

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

Table of Contents

1. Key Themes (to be explored)	3
2. Research Questions	4
2.1. Mission/Vision/Objectives/Goals	4
2.2. History.....	4
2.3. Sponsor/Organization/Structure/Governance.....	4
2.4. Roles and Responsibilities.....	4
2.5. Accountability	4
2.6. Complaints	4
2.7. Conflict Of Interest	4
2.8. Decision-Making	4
2.9. Interventions/Referrals/Diversions	5
2.10. Activities/Services/Approaches	5
2.11. Offences.....	5
2.12. Clients.....	5
2.13. Human Resource Management.....	5
2.14. Financial Resource Management	5
2.15. Material Resource Management.....	6
2.16. Project Administration	6
2.17. Community Services/Resources.....	6
2.18. Audits/Evaluations/Reviews	6
2.19. Working Collaborative Relationships with Other Stakeholders	6
2.20. Other Issues	7
2.21. Successes.....	7

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

2.22. Challenges.....	7
3. Relevant Documents, Studies and Practices – Yukon.....	8
3.1. Adult Probation.....	8
3.2. Restorative Justice in the Yukon - 1999	11
4. Relevant Documents, Studies and Practices – Other Northern Territories.....	12
4.1. Inuit Women and the Nunavut Justice System-2000	12
4.2. A Framework for Community Justice in the Western Arctic – 1999	12
5. Relevant Documents, Studies and Practices – Other Canadian	14
5.1. A Probation Officer's Perspective.....	14
6. Relevant Documents, Studies and Practices – USA.....	15
6.1. The New Role Of Probation And Parole: Community Justice Liaison	15
6.2. A Comparison of Four Restorative Conferencing Models - 2001	38
7. Relevant Documents, Studies and Practices – International	39

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

1. Key Themes (to be explored)

What will the impact on Probation Officers be - as result of community justice projects and visa versa?

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

2. Research Questions

2.1. Mission/Vision/Objectives/Goals

- see also chapter on “Definitions/Principles” – “Results/Performance Measurement/Accountability”

What are the stated mission/vision/objectives/goals of the Probation Officer in community justice? Short term? Medium term? Long term?

Does the Probation Officer have any suggestions as to what the mission/vision/objectives/goals/values of the other stakeholders should be with respect to community justice?

2.2. History

- see also chapter on “History”

What is the history of the Probation Officer’s role and participation in community justice?

2.3. Sponsor/Organization/Structure/Governance

How does the Probation Officer support the work and decisions of the community justice projects?

Does the Probation Officer have any suggestions as to how should community justice projects be structured?

Does the Probation Officer have any suggestions as to how governmental/non-governmental organizations (that sponsor/support the project) could be organized/structured to support community justice?

2.4. Roles and Responsibilities

What are the roles and responsibilities of the Probation Officer in community justice?

Does the Probation Officer have any suggestions as to what the roles/responsibilities/activities of government/related organizations, councils or working groups should be in community justice?

2.5. Accountability

- see also chapter on “Results/Performance Measurement/Accountability”

What are the overall accountability mechanisms of the Probation Officer with the community justice projects?

Does Probation Officer have any suggestions as to what other accountability mechanisms should be in place for community justice?

2.6. Complaints

- see also chapter on “Results/Performance Measurement/Accountability”

Does the Probation Officer have any suggestions as to what kind of mechanisms should be in place to respond to complaints about the community justice projects?

2.7. Conflict Of Interest

Does the Probation Officer have any suggestions as to how community projects should handle conflict of interest situations and power dynamics?

2.8. Decision-Making

Does the Probation Officer have any suggestions as to how community justice projects should make decisions?

Does the Probation Officer have any suggestions as to how community justice projects enhance its team-building exercises, workshops, training, advice or outside assistance to resolve the differences/disputes?

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

2.9. Interventions/Referrals/Diversions

- see also chapter on **“Interventions/Referrals/Diversions”**

Does the Probation Officer have any suggestions about interventions/referrals/diversions that should be handled by the community justice project?

2.10. Activities/Services/Approaches

- see also chapter on **“Activities/Services/Approaches”**

What activities/services/approaches does the Probation Officer engage in community justice? How much time is spent on them?

Does the Probation Officer have any suggestions as to what activities/services/approaches should be undertaken by the other stakeholders in community justice?

2.11. Offences

- see also chapter on **“Offences”**

Does the Probation Officer have any suggestions as to what offences should be handled by the community justice projects?

2.12. Clients

- see also chapters on **“Offenders”** and **“Victims”**

Does the Probation Officer have any suggestions as to whom the community justice services should be targeted? Accused? Offenders? Victims? Other?

2.13. Human Resource Management

Does the Probation Officer have any suggestions as to who should be members of the community justice projects? How they should be selected? Based on what criteria? Community Process, Elders' recommendation, Healthy/respected members of the community, Recovered from abuse, Ex-Offenders Ex- Victim, Experience/Skills, Interest in justice, other

Does the Probation Officer have any suggestions as to what kind or roles/responsibilities these members should have?

Does the Probation Officer have any suggestions as to what kind of experience/skills these members should have? Does the community have any suggestions as to what kind of education/qualifications these members should have?

Does the Probation Officer have any suggestions as to what kind of informal and formal training these members should have?

Does the Probation Officer have any suggestions as to what whether members should be paid or be volunteers?

Does the Probation Officer have any suggestions as to how volunteers could be recruited?

Does the Probation Officer have any other suggestions regarding human resource management in community justice projects?

What experience and skills do you have with community justice?

What training/support do you have/received to work with the community justice project?

How many hours per week do work with the community justice project?

Do you take a break from these duties?

Are you formally or informally recognized and rewarded for your work with community justice? By whom?

How often?

How has the workload of the Probation Officer changed as result of involvement with the community justice project?

