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1. Relevant Documents, Studies and Practices – Yukon

1.1. Yukon Department of Justice¹

- Kwanlin Dun Community Social Justice Project - Whitehorse, Yukon
 - Victim and offender support in the justice system
 - Circle sentencing
 - Family Group Conferencing
 - Crime Prevention initiatives
 - Parole Board pre-release circles
 - Community meetings to build awareness about 'justice' and to involve the community in planning justice initiatives in their community
 - Justice Council made up of community and 'justice system' representatives.
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1.2. 2001-2002 Aboriginal Justice Strategy Contribution Agreement

THIS AGREEMENT made the 1st day of February, 2002.

BETWEEN:

GOVERNMENT OF YUKON, as represented by the Minister of Justice (“Yukon”)

AND:

KWANLIN DUN FIRST NATION (hereinafter referred to as “the Recipient”), as represented here by its duly authorized representative

WHEREAS:

- A. Her Majesty the Queen in Right of Canada represented by the Minister of Justice of Canada (hereinafter referred to as “Canada”) will provide financial assistance to the Recipient under the terms of the Aboriginal Justice Strategy Fund (hereinafter referred to as the “Strategy”); and
- B. Yukon has agreed to share costs with Canada as a condition of the Strategy;

NOW THEREFORE the Parties hereto, in consideration of the covenants, understandings and undertakings hereinafter set out, do hereby agree as follows:

1. CARRYING OUT THE PROJECT

¹ Government of Yukon, Department of Justice, Community Justice, <http://www.justice.gov.yk.ca/prog/cjps/cj/comjuscom.html>

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- 1.1 The Recipient agrees to carry out the operation and development of the Kwanlin Dun Community Social Justice Project (referred herein as the “Project”) in a manner acceptable to the Yukon and, without limiting the generality of the foregoing, in accordance with:
 - 1.1.1 the Project Description (attached as Schedule A);
 - 1.1.2 the Goals, Objectives and Work Plan (attached as Schedule B); and,
 - 1.1.3 the Budget and Payment Schedule (attached as Schedule C and hereinafter referred to as the “Budget”).

2. TERM
 - 2.1 The term of this Agreement shall be from April 1, 2001 to March 31, 2002.

3. ASSISTANCE
 - 3.1 The Yukon agrees to provide the Recipient with an amount not to exceed \$55,480 for the operation of the Project during the term of this Agreement.
 - 3.2 The funding provided under 3.1 will be paid in the following manner:
 - 3.2.1 A payment of \$30,000 upon execution of this Agreement;
 - 3.2.2 An interim payment not to exceed \$16,980, depending on the cash flow requirements of the Recipient, and upon receipt and approval of an interim financial statement in accordance with 4.1.5 and upon receipt and approval of written activity and statistical reports to the end of September 2001, in accordance with 8.1.2; and
 - 3.2.3 A final payment not to exceed \$8,500 (which sum represents a holdback of approximately 15% of the funding provided under 3.1) upon receipt and approval of an audited final financial statement in accordance with 4.1.6 and upon receipt and approval of the final Project report in accordance with 8.1.2.
 - 3.3 The Yukon’s obligation to provide assistance under 3.1 is subject to the following:
 - 3.3.1 Money being appropriated by the Legislature for the purpose of this Agreement;
 - 3.3.2 Canada agreeing to provide financial assistance to the Recipient in the amount set out in the Budget;
 - 3.3.3 The Recipient agreeing to contribute to the Project in the amounts set out in the Budget; and
 - 3.3.4 The Recipient complying with the terms of the Agreement.
 - 3.4 The parties acknowledge that Government of Yukon, Department of Health and Social Services (“H&SS”) will make contributions (as identified in the Budget) to the Recipient in accordance with the terms of separate contribution agreements between H&SS and the Recipient.

