Issues related to success involve measuring the results achieved throughout the sequence of outcomes as presented in the logic model, or the degree of progress toward the attainment of the final outcome. In addition, questions should also be raised to explore the degree to which unintended positive or negative outcomes have resulted from the policy, program or initiative. Cost-effectiveness is tied to relating resources expended to performance in terms of outputs and outcomes.

As well, issues related to the implementation or delivery of a policy, program or initiative should be considered within the set of evaluation issues. Here, questions address how the policy, program or initiative is actually being implemented compared to how it was intended to be implemented. Aspects of delivery also come into question here, including assessment of the outputs and the reach (i.e., the degree to which the intended beneficiaries are being reached).

The adequacy of the performance measurement strategy should also be the focus of an evaluation question.

There are several methods that can be used to identify the set of appropriate evaluation issues and associated questions. Certainly, a careful review of documents associated with the policy, program or initiative is an excellent place to start as this may uncover aspects that should receive attention in an evaluation. In addition, interviews with managers, designers, staff and key stakeholders will clarify what the key evaluation interests are for those people most closely associated with the policy, program or initiative.

Once a comprehensive list of evaluation issues and associated questions has been established, a process of prioritisation then needs to occur to ensure that the final set of issues is reasonable and realistic.

- As no evaluation endeavour could successfully address all possible issues and questions, it is important to review the list to separate those questions which necessarily need to be addressed from those which are not critical for evaluation, but are instead questions for which the answers would be "nice to know."

In prioritising the evaluation issues, managers need to take into account their risk management considerations and determine the most important areas for attention. The process of developing an inventory of possible evaluation questions and then determining those of highest priority helps to ensure that the final set of evaluation questions both addresses key information requirements of managers, and is practical to implement in terms of timing and resourcing. It also allows for the documentation of all evaluation issues which were considered so that there is a record of those issues contemplated but determined to be of lower priority for an evaluation of the policy, program or initiative.

c. Product

The product of this phase of RMAF development is a set of issues and questions which, when answered, will allow for a thorough assessment to be made of the relevance, success and cost-effectiveness of a policy, program or initiative, and provide information to managers to guide their decision-making.

Identification of Data Requirements

a. Purpose

The next step in the development of an evaluation strategy is to clearly identify the key pieces of information that need to be collected in order to answer each evaluation question. In particular, it is important to identify at this stage any evaluation data requirements which rely on the ongoing collection of information, to ensure that the necessary data are available at the time of any evaluation study.

b. Process

The key tools that are required to identify the evaluation data requirements have already been created at this stage of the development of the Results-based Management and Accountability Framework, namely the set of evaluation issues and questions.

The process to identify the data requirements involves going through the set of evaluation issues and associated questions and determining what pieces of information would be required in order to be able to answer the questions and address the evaluation issues. At this stage of the process, the focus is on the identification of the specific data requirements without moving into the identification of the data collection strategies as well (as this is the next step).

It is important to realise the connection here between the performance measurement strategy and the evaluation strategy. The evaluation issue of success focuses on the degree to which the expected results were realised. As such, the data requirements for these questions will overlap with the indicators identified for outcomes, as developed for the performance measurement strategy.

Once a comprehensive set of data requirements has been identified, select the best. As presented earlier, criteria to consider in winnowing the set of data requirements include:

- reliability, validity and credibility of the indicator;

- cost-effectiveness in terms of cost to collect and process; and

- whether it is directly linked to the evaluation question.

c. Product

The product of this phase of RMAF development is reasonable set of data requirements such that each evaluation issue and question has corresponding indicators identified.

Data Collection Strategy

a. Purpose

A measurement strategy is required to establish a realistic plan for the collection of necessary data for evaluation. At this stage, the products of the previous activities related to the evaluation strategy should be consolidated into summary tables to organise the strategy. An example of a set-up for an evaluation summary table is presented in Annex D.

The measurement strategy outlines attributes of the measurement of the key data requirements needed to be collected in order to be able to respond to the evaluation questions. For each data requirement, the measurement strategy should clearly indicate the source for the data, through what method the information will be collected and how often. Where possible, costs for data collection and analysis strategies should also be identified.

For evaluation purposes, the measurement strategy also articulates when particular questions are intended to be addressed (i.e., for a formative evaluation or a summative evaluation) as well as whether information from ongoing performance measurement is intended to be utilised to address an evaluation question (i.e., primarily in the context of issues of success).

While performance measurement provides descriptive information about the outcomes of a policy, program or initiative, evaluation needs to go far deeper into the performance story in order to be able to explain why outcomes were or were not achieved. Evaluation, then, is more complex and involved than ongoing performance measurement.

The measurement strategy for evaluation needs to address the more specific research design and analysis issues associated with determining the degree to which the policy, program or initiative itself contributed to the achievement of results.

- For example, the evaluation strategy may need to include the collection of data from a comparison group of non-participants in a policy, program or initiative in order to assess the difference made among participants. Complex statistical analysis may also be required.

The issue of attribution, or determining the degree to which a policy, program or initiative made a difference, is among the more difficult of evaluation issues to address and, as such, expertise in research methodology is typically needed to assist with the preparation of this component of the evaluation strategy (see note 2).

b. Process

The set of data requirements identified for the evaluation issues and questions serves as the starting point for this stage of the framework development. For each data requirement, several things need to be identified: the data collection method, the timing of the data collection (i.e., formative evaluation, summative evaluation), and the responsibility for measurement. To the degree possible, the cost of measurement should also be articulated in the RMAF.

As presented earlier, with respect to method, data requirements tend to come from one of three primary sources:

- administrative data - information that is already being collected in administrative files or databases, or could be collected with adjustments to regular processes;

- primary data collection - information that needs to be collected through specialised data collection exercises such as focus groups, file reviews, expert panels or surveys; and

- secondary data - data that have been collected for other purposes, but which could also be used in this context, such as national statistics on health or economic status, for example.

In determining the method to be utilised, other considerations include the type of data needed (i.e., qualitative or quantitative) and the specific source of the data (i.e., clients, general public, files, etc.).

It is important to recognise that some of the data required for evaluation purposes may need to be collected on an ongoing basis. The sample table presented in Annex D provides a column to itemise those indicators which need to be measured as part of the ongoing monitoring strategy to ensure their availability for evaluation. Thus, in the establishment of an ongoing performance measurement strategy, the data requirements for evaluation need to also be addressed.

In terms of identifying the timing of data collection, as discussed above, there are typically two timeframes:

- formative or mid-term evaluation, where the focus is on improvement to the policy, program or initiative in order to enhance the probability that outcomes will be achieved; and

- summative, which occurs somewhat later in the life of a policy, program or initiative and is more directly focused on the achievement of outcomes.

The schedule for these activities should be presented within the text of the RMAF.

c. Product

This phase of RMAF development results in the production of a detailed and realistic measurement strategy that indicates what data will be collected, how, by whom, when, and at what estimated cost, as well as providing the linkages between the data collection and the specific evaluation issues and questions. This component serves as the foundation for the detailed design of subsequent evaluation activities related to the policy, program or initiative, the elaboration of which (e.g., methodological considerations for data collection which only occurs sporadically as part of particular evaluation activities) would occur as the evaluation schedule dictates.

Reporting Strategy

a. Purpose

The final component of the Results-based Management and Accountability Framework ensures that plans are in place to systematically report on the results of ongoing performance measurement and evaluation, and that reporting commitments are met. There are many potential users of this information and the reporting strategy should consider all of their needs. Potential users of performance information might include: policy, program or initiative management, central agencies, and stakeholders (internal and external). Uses of this information will depend on the type of user and could include management decision-making, accountability, communication and information sharing.

b. Process

Most policies, programs and initiatives have responsibilities to report annually. This responsibility provides an excellent opportunity to roll up the results of ongoing performance measurement and regularly report on progress.

As well, most policies, programs and initiatives have responsibilities to conduct periodic evaluations. For example, new initiatives are often required to conduct a mid-term evaluation shortly after implementation as well as a summative evaluation as the funding period draws to a close.

In presenting the reporting strategy, two key elements need to be identified and described:

- the management authority (or authorities, when multiple partners are involved) responsible for reporting the performance information and the evaluation results; and

- the mechanism (e.g., annual progress reports, Departmental Performance Reports, mid-term evaluation, summative evaluation) and the timeframe for reporting performance information to the lead department (if applicable), Treasury Board Secretariat, Treasury Board Ministers and/or Parliament.

The reporting strategy should be summarised in a table such as the example presented in Exhibit 3.3.

EXHIBIT 3.3
Sample Reporting Table

Results Measurement Activity	Product	Date for Reports
Ongoing Performance Measurement	Annual Performance Report	end of Year 1 end of Year 2 end of Year 3 end of Year 4
Formative/Mid-term Evaluation	Formative / Mid-term Evaluation Report	Year 3
Summative Evaluation	Summative Evaluation Report	Year 5

c. Product

The product of this phase of development is a clear strategy for reporting indicating when ongoing performance measurement reporting and periodic evaluation reporting will occur, by whom and how.

Implementation and Review

The responsibility for the implementation of the RMAF lies with the policy, program or initiative management. The performance measurement strategy needs to be operationalised and monitored by managers to ensure not only that it is proceeding as intended, but also that it is producing useful information. Adjustments should be made where required to adapt the performance measurement activities such that the utility of the information is maximised. Annual performance reports and formative/mid-term evaluation studies provide an opportunity for managers to take stock of the effectiveness of the performance measurement strategy, including the degree to which the information being collected responds to the identified data requirements. As such, it is advisable to monitor the performance measurement strategy against the unfolding of the strategic plan (that is, the implementation of the policy, program or initiative) and to incorporate the review of these measurement activities as part of the reporting strategy.

Performance measurement is typically an iterative process, building on early measurement experience which might focus primarily on outputs. Over time, measurement activities should, however, evolve and concentrate on outcomes, thereby enhancing the telling of the performance story.

Helpful Hints

The process of developing and implementing RMAFs is relatively new, and thus, learnings about the most effective way to carry out this work are only now beginning to emerge. Some helpful hints coming out of RMAF work completed to date include the following:

- Build on the business, or strategic plan for the policy, program or initiative.

- Involve partners and key policy, program or initiative stakeholders.

- Ensure that senior management is kept aware of the process and are on board.

- Establish a working group of representatives from all areas of the policy, program or initiative and keep the same membership for all stages of the RMAF development.

- Obtain clear commitments to do the work and ensure that resources are available for the development and implementation of the RMAF.

- Select indicators based on what will provide the best information, not on what will be easiest to implement.

- Establish a realistic set of indicators and data collection strategies.

- Review data collection regularly to ensure it is producing relevant and useful information.

- Maintain a flexible approach and adapt the RMAF as needed.

- Accept that the RMAF does not have to be perfect.

- View performance measurement development as an iterative process in which the ability to measure and tell the performance story improves over time.

Note 1: It should be noted that this example table also includes columns to indicate that some outcomes might not be appropriately measured as part of ongoing performance measurement but instead should be reserved for evaluation efforts.

Note 2: For additional background on evaluation design, see "Program Evaluation Methods: Measurement and Attribution of Program Results", Third Edition, Treasury Board of Canada, Secretariat, available at http://www.tbs-st.gc.ca/eval/pubs/method/pem.htm

Lexicon of Terms

Accountability - The obligation to demonstrate and take responsibility for performance in light of agreed expectations. There is a difference between responsibility and accountability - responsibility is the obligation to act whereas accountability is the obligation to answer for an action.

Attribution - The assertion that certain events or conditions were, to some extent, caused or influenced by other events or conditions. This means a reasonable connection can be made between a specific outcome and the actions and outputs of a government policy, program or initiative.

Effect - *Effect* like *impact* is a synonym for *outcome* although impact is somewhat more direct than an effect. Both terms are commonly used, but neither is a technical term. For technical precision it is recommended that *outcome* be used instead of *effect*.

Effectiveness - The extent to which an organisation, policy, program or initiative is meeting its planned results. Related term: **Cost Effectiveness** - The extent to which an organisation, program, etc. is producing its planned outcomes in relation to expenditure of resources.

Efficiency - The extent to which an organisation, policy, program or initiative is producing its planned outputs in relation to expenditure of resources.

Evaluation - The systematic collection and analysis of information on the performance of a policy, program or initiative to make judgements about relevance, progress or success and cost-effectiveness and/or to inform future programming decisions about design and implementation - *a way of measuring if a project is doing what it says it will do*.[29]

Final Outcome - These are generally outcomes that take a longer period to be realised, are subject to influences beyond the policy, program or initiative, and can also be at a more strategic level.

Goal - A general statement of desired outcome to be achieved over a specified period of time. The term goal is roughly equivalent to *Strategic Outcome*. **-** *general statements of what an organization is trying to do.* [30]

Horizontal Result (Collective Result) - An outcome that is produced through the contributions of two or more departments or agencies, jurisdictions, or non-governmental organistions.

Impact - *Impact* like *effect* is a synonym for *outcome*, although an impact is somewhat more direct than effect. Both terms are commonly used, but neither is a technical term. For technical precision, Treasury Board Secretariat recommends that outcome be used instead of *impact*. **(Impact)**

Indicator - A statistic or parameter that provides information on trends in the condition of a phenomenon and has significance extending beyond that associated with the properties of the statistic itself. - **Related terms:**

>   **Comparable Indicator**- An indicator based on common baseline information, definitions and database collection, and a compatible reporting system. This term is expressly used in relation to Social Union Framework Agreement. *(Indicateur comparable)*

>   **Societal Indicator** - An indicator used to track the state of Canadian society. It is used to place departmental achievements in a broad societal context, and, in relation with *performance indicators*, is used to shape government decisions on policies, programs and initiatives.*(Indicateur sociétal ou indicateur de société)*

Other indicators used in the federal context but not defined include sustainable development indicators, environmental indicators, etc.

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[29] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate
Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm
[30] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate
Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm

Input - Resources (human, material, financial, etc.) used to carry out activities, produce outputs and/or accomplish results.

Logic Model - (also referred to as Results-based Logic Model) An illustration of the results chain or how the activities of a policy, program or initiative are expected to lead to the achievement of the final outcomes. Usually displayed as a flow chart.

Mission Statement - A formal, public statement of an organisation's purpose. It is used to set direction and values.

Objective - The high-level, enduring benefit towards which effort is directed. **-** *specific, measurable statements of what an organization wants to accomplish by a given point in time.* [31]

Objective approach - an approach which values the perspective, views and opinions of those outside of or distanced from the situation, event, organization, project, etc., as the primary basis for making an assessment or judgment. [32]

Outcome - An external consequence attributed to an organisation, policy, program or initiative that is considered significant in relation to its commitments. Outcomes may be described as: immediate, intermediate or final, direct or indirect, intended or unintended.
- **Immediate outcomes** - What are the short-term outcomes that stem from the activities and outputs? Outcomes in a logic model typically have an action word associated with them (e.g., "increased", "improved") and represent the consequences of the activities and outputs.
- **Intermediate outcomes** - What are the next links in the chain of outcomes that occur, flowing from the activities and outputs and occurring after the immediate outcomes have been achieved? These outcomes could be considered to be medium-term.
- **Final outcomes** - What are the final outcomes of the policy, program or initiative, or, why are these activities being engaged in? These are generally outcomes that take a longer time period to be realised, are subject to influences beyond the policy, program or initiative itself, and can also be at a more strategic level.

Outcome or Impact Evaluation -gathers information related to the anticipated results, or changes in participants, to determine if these did indeed occur. It may also be used to test the effectiveness of a new program relative to the results of an existing form of service. An impact evaluation will tell you about the effects of a project. [33]

Performance - How well an organisation, policy, program or initiative is achieving its planned results measured against targets, standards or criteria. In results-based management, performance is measured and assessed, reported, and used as a basis for management decision-making.

Performance Measurement Strategy - Selection, development and on-going use of performance measures to guide corporate decision-making. The range of information in a performance measurement strategy could include: reach; outputs and outcomes; performance indicators; data sources; methodology; and costs.

Performance Measures - An indicator that provides information (either qualitative or quantitative) on the extent to which a policy, program or initiative is achieving its outcomes.

Performance Monitoring - The on-going process of collecting information in order to assess progress in meeting Strategic Outcomes, and if necessary, provide warning if progress is not meeting expectations.

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[31] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm
[32] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm
[33] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm

Performance Reporting - The process of communicating evidence-based performance information. Performance reporting supports decision-making, serves to meet accountability requirements and provides a basis for citizen engagement and a performance dialogue with parliamentarians.

Planned Results (Targets) - Clear and concrete statement of results (including outputs and outcomes) to be achieved within the time frame of parliamentary and departmental planning and reporting (1-3 years), against which actual results can be compared.

Process or Formative Evaluation -an ongoing dynamic process where information is added continuously (typically using a qualitative approach), organized systematically and analysed periodically during the evaluation period. A process evaluation will tell you how the project is operating. [34]

Quantitative Approach - an approach that tries to determine cause and effect relationships in a program. A quantitative approach will use measurements, numbers and statistics to compare program results. The information that is found is considered "hard" data. [35]

Qualitative Approach - an approach that examines the qualities of a program using a number of methods. This approach uses non-numerical information - words, thoughts and phrases from program participants, staff and people in the community - to try and understand the meaning of a program and its outcome. The information that is found is considered "soft" data. [36]

Result - The consequence attributed to the activities of an organisation, policy, program or initiative. Results is a general term that often includes both outputs produced and outcomes achieved by a given organisation, policy, program or initiative.

Results Chain (synonyms: results-based logic model, results sequence) - The causal or logical relationship between activities and outputs and the outcomes of a given policy, program or initiative, that they are intended to produce. Usually displayed as a flow chart.
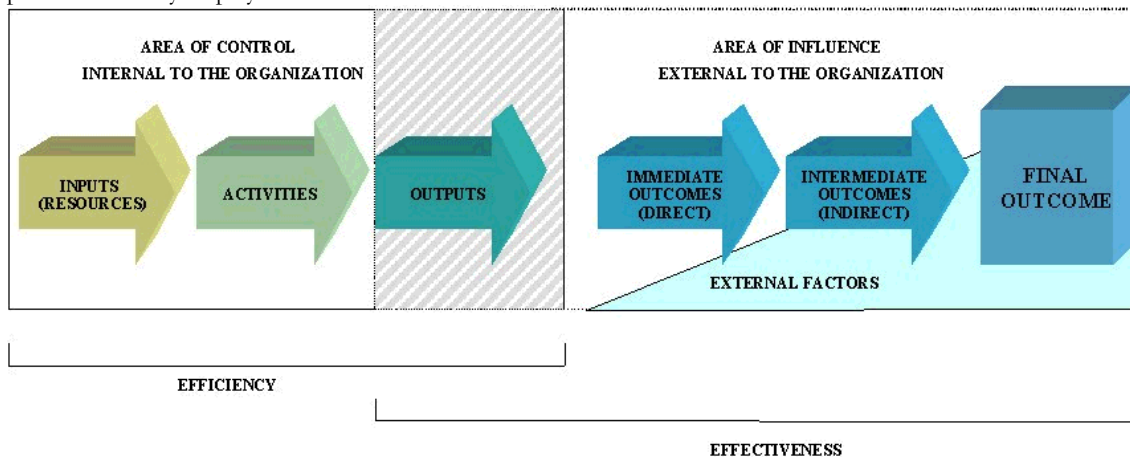
Results-based Management - A comprehensive, life cycle, approach to management that integrates business strategy, people, processes and measurements to improve decision-making and drive change. The approach focuses on getting the

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[34] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate
Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm
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[36] Adapted from the Guide to Project Evaluation: A Participatory Approach Population Health Directorate
Health Canada August 1996 http://www.hc-sc.gc.ca/hppb/familyviolence/html/1project.htm

right design early in a process, implementing performance measurement, learning and changing, and reporting performance.

Results-based Management and Accountability Framework (RMAF) - A document which serves as a blueprint to help them focus on measuring and reporting on outcomes throughout the lifecycle of a policy, program or initiative.

Strategic Outcomes - The long-term and enduring benefits to Canadians that stem from a department's vision and efforts. These outcomes describe the difference a department is mandated to make. In most cases, these outcomes will require the combined resources and sustained effort of several partners over a long period of time. Most importantly, however, progress toward these outcomes will require, and Canadians will expect, the leadership of a federal department or agency.

Target Group (Target Population) - The set of individuals that an *activity* is intended to influence.

Criteria for Self-Assessment of Results-based Management and Accountability Frameworks
The following set of criteria has been developed to serve as a guide for the self-assessment of the adequacy of the content of a RMAF. These criteria provide an indication of the core elements that should be presented within each component of a RMAF. Authors should refer to the criteria as they develop a RMAF to ensure that their resulting document contains all of the necessary elements and at a sufficient level of detail. Recipients of RMAFs may also use these criteria in determining whether a RMAF has sufficiently responded to the core requirements.
1. Profile of Policy, Program or Initiative (Roles and Responsibilities)
Issues/Requirements
Criteria

1. Origin and Rationale
The context for the policy, program or initiative is clearly described
Need is clearly defined and supported by a brief, sound analysis of the gap between current and desired societal conditions.

2. Mandate and Strategic Outcomes
The strategic outcomes of the policy, program or initiative are clearly stated and consistent with the overall mandate of the organisation.

3. Governance
The roles and responsibilities within the organisational structure responsible for the policy, program or initiative are established.
When there are multiple partners, the respective roles and responsibilities in relation to accountability (i.e., performance measurement, evaluation) are clearly defined.

4. Client/Target Populations
The intended intermediate and final clientele(s) of the policy, program or initiative is (are) identified.

5. Delivery Approach
The way the policy, program orr initiative intends to reach its clientele or target population with its products and services well articulated.

6. Planned outcomes
The planned outcomes are defined in terms of the benefits that departments, and by extension managers, have committed to provide to Canadians or to any other final target population *over the funding period*.

7. Resources
The resources allocated to the organisation and each delivery partner over the funding period, including separate

funds committed by them are identified. The way these funds will be used to implement the policy, program or initiative over that period are also discussed.

2. Linkages (Logic Model)
Issues/Requirements
Criteria

1. Logic Model
The program design plausibly describes the linkages between activities, outputs and outcomes at every level. The discussion of the model clearly identifies the factors within the control/influence of the policy, program or initiative that are being used to achieve the final outcomes.

3. Performance Measurement Strategy
Issues/Requirements
Criteria

1. Performance Measurement Indicators
The document defines the indicators that will be used to address performance measurement as well as assess and report on performance *over the funding period* (including baseline measures).

2. Performance Measurement Approaches
The document also identifies data sources and methodologies that will be used to measure and analyse performance.

3. Performance Measurement Tables
Tables are used to provide, for each component of the policy, program or initiative identified in the logic model, succinct descriptions of the following elements:
Main activities (what will be done?)
Outputs and expected outcomes (what will be achieved?)
Performance indicators (how will we objectively know?)
Data Sources (where will we get the information?)
Methodology (how will we measure and analyze, and at what costs?)

4. Evaluation Strategy
Issue/Requirements
Criteria

1. Evaluation Issues
The evaluation issues are identified in accordance with the general evaluation policy requirements (i.e. need to address relevance, success, and cost-effectiveness) and their relationships to the logic model.

2. Mid-term (Formative) Evaluation
For new or substantially modified policies, programs or initiatives, a *mid-term evaluation study* (formative evaluation) examining management issues (design and implementation) is often appropriate. If such an evaluation is required, the date for the delivery of the related evaluation report is clearly specified.

3. Final (Summative) Evaluation
At a subsequent stage, a final *summative evaluation study* addressing evaluation issues is normally required, and the target date for the delivery of the related evaluation report is clearly specified.

5. Reporting Strategy
Issues/Requirements
Criteria

1. Reporting Responsibilities
The management authority (or authorities when multiple partners are involved) responsible for reporting the performance information described in the *Performance Measurement Tables* is clearly identified.
In the case of interdepartmental initiatives, the responsibilities for the co-ordination of reporting activities and the preparation of annual reports (normally assigned to the lead department) is clearly defined.

2. Reporting Approach
The mechanism and timeframe for reporting performance information to lead department (if applicable), TBS, TB Ministers and/or Parliament are clearly specified.

6. Implementation and Review
Issues/Requirements
Criteria

1. Review (follow-up) Process
A formal process and timeframe are defined with a view to effectively:
ensure the performance measurement strategy has been implemented;
monitor progress made in collecting and reporting performance information;
review and assess the appropriateness of the available performance information; and
make recommendations for adjustments or improvements to the framework (if necessary).

5.10.   The Effects Of Restorative Justice, Programming: A Review of the Empirical-2000[37]

EXECUTIVE SUMMARY
There has been growing recognition in Canada that the traditional justice system is not always the most appropriate response to a significant portion of criminal behaviour. This understanding results from several distinct social changes, including an awareness of the needs of victims and a more sophisticated evaluation of the limitations of the criminal justice system. Moreover, the current reliance on incarceration as a sanction, in response to a significant number of offences, has not been overly successful in terms of rehabilitation or reintegration. In recent years, restorative justice programming, such as community conferencing and victim-offender mediation, has emerged as a method of better addressing the needs of victims, offenders and communities. Restorative justice focuses on holding the offender accountable in a more meaningful way than simply imposing punishment. The major goals are to repair the harm caused by the crime, reintegrate the offender into the community and achieve a sense of healing for the victim and the greater community. The focal point of restorative justice is a face-to-face meeting between the offender, the victim and the community.
Research into restorative justice programs and practices is still in its infancy. The major goal of this paper is to examine the breadth and depth of existing empirical research. One of the more important issues in restorative justice is understanding the effects of programs on victims, offenders and communities and on the criminal justice system. Presently, we do not know whether the programs are 'working' and we do not know how they are impacting on the criminal justice system. This paper is a summary of our current knowledge base, as well as a method to identify gaps in restorative justice research. Criminal justice research has traditionally ascribed to the belief that recidivism is the primary criterion for measuring success. Restorative justice research, however, expands this focus by using a more comprehensive set of outcome measures including victim satisfaction, perceptions of fairness and restitution completion rates.

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[37] Latimer, Jeff and Steven Kleinknecht, The Effects Of Restorative Justice, Programming: A Review of the Empirical, Department of Justice Canada, Research and Statistics Canada, January 2000. http://canada.justice.gc.ca/en/ps/rs/rep/rr00-16a-e.html

First, this paper provides a brief overview of restorative justice. This includes a general understanding of the historical development that has led to the popularity of restorative justice, an overview of the underlying principles and theories, and the most common practice models. Second, the effects of restorative justice programming are explored by examining the major research issues and empirical data contained in the literature. Third, identified gaps in our knowledge are highlighted and possible directions for future research are proposed.

5.11. Making it Safe: Women, Restorative Justice and Alternative Dispute – 2000 [38]

Facilitator/Mediator Accountability
- Is the mediator associated with the criminal justice system? The church? How might the association affect people who are using the program?
- What is the personal and employment history of the mediator? How might this influence the handling of the case?
- What mechanisms are in place to allow challenges to mediator bias?
- Does the program have an audit/review on an annual basis to determine the fairness of agreements?
- Does the mediator assume responsibility for the safety of women and children once abuse is disclosed?

5.12. Restorative Justice in Canada – 2000 [39]

- The federal government is responsible for enacting criminal law in Canada, while provincial governments are responsible for the administration of justice.
  - Each provincial and territorial jurisdiction will need to develop partnerships with communities that uphold the philosophy and the intent of restorative justice.
  - The views of all stakeholders – non-profit organizations, citizens' advisory groups, community organizations, justice system officials, and advocacy groups for victims and offenders – should be taken into consideration.
  - Ensuring that restorative justice programs are accountable and open to the public is one of the key challenges facing government, especially since these programs do not operate in a conventional courtroom setting.

- **Standards of Accountability:** One way of dealing with this issue might be to develop standards for accountability. The following is a list of possible guidelines: (see also chapter on standards)
  - Programs are available and fair to all citizens, regardless of age, race, class, or gender.
  - Programs are accountable to victims by providing victims with a voice in resolving the conflict and advising them of the offender's progress in meeting the terms of any agreements, while protecting their safety and meeting their needs.
  - Victims also receive restitution and an acknowledgement that the offender has harmed them.
  - Programs are accountable to communities by protecting public safety and providing them with an opportunity to participate in the criminal justice process.
  - Programs are accountable to taxpayers for the use of public money.
  - Programs are accountable to offenders by protecting their legal rights and dignity while encouraging them to take responsibility for their actions and make positive changes in their lives.
  - Programs are open to the public; citizens have opportunities to view the proceedings and learn about restorative processes and the results of restorative programs.

