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1. Relevant Documents, Studies and Practices – Yukon

1.1. Our Nations^{1 2}

Carcross/Tagish First Nation is located in the town of Carcross. The original inhabitants of this area are the Tagish people who belong to the Tagish linguistic grouping of the Athapaskan language family. The area also became the home of Tlingit traders from Southeast Alaska who were venturing into the interior of the Yukon for Trade purposes, perhaps for 200 to 300 years prior to contact in the Yukon. Today many of the Carcross/Tagish First Nation people are descendants of both Tagish and Tlingit. As of January 2001, the Carcross/Tagish First Nation has not yet signed their First Nation Final Agreement. The First Nation is presently attempting to address issues pertaining to Section 87 on First Nation Taxes.

The Carcross/Tagish First Nation is committed to Restorative Justice and believes in the wellness of its members. The First Nation employs a full time Clinical Psychologist to work on various issues with individual members, many of these issues are related to the Mission schools which operated in Carcross from 1906 till the 50's. In addition, the members of the Carcross/Tagish First Nation are committed to preserving the practice of potlatching and the songs and dances of the clans. There are five Tlingit Clans represented in the Carcross/Tagish First Nation: under the Crow Moiety, Dèshitàn (Split Tail Beaver), Gaanaxteidí Raven), Kukkittan (Crow) and under the Wolf Moiety are the Dakh'lawêdî (Killerwhale) and the Yen yèdí (Eagle). Each of these clans plays a vital role in the structure of traditional governance, a focus that the Carcross/Tagish First Nation is leaning toward in their model of self-government. The First Nation remains a department of Indians Affairs Band until the signing of their final agreement.

Introduction

The information that is presented in section 1 of this report is based on materials found in a variety of forms. These would include books, archive material and information received from other researchers. Our people have not yet verified this information and we ask that this be kept in mind while reviewing this section of the report.

1. Where do the clans come from?

There are six clans represented within the governing structure of the Carcross/Tagish First Nation. The Daklaweidi and Yan Yedi clans are the Wolf Moiety, while the Deishectaan, Ganaxteidí, Ishkahitta and Kookhitta clans are of the Crow Moiety.

It's difficult to establish exactly where all the clans came from because there are so many similarities between some of the clan "creation" stories. Plus the history was passed on orally so this created many variations to the same story. Also the team has found a lot of material on the Tlingit people, but here is little information on creation and origin of the clans. What follows is a summary based on some archive research conducted by the team.

a. Daklaweidi

The Daklaweidi clan traces its origin to the Telegraph Creek area of northern British Columbia. McClellan says that the Daklaweidi clan of the wolf moiety is closely linked with the Tagish and the Tahltan of the interior.

¹ <http://www.cyfn.ca/ourNations/carcrossTagish.html>

² <http://www.ctfn.ca/governance/research.html>

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According to one story quoted by McClellan, the Daklaweidi Clan split after a dispute with the other clan members about a woman. One group of people traveled down the Stikine river, but a glacier across the river blocked their way. Two old men on a raft volunteered to find a way underneath the glacier. They put green leaves and/or feathers on their heads so that they would be able to feel the top of the ice tunnel. Luckily they came out the other side without messing up their feathers. Eventually, some of these people found their way to Tagish.

Another story quoted by McClellan from Atlin has a lot of similarities to the story quoted above. It, too, involves a trip under a glacier. But in this story, the people were starving because the glacier was blocking the river and preventing salmon from swimming upstream. The name "Daklaweidi" may mean "back/black sand people"... a name which refers to the sand where the people camped after their trip under the glacier.

In some stories, there is also reference to a "flood" that caused people to move north from their homeland at the head of the Stikine River.

Carcross/Tagish Daklaweidi claim the Wolf, Bald Eagle and the Killer Whale as crests. It is also said that the Daklaweidi people claim to own Tagish.
(See following Summary on the origin of the Killer Whale crest).

Summary of how Daklaweidi got Killer Whale for a Crest

(Information retained from My Old People Say Part 2)

A man and his four brothers-in-law went on some kind of a boat trip. The four brothers were bad and they really disliked their sister's husband. So they went to an island way far out in the ocean and they left him there to starve to death. He had no food and nothing was on the island.

One night when he was asleep on the rock on the beach, he was awakened by voices that appeared to be coming from way down under the water. He paid no attention to the noise.

The next night he heard it again. So he decided to roll off the rock into the water. He sank to the bottom; it was like the water didn't exist. He landed right outside the door of a house. He heard people talking inside of the house.

When he went in he saw people standing around a bed. Lying on the bed was an older man that looked very ill. The people asked him if he was a doctor and if he could cure the man, and they would give him something in return. Immediately he said he could cure him. He saw something strange hanging on the wall; it looked like a balloon type boat made out of skin or intestines. He thought to himself, "if I cure the man I will ask for that". It was like the people read his mind, they said "if you cure him we will give you that on the wall". He cured the man and the people fed him and gave him a place to sleep. The next day the ill was cured and was up and walking around. He said, "I will feel good again". The people honored their word and gave the man the thing on the wall.

They told him when you get in make sure there is no leaks and think hard about where you want to go, and it will take you there. But don't think of anything else just about where you want to go. So he got in and made sure there were no leaks and he thought of home and his family. The boat took him to the shore not far from his house.

He had to go at night so no one would see him. He went into his house and got his tools and jumped in his boat and went back to the island. He started carving two wooden creatures that looked like fish of some kind with sharp teeth (Killer Whale). He put them into the water and they came to life. He used them to get food for himself. Every time they came back he took them out of the water and they became wood again.

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One day he heard voices in a far off distance. He knew that it was his wife's brothers coming. When they got to the island they saw that he was still alive so they turned around and went back leaving him behind. Then they were far out into the water he took out the carvings and told them to kill the men in the boat, so they did. When they came back he told them not to kill anymore humans unless they had to. Then he said, "now you are supposed to stay in the water", and he set them free. He gave Kit to his children, who, like his wife were Daklaweidi. That's how Daklaweidi got Kit Killer whale for a crest

b. Yan Yedi

The histories of the Yan Yedi and the Daklaweidi people are very closely linked. Both clans came from the upper parts of the Stikine and Taku Rivers, although they might be able to trace their origins even further back to the Yukutat on the Alaska Coast.

The name "Yan Yedi" has been interpreted as meaning "White Cedar People", "mainland people", or "place of hemlock people".

McClellan differentiates between "old" and "new" Yan yedi. The Old Yan Yedi refer to themselves in English as "wolf wolves", while they call the "New" Yan Yedi "wolf fish-hawks". This means that the "Old" Yan Yedi claim the wolf as their crest, while the "New" Yan Yedi claim the golden eagle.

What seems likely is that the "old" Yan Yedi were pushed back up the Taku River by the "New" Yan Yedi who were moving in from the coast and from the Stikine area. One story quoted by McClellan suggests that a young Yan Yedi couple fled to the Nisutlin area after committing incest.

There are a number of different Yan Yedi "creation" stories. One of the most powerful stories is one told by Mrs. Elizabeth Nyman from Atlin. In the story, she talks about two different peoples separated by a glacier.... (See Attached summary on the origin of the Yan Yedi people).

(Information collected from Gagiwdu. At: Brought forth to reconfirm: legacy of the Taku River Tlingit clan)

Long ago a great glacier stretched to the mouth of the Taku river. There were a people to the south and a people to the north of this glacier, but neither knew that other people were on the other side.

One of the older men, who were the leader of the northern people lived at Kaxhtuk. His name was Xuts, which means brown bear. The northern people were making a house and Xuts's nephews and brother asked, "What shall we make our house of?" Xuts replied, "well, how it would be, how about the hemlock growing over there?" So they went over and chopped down the hemlock with their only adze.

A while later the people to the south heard some noises coming from the other side of the glacier. The old man to the south, whose name was Nadaeya wondered "How could it be that I hear something like a human voice?" Little did he know that there was a people on the other side mourning the loss of their only adze, by singing and dancing. It had been broken while chopping down hemlock.

Meanwhile, on the north side of the glacier the old man thought to himself "let me find out about this". Put something together to float through the river, under the glacier. It was a knee high boot that he covered in pitch so it would be waterproof, then bundled it in wood so it would float. After it was put together he threw it in the river and watched it float away.

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Some time passed when the old man from the south found something floating in the river. "Something strange has floated down here. Run and jump in the canoe," Nadaeya said to his nephews. So his nephews went and grabbed the object in the water and brought it back to their uncle. "Then there must be people on the other side of the glacier." He was curious who was over there so he got his slave and made a canoe. Then the old man started walking across the glacier, while the slave pulled the canoe with some of those adzes to chip the ice where need be. When they reached the other side they found a lake.

Xuts, the old man from the north saw something on the glacier. He couldn't make out what it was. So he constantly watched the objects on the glacier "look on the side of the glacier, there's something strange, something maybe an eagle or could that be a raven flying along there? It doesn't look like one to me though," he said. He waited a while still curiously watching that object on the glacier. He could vaguely make out the two figures and soon realized that it was two people hiking across the glacier, and they were walking towards him.

Then Nadaeya made it to the other side and put his canoe back into the water at a place called Goose Slough. He paddled to the shore where he saw the other old man. "Tlaxhwaye," he said to the man on the shore.

"Tlaxhwaye", Xuts replied. They were saying hello. A short while after Nadaeya was told about the adze that was broken making the house. It just so happens that Nadaeya had some in his canoe, so he gave one to Xuts, who in return gave him a female slave.

Nadaeya and Xuts discussed how it was to be. During this discussion Nadaeya had an idea. "I have been thinking about it, and this is what I'll do. There will be no glacier there." the next day Nadaeya and his male and female slave started their journey back to the south side. When they got to the glacier Nadaeya decapitated his male slave and dragged the body across the ice. They named the trail of blood Yakwdeyi (canoe path). Along this path of blood the ice started melting as if hot water was poured onto the glacier. And it just kept on melting the ice until there was a path right through the glacier. From then on the north and south people could travel back and forth to each other's villages. This is why there are some coastal people inland and inland people on the coast.

