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1 Key Themes (to be explored)

Community Variation: could mean that the Yukon would need to accommodate a range of restorative community justice models – providing information from other jurisdictions is not intended to prompt replication but rather to demonstrate what can be done.

Community Capacity: the issue of a community's preparedness to take on the responsibilities of community-based justice initiatives is ongoing – especially for the vulnerable and sexual/domestic cases.

Chicken or the egg: – do 'healthy communities' need to exist to build successful community projects or do community justice projects, through their work with other stakeholders, build 'healthy communities'?

Community Development: community justice is on the continuum of community development at the community level (economics, language, education, health) - whereas restorative/aboriginal/community justice is on the narrower continuum of justice initiatives (crime prevention, legal aid, courtworker etc.) at the government level.

Is community justice in the Yukon '**community based**' – taking place at the community rather than being '**community driven**' – grounded/developed based on the needs/values of the community.

Community Involvement: is it possible to view community involvement on two levels – through the greater participation of community members in the adjudication process – or through the participation of the personal (immediate, interested) community of the victim and the offender?

Community Control: it is possible that communities will exercise informal authority in ways that conflict with broader values of the culture? Is the way to mitigate through community action in collaboration with justice agencies? To what extent does a community effort reflect the entire community? Did the community go through some process that enabled community members to clarify their standards and identify appropriate methods of enforcement?

Community Accountability: is distinct from accountability (fully responsive to the needs of members of the community) to government ministries or guidelines. Acknowledging that communities may be characterized by power imbalances and local elitism of one sort or another – one author calls for 'suasive' rather than 'coercive' community influence.

2 Research Questions

2.1 Definition of Community

What is the definition of the community?

- Communities of geography (town, neighbourhood, faith organization, school, business, village)
- unified bodies of individuals – people - with mutual interests linked by a common history, by social, economic, cultural and political ties and by a sense of shared destiny
- a feeling, a perception of connectedness--personal connectedness - both to other individual human beings and to a group.
- a connection between each other and a common interest in the activities and well-being of the group based on consensus or interests of the majority
- personal community of care – communities of association - composed of friends, fellow workers and family of the parties involved, from many different places
- micro-communities – social networks – fluid and dynamic – home, work, leisure, religious/spiritual – other substructures that bind us to society

2.2 Community Needs/Interests/Traditions/Values

Who represents the needs etc. of the community?

What are the community's needs etc. in terms of justice? reassurance that what happened was wrong, that something is being done about it, and that steps are being taken to discourage its recurrence

How were these needs determined?

How are the needs etc. of all community members represented and acted upon, particularly those less powerful in the community?

Are current inequalities that are present in the community incorporated into the community-based justice system? What mechanisms are in place to address that possibility?

Is community justice one of the priority initiatives in the community?

Are the needs of the community incorporated into the planning, implementation and operation of the justice strategy?

Are the past and present traditions/values incorporated into the strategy?

2.3 Community Involvement/Participation

How is community involvement ensured?

- Open meetings/workshops for community
- Use of media (i.e. air time on the local radio station, bulletin board, brochures and pamphlets for distribution and display)
- Organizing or Sponsoring Cultural Activities
- Networking with other community agencies (e.g. interagency meetings)

What preparation/groundwork - (pre) conditions (human, financial, material) - are necessary for effective community involvement?

- Willingness
- Ability
- Outreach to all (especially victims); engaging community leaders – natural allies; those who disagree
- Training (e.g. technical support – writing proposals – expert resources – forums for collegial interaction – resource library)
 - Education (public speaking, distribution of written material, one page informational pieces); Radio Interviews; Local TV; Contacts with local press; community college; high school classes; religious/spiritual organizations; Local stories

How is the community involved – what is the nature of the involvement?

Who is involved?

- Providing programs for the processes to occur
- Work and/or training opportunities for offenders to make restitution
- Support services to victims
- Safe environments where rights are respected
- Volunteers in the processes
- Administering the programs
- Setting standards
- Planning/advisory groups or other means to offer guidance/feedback/help to assist, to set goals/priorities

Does the program involve community members as active participants as early as possible in the resolution of the conflict? Is community involvement high, medium or low?

2.4 Mission/Vision/Objectives/Goals

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

What are the stated mission/vision/objectives/goals of the community with respect to community justice? Short term? Medium term? Long term?