2.14. Financial Resource Management

- see also chapters on **Funding/Budgeting; Costs**

Does the Probation Officer have any suggestions as to how funding should be determined for community

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

justice projects?
Does the Probation Officer have suggestions as to how much core funding should be available to the community justice projects?
Does the Probation Officer have any suggestions as to what financial accountability mechanisms should be in place for community justice projects?
2.15. Material Resource Management
Does the Probation Officer have any suggestions as to what material resource community justice projects should have?
2.16. Project Administration
Does the Probation Officer have any other suggestions as to whether policies/procedures/standards should exist for community justice? see also chapter on “Standards”
Does the Probation Officer have any suggestions as to whether community justice processes should be open to members of the public?
Does the Probation Officer have any suggestions as to community justice project administration?
2.17. Community Services/Resources
- see also chapter on “ Social Development Factors ”
Does the Probation Officer have any suggestions as to how other stakeholders could facilitate collaboration with programs and agencies providing different support to participants of the community justice project?
2.18. Audits/Evaluations/Reviews
- see also chapter on “ Results/Performance Measurement/Accountability ” and chapter on “ Review Methodology ”
Does the Probation Officer have any suggestions regarding the conduct of audits/reviews/evaluations with respect to community justice projects? How often? By whom?
2.19. Working Collaborative Relationships with Other Stakeholders
- see also chapter on “ Relationships/Partnerships ”
- Does the Probation Officer meet with the following stakeholders in the area of community justice?
- If so, how often? For what purpose?
- Does the Probation Officer have the support of the following stakeholders in the area of community justice?
- What is working well, in terms of the Probation Officer’s relationship with the following stakeholders in the area of community justice?
- What are the challenges in terms of the Probation Officer’s relationship with the following stakeholders in the area of community justice?
- How are disagreements or disputes between parties resolved?
- Does the Probation Officer have any suggestions on how to improve working collaborative relationships with the following stakeholders?
Victims– see also chapter on “ Victims ”
Victims’ support/advocacy groups– see also chapter on “ Victims ”
Offenders– see also chapter on “ Offenders ”
Offenders’ support/advocacy groups– see also chapter on “ Offenders ”
Community justice project – see chapter on <u>Community Justice Projects</u>
Volunteers - see also chapter on “ Volunteers ”
Community – see also chapter on “ Community ”
First Nations- see chapter on “ First Nations/Aboriginal Justice ”

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

Native Courtworkers – see also chapter on <u>“Native Courtworkers”</u>
Elders – see also chapter on <u>“Elders”</u>
Other community resources (e.g. Schools, faith-based organizations, local businesses, non-governmental organizations)
YTG – Community Justice
YTG –Crime Prevention
YTG –Victim Services/Family Violence Prevention Unit– see also chapter on <u>“Victims”</u>
YTG –Probation Services – see also chapter on <u>“Probation”</u>
YTG –Corrections – see chapter on <u>“Corrections”</u>
YTG – Health and Social Services (including Alcohol and Drug Secretariat)
YTG Women’s Directorate – see also chapter on <u>“Gender”</u>
YTG Education
YTG Housing
YTG Sports & Rec
Justice Canada
Crown Prosecutors – see also chapter on <u>“Crown Prosecutors”</u>
RCMP – see also chapter on <u>“RCMP”</u>
Judiciary – see also chapter on <u>“Courts”</u>
Defense/Legal Aid – see also chapter on <u>“Defense Counsel”</u>
2.20. Other Issues
Does the Probation Officer have specific concerns and/or issues about community justice?
2.21. Successes
– see also chapter <u>“Successes”</u>
According to the Probation Officer, what are the top (5) five best practices in community justice projects?
2.22. Challenges
– see also chapter <u>“Challenges for Change”</u>
According to the Probation Officer, what are the (5) five greatest challenges community justice?

3. Relevant Documents, Studies and Practices – Yukon

3.1. Adult Probation¹

Probation is a court order that authorizes the offender to remain at large in the community subject to conditions prescribed in a probation order.

When an offender is placed on probation, the court decides what conditions should be placed on the offender's freedoms. A variety of conditions are usually attached to the probation order and can include a curfew, require supervision by a responsible citizen that knows the offender, and normally includes regular check-in times with a probation officer.

Probation Officers are responsible for checking to ensure that the conditions placed on the offender are met in order to ensure the safety of the offender and the public.

In the Yukon, approximately 10 Adult Probation Officers monitor between 45 and 70 offenders at any given time.

When can probation be used?

Definitions

Duration of Probation

Probation Order

Supervisory Role of a Probation Officer

Enforcement

Conditions of Probation

Additional Conditions

What is the difference between probation and parole?

What if I see an offender that I know is on probation breaking the law or a condition of his/her sentence?

When Probation Can Be Used

Probation can be ordered by way of a conditional discharge or suspended sentence, or it may be included with any *one* of the following dispositions:

- fine;
- imprisonment for a term not exceeding two years;
- intermittent sentence; and
- Conditional sentence.

Offenders with a conditional discharge, suspended sentence, or intermittent sentence must be placed on probation. Those receiving a fine, incarceration or conditional sentence may be placed on probation.

Definitions [

Conditional Discharge:

- This occurs when an offender is not convicted, but found guilty of an offence and is discharged on the conditions prescribed in a probation order.
- If an offender is convicted of a subsequent offence during the term of probation, the court may decide to revoke the probation order and impose any sentence that could have been imposed at the time the order was made.
- Suspended Sentence:
 - A conviction is recorded but the passing of sentence is suspended.
 - Similar to a conditional discharge, a provision is in place for revoking the order, suspending the passing of sentence and imposing sentence.

¹Yukon Territorial Government, Department of Justice, <http://www.justice.gov.yk.ca/prog/cor/prb/index.html>