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[38] Provincial Association Against Family Violence, Newfoundland and Labrador Making It Safe: Women, Restorative Justice and Alternative Dispute July, 2000, http://www.nfld.com/~paafv/

[39] Federal-Provincial-Territorial Working Group on Restorative Justice Restorative Justice in Canada: A Consultation Paper (May 2000) available from the Department of Justice Canada, http://canada.justice.gc.ca/en/ps/voc/rjpap.html

5.13. Aboriginal Justice Strategy (AJS) Trends – 2000 [40]

5.13.1.   Pan Accountability

− Challenges for AJS: Issues Articulated in the Files: The level of accountability – at both the financial and organizational levels – is the same whether the project is funded for $7,000 or $70,000.
  o Such pan-accountability approach is problematic because project workers must use the resources to operate the project, not to focus on reporting requirements for provincial/territorial and federal government departments.

5.14. Addressing Attribution Through Contribution Analysis: Using Performance Measures Sensibly -1999 [41]

Introduction

A significant element of public sector reform in many jurisdictions is the move away from a management regime focussed on rules and procedures toward an approach that pays greater attention to the results being sought for citizens with taxpayers' dollars.

Managing for results, results-based management and performance management have become common terms in public sector reform discussions (Auditor General of Canada 1997, Treasury Board Secretariat 1997, OECD 1997).[42] [43]

The aim is to change the culture of public administration from one that is rules focussed to a culture focussing instead on the results that matter to citizens.

This approach is characterized by measuring progress toward results that are sought, having the flexibility to be able to adjust operations to better meet these expectations, and reporting on the outcomes accomplished.

Some jurisdictions have legislated this approach to public administration.

In many cases, progress has been made in moving in this direction. Nevertheless, the challenges of managing for results have been and remain significant, in particular the difficulty of measuring outcomes in the public sector in a cost-effective manner. Some of these problems are discussed below. There is an additional related problem that has not received enough attention: the need to rethink how we deal with accountability in this new management paradigm.

Accountability for Outcomes[44]

In the past, accountability for the processes being followed, inputs used and perhaps outputs produced was most likely to be the regime in which public servants worked. This focus was consistent with the more traditional view of accountability focussing on what could be controlled and assigning blame when things go wrong. If the expected process was not followed, improper inputs were used or outputs were not delivered, then the responsible person could be identified and appropriate action taken, since one ought to be in control of the processes, the inputs used and the outputs produced. As such, there often was a reluctance to accept accountability for results beyond outputs, i.e. outcomes over which one does not have control. Being accountable for outputs has been much more acceptable to

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[40] Department of Justice Canada, The Aboriginal Justice Strategy: Trends in Program Organization and Activity 1996-1997, 1997-1998 and 1998/1999, Prepared for the Aboriginal Justice Directorate, Department of Justice Canada by Naomi Giff, March 10, 2000 -
[41] Office of the Auditor General of Canada, John Mayne, Addressing Attribution Through Contribution Analysis: Using Performance Measures Sensibly, June 1999 http://www.oag-bvg.gc.ca/domino/other.nsf/html/99dp1_e.html

[42] Auditor General of Canada (1997). Report to the House of Commons: Chapter 11, Moving Towards Managing for Results. Ottawa.
[43] OECD (1997). In Search of Results: Performance Management Practices. Paris. Wholey, J. S. (1983). Evaluation and Effective Public Management. Little, Brown and Co.
[44] This material is taken from a 1998 joint paper by the Office of Auditor General and the Treasury Board Secretariat

public servants than being accountable for outcomes. And in these cases, attribution is not a significant issue: it is clear that the program produced the outputs.

In the case of managing for results, and in particular outcomes, the degree of administrative control and scope for influence a federal manager has over the outcomes sought will vary considerably in different situations. In some cases, the federal program manager in question is the main player and has a quite significant degree of control over the outcomes. In other cases, the manager might be only one of several players trying, with the resources and authorities available, to influence the achievement of the intended outcomes. Effective accountability implies that managers understand these considerations, and have the means to deal with these more complex situations.

If the expected outcomes have not been accomplished, there may be several reasons, only one of which may be that the "responsible" manager hasn't done a good job. The manager might have indeed done all that could be expected, but the results were not achieved due to circumstances beyond his or her influence. To encourage and support managing for results, we need a new view of accountability that acknowledges this more complex management world (Hatry 1997).[45] Attribution here is a real problem.

Accountability for results or outcome[46] asks if you have done everything possible with your authorities and resources to effect the achievement of the intended results and if you have learned from past experience what works and doesn't work. Accounting for results of this kind means demonstrating that you have made a difference; that through your actions and efforts you have contributed to the results achieved. Finding credible ways to demonstrate this is essential if the move toward managing for results is to succeed.

The Problem of Attribution

Government programs are intended to produce certain outcomes: more jobs, a healthier public, better living conditions, etc. Effective programs are those that make a difference in meeting these kinds of objectives – they contribute to the intended outcomes that citizens value. In trying to measure the performance of a program, we face two problems. We can often—although frequently not without some difficulty—measure whether or not these outcomes are actually occurring. The more difficult question is usually determining just what contribution the specific program in question made to the outcome. How much of the success (or failure) can we attribute to the program? What has been the contribution made by the program?

Despite the measurement difficulty, attribution is a problem that cannot be ignored when trying to assess the performance of government programs. Without an answer to this question, little can be said about the worth of the program; nor can advice be provided about future directions. Perhaps even without the program, the observed changes in outcomes would have occurred, or would have occurred at a lower level or later. In most cases, there are many other factors at play in addition to the impact of the program's activities. Such things as other government actions or programs, economic factors, social trends, and the like can all have an effect on outcomes. Managers, the government and taxpayers would like to know the program's contribution to assess the value of continuing with the program in its current form. Unless we can get some handle on this measurement problem, accountability for results will never take hold. The question is, how can we demonstrate that a program is making a difference

Policy and program evaluation is one measurement discipline that tries to provide answers to this attribution question [47] [48] [49] [50]. Traditionally, it uses some form of controlled comparison to estimate what happens with the program in

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[45] Hatry, Harry (1997). We Need a New Concept of Accountability. *The Public Manager*. 26(3): 37-38.

[46] The terms outcomes and results are often used interchangeably. As used here, strictly speaking "results" includes outputs (see Figure 1) and hence is broader than outcomes. Nevertheless, much of the literature and some of the text here uses "results" to in fact mean outcomes, when the intention is clear. If a reference is being made to outputs, then "outputs" will be used.

[47] The literature here is vast. See for example Hudson, Mayne and Thomlison (1992), Freeman and Rossi (1993) and Wholey, Hatry and Newcomer (1994)..

[48] Hudson, J., J. Mayne, and R. Thomlison, Eds. (1992). *Action-Oriented Evaluation: Canadian Practices*. Wall & Emerson.

[49] Freeman, H. E., and Rossi, P. (1993). *Evaluation: A Systemic Approach*. Sage.

[50] Wholey, J., Hatry, H., & Newcomer, K. (1994). *Handbook of Practical Program Evaluation*. Jossey-Bass.

place versus what would happen without it. Extensive social science research methods have been designed with this problem of attribution in mind. And an evaluation study probably remains the best way to address this problem, if one has the time, money and expertise.

The Case of Performance Measurement

Performance measurement is extensively and increasingly used to measure the performance of government programs (Mayne and Zapico-Goni 1997)[51]. In comparison with evaluation, which usually undertakes special one-time measures and extensive analysis of the data gathered, performance measurement is characterized by regular and often more straightforward measurement of aspects of a program's performance. Performance indicators are used to track performance and feedback information to managers and staff. They can form the basis for reports on what has been achieved by the program.

Program Results

activities (how the program carries out its work)	**Examples** negotiating, consulting, inspecting, drafting legislation
outputs (goods and services produced by the program)	**Examples** checks delivered, advice given, people processed, information provided, reports produced
reach (the recipients of the outputs)	**Examples** unemployed, firms in a sector, immigrants
immediate outcomes (the first-level effects of the outputs)	**Examples** actions taken by recipients, or behavioural changes
intermediate outcomes (the benefits and changes resulting from the outputs)	**Examples** satisfied users, jobs found, equitable treatment, illegal entries stopped, better decisions made
ultimate outcomes (the final or long-term consequences)	**Examples** environment improved, stronger economy, safer streets, energy saved

Performance measurement is often aimed at the very first level of impacts of a program, namely measuring the specific outputs (goods and services) provided by the program personnel. In these cases, the question of attribution is not likely to be a problem since there is an evident direct link between what the staff are doing and their immediate products. Increasingly, however, as we have seen, organizations are trying to measure or track the subsequent impacts of these services and products, the intermediate or even more final outcomes they are trying to accomplish. The attribution issue quickly surfaces. In the absence of a thorough evaluation study, what can be done.

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[51] Mayne, J. and E. Zapico, Ed. (1997). *Performance Monitoring for Public Sector Reform: Future Directions from International Experience.* Transaction Publishers.

It is possible to structure a performance measurement system to directly try and get a measure of attribution. One could construct a careful time series and modify the program over time, tracking the resulting changes in all relevant factors. Or, in addition to measuring the impacts on those who are receiving the program, one could also measure the changes occurring in a similar comparison group that does not receive the program. To be successful, these approaches become in fact evaluations, using some form of quasi-experimental design.

While possible, this carefully constructed and often expensive measurement strategy is not usually associated with most performance measurement approaches. In the absence of an evaluation study, what can one do in the case of a "normal" or typical performance measurement or monitoring system to get a handle on the attribution issue? This is the question addressed in this paper.

Recognizing the Limits of Measurement

First we must recognize that determining definitively the extent to which a government program contributes to an particular outcome is usually not possible, even with a carefully designed evaluation study. We might be able to provide considerable evidence on a program's impacts and might be able to significantly increase our understanding of how a program is impacting on a certain outcome, but in most cases of any complexity, there will not be a 100 percent guarantee. Rather, we need to talk of reducing the uncertainty in our knowledge about the contribution of the program. From a state of not really knowing anything about how a program is influencing a desired outcome, we might conclude with reasonable confidence that the program is indeed having an attributable impact; that it is indeed making a difference. We might also be able to provide a reasonable estimate of the magnitude of the impact.

Thus, we may need to rethink what measurement can usefully mean. Measurement in the public sector is less about precision and more about increasing understanding and knowledge. It is about increasing what we know about what works in an area and thereby reducing uncertainty.[52] [53] This view of measurement implies that we can almost always measure things, and in particular the contribution a program is making. That is, we can almost always gather additional data and information that will increase our understanding about a program and its impacts, even if we cannot "prove" things in an absolute sense. We need to include softer and qualitative measurement tools in our concept of measurement in the public sector.

The limits of measurement mean that we need to accept some uncertainty about the measures of performance we are likely to have available in many cases. If you must know with a high degree of certainty just what a program's contribution is, then a well-designed evaluation is required. What we address in this paper applies in cases where one is willing or is required to make do with less certainty, where the aim of measurement is to acquire some insight and develop some comfort that the program is actually having an impact. This, we suggest, is or ought to be the aim of performance measurement. A good measurement strategy would include both ongoing performance measurement and periodic evaluation.

Two Uses of Performance Measurement: Understanding and Reporting
We need to distinguish two uses that can be made of performance measurement information. First, performance information can be used to better understand just what contribution a program is making. This is the management perspective, where one wants to use measurement to know more about if and how the program is making a difference; one is searching for knowledge. One wants to determine if the program is the appropriate policy tool to achieve the desired result. Here the question is how to use performance measurement as an investigative tool.

A second use of performance measurement is to explain or demonstrate the performance achieved by a program. In many jurisdictions, there is an increased focus and emphasis on reporting to Parliaments and the public what has been achieved with the tax dollars spent and authorities used. Performance measures frequently form the basis of such

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[52] For a discussion see the Auditor General of Canada 1996
[53] Auditor General of Canada (1996). Report to the House of Commons: Matters of Special Importance. Ottawa. p. 21.

reporting. The question here is how can performance measurement information be used to credibly report on what has been accomplished; how can it be best used to report on the contribution being made by a program

We need to keep these two uses in mind as we consider how to deal with attribution using performance measures.

Approaches to Attribution: Contribution Analysis
What is needed for both understanding and reporting is a specific analysis undertaken to provide information on the contribution of a program to the outcomes it is trying to influence. Coupled with the comments above about the nature of measurement in the public sector, the task at hand might be best described as, for reporting, trying to paint a credible picture about the attribution of a program. For understanding, the task is to glean as much insight as possible from performance measures about how well the operations of the program are working. We suggest a number of strategies that can be used to address attribution through performance measurement, as outlined in the box. Collectively, these are elements of a **contribution analysi**s.

Contribution analysis attempts to explore and perhaps demonstrate what Hendricks (1996)[54] calls "plausible association"; whether "a reasonable person, knowing what has occurred in the program and that the intended outcomes actually occurred, agrees that the program contributed to those outcomes?"

Contribution Analysis: Addressing Attribution with Performance Measures
• Acknowledge the problem
• Present the logic of the program.
• Identify and document behavioural changes.
• Use discriminating indicators.
• Track performance over time.
• Discuss, and test alternative explanations.
• Gather additional relevant evidence.
• Gather multiple lines of evidence.
• When required, defer to the need for an evaluation..

Acknowledge the problem. Too often, the measuring and particularly the reporting of performance through performance measurement systems completely ignores the attribution problem. The performance measured is either directly attributed to the program or attributed by implication, through the lack of any discussion or analysis of other factors at play. For anyone with even a little knowledge about the program and its environment, this kind of performance information will have little credibility. For managers, it provides no value-added information. In most cases, any number of factors can be advanced to explain the observed outcome other than the program itself. The more obvious these others factors are, the less credible is the performance information. Discussing other factors may also provide insight into the program itself, how it operated and its effects.

A first step then is simply acknowledging that there are other factors at play in addition to the program and that it is therefore usually not immediately clear what effect the program has had or is having in producing the outcome in question. Managers need to be realistic about the outcomes they are trying to influence if they want to gain new insight on how and if their activities are making a difference. For reporting, acknowledging the other factors at play is more honest and hence more credible than pretending they do not exist. As we will see below, there is more that can be done, but recognizing the other factors at play while still believing the program is making a contribution is a critical first step.

Analyze and present the logic of the program There is some logical reasoning behind the program that explains what it is supposed to be accomplishing and how. This logic or theory might be quite convincing or well-established based on past experience. By developing the logical case, one can see what is supposed to or is believed to be happening.

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[54] Hendricks, Michael (1996). Performance Monitoring: How to Measure Effectively the Results of Our Efforts. Presented at the American Evaluation Association Annual Conference, Atlanta. November 6.

Constructing and presenting this theory of the program is a standard component of planning for an evaluation study (Wholey 1983),[55] where often a logic chart is used (Julian, Jones and Devo 1995).[56]

More recently, the power of this approach is increasingly seen in the performance measurement world where such terms as outcome sequence charts, results chains and "visible indicator tree" (Meekings 1995)[57] are being used to describe the same diagnostic tool. In addition to getting a handle on the attribution issue, these tools are proving invaluable in designing and implementing performance measurement systems. Further, by forcing program designers to be clear about the problems that programs are designed to address and how to address them, logic models encourage programs to be more precise in their design.

A logic chart for a program tries to display on a page how the program is supposed to work—how, that is, the various outputs of the program are believed to produce a number of results that will lead to the intended final outcomes of the program. Logic charts can also discuss unintended impacts that might occur and need to be watched for, as well as the key external factors influencing outcomes.

Figure 1 illustrates in a generic fashion what a logic chart can look like; there are a variety of presenting one. A logic chart illustrates the linkages between specific outputs, specific intermediate outcomes and specific end outcomes. In others cases, it may be adequate to present a less complicated picture of the program logic. Figure 2 illustrates this case for an environmental program. Logic charts explicitly include the idea of reach —who the program is expected to reach—[58] and immediate outcomes. This is because it is often at these levels that performance indicators can do a good job of measuring—that is, levels in the results chain over which the program typically has most control. Further, evidence that the intended immediate outcomes have in fact occurred is a critical step in demonstrating the larger performance story. In this manner, the program can be shown to have had some effect.

A Program Logic Chart Logic Chart

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[55] Wholey, J. S. (1983). Evaluation and Effective Public Management. Little, Brown and Co.

[56] Julian, D. A., Jones, A., and Devo, D. (1995). "Open Systems Evaluation and the Logic Model: Program Planning and Evaluation Tools." Evaluation and Program Planning. 18(4): 333-341.

[57] Meekings, A. (1995). "Unlocking the Potential of Performance Measurement: A Practical Implementation Guide." Public Money & Management. October-December: 5-12.

[58] Montague (1998) discusses the importance of including reach into a logic chart.

Figure 1
A Program Logic Chart
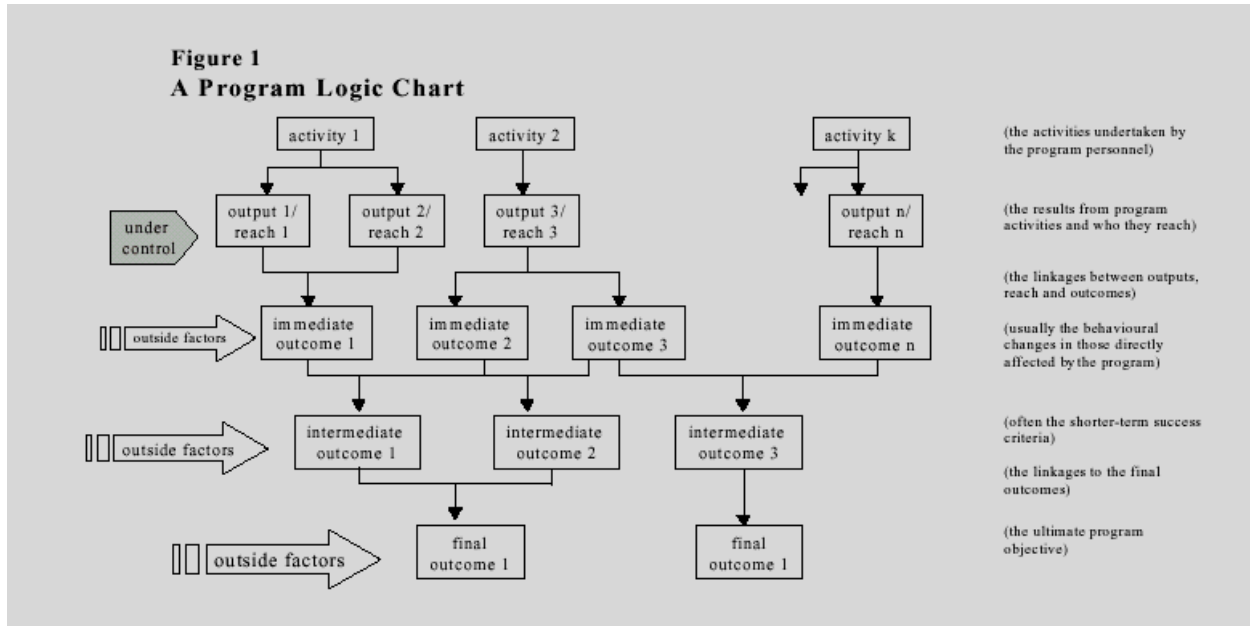
Figure 2 — Logic Chart
Industrial Technical Assistance Program to Reduce Water pollution (*)
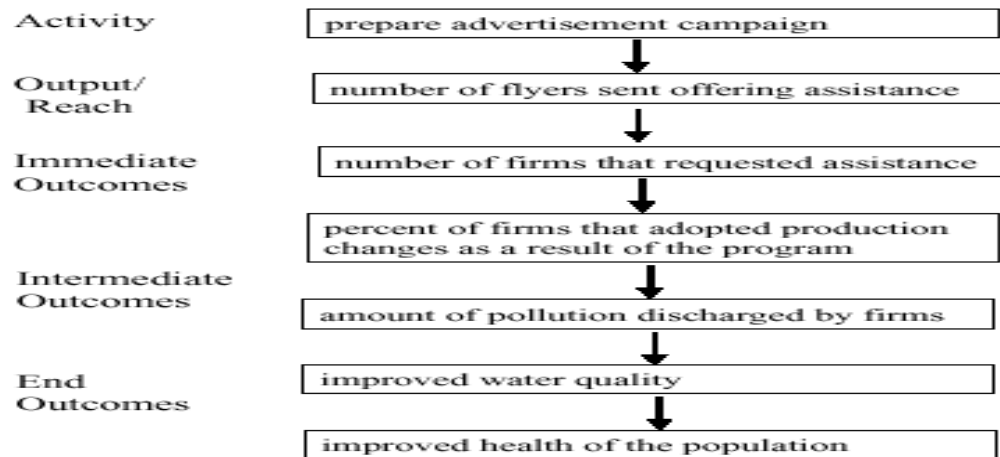
(*) From *Colombia: Paving the Way for a Results-Oriented Public Sector*. Colombian National Department of Planning and the World Bank. January 25, 1996. p. 9.

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Developing and using a logic chart has a number of benefits for program managers, such as developing consensus on what the program is trying to accomplish, developing an understanding on how it is believed to be working, clearly identifying the clients of the program, seeking and getting agreement on precisely what results are intended—the performance expectations—and identifying the key measures of performance. We are particularly interested in the additional benefits of identifying
• the cause-effect relationships implicit in the program's theory;

• the outside factors at play; and
• areas where understanding about the impact of the program is weak.

Typically, some of the "links" between results in the logic chart are well known and have been established in past practice. There is less likely to be disagreement on their role in bringing about the intended impacts. Other links may not be so well accepted and those suggest where further evidence (i.e. additional performance measures) might be most fruitfully sought. Any additional evidence one can gather to confirm such links will add to understanding how the program is working and bolster the argument that the program is making a contribution. Similarly, if significant outside factors are identified as possibly having an effect on the intended outcome, then evidence to refute or determine the extent of influence of those claims will be useful in addressing the attribution question.[59]

In this way, managers can use the diagnostic tool of logic charts to better understand how they and others believe the program is working. They can design the program operations to fit these expectations. Through presenting and discussing the logic behind the program when reporting performance, one has laid out exactly what is being measured and what the major assumptions are concerning the contribution of the program. As a result, weaknesses in program assumptions are identified suggesting where more evidence is needed. At a minimum, reporting this way allows one to know what challenges to the credibility of the performance measures used can be raised.

Identify, measure and document expected behavioural changes.[60] In order to bring about an outcome, programs have to change people's behaviour. The outputs of the program must be aimed at influencing the program's clients or target audience – the reach element—to act in different ways so that the anticipated outcomes can occur. Logic charts often focus only on the sequence of events that are expected to occur and thus may be at too aggregate a level to detect the specific behavioural changes that must occur as prerequisites of each of the events. By trying to identify and then document the changes in attitudes, knowledge, perceptions and decisions taken by program target groups, which logically link to the outcomes being observed, a good understanding of the actual impact the program is having can often be acquired. Furthermore, these are often some of the immediate and intermediate outcomes that can be measured more readily. As a result, it may be useful to set performance expectations and targets at this level where there is a reasonable level of control (United States GAO 1998)[61].

A more detailed logic chart is one approach, where the focus is on the specific behavioural changes resulting from the program's outputs that we can observe for those "reached" by the program. This requires clearly identifying who the various clients of the program are and how their behaviour is expected to change. If we can observe these short term changes occurring, the logical case for the program's attribution can be enhanced.

Thus managers either trying to better understand the effects of their programs or trying to report on performance can benefit from extending the analysis of logic charts to include consideration of the specific behavioural changes expected as a result of the program.

Use discriminating indicators. A good logic chart of a program often illustrates the many aspects of performance that could be measured and reported. Considerable care is needed in selecting indicators of performance. Here we are considering the attribution issue where it is important to use performance indicators that best discriminate or focus on the outcomes in question. Often, the indicators that are used relate only broadly to the circumstances of the program clients, the economy or society as a whole. With a little more thought given to how the program operates (from the analysis of the logic chart), the indicators can often be improved upon to more carefully focus on what specific

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[59] In the case of reporting, we are not suggesting that only evidence that bolsters the claim of program impact should be gathered or sought. Being able to say with some confidence that it is not known what contribution the program is making is also valuable knowledge. We are trying to gather through performance measures as much evidence as is practical to understand the extent and nature of the contribution being made by the program and to support such a claim..
[60] The ideas in this section were proposed by Steve Montague of the Performance Management Network, Ottawa
[61] United States General Accounting Office (1998). Managing for Results: Measuring Program Results That Are Under Limited Federal Control. (GAO/GGD-99-16).

benefits the program is intended to achieve. In particular, one can try and "refine the denominator" of the indicator.[62]

Many indicators are ratios, where the denominator qualifies the numerator. Consider a program designed to reduce air accidents by inspection of the air worthiness of aircraft. An indicator might be the number of air accidents per air-mile flown. A better indicator would be the number of air accidents due to structural failure per air-mile flown. But structural failures may occur regardless of inspections. Therefore, it may be better still to use two indicators: the number of air accidents per air-mile flown due to structural failure in aircraft inspected and the number of air accidents per air-mile flown due to structural failure in aircraft not inspected. By comparing structural failures in inspected and uninspected aircraft, one can estimate what inspection does to reduce the problems that inspection is designed to address. Questions of attribution still exist, but the more refined indicators reduce the problem and improve the chance of providing useful information on the contribution of the program.

Tracking performance over time or location. In cases where the program activities have varied over time, showing that outcomes have varied in a consistent manner with the variation in activities can strengthen the argument that the activities have indeed made a difference. In the simplest example, if an expected outcome has been observed after (and not before) the program activity has started up, this suggests the program is having an effect. In a more complicated case, if the outcome improves at sites (or at times) where the program has been implemented but not at others (such as a national program operating at many locations), the case for making a difference is even stronger.

Hendricks (1996)[63] identifies a number of such cases where by tracking performance measures we might show that:
  outcomes appeared at an appropriate time after our efforts began;
  outcomes appeared in different locations or with different people;
  outcomes faded when our efforts stopped;
  only those outcomes appeared that we should have affected;
  outcomes appeared only where or when we were active; and
  the biggest outcomes appeared where we did the most.

In some areas of programming, such as the impacts from research activities, there is likely to be a significant delay before the intended outcomes occur and the attribution picture portrayed through tracking performance over time will not be as evident. In these cases, one still needs to track outcomes over time to see if the intended outcomes have occurred, but demonstrating or understanding attribution is even more of a challenge. Some of the other approaches described in this paper need to be used.

Explore and discuss plausible alternative explanations. The attribution problem arises when one believes or is trying to claim that a program has resulted in certain outcomes and there are alternative plausible explanations. That is, those who are skeptical that it really was the program's contribution that counted will point to other reasons for the observed outcome—for example, other related government programs, economic or social trends, behaviour unaffected by the program.

Dealing with these alternative explanations explicitly is often the best way of buttressing an argument in favour of the program's impact. This entails:
• identifying the most likely alternative explanations;
• presenting whatever evidence or argument you have to discuss and, where appropriate, discounting these alternative explanations; and
• presenting whatever evidence there is that the program is a more likely explanation.

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[62] The term and the example were developed by Hugh McRoberts of the Office of Auditor General
[63] Hendricks, Michael (1996). Performance Monitoring: How to Measure Effectively the Results of Our Efforts. Presented at the American Evaluation Association Annual Conference, Atlanta. November 6.

Of course, if there is little evidence that counters alternative plausible explanations, then you may have to conclude that you do not really know what the program's contribution has been and maybe (see below) suggest that an evaluation or further evidence is needed.

The kind of evidence that could be used to counter arguments for alternatives to the program depends on the program and its situation. But two generic types are available.

First, there is a logic argument. One might refer to the theory behind the program and the kind of theory that would be needed to support claims for rival hypotheses. Supporting alternative explanations may involve assumptions more unlikely than those associated with the program. Second, one can bring actual evidence to bear concerning the alternative explanations, as discussed further on.

Addressing the attribution problem this way demonstrates that:
• you are aware of the complexity of the situation;
• you acknowledge and understand the other factors at play; and
• you are nevertheless concluding (assuming you are) that the most likely explanation for the observed outcome is that the program has made a significant contribution.

The burden of proof then falls on others to demonstrate that some other factor was the main factor in the chain of events that led to the outcome.

Unless you discuss alternative explanations, your claim about the program's efficacy can be effectively challenged by simply pointing out the existence of alternative explanations.