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

<p>2.5 History - see also chapter on "History" What is the history of the community's role and participation in community justice?</p>
<p>2.6 Sponsor/ Organization/Structure/Governance How does community sponsor/support the community justice project? From whom? When? How much?</p> <ul style="list-style-type: none">• Letters of support• Financial support• In kind support (e.g. office space, administering the project funding/book keeping)• Providing meaningful work for the offender as means of "earned redemption" <p>Is the justice initiative community-based (which is grounded in strategies developed, implemented and administered by the community)? or Is the justice initiative controlled at the community level control (community administration of the formal system's justice strategies, where the development is done 'elsewhere')? Does the community have any suggestions as to how community justice projects should be structured? Does the community have any suggestions as to how governmental/non-governmental organizations (that sponsor/support the project) could be organized/structured to support community justice?</p>
<p>2.7 Roles and Responsibilities What are the roles and responsibilities of the community in community justice projects?</p> <ul style="list-style-type: none">▪ defining standards of acceptable conduct and▪ determining what can be done – materially or symbolically – to repair the damage when these standards are violated <p>Does the community have any suggestions as to what the roles/responsibilities/activities of government/related organizations, councils or working groups should be in community justice?</p>
<p>2.8 Accountability - see also chapter on "Results/Performance Measurement/Accountability" What are the overall accountability mechanisms of the community with the community justice project? Does community have any suggestions as to what other accountability mechanisms should be in place for community justice?</p>
<p>2.9 Complaints see also chapter on "Results/Performance Measurement/Accountability" Does the community have any suggestions as to what kind of mechanism should be in place to respond to complaints about community justice projects?</p>
<p>2.10 Conflict Of Interest – Power Dynamics Is there a mechanism to examine and monitor community power dynamics in the community-based justice processes?</p> <ul style="list-style-type: none">▪ The power dynamics between men and women have to be addressed.▪ Inequality must not be built into the system▪ The underlying power struggles and powerlessness that characterizes domestic violence and sexual assault must not be replicated <p>Does the community any suggestions as to how community projects should handle conflict of interest situations and power dynamics?</p>
<p>2.11 Decision-Making Does the community have any suggestions as to how community justice projects should make decisions? Does the community 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?</p>

<p>2.12 Interventions/Referrals/Diversions - see also chapter on <u>“Interventions/Referrals/Diversions”</u> Does the community have any suggestions about interventions/referrals/diversions and how they should be handled by the community justice project??</p>
<p>2.13 Activities/Services/Approaches - see also chapter on <u>“Activities/Services/Approaches”</u> Does the community have any suggestions as to what activities/services/approaches should be undertaken by the other stakeholders in community justice?</p>
<p>2.14 Offences - see also chapter on <u>“Offences”</u> Is the community willingly to deal with chronic offenders as well as occasional ones? Does the community have any suggestions as to what kinds of cases should be handled in community justice?</p>
<p>2.15 Clients - see also chapters on <u>“Offenders”</u> and <u>“Victims”</u> Does the community have any suggestions as to whom the community justice services should be targeted? Accused? Offenders? Victims? Other?</p>
<p>2.16 Human Resource Management Does the community 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 community have any suggestions as to what kind or roles/responsibilities these members should have? Does the community 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 community have any suggestions as to what kind of informal and formal training these members should have? Does the community have any suggestions as to what whether members should be paid or be volunteers? Does the community have any suggestions as to how volunteers could be recruited? Does the community have any other suggestions regarding human resource management in community justice projects?</p>
<p>2.17 Financial Resource Management - see also chapters on <u>Funding/Budgeting; Costs</u> Does the community have any suggestions as to how funding should be determined for community justice projects? Does the community have suggestions as to how much core funding should be available to the community justice projects? Does the community have any suggestions as to what financial accountability mechanisms should be in place for community justice projects?</p>
<p>2.18 Material Resource Management Does the community have any suggestions as to what material resource community justice projects should have?</p>
<p>2.19 Project Administration Does the community have any other suggestions as to whether policies/procedures/standards should exist for community justice? see also chapter on <u>“Standards”</u> Does the community have any suggestions as to whether community justice processes should be open to members of the public? Does the community have any suggestions as to community justice project administration?</p>
<p>2.20 Community Services/Resources - see also chapter on <u>“Social Development Factors”</u> Does the community have any suggestions as to how other stakeholders could facilitate collaboration with programs and agencies providing different supports to participants of the community justice project?</p>
<p>2.21 Audits/Evaluations/Reviews - see also chapter on <u>“Results/Performance Measurement/Accountability”</u> and chapter on <u>“Review Methodology”</u> Does the community have any suggestions regarding the conduct of audits/reviews/evaluations with respect to community justice projects? How often? By whom?</p>