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

- Intermittent Sentence:
 - Where the court imposes a sentence of not more than 90 days, the court may order that sentence be served intermittently (i.e. on weekends).
 - A probation order must accompany an intermittent sentence and is usually applicable only at such times the probationer is not confined.
 - If the intermittent sentence is to be followed by a further probation, a second probation order is often made.
- Conditional Sentence:
 - Conditional sentence orders were introduced on September 3, 1996 by the federal government as an amendment to the *Criminal Code of Canada* and later amended by the enactment of Bill C-51 on July 1, 1999.
 - A conditional sentence is served in the community rather than in custody. The court must be satisfied that serving the sentence in the community will not endanger public safety. A conditional sentence may apply to any offence that is not punishable by a minimum term of incarceration. The maximum length of a conditional sentence is two years less a day. If, while serving the conditional sentence, the offender is sentenced to jail on other matters, the running of the conditional sentence will stop and will resume when the offender is released on parole or has satisfied the new sentence.
 - *Mandatory Conditions* include:
 - Keeping the peace and being of good behaviour;
 - Appearing in court when required to do so by the court;
 - Reporting to a supervisor as directed;
 - Remaining within the jurisdiction of the court unless written permission is obtained from the court or the supervisor;
 - Promptly notify the supervisor of any changes in employment or occupation; and
 - Provide advance notice of any changes in name or address.
 - *Optional Conditions* may include, but are not limited to:
 - Community service work;
 - Reside as directed;
 - Abide by a curfew;
 - Participation in rehabilitative or treatment programs; and
 - Prohibitions involving particular people, places, possessions or activities.
 - *Failure to Comply*
Failure to comply with any of the conditions may result in the offender being returned to court. The court may:
 - Take no action;
 - Change the optional conditions;
 - Suspend the order and direct that the offender serve a portion of the unexpired sentence in custody; or
 - Terminate the order and direct that the offender be committed to custody until the expiration of the sentence

Duration of Probation

A probation order comes into effect on the day it is made or, if it is to follow incarceration, on the expiration of the prison term.

Where there is a conditional sentence, the probation order comes into effect at the expiration of the conditional sentence.

Probation Order

Probation orders:

- cannot remain in force for more than three years;

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

- cannot be made to run consecutive to another order (although orders do run concurrently where the offender is bound by a number of different orders at the same time); and
- end only on the expiry date unless the court revokes or terminates the order early. The court can also, at any time, decrease the term of probation.

Supervisory Role of a Probation Officer

The supervisory role of a Probation Officer is to:

- prepare reports for courts and other correctional decision makers;
- enforce the probation order; and
- comprehensively assess offenders, make effective case management decisions and determine rehabilitative interventions (e.g., referral to internal or community-based educational, counseling, or treatment programs or services).

Enforcement

- Failure to Comply with Probation Without Reasonable Excuse (Breach of Probation)
An offender who is bound by a probation order and who, without reasonable excuse, fails or refuses to comply with that order is guilty of:
 - an offence punishable on summary conviction and has a maximum penalty not exceeding 18 months in jail and/or a fine not exceeding \$2,000; or
 - an indictable offence and has a maximum penalty of imprisonment not exceeding two years.

- Revocation

When a person on probation with a suspended sentence or conditional discharge has been charged and convicted of a subsequent offence during the term of the order, the Crown Attorney may apply to the judge to have the order revoked.

The court may:

- impose any sentence that may have been imposed had the passing of sentence not been suspended; or
- revoke the discharge, convict the probationer on the original charge, and impose any sentence that could have been imposed had the discharge not been granted initially.

Conditions of Probation

- Reporting to a Probation Officer
 - A Probation Officer only has authority to supervise a person who has been placed on probation with a reporting condition.
 - The frequency and form of reporting may be outlined by the court.
 - Where the reporting condition is worded "report as directed" without outlining a reporting schedule, a Probation Officer will complete a comprehensive assessment to determine the appropriate intervention and frequency of reporting based on an analysis of the offender's risk to re-offend and need in areas linked with criminal conduct. Factors that are considered in determining the type of intervention include:
 - legal requirements and conditions of probation;
 - public safety;
 - circumstances of offence and risk of re-offending;
 - need, motivation and ability to benefit from rehabilitative services; and
 - availability of programs and services.

Additional Conditions

The *Criminal Code of Canada* enables the court to require a probationer to "comply with such other reasonable conditions as the court considers desirable for securing the good conduct of the accused and for preventing a repetition of the same offence or the commission of other offences."

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

Conditions of probation must:

- detail precisely what conduct or acts are prohibited, avoiding ambiguous, uncertain or contradictory wording;
- be enforceable; and
- be relevant to offence and rehabilitation, as determined by case law.

What is the difference between probation and parole?

Probation is a court order imposed by a judge, usually instead of, but sometimes in addition to, a term of imprisonment. Probation authorizes an offender to live in the community under supervision and subject to certain conditions.

The decision to grant parole to offenders in the Yukon correctional system is the responsibility of the National Parole Board. Parole may be granted after the offender has served part of the sentence in an institution. An offender who is granted parole may then live in the community under supervision and subject to certain conditions until the sentence being served is satisfied. Parole can include day parole, full parole or statutory release.

Federal offenders are the responsibility of the Correctional Service of Canada. The Yukon does not have a federal institution. All offenders sentenced to serve over two years of jail time must stay in a federal jail.

3.2. Restorative Justice in the Yukon - 1999²

- Many Yukon people perceive that the delivery of service to communities by adult probation and youth services could be increased.
 - Adult
 - Six (6) communities noted that the level of adult offender supervision should be increased.
 - Some of these communities said that they only see the probation officer on the day of circuit court is held.
 - Three (3) other communities suggested they could support the probation officer by either offering local treatment projects, or could supervise offenders.
 - Youth
 - Two (2) communities noted they do not see the social worker supervising youth on probation.
 - One (1) community believes young offenders are not completing their community service hours.
 - Some communities were concerned about very young kids under 12.
 - A common question was – what can the justice system do with youth under 12.

² In December 1998, the Minister of Justice tabled a draft discussion paper on Restorative Justice in the Yukon as part of the government's goal of fostering safe and healthy communities. To focus the consultation process, the draft Restorative Justice in Yukon paper and information pamphlets highlighted a number of issues and questions dealing with correctional reform, crime prevention, policing policy, victim services and community and aboriginal justice projects. In May-June 1999, the Minister of Justice, the Commanding Officer of the RCMP and members of their staff visited most of the Yukon communities to hear what Yukon people had to say about the future direction for Justice in the Territory. During the months of July-August 1999, the comments heard at the public consultation meetings were included in "Restorative Justice in the Yukon, Community Consultation Report." Copies of the report were made public.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

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

4.1. Inuit Women and the Nunavut Justice System-2000³

Question: Would some members of your community be willing to assume responsibility for the alternative measures chosen and see to their implementation?⁴

Answer

- there is a need to clarify in this model what the role of the community social workers and probation officer would be, for example would a probation officer be responsible for making sure a person on diversion was following the committee's orders or would that be the responsibility of the diversion committee?
· -the diversion committee when deciding what to do in a particular case and on alternative measures should not just talk to the probation officer and social worker but also talk to family members, foster parents and guardians; these people should be well informed about what is happening?