Gather additional relevant evidence. Performance measurement is about gathering evidence on the performance of a program. We suggest that some of that effort be devoted to evidence that would support statements about attribution. As suggested earlier, one might gather evidence concerning alternative explanations of the observed outcome. This will mean gathering data such as contextual and historical information about the plausibility of the alternative explanations. The data might be part of the routine performance measurement system, but more likely would be collected from time to time when analysis of the program's contribution is undertaken. Data collection might entail a review of the relevant literature, surveys, tracking of relevant external factors, field visits, or focus groups. The stronger the case that can be made, the stronger is the conclusion about the program's contribution.

In addition, one might try and gather evidence about the contribution of the program directly, most often through the use of **expert opinio**n. In many program situations, there are persons outside the program who are seen as knowledgeable about the program area, the program's impacts and the environment in which the program operates. A structured survey may be able to provide some evidence, albeit subjective in nature, of the extent to which the program is influencing an outcome. Surveying such individuals is often done to find out other information about the program, in which case adding questions on attribution is not very expensive. A focus group of experts may be another approach that would allow some probing as to why views are held. In the absence of other more costly data, this approach can be a relatively inexpensive way to increase comfort about the influence of the program.[64]

Two other sources of data are often overlooked. There is frequently considerable existing data available from **program file**s, some of which might be useful to provide information on the contribution of the program. This type of existing data, which probably has been collected for other purposes, can often contain valuable information, particularly if used in conjunction with new data collected. In other cases, there may be useful **secondary analysis** available—studies that others have done in the program area that might clarify measurement and attribution issues. In still other cases, there may be **meta analysis** that has been done—analysis that synthezes a number of studies in an area.

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[64] One caveat here is that if an individual expert has a vested interest in the program, then his or her views will need to be suitably discounted

Finally, use can often be made of **case study evidence** on a program's outcomes - programs where there are specific cases, projects or events, the evidence on attribution on one or two of these can be quite compelling; it can reveal the real nature of the program and also demonstrate, at least in these cases, that one can be fairly confident about the impact of the program's activities. In addition, case studies can also illustrate whether the program logic is indeed logical and reasonable (or not). This type of evidence can be quite persuasive but appropriate cautions are a must, especially when it is quite anecdotal.

Case study and anecdotal evidence is best when illustrating a concrete case to complement other evidence that has been collected. On its own, however, it can be quite misleading since it may merely be one of the few cases that appears to have worked while the vast majority have not, as the US GAO (1996)[65] recently found in a review of "Success Stories" of the US Department of the Environment. Further, there is a temptation for readers to generalize from anecdotal evidence, which should be cautioned against. Nevertheless, if the context and limitations are made clear, there is often a useful role for individual case studies.

Use multiple lines of evidence. We have discussed a number of ways to deal with the attribution problem. We suggest that the more ways that are used in any one case, the more definitive information we will have on attribution. This is the "multiple lines of evidence" argument. While no one piece of evidence may be very convincing, a larger set of different and complementary evidence can become quite convincing. Thus, in trying to reduce the uncertainty surrounding attribution, using as many lines of evidence as possible is a sensible, practical and credible strategy.

Defer to the need for an evaluation. In some cases, if the various lines of evidence point in different directions, there may be little one can say with enough credibility about the contribution of the program. If it is critical to have good information on attribution, then the best strategy may be to simply acknowledge that one does not know and suggest that an evaluation be carried out to address the attribution question. In most cases, however, if the program has indeed made a significant contribution, the various lines of evidence will confirm this.

Doing the Best with Uncertainty

We have argued here that what is needed in dealing with attribution using performance measurement information is to explore the issue in a systematic way and, when reporting, to paint a credible picture of attribution to increase our knowledge about the contribution being made by the program. We need to accept the fact that what we are doing is measuring with the aim of reducing the uncertainty about the contribution made, not proving the contribution made.

We suggest undertaking a **contribution analysis** that would examine and present the best case possible – a credible performance story - for attribution with the available evidence.

A credible performance story. Using contribution analysis, a reasonable case that a program has indeed made a difference would entail[66] [67]

    well-articulated presentation of the context of the program and its general aims;
    presentation of plaisible program theory leading to the overall aims. (The logic of the program has not been disproven, i.e. there is little or no contradictory evidence and the underlying assumptions appear to remain valid;
    highlighting the contribution analysis indicating there is an association between what the program has done and the outcomes observed; and
    pointing out that the main alternative explanations for the outcomes occurring, such as other related programs or external factors, have been ruled out or clearly have only had a limited influence.

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[65] United States General Accounting Office (1996). Observations on DOE's Success Stories Report. Testimony before the Subcommittee on Energy and Environment, Committee on Science, House of Representatives (GAO/T-RCED-96-133).

[66] Hendricks (1996) proposes a similar list..
[67] Hendricks, Michael (1996). Performance Monitoring: How to Measure Effectively the Results of Our Efforts. Presented at the American Evaluation Association Annual Conference, Atlanta. November 6.

If all this is not enough, and there are too many gaps in the story, one ought to admit it and accept the need for an evaluation to provide better understanding of the contribution of the program.

Recognition of the problem and an understanding of the other factors at play will likely lead to additional data and information gathering. The result will be a better understanding of the program and how it is expected to work, and perhaps a redesigning of the program to reflect this enhanced understanding. In addition, better performance information will provide for a more credible demonstration of the impacts of the program through performance measurement.

5.15. Understanding Governance in Strong Aboriginal Communities – 1999 [68]

5.16. Build Reach into Your Logic Model -1998[69]

Analysts have frequently noted the importance of constructing logic models (a.k.a. logic charts, causal models, logical frameworks, and most recently performance frameworks - among other names) to explain the causal theory of a program or initiative <u>before</u> attempting to monitor, measure, or assess performance. While logic models have long been a fundamental part of program evaluation, the use of a logic model has also recently been found to be very useful in performance measurement initiatives at the project, program (see for example <u>Focusing on Results: A Guide to Performance Measurement</u>, <u>Robert McDonald</u>, Industry Canada) and even government-wide level. (See for example, Joseph S. Wholey, *"Clarifying Goals, Reporting Results,"* <u>Progress and Future Directions in Evaluation: Perspectives on Theory, Practice, and Methods</u>, Jossey-Bass Publishers, San Francisco, Winter 1997, Number 76, p 100. Also see John Mayne, mimeo, 1998. See <u>1997 Report of the Auditor General, Chapter 5, Exhibit 5.1</u> for a simplified logic model example.)

A key limitation to the logic models of the 1980s, as well as many of those in current use, has been their tendency to focus predominantly on causal chains without reference to who and where the action was taking place. This has caused three key problems:

1. **Lack of sensitivity to the impacts on different participant groups.** Logic models which do not include participants or *'reach'* tend to narrowly define the impacts chain. For example, in a community economic development program we recently examined, their preliminary (traditional) logic model did not explicitly include reach and therefore only noted results for small business in the causal chain. Once the small working group included a reach category in their logic model, they came up with a myriad of other key results relating to community capacity building, collaboration, and benefits to specific stakeholder groups like youth.

2. **Potential to confuse outputs and outcomes.** The inclusion of reach in logic models allows people to clearly distinguish events which happen as part of program processes - normally called <u>outputs</u> (e.g., # of publications, events, interventions, and other tangible things under the control of a program) from <u>outcomes</u> or impacts which relate to the reaction, satisfaction, knowledge gain, behavior changes, and benefits occurring in target groups. Without the distinct reach of an initiative being defined, we have often found confusion in terms of what people mean by *'improved access'* (e.g., do we mean available? or do we mean <u>usage</u> by target groups?), *'service quality'* (e.g., do we mean conformity to a process standard? or do we

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[68] Institute On Governance, in collaboration with York University CESO Aboriginal Services. Saskatchewan Federated Indian College Understanding Governance In Strong Aboriginal Communities Phase One: Principles And Best Practices From The Literature, October 12, 1999, http://www.iog.ca/publications/strong_ab_gov.pdf.

[69] Montague, Steve, Build Reach into Your Logic Model, February 1998 http://www.pmn.net/contributions/reachlog.htm

mean the satisfaction of <u>user</u> needs?), or similar performance concepts. *'Reach'* helps to sort outputs from outcomes.

3. **No reach versus results trade-off recognition.** Without an explicit reach consideration, analysts and managers (particularly senior managers) may get a simplified notion of the ease with which results will occur. Similarly, they will often develop a false notion of accountability - not recognizing the multiple co-dependencies in a given policy, program, or initiative.

For example, in most areas of social, economic, safety, and environmental policy, there is a multitude of jurisdictions and institutional actors involved for any given objective. Generally, the more the co-dependence, the greater the time involved and the greater the *'causal complexity'* of the results chain. (For example, early results may simply involve the improvement of collaboration among co-delivery partners for many programs; this needs to be recognized in the causal chain.)

Furthermore, the explicit inclusion of reach allows for strategic insight on the trade-offs between reach and results. (See <u>The Three Rs of Performance: Core concepts for planning, measurement, and management, Part 2, Section 2</u> for a further discussion.) On several occasions, we have found that work groups have come to realize that their results expectations were unrealistic given their targeted reach and their given resources.

A performance framework such as that contained in the exhibit below can help to explicitly address the problems noted above.

This model can serve planners as well as evaluators. (See <u>Refocus Your Questions for Better Business Planning</u>.)

A more traditional logic modelling approach which included reach was noted by Michael Quinn Patton in his most recent version of <u>Utilization-Focused Evaluation</u>, 1997. This model dates back to the 1970s in the analysis of educational initiatives. The approach is described below:

In summary, the inclusion of reach in your logic models can improve your organization's strategic focus while at the same time rendering the model more practical in terms of real world managers. For examples which include reach in their logic models, or for information on an approach to developing performance frameworks, contact <u>Steve Montague</u>. (Also see, <u>The Three Rs of Performance: Core concepts for planning, measurement, and management, Performance Management Network Inc., 1997, Appendix B.</u>)
©1998 Performance Management Network

	HOW?		WHO? WHERE?	WHAT do we want?	WHY?
	Resources		Reach	Results	
inputs	activities	outputs	users/clients/ co-deliverers/ beneficiaries	direct outcomes	ultimate impacts

Program Chain of Events
(Theory of Action)   *Matching Levels of Evidence*

7. End results — 7. Measures of impact on overall problem, ultimate goals, side effects, social and economic consequences

6. Practice and behavior change — 6. Measures of adoption of new practices and behavior over time

5. Knowledge, attitude, and skill changes — 5. Measures of individual and group changes in knowledge, attitudes, and skills

4. Reactions — 4. What participants and clients say about the program; satisfaction; interest, strengths, weaknesses

3. Participation — 3. The characteristics of program participants and clients; numbers, nature of involvement, background

2. Activities — 2. Implementation data on what the program actually offers or does

1. Inputs — 1. Resources expended; number and types of staff involved; time extended

Program Design Hierarchy

Hierarchy of Evaluation Criteria

Source: Adapted from Claude Bennett 1979. Taken from Michael Quinn Patton, Utilization-Focused Evaluation: The New Century Text, Thousand Oaks, California, 1997, p 235.

5.17. First Nation Self-Evaluation Of Community Programs - 1998[70]

Background
First Nations have taken on increased responsibility for community programs. To effectively manage these programs, First Nation administrators need good information to determine how well their programs are performing. To what extent are they meeting community goals and priorities? Can programs work better for the First Nation? At the same time, First Nation citizens expect their governments to account for their achievements by reporting regularly to the membership.

In looking at current accountability practices, many First Nations in Canada have observed that:
• First Nations want to define success in their own terms, based on their own priorities;
• First Nations' external accountability relationships with funding agencies often do not serve their internal management and accountability needs; and
• Current internal and external reporting practices tend to focus on how resources are allocated, rather than on what is being achieved.

This guidebook was developed to address these issues. Five First Nations and one Indian Regional Council are driving the process to develop tools that meet their requirements, in partnership with the Department of Indian Affairs and Northern Development (DIAND) which is providing technical and financial support.

Purpose of this Guidebook
This guidebook serves to:
1. Present the benefits of using performance measurement as an internal program management and accountability tool;
2. Identify the key elements of a framework for measuring and reporting on the performance of community programs; and
3. Provide ideas, alternatives, and practical tools to support First Nations that want to develop their internal framework for measuring performance and accounting for results.

The guidebook should be used together with the extensive available literature on performance measurement and accountability. Some useful references are provided in the toolkit.

Who Should Use this Guidebook?
This guidebook is intended to assist:
• **Chiefs and Councils** who want to direct the development of a community program performance framework for their First Nation;
• **Program administrators** who are tasked with evaluating the performance of the programs and services which they deliver;
• A **steering committee** and **project coordinator** who would manage the process to develop the First Nation's community performance framework; and
• **First Nation members** who are interested in participating in the project.

Structure of the Guidebook
Chapter 1 discusses **why** a First Nation may consider developing a community program performance framework;
Chapter 2 describes **what** are the features of good performance frameworks;
Chapter 3 shows **how** to develop one in a step-by-step process; and
Chapter 4 contains optional **tools** to support the process of developing a community program performance framework.

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70 First Nations Working Group on Performance Measurement and Departmental Audit and Evaluation Branch, Department of Indian Affairs and Northern Development, First Nation Self-Evaluation Of Community Programs A Guidebook On Performance Measurement, October 1998 pdf

Program Management Cycle:

Planning & Design → **Implementation** → **Evaluation**

Community Program Performance Framework:

Clarifies Goals	Focuses on Results	Reports on Results
Identifies Performance Targets	Determines Ongoing Data Collection	Assists in Identifying Opportunities for Improvement
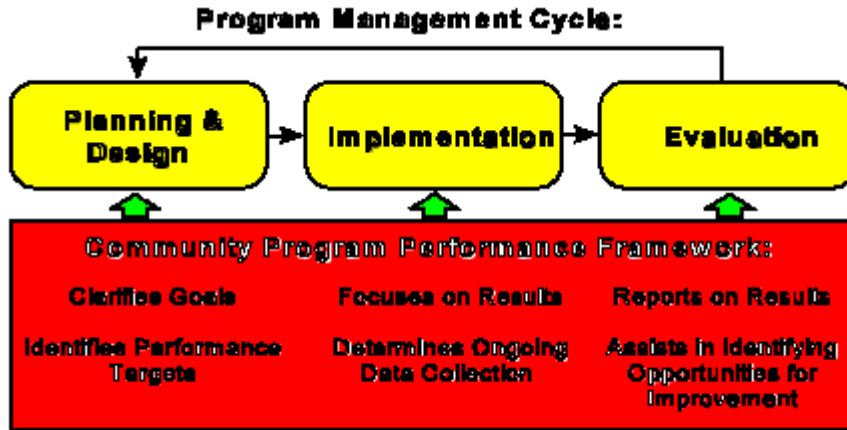
Community Program Performance Framework Model

Community Goals

Performance Report

Program Plans

Pro
Inputs & Activities
Performance Targets
Results

Performance Measures and Data Collection

Community Development Wheel

Political & Organizational Goals

Social Goals

Healthy Individuals and Community

Economic Goals

Cultural & Spiritual Goals

Program Plan (or "Logic Model")
Example # 1
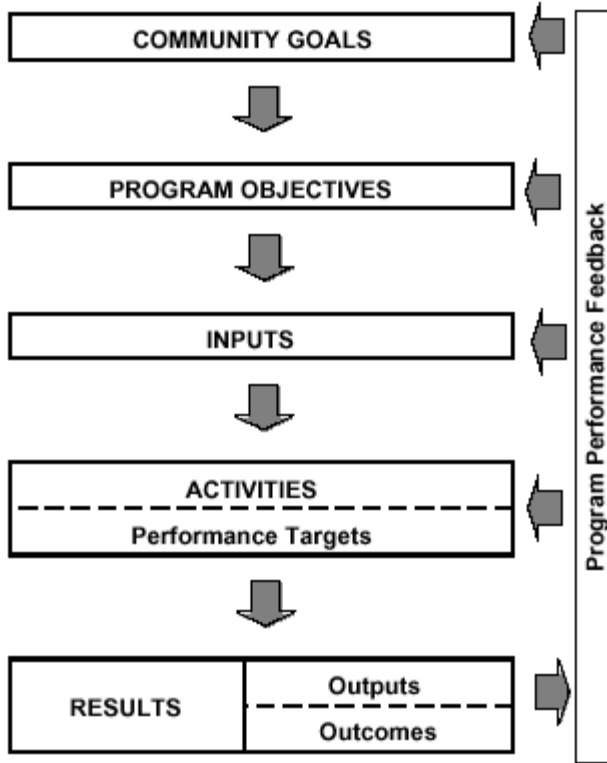
COMMUNITY GOALS

PROGRAM OBJECTIVES

INPUTS

ACTIVITIES
- - - - - - - - - - - - - - - - - -
Performance Targets

RESULTS | Outputs
- - - - - - - - - - - - - - - -
Outcomes

Program Performance Feedback

SAMPLE
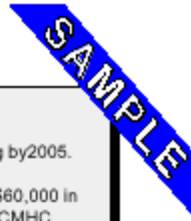
| 1999-2000 Performance Report: | Housing Program |

Community Goal: To provide all community members with adequate housing by 2005.

Inputs: The 1999-2000 housing budget was $450,000, including $60,000 in rental payments, $290,000 from DIAND, and $100,000 in CMHC subsidies. In 1998 there were X# of houses meeting normal adequate standards and X# of houses in need of renovation.

Two full-time staff were responsible for maintenance year-round. Eight builders formed the construction crew from May through September. Four youth joined the crew for July and August.

Activities: House construction, renovation, maintenance, demolition, skills development, and policy and administration.

Our Performance Targets for 1999-2000 were to:
- change housing policy to increase labour input from residents for construction and maintenance;
- build six new houses of good quality that meet national building code standards;
- renovate eight houses to meet normal adequate standards;
- maintain existing housing stock, including maintenance training and support for residents;
- train two journeymen carpenters.
-

Our Achievements in 1999-2000 were:

Outputs:
- new housing policy introduced;
- maintenance cost per house decreased by 5% due to increased labour input from residents;
- existing housing stock maintained at the same level as last year;
- five quality houses built. Anticipated funding to build sixth house was not available;
- nine houses renovated to meet normal adequate standards.

Outcomes:
- new housing policy fully supported by members;
- 20% fewer members living in inadequate housing;
- average number of residents per house dropped from X to Y;
- increase in number of insured homes.

Key Success Factors:
- full support of members for new housing policy;
- funding for new housing will need to increase by 10% to meet our goal in 2005.

1999-2000 Performance Report:

COMMUNITY GOAL: ECONOMIC DEVELOPMENT	PERFORMANCE
Our economic development vision is to develop and attract new businesses in our community. Our objectives are to: • increase employment of members; • increase the number of community businesses; • access new investment; • sustain existing jobs where appropriate; • support young people to develop business skills.	Last year we met our objectives in the following ways: • increase in number of members working, as a percent of available workforce; • 4 new businesses; • supported eight local businesses to get access to new investment; • increase in jobs in forestry sector; • youth skills training program launched
PERFORMANCE MEASURE: EMPLOYMENT RATE	ANALYSIS
  The number of people employed as a percentage of available workforce has increased from 32% in 1996 to 40% in 1999.	The number of members available to work has increased in recent years due to: • growth of community population; • social assistance recipients who have upgraded their skills and are now looking for work. Most new jobs have been due to growth in the forestry industry, including 18 new jobs in the First Nation forestry business. Some jobs have been lost in other off-reserve industries. A major barrier is accessing capital investment to expand existing businesses, and to create new ones. The strategy to increase investment and access to markets is outlined in the First Nation "Business Plan."

Step 11   Draft Performance Framework

5.18. Restorative/Criminal Justice–Identifying Some Preliminary Questions/Issues/Concerns - 1998[71]

– The need to ensure accountability was maintained through the system was understood.
  o Suggestions included the design and implementation of complaint/appeal mechanisms which would allow any participants (victims, offenders, criminal justice personnel) to register their dissatisfaction with a particular procedure, decision or outcome.
  o The Guidelines of the *Community Accountability Programs Information Manual* recommends that each program establish a complaints process that is accessible to all the participants.

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[71] Goundry, Sandra A., Legal Consulting and Research Services, Restorative Justice and Criminal Justice, Reform in British Columbia – Identifying Some Preliminary Questions, Issues and Concerns, Prepared for: BC Association of Specialized Victim Assistance & Counseling Programs, 30 April, 1998

5.19. Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate -1998 [72]

Before reviewing the use of ADR in restorative justice, it is important first to clearly state the context in which advocates proclaim the potential benefits of the new paradigm.

Nova Scotia:

o The province of Nova Scotia is implementing a program of restorative justice, which is to commence in early 1999. In its report Restorative Justice: A Program for Nova Scotia[73], the government states:

   o "The time has come to give our justice system a deeper social justice and social science context. A promising road toward improvement is both old and new. Amidst the ancient traditions (notably aboriginal) of a surprisingly large number of cultures is a way of thinking about conflict and crime that has been captured by the modern phrase <u>restorative</u> <u>justice"</u> [74] [emphasis in the original].

o The report clearly defines the expected outcomes of the new approach as:

   o Reduced rates of recidivism

   o Increased victim satisfaction

   o Strengthened communities

   o Increased public confidence in the justice system. [75]

Saskatchewan:

o In Saskatchewan, the government's *restorative justice* initiative is outlined in the report *"Getting Smart About Getting Tough: Saskatchewan's Restorative Justice Initiative"* [76]. The stated goals of the program are to:

   o Enhance community safety and protection

   o Reserve the formal justice system for the most serious of matters

   o Develop alternative measures for less serious crime

   o Strengthen communities by involving victims, offenders, government and community members in a balanced approach to criminal behaviour

   o Reduce crime by increasing offender accountability to victims and community, and

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[72] Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[73] Restorative Justice: A Program for Nova Scotia, published by the Nova Scotia Department 1998. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[74] *Restorative Justice: A Program for Nova Scotia,* published by the Nova Scotia Department of Justice through Communications Nova Scotia, 32 pages., footnote 12, at p. 1. 1998. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[75] Restorative Justice: A Program for Nova Scotia, published by the Nova Scotia Department of Justice through Communications Nova Scotia, 32 pages., footnote 12, at p. 5. 1998. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[76] Getting Smart About Getting Tough: Saskatchewan's Restorative Justice Initiative, report of the Saskatchewan Department of Justice, 18 pages. 1997. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

o   Increase public trust justice process[77] and public perception of the fairness of the criminal

British Columbia:

In British Columbia, Goundry (1997)[78] discusses the promise of restorative justice as offering "high levels of victim and offender satisfaction which is largely a function of addressing those perceptions of unfairness and injustice by directly involving all of the parties. "[79]

Other potential benefits identified by Goundry include:

- Benefits to the community from focusing on the resolution of broken relationships and situating the control of crime within the community. [80]

- The provision of a more culturally relevant response to offending by making alternatives to the mainstream justice system that reflect traditional decision-making models. [81] [emphasis in the original]

Performance Indicators:

- First, that performance indicators have been established against which success is to be measured and, secondly, that the tools and procedures for monitoring performance exist.

  o   Presumably, any number of performance indicators could be selected to monitor progress towards the central goals of restorative justice including, inter alia:

    - victim/offender satisfaction;

    - recidivism;

    - reduction in custodial sentences;

    - crime rates;

    - community safety (et cetera).

  o   Precisely how these indicators would be monitored is a separate issue.

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[77] Getting Smart About Getting Tough: Saskatchewan's Restorative Justice Initiative, report of the Saskatchewan Department of Justice, at p. 3. 1997. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[78] Goundry, S.A. 1997. Restorative Justice and Criminal Justice Reform in B.C.: Identifying Some Preliminary Questions and Issues. Draft discussion paper prepared for the B.C. Association of Specialized Victim Assistance and Counselling Programs 37 pages.

[79] Goundry, S.A. 1997. Restorative Justice and Criminal Justice Reform in B.C.: Identifying Some Preliminary Questions and Issues. Draft discussion paper prepared for the B.C. Association of Specialized Victim Assistance and Counselling Programs 37 pages. footnote 17, at p. 5.

[80] Goundry, S.A. 1997. Restorative Justice and Criminal Justice Reform in B.C.: Identifying Some Preliminary Questions and Issues. Draft discussion paper prepared for the B.C. Association of Specialized Victim Assistance and Counselling Programs 37 pages. footnote 17, at p. 5.

[81] Goundry, S.A. 1997. Restorative Justice and Criminal Justice Reform in B.C.: Identifying Some Preliminary Questions and Issues. Draft discussion paper prepared for the B.C. Association of Specialized Victim Assistance and Counselling Programs 37 pages. footnote 17, at p. 5.

Recidivism:

- When it comes to recidivism rates of offenders processed through restorative justice, research studies are limited and represent a mixture of results.

  - Pate (1990)[82], Umbriet and Coates (1992b[83], 1993[84]) and Nugent and Paddock (1995)[85] report lower recidivism rates for offenders processed through restorative justice as opposed to the conventional court process.

  - Rock (1992)[86], on the other hand, in a Texas study reports no real difference in rate of recidivism between offenders who participated in restorative justice as opposed to those dealt with in the convention court system. Montgomery (1997)[87] reports only a modest effect of alternative measures on recidivism rates.

    - A significant part of the problem, in evaluating the impacts of any particular program on recidivism rates, lies in the lack of effectively controlled study groups.

      - Failure to control for demographic and structural variation between groups being processed through restorative justice and groups being processed through the conventional court system leaves any study result obtained open to criticism.

      - Montgomery (1997)[88] reports that, while an analysis of the "raw" data between similarly situated alternative measures youth and youth processed through court indicates a dramatic difference in recidivism rates, the difference becomes modest once the groups are controlled for variations in gender, age, education level, socio-economic status and other variables.

      - Similarly, Schiff (1998) finds:

        - "A significant problem with current research on VOM is the lack of sufficient control groups, which would permit more definitive conclusions about the impact of restorative interventions on recidivism. Only after studies have

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[82] Pate, K. 1990. Victim-Offender Restitution Programs in Canada. Criminal Justice Restitution and Reconciliation, edited by B. Galaway and J. Hudson. New York: Willow Tree Press. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[83] Umbreit, Mark and Robert Coates. 1992b. Victim-Offender Mediation: An Analysis 0f Programs in Four Stales of the US. Minneapolis, MN: the Citizens Council Mediation Services. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[84] Umbreit, Mark and Robert Coates, 1993. Cross-Site Analysis of Victim-Offender Programs in Four Stales. Crime and Delinquency 39(4): 565-585c cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[85] Nugent, W.R. and J.B. Paddock. 1995. The Effect of Victim-Offender Mediation on Severity of Reoffense. Mediation Quarterly, 12(4): 353-367. Rock, J. 1992. An Evaluation of the Juvenile Offender Mediation Program. Masters Thesis, University of Houston, Clear-Lake, Texas. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[86] Rock, J. 1992. An Evaluation of the Juvenile Offender Mediation Program. Masters Thesis, University of Houston, Clear-Lake, Texas. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[87] Montgomery, A.N. 1997. Alternative Measures in Nova Scotia: A Comprehensive Review. Report for the Nova Scotia Department of Justice, Halifax, 143 pages. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

[88] Montgomery, A.N. 1997. Alternative Measures in Nova Scotia: A Comprehensive Review. Report for the Nova Scotia Department of Justice, Halifax, 143 pages.c cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

controlled for the impact of structural or demographic variables on recidivism." [89]

Definition of Satisfaction

- Although there are studies[90] that report consistent offender satisfaction with contracts achieved through ADR, Schiff (1998) challenges the value of the results obtained due to "a lack of consistency in definitions of satisfaction across programs and studies."[91]

5.20. First Nation Self-Evaluation Of Community Programs - 1998[92]

- First Nations have taken on increased responsibility for community programs.
    - To effectively manage these programs, First Nation administrators need good information to determine how well their programs are performing.
    - To what extent are they meeting community goals and priorities?
    - Can programs work better for the First Nation?
    - At the same time, First Nation citizens expect their governments to account for their achievements by reporting regularly to the membership.
- In looking at current accountability practices, many First Nations in Canada have observed that:
    - First Nations want to define success in their own terms, based on their own priorities;
    - First Nations' external accountability relationships with funding agencies often do not serve their internal management and accountability needs; and
    - Current internal and external reporting practices tend to focus on how resources are allocated, rather than on what is being achieved.[93]

A Tool for Accountability

- Among the diverse traditions of First Nations, there are a variety of customs and practices for ensuring the *political* accountability of First Nations leaders to the membership.
    - Elections, traditional governing practices, and open community meetings are some examples.
    - A program performance framework does not change[94] the fundamental *political* accountability relationship between the leadership and members.
- However, a performance framework does change how *program* or *administrative* accountability works within a First Nation.
    - A framework can help establish a constructive, responsive accountability relationship on the basis of ongoing feedback among community members, leaders, and program administrators.
    - A performance framework helps:

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[89] Schiff, Mara F. 1998. Restorative Justice Interventions for Juvenile Offenders: A Research Agenda for the Next Decade. Western Criminology Review 1(1). Located on the internet at http://wcr.sonoma.edu/vlnl/schiff html, at p. 4c cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm
[90] Coates, Robert and John Gehm. 1989. An Empirical Assessment. In Mediation and Criminal Justice, edited by M. Wright and B. Galaway London: Sage. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm
[91] Schiff Mara F. 1998. Restorative Justice Interventions for Juvenile Offenders: A Research Agenda for the Next Decade. Western Criminology Review 1(1). Located on the internet at http://wcr.sonoma.edu/v1n1/schiff html at p. 3. cited in Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate , 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm
92 First Nations Working Group on Performance Measurement and Departmental Audit and Evaluation Branch, Department of Indian Affairs and Northern Development, First Nation Self-Evaluation Of Community Programs A Guidebook On Performance Measurement, October 1998 pdf

[93] Auditor General of Canada, Study of Accountability Practices from the Perspective of First Nations, 1996.
[94] Royal Commission on Aboriginal Peoples (RCAP), Restructuring the Relationship, Volume 2, Part 1, Chapter 3.