2.22 Working Supportive Collaborative Relationships
- see also chapter on <u>“Relationships/Partnerships”</u>
- Does the community meet with the following stakeholders in the area of community justice?
- If so, how often? For what purpose?
- Does the community have the support of the following stakeholders?
- What is working well, in terms of the community’s relationship with the following stakeholders in the area of community justice?
- What are the challenges in terms of the community’s relationship with the following stakeholders in the area of community justice?
- How are disagreements or disputes between parties resolved?
- Does the community have any suggestions on how to improve working collaborative relationships with the following stakeholders?
Victims – see also chapter on <u>“Victims”</u>
Victims’ support/advocacy groups – see also chapter on <u>“Victims”</u>
Offenders – see also chapter on <u>“Offenders”</u>
Offenders’ support/advocacy groups – see also chapter on <u>“Offenders”</u>
Community justice project – see chapter on <u>Community Justice Projects</u>
Volunteers - see also chapter on <u>“Volunteers”</u>
Community – see also chapter on <u>“Community”</u>
First Nations - see chapter on <u>“First Nations/Aboriginal Justice”</u>
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>

2.23 Other Issues Does the community have specific concerns and/or issues about community justice?
2.24 Successes – see also chapter “Successes” According to the community, what are the top (5) five best practices in community justice projects?
2.25 Challenges – see also chapter “Challenges for Change” According to the community, what are the (5) five greatest challenges facing community justice?
2.26 Community Strength – Assets - Health – Wellness
Volunteerism <ul style="list-style-type: none">▪ # of volunteers recruited▪ # of volunteers retained▪ hours of unpaid work
Attitudes toward diversity <ul style="list-style-type: none">▪ surveys on racism/discrimination
Participation in cultural activities <ul style="list-style-type: none">▪ surveys on reading of newspapers, magazines, books or library materials▪ internet use▪ attendance at or number of theatre, music, art, film , historic and other cultural shows
Political participation <ul style="list-style-type: none">▪ voter turnout in elections
The crime rate <ul style="list-style-type: none">▪ Incidents of property crime▪ Incidents of violent crime▪ Homicide rates▪ % of Aboriginals in Yukon population; % of Aboriginals in offender/victim population; % of Aboriginals in correctional facility
Community Assets “Community Mapping Exercise” – what do communities have to offer? <ul style="list-style-type: none">▪ inventory of skills, abilities, knowledge, mentorships, relationships
Has the community justice initiative contributed to creating a greater sense of community, community development and wellness? Has the community justice initiative united or divided the people of the community?

3 Relevant Documents, Studies and Practices – Yukon

3.1 Yukon Community Profiles¹

3.2 Council of Yukon First Nations, Our Nations²

3.3 Aboriginal Justice Strategy (AJS) Trends -2000³

3.3.1 Community Involvement

Province/Territory	# of Programs Reporting Community Involvement		
	1996-97	1997-98	1998-99
Yukon	3	3	4

3.3.2 Letters of support

Province /Territory	# of Projects		
	1996-97	1997-98	1998-99
Yukon	0	1	1

3.4 Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon – 1992⁴

3.4.1 Community Variation:

- Community variation is difficult to document because of the lack of demographic information to distinguish the aboriginal and non-aboriginal populations in the communities.
 - In interviews respondents provided some information as they were able to distinguish between communities along a number of dimensions.
 - Some differences were primarily *geographic*.
 - Old Crow is regarded as being different because of its isolation and geography although its ‘traditional’ characteristics are noted as well.
 - Kwanlin Dun is considered urban by many as it is a suburb community of Whitehorse and comprised of several language groups.
 - Other bands are measured along other dimensions.
 - For example, the Han, in Dawson and the Champagne-Aishihik Southern Tutchone in Haines Junction, are described as the ‘*business groups*’ because of their involvement in a number of entrepreneurial business activities, where as Teslin is seen to be one of the most traditional of all bands because of the rejuvenated clan system.
 - Some communities are described consistently as having more *social problems* than others.
 - Problems in contemporary communities are associated with a number of factors, most commonly the sudden and dramatic exposure of aboriginal people to white people during the initial Klondike Gold Rush, followed by a period of isolation and then a resurgence with the building of the Alaska Highway.