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

- The creation of a stand-alone probation service within the Corrections Division of the Department of Justice will present additional opportunities to CJSs and committees.
 - It will be important for both to establish relationships with probation officers in the field from the outset.
 - Probation officers may seek assistance from committees in finding ways to help address offenders' needs in order to reduce breaches of probation and, ultimately, re-offending.
 - Many committee respondents indicated the importance they place on crime prevention and involvement with the probation service will offer one way of meeting this objective.
- An important consideration in the changing justice environment in the Northwest Territories is the recent approval of a stand-alone probation service.
 - While this service will create the opportunity for more offenders to serve their sentences in the community, this development could have an impact on community involvement with the justice system and on community willingness, particularly that of the justice committees, to accept greater responsibility for offenders.
- The creation of a stand-alone probation service within the Corrections Division of the Department of Justice will present additional opportunities to CJSs and committees.
 - It will be important for both to establish relationships with probation officers in the field from the outset. Probation officers, in their role of supervising offenders who are residing in their community, may seek

³ Mary Crnkovich and Lisa Addario with Linda Archibald Division, Department of Justice Canada, Research Report, Research and Statistics, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf>.

⁴ Pauktuutit, *Inuit Women and the Administration of Justice, Phase II: Project Reports –Progress Report #1* (July 1, 1994 -December 31, 1994), Appendix 3 - Presentation to the Advisory Committee on the Administration of Justice in Inuit Communities *cited in* Department of Justice Canada, Research Report, Research and Statistics, Mary Crnkovich and Lisa Addario with Linda Archibald Division, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf>. The participants of the justice workshop held in Ottawa August 12-16, 1994 presented their views, recommendations and response to the working document of the Quebec Advisory Committee on the Administration of Justice for Native Communities. Two representatives from the Ungava Coast and two representatives from the Hudson Coast accompanied Martha Flaherty and Ruby Arngna'naaq in the oral presentation to the Committee members. This presentation took place in Ottawa on August 16th before the Committee Chair, Judge Coutu. This was an Advisory Committee established in Quebec however, the issues raised parallel the issues and concerns identified by women in Nunavut.

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

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

- assistance from committees in supporting offenders and finding ways to help address offenders' needs in order to reduce breaches of probation and, ultimately, re-offending.
- Many committee respondents indicated the importance they place on crime prevention and involvement with the probation service will offer one way of meeting this objective.
 - Probation officers will be able to educate committees and specialists about the court system and the functions of probation.
 - Committees, coordinators and CJSs may also benefit from participation in training opportunities that may be provided by the Division of Corrections to its probation personnel.
 - Clearly, the development and operation of the probation service by the Department of Justice will present the Community Justice Program with advantages in terms of enhanced training for CJSs and committees and the integration of services at the community level.
 - Optimizing these advantages will require mutual planning between the Divisions of Corrections and Community Justice at the Departmental level for effective coordination of these activities and the most efficient use of Departmental resources.

5. Relevant Documents, Studies and Practices – Other Canadian

5.1. A Probation Officer's Perspective⁶

- Although the committees require some of my time, they also make my job a lot easier. They allow the community to become responsible for offenders and their behaviour. They also let the young person know that it's not only the probation officer who is aware of the situation and affected by it - the community is aware and affected too.
 - It enables the community to become more aware of existing problems. Youth justice committees are especially beneficial in small communities. Committee members are aware of the history and background of the young person and a committee allows them to take that information into consideration. It allows them to go further than the formal justice system is able to.
 - A big issue in our community is spirituality. The committee is able to assist the young person in gaining spirituality. The spirituality aspect seems to make all the difference.
 - Committees also allow parents to be involved and they assist parents in recognizing some of their own problems. Finally, resources in the community are more utilized when the committees are involved.
 - Ideally to become crime free. We want everyone to become responsible for his or her behaviour and make those necessary changes.
 - Yes. A lot of times these kids grow up in less than great conditions. It has a powerful effect on the offender when he or she realizes that someone cares about them. It makes a big difference.
 - I think communities are taking more responsibility - it's almost like community policing. Alexis is a small community and the people care about what happens to their children.
 - A youth justice committee with such a wide variety of committee members represents the whole community. The only thing we need is to involve younger people in the committee. I believe they could serve as an example to the offender and perhaps offer a type of support that can only be given by someone who can really relate to the situation.
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⁶ Alberta Solicitor General, Youth Justice Committees, "A Probation Officer's Perspective"
http://www4.gov.ab.ca/just/yjc/perspectives.cfm?p_id=1746

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

6. Relevant Documents, Studies and Practices – USA

6.1. The New Role Of Probation And Parole: Community Justice Liaison

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

**THE NEW ROLE OF PROBATION AND PAROLE:
COMMUNITY JUSTICE LIAISON**

Michael J. Dooley

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This is not about throwing out our current justice system. In fact, many of our traditional justice practices work well with serious offenders and we officials and professionals can do a real good job in protecting the public against the harm these offenders will likely inflict on us and our communities. It is those many low level offenders that we will mess up simply because there are too many for us to handle, and besides, the community can do a better job at resolving harm and the underlying issues caused by less serious offending.

Judge Barry Stuart, Yukon Territorial Court

INTRODUCTION

There is no question that the field of probation and parole has been experiencing dramatic change in the most recent years. To some this is quite disturbing. To others it is a time for substantial and exciting opportunities. Nonetheless, there is one thing that is as sound as the sun rising and setting each day; the profession is in a constant state of change, and the most recent shift will probably be the most radical in recent decades.

THE NEW WORKER — ROLES, RESPONSIBILITIES, CHARACTERISTICS, TRAITS

The profession of corrections — probation and parole — has made some critical shifts in orientation, roles, and responsibilities over the past thirty years. Early on, our tendency was to function as that of a helper often calling the offender our client. We

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

then moved toward a position whereby the offender needed to be accountable to the system and its actors. This meant a role and responsibility to provide monitoring and supervision services, and eventually treatment services, although that has been from an orientation that the offender is still personally responsible for his or her own behavior and change. With community and restorative justice we have just begun to rethink and retool to meet the new demands and challenges that this concept calls for.