4. FINANCIAL ACCOUNTABILITY
 - 4.1 With respect to the assistance provided by Yukon under 3.1, the Recipient agrees:

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- 4.1.1 to make expenditures only for the purpose of carrying out the Project;
 - 4.1.2 to make expenditures only in accordance with the Budget;
 - 4.1.3 to allocate the assistance received in accordance with this Agreement;
 - 4.1.4 to maintain financial books and records, in accordance with generally accepted accounting procedures and methods, as well as other records to which the parties may agree, and to account for the assistance received under this Agreement separately from any other funds of the Recipient;
 - 4.1.5 to deliver to the Yukon an interim financial statement of its expenditures with respect to the Project for the period April 1, 2001 to September 30, 2001 due upon signing this Agreement, which statement shall refer specifically to the line items in the Budget, and be in a form acceptable to the Yukon;
 - 4.1.6 to deliver to the Yukon an audited final financial statement of its expenditures with respect to the Project for the period April 1, 2001 to March 31, 2002 due June 30, 2002, which statement shall refer specifically to the line items in the Budget, and be in a form acceptable to the Yukon; and
 - 4.1.7 to make available, during the term of this Agreement and up to and including one year from the date of termination of this Agreement, to the officers or agents of the Yukon or Canada, for the purposes of audit or review, all financial books, records and statements upon reasonable notice and during the normal business hours of the Recipient.
- 4.2 Notwithstanding paragraph 4.1.2, reallocations between the budget items set out in the Budget as Canada/Yukon expenditures, not exceeding twenty per cent (20%), are permissible. Reallocations that exceed the 20% limit require the approval of the Yukon.
- 4.3 Any assistance provided through this Agreement that is
- 4.3.1 unexpended at the expiry or termination of the Agreement;
 - 4.3.2 not properly expended for the purposes of the Agreement; or,
 - 4.3.3 in excess of the reduced amount of assistance under 5.2;
- shall constitute a debt due to the Yukon and shall be paid immediately by the Recipient to the Yukon.

5. REDUCTION OF ASSISTANCE

- 5.1 The Recipient shall immediately advise the Yukon in writing if it receives additional payments or any other form of contribution, gift, or grant in respect of the Project dealt with in this Agreement in amounts greater than, or from sources other than those set out in the Budget, or if the Recipient or Canada reduces its contribution to the Project.
- 5.2 If it comes to the attention of the Yukon that the Recipient received additional payments or any other form of contribution, gift, or grant in respect of the Project dealt with in this Agreement in amounts greater than, or from sources other than those set out in the Budget, or that Canada or the Recipient has

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reduced its contribution to the Project, Yukon may reduce the assistance provided under 3.1 by such amount as it may decide.

- 5.3 The Yukon will give the Recipient 30 days written notice before reducing its assistance.
- 5.4 The reduced amount of assistance under 5.2 shall be the amount of assistance for the purposes of the Agreement.

6. IMPACT ON SELF-GOVERNMENT NEGOTIATIONS

- 6.1 The Parties agree that any assistance provided by Yukon under the terms of the Strategy is without prejudice to the administration of justice/program and service transfer negotiations (the “Negotiations”) which may take place pursuant to a Yukon First Nation Self-Government Agreement.
- 6.2 For the purposes of the Negotiations, the Recipient acknowledges that any assistance provided by Yukon under the terms of the Strategy will be determined by Yukon on an annual basis.
- 6.3 Unless the Parties otherwise agree, the provision of assistance by Yukon to the Recipient is not intended, in and of itself, to create a program or service for the purposes of the Negotiations.

7. CONFIDENTIALITY

- 7.1 Subject to paragraph 7.2, all information which the Recipient may obtain from clients or their legal counsel in carrying out the Project shall be treated by the Recipient as having the same confidentiality as solicitor and client communications. Any records maintained by the Recipient in respect of clients shall not be open to inspection except in accordance with the aforementioned principle.
- 7.2 Paragraph 7.1 is not intended to impede the compiling of information for evaluation or statistical purposes, provided that the identity of any particular client is not disclosed.