¹ Yukon Community Profiles <http://www.yukoncommunities.yk.ca/>

² Council of Yukon First Nations, Our Nations, <http://www.cyfn.ca/ourNations/index.html>

³ Department of Justice Canada, The Aboriginal Justice Strategy: Trends in Program Organization and Activity 1996-1997, 1997-1998 and 1998/1999, Prepared for the Aboriginal Justice Directorate, Department of Justice Canada by Naomi Giff, March 10, 2000 -

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.

Community Justice - Community

- Exposure to white people was compounded by the relocation of many communities and the bringing together of small groups into larger sedentary communities.
- The loss of traditional lifestyles and ruptures in social relations underlie the present economic and social conditions in many communities.
- Some leaders have emphasized business development in communities in response to these problems.
- Most economic enterprises are still in the hands of non-aboriginal people but there is a gradual move toward aboriginal control which could be accelerated by land claim settlements.
- Focusing attention on First Nation communities tends to obscure the fact of significant ***permanent and transient aboriginal populations*** predominantly within non-aboriginal communities within Whitehorse.
 - These populations can be distinguished from the stable population of Kwanlin Dun, although there is considerable interaction, particularly with the non-resident transient populations.
 - Aboriginal people from the First Nation communities in Carcross, Haines Junction, and Teslin live permanently in Whitehorse and members from other communities live in Dawson and Watson Lake, as well.
 - It is unfair to generalize about the relationship of these populations to the criminal justice system but transiency, unemployment and alcohol use are three important factors in determining contact.
 - Some groups are permanently employed and upwardly mobile with little or no involvement in the system
 - Others are regular users of social services, detoxification centres and other resources, and have considerable contact with the criminal justice system.
 - It is unlikely movement to Whitehorse will decrease, or the jurisdiction of local justice systems would extend beyond the boundaries of communities.
 - The present justice arrangements will continue to apply to this group and any future justice developments must take this factor into account.
- Throughout the Yukon there are mixed communities where aboriginal people are the majority or minority population or where their population is similar in size to the non-aboriginal population.
 - The ***demographic information*** provides another way of viewing the communities.
 - The community with the ***highest aboriginal population between 16-35 years of age*** (the group most likely to be involved in the criminal justice system) is:
 - Carcross, followed by Liard and Whitehorse;
 - the community with the smallest is Old Crow, followed by Watson Lake and Haines Junction.
 - The communities also vary in the size of their non-aboriginal populations and may be categorized as follows:
 - ***Majority aboriginal communities:***
 - Old Crow, Teslin, Burwash Landing, Beaver Creek, Pelly Crossing and Upper Liard
 - ***Mixed aboriginal/non-aboriginal communities:***
 - Carmacks, Ross River, Haines Junction and Mayo
 - ***Minority aboriginal communities:***
 - Whitehorse, Watson Lake and Dawson
 - Another important factor for justice initiatives is the ***size of the actual aboriginal population living in the community***, regardless of the population mix.
 - This distinction is important because it suggests that local aboriginal justice systems will directly affect only slightly over one-half the aboriginal populations in the Yukon.

Community Justice - Community

- Cost jurisdiction and size of communities affected become essential considerations about local justice systems.
- The fact that nearly half the aboriginal population in the Yukon lives off settlement lands (mainly Whitehorse and Watson Lake) is reflected in the criminal justice statistics.
- It is necessary, therefore, to take a proactive approach to justice programming for communities with significant off-settlement populations.
- It is unlikely First Nation justice systems would extend off-settlement lands except in unusual circumstances, so an effort should be made to accommodate the needs of aboriginal offenders and victims in these areas.
- There is also a variation in the involvement of First Nations in self-government negotiations and self-government activities.
- Communities wish to be considered distinct and any negotiations about justice which attempt to treat them alike, will be rejected.
- In the Yukon, First Nation communities are integrated with non-aboriginal populations.
 - There are, however, many differences in communities which must be recognized and accommodated in developing justice approaches.
 - These include variations in
 - economic and social well-being of communities;
 - degree of alcohol and drug use;
 - business involvement and acumen;
 - dependence on external justice services/resources for resolution of problems;
 - tolerance in dealing with ‘problem’ groups such teenagers in communities;
 - availability of human and other resources;
 - involvement and interest in justice matters;
 - reliance on subsistence economy;
 - influence of dominant families in directing and shaping communities;
 - role of women; and
 - retention and use of aboriginal language.
 - Variation does not mean, however, that aboriginal communities in the Yukon could not accommodate a range of tribal justice models.