As Gerald Hinzman (personal communication, 1998), a colleague from Iowa says, *"We have hired enforcers, treaters, educators, social workers and surveillers. What we really need is a 'situational' employee who can meet the diverse needs and demands of communities, from victims, and from offenders."*

Roles, Responsibilities, Traits and Characteristics

As community and restorative justice initiatives get underway, agencies large and small will need to focus on recruiting, hiring, training, and evaluating individuals according to a whole new set of qualifications, criteria and standards. Highly effective persons doing community and restorative type of work do not need to come from the ranks of the criminal and juvenile justice profession, as we traditionally know it. A good friend and colleague, Kay Pranis, tells how her background was one of a stay-at-home mother and how she entered the education field briefly as a community organizer before she became Minnesota's premier restorative justice planner. She has since affected hundreds of agencies and thousands of people by assisting in the start up of many

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

highly regarded restorative justice initiatives. Another highly effective person in the field, Gena Gerard, was a young graduate student who came across restorative justice while working on her masters degree in public policy. She began a project (i.e., Community Conferencing) with the Central Cities Neighborhood Partnership in Minneapolis. She had no prior experience or any formal training in the criminal justice field.

Some have said that training within a rigid professional discipline often may prevent one from being effective in the work of community development and organizing. As Ronnie Earle, district attorney in Austin, Texas, recently said to a victims group: *"The public has it a lot easier than we professionals do. They only have to learn the new principles and concepts. We have to first 'unlearn' what we have been doing and trained to do for so long and then relearn a whole new way of doing something."*

We must exercise caution, however, when looking at these new changes in agency and staff roles and responsibilities. Restorative and community justice is not about adopting some new professional technology, as a doctor would use a new laser surgery to treat some sort of ailing condition. Community and restorative justice is about changing the very premise, perspectives, values, principles, and assumptions under which we have traditionally operated. The community already possesses the knowledge we need for doing justice in a different way (Pranis, 1998). Ordinary citizens already possess the basic understandings necessary for a fundamentally different approach to resolving the harm of crime. The roles of formal criminal and juvenile justice agencies in the

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

intervention of crime and conflict in communities are changing. State criminal and juvenile justice agencies are promoting system and community-wide change in our response to social and family problems without the use of formal authority or statutory power by engaging all stakeholders in a voluntary, respectful process of examining an alternate vision and allowing local control over the decisions to make change, the specific path of change and the pace of change. In fact, roles are reversed. The community becomes the primary responder to family and social problems, and the judicial system operates in support of the community in its problem solving efforts.

When we look at justice from this perspective, we must examine staff and agency behaviors, policies, and our interactions with all those we come into contact with, both inside and outside the justice system.

DEVELOPING RESTORATIVE JUSTICE JOB PROFILES

So, what does all this mean to the probation and parole worker on a practical level? When making presentations and engaging in a dialogue with criminal and juvenile justice professionals around restorative justice, I often ask the question, "What are the characteristics of those on your caseload?" Or I ask the audience to describe their caseload. The majority of responses focus on characteristics that describe the offenders they serve — usually young, undereducated, and unemployed minority persons from disruptive family backgrounds. In other words, it is the offender who they are describing when asked who is on their caseload.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

In fact, probation and parole has been driven by the dominant perspective that the work revolves around one's caseload — the number of those on probation under supervision by a particular officer. We build performance systems around the caseload. We make assignment decisions and allocate resources based on the number of individuals on a caseload. In other words, we are a caseload carrying business that influences much of our daily professional behavior and interactions.

Our challenge then is to introduce a new concept of what it means to work within a community and restorative justice context. For some of us, we need to lose that traditional concept of a caseload that encompasses only offenders. We must expand our perspective to include the three primary stakeholders affected by crime and offending — the victim, the community, and the offender. Then our definition of caseload includes a whole different set of characteristics, qualities, and descriptions. It will include Jimmy, the 55-year old owner of the general store in the town of Glover whose store was the place where Janet cashed 200 dollars in bad checks. It also will include some of the citizens who live in the town of Glover, who are upset by this behavior, and the possible effect that this incident will have on their privileges to cash checks at Jimmy's store in the future.

In 1998, the National Institute of Corrections (NIC) sponsored an initiative intended to address the field's need for new job specifications related to community and restorative justice. Since this is a new area for most correctional agencies, substantive job descriptions and specifications are few, leaving many agencies in the dark on how and

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

whom to hire, what kind of direction to provide, how to train staff, and how to evaluate staff performance. Essentially, there is little information on which to base new job duties and tasks demanded in a community restorative justice construct.

DACUM Process

A process known as Developing A Curriculum (DACUM) is a quick, yet highly valid, job analysis technique. The DACUM process is used to determine the competencies that should be addressed in a training curriculum for a specific occupation. It is used to develop job profiles for all types of occupations including top-level managers and other specialized jobs. This cost-effective and efficient technique has been validated through research and compares very positively with other job analysis methods.

DACUM is based on three premises:

- 1) Experienced workers can describe their job better than anyone else.
- 2) Any job can be effectively described in terms of the competencies or tasks that successful worker in that occupation performs.
- 3) The specific knowledge, skills, attitudes, and tools required by workers in order to correctly perform their tasks can also be described.

In addition to curriculum development, DACUM profiles can be used in several other ways. They are used

- = to develop accurate job descriptions,

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

- to evaluate whether existing programs provide training for the competencies needed for today's jobs,
- as a pretest to determine the training needs of staff,
- to develop competency-based, post tests for training,
- to develop auxiliary components to a training program, such as computer-based training and video tapes, and
- as the foundation for developing a complete training program for a specific job in the correctional system.

Additionally, DACUM profiles are used for

- developing performance evaluations,
- making career decisions with information about specific occupations, and
- increasing new supervisors/managers understanding of what their employees do or should do on the job.