Finally they finished their hemlock house. "Now how shall we name our people after it?" said Xuts who had another name, which was Ltadutin. "So that we will have a name to be called by, this is hemlock house. Therefore we are the Yan Yedi, the Hemlock House Clan". The men are Yan Yedi, and the women are Yanyedisha.

c. Deisheetaan

The Deisheetaan clan is closely related to the Tuq'wedi clan from Tagish. Both these clans eventually merged to become Deisheetaan.

Stories about the Deisheetaan clan revolve around four daughters of an Angoon woman who married a high-ranking Chilkat man. These sisters left Chilkat and went to Juneau before turning inland and traveling up the Taku River. On the upper Taku, the sisters separated. One married a Tahltan from the Telegraph Creek area; one married an Inland Tlingit from Teslin; one married a Tagish man; and one married a man from Pelly Banks. We know that there were three sisters, with the possibility of a fourth who married the man from Pelly Banks. This story is yet unclear.

The Deisheetaan have the beaver as their crest. According to some of the stories quoted by McClellan, the beaver caused floods in revenge for the way in which he had been treated (".. because it almost killed us, that's why we have the beaver"). Deisheetaan claim to own Carcross. The clan may have originated from Angoon.

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The Deisheetaan are undecided about the meaning of their name (Tuqwedi). One clan member suggests that it refers to cottonwood, which is the favorite food of the beaver.

d. Kookhittaan

The Kookhittaan clan is generally considered to be an offshoot of the Ganaxtedi clan. McClellan quotes one informant from Teslin who says that ancestors of the Kookhittaan were supposed to have gone down the Taku River long before there were any other Tlingit speakers in the area. (The implication is that they were then Athabaskan speakers). Another story says that the Kookhittaan are part of the Kaagwaantaan clan, which is part of the wolf moiety. The Kaagwaantaan claim to be the oldest and most powerful.

Another informant of McClellan's said that the name Kookhittaan was taken by a branch of the Ganaxtedi after some of the group had moved to Angoon. There the group split because there were too many Ganaxtedi living in one house. The new group built another house at the end of the village. But because they were afraid of the Ganaxtedi, they built a hole or cellar in the middle of the house in which to hide. Then name Kookhittaan means "people of the house with the hole in the middle". Another story says that they put the hole in the middle to protect the women and children of the house.

McClellan says that in the late 1800's or early 1900's, a potlatch house was built near the head of the Taku River, which had a large cellar dug out.

The clan emblem of the Kookhittaan is a crow with the three babies (sometimes carrying two human heads said to belong to slaves). They also use the Three-heads encircling the Salmon called Ick a taxt, (they represent spirits associated with the Salmon Hole of the Ishkahittaan people).

e. Ganaxtedi

There is not very much information describing the origins of the Ganaxtedi clan. One story quoted by McClellan, talks about a chief near Ketchikan who found his wife's lover hiding in a box...and killed him. This caused trouble, and part of the clan moved away and settled in places like Hutsnuwu and Chilkat. Apparently, four Ganaxtedi women married Yan Yedi men from the Taku River (which is how Ganaxtedi came to exist in the interior).

The Ganaxtedi claim crow as their emblem.

f. Ishkahittaan

Interior people still think of the Ishkahittaan as a coastal clan. They are linked to both the Ganaxtedi and Kookhittaan clans. Their name means "deep place/stays in one place". Swanton listed an I'cka hit (Salmon Hole House) as a house of the Taku Ganaxtedi.

A Tagish Deisheetaan told McClellan: "It's like the Ishkahittaan is our other half. It's like we point a finger at them".

Ishkittaan claim both the crow and the frog as their emblems.

Introduction

The information presented in sections 2-10 is taken from interviews with the elders. Each elder holds their own interpretations of the culture that has been handed down to them by their elders so the knowledge that we gathered is slightly varied by with the same general meaning behind it. The

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following is the general information that has been gathered.

2. Individual Status

Individual status was given at birth according to the family and the clan they were born into. Status could also be earned. This occurred by how much you gave and did for other people. Once you acquired this status you would have to maintain it by continuing the sharing of wealth with others. You could also gain status if you carry out an honorable deed, for example; paying for the crime of someone in your clan or another clan of the same moiety.

Other individuals, such as matriarchs, Haa Shaa du Hani, patriarchs, and clan leaders would have higher status in the clan and community. These roles are also determined by earning their status.

Status could also be taken away from people if they did not continue giving to the clan and or the community, committing a crime, or by shaming their clan. (See Traditional Tlingit Social Structure)

3. Adoption

The issue of adoption has only come about in the last few years. The need for adoption in the community has become more important since the first Nation has returned to the traditional clan system. With this change we face the issue of unequal representation, and need a way to resolve our problem. One of the solutions that has come out is to adopt people without clans to clans that are already established within our community.

- a. In the adoption process it is the responsibility of the clan to select whom they wanted to adopt into their clan. The individual would have to approach the clan they wished to be adopted into, and ask for a decision. This was also an earned privilege that the adopted clan member would honor with great respect. The matriarch is to carry out the process for adoption and name giving.
- b. Even before you approach a clan to request to be adopted, you must ensure that the clan is opposite of your father. An example would be if your father was Daklaweidi clan (wolf moiety), then you must approach someone of the crow moiety. This is because of our matrilineal way of life, and to always follow your mother. If you were a non-First Nation person, with both of your parents being non-First Nation, you would request to be adopted from the clan in which you have relations to.
- c. The selection of a name given to an adopted person would be the responsibility of the matriarch. The name given would not be an original name from the clan, but one that has been made up. Original names are only given to people that belong to that specific clan.
- d. Being adopted into a clan was a privilege, and had to be respected and earned by the individual. The ceremony of adoption is held during a headstone potlatch for a person of the clan in which you are getting adopted into.

4. Clan Leaders and Representatives

Clan leaders and representatives are selected to speak on behalf of their clan, and to present decisions made by the clan.

- a. Traditionally the leaders of the clans and community closely watched the younger generation to pick out the leaders of the future. These individuals would have the attributes necessary to be a good leader. The process for leadership selection has changed over the years. Now the

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entire clan is responsible for selecting their leaders every four years.

- i. The attributes of the leaders would include: knowledge of language and traditions, ability to resolve conflicts, knack for speaking well, showing and earning respect to themselves, the clan and the community, and to responsibly represent the clan. Their role is to take direction and work on behalf of their people.
 - ii. The leaders are just representatives and have no real power. They were not allowed to make sole decisions. The power lies with the people. If they misused their position then clan has the ability to remove them from leadership.
- b. The role of women was crucial to the traditional way of life even though they weren't allowed to hold leadership positions. Their role was to advise the leaders about the direction they should take because it was them that stayed within the community when the men were out hunting, and they saw the real issues that needed to be dealt with. Not only that but they also did a lot of organizing and held essential skills for the survival of everyone and they even had time to raise their nieces. Over time the roles have changed, and more women are taking the responsibilities of being in leadership.
- i. Matriarchs are the oldest women in the clan. Their responsibilities and roles are to provide information to other clan member and to pass on their knowledge. They would also give guidance and direction.
- c. The role of men is also crucial to the make up of the clan structure. They also played a major role in the continuation of the clan and community. This role was carried out in a variety of forms. The men were "born leaders"; they were always selected to carry the duty of leading their people. This responsibility was one of the biggest and consumed a lot of their time, and usually lasted throughout their life. The role of leader was always that of a man.

Men were very important when it came to taking care of the families. They were the ones that were responsible for bringing food into the homes, and were always away hunting for their families. Along with taking care of their own families, they were responsible for raising their nephews. This was done to ensure that the young men in the community would learn the proper ways of being leaders, and to learn all aspects of traditional life.

- d. The Kaa Shaade Hani is appointed from the other clan leaders to speak on behalf of the entire community. His roles are similar to that of a "chief", but can only take direction for his people.
- i. The selection of the kaa Shaade hani is the same as the selection of the clan leaders. The only way that anyone can acquire this position is through appointment, and has to be earned. The appointment of such a position is a great honor, and should be held in respect. The people always have the power, and if their views and interests are not addressed to their satisfaction, or the leader has shown disrespect, this position can be taken away.
 - ii. To hold such a position within the government structure of the Tlingit people, the leader must possess a lot of qualities. These are essential to ensure effectiveness within the government, both past and present.

Leaders should be able to show a great deal of respect both for themselves and the community in which they live. *(Through the respect should be a strong-minded person, one who is leading a good clean life.) He is also required to hold excellent speaking skills, both within the community and outside of it. This is to ensure that

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the community concerns and issues are expressed as they are told. With these speaking skills, he should also know the language and traditions of his people.

- iii. The power of the Kaa Shaade Hani lies with the people. His is never to do anything without first consulting his people. With this position lies a great deal of responsibility, and the leader must be a very strong minded individual. He must also remember that the people put him there, and that they can always take him out. He is to respect any decision that his people make.

5. Potlatches

Potlatches were a form of celebration for the Tlingit people. These were a very ceremonial event and were used for many things. For many years the Tlingit people were not allowed to hold such ceremonial events, and with this a loss occurred. These potlatches were a very spiritual event for the people. When they were taken away a lot of history was lost. The people today need to remember that potlatches were a celebration of life and should be held for a variety of reasons.

- a. At the present time potlatches are being held only when someone in our community passes away, and when there is to be a headstone placed on their grave. Traditionally potlatches were held for a number of reasons. These included, the boy's first kill, marriage, naming of a child, placing of a headstone, the rising of a totem, and the completion of a new clan house.
- b. With these many potlatches came honor. The more that you gave the higher your status. The Tlingit people long ago celebrated for many days, constantly giving to others, and sharing everything that they had. The people considered this to be a very honorable event. For days the people would give, eat, share, dance, and sing. This would make the people come together and become a more strong and powerful nation.

6. Names and Naming

Traditional names are a very important aspect of Tlingit culture. They told everyone who you were and where you came from. These names that were only to be used by that specific clan, and it was forbidden for anyone else to use those names. Carrying these names was also a great honor, and should be held in the highest respect.