- **Demonstrate commitment** of the First Nation to making progress on community priorities.
  - A framework is a living document, used and updated on an ongoing basis to reflect current priorities and targets.
- **Report to constituents** on achievements, so they can make informed judgments about how well things have been done.
- The role of a performance framework in supporting accountability is illustrated in the following diagram.

First Nation Program Accountability Cycle:

-
- An accountability system is the whole range of practices, policies, procedures, etc. that a government uses to ensure its accountability to the citizens that elect it.
  - o Program performance reporting is one key component of an accountability system.
  - o At the same time as it develops its performance framework for *program* or *administrative* accountability, a First Nation may be interested in articulating its other accountability components (political accountability and financial accountability).
  - o This presents an opportunity to ensure that the various accountability components work together.
- Drawing from the work of the Royal Commission on Aboriginal Peoples, the following box summarizes accountability components that a First Nation may consider to be part of its overall accountability system. Some of these components may already be in place in a First Nation, while others may be identified for inclusion in the future.

Examples of Accountability Components

Performance Reporting:

G   Annual Program Performance Report
G   Annual Financial Report
G   Annual Strategic Plan or Operating Plan
G   Occasional detailed program evaluation studies

Policies and Procedures:

G   Program Policies
G   Administrative appeal/grievance procedures
G   Financial Administration Policies
G   Conflict of Interest Guidelines
G   Code of Ethics
G   Elections Code
G   Community Consultation Procedures
G   Access to Information Procedures

Roles and Responsibilities:

G   First Nation Government Organization Structure
G   Chief and Council Portfolio Responsibilities
G   Job Descriptions
G   Committee Mandates

-    As discussed by the Royal Commission, accountability processes may mirror Aboriginal governing traditions and may also replicate accountability measures common to Canadian governments such as those listed above.
     o   This and other accountability perspectives from the Royal Commission are reproduced in the following box.

Perspectives from the Royal Commission on Aboriginal Peoples (RCAP)

"... Aboriginal people have recognized that establishing mechanisms for government accountability and responsibility must go hand-in-hand with the autonomy that these governments will enjoy under self-government and associated fiscal arrangements. Aboriginal governments must be able to demonstrate to their citizens that they are exercising authority and managing the collective wealth and assets of the nation and administrative structures in a responsible and open manner." (RCAP, Vol. 2, p.345)

"At the level of administration, reporting systems and lines of accountability to external agents such as DIAND are time-consuming and complex and divert the energies of Aboriginal service providers away from delivery responsibilities. These arrangements have created a situation where Aboriginal governments are more responsive to external agencies than to community members." (RCAP, Vol. 2, p.346)

The First Nation public service will become increasingly professionalized "...as accountability regimes shift responsibility and reporting relationships toward the people served and away from remote, non-Aboriginal governments." (RCAP, Vol. 2, p.339)

"Accountability mechanisms normally include reporting requirements regarding how government spends public funds, a code of ethics for public officials and conflict of interest guidelines and enforcement mechanisms. The goal of such mechanisms, and of accountability regimes generally, is to maintain public confidence in the integrity of government, to uphold high standards in public service and to encourage the best people in the community to present themselves for public office." (RCAP, Vol. 2, p.347)

"Accountability of Aboriginal nation government will be determined primarily by processes rather than by structures and institutions. Such processes may mirror Aboriginal governing traditions. They may also replicate accountability measures common to Canadian governments. For example, these might include:

G   financial and operational reporting regimes (possibly based on statutes);

G   clear and transparent administrative policies, procedures and operations (including administrative decision-making procedures);

G   a code of ethics for public officials;

G   conflict of interest laws or guidelines;

G   access to information procedures;

G   the development of communication systems to keep citizens informed; and

G   the establishment of procedures to deal with individual or community grievances." (RCAP, Vol. 2, pp.260-261)

5.21. Raising Some Questions About Sentencing Circles - 1997 [95]

–   Levels of Accountability: the many levels of accountability of these projects and initiatives –
   o   accountability to the community, the victim etc.,
   o   accountability of community leaders to the community concerning such projects, and
   o   accountability of funding sources to provide technical assistance and support to projects.

5.22. Institutional/Capacity Development, Results-Based Management/Organizational Performance-1996[96]

Executive Summary

This paper analyses the evolution of management perspectives on institutional and capacity development as well as the concept of results-based management (RBM). It suggests that the usefulness of RBM depends on how it is applied. If it emphasizes performance measurement and donor control (management by results), it risks undermining institutional and capacity development. On the other hand, if it is used strategically, is indigenized and is supplemented by other techniques, it can be a useful part of performance management (management for results).

The paper highlights ways in which CIDA can shape and implement RBM to improve performance in institutional and capacity development at the field program and project levels.

Increasing emphasis among donors on institutional/capacity issues reflects a growing realization of the important role of institutions and organizations in the development process. The concept of institutional/capacity development focuses

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[95] Roberts, Julian and Carol LaPrairie. "Raising Some Questions About Sentencing Circles", <u>Criminal Law Quarterly</u>, 1997 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998 http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm

[96] Canadian International Development Agency, Peter Morgan, Ann Qualman, February 1996
Updated May 1996, Institutional And Capacity Development, Results-Based   Management And Organizational Performance
http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUImages/CapacityDevelopment/$file/1996-05RBM&OrgPerf.pdf

on the ability or capacity of developing countries to design and implement development policies, mainly through the growth and nurturing of organizations. It relies on a "macro" perspective, emphasizes context, the pattern of formal and informal organizations, networks, culture, social structures and other factors that can affect organizational behaviour and sustainable development.

Results-based management (RBM) has come to the fore in recent years in response to increasing demands to demonstrate "results" in development programming. For donors, embracing RBM involves a shift in management focus from functions, process and inputs to results CIDA and outcomes. There are different types of RBM, some of which are based on a "command and control" approach and which rely heavily on planning, prediction and measurement. Other approaches to RBM are more experimental, learning-based and adaptive.

Much of the debate around the relationship between institutional/capacity development and RBM revolves around the tension between these two different visions of development management.

Applying an RBM approach to institutional/capacity development initiatives presents both opportunities and challenges. RBM can help to instill more of a "performance culture". It increases the commitment to information management as well as program learning and is useful for predicting, verifying and demonstrating results which, among other things, can help to demonstrate the value of development cooperation.

On the other hand, RBM can reinforce the donor tendency towards control. Too much time and energy may be spent on measurement of 'results' and not enough ensuring ownership and commitment. Cause and effect are often difficult to trace, particularly in complex processes of institutional change, accountability can be problematic and concerns remain with the application of RBM techniques. These challenges can be particularly pronounced in institutional/capacity development initiatives which tend to be characterized by uncertain environments, high degrees of interdependence among the various elements and a need for ongoing learning and adaptation.

On balance, an RBM approach is best suited to institutional and capacity development if it focuses on "performance management" (management for results) as opposed to "performance measurement" (management by results). While performance measurement seeks to assess, verify and demonstrate results, performance management focuses more on experimentation, iteration, process, learning and responsiveness.

The trend among donors towards results-based management has been accompanied by increasing attention to indicators. To be useful, indicators for institutional and capacity development should be simple, provide "information for management action", be tied to incentives and information systems, be appropriate to the context and focus on both the short and the long-term. Quantitative indicators needs to be supplemented by informed judgement and common sense. Indicators must reflect the fact that some of the most important results of institutional and capacity development are process outcomes (e.g. strategies adopted, degree of participation by key stakeholders) rather than 'substantive'. Simply focusing on 'substantive' results can diminish the effectiveness of these types of programs.

Finally, results-based management systems will not, by themselves, produce an increase in organizational effectiveness. They must be supported by a broader program of organizational improvements that, **together with** *RBM*, can combine into a performance management system.

RBM can make a major contribution to the effectiveness of institutional and capacity development programs when they are designed as collaborative efforts in which accountability, risk and credit are shared. RBM should not be considered a management technique to be adopted by CIDA and then applied to field programs to induce greater institutional performance but rather as an approach to institutional and capacity development that should be integrated into the daily routines of program design and management by partner countries.

The following observations summarize some the main factors to consider to ensure that RBM effectively supports institutional/capacity development programs:

   capacity development is likely only through an RBM approach that emphasized **field-based performance** as opposed to donor-driven performance;

managing for results in institutional and capacity development programs requires an experimental approach such as the one recently devised by the World Bank based on alternating phases of **listening, piloting, demonstrating and mainstreamin**g; **incentives, information, organizational structures and learning processes** need to be combined in ways that can reinforce each other in support of effective performance;

when judging the effectiveness of institutional/capacity programs, the input-output-outcome impact model to tracing accountability should be replaced by a **process-performance framewor**k;

donors need to be clear about the differences between **judging the performance of programs** versus judging the performance of managers; and

if CIDA, and other donors, wish to capture the potential benefits of results-based management, they need to think through a series of issues to do with instilling **a learning culture** in the organization which implies different approaches to managing, including changes in relationships with partner countries, the role of the project officer and resources dedicated to building up the substantive capacity of the Agency.

Result-based management can make an important contribution to the improvement of CIDA's field programs and to the accountability and transparency of Agency operations. To accomplish this, the Agency needs a well-developed and shared sense of the possibilities as well as the limits and boundaries of RBM. More efforts need to be made to customize RBM to fit the needs of development cooperation in general and institutional and capacity development in particular.

5.23. Study of Accountability Practices from the Perspective of First Nations - 1996 [97]

− This study focuses on the perspectives of some First Nations groups. It is aimed at improving an understanding and encouraging the pursuit of solutions. The OAG intended to build on this understanding and to take into consideration the lessons learned for future audits and studies dealing with the relationship between First Nations and government.

− The approach used was to capture the views of selected (nine First Nations and one Tribal Council that Indian and Northern Affairs Canada considered to be well managed. This list included First Nations from each region except the Territories. It included more remote First Nations as well as those closer to urban centres, and smaller as well as larger First Nations. It also included First Nations that have different types of funding arrangements with government. The study team undertook field visits, which included extensive interviews with First Nations representatives, to obtain their perspectives on accountability issues. For most First Nations, discussions were with Chief and Council, in addition to First Nations administrators and program managers.) First Nations and to explore the basis for a common understanding of the issues.

  o This approach required that not only the views of these First Nations on the accountability issues faced by their leaders and program managers be presented but also, to provide as context, their views on the environment in which the relationship operates.

  o This environment is highly politicized and contentious.

  o The views on this broad framework are those of the participating First Nations and not necessarily those of the OAG.

An Evolving Relationship

− As the relationship between the federal government and First Nations evolves, the issue of accountability continues to present difficulties to all parties.

  o In its accountability to Parliament, government is expected to report on activities undertaken and results achieved.

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[97] Office of the Auditor General of Canada - Chapter 13 - Main Points - Study of Accountability Practices from the Perspective of First Nations, September 1996 http://www.oag-bvg.gc.ca/domino/reports.nsf/html/96menu_e.html

o This relationship often becomes more complicated where third parties are used to carry out activities for which government remains responsible.

o The federal government allocates funds to First Nations for education, health, social services and economic development.

- Some government departments, such as Indian and Northern Affairs Canada, have evolved from direct service delivery to, increasingly, funding agencies.

- This has meant an increase in funds transferred to First Nations. Other government departments have begun to move in this direction also.

- Health Canada is currently discussing with First Nations the devolution of many of its current responsibilities. (see)

- Ongoing discussion of self-government initiatives, combined with increased devolution of government programs, has led to the increased interest in the question of accountability.

- The evolution of Indian and Northern Affairs from direct service delivery to funding agency can be seen as having taken place in three general stages.

  - Until the late 1950s, the federal government delivered most programs and services to First Nations.

  - By the late 1970s, First Nations were administering government programs and following program circulars detailing terms, conditions, processes and reporting requirements designed by Indian and Northern Affairs.

  - By the late 1980s, new funding arrangements had been developed, including alternative funding (AFAs), comprehensive funding (CFAs), and self-government funding - each with different types of arrangements, delegation of responsibility, control and reporting.

  - The situation in the 1990s continues to evolve, with increasing emphasis on program devolution and self-government initiatives.

  - Funding arrangements in the area of health have also evolved. Health Canada is progressing with the transfer of control of health services to Indians and Inuit.

  - To date, over 100 agreements have been signed.

o As this devolution has progressed, we have reported to Parliament the difficulty that government departments have experienced in fulfilling their accountability obligations.
  - Our concern with accountability stems from our role as auditors providing assurance to Parliament that responsibilities conferred and moneys provided have been used properly and wisely.
  - In its accountability to Parliament, government is expected to report on activities undertaken and results achieved.
  - Similarly, accountability relationships within government support the ministers' obligation to report to Parliament.
  - These relationships often become more complicated where third parties are used to carry out activities for which government remains responsible.
    - For example, First Nations are carrying out an increasing range of activities for which legislated authority and related responsibility remain with government.

- As funding arrangements have changed, so too have accountability relationships.
  - When federal departments were engaged in direct program delivery, they were accountable for the results achieved and the moneys spent.
  - This accountability was to Parliament, through the respective minister.
  - As moves were made to devolve responsibility to First Nations, efforts were also made to promote local accountability.
- Considerable effort has been made by government to improve the funding agreements and reporting structures to better reflect this evolving relationship with First Nations.
  - Yet difficulties remain.
  - This study represents a different approach on the part of the Office to addressing these long-standing issues.
    - We conducted several audits that reported on government's role in this relationship.
    - Subsequently, we attempted to describe the views of selected First Nations on their relationship with government.
    - This work in turn has produced a discussion of factors that these First Nations believe are important in establishing and maintaining effective accountability.

Context
- We encountered a range of emotions, which can affect how people view their current relationship with the federal government.
  - In describing that relationship, some felt that it was also important to relate how that relationship had evolved.
  - The picture painted of the past was not a pleasant one.
  - People wanted us to know that they believe that today's relationships were not always built upon a history of trust, fairness, equality or justice.
- Throughout all of our interviews, it was clear that people felt strongly that current funding levels were insufficient.
  - Many people believed that the Crown was not fulfilling its obligations, including treaty obligations to First Nations.
  - However, this was not the main area of discussion.
  - Having made these points, people tended to move on and discuss today's relationships in a manner that was candid, pragmatic, constructive and focussed on the day-to-day responsibilities that they had as leaders in First Nations communities.
- First Nations must deal with different aspects of accountability.
  - There is a broad legal framework that governs their dealings with the federal government.
  - There is also the day-to-day practice, in which government departments and individual First Nations seek to meet their objectives while meeting their respective obligations.
  - For First Nations, these include obligations to meet requirements determined by government and also by their communities.
- This broader framework includes existing legislation and continues to evolve through discussions on self-government and land claims settlements in addition to discussion among the parties on the interpretation of existing treaties.
  - Much of this interaction takes place at a political level, and few issues are resolved quickly.
  - In this somewhat uncertain environment, managers in each party have had to develop workable practices that help them meet their respective obligations.
  - Most of the discussion related to this study focussed on these management practices, and on areas that participants felt could be improved more quickly.
  - There was some general commentary, however, on the current framework and political environment.
  - The following summary of participants' views on this broad framework provides a useful backdrop against which discussion on specific management practices can be better understood.

The Broad Framework
- Participants stated that they believe the federal government has a set of obligations that flows from this broad legal framework.
  - In their view, the federal government has a fiduciary responsibility toward First Nations that obligates the government, often through treaties, to provide many of the existing programs.
    - It was recognized that these views are not always shared by government, which often views programs as having developed as a result of policy rather than from various existing obligations.
  - Participants in the study felt that the federal government's obligations to First Nations should not have been assumed by the provinces without proper consultation and consent.
    - Concern was expressed that in cases where the federal government had entered into such arrangements, these arrangements were not sufficiently transparent.
    - In some cases, First Nations were not sure exactly what had been agreed to, and felt very strongly about this.
    - Although some accepted that they had to deal with the provinces on matters relating to the delivery of programs and services, there was reluctance to deal with provinces on a political level.
  - Some felt that Indian and Northern Affairs often had conflicting responsibilities - for protecting not only the interests of First Nations, but also the interests of the government of the day.
  - There was sensitivity to any form of accountability suggesting that First Nations are in any way subservient to government departments.
    - Some thought that federal government transfers to First Nations represent a right, for which they are accountable to the community, but for which no accountability to the federal government is required.
    - However, most participants recognized that Parliament has a role and requires information to fulfill that role.
  - There was a hope expressed by some that a relationship with Parliament would be maintained that would not require First Nations to report to government departments.
    - There was also recognition that, with over 600 diverse First Nations, this would present practical difficulties.
    - The form this relationship would ultimately take, or what the accountability implications would be, was not clear.
  - Some participants believe that funding arrangements in the future may look more and more like transfer payments and that these may be similar to those arrangements that provinces have with the federal government.
    - However, provinces have Provincial Auditors General and it was not clear from our discussions who will audit these arrangements with First Nations and provide the interested parties (including Parliament) with the assurance they require.
  - It was also not clear how Parliament would know whether the quality of health, education or living conditions is improving in First Nations, especially if only attest audits of financial statements are required.
    - However, participants appeared willing to explore ways in which arrangements could be adapted to ensure that the needs of Parliament were met.
  - One topic that emerged in virtually all of our discussions was that of devolution.
    - Devolution is currently a subject of political discussions between First Nations and the federal government.
    - Participants believed that the degree of devolution and the pace with which it occurs will influence the form of and expectations for accountability.

Internal Accountability
- An aspect of accountability that was discussed during the interviews was the relationship between a First Nation's Council and administration, and its membership.

- Although this was discussed briefly, the following summary indicates that these First Nations take this aspect seriously.
- They talked about the importance of accountability, not only to those who provide funding but also to those who are intended to benefit.
- Most First Nations talked about the importance of good communication between the Council and membership.
  - Council meetings were often described as open to membership, with individuals welcome to express opinions.
  - One First Nation mentioned that at least 4 and as many as 14 meetings are held annually.
  - The value of such meetings is illustrated by the following statement made by one manager:
    - Communication is important. Any changes to policy or procedures that the Council wants to make are put before the band membership.
- Some special Council meetings are also set up to discuss specific topics such as the approval of the budget and the financial audit.
  - Annual audit reports are often made available to members at an annual meeting.
  - One manager pointed out that a letter explaining the financial statements in non-accounting terms is sent to each member of the community.
- In addition, some First Nations set up committees and consult the community at various stages of projects.
  - One individual commented: Economic development projects have boards of directors and management committees that include members of the community. This is to ensure that projects are carried out wisely and that community consensus is maintained.
- A number of participants mentioned that getting community buy-in to the various programs and decisions was important.
  - First Nations have to attain and maintain trust between those who deliver programs and those who are recipients.
  - Individuals interviewed felt that once administrators could establish that they were credible and sincere, membership would make the effort to work with them.
  - That is also seen as enhancing accountability between membership and the Council.
- Overall, when internal accountability was discussed, it was mostly in terms of communication and interaction between Council and administration, and members of the community.

Practices That Result from the Interaction of First Nations Organizations and Government
  o Participants recognized the importance of effective accountability and articulated a clear sense of essential accountability factors.
  o For example, participants felt that it is essential that both First Nations and government have clear and commonly held objectives, that audit meet the needs of their communities as well as of government, and that the focus be on results as opposed to process.
  o In an area as complex and contentious as this, it is encouraging to see that these First Nations hold views that appear, to some degree, to be consistent with such definitions.
- Many of the factors identified fit comfortably in definitions or models of accountability. These factors are summarized below.
  Clear objectives
    - Discussions focussed on the interaction between the First Nations organizations and federal government departments and agencies.
    - Participants said that neither party has a good understanding of the other's objectives.
      - They felt that programs designed by government don't necessarily reflect the needs of the community.
    - People saw this as a two-way issue.

- They felt that First Nations do not understand the objectives that government departments and agencies are working toward.
- At the same time, they thought that the objectives of individual First Nations were not well understood by government departments.
- It was the view of the participants that it is essential that both First Nations and government have, in a broad sense, clear and commonly held objectives.
  - Most felt that each party's objectives not only were not well understood but were, in some cases, quite different.
    - This was particularly the case with regard to devolution. The First Nations' objective was described as putting more control of programs and resources into the hands of First Nations.
    - However, there was a strong feeling that the government's objective in devolution was simply to reduce expenditures and that, in effect, First Nations were "being set up to fail".
    - This was often described as "dump and run". One individual stated: The government has associated downsizing with devolution.
    - This sentiment was also felt by another, who said: Downsizing, not delegation, has driven the government's actions.
  - Virtually all people felt it was necessary to have communities involved in identifying needs and to have programs designed accordingly.
    - They thought that programs would be more relevant if this were the case.
    - It was also felt that planning should start with the First Nations, who would identify and prioritize their needs.
    - This would then feed into the government's planning process.
    - One person stressed: Planning should start with the First Nations and be based on First Nations' needs and priorities.
    - The plans should then go to the government for negotiation and be included in the government's planning process.
    - They felt that this approach would strengthen the link between the needs of the community and the design of the programs being delivered.
  - In one case, a First Nation program manager outlined to us the following characteristics of a well-organized program, stating that such a program would:
    - be run by Native people;
    - be geared toward the needs of the community (this is key), with an effort made to determine community needs;
    - involve networking and co-operation - a sense of working together rather than the babysitting approach; and
    - have the funding known up front, so managers would not have to wait to find out the level of funding available.
  - It was stressed that the community should be able not only to identify its needs but also to set its own priorities.
  - Participants thought that it was important for objectives to be agreed upon by both parties at a broad level.
    - They also saw a need, once objectives were established, for flexibility on how they were to be achieved.

Audits
  - Participants recognized the necessity of audit, but stressed that they saw room for improvement.
    - Independent auditors, usually appointed by First Nations organizations, prepare audit reports to meet the requirements of government.

- However, participants felt that current reports provide information of limited value to the community.
  - o Some were already taking steps on their own to try to provide more meaningful information to the community, including one manager who expressed:
    - The audit should be more than just a collection of statistics. For example, the audit should look at whether funds have been spent most advantageously.
  - o Some saw the potential value of audit to the community - that there were benefits for the community in knowing more about how and where funds were being spent.
    - One manager observed: The Band Council wants to report to the members of the community. We see the annual audit and opinion as a step in the right direction. We are looking at reviewing the First Nation's operations from a value-for-money perspective.
  - ° In this case, we were told that the community was about to begin doing value-for-money audits in an effort to meet the demand to know not only where funds were spent but what it was getting in return.
    - In this sense, audit was seen as a valuable accountability tool within the community.

Reporting
- Participants generally felt that each party to this relationship requires the information necessary to carry out its respective role.
  - However, they believed that the current reporting regime was of limited value to First Nations, and that the requirements to provide information to the government were onerous.
- ° While accepting that the government wanted certain types of information, they did not understand why some information was necessary, or what was done with that information.
- ° People generally felt that these reports and audits served the needs of the federal government more than they served the needs of First Nations and their membership.
  - One manager asserted: I believe that no one understands the First Nations' financial statements. The First Nation had to send a letter to each member of the community to explain the financial statements in non-accounting terms.
- ° There appear to be two reasons for the participants' dissatisfaction with the current approach.
  - In part, there is a sense that the reporting requirements are imposed upon them.
  - In addition, the accountability regime does not appear to provide information that enhances accountability between First Nations and their membership.

Transparency
- o There was recognition of the need for transparency in First Nations' dealings with government.
  - However, as with other factors, they saw this as a two-way issue; they felt that both parties could benefit from improved transparency.
  - One participant stated: Government departments should be accountable to First Nations in terms of funding formulas and policies that dictate what they do and do not do. At present, this is not transparent, which makes it difficult for us to explain to our membership why some things cannot be done.
- o From their perspective, participants thought that decisions made by government departments should, where they affect First Nations, be more transparent.

Focus on results rather than process
- Most of the participants saw First Nations as accountable both to their membership and to the government.
  - However, they saw themselves as accountable to the membership for results, while accountable to government for process.
  - Although they recognized the need for government to put in place some systems and procedures to support program delivery, they stressed the need for less cumbersome processes and more emphasis on results.
  - One person interviewed stressed: We would like accountability, and it should be focussed on results.

- Another stated: All parties should agree on the results to be achieved. In accounting for results, both parties would measure whether objectives had been achieved.
- Yet another person asserted: We want to focus on results rather than rules. We want to improve results, rather than argue about changing the rules.
  - There was a feeling that accountability would be improved if there were an increased focus on results, in addition to a simplification of the processes required.
    - These views were expressed about a number of programs, such as education and economic development.

Aligning responsibility and capacity
- In order to be accountable for an activity, the party in question must have the capacity to conduct the activity.
  - People felt that in order to effectively adjust the relationship through the devolution process, both parties need to ensure that the capacity is in place to meet these changing responsibilities.
- Participants said that the authority to administer programs began to be devolved several years ago, and that they had begun to acquire the necessary skills.
  - However, some felt that the devolution process had left them with fewer resources than the government had used to administer these same programs.
  - They felt that they had to deliver the same service with fewer financial, human and physical resources.
    - In addition, they felt that the transfer of responsibilities needed to be accompanied by training.
    - Some mentioned that First Nations staff often had to learn on the job, without the benefit of training or guidance.
    - The concern was raised that there is a need to maintain a balance between responsibility and resources available.
  - People saw a strong administrative capacity as a building block toward exercising greater responsibilities.
    - They appeared to take this issue very seriously and many were continuing to try to improve their administrative capabilities.
    - In many cases, they had encouraged employees to attain professional qualifications.
    - Administrators and managers had obtained, or were in the process of obtaining, university degrees or professional accounting designations.
    - Where these skills were not available within the community, they had been obtained through external hiring.

Toward a Common Understanding
- Taken together, these factors fit within most definitions of accountability.
  - Yet the overall view of the participants is that, in practice, these factors are not working well for them.
  - They feel that they don't sufficiently help First Nations meet their own accountability obligations.
  - One reason for this may be found, in part, through closer consideration of the views on these factors as they were described by the participants.
    - In describing each of the factors, participants have strongly emphasized a two-way perspective as an essential ingredient.
    - They see transparency, for example, as working both ways: government should be transparent to First Nations just as First Nations activities should be transparent to government.
    - In the case of audit, they feel that audit reports need to be of value to First Nations and their membership as well as to government.
  - This emphasis was quite strong throughout all the discussions on all of the factors.

- It is not enough, they felt, for First Nations' objectives to be clear and understood by government; but government's objectives with regard to programming directed at First Nations should also be clear and understood.
- o In fact, the discussion on objectives seems to suggest something more than just sharing information:
  - it suggests that there should be a common purpose shared by First Nations and government.
  - This, in itself, sheds some light on how First Nations view not only elements of their relationship with government but the very relationship itself.
- o Much of what we heard spoke of accountability among partners or equals.
  - There was considerable discussion about sharing information and, indeed, sharing objectives.
  - There was a strong preference for an accountability framework that would be of equal value and benefit to each party.
- o However, accountability in government is usually viewed as a hierarchical concept.
  - The existing framework, based on legislation, often suggests a superior and a subordinate, a delegator and a delegate.
- o It is evident that there is a significant difference between this concept and the one that participants felt would better suit their needs.
  - The existing framework evolved in order to enhance accountability to Parliament as government grew in size and complexity.
  - It was born from the practical needs of ministers to retain responsibility for a very large set of activities and therefore was based on delegation.
- o Participants told us that government did not invent accountability, and that it was practised by First Nations in their own way, prior to contact.
  - Their concept of accountability originated, they said, from a need to build consensus, through broad participation and consultation.
  - In many cases, participants told us that they continue to try to manage programs in this way.