8. EVALUATION AND REPORTS

- 8.1 The Recipient agrees
 - 8.1.1 to maintain, in a manner acceptable to the Yukon, case files and other data which may be required for on-going monitoring, review, and evaluation of the Project;
 - 8.1.2 to provide the Yukon written activity and statistical reports of Project activities to December 31, 2001, due upon signing this Agreement and a final Project report due April 30, 2002; which reports, shall be in a form acceptable to the Yukon;
 - 8.1.3 to co-operate with the Yukon Department of Justice, in the event that Yukon undertakes any evaluation studies in respect of this Project, the costs of such studies to be borne by Yukon; and
 - 8.1.4 to provide copies of any existing information, data, and statistics that Yukon reasonably requires to carry out such evaluation studies.

9. USE OF RESULTS

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9.1 The Recipient shall retain copyright in any work produced by it as part of this Project; but the Recipient shall not contract away its copyright interest without the approval of Yukon, and the Recipient hereby authorizes the Yukon to produce, reproduce, or publish in any form or by any means the original work or any adaptation thereof in any language for use within the Yukon public service and for non-commercial distribution or dissemination.

10. PUBLIC ACKNOWLEDGMENT

10.1 Any information released or announced to the public by the Recipient concerning the Project shall adequately acknowledge the contribution made by Yukon.

10.2 Any information released or announced to the public by the Yukon concerning the Project shall adequately acknowledge the contribution made by the Recipient.

11. TERMINATION

11.1 Either party may terminate this Agreement without cause by giving the other party 30 days written notice of its intention to terminate.

11.2 Either party may, upon written notice, immediately terminate this Agreement for fundamental breach of contract.

11.3 If this Agreement is terminated under 11.1 or 11.2:

11.3.1 the Recipient shall, within 90 days of the date of termination, provide the Yukon with an audited financial statement pertaining to the Project for the applicable period of time; and

11.3.2 clause 4.3 of this Agreement shall apply to any assistance that is unexpended at the termination of this Agreement.

12. DISPUTE RESOLUTION

12.1 In the event of a dispute between the Parties arising out of this Agreement, the Parties agree to attempt resolution through negotiation or other appropriate dispute resolution procedures.

13. DISCLAIMER

13.1 Nothing in this Agreement is intended to make the Recipient an agent of the Yukon for any purpose whatsoever and the Recipient and its employees shall not be considered to be employees of the Yukon.

13.2 The Recipient agrees not to hold itself or allow any person associated with the Project to hold himself or herself out as representing the Yukon for any purpose whatsoever.

14. YUKON NOT LIABLE FOR RECIPIENT INJURY / INDEMNIFICATION

14.1 The Recipient shall use due care in carrying out the Project and in performing this Agreement to ensure that no person is injured, no property is damaged or lost, and no rights infringed.

14.2 The Recipient agrees that the Yukon shall not be liable for any injury to the Recipient, or for any damage to or loss of property of the Recipient caused by, arising from, or in any way related to the Project or to the performance of this Agreement.

14.3 The Recipient shall be solely responsible for

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- 14.3.1 any injury (including death) to persons (including any officers, employees or agents of the Recipient), damage or loss to property or infringement of rights caused by, arising from, or related to the Project, the performance of this Agreement, or the breach of any term or condition of this Agreement by the Recipient or the officers, employees or agents of the Recipient; and
- 14.3.2 any omission or wrongful or negligent act of the Recipient, or of the officers, employees, or agents of the Recipient;

and the Recipient shall save harmless and indemnify Yukon, its officers, employees, and agents from and against all claims, liabilities and demands with respect to paragraphs 14.3.1 and 14.3.2 with such indemnity surviving the expiry or termination of this Agreement.