3.4.2 Jurisdictional Issues

- Some of these include:
 - the preferences of aboriginal people living outside settlement lands for hearings in local
 - potential for extension of jurisdictional to weaken local systems
 - perceptions of preferential treatment to those living outside the boundaries of communities; and
 - the issue of extension of jurisdictional to members who, as transients, commit offenses in other communities.
 - Some Self-Government Implementation Plans such as the one put forward by the **Teslin Tlingit Council**, contemplate extending the jurisdiction of a local community justice system off-reserve.
 - These are a considerable number of Teslin band members who permanently live off-reserve and a ‘community justice’ approach seems problematic where people are not permanent residents of the community.
 - Having a community justice system extend to another community fundamentally changes the concept of community and of community involvement in justice.
 - On the other hand, if members are transient and commit an offence off-reserve, it may be possible to develop a protocol whereby the off-reserve system has an agreement with the band to return the offender to the jurisdiction of the band and to the community where he or she is a permanent resident.
 - It may also be necessary to consider the development of mechanisms to facilitate transfers between community systems.
-

3.5 Building Community Justice Partnerships - 1997⁵

Definition of Community

A community is not a place, it is people.

- For circles, the “community” of people may come from a small town, a neighborhood, or it may be the personal community composed of friends, fellow workers and family of the parties involved, from many different places.
- Involving the personal community of victims and offenders significantly contributes to a successful process and is essential to generating healing connections.
- Those who believe the Circle process can only be successful in small isolated communities, fail to appreciate either the flexibility of the Circle process or the dynamics of small isolated communities.
- For many reasons, the potential for Circles to successfully resolve the personal immediate and larger conflicts generated by crime and to advance the immediate interests of victims and offenders, is considerably greater in large metropolitan areas.
- In carrying out ‘personal circles’ the active support of key justice officials is more critical in large metropolitan areas than in community circles.

Abuses of Power

- The involvement of justice officials, police, Crown, and Judge can profoundly help reduce potential abuses of power within a community process.
- A community process must build in sufficient safety checks against domination by powerful local voices.
- Processes involving vulnerable victims, such as women and children should not be handled exclusively within communities until strong support groups for victims are in place and trained Keeper are ready to maintain the integrity and safety of the processes.

Enhancing Community Awareness

- Good news in the criminal justice system rarely travels far or effectively.
 - An awareness of numerous successful community-based initiatives within Canada and within other jurisdictions rarely reaches the grass roots of Canadian communities.
 - Current community frustration with existing justice processes prompts people to want to do something about it.
 - Most don’t know what can be done.
- Some communities seek tougher measures and encourage public investment in harsh sanctions.
 - Some seek to redress the social conditions fostering crime and prompt public investment in healing and rehabilitation programs.
 - There are no simple answers, no universally ‘right’ answers to crime.
 - Each case, each situation is different.
 - Discovering what mix, what blend of approaches will work cannot be determined without involving the community.
 - All of us suffer when we fail to share in responding to the challenges crime poses to our communities.
 - Crime is not a legal problem, it is first and foremost a social problem.
- Introducing examples of First Nation peacemaking and of other community-based justice projects can stimulate the imagination of many who desire to become involved.
 - Presenting materials about community-based initiatives, is not intended to prompt replication, but rather to demonstrate what communities can do.

Community Ownership is critical to the initial success and especially, to longevity. Ownership derives from ensuring the impetus from starting, the primary influence in designing, and the controlling hand in operations, are community-based.

When resources are thin or non-existent, or when the initial pioneering founders are burnt out, people in the community must marshal the grit ‘not to let it die’. This grit is often only found in the pride of community

⁵ Stuart, Barry. 1997. *Building Community Justice Partnerships: Community Peacemaking Circles*. Ottawa: Aboriginal Justice Learning Network, Department of Justice.

ownership. When professional agencies oppose the process or withdraw support, or when a failure within the project is blown out of proportion, taken out of context by the media, again, it is the determination grown from having given life to the process that musters the perseverance within a community to keep the process alive. Inspiring people to make the personal sacrifices necessary 'to make work' is one of the many crucial contributions 'community ownership' bestows.

From the inception of a community-driven process, regardless of whether the community aspires to assume full responsibility or to construct a partnership with one or more public agencies, a sense of community ownership must be present – and must remain throughout the operation of the project. Of all the elements of successful community-based projects for managing conflict, *community ownership is indispensable*.