- a. The giving of a name would be the responsibility of the oldest woman of the mother's clan. This was to ensure that the proper names were given and to make sure that everything was done according to tradition. Names were usually given after birth at a headstone potlatch for a member of that clan. These names were given at a potlatch to see that everyone knows the new member of the clan, and what their name was going to be. This too was a very spiritual event for our people, and to be looked at with a great deal of respect.
- b. The actual name itself was the most important. The eldest woman would ensure that the name being given was that of the appropriate clan. An example would be, if you were a person from the wolf moiety, you could only receive a wolf name. Receiving any other name would give a false impression of who you are and where you came from.
- c. Along with your original name, pet names were also given. These names would not have been given out in the same way as the original names. It was usually the fathers and their side of the family that would give these names, and the majority of them were "made up".

7. Songs and Stories

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Songs and stories were a way of passing on knowledge and telling the history of our people. Along with the names, there were certain songs and stories that belong to individual clans, and are not to be used by any other. Certain songs and stories told the history of each clan, and if another used that story it would give a false impression of their history.

- a. Presently there are many stories and songs that people share with other First Nations and Non-First Nation people. This is done so that we can give others a better understanding of our culture. One thing that our elders have taught us about sharing these stories and songs is to relay them the same way that we heard them. We are not to add anything, or take anything away from them. If we wish to tell a story that belongs to another clan we must first get permission from that clan in which it belongs to.
- b. There is really no right or wrong time to tell stories about our people. Many of these are usually told when our people are gathered together for celebrations. There are many people that are gaining an interest in our culture, and request to have stories told to them. Songs and stories are also an excellent way to pass information onto the younger generation. Children have a visual sense when it comes to storytelling, and find it easier to interpret the culture. These stories and songs also have hidden traditional laws and values that the children enjoy figuring out. The sharing of stories between our people also creates a bond between the generations, and allows the people to come together.

8. Marriages

With any other culture marriages are a union. In Tlingit culture there are also different reasons for marriages. They were done to ensure that "incest" was not committed. They would also marry to gain a higher status, to expand land ownership between the clans, and to ensure the survival of the clans. With the Tlingit people, marriages were arranged, and the couples had no say in whom it was they were to marry. This may seem to be a bit harsh, but it proved to be effective in selecting partners.

- a. The selection of partners was the responsibility of both families. They would watch the children as they were growing to see whom they would be the most compatible with. Arranged marriages always lasted. The couple would have known each other from the time they were small children, and would already have a comfort level with their partners. Marriages in Tlingit society were arranged to make sure that people of the same moiety would not get married. An example would be; a woman from the crow moiety would have to marry a man from the wolf moiety, and their children would follow their mother's moiety.
- b. Tlingit couples would be married at a very young age, and would usually take place in their teens. Being married at such a young age would seem to be strange, but in Tlingit culture this was to ensure that they were still virgins. They did this by keeping the young girls in a bed above her parents.
- c. The decisions surrounding the marriage ceremony were usually up to the father of the bride. He would decide when and who would conduct the marriage. This would usually end up being the "chief" or the high person in the community.

9. Crime, Punishment and Restitution

Traditionally we did not call our rules, laws. These rules were a way of life for the people to live by to maintain their balance and structure with each other and the environment around them. These rules were molded from the values of the people and were acquired throughout life. Some of these values were respect, honor and responsibility. When an individual stepped outside of the value based system

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by committing a dishonorable act the clan would bear the responsibility of the individual.

- a. It was the clan that would make amends with the victim and their clan. The clan wouldn't take the entire responsibility away from the individual. Even though the clan paid for the crime, the individual would still hold the dishonor of shaming their clan, and it was up to them to regain their respect. It was up to the two clans to meet and decide the severity of the crime, the amount of restitution and how it was to be carried out.
- b. Restitution is determined by what happened and to whom it happened. The repayment would be carried out through giving. Both the victim and victimizing clans came together and configured the restitution amount. This process was carried out as soon as possible to prevent the situation from escalating. The restitution that was paid usually came in the form of land, crests, names, slaves, dances, songs and personal or clan articles. After money was introduced to the Tlingit people they sometimes used that to pay restitution. These are by no means the only ways to pay restitution. Any form of restitution was possible as long as the two clans agree to it. This way of crime and punishment was very serious. Even if someone did something by accident to hurt a person from another clan, or if a kid calls down a kid from another clan they would have to pay restitution. If a person committed a crime with another person of the same clan then it was worked out within the clan rather than the whole clan structure. If amendments weren't made then wars might break out or clans would split so it was fundamental for the people to deal with their issues as soon as possible.
- c. If one couldn't pay restitution to the victimized clan due to the circumstances, there were alternatives. One of the possible alternatives to restitution is asking another clan of the same moiety to help out in the payments. Another is to ask your father's clan to help out in the restitution. The goal in doing this is to maintain peace rather than even the score (eye for eye). On the other hand, according to an article there was this idea of evening out the score. For example, if a low person killed another person of higher rank in a different clan then they would take the life of a man of equal status of the victimizing clan.

10. Clan Creation

This section deals with the possibility of creating a new clan. Through our interviews we have discovered that the creation of a new clan was never done. We have within our First Nation the six clans mentioned above, but we also have a large number of people whom do not have a clan, and we are looking for solutions on what to do with them. With this large group of people with no clan it creates another problem, these individuals have no leadership or voice within the government of Carcross/Tagish First Nation. The idea of creating a clan has come up and we are exploring the pros and cons of this possibility. In the past when the clan houses became too big they would simply split and build a new house. This is only done with clans that are already in place.

11. Land Use

In Tlingit Tradition the land that the people used was of the utmost importance to them because it provided everything for survival. Along with the land was the environment that shaped the course of their lives. For example the inland and the coastal Tlingits lives were significantly different because of their surroundings, and the routines that are correlated with the seasons. This created ties to the land with such high regard and respect that it is almost inconceivable with our current state of affairs to even recognize that kind of kinship that the land and the people had. The land was our lifeline. When we say that certain clans used certain areas we don't mean that they owned that area. What it means is that they were responsible for what went on in that area, and they wanted to make sure that area was treated with respect. This is why people were so strict with the use of the land. What happened to the land directly affected the people that it provided for. This concept led to land laws that seem odd in today's society. For example, according to an article by Julia Cruickshank, if someone else injured

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himself on territory that was taken care of by another clan it was the clan of that territory that was responsible for what happened. This created problems when all the imprudent gold-seekers started trespassing on lands they knew nothing about or the people that survived off that land. During the past hundred years these laws have been slipping away from us. Even though the land was divided by the clans, the people had so much respect and generosity for others that they allowed most people to make use of that land.

12. Presentation Notes

a. Stanley James

- Leaders - Had to pick someone who knew a lot of things, trading etc. That is whom they picked.
- Had to have communication with everyone - Had to have messages.
- Would trade with the coast - Had an economic base.
- We were violent. When the Russian people came, we accepted them.
- People were buried with some of their things.
- People were out mapping the land.
- Were on the coast when big ships came to our villages and wanted to take over. They shot up the villages on the coast.
- We used to have high people. We would talk of them as royalty.
- We did have a war with the Tahltan people.
- It takes a long time for people in villages to make decisions.
- Women were in the village all the time.
- Women would tell leaders what other people in the community needed.
- The real leaders in the community were the women.
- We traded with other groups.
- We had treaties or understanding with the Kaska people. Signed agreement in 1985.
- We had a good working relationship with the Northern Tutchone.
- Our people got upset when the Hudson Bay people starting coming in. We burned forts, etc.
- Klokluks map shows Tlingit names, trading trails. Etc. We are to look at that map.
- 1973 presented document "together today for our children tomorrow"
- Patrick James went to Alaska to find out all of these different things. That information was sent from the coast.

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- Find out about the land-giving story for repayment. One clan member doing something to a different Clan member - two clans.
- Check on people coming from Skagway.
- Don't have stories on Daklawidi people. We are to ask Patrick James.
- We had slaves.
- At some point in time the people decided that they didn't want slaves anymore.
- The whole Nation said that they were going to let the slaves go.
- Totem mark boundary lines.
- Where we came from. Rock laying on the beach story. Concentrate our efforts on questions of where we came from.
- The true history of our people is in the stories.
- Check on connections with the Dene people.
- Our people with navigators.
- "Part of the Land, Part of the Water", Virginia Smarch.
- Land Claims, we are claiming land through the policy of government.
- Clans had to come together to care for all of the people.
- What happened before and after wars within First Nation people?
- The more people that came, the more the aboriginal were moved around causing wars.
- 1763 is when they came with the Royal Proclamation "king" stating not having to surrender hunting lands.
- Find out about creation on NWMP - law and enforcement. Look at how things fall into place.
- 1930 natural resources transfer act passed.
- Aboriginal people were left out of that.
- Gitsan people and the Delgaamukw decision - Supreme Court said true stories are way of people. Stories became something recognized. You have title to the land and right to say what happens on the land.
- Going to have to make changes according to that decision.
- When is the government going to take action on this decision? They have to review act and make changes to meet this decision.
- Aboriginal rights - right come from the land.

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- Aboriginal title - land ownership basis does not come from law - it comes from history.
- Title is a collective thing. First nations as a whole own it. That is an important decision.
- Delgamuukw says in a way that if you accept aboriginal rights and title, then you accept self-government.
- CTFN has only 600 square miles right now.
- From your title flow your rights.
- 1969 block land transferred.
- UFA is a template agreement for all First Nations.
- CYI came into play to represent First Nations interests.
- 1979 YTG came into negotiations.
- 1979 more powers were given to Yukon government. Then they started demanding to sit at the table.
- Indian act outline rights of First Nation people. What obligation federal government has to the First Nation people?
- Indian Act defined who was Indian and who wasn't. Broke Indians into status and non-status.
- Only act that is made on basis of race.
- Certain benefits under Indian act. It has pros and cons. Some of the pros were that we didn't have to pay taxes, and that we could hunt without a license.
- Until 1951 First Nations weren't even considered people.
- If policy can't change what can we do to make them work?
- We want our own government to evolve.
- Indian act put control over 633 bands across Canada.
- 1951 made changes to the Indian Act.
- 1763 - Royal Proclamation - Fiduciary responsibility. Trust relationship with First nation people.
- Indian act will not apply to Carcross when they sign a final agreement.
- Negotiating framework took the favor of federal and territorial government.
- Land is given by how many members there are. Breaks down land to different types of land available.