Retooling: DACUM Results

For its project, NIC identified and brought together persons performing in community and restorative roles and functions from around the country to participate in a two-day DACUM process. The DACUM panel (i.e., Occupational Analysis Focus Group) selected for this process went through a grueling two days of trying to reach consensus on the nature of a correctional job that was designed to be a "resource liaison" to the community. Thus the title, Community Resource Liaison.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

Before getting into the results, it is important to briefly discuss the constraints of this particular panel and process. DACUM is designed to be used with a select class of high performing incumbent workers who have experience doing a like job. Since we could not find a complete panel of persons who were doing very similar jobs, we focused on the fact that at least all the people on the panel were involved in doing community-oriented work. Nevertheless, the panel ran into several barriers. Some panel members did not like the nature of the DACUM process, suggesting that it was stifling and represented the very thing they were challenging through their efforts in doing community development and organizing work within a restorative framework. Through further discussion, it was found that some panel members were not necessarily doing community-oriented work, but rather, they were doing traditional offender-focused work within the community. These barriers, along with the fact that the specific job (i.e., Community Resource Liaison) has not existed in a correctional context anywhere before, made it difficult for the group to reach a great deal of consensus on a variety of job duties and tasks. Therefore, the process was modified slightly to allow a smaller number of people to work together on a focused area of the project. Surprisingly, the group found it easier to work on the knowledge, skills, traits, and characteristics of this new worker than on the more concrete job duties and tasks. Nonetheless, the group was able to obtain a profile that can be used as a resource to agencies for the development of job descriptions, performance standards, and training programs.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

General Duties of a Community Resource Liaison Worker

The following is a summary of the job duties and functions resulting from the process followed by the Occupational Analysis Focus Group for a Community Resource Liaison Worker. Overall, these represent the major set of duties and associated tasks to be done by someone who engages the community as a resource and liaison. Some or all of these tasks can be done by one worker, or they can be shared by a combination of staff or others who have a stake and interest in the community.

- *Engage Community Participation.* The worker is an active solicitor of information on community issues, problems and opportunities. It means holding community forums, generating opportunities for dialogue, and identifying and working with established community leadership.
- *Promote Understanding of Restorative Justice and Community Justice.* In this capacity, the worker functions as an educator and trainer around the values, principles, and concepts of community and restorative justice. This means the development of educational media and materials, the delivery of training and education to staff internally and externally, and conducting and/or participating in various community-based conferences, forums, and workshops. An example of this was the "Reinventing Justice" initiative in Franklin County, Massachusetts, where an all-day community forum was held in conjunction with, and as a wrap around training program to, the National Institution of Corrections' video conference on Restorative Justice in December 1996. The video conference was used as a way to educate and bring the community together around community issues and the concept of

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

community and restorative justice.

- *Identify Stakeholders and Partners.* This aspect of the job requires one to identify and work with the various stakeholder groups that exist within the community. A chapter of Mothers Against Drunk Driving, for example, could become a resource to help address the issue of drinking and driving. Or, neighborhood block groups could be organized, using the popular "Enterprise Zone" dollars given to cities and localities to address quality of life issues in those communities. The list is endless and it takes what one colleague suggested as "getting into the streets and neighborhoods, or down in the dirt where the real action is." But overall, it is about identifying and responding to stakeholder resources, creating dialogue and commitment, and developing future stakeholder resources.
- *Marketing and Communication Externally.* The media is a powerful tool, and this worker must be able to have a relationship with various media groups. This requires developing media contacts, making media presentations, preparing releases, developing media strategies and materials such as newsletters, advising stakeholders on media issues, and coordinating or conducting media training.
- *Conduct Needs and Interest Assessment.* Ongoing assessment of community issues and concerns is a critical aspect of the job. The worker will develop methods and instruments to conduct community assessments. This requires identifying citizen groups and organizational targets, engaging them with an assessment protocol and tool, processing the information, and disseminating and sharing the results with the community for ongoing planning and development. An example of

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

this is a collaborative effort among several counties in California where they are developing a series of community forums for the purpose of gathering information. They are including the community in the planning, design, and implementation of community and restorative justice initiatives.

- *Establish an Action Plan.* Community planning is a critical aspect of the job. Some call it strategic planning. To others it can be simple action and task planning. Nevertheless, the worker here assists communities to establish goals and objectives around relevant community issues. The worker will research sample and model restorative practices to assist community members in choosing and designing their own practices. He or she will assist in the implementation planning and the development of outcome measures. In Boynton Beach, Florida, a colleague reported using "strategic planning" with youth at risk and delinquent youth to plan and implement various community enhancement and restorative projects within their communities. The important feature in this example is that agency administrators are not doing strategic planning for the youth. The youth are learning and using a planning model to accomplish projects and thus developing planning skills and competencies, which they can use in their daily lives.
- *Monitor and Evaluate the Implementation of the Plan.* As in any initiative, program or plan, one must evaluate not only the results of the effort, but also the implementation of the effort. The worker needs to monitor and evaluate the process and outcomes of a variety of projects. This can be done directly by the worker, or the worker can assist and be a resource to the community stakeholders who may

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

perform this type of function.

- *Build Community Partnerships.* This is likely to be the core responsibility of the worker within the community and restorative construct. The worker functions as a developer and builder of partnerships within the community framework. This means assessing community needs and interests, conducting and facilitating meetings, round tables, and symposia. It requires the development of stakeholder coalitions, advisory boards, task groups, and networks. In this role the worker also will be more effective if she or he joins relevant community organizations for which his or her skills and expertise becomes a resource. The worker also will need to attend formal and informal community gatherings and events. It also requires a great deal of technical and logistical support such as creating communication mechanisms and providing meeting space, sites, and equipment.
- *Develop Partnership Infrastructure.* You might say that this is the "meat and potatoes" of the job. The worker secures commitment from organizations and agencies including resources and funding. The worker then will maintain documentation and records, develop operational processes and protocols for communication, meetings, and training. The job will entail managing membership and structural changes within various partnerships.
- *Manage Problems, Conflicts and Barriers.* Working with multiple people and organizations at all levels is bound to have problems and conflict. This is even more evident when compared to working within our traditional and professional framework where we could easily maintain distance and sometimes separation from the issues

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

and problems. Community work requires the worker to be in the heart and substance of a variety of issues and problems. Here, the worker will need to facilitate the resolution of conflict, develop conflict resolution processes, solicit and facilitate feedback, create a problem solving norm and atmosphere, and scan and anticipate future problems before they become crises.