3.6 Community Development and Research - 1996⁶

- It is essential that the entire community be involved in the process.
 - Examples of community-based development programs that they discussed included the Teslin Tlingit Tribal Justice System.
 - In all of these initiatives the community took control and ownership of the problem and acted on what they perceived as the most effective way to respond.

⁶ Canada. *Community Development and Research*. Ottawa: Solicitor General, Aboriginal Peoples Collection, 1996 cited in Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf>

4 Relevant Documents, Studies and Practices – Other Northern Territories

4.1 Inuit Women and the Nunavut Justice System – 2000 ⁷

Community Capacity: The issue of a community's preparedness to take on the responsibilities of community-based justice initiatives is ongoing.

- The challenge in preparing a community to take on this responsibility is multi-faceted.
- The further challenge is sustaining the commitment of the community and the members of these committees.
- Again, the individuals participating on the committees are providing an essential public service on a voluntary basis.
- The question remains whether they will be able to continue to provide this service if other opportunities arise that remunerate them for their services.

Definition of "Community"⁸ It is the underlying assumption that the interests of victim and society are one in the same. When we consider Inuit society and narrow this down to particular Inuit communities, often the interests of the victim may be in conflict with that of the "community". Firstly, what interest does the "community" at large have in sexual assault case that directly impacts on a specific victim and family. In small Inuit communities, there are many people who are related by marriage, powerful families, and male-leaders in charge. These family and kinship lines along with the power structures impact severely upon a victim if her abuser is someone related to a powerful family or a leader. Not unlike the South, in our communities women and children are silenced and not believed when they speak about their abuse. If and when they do speak out these women are then blamed in some way for the assaults they have sustained. (p. 85:13)

We must recognize that the term "community" must be all inclusive. For Inuit women, this also means not using "community" to prevent organizations such as Pauktuutit from participating. For many women, Pauktuutit is the only safe and non-threatening forum in which these issues can be discussed. We know from experience many women are often afraid to speak out in their communities about their specific concerns on these issues. (p: 85:15)

The aim of the justice systems is to ensure the safety of all community members and to help create a healthy community Services should be suited to the community and not the reverse. (p.16) ⁹

4.2 Nunavut (Northern) Justice Issues -2000¹⁰

- **Community Relations and the Dynamics of Community Mobilization** The community is a key element in community-based justice.
 - The success of the initiative is determined by the level of community support, as well as whether the needs and input of the community are incorporated into the planning, implementation and operation of the justice strategy.
 - In this collection a number of issues are articulated that speak to the primary role of the community, the challenges involved in defining a community, and issues of power.

⁷ 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>.

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

⁹ Department of Justice (Canada), Record of Proceedings: Aboriginal Women and Justice –Consultations - Inuit Women, - November, 1993 *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>.

¹⁰ Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf>

- **What is the community/who is the community?** In Northern communities, the community itself, defined by both culture and geography, is not difficult to locate.
 - Northern communities represent a more homogenous group than found anywhere else in Canada.
 - However, there are issues that revolve around evoking the term ‘community’ in community-based justice initiatives, and these issues must be addressed if true community involvement, integral to community-based justice in the North, is to occur. The issues in the literature include:
 - Who will make up the community in community-based corrections?
 - Who represents the needs of the community?
 - How will community involvement be ensured?
 - Whose interests will be represented and preserved by the community?
 - How will the interests of all community members be represented and acted upon, particularly those less powerful in the community?
 - How will community be defined? Does evoking the term ‘community’ imply all the members who live in that community (based on consensus/ geography) or the interests of the majority (based on a more political foundation)?
 - Who will the community be accountable to?
 - Will current inequalities that are present in the community be incorporated into the community-based justice system? What mechanisms are in place to address that possibility?
 - What (pre) conditions (human and financial) are necessary for effective community involvement? What characteristics must the community have that will make community corrections and justice possible?
 - It is important that the distinction between community-based justice initiatives (which are grounded in strategies developed, implemented and administered by the community) and community level control (community administration of the formal system’s justice strategies, where the development is done ‘elsewhere’) is addressed.
 - **Power dynamics** There are a number of issues regarding power dynamics in the community that must be examined at all stages of community-based justice planning:
 - The power dynamics between men and women have to be addressed.
 - Inequality must not be built into the system.
 - The underlying power struggles and powerlessness that characterizes domestic violence and sexual assault must not be replicated.
 - **Low levels of community involvement** Strategies must be developed to address the potentially low levels of community involvement which characterizes many community-based justice initiatives’ efforts.
-