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- UFA gives a total of 16,000 square miles to all Yukon First Nations.
- Biggest problem government has is people coming together and sharing information.
- There are two types of land given. Category A (10,000) and category B (6,000).
- Carcross has 600 square miles. 400 of Category A and 200 of Category B.
- Money, there is a total of 242.6 million available to all Yukon First Nations for compensation.
- There are payment schedules listed in the UFA.
- The cash settlement is used by First Nations to negotiate final agreement.
- We have to pay back that money with interest.
- Carcross will receive 17 million.
- Taxation - Income and property.
- Status First Nations working on settlement land didn't have to pay taxes.
- Start paying taxes 3 years after signing of first four agreements.
- 1995 first four First Nations signed their final agreement.
- Jan 1/99 all of the Yukon first nations have to start paying taxes.
- CTFN took federal government to court because we are still under the Indian Act.
- Asked for exemption to taxes.
- UFA said it wouldn't take any rights or give any rights.
- CTFN is in the process of appeal on court decision.
- This summer the first four First Nations had their five-year review.
- We had asked the first four if there were any breeches to the UFA; they did not share any information with us.
- CTFN will have to pay property taxes to the Yukon government.
- What powers do we have? Elect leadership, harvest land etc.
- The power lies with the people.
- Old people say peacefully co-existing. Important to have those connections with other First Nations.
- If we, First Nations and government, don't work together on decisions that is like dominating us.

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- Justice department plays a big role in regards to resources.
- We as aboriginal people feel that we don't have tools to negotiate a fair agreement with the government.
- Title, control, sovereignty over the land.
- Think what would my people to 200 years ago if people were walking over you.
- What they think that self-government is and what we know it is, there is a big gap.
- The general assembly is the one that creates those laws. That is when the people speak.
- First nation can assume responsibility of education, renewable resources, health, municipal services, justice, tax, and constitution
- After signing you would not be instantly responsible for these areas.
- The money that is being spent by the federal government will be transferred to First Nation after they assume responsibility.
- The trick for self-government will be testing all aspects.
- Need to ask at general assembly to help make laws.
- Law enforcement a judicial branch. Two parts, one to develop law and one to enforce the law.
- Jurisdiction - you are given power to act on certain things, example, justice and the clan system - what clan system decides might be different than the federal court. Their interests would carry more weight.
- Non-first nation on first nation land, whose jurisdiction do they fall under?
- Need human resources to get self-government in place. Need people to make it happen.
- Education becomes very important to implement agreement. Need to educate people for all other aspects of self-government.
- What is the fall back position. If we don't have one what is going to happen?
- Where are the traditional boundaries between the clans?
- 248 trails counted from coast to inland.
- 1973 traditional lands of Yukon people mapped out.
- Our legend and stories are our documented history.
- 1985 maps sent by elder to government that marked our territory and traditional land of our tribes of the Yukon.
- When did our tribes and clans unit to govern our lands together for the people and

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the land?

- To accept aboriginal rights and title, we must accept self-governance.
- Limitations to the land and our title to just traditional use of our land.
- Important date between 1900-1979. Alaska Highway, mission school and its destruction, White Pass etc. A lot of First Nations had no idea of what was going on. They had no consultation or any say.
- Under the Indian act, a first nation person would have to give up their status to gain non-first nation status.
- What is fair compensation for all that was done to us as a people and our land. What is fair and just, and how do we go about finding this figure.
- Government wants a law on how all First Nations govern their people. If this happens how are we to have real self-government and learn to work things out nation to nation.
- As a government what will our powers and limitations be.

b. Mark Wedge

- Clan rights supersede individual rights.
- Similar patterns of how people define governance.
- Self government agreement is like an act, it is easy to change.
- Final agreement is hard to change.
- 1984 restarted negotiations with First Nations.
- Need to make framework for all First Nations.
- This is when they began development of UFA.
- There used to be laws for sharing, this was the term use for "tax".
- Our old taxes are on a basis of sharing.
- Treaty 8 - gave up big piece of land for small piece of land. Said they shouldn't have to pay taxes.
- There are three things that you can be. Ward, treaty or self governing first nation.
- Section 35 started talking about inherent rights.
- We are no longer a ward and we aren't self-governing, we are still treaty Indians.
- What is it that we need to know? What is the good stuff that we can use and how to apply it in a good way without losing who we are.

- Questions that are going to be asked will help us answer question of where do we go now?
- Ask other First Nations that have signed where problems came out and figure out where they come from and how we can avoid them.
- How do you take thoughts outside the box to make it work for where we are today?
- How are the clans different, what makes them different?
- Where do we go with the information?

c. Harold Gatensby

- Kookhittaan is raven clan.
- Annie Good - no giving anyone our history - might be misinterpreted.
- Don't take books as true history.
- Mabel Johnson - lived in Teslin at the time - said long ago was raven clan that lived in Senaw AK. (Mouth of Taku River). There was one raven woman (Anyedi - oen that is generous and giving). People in community got jealous and started giving her a hard time. Husband said he would give her everything she needed and sent her up the river (Taku). The clan started digging down into the ground for the foundation of the house. Kookhittaan means house in the ground. Once it was built they had to figure out whose house it would be. Going to have to contest to decide (dancing). Whoever can go in house and do best dance will get the house. The one that did not make even one mistake. Both of them did really good. Women on one side, her foot slipped, and the other one received the house.
- "edi", original house - does not make them better.
- Kookhittaan is from Taku River. Originated in Taku River. Most recent clans to be developed.
- Slaves - person gained wealth with more slaves. If you had a lot of slaves it meant that you were a wealthy clan. The more slaves that you would sacrifice, or set free was also a sign of wealth.
- Kookhittaan emblem - Raven with two (possibly 3) babies in nest by her feet.
- Slaves in our culture were nothing like the European way of slavery.
- Slaves gave themselves when they were sacrificed - This was considered a very high honor.
- Highest honor was to give yourself for your people.
- If one person (if we live the old way) offended, the whole clan would be accountable for them.
- Banishment was about correcting for the sake of the whole community

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- Law today is that the individual is to look after themselves.
- Potlatch was about forgiving - People would get together to celebrate and forgive.
- Clans would hold potlatch to give to offended clan.
- Our people were sophisticated and gentle.
- Nyman - "respect all of life", "not to hurt each other in any way".
- Did not want to carry hard feelings around with us.
- We have the greatest capacity to forgive, learn and to get on with our lives.
- Kookhitta - Taku River is "rich place", fish food, berries, etc.

13. Traditional Tlingit Social Structure

14. Question Package (Sample Copy)

The question package that is included in the following pages is a copy of the questions that were used for the elder interviews. We would like to stress that this was just a base for the interviews and the questions did not only include these ones.

DATE:

INTERVIEWEE:

INTERVIEWER:

CLAN SYSTEM QUESTION RESEARCH QUESTIONS

History

1. What is the meaning of the Clan names?
2. What are the crests of all these clans?
3. Where on the coast did all these clans come from?
4. What routes did they take before coming inland?
5. Are all the clans equal in status?
6. Are all members equal in status? Information we have read states that people could be at different status levels.
7. How do you determine social status within the clan and the community?
8. Can an adopted person with blood ties through their Tlingit father be equal status to other clan members?
9. Was there a leader for each moiety?
10. What is the process for adoption?
11. What clan do the adopted people go to?
12. Who is responsible for adopting?
13. What type of name do they receive?

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14. Who will name adopted person?
15. Was there any trade routes/relations with Teslin and Carcross?
16. If so, what were they?

Governance

17. How do you create a new clan?
18. Why would a clan split?
19. What would happen if a clan did split? Would a potlatch take place?
20. How are clan leaders and representatives selected?
21. What are the attributes of the leaders?
22. What is the limit to the leadership powers?
23. What happens if they do not represent the clan the way that they want?
24. What would happen if the leader passes away before another selected candidate was selected?
25. What role do women play in clan structure?
26. What role do men play in the clan structure?
27. Were women allowed to hold leadership positions?
28. Should women be allowed to hold leadership positions?
29. What do you do with Children of the community (people without a clan) to ensure equal representation?
30. What is the role of the matriarch?
31. How is the Kaa Shaade Hani selected?
32. What are his roles?
33. What attributes should he have?
34. What is the limit to his powers? What are his responsibilities?

Customs

35. When is the appropriate time to hold a potlatch?
36. What are the other reasons to hold a potlatch?
37. Do you think that these types of potlatches, if any, should start to be held again?
38. Who has the rights to tell stories/songs etc?
39. When should they share stories/songs etc?
40. What would happen if another Tlingit clan moves in from the coast?
41. How many members in the clan have to agree on something before it is passed? E.g. 50%

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42. Should/does the clan be responsible for an individual when they commit a crime?
43. If the clan isn't in the position to pay for the crime then who does?
44. How is restitution amount determined?
45. Who is responsible for naming a child?
46. How do you determine what name a child will receive?
47. Who gives the child their second name?
48. What is the purpose of the second name? Why would they give a child a second name?
49. Who would be responsible for the arranged marriages? Who would select partners?
50. When would the marriage take place?
51. How old was the couple when the marriage took place?
52. Who would be the one to conduct the marriage ceremony?

15. **Northern Review Article**

We have received back, in written form, the response to Christle's article for the Northern Review. Amanda Graham, who is the managing editor, has written to inform Christle that the article has been accepted for the next publication. This should not be too much longer to be printed, and a copy of the magazine can be made available for your records.