Conclusion
- o Where differing perceptions and expectations exist, developing arrangements that satisfy all parties is not easy.
  - This is particularly the case for First Nations where the broad framework that governs their dealings with government is being redefined through negotiations.
- o However, is this participatory or shared accountability of which the participants speak irreconcilable with what they find within government?
  - Participants don't believe that it is.
  - The discussion identifies a number of areas where participants' views suggested that there is a sense of importance that is common to both parties, and common language and concepts are beginning to emerge.
  - This can be seen as an important first step, and a basis from which progress can be made.
- o As the creation of duplicate processes tends to be burdensome and expensive, participants think that there is room for incremental progress between individual First Nations and government through ensuring that existing processes and practices meet the needs of both parties.
  - For example, as agreements come up for renewal, participants think that those elements that work only for government could be adjusted such that they also support First Nations' obligations to their membership.
  - Further, reporting requirements could be modified to meet the needs of each party.
  - Program objectives could also be redesigned in order to ensure that they meet the needs and obligations of each party.
- o Opportunities for both parties to reach common solutions may increase, helped in part by changes currently taking place and affecting both parties.
  - First Nations believe that they are continuing to strengthen their management and administrative capacity.
  - Government continues to encourage public servants to improve services through innovative and creative changes to programming.

- In addition, government is now considering alternative partnership options for the delivery of various programs and examining different types of accountability structures such as horizontal or shared accountability structures.
  o Participants feel the current situation is unsatisfactory, yet many are optimistic, and feel that progress could be made.
    - They recognize that both they and government officials work under difficult and uncertain circumstances.
    - Some of the participants have already begun to take initiatives to improve their understanding of how government works, and what constraints officials currently face.
  o This study does not contain specific recommendations; instead it discusses the issues from the perspective of selected First Nations.
    - The views presented suggest that, while differences remain, there is also room for encouragement.
    - These First Nations were willing to discuss accountability and have expressed a desire to help make it work for all parties.
    - This study represents one step toward encouraging improved dialogue with government and First Nations as they develop practical approaches to strengthening accountability relationships.
- Departmental comments: Indian and Northern Affairs Canada finds the Auditor General's observations and the First Nations' views expressed in the study both encouraging and helpful. The Department looks forward to pursuing the dialogue with First Nations on practical approaches to be considered to strengthen our respective accountability regimes to our mutual benefit. The information presented in the study will assist the Department in pursuing discussions with First Nations.

5.24. Prospects for Accountability in Canadian Aboriginal Justice Systems – 1995 [98]

- This is an essay on the prospects for accountability in Canada's evolving Aboriginal justice systems wherein the author draws primarily upon his own research among the Cree in Quebec.
- He contends that most Aboriginal justice initiatives have represented attempts to graft local institutional creations to mainstream justice procedures.
- In his view if alternatives are to be developed that are deemed by Aboriginal peoples as appropriately reflecting traditional culture for their particular communities, then there has to be more thought directed to:
  o questions of accountability,
  o such as what standards to employ in assessing conduct, and
  o what mechanisms should be available for ensuring compliance.
- The author identifies the two major challenges here as
  o (a) community heterogeneity and diversity (traditionally, interdependent roles provided solidarity in a situation where no common law or set of regulations and constraints bound everyone equally), and
  o (b) that band societies typically do not recognize any enduring authority at the level of the band (self-determination implying authoritative structures seems incongruent with band organization and appears to require conceptualizing bands as quasi-tribes).
- Modern bands are administrative, governmental creations that bear little relationship to traditional bands but in the author's view the above challenges remain significant.
- Moreover he contends that there are radically different views in Aboriginal communities on what passes for 'our traditions' and often the populace feels that locals who would establish priorities and implement policies on their behalf are no less alien than the state agencies were.

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[98] McDonnell, Roger. "Prospects for Accountability in Canadian Aboriginal Justice Systems", in P. Stenning (ed.). <u>Accountability for Criminal Justice: Selected Essays</u>. Toronto: University of Toronto Press, 1995 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998
http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm

– Aboriginal societies, in the author's view, are largely composed of people who simultaneously place value on both a mainstream 'civic tradition' (e.g. individuality, equality, impartiality) and on traditions (e.g. treating people differently by reference to age, gender, and kinship) contradictory to it.

– McDonnell allows that there may be much in the ethic of impartiality that is meaningless in contemporary Aboriginal societies, and much in the idea of the ageless, genderless, status-less abstraction of the individual that could be found objectionable.

    o Still these pillar principles of the civic tradition are nowadays thoroughly enmeshed with Aboriginal traditions and it is often difficult to tell where one tradition leaves off and another begins.

    o He sees an internal dialogue as required, and as emerging, in many Aboriginal communities, involving people from the many diverse sectors (youth, women, administrators, native spiritualists etc.) and notes that these 'community conversations' can lead to Aboriginal communities developing their own cultural possibilities within present organizational arrangements.

5.25. Evaluating the quality of justice -1995[99]

Long Term Measures of Justness

- Part of the justification for this alternative approach may be an implicit hypothesis that, in the *long-term*, just systems lead to lower rates of violence.

- More important, however, is the hypothesis that a just system of responding to individual disruptions results in greater long-term community harmony and cooperation.

    o In other words, the goal or pay-off will not be found in lower crime rates or recidivism but in a more self-respecting, self-confident, and productive society made up of individuals who feel valued and rejected.

- This is clearly not the kind of result that can be tested (if at all) within a few years after the implementation of an alternative legal system.

- At best, the long-term goals may be evident a generation or two hence.

Short Term Measures of Justness

- What measures might be devised, in the shorter-term that address justness rather than deterrence?

- Individual communities' values and expectations can only be captured by subjective measure that test the perceived just-ness of institutions in the minds of all participants, *than the alternatives.* Hence:

    o **Victims** should feel that their pain and anger are acknowledged, and more effectively addressed.

    o **Accused persons** must feel that they are treated fairly and with respect, and must be more willing to comply with decisions.

        ▪ If the direct participants feel well-served, it is reasonable for us to predict that decisions will last, beyond the time-horizon of our research measurements.

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[99] Russel Lawrence Barsh, Associate Professor, Native American Studies, University of Lethbridge. Professor Barsh is U.N. representative for the Mikmaq Grand Council of Nova Scotia in association with the Four Directions Council, a non-governmental organization in consultative status with the Economic and Social Council of the United Nations. Evaluating the quality of justice, http://www.usask.ca/nativelaw/jah.htmlJustice as Healing Spring 1995 http://www.usask.ca/nativelaw/jah_barsh3.html

o **People in the community** as a whole should feel that, as victims, or accused persons, they would be treated more fairly and more respectfully - a broad *expectation* of just treatment among those who are presently only potential participants.

- We should also expect to find a positive evaluation of the legal order by community members who are, for the present, merely observers rather than participants.

- If this community at large senses that there is greater justice, this observation is *consistent* with greater long-term community harmony and cooperation.

o **Decision-makers** must feel that they are able to understand the needs of the parties, and respond more appropriately than would be possible in mainstream adjudication.

Justice and Community Measures

The most important step in evaluating alternative justice models, then, is working with communities to clarify their objectives.

- If the community equates "justice" with improved deterrence, notwithstanding what has been said here, then its program must be evaluated using more conventional, "objective" measures such as offence rates.

- However, if community members agree that their ultimate objective is just-ness and the hypothesized long-term social advantages of just-ness, its program must be evaluated through subjective measures.

6. Relevant Documents, Studies and Practices – USA

6.1. Method of Rationales: Linking Project Activities to Program Goals[100]

A. Establishing Project Logic

Project logic is a clarification of what the project is designed to do. This clarification is essential to identifying and quantifying the objectives of the project. Often there are multiple objectives and varying expectations about priorities among the stakeholders at the beginning of a new initiative. This can lead to confusion and acrimony, and ultimately derail a promising project. At the same time, even if there is general agreement as to the goals, there may be no mechanism in place to assess whether or not those goals were achieved. The process of establishing the project logic can eliminate some of these problems and insure a plan to measure success is in place.

B. The Method of Rationales

The method of rationales (hereafter referred to as MOR) divides the project into three components:

Resources - Activities - Outcomes

1. Resources. Resources are the people, equipment, structures and other tangibles needed by the project to bring about the intended effects. They may be thought of as "nouns", and are such things as staff, equipment and clients.
2. Activities. Activities are the operations of the project, i.e., how the resources are used. They may be thought of as "verbs", and are such things as counseling, patrolling or referring clients.
3. Outcomes. Outcomes are the consequences of the activities of the project. They are positive accomplishments such as "50 youth were diverted from incarceration" or "increased and efficiency of the criminal justice system."

The MOR is as essential tool in each type of evaluation as it describes the project in three components which are logically linked. Exhibit I provides a sample MOR for an offender employment project.

In addition to the resources, activities, and outcomes identified as planned by the project, there are also implied or existing resources, activities, and outcomes which must be identified (these are not indicated on the sample). Exhibit 2 is the form which will be used for the MOR. It will be completed by the evaluator after discussions with appropriate project staff, and other interested parties.

C. Key Events

In light of limited resources, it is unrealistic to examine each and every component of a project. Therefore, certain elements, hereinafter referred to as key events, must be identified. Key events may be defined as variables in the project which are considered central to the project's development and success. For example, a project may be designed to provide job counseling to offenders which will result in (1) improving their self-image, (2) their obtaining jobs, and (3) providing restitution to victims. Decision makers should consider and agree on which variables are more important. This agreement is necessary for the following reasons:

1. It clarifies the project's emphasis.
2. It links elements that represent project objectives with decision maker's needs.
3. It narrows the focus of evaluation and identifies variables critical to project success.
4. It limits unrealistic demands for information and data collection time.

A suggested procedure for determining key events is as follows:

1. Identify events related to project objectives.
2. Identify events related to decision maker's needs.
3. Identify events important to project success.
4. Establish important linkages between above noted events.
5. Based on negotiations among decision makers, select certain events as key.
6. Based on discussion among decision makers, agree on measures which will be used to determine accomplishment of key events.

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[100] (adapted by Tom Quinn in October 1997 from a course on Criminal Justice Planning and Evaluation sponsored by the U.S. Department of Justice 20 years ago at the University of Wisconsin at Milwaukee)

EXHIBIT 1
OFFENDER EMPLOYMENT PROJECT

RESOURCES	ACTIVITIES	OUTCOMES
Staff: Director 5 Job Counselors 3 Screeners 2 Secretaries Clients: Unemployed Offenders Space: 3 Offices Equipment: 12 Desks Office Supplies Telephone Referral Sources Potential Employers Victims Victims Advocates	Counseling Career Counseling Psychological Testing Job Development Recruiting Clients Screening Clients Placing Clients Ged Classes Vocational Training Tutoring Typing Filing Public Speaking Assessment Of Restitution Restitution Plan Collection/Disbursement Of Restitution	Reduce Recidivism Save Tax Dollars Safer Community Complete High School Education Jobs For Offenders Increased Vocational Skills Of Offenders Better Self-Image For Clients Victim Satisfaction Victim Provided Restitution

6.2. Guide for Implementing the Balanced and Restorative Justice Model[101]

Balanced and Restorative Justice Practice: Accountability [102]

The BARJ Model defines accountability as taking responsibility for your behavior and taking action to repair the harm. Accountability in the BARJ Model takes different forms than in the traditional juvenile justice system. Accountability in most juvenile justice systems is interpreted as punishment or adherence to a set of rules laid down by the system. However, neither being punished nor following a set of rules involves taking full responsibility for behavior or making repairs for the harm caused. Punishment and adherence to rules do not facilitate moral development at a level that is achieved by taking full responsibility for behavior.

Taking full responsibility for behavior requires:

▪ Understanding how that behavior affected other human beings (not just the courts or officials).

▪ Acknowledging that the behavior resulted from a choice that could have been made differently.

▪ Acknowledging to all affected that the behavior was harmful to others.

- Taking action to repair the harm where possible.

- Making changes necessary to avoid such behavior in the future.

In the BARJ Model, accountability goals are often met through the process itself as much as through actions decided by the process. To be accountable for behavior is to answer to individuals who are affected by the behavior. Face-to-face meetings with community members or victims in which an offender takes responsibility and hears about the impact on others constitute significant forms of accountability.

To fully acknowledge responsibility for harm to others is a painful experience. It is, however, a process that opens up the opportunity for personal growth that may reduce the likelihood of repeating the harmful behavior. It is difficult to accept full responsibility for harming others without a support system in place and a sense that there will be an opportunity to gain acceptance in the community. Therefore, accountability and support must go hand in hand.

> **Support without accountability leads to moral weakness.**
> **Accountability without support is a form of cruelty.**
>
> **-- Stan Basler**
> **Oklahoma Conference of Churches**

Characteristics of Restorative Accountability Strategies

Strategies that lead to restorative accountability goals:

- Focus on repair of harm to the victim.

- Provide a process for making amends to the community.

- Provide a process for greater understanding of how the incident affected others.

- Offer a meaningful way for the juvenile to take responsibility for the actions.

- Encourage apology or expressions of remorse.

- Involve the victim and the community in determining the accountability measures.

Restorative Accountability Practice Definitions

- **Victim-Offender Mediation and Dialogue.** Victim-offender mediation/dialogue is a process that provides interested victims of property crimes and minor assaults with the opportunity to meet the juvenile offender in a safe and structured setting. The goal of victim-offender mediation is to hold the juvenile offender directly accountable for his or her behavior while providing important assistance to the victim.

  With the help of a trained mediator (usually a community volunteer), the victim is able to tell the juvenile offender how the crime affected him or her, to receive answers to questions, and to be directly involved in developing a restitution plan.

  The juvenile offender is able to take direct responsibility for his or her behavior, to learn of the full impact of the behavior, and to develop a plan for making amends to those violated. Cases can be referred both pre- and postadjudication.

  A written restitution agreement or plan is usually generated during the mediation but is secondary to discussion of the full impact of the crime on those affected, often in the presence of the juvenile offender's parents.

These types of programs may be called "victim-offender meeting," "victim-offender conferencing," or "victim-offender reconciliation" programs.

- **Family Group Conferencing.** Based on traditions of the Maori of New Zealand, a family group conference is a meeting of the community of people who are most affected by a crime or harmful behavior. The conferences are coordinated by trained facilitators. The victim, the juvenile offender, and the victim's and offender's families and friends participate. All have the opportunity to speak about how the crime has affected their lives. Other affected community members may also be involved. The purpose of the meeting is to decide, as a group, how the harm will be repaired by the offender. The meeting may occur before or after sentencing or as an alternative to going through the traditional juvenile justice system.

- **Peacemaking Circles.** A peacemaking circle is a community-directed process, in partnership with the juvenile justice system, for developing consensus on an appropriate disposition that addresses the concerns of all interested parties. Peacemaking circles use traditional circle ritual and structure from Native-American culture. They create a respectful space in which all interested community members, victim, victim supporters, offender, offender supporters, judge, prosecutor, defense counsel, police, and court workers can speak from the heart in a shared search for understanding of the event and to identify the steps necessary to assist in healing all affected parties and prevent future occurrences.

  Circles typically involve a multistep procedure, including application by the offender to the circle process, a healing circle for the victim, a healing circle for the offender, a disposition circle to develop consensus on the elements of a disposition agreement, and followup circles to monitor progress of the offender. The disposition plan may incorporate commitments by the system, community, family members, and the offender.

- **Financial Restitution to Victims.** Restitution is technically the return of goods or money stolen or the repair of damaged property. Financial restitution is an attempt to repay or restore to the victim the value of what was lost. Victims must be directly involved in determining the amount of losses.

- **Personal Services to Victims.** Personal services to victims are services provided directly to victims, such as house repairs, lawnwork, and seasonal chores. Personal services can strongly reinforce personal accountability for juvenile offenders by making them responsible directly to victims. It is the victim's right to choose whether a juvenile offender will perform personal service.

- **Community Service.** Community service is productive work performed by juvenile offenders that benefits communities, such as equipment repairs in parks, winterizing homes for the elderly, and other upkeep, repair, and maintenance projects. Often, community service projects enhance conditions for the less fortunate in communities.

  Restorative community service provides an opportunity for the juvenile offender to make amends to the community in a way that is valued by the community. When the community work service experience allows youth to create new, positive relationships with members of the community, the fabric of the community is strengthened. The process also works to increase the juvenile offender's investment in the community. Successful community work service helps to change the juvenile offender's negative view of the community to a positive one.

  Community members and the offender recognize the offender's capacity to contribute to the general well-being of the community. Community work service must have personal meaning to both the community and the youth performing it. The best examples are projects that use youth as mentors, resources, leaders, and interactive community members. Whenever possible, crime victims should be asked about what specific type of community service the offender should perform (i.e., their choice of a particular charity, church, or agency that is important to them).

- **Written or Verbal Apology to Victims and Other Affected Persons.** An apology is a written or verbal communication to the crime victim and the community in which a juvenile offender accurately describes the behavior and accepts full responsibility for the actions.

- **Victim or Community Impact Panels.** These panels are forums that offer victims and other community members the opportunity to describe their experiences with crime to juvenile offenders. Participants talk with juvenile offenders about their feelings and how the crime has affected their lives. Panels may be conducted in the community or in residential facilities and may meet several times to help offenders better understand the full human impact of crime in communities.

- **Community or Neighborhood Impact Statements.** These statements drafted by community members provide an opportunity for citizens whose lives are affected by crime to inform the court, community reparative board, or offender how crimes affect the community's quality of life. Community impact statements have been used in crimes that are thought of as victimless, such as drug offenses.

- **Victim Empathy Groups or Classes.** The victim empathy class is an educational program designed to teach offenders about the human consequences of crime. Offenders are taught how crime affects the victim and the victim's family, friends, and community, and how it also affects them and their own families, friends, and communities. A key element of the classes is the direct involvement of victims and victim service providers. They tell their personal stories of being victimized or of helping victims to reconstruct their lives after a traumatic crime.

Promising Programs: Accountability

- **Institute for Conflict Management; Orange, CA.** The Institute for Conflict Management is sponsored by the St. Vincent de Paul Society, a church-related and community-based social service agency. Prior to bringing a victim and offender together, a mediator meets separately with each party to listen to each story, explain the process, and invite participation. During the mediation session, the victim and offender discuss the crime and its impact on their lives. They devise a plan for the offender to make amends.

  This program began in 1989 as a relatively small program. Today, it represents the largest victim-offender mediation program in North America. Recently, the program received a county grant for more than $300,000 to divert more than 1,000 juvenile offenders from an overcrowded court system.

  The program provides 30 to 40 hours of classroom training for community volunteers who serve as mediators. An evaluation by Neimeyer and Shichor (1996) found that 99 percent of its mediation sessions resulted in a successfully negotiated agreement and that 96.8 percent of these agreements were successfully completed or nearing completion.

- **Juvenile Reparation Program; Center for Community Justice; Elkhart, IN.** The Juvenile Reparation Program (JRP) targets older juveniles who may have previously failed in the juvenile justice system and risk continuing their negative behavior into adulthood.

  JRP staff assist the youth in developing a contract, which routinely includes accountability strategies such as restitution to the victim, volunteer service as symbolic restitution to the community, and specific self-improvement strategies. The contract may also include face-to-face mediation with the victim.

  To address community safety goals, the youth are restricted to their homes, except when attending approved activities such as school, employment, or counseling. Community volunteer telephone monitors ensure that the youth follow these rules and provide added encouragement.

- **Victim Offender Reconciliation Program (VORP) of Nashville; Nashville, TN.** The Council of Community Services, an alliance of private and public social service and advocacy agencies, established VORP of Nashville in 1989 with a broad base of support from individuals, religious organizations, and the justice

system to offer victim-offender mediation and alternatives to incarceration. The program has trained more than 100 volunteer mediators and offers conflict resolution classes twice per week at juvenile court that count toward community service hours for the juveniles who attend.

As a community-based program, VORP of Nashville is committed to assisting the juvenile court in implementing the BARJ Model. Mediators are available onsite at the courts and attend the general sessions court at least once per week. Police officers and judges can refer cases directly, and juvenile offenders under age 12 are automatically referred for mediation.

The program has two neighborhood community mediation sites, with plans to expand to other neighborhoods, thus allowing the community greater access to alternative methods of conflict resolution.

- **Victim-Offender Meetings; Victim Restoration Program; Dakota County Community Corrections; Dakota County, MN.** The Victim Restoration Program of Dakota County Community Corrections provides opportunities for crime victims to meet face to face with the juvenile offenders who violated them. They can talk about the offense and its full impact and develop a plan for restoring victim losses. Community volunteers are trained in victim-offender mediation skills, with an emphasis on the use of victim-sensitive communication and procedures. Volunteers complete 35 training hours and are expected to accept 8 to 10 cases per year.

- **Crime Repair Crew; Dakota County Community Corrections; Dakota County, MN.** As a form of community service to hold juvenile offenders accountable, Dakota County Community Corrections has established the Crime Repair Crew. The crew, under the direction of a trained coordinator, consists of juvenile nonviolent offenders. The crew is contacted by police, if a victim wishes, to immediately repair any damage and clean up at a property crime scene. The crew is available to respond at any time, on short notice. The crew offers juvenile offenders the opportunity to "give back" to the community while learning skills in construction and painting.

  Each job affords crew members the opportunity to learn how criminal activity impacts community residents. The program differs from existing work crew operations in that work is performed not only for government and nonprofit organizations but also for businesses and private citizens whose lives have been interrupted by criminal activity.

- **Restorative Justice Program; Youth Service Bureau; Forest Lake, MN.** As part of the Restorative Justice Program, juvenile offenders appear before a panel of community volunteers, read a letter of apology, list expenses related to their offense, and hear from community members about how the crime affected the community. Victims or victim representatives may attend the panels. The program allows juveniles to take responsibility for and reflect on their actions while being held accountable to the community. For example, juvenile offenders develop a contract that includes a community service project to be completed in conjunction with their parents and family members. They attend peer personal-goal groups, write research papers on offense-related topics, and attend educational programs with their parents regarding their offense. The program is usually reserved for first-time offenders of lesser property crimes, including shoplifting, vandalism, and age-related offenses. Participants are typically 11, 12, or 13 years old.

- **Navaho Peacemaker Court; Navaho Nation (Arizona, New Mexico, Utah).** In 1982, the Navaho Nation created a horizontal system of justice that promotes equality, balance, and preservation of relationships. In the Navaho tradition, disharmony exists when things are "not as they should be." The Navaho Peacemaker Court includes songs, prayers, history, and stories. A "peacemaker," generally a designated elder or other respected community member, guides the victim, offender, and support community to harmony by persuasion, not coercion. Peacemakers, who have strong values and morals that are based on Navaho teachings, act as guides to identify how harmony can be regained through community solidarity.

- **Nez Perce Peacemaker Project; Nez Perce Tribal Court; Idaho Legal Aid Services, Inc.; Lewiston, ID.** The Nez Perce Peacemaker Project offers tribal members a more traditional, culturally appropriate alternative

to court. The project trains law students and tribal members to comediate disputes. Cases are referred by the Nez Perce Tribal Court to the project, where they are screened and the involved parties are prepared for the eventual mediation session. Tribal mediations include victims, offenders, and other family and tribal members who are affected by the conflict. Agreements to restore victim losses are mutually determined by all parties.

▪ **Community Justice Corps; Department of Community Justice; Deschutes County, OR.** Numerous projects of the Deschutes County, OR, Department of Community Justice exemplify the idea of "community service as a resource." For example, the Community Justice Corps supervises adult and juvenile probationers and parolees who work on a variety of human service and public works projects. Through community service, adults and youth make amends to the community for their offenses while gaining valuable skills. In these projects, youth have worked with volunteer builders and carpenters to help construct a homeless shelter (after raising money for materials) and a domestic abuse crisis center. Offenders provide important long-term benefits to their community, learn about the needs of other citizens (including those victimized by violent abuse), develop skills, and have positive interactions with law-abiding adults. The corps also promotes community safety, because the offender's time during community service is occupied under adult supervision for significant portions of the day and evening.

▪ **Reparative Probation Program; Vermont Department of Corrections.** Intended for offenders convicted of misdemeanor or nonviolent felony crimes, the Reparative Probation Program directly involves community members meeting face to face with offenders to negotiate a "reparative agreement" that specifies how offenders will make reparation to their victims and other community members.

A judge, using an administrative probation order with the condition that the offender has no further involvement in criminal activity, sentences the offender to the Reparative Probation Program following adjudication of guilt with a suspended sentence. The offender's requirement to complete the program is also a special condition of probation.

Following sentencing, the probation department conducts a brief intake, including information about the crime, criminal history, and the extent of damages/injuries. The offender then appears before a five or six member community reparation board in the community where the crime was committed. During the meeting, the nature of the offense, its impact, and restitution are discussed.

The offender leaves the room while the board deliberates on the sanctions. The offender subsequently rejoins the meeting to discuss the proposed agreement. All parties agree and sign the agreement. The board may then meet with the offender from time to time to monitor progress.

If the agreement is satisfied, the board recommends the offender's discharge from probation. If the offender fails to satisfy the agreement within the required period, he or she may be returned to the court for further action or continued supervision.

▪ **Travis County Neighborhood Conference Committees; Austin, TX.** Neighborhood Conference Committees are community citizen panels that hear youth diversion cases and help families and youth resolve legal issues. Committee members are volunteers who live or work within a community (as defined by ZIP Code). Eligible cases include first-time offenders for residence and nonweapon misdemeanors. The committee holds separate interviews with the youth and his or her parents to gain a better understanding of the family's life and possible causes of the criminal act. The committee determines sanctions appropriate for each offense and each family situation. A contract is created that all participants sign to enable restoration of loss to the neighborhood, restitution to the victim, and reintegration and acceptance of the juvenile into the community after completion of the agreement. Participation in the process is voluntary.

▪ **Restorative Justice Program (Family Group Conferencing); Woodbury Police Department; Woodbury, MN.** The Woodbury Police Department Restorative Justice Program is a juvenile diversion program operated by the police department that intervenes prior to prosecution/court intervention. Juvenile crimes are

investigated by officers in a traditional way, that is, with cases prepared for prosecution and investigations and petition forms completed prior to restorative justice program consideration. (All cases considered for diversion in this program must be prosecutable.)

A trained police officer screens all juvenile cases to determine if they will be diverted. Screening criteria include:

- Seriousness of the offense.

- Past record of the youth.

- Attitude of the youth.

- Attitude of the youth's parents.

To participate in the program, offenders must admit their offenses. Each case is screened individually using the above four criteria as guides -- not as hard-and-fast rules.

Once the case is referred to the Restorative Justice Program, all necessary participants are contacted. The juvenile offender, the offender's parents, the victim, and the victim's family and friends are invited to participate in a community conference using the family group conferencing model. The process is explained to all participants via telephone and followup letter. Personal visits are made only when absolutely necessary. If all agree to the process, a conference is scheduled.

The conference is facilitated by trained officers. Facilitators direct conversations between participants and protect them from unfair treatment due to adult/juvenile power imbalances or revictimization. Facilitators never attempt to force a settlement in the conference or agreement process.

The conference concludes with a written agreement signed by the juvenile offender and victim to make restitution to the victim and/or community. Comments from supporters at the conference are encouraged. The agreement must be fulfilled in a timely manner and any breakdown in the process prior to completion results in a referral to court. Agreements are monitored by the police department to ensure that they are fulfilled.

Conferences are always voluntary for both the victim and offender. (The traditional court process is also an option.) Once a conference is completed and the agreement is satisfied, the case is closed.

- **Impact of Crime on Victims Program; State of California, Department of Youth Authority.** The goal of the Impact of Crime on Victims Program is to increase juvenile offenders' understanding of the personal harm caused by crime. Program objectives for youthful offenders are to:

    - Prevent further victimization.

    - Create offender awareness of the impact that crime has on the victim, the family, and the community.

    - Teach offenders how to make positive decisions.

The program involves 60 hours of classroom instruction using small-group discussion, lectures, victim and victim advocate speakers, video presentations, case studies, role-play, reading, written exercises, and homework.

The curriculum covers property crime, domestic violence, elder abuse, child maltreatment, sexual assault, robbery, assault, homicide, and gang violence.

- **Community Justice Project; Washington County, MN, Department of Court Services.** The Washington County Community Justice Project, which is part of the county's probation department, conducts victim-offender conferences at both diversion and postdisposition stages. Approximately 70 percent of the cases

referred during 1996 were mediated. Of cases referred, more than 70 percent were juvenile cases. Referrals originated primarily from probation officers, judges, prosecutors, and victim advocates. Fifty percent of referrals were felonies, and 50 percent were misdemeanors.