4.3 The New Justice: Some Implications for Aboriginal Communities - 1997^{11 12}

- Here the author discusses the restorative justice movement and its emphasis on community.
- She has a long section on the concept of community and where its current thrust comes from – an effort to restore "a civic culture" in the larger society, and the self-government thrust among Aboriginal peoples.
- She tackles five aspects of community, namely:
 - defining the community (geographical and interest bases),
 - representation (warning against the engulfment of offenders at the expense of victims and others),
 - involvement and participation (warning about the simplicity of myths with respect to the level of communitarianism that exists),
 - competing justice roles (how to transcend dominant local groupings as well as the mainstream styles), and
 - accountability (regular monitoring and accounting).

¹¹ LaPrairie, Carol. *The New Justice: Some Implications for Aboriginal Communities*, Ottawa: Department of Justice, 1997. Cited in Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf>

¹² LaPrairie, Carol. *The New Justice: Some Implications For Aboriginal Communities*. Ottawa: Department of Justice, 1996 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, *Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature*, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

- In her final section she bemoans the "almost total lack of evaluation material and findings", and notes that the few evaluations that have been done point to the failure of incorporating victims, and to the lack of community understanding of the initiative.
- LaPrairie goes on to suggest guidelines or principles to be heeded in developing local justice projects.

The nature of community relationships and the important issues of community dynamics and mobilization are explored and grounded in this paper, with a particular emphasis on Aboriginal communities.

General Overview

- LaPrairie documents the rise of the new justice (restorative justice, informal justice) and finds that it is grounded in a challenge, by communities, to the state monopoly on the discussion, definition, administration and control over justice.
 - In the new justice the community is the focus.
 - In this article, LaPrairie examines and describes the critical issues of community in community-based justice initiatives within Aboriginal communities. Based on that analysis she lists the principles that should be incorporated into the development and implementation of local justice initiatives so that these critical community issues are adequately addressed.

Themes/Assumptions

- It is too simplistic to assume that all the problems caused by the mainstream, formal criminal justice system are automatically alleviated if the community is involved.
- The central role of the community in community-based justice initiatives requires an examination of the issues of 'community' in Aboriginal communities.

Findings

Community involvement can take place at one or both of two levels: Involvement can take place through the greater participation of community members in the adjudication process (such as Sentencing Circles, local Justices of the Peace, sentencing panels or Elder panels) or in the alternative approaches to formal judicial processing (i.e., mediation and diversion).

Defining the community: It is critical that the community be defined so that it can adequately fulfill the obligations and responsibilities that it has, and the obligations and responsibilities that arise from justice that is based in the community. There are a number of forms such a definition can take (i.e., as a community of care or as a concept of community that is grounded in geography). Whichever form is chosen, it must be clearly articulated.

Community representation: It is critical that the individuals who participate in local, community-based justice initiatives represent the community that it both intends to serve and relies upon (i.e., the victim, the offender and the larger circle of those involved). If it is not represented, the community will not support it and as a result the goals of the initiative will be undermined.

Community involvement and participation: It is critical that there is adequate community involvement and participation in community-based initiatives. The community must be involved in determining case selection (so the needs of those involved are indeed met) and in determining how their resources (financial and human), often limited, will be used. Power dynamics in communities might decrease the level of community involvement and efforts must be made to address this and ensure full participation

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

Presence of these issues in the evaluation literature: Through her examination of the evaluations of community-based justice initiatives that have been done (Hollow Water, Sentencing circles, community justice committees), the author finds that although the data is elusive at present, there are problems that arise. These problems are grounded in the community issues she outlined. Specifically, she addresses the level of community satisfaction and the offender-focus (which often takes place at the expense of addressing victim needs).

Conclusions

- Need for greater clarity: The problems that have been experienced to date indicate that there exists a need for greater clarity in the development and implementation of local justice services.
 - Principles to incorporate in developing community-based justice initiatives: The author holds that community justice is very important, but if it is intended to meet the symbolic and real needs of the community, the offender and the victim(s), the community has to play a realistic, credible and effective role in addressing the harm and its effects, reintegrating individuals back into the community, and strengthening the community. The following principles (to guide the development of local justice initiatives) are presented as ways to ensure that these goals are met:
 - Defining the appropriate community to respond most appropriately and legitimately to the problem;
 - Determining who represents the community in developing and applying justice responses;
 - Adopting and ensuring an approach that fits that local community, their needs and abilities.
 - The establishment of an effective and appropriate determination of case selection (which offences or offenders the community has the capacity to deal with and those as opposed to those cases which should remain in the mainstream system) is necessary. This requires a clear assessment of the capacity of the community to effectively respond to the problem (through ensuring community education, support for, and involvement in justice projects).
 - The proper selection of and adequate training for project personnel;
 - The development and support for effective monitoring systems so that evaluation and refinement is possible. The initiative must be monitored through community evaluations, victim and offender satisfaction and the impact of the initiative on crime rates and recidivism;
 - Ensuring the participation and involvement of the victim, offender and community so that one group does not dominate;
-