Contacts

1. Jeff Leer - Author/Researcher.
2. Sheila Greer - Anthropologist/Researcher.
3. Rosita Worl - Professor of Anthropology.
4. Andrew Hope - Author/Researcher.
5. Greg Hare - Archaeologist.
6. Julie Cruikshank - Author/Researcher.
7. Taku River Tlingit
8. Teslin Tlingit Council
9. Dixie Stevenson - Enrollment Commission.
10. Sheila Clark - Teslin Tlingit Council member.
11. George Poulin - First Nation Artist.
12. Harold Gatensby - CTFN member.
13. Mark Wedge - CTFN member.
14. Stanley James - CTFN member.
15. Sandy Anderson - TRT.

16. Garfield George - Angoon.

Elder Interviews

Finished Interviews:

1. Winnie Atlin - Ishkahittaan - C/TFN
2. Margaret Joe - Kookhittaan - C/TFN
3. Annie Auston - Deisheetaan - C/TFN
4. William Atlin - Daklaweidi - C/TFN
5. Kitty Grant - Daklaweidi - C/TFN
6. Norman James - Daklaweidi - C/TFN
7. Jimmy James - Daklaweidi - C/TFN
8. Louise Johns - Daklaweidi - C/TFN
9. Clara Schinkel - Daklaweidi - C/TFN
10. Fanny Smith - Dakalweidi - C/TFN
11. Mabel Johnson - Kookhittaan - TTC
12. Antonio Jack - Kookhittaan - TRT
13. Matt Thom - Yan Yedi - TTC
14. Doug Smarch - Daklaweidi - TTC
15. Jame Smarch - Kookhittaan - TTC
16. Emma Shorty - Kookhittaan - TTC
17. Liz Smith - Kookhittaan - TTC
18. Edward Smith - Ganaxtedi - TTC
19. Joe Jackson - Kookhittaan - TTC
20. Aggie Johnston - Yan Yedi - TTC
21. Jimmy Johnston - Kookhittaan - TTC
22. Stanley James - Daklaweidi - C/TFN
23. Patrick James - Daklaweidi - C/TFN
24. Lucy Wren - Daklaweidi - C/TFN
25. Madeline Jackson - Yan Yedi - TTC

Elders that have not been interviewed

1. Mary Anderson - Yan Yedi - TRT
2. Edith Bohmer - Ganaxtedi - C/TFN
3. Borden Smith - Ganaxtedi
4. Ida Calmegane - Deisheetaan
5. William Good - Deisheetaan
6. Leonard Gordon - Deisheetaan
7. Teddy Hall - Deisheetaan
8. Jeff Williams - Daklaweidi

Appendix

Books

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American Anthropologist, 1947.
McClellan, Catherine. *The Inland Tlingit*. American Antiquity Vol. 8 No.3 Pt.2, 1953
Oberg, Kalvero. *Crime and Punishment in Tlingit Society*. American Anthropologist, 1934

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<http://www.yesnet.yk.ca/schools/carcross/tingit/tingit.html>
Southeast Alaska. *The Tlingit Social Environment*. Online. Available:
http://www.edu/ans/faculty/fast/ans365/tingit_lec.html
Jesse Cooday. *Tlingit History*. Online. Available:
<http://www.alaskan.com/docs/tingithistory.html>

1.2. Yukon Department of Justice³

- Southern Lakes Justice Committee - Carcross, Yukon
 - Formed in 1992, leader in the promotion of community-based justice;
 - Peacemaking circles, mediation, pre and post-charge diversion, provide recommendations to the Territorial Court, and assist with Adult Probation supervision;
 - Active in the community.

³ Government of Yukon, Department of Justice, Community Justice, <http://www.justice.gov.yk.ca/prog/cjps/cj/comjuscom.html>

1.3. 2002-2003 Aboriginal Justice Strategy Contribution Agreement

THIS AGREEMENT made the 18th day of April, 2002.

BETWEEN:

GOVERNMENT OF YUKON, as represented by its duly authorized representative for Justice (hereinafter called “Yukon”)

AND:

SOUTHERN LAKES JUSTICE COMMITTEE (hereinafter called “the Recipient”), a society duly incorporated under the Societies Act, as represented by its duly authorized representative

WHEREAS:

- A. Her Majesty the Queen in Right of Canada represented by the Minister of Justice of Canada (“Canada”) will provide financial assistance to the Recipient under the terms of the Aboriginal Justice Strategy Fund (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

1.1 The Recipient agrees to carry out the operation and development of the Southern Lakes Justice Committee (referred herein as the “Project”) in a manner acceptable to 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 and Objectives, (attached as Schedule B);
- 1.1.2 the Budget and Payment Schedule (attached as Schedule C and hereinafter referred to as the “Budget”); and,
- 1.1.4 the Work Plan (attached as Schedule D).

1.2 The Recipient, in partnership with the probation officer assigned to Carcross and Tagish by Yukon, will provide adult offender probation supervision within the Carcross and Tagish area. The Recipient and the probation officer will work together in a mutually supportive relationship and the Recipient will support the probation officer by providing assistance in the following areas:

- 1.2.1 probation supervision of adult offenders, who have applied to and been accepted by the Project;

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- 1.2.2 supervision of community work service which has been referred by the probation officer to the Project and accepted by the Project; and
- 1.2.3 sharing of information regarding offenders and assistance in locating or contacting offenders who are clients of Adult Probation.

2. TERM

- 2.1 The term of this Agreement shall be from April 1, 2002 to March 31, 2003.

3. ASSISTANCE

- 3.1 The Yukon agrees to provide the Recipient with an amount not to exceed \$23,250 for the operation of the Project during the term of this Agreement.

- 3.2 The financial assistance provided under 3.1 will be paid in the following manner:

- 3.2.1 A payment of \$10,000 upon execution of this Agreement;

- 3.2.2 An interim payment on November 30, 2002 not to exceed \$9,750, upon receipt and approval by Yukon of an interim financial statement in accordance with 4.1.5 and upon receipt and approval by Yukon of the interim written activity report in accordance with 8.1.2; and

- 3.2.3 A final payment not to exceed \$3,500 (which sum represents a holdback of approximately 15% of the financial assistance 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 second written activity report and the final Project report in accordance with 8.1.2.

- 3.3 The Yukon agrees to provide the Recipient with office accommodation for the operation of the Project as set out in the Budget.

- 3.4 The Yukon's obligation to provide assistance under 3.1, 3.2, and 3.3 is subject to the following:

- 3.4.1 money being appropriated by the Legislature for the purpose of this Agreement;

- 3.4.2 Canada agreeing to provide financial assistance to the Recipient in the amount set out in the Budget; and

- 3.4.3 the Recipient complying with the terms of this Agreement.

4. FINANCIAL ACCOUNTABILITY

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- 4.1 With respect to the assistance provided by Yukon under 3.1, 3.2, and 3.3 and the monies described in 3.4.2 the Recipient agrees:
- 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, 2002 to September 30, 2002 due November 1, 2002, which statement shall be in a form acceptable to Yukon;
 - 4.1.6 to deliver to Yukon an audited final financial statement of its expenditures with respect to the Project for the period April 1, 2002 to March 31, 2003 due May 31, 2003, which statement shall 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 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 Despite paragraph 4.1.2, reallocations between the budget items set out in the Budget, not exceeding twenty per cent (20%), are permissible. Reallocations that exceed the 20% limit require the prior written approval of Yukon.
- 4.3 Any assistance provided through this Agreement that is
- 4.3.1 unexpended by the Recipient at the termination of this Agreement;
 - 4.3.2 not properly expended for the purposes of the Agreement, in the opinion of Yukon; or,
 - 4.3.3 in excess of the reduced amount of assistance under 5.2;
- shall constitute a debt due to Yukon and shall either be repaid immediately by the Recipient to Yukon or withheld by Yukon from funds otherwise due to the Recipient under this Agreement.

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- 4.4 The Yukon may give written notice that it waives the obligation under 4.1.6 to have the financial statement audited.
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 from sources other than those set out in the Budget, or if Canada increases or reduces its contribution to the Project.
- 5.2 If it comes to the attention of Yukon that the Recipient received additional payments or any other form of contribution, gift, or grant in respect of the Project from sources other than those set out in the Budget, or that Canada has increased or reduced its contribution to the Project, Yukon may reduce the assistance provided under 3.1, 3.2 and 3.3 by any amount it may decide.
- 5.3 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 this 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 hereunder 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.

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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 Yukon written activity reports of Project activities due November 1, 2002, and January 30, 2003, and a final Project report due April 30, 2003; which reports, shall be in a form acceptable to Yukon;
 - 8.1.3 to undertake a self-evaluation of the Project in co-operation with, and at the request of, Yukon and Canada
 - 8.1.4 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
 - 8.1.5 to provide copies of any existing information, data, and statistics that Yukon reasonably requires to carry out such evaluation studies.

9. USE OF RESULTS

- 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 prior written approval of Yukon, and the Recipient hereby authorizes 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 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 If this Agreement is terminated under 11.1:
 - 11.2.1 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 up to and including the date of termination; and
 - 11.2.2 clause 4.3 of this Agreement shall apply to any assistance that is unexpended at the termination of this Agreement.

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11.2.3 Yukon shall withhold any assistance not advanced to the Recipient as at the date of termination, other than assistance due to the Recipient in accordance with the terms of this Agreement up to the termination date.

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 Yukon for any purpose whatsoever and the Recipient and its employees shall not be considered to be employees of 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 Yukon for any purpose whatsoever.

14. 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 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

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 Yukon.

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16. SCHEDULES

- 16.1 The following schedules are incorporated into and form part of this Agreement:
Schedule A: Project Description
Schedule B: Goals and Objectives
Schedule C: Budget and Payment Schedule
Schedule D: Work Plan

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 No public consultation or public information process shall be used by any party as a means of encouraging support or developing public pressure for a particular negotiating position.

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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:

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

If to the Recipient to:

Southern Lakes Justice Committee
P. O. Box 201
Carcross, Yukon
Y0B 1B0

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

Government of Yukon

**Southern Lakes Justice
Committee**

per:

per:

Witness Witness

SCHEDULE A
PROJECT DESCRIPTION

SOUTHERN LAKES JUSTICE COMMITTEE

PURPOSE:

The SLJC was first organized in 1992 and incorporated on September 10, 1996 with the purpose of coordinating victim and offender support groups and counseling services, mediating disputes between individuals, encouraging the use and providing support to Circle Sentencing (Circle Peacekeeping), advising the court with respect to community dispositions and assisting in monitoring court orders, including restitution.