- 14.4 Paragraphs 14.2 and 14.3 do not apply to the extent that the injury, damage, or loss was caused by the wrongful or negligent act of an officer or employee of Yukon while acting in the scope of his or her employment.

15. ASSIGNMENT

- 15.1 This Agreement may not be assigned by the Recipient without the prior written consent of the Yukon.

16. SCHEDULES

- 16.1 The following schedules are incorporated into and form part of this Agreement:

- Schedule A: Project Description
- Schedule B: Goals, Objectives and Work Plan
- Schedule C: Budget and Payment Schedule

17. PROJECT NEGOTIATIONS

- 17.1 The Parties shall conduct negotiations associated with the Project in a mutually respectful manner.
- 17.2 While the Parties share a desire to keep the public informed, details of positions and documents exchanged or developed by the Parties during negotiations associated with the Project will be confidential unless otherwise agreed to by the Parties or unless public disclosure is required by any legislation relating to access to information or privacy.
- 17.3 The Parties may issue joint statements to, or jointly attend meetings with, the media, individuals, groups, or organizations on the progress of any negotiations associated with the Project.
- 17.4 The Parties shall consult with each other prior to any release to the media or the public of any information relating to Project negotiations.
- 17.5 Any public consultation or public information process shall not be used by any party as a means of encouraging support or developing public pressure for a particular negotiating position.

18. NOTICE

- 18.1 Any written communication, report or notice required pursuant to this Agreement may be given by delivering the same by prepaid post:

If to the Yukon to:

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Department of Justice
Government of Yukon
J-10/P.O. Box 2703
Whitehorse, Yukon
Y1A 2C6

If to the Recipient to:

Director, Kwanlin Dun Justice
Kwanlin Dun First Nation
35 McIntyre Drive
Whitehorse, Yukon
Y1A 5A5

IN WITNESS WHEREOF the parties by their duly authorized representatives have executed this Agreement hereunder
this day of February, 2002.

Government of Yukon

Kwanlin Dun First Nation

per:

per:

Witness Witness

SCHEDULE A
PROJECT DESCRIPTION 2001/02

KWANLIN DUN COMMUNITY SOCIAL JUSTICE

MANDATE:

KDFN Community Social Justice is committed to providing a system of supports that encourages responsibility, accountability, restitution, while exercising one's rights and adhering to one's obligations under the Canadian laws.

COMMUNITY JUSTICE PHILOSOPHY:

CRIMINAL JUSTICE

The Canadian Criminal Justice System, primarily adversarial and based on incarceration and punishment, contributes towards the recidivism rate in First Nation communities. Kwanlin Dun's experience with the formal system indicates that the justice process and services are ill equipped to effectively change First Nation criminal behavior.

Kwanlin Dun (KDFN) Community Social Justice is a holistic approach towards the achievement of individual rehabilitation, collective accountability and communal harmony. The removal of criminal activity within a community requires a change in the individual's attitude towards their obligations under the law. To effect behavioral change requires acknowledgement that an individual is a product of one's social environment.

KDFN Community Social Justice strives to change the environment that contributes towards destructive behavior, to in turn foster positive, healthy relationships with the individual self, family and community. To achieve individual rehabilitation, collective accountability and communal harmony requires cultural sensitivity, awareness of the individual surroundings, in addition to family and community commitment to walk along-side offenders and/or victims towards positive change.

FAMILY/CHILD WELFARE

A direct link exists between increasing number of young offenders and the staggering number of First Nation children placed in Government care (YTG: Department of Children & Family Services). Far too many First Nation children are introduced to the court system, through child protection hearings, and continue their existence in the system, on through to the youth and/or adult correction institutions.

To encourage communal support and collective responsibility for KDFN young, First Nation families must be in a position to positively influence their children.

KDFN Community Social Justice continues to work with other social agencies to provide parents and extended family members with access to resources and supports to strengthen their abilities to effectively raise their children, free from Government interference.