- *Build and Maintain Relationships.* Relationships built between people, organizations, and communities cannot be overlooked. Work is done to facilitate and develop dialogue, structures, processes, protocols, and commitments within these relationships. These relationships also need ongoing attention and maintenance. The worker here will need to acknowledge community leadership, be responsive to community needs and interest, create dynamic and fluid processes and structures, develop "learning communities" and relationships, create inclusive structures, processes and environments, and develop and maintain cross agency relationships.

Knowledge, Skills, Traits and Characteristics of the Community Resource Liaison Worker

The knowledge, skills, and traits identified by the focus group as being necessary for a Community Resource Liaison worker may be found in Figure 1.

Figure 1: Desirable Characteristics of a Community Resource Liaison Worker

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

<u>Knowledge</u>	<u>Skills</u>	<u>Traits</u>	
Accessing Resources Accessing Information Community Stakeholders Community Resources Criminal Justice System Evaluation Methodologies Information and Referrals Interpersonal-Intelligence Multiple Systems Political Acumen Principals of CRJ Process of Change	Analytical Communication Computer Conflict Management Letting Go (Sharing Power) Listening Marketing Media Relations Meeting Management Outreach and Recruiting Public Speaking Synthesize Information Training Delivery Victim Sensitivity	Approachable Common Sense Community Investment Compassion Consensus Building Empathy, Energetic Flexibility, Frugal Non-judgmental Non-territorial Organized Model Restorative Principles	Passion Positive Attitude Patience Resourceful Self Directed Sense of Humor Sensitive to Diversity Sensitive to Limitations Team Player

Additionally, the Occupational Analysis Focus Group came up with several considerations as being significant in the delivery of community restorative services that need to be taken into account when working with the community in this sort of position. These considerations are summarized below.

- *Challenge Conventional Assumptions.* Conventional assumptions about criminal justice often put all of the power and responsibility for responding to crime in the hands of our government system. Currently, victims, the community and offenders do not share the power and responsibility to address crime. A Community Resource Liaison worker must challenge conventional assumptions by fostering an atmosphere of sharing power and responsibility. The worker must educate, develop resources for, facilitate, and support shared power and responsibility.
- *The Community.* Recognizing that there are various definitions of "community," the community should nonetheless be recognized as a victim of crime and as such,

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

should be directly involved in the justice process (i.e. resolution of crime). Because every community's needs and characteristics are different, problems relating to crime need to be defined and solved at the local level. The community has shared responsibility for the safety and behavior of its members. It should take a leadership role in providing means for victims' needs to be met, conflict to be resolved, and offenders to be rehabilitated and reintegrated.

Citizens create the commonwealth; managing behavior and resolving crime (or, doing justice,) is public work. Citizen action is necessary for the reasons described above, but it also empowers citizens to be actors in the life of their community—workers who together build the commonwealth.

- *Shared Power and Responsibility.* The community, victims, and offenders will be more satisfied with direct involvement. Mediation and other forms of alternative dispute resolution get to the needs of victims and bring resolution. More acceptability occurs in the community by making it safer, decreasing response time to conflict, and addressing what's wrong. Repair is more relevant and satisfactory. When the community and the victim are involved it costs less and offenders pay more. Restitution does happen when shared by victims, offenders, and the community.
- *Education.* It is important to have ongoing education around restorative justice and community concerns. This would be facilitated by developing training, hosting forums, distributing materials, and initiating neighborhood walks in conjunction with

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

education and corrections personnel. One must work to educate the general populations about restorative justice in general and local initiatives in particular.

- *People/Relationship Centered.* Community and restorative justice is people/relationship centered and requires continued communication, which is circular, internal and external to an organization, and is constantly evolving. It also requires a fluid procedure, which is inclusive of community partnerships and allows for their changing needs and continual input.
- *Art versus Science.* Community and restorative work requires one to be present while not imposing, holistic and circular, and stimulating but not directing. It cannot be forced into single cultural parts. It works on many levels at once, and pays attention to intangibles. It has multiple forms of expression and communication. You learn as you go along and your intuition is important. You move in many dimensions at once. Passion shapes performance.
- *Organic Process.* Community and restorative work is organic by nature. Actions are guided by the vision (as plant life grows toward the sun). Caution must prevail about defining partnership too quickly as ambiguity and silence create space for ideas to surface. Reflection on experience guarantees future doors open as you go, which cannot be predicted or controlled. Principles and values are constantly revisited. There is a sense of life in the work people do together.

Specific jurisdictional examples of community and restorative job descriptions related to the above knowledge, skills, traits and general duties are provided in Appendix B.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

THE NATURE OF CHANGE IN IMPLEMENTING NEW ROLES

The Personal Level of Change—A Concerns-Based Approach

I would be remiss if I did not address the issue of change within the context of the changing job roles of professional probation and parole officers. Moving toward and adopting a community justice system based upon the principles, values, and practices of restorative justice is a radical change for probation and parole officers. Many of these officers have spent the past 20 years learning how to manage a variety of offenders on caseloads through a variety of supervision and treatment interventions.

It is the professional culture, with different values and a different orientation, that has made change and my part in it difficult at best. Professionals in this culture have built their professional identities around a certain orientation and values that are now being questioned and challenged.

When working with the Department of Corrections on implementing the community reparative boards in Vermont, I recall a senior manager at a state-wide meeting emphatically saying, "I came into this business 25 years ago to manage and supervise criminal offenders, not to do 'sales and marketing.'" I do not have the skills to do that type of work." As might be expected, staff were fearful and threatened of what the change meant to them and what they had worked for all these years. There also is a very natural resistance to change, especially if it has an impact on something that is of significance to you personally. For most people, jobs are a very important part of their

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

lives. In fact, I received a timely email just the other day regarding a restorative justice initiative being implemented in Vermont that so clearly makes this point. The message was as follows:

D.....called to report that there is a Barbecue for Restorative Justice in Burlington at the School on Pine Street (I think) on Wednesday, June 24, 1998 at 1730 hours. It is important for those of us who can to be there and go on record regarding the encroachment of privatization of State jobs, which this concept represents.