ORGANIZATION AND GOVERNANCE:

The SLJC is a non-profit society, which is governed by the Societies Act.

Are there mechanisms to ensure accountability to the community at large?

- The SLJC will communicate regularly with the Carcross/Tagish First Nation, the RCMP and other community groups to ensure that the SLJC is accountable for its actions;
- Community members have the opportunity to raise issues of accountability with SLJC members either individually or as a group however any exchange of information on the part of SLJC members must not breach client confidentiality; and
- SLJC meetings are open to members of the public. Community members are welcome at any time to discuss issues of accountability.

NB The SLJC has protocols in place with the Crown and the RCMP designed to ensure that the SLJC is accountable for the clients it accepts in to its programs.

Do you have a review process to deal with public complaints, an appeal process for clients, a code of conduct for employees and volunteers?

Review Process for Public Complaints

Members of the public are able to lodge complaints against the SLJC by using one of the following mechanisms:

- Contact with individual SLJC members
- Contact with the SLJC coordinator
- Regularly-scheduled SLJC meetings
- Written Complaints
- Complaints forwarded during inter-agency (or other) community meetings

Upon receipt of a complaint from a member of the public, the SLJC will:

- Send the complainant written acknowledgement of his/her complaint;
- Discuss the nature of the complaint in committee and decide upon appropriate action;
- Inform the complainant of the action that will be taken; and
- Take the necessary action.

Should a complaint be directed at a named member of the SLJC, that person will be excused from any deliberations related to the complaint. However, all SLJC members who find themselves in this situation will be given the opportunity to present the Committee with any information they feel is relevant to the complaint.

Circumstances may arise where the SLJC will be unable to deal with certain complaints in a fair and impartial manner. Therefore, it may be necessary to create an ad hoc public complaints committee made up of people who have no connection with the SLJC.

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Client Appeal Process

Same as above, although other agencies involved with the client's disposition may also be asked to contribute towards finding a solution.

BACKGROUND:

The Southern Lakes Justice Committee was first organized in 1992 and then incorporated on September 10, 1996 with the purpose of developing and implementing community based alternatives to the present justice system. The impetus for this initiative came from a realization that the needs of the Carcross Community were not being met by a justice system which seemed to ignore the values, wishes, and concerns of the people it was supposed to serve. The SLJC is a volunteer driven program with a core group that has remained involved since day one. During the past nine years the SLJC has developed excellent working relationships and protocols with a variety of Federal and Territorial agencies involved in the forum of justice including the Crown Attorney's Office, R.C.M.P., Adult Probation, Legal Aid, and Health and Social Services.

PROGRAM SERVICES:

The SLJC offers services to those in conflict with the following requirements:

- ✓ Offender has plead guilty to all outstanding charges (Adult or Young Offenders may apply)
- ✓ Offender must be motivated and willing to commit to a wellness or healing plan.
- ✓ Offender must be willing to agree to all requirements of their program as directed by the SLJC and in conjunction with any court decisions.

Services Offered:

Pre-Charge Diversion

Pre-Charge Diversion is the primary method of dealing with young and/or first and second offense adult offenders (where allegations do not involve serious offenders). A charge might not be laid for two reasons:

- The RCMP feels that there is not enough evidence for a charge to be laid; or
- The RCMP, in cooperation with the SLJC, the victim, and the offender, feel that the matter could be dealt with successfully using the pre-charge diversion model.

Referral – Once an incident occurs, a referral could be made to the SLJC by the RCMP, the victim, a community member (including members of the SLJC), or by the offender.

Client Approval Process – Using the criteria established by the SLJC for Circle Sentencing, each client will be assessed for suitability.

Community Consultation – Both the victim and the offender will meet with a representative of the SLJC and, where appropriate, support groups for both victim and offender will be created. Both parties will work towards producing a "community living contract" that is mutually acceptable. The aim is to have both parties work together to produce an acceptable contract.

Community Living Contract – This contract may include restitution, community work, counseling, anger management, alcohol or drug treatment, etc. The terms of the contract will need to be carefully explained to all parties.

Monitoring/Supervision of Contract – To insure that the conditions of the contract are met, the offender will need to be monitored by the SLJC, the Justice Coordinator, and by the members of both victim and offender support groups. The consequences of not fulfilling the requirements of the contract will need to be clearly spelled out for the offender.

Post-Charge Diversion

Once a charge had been laid and a guilty plea entered, the offender may be diverted from court if the Crown, the RCMP, the victim and the offender, feel it is appropriate. It is anticipated that the majority of referrals for

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post-charge diversion will eventually come from the Crown, so it is vital that a protocol is negotiated between the Crown and the Southern Lakes Justice Committee.

Referral – Referrals could be made by the Crown (with RCMP acting in an advisory capacity) or the offender.

Client Approval Process – Each client for post-charge diversion will have to meet the criteria established by the SLJC Circle Sentencing Guidelines.

Mediation/Creation of Support Groups – As in the pre-charge diversion initiative, both the victim and offender will meet with a representative of the Justice Committee. If necessary, support groups for both victim and offender will be created. The Crown will need to have input when it comes to establishing the terms and conditions of whatever post-charge diversion/community-living contract is deemed acceptable by both victim and offender.

Community Living Contract - This contract may include restitution, community work, counseling, anger management, alcohol or drug treatment, etc. The terms of the contract will need to be carefully explained to all parties. The offender will need to be made aware that if the terms of the contract are not met, the charges may be dealt with through the regular court process.

Monitoring/Supervision of Contract – To insure that the conditions of the contract are met, the offender will need to be monitored by the SLJC, the Justice Coordinator, and by the members of both victim and offender support groups. The consequences of not fulfilling the requirements of the contract will need to be clearly spelled out for the offender. If the offender fails to meet the terms of the contract, it is understood that the offender will be “breached” by the Committee. This “breaching” process may lead to the offender having to attend Circuit Court.

Circle Sentencing

The circle sentencing model will follow the same procedure as the post-charge diversion model, except that a sentence will be imposed upon the offender by the court after the circle sentencing process occurs. Prior to circle sentencing, the offender, victim, Justice Committee, probation officer and Crown, in most cases, will have worked together to come up with a contract that will:

- Show the Court that the offender is serious about making amends and is developing a personal rehabilitation plan that may involve alcohol and drug treatment, anger management, etc.; and
- Provide the Court with a foundation on which to build its own sentencing recommendations.

As in the pre and post-charge diversion models, the SLJC will assist in monitoring/supervising the sentence to ensure that the court-imposed conditions are being met. If the offender fails to comply with the Court’s disposition, the Committee will advise the probation office or RCMP. The RCMP representative on the Committee will be available to provide evidence of the breach if required by the Court, and in the case of a Young Offender, the Senior Carcross Social Worker will fulfill this role.

Court Recommendations/follow-up

Offenders who go through the pre-charge/post-charge diversion initiatives or circle sentencing need to meet the requirements placed upon them by the community or by the court. It is important that all follow-up work is carefully documented and supervised if the SLJC is to retain credibility with the community and justice officials.

Mediation

The SLJC will continue its promotion and coordination of mediation services to the Southern Lakes area. Our service in this area will be as an information resource and coordinator for mediation. Several members of the SLJC are qualified mediators and will assist clients who have included mediation in their agreement or plan. Referrals for Mediation generally come to us via one or more of the parties involved although we have had requests from the courts to become involved in a mediation capacity.

Sentence Advisory

The sentence advisory process is similar to that of Circle Peacekeeping, except for the formal ceremony to reach consensus. Prior to sentencing, members of the Justice Committee will have met with the offender,

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victim, Crown Attorney and members of the community. Based on these meetings, the Justice Committee will present to the Court a sentence recommendation, which represents the wishes of the community and the best interests of the victim and offender. As in Circle Sentencing the recommendation will attempt to:

- Show the Court that the offender is serious about making amends and is developing a personal rehabilitation plan that may involve alcohol and drug treatment, anger management, etc.; and
- Provide the Court with a foundation on which to build its own sentencing recommendations.

The SLJC may assist in monitoring/supervising the sentence to ensure that the court-imposed conditions are being met.

Probation Assistance

This service is fairly self-explanatory. The SLJC will provide support to clients who request help in completing their probation. Elements of this service may include: coordinating meetings with probation officer, providing a meeting place; meeting with client regularly, etc.

Community Work Assistance

This service involves coordinating community service hours, documenting progress, and reporting completion to the court. This service is an element of most of the above mentioned services, and is not usually provided exclusively.

Sentence Support / Release Plan

Representatives of the SLJC are available to meet with Carcross residents who are serving sentences at the Whitehorse Correctional Centre, the Young Offenders Facility, or conditional sentences. Support will be provided with respect to preparing for release, finding appropriate programming during the sentence, or for personal support.

STAFF

There are two formal positions within the SLJC: Justice Coordinator and Bookkeeper. The appointment process for paid positions involves a job competition, and interviews. The selection is made by the Board of Directors in consultation with the committee. There are no formal volunteer positions, however the committee consists of several community members who volunteer their time. Staff of the SLJC receive salaries (see budget), whereas money is set aside for volunteer honorariums.

PROGRAM ADMINISTRATION

The privacy of client files is ensured by the following: locked filing cabinet in office, files are not presented to non committee members attending meetings, and the SLJC members are aware of confidentiality issues and what is reasonable information to share with the community.

FINANCIAL ADMINISTRATION

The signing authority and legal entity for concluding the funding agreement is the Board of Directors. The contact person for financial matters is Cindy Huebschwerlen, SLJC Bookkeeper (867) 821-4009, fax (867) 821-3403.