PROJECT SERVICES

KDFN Community Social Justice is committed to providing First Nation People with the following support services and opportunities:

- (a) Community Legal Education Forums;
- (b) Information sharing workshops & conferences on legal issues and community social justice development;
- (c) Mediation and Family Group Conferencing;
- (d) Pre and Post Charge Diversion;
- (e) Sentencing Circles;
- (f) Counseling and referrals for offenders & individuals affected by crime;

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- (g) Probation supervision;
- (h) Access to educational tools and resources;
- (i) Inmate Program Services; and
- (j) After Care planning.

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SCHEDULE B
GOALS, OBJECTIVES AND WORKPLAN 2001/2002

PROGRAM GOALS	PROGRAM OBJECTIVES	METHOD OF ACHIEVEMENT	RESPONSIBLE	TIME FRAME
A. Empower the Community to Assume Greater Responsibility for Justice Issues & Resolution of Community Disputes	1. Stabilize Sentencing Circle Process; 2. Establish Child/Family Circle Process 3. Community Intervention & Crime Prevention 4. Alternative & Diversion Program; 5. Stabilize Justice Council; 6. Regular Family & Community Talking Circles; 7. Strengthen Healthy Community Standards.	1. Establish Community Court Docket: JP and Judges Court – Adult & Youth Matters; Keepers Training; 2. Develop Principles and Process in consultation with Court Users, C&FS, Justice & Elected Council; 3. Regularize RCMP & Justice Council Meetings and RCMP & Community Meetings; 4. Pre & Post Charge Protocols; CJF Facilitators Training; 5. Strengthen Elder & Youth involvement on Council; Regular Council Meetings; 6. Increase Circle Support System in Aftercare planning; 7. Increase use of Support Agencies & Resources	1. Director/Territorial Court Services; 2. Director, Chief Judge and Director of C&FS 3. Director & RCMP Members 4. Justice Council & Crown and RCMP; 5. Director & Elders Council; 6. Justice Staff & Council 7. Justice Staff	1. Sept 2001; Training Session – Sept 2001; 2. Ongoing; 3. Ongoing since April 2001; 4. Sept 2001; 5. Ongoing; 6. Ongoing; 7. Ongoing
PROGRAM GOALS	PROGRAM OBJECTIVES	METHOD OF ACHIEVEMENT	RESPONSIBLE	TIME FRAME

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<p>B.</p> <p>Promote Community Awareness & Understanding of Behaviors and Actions that can cause and prevent Crime</p>	<ol style="list-style-type: none"> 1. Community Information Gatherings; 2. Program Newsletters; 3. Stabilize Community Crime Prevention Initiatives; 4. Inter-Agency Partnerships; 5. Council & Staff Capacity Development 	<ol style="list-style-type: none"> 1. Quarterly Crime Prevention & Community Information Gatherings; 2. Quarterly Newsletters; 3. Continued Attendance with Kwanlin Dun Community Asset Working Group; 4. Continued Attendance on Youth Justice Panel & Safer City Strategy Team; Justice Council Operations; 5. Workshops and Job Shadow Opportunities 	<ol style="list-style-type: none"> 1. Justice Staff & Council Members; 2. OA&DC²; 3. OA&DC; 4. Justice Council, Director & OA&DC; 5. Director & Justice Staff 	<ol style="list-style-type: none"> 1. Sept – March; 2. August – February; 3. Monthly; 4. Weekly / Quarterly 5. Training Work Plan: Sept 2001
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PROGRAM GOALS	PROGRAM OBJECTIVES	METHOD OF ACHIEVEMENT	RESPONSIBLE	TIME FRAME
<p>C.</p> <p>Program Stabilization</p>	<ol style="list-style-type: none"> 1. Stabilize Program to full operating capacity; 2. Reaffirm & Refine Justice Mandate for next 3-5 years; 3. Complete Justice Program Policy 	<ol style="list-style-type: none"> 1. Hire full time Family Justice Worker; 2. Program Evaluation; Current Community Needs Assessment; Monthly Executive & Justice Council Meetings; 3. Review, Revise and Update Draft Policy. 	<ol style="list-style-type: none"> 1. Director & KDFN Personnel; 2. Director in consultation with Council, Community & Staff; 3. Justice Director in consultation with Justice & Elders Council 	<ol style="list-style-type: none"> 1. June/July 2001; 2. May – December 2001; 3. February 2002.