In addition to conducting victim-offender conferences, project mediators are available to conduct conferences in matters that have not been criminally charged, such as group conflicts in schools or neighborhoods.

The project also sponsors community forums on restorative justice and issues that concern specific neighborhoods. For example, mediators have facilitated dialogue within schools experiencing tension due to issues such as race and ethnicity. Project staff are involved in extensive outreach to the community and actively provide technical assistance in conflict management and conferencing to educators, law enforcement, and social service providers in surrounding jurisdictions. The program recently completed a new training manual.

Common Problems in Choosing Accountability Strategies

- **Confusing Community Safety Strategies and Accountability Strategies.** From a restorative justice perspective, punishment or restrictions on freedom are not forms of accountability because they do not involve an offender's accepting responsibility or taking direct action to repair harm. Restrictions on freedom may serve community safety goals, but they do not contribute to accepting responsibility, increasing understanding of the human harm, or making amends.

- **Deciding on Strategies To Repair Harm Without Offering Opportunity for Input From Victims.** Accountability should focus on repairing the harm of the incident. If victims wish to participate, they are in the best position to define the harm of the crime and suggest possible reparation. Absent victim input, strategies for reparation may be inappropriate.

- **Having Only the Justice System Determine Accountability Sanctions Without Stakeholder Involvement.** Answering to the community and to the victim puts a human face on the crime and is a more powerful form of accountability than just answering to the system. Without community and victim involvement, an opportunity for a more personal message to the offender is lost. Community involvement also increases the possibility for ultimate reintegration of the juvenile offender.

Recommended Participants for Implementation

- Support system of juvenile offender (e.g., family, extended family, neighbor, coach, and clergy).

- Victim and victim support system (e.g., family, extended family, neighbor, coworker, and faith community member).

- Victim advocacy groups (e.g., Mothers Against Drunk Driving, Parents of Murdered Children, and victim assistance programs, for assistance with impact panels or victim empathy classes, staff training, and planning and advisory groups).

- Community members (e.g., panel members, volunteer mediators, and planning and advisory groups).

- Nonprofit organizations in the community (e.g., community service sites).

- Employers (e.g., owners or managers of worksites where the offender can earn monies for restitution and learn job skills).

- Law enforcement personnel.

- School personnel.

Roles for Juvenile Justice Professionals

- Facilitate victim-offender mediation or family group conferences. This role requires skill training.

- Organize community volunteers to facilitate victim-offender mediation or family group conferences. Volunteers can be recruited through community fairs, faith communities, advertisements, and civic groups.

- Solicit input from victims to determine the nature of the harm and possible ways of making amends.

- Create employment opportunities for juvenile offenders to earn monies for restitution. Work with local businesses or the chamber of commerce for short-term job opportunities.

- Develop sites for community work service, particularly work that is highly valued by the community (e.g., work that eases the suffering of others is particularly revered).

- Develop victim empathy groups or classes with input and assistance from victim services or victim advocacy groups. Request curriculum that is available from the Office for Victims of Crime, U.S. Department of Justice.

- Help create victim impact panels.

- Organize volunteer community panels, boards, or committees that meet with the offender to discuss the incident and offender obligation to repair the harm to victims and community members.

- Facilitate the process of apologies to victims and communities.

- Invite local victim advocates to provide ongoing victim-awareness training for probation staff.

Expected Outcomes

- Repayment of material losses to victim.

- Visible contribution to the community.

- Victim sense of acknowledgment of the harm and some degree of repair.

- Community sense of juvenile offender's having made some degree of amends.

- Increased juvenile offender awareness of the behavior's impact on other people.

Benefits to Juvenile Justice Professionals

- Greater victim satisfaction with performance of juvenile justice professionals.

- Greater community satisfaction with the juvenile justice system.

- Increased fulfillment of requirements by the juvenile offender because he or she recognizes that the accountability strategies in the BARJ approach are fair and reasonable.

- Increased options for creative forms of accountability because of input from the victim, community, and offender.

- A broader group of people who feel responsibility for ensuring fulfillment of the accountability strategies as a result of their involvement in the support system of the offender or other involvement in the process.

- Opportunities to facilitate a process that promotes a greater sense of closure for the victim and personal growth of the offender.

Guiding Questions for Juvenile Justice Professionals

- How do we increase the offender's understanding of the effect of the incident on the victim, the victim's family, the offender's own family, and the neighborhood?

- How do we encourage offenders to take responsibility for their actions?

- How do we help the crime victim to feel that she or he did not deserve what happened?

- How do we increase opportunities for victims to define the harm (physical, emotional, financial) from the incident and create ways for the offender to repair the harm where possible, if the victim desires?

- How do we offer opportunities for the offender and encourage him or her to make repairs to the victim and the community?

- How do we involve the community in creating opportunities for the offender to take responsibility and repair the harm?

... Weaving the Strands of **Accountability**, Competency Development, and **Community** Safety. Balanced and Restorative **Justice** in Practice. Role Changes in Balanced and **...** ojjdp.ncjrs.org/pubs/implementing/contents.html

6.3. The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate - 1998[103]

Objectives of Restorative Justice Programs:

- o While minor variations are reflected in the objectives of restorative justice programs that have been initiated around the world, the significant areas of commonality seem to include:

  - o A shift in the locus of control over certain elements of criminal justice from the state to the community;

  - o Greater emphasis on victim/community rights and concerns;

  - o An emphasis on restitution, healing breaches of relationship and restoring the parties (both victims and offenders) to health within the community; and

  - o Reducing the risk of recidivism for offenders, thus decreasing crime rates.

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[103] Montgomery, Andrew N. Restorative, Justice Canadian Forum on Civil Justice, The Incorporation of Dispute Resolution into the Criminal Justice System: Playing Devil's Advocate*, 1998 http://www.law.ualberta.ca/centres/civilj/full-text/montgomery.htm

6.4. Utilization-Focused Evaluation -1997[104]

Program Chain of Events
(Theory of Action)   Matching Levels of Evidence

7. End results	▲	7. Measures of impact on overall problem, ultimate goals, side effects, social and economic consequences
6. Practice and behavior change	▲	6. Measures of adoption of new practices and behavior over time
5. Knowledge, attitude, and skill changes	▲	5. Measures of individual and group changes in knowledge, attitudes, and skills
4. Reactions	▲	4. What participants and clients say about the program; satisfaction; interest, strengths, weaknesses
3. Participation	●	3. The characteristics of program participants and clients; numbers, nature of involvement, background
2. Activities	■	2. Implementation data on what the program actually offers or does
1. Inputs	■	1. Resources expended; number and types of staff involved; time extended

Program Design Hierarchy   *Hierarchy of Evaluation Criteria*

Source: Adapted from Claude Bennett 1979. Taken from Michael Quinn Patton,
Utilization-Focused Evaluation: The New Century Text, Thousand Oaks,
California, 1997, p 235.

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[104] Claude Bennett, 1979. Taken from Michael Quinn Patton, Utilization-Focused Evaluation: The New Century Text, Thousand Oaks, California, 1997, p.235

Centre for Peacemaking and Conflict Studies - 1995

Restorative Justice System

Crime/Offense

Victim   Both   Offender

Supportive Response   Cooperative Response   Coercive/Supportive Response

Accountability

If Agreements Are Kept

GOALS
Injuries Healed
Individuals & Relationships Restored
Trust Grows
Long-Term Safety

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7. Relevant Documents, Studies and Practices – International

7.1. Rorting and Reporting: Aboriginal Organizations and the Question of Accountability - ? [105]

– The Australian term 'rort' characterises those who commit fraud or otherwise abuse public funds.
  o It is also used to label those perceived to be 'exploiting the system'.
– Aboriginal accountability in Australia is a complex political issue.
  o Aboriginal organisations are portrayed as bodies that are not financially accountable for the funds they receive from government.
  o Governments respond by imposing even more stringent financial accountability mechanisms.
  o Accusations of fraud and rorting appear in newsheadlines which furthers an already acrimonious debate.
  o Drawing on documentary material and research data, this article argues that calls for more stringent financial accountability are unlikely to lead to positive discussion.
  o What could prove more useful is the implementation of a `social accounting' perspective based on administrative policy t hat is relevant to Aboriginal circumstances.
  o Whether or not such paradigm shifts will occur, however, will depend upon political commitment of both mainstream and Aboriginal politicians to drive the process of change.
– …it is apparent that the world's economic, social, political and environmental systems are very closely interrelated.
  o Events do not occur in a vacuum but have a whole array of consequences for other individuals, organisations and systems.
  o Accounting is implicated in this.
  o The scorekeepers – accountants – measure, reify, encourage and reward behaviour that seeks profit, growth, economic efficiency, the maximisation of cash flow, etc…
  o However, when conventional economic organisational activity – as measured by accounting and conceived and reified through its practice and study – is producing a growing list of social, ethical, environmental and political problems, then not everything in the garden is rosy (Gray, Owen and Adams 1996:2).106

– Blackfella Rort...Huge Blackfella Funds Scandal Confirmed...Minister Vows to Axe Black Funds…Aboriginal Organisations Not Accountable…Aboriginal Industry Under Fire:
  o these sort of newspaper headlines greet Australian readers on a regular basis.
• The stories paint a picture of Aboriginal organisations wasting taxpayer's money, rife with corruption and lacking prudent management.
  o If only Aboriginal organsations were accountable, positive outcomes would be achieved.
  o Governments respond by imposing even more stringent financial accountability mechanisms, despite the fact that Aboriginal organisations appear, on the evidence, to be as accountable as mainstream bodies.107
– Aboriginal accountability in Australia is in fact a complex political problem.
  o Issues of service delivery, democracy, race and racism, poverty, geography, public policy generally and administrative policy in particular, to name but a few, constitute various elements of the accountability debate.

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[105] Michele J. Ivanitz, Rorting and Reporting:Aboriginal Organisations and the Question of Accountability School of Politics and Public PolicyCentre for Australian Public Sector Management Griffith University http://visar.csustan.edu/papers/Ivanitz173.pdf
[106] Gray, R. H., Owen, D. and Adams, C., (1996), Accounting and Accountability: Changes and Challenges in Corporate Social and Environmental Reporting, London, Prentice Hall.
[107] For instance, in 1996 the Special Auditor reviewed 1,122 organisations funded by the Aboriginal and Torres Strait Islander Commission. Ninety-five per cent of these organisations were cleared for funding. In those instances where non-compliance was an issue, it mainly took the form of minor technical breaches such as the late submission of financial and management reports (Ivanitz 2000b). In contrast, 'a survey of company fraud showed that roughly half the 490 large Australian companies surveyed had experienced significant fraud in the last two years' (Aboriginal and Torres Strait Islander Social Justice Commission 1997:42). Aboriginal and Torres Strait Islander Social Justice Commission, (1997), Aboriginal and Torres Strait Islander Social Justice Commissioner Fifth Report, Macmillan, Sydney.

- The purpose of this paper is not to falsify or over simplify this complexity, but to clarify the relationship between Aboriginal organisations and administrative policy as this relates to processes of accounting and audit in hopes of contributing to positive discussion.
- Why is this policy focus important in the debate?
− Aboriginal organisations are accountable both to community members and to government for funds that they receive.
  - This dual accountability is represented by two different systems.
    - The first is made up of non-financial mechanisms internal to Aboriginal communities that are embedded in kin relations, are associated with particular community organisations and individuals, and have specific sets of political-cultural obligations that have to be met.
    - The second system is composed of legal and financial mechanisms of accountability imposed by governments on Aboriginal organisations.
      - It is this second system that assumes dominance in mainstream governance.
    - These factors cause the Aboriginal case to present as a clash of accountabilities.
    - While not wishing to discount the existence or importance of such a clash, the evidence indicates that the problem is more to do with issues of administrative policy.
− This paper argues that calls for more stringent financial accountability are unlikely to lead to positive debate for two reasons.
  - First, governments appear reluctant to direct Auditors-General to issue non-financial audit instructions when, clearly, accounting and auditing standards provide for this to occur.
    - The focus on financial considerations to the exclusion of all others has significant impacts on audit results.
    - Second, governments have failed to co-ordinate Commonwealth and State reporting requirements in spite of the findings of the Joint Inquiry into the funding of Aboriginal councils recommending such co-ordination.
      - This results in a situation whereby Aboriginal councils are attempting to be accountable in the midst of conflicting reporting requirements.

− The first section of the paper outlines the conflicting presumptions underlying the two different forms of accountability using Queensland as the case study.
  - o It then addresses issues of co-ordination between the Commonwealth and State governments that impact the audit results of Aboriginal organisations.
  - o Social accounting is then offered as an alternative to the current emphasis on financial accountability, one that satisfies both financial and cultural accountability requirements.
  - o The conclusion of the article notes that whether or not such paradigm shifts will occur depends upon political commitment of both mainstream and Aboriginal politicians to drive the process of change.

What Does Accountability Mean in Aboriginal Affairs? Conflicting Presumptions

− Accountability is a term more often used in Aboriginal affairs than in any other area of government.
  - o On one level the call for "accountability" is simply asking that moneys spent on Aboriginal programs are used for the purposes for which they are intended. This is a demand that few could disagree with. But the way the issue plays in contemporary Australia is not so simple. Many people appear to believe that Aboriginal programs are alive with "waste, rorts and mismanagement", that misappropriation and fraud go hand in hand with incompetent bureaucracies…The result is a national debate about Aboriginal issues on two planes: one is a debate about the ethical constitution of the nation, the other is about money - in particular "taxpayers' money". One supports Aboriginal people; the other rebukes us for apparently squandering the amounts that have been so lavishly bestowed on us (Lowitja O'Donoghue, past Chairperson, Aboriginal and Torres Strait Islander Commission 1998).
- Aboriginal leaders and program managers do not dispute the need to comply with mainstream financial reporting requirements. What they do dispute is the notion that Aboriginal approaches to accountability based on responsibilities to the group either do not exist or are invalid. They argue that accountability extends beyond

reporting on financial management and that mainstream and Aboriginal approaches must be taken into consideration.

Mainstream Accountability

- Aboriginal organisations get most of their funding from government and the funding guidelines are stringent with respect to financial reporting and compliance. This is guided by accounting and auditing standards which 'contain the basic principles and essential procedures which should be complied with in the planning, conduct and reporting of an audit and audit related service' *(Auditing Standard AUS 106 'Explanatory Framework for Standards on Audit and Audit Related Services'* 1.02). The standards define financial accountability as the responsibility to provide information to enable users to make informed judgements about the performance, financial position, financing and investing, and compliance of the reporting entity *(Statement of Accounting Concepts* SAC2 'Objective of General Purpose Financial Reporting'). Compliance, the core feature of financial accountability, is defined as the adherence to those statutory requirements, regulations, rules, ordinances, directives or other externally-imposed requirements in respect of which non-compliance may have, or may have had, a financial effect on the reporting entity. Audits are conducted to determine financial compliance and they require structured, specific, quantitative approaches to evaluation in order to ensure corporate governance requirements are met. Audits are not, however, designed to provide certainty but to sample and test for compliance. Audits may also be conducted to evaluate performance, ie. reporting on the economy, efficiency and effectiveness of the operations of any public sector entity for which the Auditor-General is the auditor (s.80 *Financial Administration and Audit Ac*t).

- Australian financial management standards and legislation prescribe that Aboriginal organisations, being in receipt of public monies, must comply with financial accountability requirements. The standards also provide for the conduct of non-financial 'performance' audits. Thus, it might be assumed that a blend of financial and performance audit functions could provide a practical picture of Aboriginal accountability as these organisations function in a dual accountability system. The capacity is there, but it is not always exercised.

- Auditors conduct their work based on audit engagement letters that, among other things, outline the objectives and scope of the audit. Determining the scope of an audit is a critical part of the audit process as it directly affects the procedures that will be required during the conduct of the audit and the matters that will be reported. Audits are also conducted against particular criteria. In the case of Aboriginal organisations the audit scope and objectives are generally limited to the application of financial audit procedures, although accounting standards do allow for the consideration of non-financial information. This is in spite of audit evidence provisions whereby 'the auditor should obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base the audit report' *(Auditing Standard AUS 806*.26). In Queensland and the Northern Territory, audit limitations are owed to specific direction given to Auditors-General by Parliament.

- The role of the Queensland Auditor-General has been a point of debate since the late 1970s. Previous Governments have expressed the view that the Auditor-General must be seen to be above political debate and must not have an influence on policy development. In the late 1980s formal reviews into the role began, culminating in the *Report of the Strategic Review of the QAO* (the Sheridan report) in 1997. The Public Accounts Committee Review of the report recommended extending the performance audit mandate of the Auditor-General. The Queensland Parliament, however, rejected this recommendation stating that Performance auditing should be used as a management tool to improve efficiency in the public sector rather than an accountability measure. There are sufficient accountability measures currently in place to ensure appropriate scrutiny by Parliament and public confidence in public sector financial management….the Government does not believe that there is a need to extend the legislative mandate of the Auditor-General in order to improve accountability measures. Furthermore the Government is of the view that there are significant problems with the extension of the Auditor-General's role to conduct performance [audits]…The Government is particularly concerned that the introduction of performance auditing by the Auditor-General will inevitably draw the Queensland Audit Office into partisan political and policy debate (Queensland Audit Office 2000:17). In response, the Auditor-General noted that Queensland and the Northern Territory 'remain the only jurisdictions in Australia where the Auditor-General has not been granted a performance audit mandate to examine and report independently about the economy, efficiency and effectiveness of public sector entities' (2000:17). The Auditor-General may, however, raise issues of efficiency and performance as part of the financial

audit process. At the time of writing the Auditor-General continues to 'do the best job possible for the Parliament and the State within the existing mandate' (2000:18). In contrast, the audit scope of the Commonwealth Auditor-General is not limited. Audit limitations that are imposed are done so entirely at the discretion of the Auditor-General. Thus the audit instructions may be issued that provide for non-financial audits. This discretion is rarely exercise, however, and Aboriginal organisations are audited on the basis of financial compliance only. Why is this the case? One explanation may be that it has not been standard for Auditors-General to take non-financial considerations into account or that Auditors-General may not view performance audits are useful. Another explanation may be that 'the culture of alternative views of accountability, such as performance audit, has not caught up with the audit community' (pers.comm. member, CPA Australia, January 2001).

Thus it would appear that mathematical calculations continue to be presented as facts, perhaps to the exclusion of all other reflections (Arrington and Frances 1989; Hines 1987; Hooper and Pratt 1995). In this approach to compliance, financial records are, ideally, examined with dispassion and non-financial elements eliminated from consideration as weaknesses are reported and recommendations provided. Auditors, guided by the audit instructions received from government via the Auditor General, are cautioned against taking alternative views of the operation or management of systems into account unless specified otherwise.

Aboriginal Accountability
- The mainstream view of Aboriginal organisations appears to be one whereby they are in receipt of public monies and, thus, are accountable only to government for the funds they receive.
    o What occurs on the ground is, however, far broader than accounting to government.
        ▪ Aboriginal leaders and program managers are simultaneously accountable to both governments and to Aboriginal community members.
    o How is this any different from the accountability requirements a non-Aboriginal organisation, such as a local government, has to its constituents?
        ▪ The difference is found in specific dimensions of Aboriginal cultures.
        ▪ It is very difficult for program managers to treat the economic realm of mainstream financial accountability separately from the social/political/spiritual realms that make up Aboriginal community cultures.
        ▪ The economic and other realms are embedded in kin.7 relations, have attachments to particular geographic areas and to other traditionally-embedded groupings, and are associated with particular political bodies and factions which lobby stridently for access to scarce resources.
        ▪ These relations, attachments and associations are embedded within specific sets of rights, obligations, and fluid allegiances.
        ▪ Notions of *reciprocity* underpin many aspects of Aboriginal life.
        ▪ Expectations of generosity and sharing are the norm, particularly among those defined as kin. However, these expectations are based on a variety of complex assumptions about what constitutes Aboriginal kinship, the nature of generosity, and the constitutions of social and cultural identity (Schwab 1995; see also Christie 1985; Harris 1991).
        ▪ All of these factors bear heavily on the financial accountability of Aboriginal organisations.
        ▪ The case of Aboriginal councils in Queensland illustrates this point.

There are fourteen Aboriginal councils and seventeen Torres Strait Islander councils constituted under the Queensland *Community Services (Aborigines) Act 1984* and the *Community Services (Torres Strait) Act 1984* respectively. The shire councils of Mornington Island and Aurukun are constituted under the *Local Government (Aboriginal Lands) Act of 1978*. All are subject to the same acts, related regulations and council accounting standards as local governments and are responsible for the provision of local government-type services to their communities. In addition to having the same powers and responsibilities of local governments, Aboriginal councils are responsible for
additional community services such as local policing, housing and the community development employment program.

Aboriginal councils receive most of their funding from the Commonwealth and Queensland governments and are accountable to various agencies and departments at both Commonwealth and State levels. The Office of the Auditor-

General of Queensland audits each council and the reports are then submitted to and reviewed by the Queensland Public Accounts Committee (QPAC).

Aboriginal councils and mainstream local governments are similar in terms of the duties they carry out, some of the functions they perform, and the accountability requirements they are required to meet. This is where the similarity ends. Since the first QPAC inquiry into the financial management practices of Aboriginal councils in 1989, the Auditor-General has recognised that accountability norms and values underlying Aboriginal and Islander cultures have tremendous impacts on the ability of these councils to meet mainstream requirements.

Culture and Accountability
The QPAC argues that Aboriginal councils are 'inherently different from mainstream local governments'. Not only do they have more responsibilities than local governments but also are of an entirely different nature: 'Aboriginal councils…[are] 'people' councils, incorporating close family ties and a strong sense of community'
(QPAC 1996:5):
…Aboriginal and Island Councils are very different from mainstream Local Authorities, and…should not be 'mainstreamed'. Aboriginal and Island Councils take responsibility for almost every aspect of the functioning of their Communities, and it is essential to recognise that Councillors (and Council staff).8 view their role as quite different from that of normal local authority Councillors. For example, two Councillors stated: 'Councils are concerned with the whole welfare of the Community'; 'It is the people that count, and the Council should do things for the people' (QPAC 1990:3).

There are very few aspects of their communities in which councils are not involved (QPAC 1990, 1992, 1993, 1996). The case of funeral expenditure provides a particularly good illustration of how this involvement bears directly on audit results. Aboriginal politicians have very strict cultural protocols to follow in the conduct of funerals. These protocols involve an extensive network of ceremonial and kin obligations. These obligations, strongly rooted in tradition and custom, must be respected and carried out by particular leaders and/or individuals depending upon their position in the kinship system. They generally require both ritual material outlays such as ceremonial goods, grave goods and foods, and financial outlays, particularly if kin need to be brought in from other communities. Expenditures are incurred on individual, family and communal levels, again depending upon the position of the deceased, the positions of those carrying out the obligations, and the nature of the obligation. Neglecting these obligations risks sacrilege and community outrage. Council assets also become part of the expenditure process; councillors often drive council vehicles to transport those who do not own vehicles to the funeral and relevant ceremonies. In this case a council asset thus becomes a mode of public transport which is not its intended purpose.

Communal expenditures of this type are not included in mainstream budgets. From the point of view of the community residents, the council is there to serve their needs and community needs include burying the dead as much as paving the roads. Owing to cultural dynamics of reciprocity, sharing and obligation, the leadership finds itself in a position where the resource, whether financial or capital, is expected to be shared. Councils are then found to be in breach because community priorities have taken precedence over mainstream accounting and audit standards. But in the view of community members the council members have conducted themselves appropriately, the council itself has fulfilled its obligations, and council affairs have been properly managed. The Queensland Auditor-General has noted that funeral expenditures is an issue that requires immediate attention, for while the cultural significance of funerals to community members is appreciated by government, there are no guidelines in place for the use of public funds and community moneys towards meeting the costs of such community events…I believe it would be prudent for guidelines to be issued to assist with the determination of what might constitute appropriate levels of contribution of both community and public moneys towards funeral costs (Queensland Audit Office 2000:54-55).

It was recently determined by the relevant Minister and Director General that guidelines are indeed required and will be incorporated into the standards for Aboriginal councils. At the time of writing, however, detail on what these standards contain, what future guidelines will contain and timelines for consideration were not available.

The divergent views of accountability held by Aboriginal organisations and mainstream governments represent two very different theories on the nature of.9 governance. Communication between the two systems is not easy. Their codes are

far from transparent to each other, and the power imbalances between those demanding accountability - governments - and those complying - Aboriginal organisations – are enormous.

Nevertheless, the popular image of Aboriginal theft or corruption persists. People ask: 'after all, if Aboriginal councils were accountable, why would our politicians demand more accountability? Everyone knows that Aboriginal people can't manage money – it is not in their culture'. The result is a continuation of acrimonious public debate fuelled by misunderstanding.

Coordination and Accountability
It is not just a matter of a perceived clash of Aboriginal and mainstream accountabilities, however, but an actual clash within mainstream accountability itself. Coordination issues between the Commonwealth and State governments further complicate matters of financial accountability.

In a federal system, there are a number of policies impacting on Aboriginal accountability at both federal and state levels of government. As Davis *et a*l. note, '(w)here programs are based on a division of both political powers and financial resources there are going to be hiccups' (1993:68). Often the goals and objectives of the different policies conflict. Arguments ensue between levels of government, departments and within departments or branches within departments, each having its own particular view of Aboriginal accountability. Policy guidelines are often developed in isolation from the people they are intended to serve and often have little relevance to Aboriginal circumstances. Mainstream programs also take a number of different forms with respect to their objectives and service delivery mechanisms. All these conflicting lines of accountability affect transparency. This was made clear by the recent Joint Inquiry into the accountability of Aboriginal councils conducted by the Queensland Public Accounts Committee (QPAC) and the Commonwealth Joint Committee of Public Accounts (JCPA).

In March 1997 the House of Representatives authorised the JCPA and the QPAC to jointly review the financial reporting requirements for Aboriginal councils and Torres Strait Islander councils. The Committee's brief was to examine the nature of differences between Commonwealth and State financial accountability requirements and the scope for rationalising and/or harmonising them.

The Committees jointly agreed that the differences between the accountability requirements of the two levels of government had detrimental impacts on the ability of Aboriginal councils to meet mainstream reporting requirements and that changes needed to be implemented (QPAC 1996, 1997, 1998). Twenty recommendations were made that focused on five broad areas. First, financial management procedures could be improved at the agency level through means such as standardising application and acquittal processes for all grants at the Commonwealth level, at the State level, and between the Commonwealth and the State. Recommendations also included improving coordination between Commonwealth and State granting agencies and streamlining the delivery of grants from all agencies into one. Second, more effective usage of financial systems and improved annual reporting requirements were needed..10

Third, it was recognised that government needed to improve support to councils, including more extensive training and the implementation of internal audit functions.
Fourth, it was recommended that actions needed to be taken to improve the timeliness of reporting. Last, recommendations were made to provide incentives for compliance or penalties for failure to comply (JCPA and QPAC 1997a, 1997b). The Joint Inquiry found that the most serious issue was the need for clear coordination between the Commonwealth and State governments if Aboriginal councils were to meet mainstream accountability requirements. It was also noted that it was going to take time to implement changes and evaluate the results. At the time of writing, the recommendations of the Inquiry have yet to be implemented fully so that assessing outcomes is premature. The picture that is emerging, however, demonstrates that little has been achieved in terms of improving Commonwealth-State coordination. The system remains cumbersome.

Innovation and Accountability
To recap, Australian Aboriginal organisations are criticised by mainstream politicians who claim these organisations are not responsible for the funds they receive and, by implication, are responsible for the continuing disadvantage of community members.

Aboriginal program and financial managers for their parts are frustrated by attempts to implement the knowledge gained from mainstream training courses on bookkeeping and budgeting. When they take these skills back to their communities, the results seem relevant only to auditors. Commonwealth and State Governments demand financial accountability in the face of conflicting and cumbersome reporting requirements. In the meantime they face a host of kin-based obligations which have a direct impact on audit outcomes. 'After all, taking care of our dead the right way is as important as maintaining our roads. Don't you think?' (pers.comm. Aboriginal Council, Senior Administrator, September 2000).

Program managers face the following dilemma: do we meet these obligations and risk accusations of financial mismanagement back in Canberra, or do we construct a financial reality that satisfies the bureaucrats in the audit office but means we cannot honour our obligations to our families, to our communities? 'If you were me, which would come first?' (pers. comm. Program Manager, Aboriginal Council, September 2000). Indeed, given the pressures to meet conflicting obligations derived from the community and from the government, it is surprising that most Aboriginal organisations do, by and large, meet their financial accountability requirements.