SCHEDULE B

GOALS and OBJECTIVES

SOUTHERN LAKES JUSTICE COMMITTEE

1. To increase community responsibility and capacity to deliver justice services and reduce the incarceration rate of people served by the Committee by:
 - Working cooperatively with Federal, Territorial and First Nation justice agencies to further develop our present Pre and Post-charge Diversion processes;
 - Increasing training opportunities for SLJC members and/or community members;
 - Provide Circle Peacekeeping training within our community as a means of dispute resolution;
 - Fostering the interagency working relationship that exists with Yukon College and Health and Social Services, promoting education and introducing alternative community based methods of resolving conflict;
 - Work collaboratively with the Carcross/Tagish First Nation in community justice.

2. To help prevent crime and reduce recidivism rates by defining and reinforcing community standards of social justice by:
 - Involving a broad spectrum of interested and concerned community members as well as First Nation Elders in the community process;
 - Providing safe and constructive contexts wherein offenders can better understand the impact his/her actions have had on the victims of crime;
 - Working with the youth in the Southern Lakes area to further promote the use of alternative methods in resolving disputes.

3. To provide a community healing process that acknowledges the reality that the majority of our offenders have also been victims and to provide a process that can promote a safe reintegration of an offender into our community by:
 - Developing Diversion processes that address the long term needs of individuals (processes of perhaps 4 – 6 months duration that involve Elders and making use of the Yukon wilderness);
 - Providing opportunities for offenders to understand their place of value in our community through a personal commitment to an agreed upon community living agreement and healing plans as derived from Peacekeeping Circles;
 - Providing a safe and constructive context wherein victims or related parties may begin to re-establish healthy relationships with offenders.

4. To further increase the SLJC's ability to develop and offer processes and support networks to the victims of crime and abuse by continued work and involvement with agencies such as the Victim Services Family Violence Prevention Unit.

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SCHEDULE C
BUDGET and PAYMENT SCHEDULE

Southern Lakes Justice Committee

PART A: **BUDGET**
April 1, 2002 to March 31, 2003

REVENUE:

Department of Justice, Yukon		29,250
- Cash	23,250.00	
- In Kind	6,000.00	
Department of Justice, Canada		29,250
SLJC - Committee Time In Kind		8,000
SLJC - Additional Revenues		1,000
TOTAL REVENUES:		\$67,500

EXPENDITURES:

Salaries and Benefits (Coordinator):		42,900
SLJC – Committee (Time In Kind)		8,000
Employee Travel		2,450
Employee & Volunteer Training		1,500
Meetings & Workshops		1,150
Volunteer Honorarium		750
Administration Costs (includes bookkeeping, audit, telephone, internet, bank charges, society fees, postage office supplies)		4,750
Rent (in kind from YG)		6,000
TOTAL EXPENSES:		\$67,500

The contribution of the Yukon will be limited to the lesser of \$23,250 of the expenditures incurred, less monies received from sources other than those listed above.

PART B: **PAYMENT SCHEDULE**

1. First Payment of \$10,000, upon execution of this Contribution Agreement, see 3.2.1 of the Agreement.
2. Second Payment not to exceed \$9,750 on November 30, 2002, upon receipt and approval of the interim financial statement and first and second written quarterly activity reports, see 3.2.2 of the Agreement.
3. Third and Final Payment not to exceed \$3,500 upon receipt and approval of the audited financial statement, third written quarterly activity report and final Project report, see 3.2.3 of the Agreement.

SCHEDULE D
WORK PLAN

SOUTHERN LAKES JUSTICE COMMITTEE

	TASK	TIMELINE
1.	Provide support and services to community members involved in the justice system.	Ongoing
2.	Participate in local interagency meetings.	As scheduled.
3.	Coordinate SLJC meetings	Weekly.
4.	Administration Work/Documentation	Ongoing
5.	Contribution Agreements / Budgets	Ongoing

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6.	Audit (if requested)	Year End
7.	Volunteer at Carcross Public School	Sept. 2002-June 2003
8.	Submit Statistical and Activity Reports as scheduled in contribution agreements.	April – September October – December January - March
9.	Create SLJC Code of Conduct	Spring 2002
10.	Coordinate community workshops/training and conferences.	Ongoing
11.	Strengthen working relationship with Carcross Tagish First Nation (CTFN).	Ongoing
12.	Develop protocol for working relationship with CTFN.	Ongoing
13.	Communicate activities to community via newsletter or other methods.	Ongoing
14.	Attend court in Carcross and Whitehorse.	As scheduled.
15.	Develop Community Work Service projects.	Ongoing
16.	Develop or coordinate health and healing programs for youth as part of diversion and support.	Summer 2002
17.	Promote family violence prevention.	Ongoing
18.	Coordinate and/or support Men's and Women's Healing Circles and AA.	As scheduled.

MANDATE

The Southern Lakes Justice Committee (SLJC) is a partnership between the Carcross/Tagish First Nation and the non-Aboriginal residents of Carcross and surrounding areas. The Southern Lakes Justice Committee was first organized in 1992 and incorporated on September 10, 1996, with the purpose of coordinating victim and offender support groups and counselling services, mediating disputes between individuals, encouraging the use, and providing support to circle sentencing, advising the court with respect to community dispositions and assisting in monitoring court orders, including restitution.

GOALS

The goals and objectives of the SLJC are as follows:

1. to increase community responsibility and capacity in the delivery of justice services and reduce the incarceration rate of people served by the Committee by:
 - working cooperatively with federal, territorial and First Nations' justice agencies to develop an effective pre- and post-charge diversion program;
 - making training opportunities available to SLJC or community members;
 - providing training by the SLJC in the area of Circle Peacekeeping as a means of dispute resolution within our community and surrounding area;
 - developing an inter-agency working relationship with both Yukon College, Carcross, and Health and Social Services, Carcross that will foster education and introduce alternative community based methods of resolving conflict and;
 - working collaboratively with the Carcross/Tagish First Nation in the area of community justice as they continue to develop their own vision and needs under self-government.

2. to help prevent crime and reduce recidivism rates by defining and reinforcing community standards of social justice and decency by:
 - involving a broad spectrum of interested and concerned community members as well as First Nation elders in the community justice process;

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- providing safe and constructive contexts wherein offenders can better understand the impact that his/her actions have had on the victims of crime and;
 - working with the youth in the the Southern Lakes area to further promote the use of alternative methods in resolving disputes.
3. to provide a community healing process that (a) acknowledges the reality that the majority of our “offenders” have also been victims and (b) one that therefore can promote a safe reintegration of offenders into our community by:
- the development of Diversion programs that address the long term needs of individuals (programs of perhaps 4-6 months in duration that involve elders and making use of the Yukon wilderness);
 - providing opportunities for offenders to understand their place of value in our community through a personal commitment to an agreed upon community living agreements and healing plans as derived from Peacekeeping Circles and;
 - providing a safe and constructive context wherein victims or related parties may begin to reestablish healthy relationships with offenders.
4. to further increase the SLJC’s ability to develop and offer programs and support networks to the victims of crimes and abuse by continued work and involvement with agencies such as: The Family Violence Prevention Unit/Victim Services; Assaultive Husbands, Sexual Offender Risk Management and Victims Programs.

PROTOCOL FOR THE DELIVERY OF POST-CHARGE DIVERSION AND CIRCLE SENTENCING MODELS IN CARCROSS, YUKON TERRITORY

This Protocol is entered into by the SLJC and Justice Canada-Whitehorse Regional Office of D.O.J. for the purpose of clarifying roles and responsibilities within the existing post-charge diversion and circle sentencing models.

Process

1. A referral to the SLJC for either post-charge diversion or circle sentencing can be made by:
 - the offender
 - the Crown (with the RCMP acting in an advisory capacity)
2. Once an offender has been accepted for either post-charge diversion or circle sentencing by the Justice Committee according to the criteria established in the *Southern Lakes Circle Sentencing Guidelines*, the Crown will be notified in writing.
3. The offender will contact the Crown and obtain all relevant documentation pertaining to the charge. This documentation will be made available to the Justice Committee by the offender. The offender will sign a waiver stating that he/she agrees to forward all information provided to him/her by the Crown to the Committee.
4. While the Justice Committee will attempt to evaluate each application for diversion or circle sentencing on an individual basis, it is generally understood that the Justice Committee is unlikely to accept offenders for either diversion or circle sentencing if they have been charged with an offence involving extreme violence or sexual abuse.

Diversion

1. If the Crown determines that the charge might be dealt with by diversion, it shall refer the matter to the Justice Committee.

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2. The Justice Committee, in conjunction with the victim and the offender, will develop a post-charge diversion contract. The terms of the contract will be agreed upon by all parties (victim, offender and Crown). A copy of the contract will be sent to the Crown.
3. All parties to the contract will agree to a deadline by which the offender will have to meet the terms of the contract (e.g. pay restitution, seek counselling, complete community hours, etc.). Under the terms of the contract, the amount of time allocated for the offender to meet the requirements of the contract would not normally exceed two months.
4. If the terms of the contract are not met once the deadline is reached, the Crown (after consultation with all parties) has the option of proceeding with the charge(s).
5. The Justice Committee will be responsible for ensuring that the terms of the contract are met by the offender.
6. Once the offender meets the requirements of the contract to the satisfaction of the Justice Committee, the Crown will be informed in writing.

Circle Sentencing

1. If the Crown determines that the charge might be dealt with through the circle sentencing process, it shall refer the matter to the Justice Committee.
2. A pre-sentencing contract will be developed following the procedure outlined in the diversion process (above). A pre-sentencing contract serves two purposes:
 - it shows the Court that the offender is willing to take the initiative and make restitution, seek counselling, complete community hours, etc.; and
 - it provides the Crown with a sentencing option when it makes its own sentencing recommendations to the Court.

The Crown will be provided with a copy of the contract.

3. If the terms of the contract are not met by the offender prior to circle sentencing, the Crown (after consultation with all parties) has the option of proceeding with the charge at a regular sitting of Territorial Court.
4. It is understood that the Justice Committee and Crown may not always be in agreement on sentencing recommendations

Once the offender has been sentenced, the Committee will be responsible for monitoring any sentencing requirements that are community-based; e.g. community hours.

1.4. Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon – 1992 ⁴

- In the early 1980s, a justice council comprised of elders who volunteered their services was set up to deal with many of the minor offences.
 - Eventually, however, the elders were overwhelmed with the volume of work imposed on them.