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Victim Support & Youth Programs	15,000		
Community Development & Training	5,300		
Professional Development (staff)		20,000	House Of Learning In Kind
Sub-total Project Operations	<u>85,270</u>	<u>47,194</u>	
TOTAL EXPENDITURES	247,960	66,004	
	=====	=====	
		(10,004)	

SCHEDULE C

BUDGET and PAYMENT SCHEDULE

FOR THE 2001-2002 ABORIGINAL JUSTICE STRATEGY CONTRIBUTION AGREEMENT
BETWEEN THE YUKON AND KWANLIN DUN FIRST NATION

PART B: PAYMENT SCHEDULE

The contribution of the Yukon Department of Justice will be limited to the lesser of \$55,480 of the expenditures incurred, less monies received from sources other than those listed above.

1. First Payment of \$30,000, upon execution of this Contribution Agreement, see 3.2.1 of the Agreement.
2. Second Payment not to exceed \$16,980 upon receipt and approval of the interim financial statement and written activity and statistical reports, see 3.2.2 of the Agreement.
3. Third and Final Payment not to exceed \$8,500 upon receipt and approval of an audited financial statement and final Project report, see 3.2.3 of the Agreement.

1.3. Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon – 1992 ³

³ Laprairie, Carol, Report to Department, Yukon Territorial Government, First Nations, Yukon Territory, Justice Canada, Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon. September 1992.

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

2.1. A Framework for Community Justice in the Western Arctic – 1999⁴

- *Kwanlin Dun First Nation* - This Whitehorse community justice project is based on a restorative justice model and uses a mediation process for resolving disputes both informally and in the more formal circle sentencing process.
 - The scope of their justice committee is being expanded to include youth and adult diversion.
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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

3. Relevant Documents, Studies and Practices – Other Canadian

http://www.umanitoba.ca/faculties/law/Courses/McGillivray/Justice_Aboriginal_Communities.html

The negative impact of jail upon First Nations offenders and communities was described by Chief Judge Lilles of the Yukon Territorial Court in *R. v. Gingell*, when he summarized the feelings of participants in that sentencing circle:

- Jail has shown not to be effective for First Nation people. Every family in Kwanlin Dun [the Yukon] has members who have gone to jail. It carries no stigma and therefore is not a deterrent. Nor is it a "safe place" which encourages disclosure, openness, or healing. The power or authority structures within the jail operate against "openness". An elder noted: "Jail doesn't help anyone. A lot of our people could have been healed a long time ago if it weren't for jail. Jail hurts them more and then they come out really bitter. In jail all they learn is "hurt and bitter".⁷

3.1. Making It Work: Planning And Evaluating Community Corrections & Healing Projects In Aboriginal Communities ⁵

- In 1992 the leadership of the Kwanlin Dün Band in the Yukon realized that many band members were involved with the criminal justice system, and that many of them were reoffenders.
- With little or no community support for offenders or victims there was little hope of reducing the community's problems with crime.
- Band leaders met with justice officials to seek a better way of dealing with the problem.
- The result was a circle sentencing program that focused on healing the damage caused by crime and on reintegrating the offender into the community.
- The circle consisted of a wide variety of people including judge, crown attorney, defence counsel, court worker, probation worker, alcohol and drug worker, crime prevention coordinator, family members, elders, and other community members (Church Council on Justice and Corrections, 1997).