Yet misperceptions abound and some of the problem is due to accountancy. As a practice, accountancy inevitably has social, economic and political consequences (Laughlin 1999). Perceptions about the use of money are the source of much conflict and misunderstanding between Aboriginal organisations and governments. Part of the reason that Aboriginal forms of accountability are overlooked is because it is difficult to accommodate social values within accounting paradigms that are based on financial transactions and economic prices. Thus non-financial considerations are not included and are easily ignored (Gray 1990). As we have seen, Queensland Auditors-General have commented for a decade that cultural considerations need to be given weight in audit considerations..11

So where do we go from here? Without broadening the audit scope of the Queensland Auditor-General, for example, and implementing the already broad audit scope of the Commonwealth Auditor-General, Aboriginal organisations will continue to face strict financial interpretations of accountability and continued acrimony. In order to enable the consideration of performance audits in Aboriginal contexts, however, we need to derive accountability options that are relevant to both mainstream and Aboriginal contexts. We need innovative models that might reconcile what appear to be the two mutually exclusive systems of financial and cultural accountability. There is potential for conceptual development, but to do this we must look beyond financial accounting as 'conventional approaches to accounting are based on a complete abstraction of the world as it exists' (Gray, Owen and Adams 1996:42). Social accounting frameworks provide one alternative.

Social Accounting
If all agents were equal and *if* markets were information efficient and *if* this led to allocative efficiency and *if* this led, in turn, to economic growth and *if* this ensured maximum social welfare and *if* maximum social welfare is the aim of the society *then* accounting is morally, economically and socially justifiable...Of course, this is not the case (Gray, Owen and Adams 1996:17).

Social accounting 'is what you get when the artificial restrictions of conventional accounting are removed' (Gary, Owen and Adams 1996:11). This means that issues arising owing to factors such as culture are taken into consideration in the development of audit opinions. The underlying premise of social accounting is that organisations, economics, politics, culture, and all facets of societies are all systems and they all interact. Economics and accounting cannot be abstracted from 'ethics, values, human emotions, exploitation, quality of life, and state of the physical environment'. To attempt this abstraction is to indulge economic reductionism in which we 'draw our systems boundaries around those parts we might choose to ignore' (1996:15). Different information would help to construct accountability frameworks that 'made visible the consequences of organisational activity' (1996:42). Further, giving formal audit consideration to culture would improve transparency, since the actions of the mainstream with respect to Aboriginal organisations would become more visible and vice versa.

Combined with research data, however, social accounting may prove a valuable place to start in the development of models that accommodate both public sector accountability requirements and Aboriginal cultural accountability. What factors do we need to consider?

The Role of Auditors
– We need to consider the roles played by auditors themselves in the accountability debate.
   o Accounting has the power to subjugate individuals.
   o Audits are representations of what is 'true' and 'fair' only according to the language and standards of financial accounting.
   o And even these provide little in the way of guidance as the application of 'true and fair' is very restrictive.
   o Nevertheless, individuals are trained in this language.12 and in a specific intellectual tradition that emphasises the implementation of rules, equating ethical considerations to the outputs of mathematical equations (see McPhail 1999).
– Auditors own cultural artefacts also impact their ethics and interpretations.
   o In other words, auditors generally have no necessary cultural appreciation or sensitivity to the many areas they audit.
   o Although the 'ideal' representation of auditing reflects financial results that are examined with total dispassion and reported 'accurately', audit results also represent judgment calls that are influenced by inculcated values.
   o In spite of the best efforts of standards-setting boards, it is questionable as to whether audit opinions can be considered truly 'objective'.
– Even if individual auditors go into an Aboriginal organisation with no preconceived notions of 'objectivity' and the deficiencies of Aboriginal accountability; even if they acknowledge that there is a range of factors to be considered including a lack of resources and racism; feelings of frustration are likely to arise because these factors cannot influence the auditing outcome thanks to the requirements of 'objective financial reporting'.

Accounting and Audit Guidelines and the Development of 'Cultural' Criteria
– The main pillar of mainstream accountancy and audit practice in Australia is cost allocation.
– Another pillar is the reliability in the measurement of balances.
– Accounting standards and particular statements of accounting concepts all deliberate extensively on or refer to cost allocation and reliability.
   o Questions therefore arise such as 'what is the relevance of cost allocation to Aboriginal organisations' and 'how do you reliably allocate costs to culture, ethics, and so forth? (pers.comm. Senior Auditor, State Government October 2000).
   o Accountants and auditors may not be provided the flexibility to consider the legitimate costs of meeting cultural obligations if audit instructions are limited to financial considerations. However, even if Auditors do have the scope to consider cultural obligations as part of audit practice, there are no established criteria against which audits could be conducted. The literature and audit standards provide little in the way of guidance; there is a paucity of literature regarding the practice of accounting at work in Aboriginal communities and while audit standards do provide for the new 'performance-based' accounting, practice has not caught up with the language of auditing standards. What could prove useful is the development of specific guidelines and audit criteria that reflect underlying cultural principles such as obligation and reciprocity. And while Aboriginal 'culture' is not homogenous and different regions have varying practices, there are areas of convergence, such as funeral obligations, that could provide starting points.

Both Aboriginal and government financial officers have concerns, however, regarding the integration of cultural considerations in the audit process as 'culture and regional variations have to potential to become excuses for poor accounting practice'. One means of furthering this development may be through a partnership approach whereby selected Aboriginal organisations and government work together to develop.13 appropriate audit criteria that represent 'best practice' on specific issues. Once developed, a range of 'best practices' could be tested in actual audit settings via partnership mechanisms between Aboriginal councils, for example, and government. It remains a challenge to develop criteria that provide an accurate portrayal of these principles in practice without compromising the integrity of the audit process.

Human Resources

– The lack of trained human resources in Aboriginal organisations is also an issue. Both State and Commonwealth governments have established mainstream bookkeeping and accountancy training programs for Aboriginal people but with little success. The underlying accountancy concepts, taken in isolation of culture, just 'don't make sense'. Further, Aboriginal financial management staff find themselves caught between compliance and kin-based obligations. Both must be satisfied. Often it is not possible to do so and Aboriginal councils become dominated by white accountancy professionals: Who carries accounting qualifications? Who gets good positions in Aboriginal Councils? White people, that's who. It is the qualified white people who get thechoice positions in Aboriginal councils. Yet, by and large, these white people invariably move on. They abandon the council. The council is then stuck without qualified experts. The local Aboriginal population just does not have the knowledge and skills that the white 'experts' have. And when the white people move on, the councils almost always runs into problems, gets a qualified audit opinion and the associated bad press…In some cases, these white people use the Aboriginal councils as training ground. In addition, [they] make superficial and inappropriate decisions while working at an Aboriginal council.

– An example is 'B'. This person delegated all purchasing authorities down to the manager responsible for the budget. Now, how should we expect to have a manager without appropriate knowledge and training in matters of budgeting, budget analysis, and variance analysis execute decisions precisely in those matters or areas where he or she has no knowledge? Yet, this is what he did…Of course, the auditor picked upon the disorganised and uncentralised purchasing functions, qualified the council on that basis…You know 'B'? He went on to get a good job at another council while we wore the bad press (Official, Aboriginal council, May 1999). Appointing people 'from the outside' is often beyond the financial resources of most councils.

Implementation of the Joint Inquiry Recommendations
We have over fifty grants to acquit. This is a difficult process as some of them come from the Commonwealth and some from the state. They all have different deadlines. Also sometimes we cannot even track the money – it just shows up in.14 the council bank account with no paperwork. All of a sudden we will have $150.00 in there that wasn't there the day before. Is that money part of a grant proposal or is it funding for an entire grant proposal? Not only that, our finance people often are here 12 hours a day acquitting grants from government agencies. There is little time to make sure that payroll is being done properly. I am not whining – we just don't have the manpower [sic] to be messing around like this. I wish the government would get its act together, quit blaming us for high death rates, and get on with the job. Otherwise, we will keep having a lot of trouble doing ours (Aboriginal council, Finance Officer, May 2000).

• The findings of the joint inquiry demonstrate clearly that the multiple and often conflicting lines of accountability imposed by State and Commonwealth governments have a detrimental impact on the accountability of Aboriginal councils. Research data also demonstrate that meeting the conflicting requirements is taking its toll on the staff of these organisations. To date Governments have yet to coordinate their activities and streamline reporting requirements.

The Language of Accountability
– What do we do about the language of accountability?
  o First, Auditors General are taking a more active role in shedding light on the true nature of Aboriginal accountability.
    ▪ Their impact is limited, however, as members of the general public do not make a habit of reading audit reports.
    ▪ They do, however, read newspaper articles that contain stories about scandals and rorts.
    ▪ They thus remain unaware that while Aboriginal councils are no *more* accountable than mainstream local governments, they are no *less* accountable either (Ivanitz 2000a).[108]

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[108] An examination of the extent of qualified opinions on a percentage basis between Aboriginal councils and local governments is useful in illustrating this point. In 1994-95, sixty percent of the Local Governments in Queensland were in breach compared with forty-five percent of the Aboriginal Councils. The following

- Until a more realistic perspective is provided by the media and until mainstream politicians adopt a public stance that supports their Auditors General, the debate will remain acrimonious.
  o Second, for the most part Aboriginal organisations and politicians attempt to increase community understanding of mainstream financial management processes.
    - One means they use is 'translating' accountancy concepts into culturally relevant activities or principles.
    - An example frequently used in community meetings is that of fishing.
    - After people have gone fishing, a portion of the catch is often distributed to the elderly.
    - If the fishing trip is not successful, there is a limited distribution, thus reflecting a 'cash flow' problem.
    - These conversions occur on a daily basis as organisations carry out their functions.

Political Commitment and Potential for Change
- Aboriginal organisations are relatively financially accountable.
  o They make efforts to both meet mainstream compliance standards and translate the language of financial accountability.
  o They do experience an accountability clash and are perceived by the public as rorting the taxpayer.
- The main issue is not a clash of accountabilitie4s, however, but government's reluctance to implement administrative policy that would facilitate a more complete accountability picture. Mainstream politicians appear, to a large extent, hostile to the notion that Aboriginal organisations are no *more* accountable than are mainstream organisations, but they are no *less* accountable either.
  o Auditors-General have recently begun to address the impact culture may have on audit results and recent pressure from the CPA Australia to 'progress more holistic accounting systems that include social costs' (Certified Practicing Accountants of Australia 2000:5) may facilitate this process.
  o It is very early days yet, however, and governments continue to place emphasis on financial accountability to the exclusion of valid alternative approaches.
- Both the joint inquiry into the accountability of Aboriginal councils and numerous reports by Auditors-General have documented these issues.
  o Indeed, the inquiry offered some hope that the acrimonious nature of public debate would abate somewhat once the findings were published.
  o It also offered the hope that government would coordinate activities to ensure more streamlined reporting.
  o Hope is short lived, however, and little has changed since the inquiry began.
- As long as Aboriginal organisations are funded by public money and cannot sustain their operations with funds from other sources, mainstream financial accountability will remain a reality.
  o What is required, however, is willingness on the part of government to give due consideration to alternative approaches to accountability and to implement existing mechanisms contained in administrative policy that would provide for expanded audit scope.
  o What is also required is willingness on the part of Aboriginal politicians to devise accountancy procedures that are based on cultural practice but also ensure also mainstream notions of integrity and transparency.
  o Unless both occur, the debate regarding Aboriginal accountability will continue to be misinformed and misdirected.

References

Arrington, C.E. and Frances, J.R., (1989), 'Letting the Chat Out of the Bag: Deconstruction, Privilege and Accounting Research', *Accounting, Organizations and Society*, Vol. 14(1/2), pp. 1-28..16
Certified Practising Accountants of Australia, (2000), 'CPA Turns Green', *CPA News*, Vol. 6 No. 11, pp. 5.
Christie, M. J., (1985), *Aboriginal Perspectives on Experience and Learning: The Role of Language in Aboriginal Education*, ECS806 Sociocultural Apsects of Language and Education, Geelong, Deakin University Press, pp. 11
Davis, G. and Bridgeman, P., (1993), *Public Policy in Australia* 2 nd ed, Allen & Unwin, Sydney.
Gray, R. .H., (1990), *The Greening of Accountancy: The Profession After Pearce*, Certified Research Report 17, Certified Accounting Publications, London.
Harris, P., (1991), *Mathematics in a Cultural Context*, Deakin University Press, Geelong.

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year, thirty-six percent of the local governments received qualified audits as opposed to fifty-one percent of Aboriginal councils. In 1996-97 the figures for both local governments and Aboriginal councils dropped (twenty percent and thirty-three percent). The following year, local government went up to twenty-two percent and the figure for Aboriginal councils dropped to twenty-three percent. See Ivanitz 2000a.

Hines, R.D., (1987), 'The Sociopolitical Paradigm in Financial Accounting Research' in *Accounting, Auditing and Accountability Journal*, Vol. 2 No.1, pp. 52-76.

Hooper, K. and Pratt, M., (1995), 'Discourse and Rhetoric: The Case of the New Zealand Native Land Company'in *Accounting, Auditing and Accountability Journal* Vol. 8 No. 1, pp. 10-37.

Ivanitz, M.J., (2000a), 'Straddling Two Worlds: Mainstream and Cultural Accountability in Aboriginal Councils', *Proceedings: Symposium on Accounting, Accountability and Performance*, Brisbane, Griffith University, February 2000.

Ivanitz, M.J., (2000b), 'The Demise of ATSIC? Accountability and the Coalition Government', *Australian Journal of Public Administration* Vol. 59 No. 1, pp. 3-12.

Joint Committee of Public Accounts and Queensland Public Accounts Committee, (1997a), *Review of Financial Reporting Requirements For Aboriginal Councils and Torres Strait Island Councils*, Issues paper No. 1, January 1997, Parliament of the Commonwealth of Australia, Canberra.

Joint Committee of Public Accounts and Queensland Public Accounts Committee, (1997b), *Review of Financial Reporting Requirements For Aboriginal Councils and Torres Strait Island Councils - The Way Forward*, Issues paper No. 2, August 1997, Parliament of the Commonwealth of Australia, Canberra.

McPhail, K., (1999), 'The Threat of Ethical Accountants: An Application of Foucault's Concept of Ethics to Accounting Education and Some thoughts on Ethically Educating For the Other', *Critical Perspectives On Accounting* Vol. 10, pp. 833-866..17

Queensland Audit Office, (2000), *Auditor-General's Report No. 4 1999-2000*, Strategic Review of the Queensland Audit Office, Legislative Assembly of Queensland, Brisbane.

Queensland Public Accounts Committee, (1990), *Financial Administration of Aboriginal and Island Councils-Report 1: Regulatory Framework*, Legislative Assembly of Queensland, Brisbane.

Queensland Public Accounts Committee, (1992), *Final Report of the Committee of Public Accounts of the 46 th Parliament 1 July 1992 - 25 August, 1992,* Legislative Assembly of Queensland, Brisbane.

Queensland Public Accounts Committee, (1993), *Financial Administration of Aboriginal and Island Councils*, Legislative Assembly of Queensland, Brisbane.

Queensland Public Accounts Committee, (1996), *Interim Report - Review of Financial Accountability Requirements for Aboriginal Councils and Island Councils*, Report No. 38, Legislative Assembly of Queensland, Brisbane.

Queensland Public Accounts Committee, (1997), *Aboriginal Councils and Torres Strait Island Councils: Review of Financial Reporting Requirements*, Report No. 42, November 1997, Legislative Assembly of Queensland, Brisbane.

Queensland Public Accounts Committee, (1998), *Annual Report 1997-98*, Report No. 45, November 1998, Legislative Assembly of Queensland, Brisbane.

Schwab, R.G., (1995), *The Calculus of Reciprocity: Principles and Implications of Aboriginal Sharing*, Discussion Paper No. 100, Centre for Aboriginal Economic Policy Research, Canberra.

Smith, B., (1996a), *Commonwealth/State Relations: Current Issues of Delivery of ATSIC Programs and Services*, Research Discussion Paper No. 5, Australian Institute of Aboriginal and Torres Strait Islander Studies, Canberra.

Smith, B., (1996b), *Commonwealth/State Relations: Some Historical Background* Research Discussion Paper No.6, Australian Institute for Aboriginal and Torres Strait Islander Studies, Canberra.

Smith, D., (1992), *Estimating Northern Territory Government Program Expenditure for Aboriginal People: Problems and Implications*, Discussion Paper No. 30, Centre for Aboriginal Economic Policy Research, Canberra.

7.2. An International Review of Restorative Justice -2001[109]

Evaluation of Interventions

– A major concern, and one that is shared by its proponents, relates to the evaluation of restorative justice interventions.

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[109] Miers, David. 2001. "An International Review of Restorative Justice." Crime Reduction Research Series Paper 10. London: Home Office.http://www.homeoffice.gov.uk/rds/prgpdfs/crrs10.pdf

- o   Reviewing international research findings, Weitekamp (2000; p.108) concluded that while victim-offender mediation and restorative justice models appear sound in theory, their evaluations suffer from a number of shortcomings.
- o   These include:
  - –   the unsystematic application of restorative justice models and programmes;
  - –   a disproportionately high number of juvenile, first-time and property offenders;
  - –   poor planning, unsystematic implementation and short-term evaluations.
- –   Beside these operational shortcomings there is a more difficult conceptual issue that lies at the heart of the debate about evaluation.
  - o   To answer the question, do restorative justice interventions work?, assumes agreement, at least for the purpose of a given evaluative project, as to what that 'work' might be.
  - o   Let us take a simple case in which 'what works' is determined entirely by the levels of satisfaction with the process that are reported by the parties.
  - o   Even this one-dimensional measure presents difficulties, since the question inevitably arises, to whose satisfaction: either or both parties?
  - o   As between the victim and the offender there are four possible outcomes, which may be presented schematically:

		Victim satisfaction	
		High	Low
Offender satisfaction	High Low	1 3	2 4

- –   We can all agree that cell 1 appears to be an ideal outcome, since both parties report high levels of satisfaction, and that cell 4 is the converse.
  - o   What of cells 2 and 3?
  - o   Whether they are to be regarded as failures because one party expressed dissatisfaction clearly depends on the preference one gives to victim- or to offender-satisfaction, assuming that a preference is to be made at all.
  - o   If the goal of restorative justice is, as Wright (2000), for example, advocates, to benefit both victim and offender, then cells 2 and 3 must also be counted as failures.

- –   Even if we were to obtain high levels of satisfaction with the process from both victims and offenders (cell 1), this would still not tell us whether the restorative process was *better* in that sense than the usual alternative.
  - o   To test *that* it is necessary to compare the responses of victims and offenders who have experienced the process with those of a control group subject to the normal criminal justice response.
  - o   At once the picture becomes considerably more complex, even on this single measure, as the following schematic presentation illustrates.

		Victim satisfaction			
		Control		RJ Intervention	
		High	Low	High	Low
Offender satisfaction	Control High Low	1 5	2 6	3 7	4 8
	Intervention High Low	10 14	11 15	12 16	13 17

		Parties' satisfaction			
		Both high	Vhigh/Olow	Vlow/Ohigh	Both low
Offender: re-offending	Reduction No effect	1 5	2 6	3 7	4 8

7.3. Evaluating Restorative Justice Programs-2000[110]

Introduction

My intention in this paper is to add a cautionary note to the way in which the 'success' of restorative justice is currently measured. My basic argument is this:

1. There are certain restorative processes which, for various reasons, we don't (or don't know how to) measure that are *essential* to a restorative outcome.

2. Evaluation reports of restorative justice programs which do not acknowledge this limitation are therefore likely to have a distorting effect on the way such programs are designed and operated: specifically, those restorative processes which are not (or cannot yet be) measured are likely to be neglected or downplayed, leading to an outcome which is either not fully restorative or counter-restorative.

I will begin the paper by trying to encapsulate, in very general terms, the three processes which are essential to restorative justice, what must happen for restorative justice to occur. I will then look at how victims and offenders are affected when a restorative justice program neglects or downplays just one of these processes, and then go on to suggest that this phenomenon may have a great deal to do with the way in which programs are currently evaluated.

1. What is essential to restorative justice?

The primary site of restorative justice is not an adversarial court of law, a prison cell, a boot-camp, or an execution chamber. It involves *a mediated encounter between those directly involved in or affected by the crime: the victim, the offender, family members, and community representatives.*

The principal aim of these encounters is to facilitate the following three processes.

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[110] Brookes, Derek R., Evaluating Restorative Justice Programs, United Nations Crime Congress: Ancillary Meeting Vienna, Austria, 2000
http://www.restorativejustice.org/rj3/UNBasicPrinciples/AncillaryMeetings/Papers/RJ_UN_DBrookes.htm

• Reconciliation: where the victim and offender—in the social rituals of apology and forgiveness—(i) offer and receive the value and respect owed in virtue of their intrinsic human dignity and worth, and (ii) engage in a mutual condemnation of the criminal act, whilst ceremonially 'casting off' or decertifying the offender's deviant or blameworthy moral status.

• Reparation: where the offender takes due responsibility for the crime by 'making good' the material harm done to the victim: that is, by agreeing to provide a fair and mutually acceptable form of restitution and/or compensation.

And, as an ongoing consequence of reconciliation and reparation:

• Transformation: where the individuals and communities concerned experience some degree of liberation from the conditions that perpetuate the cycle of violence, aggression and domination exemplified in criminal behaviour: for example, by overcoming the negative emotions of humiliation, fear and hatred, and by advancing the alleviation of degradation, oppression and stigmatization which characterize existing socio-political structures and relations.

2. What happens when there is reparation without remorse?

Let me say first of all that I do not want to deny the essential role of reparation in restorative justice: victims are entitled to have "the value of property stolen or destroyed returned to them".[1] Nor do I want to deny that the act of restitution can, in some cases, serve as a symbolic gesture of reconciliation. However, I do want to suggest that programs which emphasize restitution settlements—to the *neglect* of reconciliation—can give rise to several counter-restorative outcomes.[2]

The first example of this is where the lack of remorse in the offender ends up re-victimizing the victim, even when reparation has taken place. Mark Umbreit, for example, has found that, where the offender remained unrepentant, victims tended to view their restitution agreement with resentment, dissatisfaction, and a sense of arbitrariness (e.g. 'I felt he wasn't owning up to it.'; 'He just slouched all the way down and just sat and half heartedly gave answers'."[3]). As Marshall has put it:

"It is not possible to carry out fruitful mediation without dealing with underlying feelings. A material agreement without this will be super-ficial and of little meaning to the parties. Mediators should be prepared to gain the skills necessary for ventilation and expression of grievances, not merely for their direct therapeutic benefits, but also because the ultimate settlement will have more content and value." [4]

A second example is where an offender does not think of the reparation agreement as an expression of their genuine remorse, or of their desire to 'make things right'. As far as they are concerned, it is all about the victim having a say in what kind of punishment they receive.[5] The result is just what we have come to expect from retributive institutions: offenders fake their way through the program, all the while reinforcing their sub-cultural identity as a 'victim' of the system. Blagg's 1985 study, for instance, found that offenders who were merely expected to make restitution to the victim and were given no encouragement or opportunity to express genuine remorse, reported their perception of the encounter in this way:

"they were punished by an authority figure; they were powerless to prevent the process; they acquiesced; they then, in order to retain peer-group status and keep their egos intact, retrospectively recreated the encounter as one in which sullen obeisance was transformed into heroic resistance"[6]

3. Why have researchers focused on reparation agreements?

One explanation for the concentration on reparation, might be found in the methodologies typically used to evaluate restorative programs. The majority of published (and unpublished) evaluative research has focused almost exclusively on the social service features of victim-offender encounters.[7] In other words, the evaluative criteria of this research has typically been restricted to delivery efficiency (e.g. costs per case), effort (e.g. caseloads per mediator), and outcome (e.g. percentage of agreements, satisfaction of dispu-tants, restitution compliance rates).[8]

There are several reasons for this restriction. First, to justify their existence and funding, restorative justice programs have had to appeal to the persuasive power of utilitarian or economic rationalism:[9] victim-offender encounters are advanced as preferable alternatives to the traditional criminal justice process on the grounds that (i) they will decrease court caseloads, the prisoner population, and recidivism rates; and (ii) they will increase the percentage of restitution settlements and victim/offender satisfaction.

Second, most of the data relevant to service delivery criteria is comparatively easy to collect: minimal requirements for program management will involve keeping records of costs per case, caseloads, referral sources, types of cases, percentage of settlements reached, and, with a little more effort, percentage of restitution compliance and participant satisfaction. Third, it is, as a consequence, relatively cheaper to produce program evaluations using service-delivery data. Finally, the audience for which these evaluations are primarily designed—funding agencies, policy makers, and criminal

justice professionals—do not generally require, and would not necessarily appreciate or acknowledge more qualitative or substantive data.[10]

4. What does service-delivery data tell us about restorative processes?

The problem is that, even if the service-delivery criteria were shown to be satisfied, such an evaluation would tell us almost nothing about the more substantive claims made for victim-offender encounters:[11] how would we know, on the basis of service-delivery data, whether a particular encounter has, indeed, 'given participants access to a higher quality of justice', 'evoked genuine remorse in the offender', 'enabled the victim to overcome her resentment, fear and negative self-identity', 'repaired the social bonds', 'shamed the offender within a continuum of love and respect', 'decertified his deviant status', and so on? But until such information is forthcoming—that is, in non-anecdotal form—there remains little basis for the claim that victim-offender encounters are theoretically grounded in the social and experiential reality of its participants. As Umbreit has put it:

"The ultimate strength of any social theory is to be found in how accurately it captures the reality of people who are subject to it. Restorative justice theory makes bold claims about the needs of people affected by crime within community structures. Its validity as a new social theory must be grounded in empirical evidence offered by those most affected by crime—victims and offenders."[12]

To illustrate this problem, take the criterion of restitution agreement percentages. This is perhaps the most widely used source of evidence for the success of victim-offender encounters. But what does the fact of an agreement tell us about the more substantive issues?

First, if the parties have agreed to participate in a mediation session, they will already be sufficiently motivated to achieve some kind of settlement. Second, an agreement may vary to an enormous degree in terms of its significance for the participants; and this may be impossible to determine by reference either to the fact of an agreement or to its content. For example, the 'settlement' may involve a simple apology, substantial monetary restitution, a signed pledge to perform community service, an agreement 'to have nothing to do with each another from this point on', and so forth.

The problem is that any one of these forms of reparation may represent a substantial breakthrough in terms of reconciliation. On the other hand, the agreements may be token offerings to 'get the thing over with', lacking any reconciliatory purpose. In sum, an encounter might be classified as 'a success' on service-delivery grounds, and yet fail entirely to accomplish what should be one of the primary goals of Restorative Justice, reconciliation. Alternatively, it may be classed as a 'failure' due to the lack of any significant reparation settlement, and yet the participants may have nevertheless experienced reconciliation.[13]

5. What is the effect of focusing on reparation as a criterion of 'success'?

There is growing evidence that restorative justice is a powerful alternative to the traditional criminal justice system: where everything else is failing, restorative justice programs somehow seem to be 'working'. For those of us who have observed mediation, conferencing or circles first-hand, we *know* that the claims of restorative justice ring true: for the most part, these encounters really do give participants access to 'a higher quality of justice', they do somehow manage to 'shame the offender within a continuum of love and respect', they do 'enable victims to experience forgiveness'.

The problem is that we do not yet know how to test these sorts of claims. We don't really know what kind of data would show that 'a victim experienced a sense of forgiveness during an encounter with his or her offender'. But our suspicion is that— whatever data *is* relevant—it would be far too difficult and expensive to collect and analyse on a large scale; and the results would, in any case, be far too complex for most stake-holders to digest. Fortunately, there are certain things we can measure which do not have these sorts of obstacles, such as recidivism rates, victim satisfaction and restitution payments. And if we can persuade those who matter, that restorative justice programs are highly successful using such criteria . . . why not leave it at that?

Well, there is a very good reason why we ought to reject this approach. As I hope to have shown, what we are leaving out in our research—what we don't (or don't know how to) measure—is *essential* to a truly restorative outcome. And we should *acknowledge* this limitation. Otherwise, stakeholders may look at the research and walk away with a profoundly distorted understanding of what counts as a successful restorative justice program. For instance, they may think that restorative justice is primarily a means of addressing minor property crimes, simply because our research has focused on the fact that restorative programs are more likely than the court system to achieve restitution settlements. Again, they might, for similar reasons, think that restorative justice can be achieved *merely* by (a) including victim statements in court decisions, or (b) getting prisoners to contribute to a victim-reparation fund, or (c) setting up a 'truth commission', where the offender is only required to give a full disclosure of their crime in return for amnesty, or even (d) holding a victim-offender encounter where the sole purpose is to extract a restitution agreement from the offender. These may indeed serve as *part* of a restorative process; but they are not *explicitly* designed to facilitate reconciliation. If reconciliation

happens to occur, as it sometimes does, it is quite inadvertent and unexpected. In other words, because of what they leave out *by design*, these programs, on their own, are not likely to result in a truly restorative outcome. As we have seen, some may even be counter-restorative.