⁴ 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.

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- The present chief claims there is a real problem of ‘over-load’ in communities and people who take on new activities or initiatives, such as the circle support group, often become deluged with work.
- The official position of the band toward tribal justice is still in the formative stages because the Chief and Council has been in place for only two months and other issues have taken priority.
 - However, in a general way, tribal justice is conceptualized as part of self-government and there is a fundamental concern with the use of jail and of punishment rather than ‘healing’.
 - There is some discussion and deliberation about the resurrection of the clan system and if it should occur, it may be incorporated into tribal justice in much the same way as Teslin.
- At present, there have not been considerations of an autonomous or independent court system but of integrating aboriginal approaches into the existing system.
 - To that end, the band has requested funding from the Yukon Territorial Government for a resource person in the community to talk with elders, act as a liaison with the court party, coordinate circle activities and undertake the necessary justice development work.
 - There is muted criticism of the government for giving a contribution agreement to a local individual without consultation with the band.
- A special meeting, the Special Annual Friendly Gathering, was taking place 26-28 June 1993 to develop an agenda for the Annual General Assembly in August.
 - Leaders and elders from Atlin and Teslin Tlingit bands in addition to those from Carcross will be in attendance.
 - At this meeting guidelines for Chief and Council will be developed, a component of which will include the identification of parameters for tribal justice.
- In a general way, there is much support for the circle in the aboriginal community in Carcross even through only one of the two offenders for which it was used has been a ‘success’ so far.
 - There are perceptions that now more people have a say in the process and for offenders ‘coming out with a problem’ is an important component of solving the eyes of the community.
 - To respondents, offences and offenders are perceived differently in aboriginal communities and input into the court process is required to give meaning to that difference.
 - The main problem facing circles is the lack of community resources available to that support group.
- The support group is identified in the circle to augment the sentence and support the offender.
 - The group in Carcross is comprised primarily of aboriginal members but there is also representation from the non-aboriginal community.
 - The support group undertakes to work with offenders and carries out conditions of the disposition.
 - These activities may include hunting and sharing meat, repairs on community buildings, assisting elders etc.
 - However, the lack of community resources available to the support group is of concern to group members because of the limitations this imposes in working with offenders.
 - Maintaining an interest in the group is also of some concern.
 - The only attempt at present to resolve the resource problem is the work of the chairperson to develop a wilderness/cultural camp.
 - There is also a move by the judiciary to train justice of the peace to act as mediators and facilitate circles.

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

2.1. A Framework for Community Justice in the Western Arctic – 1999⁵

- *Carross* - a joint Aboriginal/non-Aboriginal committee, the Southern Lakes Justice Committee, has been active in circle sentencing and developing community dispositions for a police-referred diversion program.

⁵ 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

3.1. RCMP Client Satisfaction Evaluation⁶

Client satisfaction is one of the top priorities for "M" Division. The input we receive from our community clients and partners plays an essential role in determining how our services are delivered and whether alterations should be made. To that end, "M" Division's Carcross Detachment has developed a Quality Assurance Client Satisfaction model, which relies on community feedback to determine whether the detachment, in its service, fulfills the commitment to communities as laid out in our national Mission, Vision and Values (MVV).

The client satisfaction evaluation is carried out annually with each of the following groups in the Carcross detachment area:

- Carcross Advisory Planning Committee
- Carcross Tagish First Nation
- Carcross School
- Southern Lakes Justice Committee
- Tagish Advisory Group
- Hamlet of Mount Lorne

Those interviewed are asked ten questions, nine taken directly from our MVV, and a tenth regarding how they feel about the overall service delivery of Carcross detachment. The groups are asked if they have any concerns about Carcross Detachment's:

1. Unbiased and respectful treatment of all people
2. Accountability to the public, our client
3. Participation in mutual problem solving
4. Cultural sensitivity
5. Ability to enhance public safety
6. Openness to forming partnerships and being consultative
7. Commitment to open and honest communications
8. Ability to make effective and efficient use of resources
9. Provision of quality and timely service
10. General operation (open question)

The comments received during the interviews are then used by the detachment, in partnership with the client groups, to develop strategies that deal with common concerns vocalized during the assessment.

⁶ RCMP Best Practices, <http://www.rcmp-learning.org/bestdocs/english/ethics/clientsat.htm>

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This entire approach not only adheres to our national commitment to our community clients, but also exemplifies the MVV of the RCMP. This assessment reconfirms Carcross's commitment to ensuring the service they provide reflect the RCMP's national standards and allows the community at large the opportunity to shape the way the community is policed. This type of feedback is an invaluable tool we can use in order to stay up-to-date on the changing needs of the communities we serve.

3.2. Ron Weibe Memorial Lecture and Dialogue on Restorative Justice -2000⁷

Harold Gatensby, member of the Raven Clan, Inland Tlinget Nation, in Carcross, was the conference's next guest lecturer. Mr. Gatensby was instrumental in introducing Native spiritual programs in Canadian prisons and community-based justice circles across Canada, as well as in the U.S., and was also a founding member of the circle peacemaking team at Nares wilderness camp near Carcross. Her Royal Highness, Princess Anne, recently presented Mr. Gatensby with a prestigious justice award in the category of *Individual Merit – Practitioner* during the *International Community Justice Awards* ceremony at the *Probation 2000 Conference* in London, England.

Harold Gatensby discussed why his community and other First Nation communities are sharing their experiences, making pro-choices and taking on restorative justice initiatives. "We are not engaging in these approaches because they are wonderful things to do, but rather, because the pain in our communities has motivated us to action. We have no choice and it's a matter of life for us as a people to continue to live."

7 Correctional Service Canada, 2000 Ron Weibe Memorial Lecture and Dialogue on Restorative Justice Let's Talk vol 25 no 4 By Deborah Podurgiel, Freelance Writer
http://www.csc-scc.gc.ca/text/pblct/letstalk/2000/no4/15_e.shtml

4. Relevant Documents, Studies and Practices – USA

4.1. Healing Heart, Circle Peace Making – Community Justice Circle -1999⁸

November 8, 1999

The Organized Village of Kake (OVK), the Federally Recognized Tribal Government serving the Kake Area, sponsored a Community-Based Dispute Resolution workshop on March 8-11, 1999. Harold Gatensby, a DaaKa Tlingit of the Xooxataan clan and Mark Wedge, a member of the Deisheetaan Clan from the Carcross/Tagish First Nation in Canada were in Kake to facilitate a workshop using a Holistic Value-based approach to resolving problems in the community. The underlying concept of using Traditional Peacemaking processes is based on a ‘consensus’ approach to Justice. Daily attendance to the value-based workshop averaged around 20 participants representing professionals and community participants.

Harold Gatensby and Mark Wedge of Carcross in Yukon, Canada, descendants of our Tlingit brothers who stayed up in the interior when the Flood subsided, were in Kake to provide special training to anyone wanting to learn about alternative dispute resolution. Called ‘Circle Peacemaking’ by the two trainers, the workshop was based on Community Values. We interpreted ‘community’ to mean a community of any size and/or segments of a community willing to help one another. Each community or segments of a community may come up with their own list of Values; the ones we came up with were the values that have kept Kake in this area for the past eleven thousand years. The workshop was based on values, ways in which people have developed values, values shared in common by members of the community. Among values identified by workshop participants were forgiveness, respect for self, family and property, truthfulness, humility, acceptance, trust, esteem, loyalty, and family love.

When a dispute comes before the ‘Circle’, the process remains more important than the ultimate end result, because the process includes making apologies and accepting those apologies, as well as the work of change. Peace, balance and respect are established between the victim, perpetrator and the community. In the end, the Circle Consensus Agreement is made public at a community or family get-together.

This type of resolution can help the community of Kake deal with a difficult situation in a GOOD WAY and help the victim, offender, families, clan, tribe and community HEAL IN A HEALTHY WAY. Underlying in all this is the belief in Spirituality and that we are all created one way or another. TO IMPROVE OUR COMMUNITY, WE BEGIN WITH IMPROVING OURSELVES. With the help of the local District Court, the Police, DFYS – in Petersburg, OVK’s Social Service providers, SEARHC’s Community Family Services Workers, AA, Healthy Nations, PATCH, District Attorney’s Office, the local Churches, Spiritual Leaders, the Healing Heart Group-the actual Keepers of the Circle, all are working together to make Kake a better place to live. The ‘Circle’ is open to anyone since we all make up our Community.

It is important for the communities to be involved in a process that directly affects the community. It is also essential that they establish a working relationship and partnership with the formal system-the Alaska Court System. Our experiences show that when this is done it develops a much stronger community.

The underlying concept of using these traditional circle peace-making processes is based on what is referred to as a consensus approach. The contemporary justice systems tend to be based on an adversarial approach to justice. We do not advocate that one is better than the other but that one needs the other, and when applied in a good way as determined by the community it creates stronger and healthier communities. There is consensus with all the participants that the process of the Circle is the most powerful thing that they have sat through and

⁸ Magistrate Michael Jackson HEALING HEART, CIRCLE PEACE MAKING – COMMUNITY JUSTICE CIRCLE
September/October 1999 (Published Bi-Monthly) 99-2 For Tribal ICWA and DFYS Staff
<http://dfys.state.ak.us/icwa/ICWA%20Notes%20October%201999.doc>

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participated in. The participants also comment that they are better persons for it and that it helps them heal in a positive manner.

Every IRA Tribal Council in Alaska has as part of their Constitution and By-Laws the phrase “to aid needy members and protect the general welfare and security of the Village.” This is part of the power of the Tribes to start Tribal Courts-Circle Peacemaking. OVK is considering the local Circle Peacemaking group to be a part of its Tribal Court, with the Tribal Council as the Court of Appeals and the Court of Elders as the Supreme Court. OVK along with the Healing Heart Council-the Keepers of the Circle look toward the grandchildren to come to be the real beneficiaries of Circle Peacemaking. Thanks to the State ICWA Coordinator, Sandi Benzel, for encouraging this article.

5. Relevant Documents, Studies and Practices – International