The point is that we cannot look at this as merely a lack of understanding around the concept of Restorative Justice and debate what it will or will not do to state jobs. From a change perspective, we must recognize that change is about people and their personal perceptions of how change will impact them.

The following are some thoughts and considerations on the process of change as it relates to probation and parole, professionals new and experienced, who will be doing their jobs based on community and restorative values, principles and practices in the future.

People Change First

Change must be thought of in terms of a venture into the affective world of those who are directly tied to the change. Michael Fullan (1992) describes this as the subjective meaning and subjective reality of change. Each individual possesses perception in terms of time, place, good, or bad. These personal meanings and realities about change vary from one person to another and are altered in unpredictable ways. Failure

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

to recognize and consider this in a change effort is likely to yield a failed implementation, or at best a "superficial" perception that a change has been implemented. The bottom line is that those who desire a change to truly happen must approach it as an extended process of coming to grips with the multiple realities of people who are central to implementation.

Assumptions Underlying a People Approach to Change

Early research in the field of education led to the development of a Concerns Based Adoption Model (Hord, Rutherford, Huling-Austin, and Hall, 1987) for managing and leading change. Shirley Hord and her colleagues developed the Concerns Based Adoption Model (CBAM). The assumptions of this model provide an excellent perspective for administrators, managers, and policy makers when considering major change efforts that will impact people responsible for implementing all or part of that change.

- = *Change is a process, not an event.* Failure to recognize this surely is going to present an obstruction to a particular change effort. Many change initiatives are projected as a single event, such as a central administrator introducing a new practice at a staff meeting and expecting it to be implemented, as if that was all there was to it. Change is a multidimensional process involving many variables, sources and participants. It is a process occurring over time. Many change initiatives get evaluated after the first year and without any consideration for the process. Thus, the lack of results deems the innovation a failure. This is

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

problematic since the cause may be the implementation process and not the quality of the innovation.

- *Change is made by individuals first.* A common notion, especially among central administrators and developers, has been to treat change in broad, impersonal terms and as a package or program. Everyone is affected by change. Therefore, focus and attention must be given to individuals who will bear the affective impact, each in their own way. Change in a system institution is considered to have taken place only when a substantial number of individuals have embraced and absorbed the change.
- *Change is a highly personal experience.* The assumption is that every individual has different concerns and will react differently to a change effort. Often individuals are treated just as part of a large collective group, and the focus is on the group. Individual differentiation is the key. Some persons adopt the use of an innovation more readily than others. Since most people respond differently to change, facilitation and strategic interventions should focus on where each individual is in the process. This will ultimately support and enhance the process of change.
- *Change entails multilevel developmental growth.* Personal change cannot be viewed as a cognitive, rational function. The broad notion of change as a process also applies to individuals. When individuals demonstrate growth they move through a process of changing feelings and skills. As individuals shift in their feelings and skills, real change takes place. People move through stages of feeling and levels of skill as they use and experience a new practice.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

- *Change is best understood in operational terms.* All too often, an innovation is delivered as an abstract conceptual package filled with theoretical terminology and language. People who are involved in the change need to present the innovation in an operational sense so staff can see how it will be used in their particular environment and what it will entail in the daily schematic of work activities and duties. In a probation or parole office, staff want to know, "How are referrals going to be made to a community group conference?"
- *Change facilitation must suit individual needs.* Drawing from the assumption that "change is a highly personal experience," facilitation should be an effort to address the diagnosed needs of individual users. Facilitators need to approach individuals systemically with interventions designed to meet their specific needs.
- *Change efforts should focus on individuals, not innovation.* Many times implementing an innovation means introducing new materials, tools or objects for people to use. For example, simply giving all clerical workers computers in an attempt to improve quality and efficiency greatly underestimates the impact on these workers in using the equipment. People implement the change. Objects and strategies are only tools. Thus the real meaning of any change is with the human component.
- *Change is imminent in our world of justice.* How we go about this change is the key to being effective and successful in managing our many efforts. Central to all these changes are the people, including probation and parole officers, who are affected by and who have to practice the change. Change is a highly personal experience.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

People change first. It is only then that community and restorative values, principles and practices will truly manifest into long-lasting change for a better and more responsive justice system for all: victims, communities, and offenders.

CONCLUSION

As we move rapidly to engage the community, work with victims, and include stakeholders in our justice processes, we as planners, administrators, and change facilitators must be attentive to the personal needs of people when trying to implement new values, principles, and practices. Additionally, we must recognize that our professional work in recent decades was valued and relevant to meeting the needs of our communities and the general public, and that many professional practices that we are doing will remain relevant and needed.

There remains a legitimate place for many of our professional probation and parole staff who have developed professional supervision, treatment and intervention competencies to be used with serious criminal offenders. However, it is when we can truly integrate the principles and values of community and restorative justice in all our work with offenders, victims, and communities, that the potential to turn the corner on the fear of crime, offending, and harm will manifest in extraordinary ways.

Again, this particular change in the field of probation and parole is not just some great and bright idea of a few correctional administrators, judges, prosecutors, or police chiefs. The change is very much driven by a refocusing of public interest in the need

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

for justice to be more responsive by paying attention to the needs and interests of communities and victims, and by including them in every aspect of justice processes. Some will certainly see this as a major imposition on the field and their professional work. However, I hope many will see this as an opportunity to be a part of an effort that is truly significant and substantial in its potential to get our justice systems, our communities, and the public back in sync for effectively preventing and addressing crime and conflict in our neighborhoods and communities.

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6.2. A Comparison of Four Restorative Conferencing Models - 2001⁷

Such new roles are emerging in several communities where restorative justice is now actively practiced. For example, in Deschutes County, OR, probation officers are now called community justice officers, and their responsibilities include developing and supporting community service projects, developing restorative conferencing, coordinating services to crime victims, and performing a variety of community-building and restorative functions.

⁷ Gordon Bazemore and Mark Umbreit “A Comparison of Four Restorative Conferencing Models” in *Juvenile Justice Bulletin* February 2001 http://www.ncjrs.org/html/ojdp/2001_2_1/contents.html

Research Framework for a Review of Community Justice in Yukon
Community Justice – Probation

7. Relevant Documents, Studies and Practices – International