⁵ Church Council on Justice and Corrections. 1996 *Satisfying Justice*. Ottawa: Church Council on Justice and Corrections *cited in* Solicitor General Canada, Rick Linden University of Manitoba and Don Clairmont Dalhousie University, *Making It Work: Planning And Evaluating Community Corrections & Healing Projects In Aboriginal Communities*, 1998
<http://www.sgc.gc.ca/epub/Abocor/e199805b/e199805b.htm>

4. Relevant Documents, Studies and Practices – USA

5. Relevant Documents, Studies and Practices – International

5.1. Putting Aboriginal Justice Devolution Into Practice - 1995 ⁶

- Kwanlin Dun consists of about 1200 band members, located near Whitehorse, Yukon. The community has relocated four times, from industrial areas to the wilderness.
- It faces 80% unemployment, a high degree of dysfunction and unresolved generational problems.
- In order to address these challenges, the Kwanlin Dun Justice Project started with an examination of the community and cultural values, and found values such as respect, compassion, forgiveness, sharing, spirituality and wholeness to form the core of its culture.
- It also embraces ethics such as, "Harm of one is harm to all," and "What goes around, comes around." In designing the justice project, these values and ethics were incorporated, together with the principles of flexibility and partnership with the formal justice system.
- The project is predicated on the sharing of power, responsibility and knowledge.
- The core of the Kwanlin Dun project is circle sentencing. However, the circle hearing part is only one of a number of stages which the community intervenes to respond to conflict. Stage one is the immediate community response. It may be by the police, or by peace makers who may choose to use mediation or diversion. Stage two is the application to the circle. At this stage, a number of parties could be involved - an elder, the victim coordinator, probation officer, courtworker and community members at large, etc. A "Wellness Plan" can be developed at this stage. Stage three is the decision of the community justice committee which may receive input from the offender, the victim, the justice system and the community. If the case is rejected, it goes to court. The committee may seek more information before deciding, but once it is accepted, then a decision is made regarding when, where and who to be included in the circle process. Stage four is the circle preparation, including preparation by the offender support group and the victim support group, and meetings of the representative of the groups. Sometimes, mediation take place at this stage. Stage five is the circle sentencing hearing. Stage six is the implementation of the sentence. Lastly, Stage seven is the community pardon.
- The Circle process is open to the community at large. All are encouraged to be honest and to speak from the heart and with respect. The Kwanlin Dun Project works closely with only one Crown and provide as much information as possible to the Crown and the Judge who are present at the circle. The Defense lawyers usually let the community speak. The circle will mediate when necessary. Consensus is vital; so is re-integration into the community and community monitoring of the sentence. The Project has dealt with nearly all forms of offenses, including violence offenses (though it has not encountered manslaughter or murder); however, it does not handle sexual assault cases and feels that it will require more community mobilization and preparedness before doing so.
- Concerns of victims in the circle process is one issue that may require examination and monitoring.
- The **perception of leniency** may be a reaction to the emphasis on healing and rehabilitation. This complaint may have merit if the emphasis is only on the healing of the offender rather than of the

⁶ Rosemary Couch (Yukon, Canada) cited in The International Centre for Criminal Law Reform and Criminal Justice Policy and The School of Criminology, Simon Fraser University and with the support of The Department of Justice Canada and The Ministry of the Attorney General of British Columbia, Putting Aboriginal Justice Devolution Into Practice: The Canadian And International Experience Workshop Report, July 5-7, 1995 <http://137.82.153.100/Reports/Aboriginal.txt>

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community. The case studies repeatedly show that part of their success is in the partnership between the official justice system which retains its punitive powers over the offender (or victimizer) and the healing processes which is community driven. Notable examples of this partnership are found in the case studies in Kwanlin Dun, Hollow Water and Canim Lake. As illustrated by the case studies, a workable partnership cannot be taken for granted and is often a result of long periods of give-and-take.