6. Conclusion

Restorative justice is rich, complex and multi-dimensional: it must, at some point, involve reconciliation as much as it involves both reparation and the slow but steady transformation of individuals and communities. I have tried to show that how we measure these restorative processes *does* make a difference. As Gordon Bazemore has put it, 'You get what you measure'. And this is my fear. But I am also optimistic. My hope is that, someday, we will be able to measure what we get.

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[1] "[E]xperimental schemes may have gone too far in stressing the emotional and being overly ready to dismiss the material side of reparation. This shift of emphasis was needed to combat the general bias of criminal justice towards the material and its neglect of victims' real needs, but it should not be taken so far that it effectively denies a victim's basic right to have the value of property stolen or destroyed returned to them. If this right is to be waived, it must be at the discretion of the victim and no one else." (Marshall 1990, 100); "[V]ictims might be interested in material reparation, but because mediators were preoccupied with resolution through talking (and symbolic gestures of reconciliation), victims' preference for getting their money back might remain unvoiced and unrecognized." (Davis et.al.1992, 457).

[2] This is not a rare phenomenon: "Programs' personnel tend to characterize success in relation to rates of contract completion" (Gehm 1990, 179); See also Van Ness & Strong 1997, 71; Retzinger & Scheff 1996, 317.

[3] Umbreit 1990, 56

[4] Marshall 1990, 98.

[5] "[R]eparation can be a highly complex process requiring skill and sensitive handling and . . . its value as a lesson for juveniles may well be lost if it merely replicates the punishment paradigm, albeit by a more insidious route" (Blagg 1985); "discussion of material things . . . tended to appear more like victims determining the offender's degree of punishment, rather than the determination of what was merely the victim's due." (Marshall 1990, 99).

[6] Blagg 1985, quoted in Davis et.al.1992, 143.

[7] A good example of the service-delivery evaluative framework is Mark Umbreit's "two-and-one-half-year study of victim-offender mediation programs in California, Minnesota, New Mexico and Texas." (p. xi) Without wishing to deny its value, the study's research questions were evidently designed to evaluate the satisfaction of one of more of the three types of social service criteria (Umbreit 1994, 31-32). I select Umbreit largely because his research methodology is both well-known and representative of the majority of research on victim-offender mediation.

[8] Lowry 1993, 117.

[9] "For the sake of maintaining the confidence of [funding or government] agencies or of the general public, practitioners (even if there are no doubts in their own minds) will . . . need to supply some evidence that worthwhile progress towards ultimate goals is being made. . . . Questions of economy and cost-effectiveness, or efficiency, are . . . prominent at this stage." (Marshall & Merry 1990, 16-17).

[10] Lowry 1993, 119. "Sentencers . . . may be more easily persuaded to take account of material outcomes—compensation paid, reparative work carried out—than the metaphysic of empathy and forgiveness. . . and may lead a scheme to place undue emphasis on the material agreement." (Marshall & Merry 1990, 31); "where [mediation] schemes are dependent on the goodwill of other agencies—as those court-based reparation schemes that seek to influence sentencing decisions may be, when material commitments by the offender to make reparation seem more persuasive to judges than mere expressions of regret, even if the victim may not really desire the first and may find more genuine meaning in the second, or in the encounter itself." (Marshall & Merry 1990, 25).

[11] "It is easy to add up the amount of compensation paid or the number of hours of community service worked, but these figures, although they may be useful in impressing the providers of funding, do not necessarily mean very much." (Wright 1991, 537).

[12] Umbreit 1994, 6.

[13] "The essence of mediation, according to most who engage in it, is the achievement of understanding, sympathy, catharsis, and the exchange of atonement, on the one side, and forgiveness, on the other. . . . as against a more or less commercial transaction (which may be no more significant than a fine or compensation order imposed by the court)." (Marshall & Merry 1990, 30).

7.4. Uses and Abuses of Accountability – 1998 [111] - check against hard copy

- Accountability is a term more often used in Aboriginal affairs than in any other area of government.
  - On one level the call for "accountability" is simply asking that moneys spent on Aboriginal programs are used for the purposes for which they are intended.
  - This is a demand that few could disagree with.
  - But the way the issue plays in contemporary Australia is not so simple.
- Many people appear to believe that Aboriginal programs are alive with "waste, rorts and mismanagement", that misappropriation and fraud go hand in hand with incompetent bureaucracies.
  - It is constantly asserted that agencies such as Aboriginal and Torres Strait Islander Commission (ATSIC) care nothing about accountability, when even common sense would indicate that ATSIC has, of necessity, been preoccupied with it.
  - But many who support the Aboriginal cause do not want to enter the murkier waters of accountability.
  - While broadsheet commentators contemplate their moral positions on native title or the stolen generation, accountability is left to the tabloids, and the talk-back radio commentators.
- The result is a national debate about Aboriginal issues on two planes:
  - one is a debate about the ethical constitution of the nation,
  - the other is about money— in particular "taxpayers' money".
- One supports Aboriginal people; the other rebukes us for apparently squandering the amounts that have been so lavishly bestowed on us.
  - The reality of accountability in Aboriginal affairs is that there is a great deal of it — maybe too much of the wrong kind.
    - Its pressures have become more intense over the years, as each successive accountability "crisis" has led to a tightening of the system.
    - There is no more evidence of waste and fraud than in any other field of administrative — or human — activity, but the standards demanded of us now seem actually to be higher than those more casually applied elsewhere.

The funding system
- Much of ATSIC's vulnerability lies in its relationship to the Indigenous organisations it funds, and in a funding system that has evolved to cater for a very dispersed, and culturally distinct, section of the Australian population.
  - But this system has been called into existence by the demands of government, and its logic has never been seriously challenged.
  - After 1967 the Australian state decided it must extend the benefits of citizenship to its Indigenous inhabitants.
  - Since 1972 it has done so under a policy of "self-determination" for Aboriginal people.
  - The many Aboriginal communities around Australia, living in a great variety of circumstances, would decide the "pace and nature" of their own development. regarded as both expressions and instruments of self-determination.
  - They deliver government programs that involve Aboriginal people and "train" them and employ them.
  - This system, however, makes us accountable for activities that governments undertake as a matter of course for other Australian communities.
  - Since the introduction of the Community Development Employment Projects scheme in the late 1970s, our communities have had to account for that two-thirds of the CDEP grant that CDEP participants would otherwise receive as unemployment benefits.
- One former Minister for Aboriginal Affairs, Fred Chaney, now talks about the "burdens" of self-management — "over-loaded, under-trained and sometimes disorganised communities carrying direct responsibilities which exceed those of any other communities".
  - Obviously, government has imposed a burden of cultural adaptation on a people who have had different preoccupations from other Australians.
    - Cultural factors have made meeting some accountability demands problematic.

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[111] Aboriginal and Torres Strait Islander Commission, Uses and Abuses of Accountability – 1998
http://www.atsic.gov.au/media/atsic_news/news/august98/page8.htm

- But this effort of adaptation should arouse the empathy of our fellow citizens, especially as all the evidence suggests that the majority of Aboriginal communities are rising to the
- In practice, self-determination has meant "self-management".
- Aboriginal communities and organisations have been funded by government to provide services to themselves.
- They have been asked to incorporate, both for legal purposes and because incorporation was thought to accord with traditional social patterns. Aboriginal organisations have been challenge.
- To give just one example, ATSIC's CDEP scheme, the most exhaustively audited and reviewed scheme in public administration, is now one of the Commonwealth's most successful programs, with 30,000 participants in 270 communities.

The accountability industry

- If there is an "industry" in Aboriginal affairs, it is an accountability industry.
  - This industry encompasses the Office of the Registrar of Aboriginal Corporations and Office of Evaluation and Audit (both currently situated within ATSIC), as well as the grant-administration sections in a range of funding bodies.
    - It provides work for numerous consultants, chiefly accountants and auditors.
  - Ironically, public and political demands for accountability have always helped to produce the conditions that populist commentators now rail against — an enlarged bureaucracy and the diversion of dollars from basic service delivery.
    - The advent of ATSIC as an Aboriginal-controlled organisation in 1990 did not alter this situation.
      - In fact, it made the political imperative for accountability even greater. Commissioners signalled from the outset that we were going to be even tougher on grantees than the former department.
  - The result is that Indigenous organisations in receipt of government money may be subject to many and varying administrative demands.
    - There are corporate regulatory bodies, principally the Registrar, ensuring that organisations comply with their incorporation requirements.
    - And agencies making the grants impose their own requirements.
    - In recent years ATSIC, by no means the only funding body, has given about 6000 grants annually to approximately 1300 organisations.
    - The imposition of program budgeting at the central government level has meant that one organisation may be in receipt of a number of grants, each for a different purpose, and each of which has to be separately acquitted.
    - If an organisation receives funds from different agencies, or from different levels of government, then it must comply with several sets of often inconsistent accountability requirements.
  - As you multiply the number of grants and multiply the demands of accountability, you multiply the potential for error.
    - The rigour and detail of many accountability regimes in fact produces "breaches".
    - The breaches may only be technical, but their prevalence paints a picture of Aboriginal accountability that gives rise to even more public pressure.
    - The picture is not helped by the fact that the "tabloid approach" tends to equate breaches with fraud.
    - In this area of government, too, breaches are "exposed" more frequently because of the very frequency and intensity of audit activities.
- The Australian National Audit Office has pointed out, citing Canadian experience, that "a continual tightening of grant conditions to Indigenous communities, by itself, is unlikely to lead to better management".
  - Imposing "harder and higher hurdles" can cause misunderstanding and resentment in recipient communities especially as governments have a responsibility to provide the services in the first place.
  - But imposing harder and higher hurdles is just what nervous bureaucrats and politicians — and nervous ATSIC Commissioners — have done over the years.
- Two recent investigations, with very different frames of reference, confirm these observations.

Is accounting accountability?
- In 1976 the Commonwealth legislated the Aboriginal Councils and Associations Act, intended to ease the path to incorporation and provide structures for self-determination.
  - o But a review led by Dr Jim Fingleton in 1995_96 concluded that the ACA Act had become a "classic piece of over-regulation".
  - o The review found that "the Act is complicated and difficult to understand and gives almost no room for local cultural variation in corporate structures and decision-making processes".

- Moreover, Aboriginal organisations find the Act "virtually impossible to comply with".
  - o It applies the full set of statutory requirements to all corporations, large or very small.
  - o The requirements can be adapted only by way of exemptions from the provisions of the Act.
  - o More than 700 exemptions were granted in 1994_95 on the grounds that compliance would be "unduly onerous" or "impractical".
  - o "It is surely bad public policy," the review observes, "to pass legislation which it is almost impossible to avoid breaching, and then to require massive — but sometimes, hard won — exemptions in order to make its operation reasonable and practicable."
- One of the Fingleton review team, Mr Ron Richards, a practising accountant, observed that "Aboriginal associations appear to have been singled out for particular attention in regard to compliance and accountability."
  - o Mr Richards drew attention to the more lenient provisions, and leaner administrations, of some State incorporation legislation.
  - o While the Registrar argued for more resources and more power, other corporate watchdogs had a far lower ratio of staff to the number of organisations they supervised.
  - o A submission from Ernst and Young put the annual nationwide costs of complying with the Act's audit requirements "in the order of $20 million".
- The Fingleton review also posed a very important question: is accounting accountability?
  - o As Ron Richards pointed out, to obtain an unqualified audit report doesn't necessarily mean that funds have been well spent.
  - o Audited financial reports may produce an "illusion" of accountability, and an "expensive and distractive" illusion at that.
  - o Conversely, inattention to formal accountability may not signify that funds have been misused.
- Overall, the review found that a very narrow definition of accountability was implied in the Act's requirements and administration: "the Registrar is wrong in suggesting that attention to accountability under the Act is going to make a useful contribution to improving accountability in the delivery of outcomes [from Indigenous programs]."
  - o In fact the review found an "unholy alliance, where ATSIC invokes the Registrar as its policeman in dealing with breakdowns in service delivery".
- Fingleton argued for a more expansive definition of accountability:
- In the case of Indigenous organisations, accountability is a multi-dimensional concept, which can involve different responsibilities at different levels — to the local family or kinship group, the wider indigenous community, and the wider public.
  - o Where more than one level of responsibility is involved, requirements for accountability are likely to conflict.
  - o A regime for accountability needs to take these potential conflicts into account, and contain acceptable mechanisms for balancing the different requirements of different interest groups.
- The review recommended a rewriting of the Act to make it simpler, and a greater focus on outcomes.
  - o But the Fingleton report has been left in a bureaucratic and political limbo.
  - o By the time it came out, ATSIC was fighting other battles.

KPMG backs Fingleton
- The first prime ministerial announcement of the current Government was to appoint a Special Auditor to ATSIC, via a General Direction from the Minister.
  - o In announcing the audit the Prime Minister invoked "community concern" and an "apparent haemorrhaging of public funds".

- While the ACA Act review adopted a perspective that was sensitive to the circumstances and culture of Aboriginal people, the report of the Special Auditor reflected an accounting exercise — the examination of the financial documentation of all ATSIC-funded organisations to determine whether or not they were "fit and proper" bodies to receive public funds.
    - o Nevertheless, the auditing company, KPMG, came to some similar conclusions to Fingleton.
        - Basically, the audit found that 95 per cent of the 1122 organisations reviewed were cleared for further funding, while 60 were found "not fit and proper".
        - In interpreting these findings, ATSIC tends to emphasise the former statistic, and the Government the latter, adding that in 1995_96 the 60 organisations had received almost $28 million in ATSIC funding. (But, if some of the propositions of the Fingleton report are accepted, the "not fit and proper" declarations may reflect a recalcitrant inattention to the technicalities of accountability. The $28 million may not have been completely "wasted".)
        - The audit uncovered no instances of fraud, but it did discover a system of grant administration that was so detailed as to make breaches of grant conditions almost inevitable.
            - "Lateness in the submission of financial and management information" was the "overriding reason" for breaches.
            - More fundamental reasons included "the lack of financial management expertise within the organisations themselves and in some instances the lack of attention and effort directed by organisations to reporting requirements".

The Special Auditor did not An atomised funding system was identified as another problem: the small size of many organisations, and the many small grants administered. This was hardly news to us within ATSIC. We were already working towards a consolidation of grants, and were aware of the need to rationalise organisations in some areas, and put in place mechanisms which pooled funding from different levels of government.

Significantly, the Special Auditor also observed how the pressures of serving a narrow definition of accountability could detract from a focus on the larger picture:

During our field visits we frequently encountered instances where ATSIC project officers were commenting that they were under resourced and were inundated with forms and paper. Added to this ATSIC ... officers considered that because of the politically sensitive nature of their portfolio they were continually wary of the need to document their actions and enforce the strict letter of the agreements whilst at the same time endeavouring to ensure that due processes were being followed.

- In recommending an "increased focus on key outcomes and outputs and not financial input" the report can be seen as answering the question "is accounting accountability?" with a qualified no.
    - o In one sense this undermines the basis of the whole exercise, as it examined mainly financial documentation.
- The audit also had no control group against which to compare its findings.
    - o A more scientific investigation might also have audited a group of non-Indigenous organisations in receipt of government funding, or at least a group of Indigenous organisations funded by an agency other than ATSIC.

The politics of the Special Auditor
In appointing the Special Auditor the Government ostensibly acted in response to media reports of mismanagement at two ATSIC-funded legal services. But Channel 9 may have provided a pretext rather than a motivation.

I am also a veteran of the bicentennial accountability season. In 1988_89 the ATSIC legislation was being debated in Parliament and ATSIC's predecessor organisations, the Aboriginal Development Commission and Department of Aboriginal Affairs, were being put through the political wringer. I heard the then Opposition Leader, John Howard, questioning the wisdom of establishing a "black parliament" and saying that the ATSIC legislation "struck at the heart of the unity of the Australian people". CLP Senator Grant Tambling claimed a "black mafia" was operating in Aboriginal affairs. (Many of the terms now used by One Nation were incubated in this debate.)

comment on the cultural factors that might be inferred here. The report recommended training, but noted in passing that budget cuts simultaneously imposed on ATSIC had resulted in the termination of the Community Training Program.

At the same time, accountability asserted itself as the main policy focus of the Coalition in Aboriginal affairs. In 1996 their pre-election policy document maintained that "the wider community is both distressed and puzzled that large amounts of money are being spent with little or no reduction in indigenous disadvantage".
The Special Auditor can therefore be seen as a vast fishing expedition, to find proof of multiple might have expected — or perhaps wanted.

The presence of a distressing and puzzling double standard was confirmed by an almost contemporaneous finding that the Diesel Fuel Rebate Scheme (with a budget larger than ATSIC's) could not properly account for over $34 million of taxpayers' money annually. As I pointed out at the time, here was a "real haemorrhaging of public funds". But this Auditor-General's report was barely noticed in the media, and the Australian Customs Service was not held up for public vilification.

Despite our reservations about its origins, ATSIC cooperated fully with the Special Audit and continued it after the Federal Court declared the Minister's direction to be illegal.

On 15 July this year, in a media release attacking Pauline Hanson, the Prime Minister claimed that his Government had "restored proper accountability" in Aboriginal affairs. On 28 July the Minister recapped the Government's achievements, the foremost boast being that "We've stopped the waste" and that any extra funding is "for the needy not the greedy".
But these claims have been overtaken by the issuing of a new General Direction to ATSIC on 7 August, following another tabloid-driven campaign. The latest report of the Registrar of Aboriginal Corporations was misused to produce the familiar picture of "widespread abuse of public funds meant to help Aboriginal communities".
This latest "crisis" had the effect of supporting an attempt at bureaucratic empire building.
The current Registrar has always wanted his office upgraded to an Aboriginal Corporate Affairs Commission. After all, the accountability industry has a vested interest in going on exposing the breaches that justify its existence.
ATSIC's uncomfortable position
All the Indigenous accountability "crises" — real or, increasingly, manufactured — impact disproportionately on ATSIC. There are many reasons for this.

Like the department before it, ATSIC must face two ways, and deal with two sets of expectations.
On the one hand it is charged with representing and securing Indigenous interests in an often hostile environment. On the other, as a government agency administering taxpayers' funds, it has always felt compelled to impose stringent accountability requirements on its Aboriginal clients. Because it gives grants and has to choose between grant recipients, because it has too few resources to meet the perceived need, it has many critics in the Aboriginal community. Its most vocal critics may be its grantees.
O'Donoghue — The uses and abuses of accountability

It has to manage Indigenous organisations, some of which may be its competitors or may regard ATSIC as another instrument of state repression. ATSIC's power as a funding body produces an unequal relationship with its constituency, and accusations of insensitivity.
Many things are attributed to ATSIC for which it is demonstrably not responsible. It doesn't fund all the Aboriginal organisations in Australia, or provide all the services. It can't do this, it controls only about 60 per cent of the Commonwealth's Indigenous budget, and two-thirds of this is subject to Government direction.

But the refraction of every Indigenous accountability issue through ATSIC reflects a larger symbolic role that the Commission has assumed. Out there in tabloid land, it has become the icon of that mischievous construct "the Aboriginal industry". One Nation, any number of talkback radio commentators, and, it would appear, a variety of politicians, non-Aboriginal or even Aboriginal, stand ready to exploit this symbolism.

All of these elements allege that ATSIC is unaccountable — indeed ATSIC's lack of accountability has become a proposition that doesn't even have to be proved. Any assessment of the pressures ATSIC is under makes this an extraordinary, even irrational, accusation. Where does this irrationality come from?

An argument about cause

- At heart aspects of the accountability debate are an argument about cause.
- It is popularly assumed that the amounts of money dedicated over the years to Indigenous programs has been more than adequate — non-Aboriginal Australia has acquitted itself, but something has gone wrong in program delivery.
- The waste argument discounts the very real achievements that have been gained over the last 20_30 years.
- It is also a very convenient argument for other Australians, and for cash-strapped governments.
- It lays the blame for the situation of Indigenous Australians at the door of Indigenous people themselves or at the bureaucracies that administer the programs.
- The persistence of Indigenous disadvantage also can be explained in many other ways — above all, by the failure of State, Territory and local governments to provide the same services to their Indigenous communities as they do to non-Indigenous citizens.
- Here the accountability argument is turned on its head.
- Governments should be accountable to all their citizens: who is accountable to whom?

Fred Chaney, ever attentive to the double standards that inhabit the public debate, calls this a "confidence trick":

The trick pulled upon Aboriginal communities is to make specific and necessarily limited provision for special funds for Aborigines. Those funds are then divided out among agencies with responsibilities for special programs, and the provision is dependent upon an allocation of money from an inadequate pool. By passing the money on to Aboriginal organisations, responsibility is shifted on to the self-managing communities, or specialist Aboriginal agencies. Direct government responsibility is seen as being at an end.

Where, Chaney asks, is the "web of accountability" identifying failures in State/Territory provisions?

ATSIC has been able to use its own funding to leverage commitments from State Governments, and secure some inter-governmental cooperation. (ATSIC has little power as an advocacy body unless it also has a budget to bring to the table.)

But I have been present at too many joint ministerial forums that have been marred by belligerence, buckpassing, and the singling out of ATSIC as scapegoat. Indeed this has become one of the Commission's indispensable roles — as the organisation on which to heap the blame for the "outcomes" that flow inevitably from the fact that "the system" does not provide enough funding, or enough political will, to deal with massive deficits in Aboriginal health, housing, employment, etc. And the needs are increasing as the Indigenous population grows and rural economies decline.

If the accountability debate is an argument about cause, then it confirms a point made in the Fingleton review: that little attention is given to the real causes of poor outcomes. Accountability — or lack of it — is a breathtakingly simple answer to the persistence of complex problems. Excessive attention to a narrow form of accountability can be both a cause in itself, and a politically convenient diversion from the search for other causes.

A weapon in the hands of the enemy?

- Is political convenience then a sufficient reason to explain the pressures of accountability that are applied so prejudicially in this area of government?
  - Perhaps there are other deeper purposes lying in our shared history.
  - Many Indigenous people see "accountability" as a way to go on harassing them, while doling out parsimonious resources.
- On the other hand accountability is an important principle and one that I have always advocated and defended.
- But, increasingly, "accountability" is not invoked in a principled way.
  - As Pauline Hanson's use of the term shows, it has become a weapon in the hands of the enemy.
- A rhetoric of accountability has developed within national politics, which is totally divorced from the reality of accountability in Aboriginal affairs or the reality of ATSIC's record.

- The rhetoric of accountability serves a number of purposes.
  - Among them, I believe, is to indirectly confront and oppose the moral debate about the status of Aboriginal people within the nation.
  - This opposition is reflected in the headline the *Herald-Sun* chose to put on two editorials written this year about ATSIC's alleged sins: "Reconciling the books" was their line.
  - Another purpose is to undermine Indigenous politics.
    - The tabloid approach tends to depict Indigenous political activity or advocacy as an expensive and unnecessary distraction from the business of improving "health, housing, education and employment".
    - This makes ATSIC's position even more uncomfortable, as the Commission was set up in part as a political organisation, designed to bring Indigenous elected representatives into the processes of government.
  - Significantly, the rhetoric of accountability is directed most fiercely against ATSIC itself.
  - In opposing the <u>very idea</u> of ATSIC, "accountability" has proved to be a convenient mask for other motivations. Saying ATSIC "hasn't worked" is blaming the Commission for a situation beyond its control.
- But punishing ATSIC will do nothing to make the outcomes any better. Both sides of politics are too afraid to face up to what is required to really make a difference. failures of accountability. The Government also set up expectations of the audit to do with criminal activity. The Minister talked about a "heap of allegations" on his desk that he was in the process of referring to the authorities. I still don't know the results of these referrals, and it can also be argued that the Special Auditor didn't produce the results the Government

7.5. Restorative Justice The Public Submissions-1998[112]

Objectives of Restorative Programmes

The options suggested as potential objectives for restorative programmes in paragraph 6.9.2 of the Ministry's discussion paper included:

• Denouncing crime;

• Reforming individual offenders;

• Preventing crime generally;

• Helping victims;

• Making good the suffering caused by crime;

• Keeping the costs of the justice system to a minimum;

• Reducing the numbers sent to prison.

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[112] Ministry of Justice – New Zealand - Restorative Justice The Public Submissions First published in June 1998, © Crown Copyright
http://www.justice.govt.nz/pubs/reports/1998/restorative_justice/ex_summary.html

Thirty submissions made reference to these options when considering what should be the key objective of restorative programmes. The objective "Making good the suffering caused by crime" was most frequently referred to, followed by "Helping victims", and "The reform of individual offenders".

"Making good the suffering caused by crime" was almost always the top priority when the list of possible objectives was ranked.

Many other objectives were also suggested. Some of these overlap with each other. They included:

• Healing for all, and restoring balance and resolution of issues (nine submissions);

• Establishing a positive relationship between victim and offender, and/or making the offender accountable (nine submissions);

• Reducing/preventing offending and/or re-offending (six submissions);

• Decision-making by and mutual agreement between victims, offenders and their communities (five submissions);

• Preserving or strengthening a sense of ties to community and family, and involving them in the criminal justice process (four submissions);

• Encouraging the community to take some responsibility for offenders and for reducing criminal offending (four submissions);

• Promoting the Treaty of Waitangi partnership, realising guarantees under the Treaty, eroding cultural prejudices and providing for greater Mäori control over justice processes (two submissions);

• Satisfying outcomes for all participants in the restorative justice process (two submissions).

Fifteen submissions also mentioned as priorities a range of objectives focussing on victims' rights, their role in the criminal justice process and their recovery.

Some submissions were hesitant to choose between objectives, or felt that more than one could and should be pursued. Ten stressed that those listed were complementary rather than mutually exclusive. Some felt that some of the possible objectives listed were in some cases not distinct from one another, and that some could be considered strategies to achieve other objectives. Another argued that although the key should be to prevent crime, in practical terms restorative justice programmes will need to address existing problems, and that therefore reforming individuals and making good the suffering caused by crime would be the practical aims of any initiatives.

It was also suggested that, alongside the process of determining the objectives of restorative programmes, the objectives of the existing system and the extent to which restorative justice was compatible with this would need to be analysed.

A few submissions had concerns regarding the suggested objectives. One believed that they were:

...so vague that they could be read as descriptions of the current system with the single exception that the concept of general deterrence through sentencing is missing. (NZ Business Roundtable, 45)

One submission argued that setting realistic, achievable objectives was very important, as restorative justice should be evaluated on what it could realistically achieve. For similar reasons, another was against the reduction of offending being an aim of restorative justice, although it was anticipated that this might be "a welcome by-product". It was also submitted that any objectives formulated needed to be tangible and measurable in order to advance the restorative justice debate.

Comments were made regarding cost minimisation as an objective of restorative justice. Some were willing to rank the objective concerned with cost against the others listed, or argued that objectives must be viewed relative to costs. Four submissions felt that it was inappropriate to use restorative justice for cost-reduction purposes.

7.6. Restorative Justice – 1996 [113]

The **objectives** include: providing for the emotional, material and financial needs of victims and those affected by a crime; trying to prevent re-offending through reintegrating offenders into their community; enabling offenders to take active responsibility for their actions; developing the capacity of the community to deal with the effects of crime as well as its prevention; avoiding more costly legal responses to crime.

Marshall (1995 & 1995b) considers that restorative justice should aim to achieve six outcomes. These are:

· The **denunciation of crime.** The action taken in response to crime will define the boundaries of behaviour beyond which citizens should not stray. Often the expression of denunciation will take the form of punishment or some burden placed upon the offender. · The **reform of individual offenders.** · The **prevention of crime** in a general way. Restorative principles would promote the role of the community in controlling and reducing crime. Restorative interventions would aim to enhance the ability of communities to take on this role or expand their capacities. · **Helping victims. · Making good the suffering caused by crime. · Keeping the costs of administering justice to a minimum.** Money spent on responding to crime is not available to be used in the provision of education, health or welfare services. Consequently, it is important that the cost, both financial and social, of resolving the problems associated with crime is not greater than the consequences of taking no action.

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[113] New Zealand, Ministry of Justice, Restorative Justice, A Discussion Paper, 1996,
http://www.justice.govt.nz/pubs/reports/1996/restorative/index.html