4.4 A Framework for Community Justice in the Western Arctic – 1999¹³

Community Involvement in the Decision and Implementation of Community Justice Initiatives

- As a result, communities have a greater sense of ownership and control over the justice system.
 - o One program pointed out that “our experience has shown that it only takes one key person in any community to initiate such justice initiatives”
-

4.5 Community Development and Research - 1996¹⁴

- This document is a useful tool for understanding the relationship between community development and research as well as the specific research needs that Aboriginal communities have identified, highlighting the community dynamics and mobilization issues that must be addressed.
- This report is the result of an intensive two-day workshop held in August, 1994. The information was gathered through two days of discussion. Participants that took part in the focus group included individuals involved in community development initiatives in Aboriginal communities, academics, private-sector consultants and Aboriginal Corrections Unit Staff.

Findings

- **Defining community development:** Participants provided definitions and examples about what community development is and spoke about the basic themes of community development.
 - o They concluded that community development puts the community in control of development and direction.

¹³ 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.

¹⁴ Canada. *Community Development and Research*. Ottawa: Solicitor General, Aboriginal Peoples Collection, 1996 cited in Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf>

- This in turn builds their capacity to grow and develop in a way (and time frame) which suits them.
 - Community development uses the past and present traditions to affect the future.
 - It is essential that the entire community be involved in the process.
 - Examples of community-based development programs that they discussed included
 - Hollow Water Community Holistic Circle Healing,
 - St. Theresa Point Youth Court System, and
 - the Teslin Tlingit Tribal Justice System.
 - In all of these initiatives the community took control and ownership of the problem and acted on what they perceived as the most effective way to respond.
-

4.6 Community Participation in Socio-Legal Control: The Northern Context - 1992¹⁵

- This article highlights the importance of distinguishing between **community-level initiatives and community-based initiatives**.
 - Many initiatives that are presently being developed and initiated are taking place at the level of the community, however they are not community-based.
 - That is, they are neither grounded in nor developing out of the needs and values of the community.
- This piece illuminates issues surrounding **community mobilization** and the Northern environment.
- The introduction and primary role played by Euro-Canadian institutions in the North has impacted on Northern Inuit communities in a number of ways.
 - The intrusion and ensuing dependency can be linked to the limited involvement and abilities of the community in socio-legal control.
 - The efforts at community participation and involvement are examined in this paper and the researcher holds that these past initiatives are insufficient.
- This work is based on findings that arose from the researchers socio-legal fieldwork in the North.

Underlying Themes

- The effects of modernization on traditional socio-legal controls in the North must be fully understood and incorporated into long-term plans to develop community-based programs.
- The researcher holds that many of the current initiatives and programs, although they increase community involvement, do not represent community control.
 - This is the result of operating within a framework (the formal criminal justice system) that does not represent their needs and excludes any real local, community participation.

Findings

- **A traditional framework for social control existed in the North:** There was a system in place that prevented and addressed anti-social acts.
 - It also provided socio-legal control of the community by the community.
- **Formal agencies and the displacement of community control:** Since the Second World War there has been an enormous growth in formal state agencies in the North.
 - The presence and power of these state agencies, which represented medical, legal, education and political agencies, had numerous implications.
 - They eroded primary group relations, family solidarity, parental authority, traditional male/female roles, and close ties between generations.
 - They are also responsible for the emergence of a changing value system - one grounded in Southern values.
 - There has been an increased growth in the level of dependency upon these Southern institutions by Northern communities.
 - In effect, they displaced the pivotal roles that the community played in socio-legal control.

¹⁵ Finkler, Harold. "Community Participation in Socio-Legal Control: The Northern Context", in Canadian Journal of Criminology 34 (1992) 3/4 cited in Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf>

- This displacement is linked to the rise in alcohol abuse and crime in Northern communities and the inability of traditional mechanisms to operate effectively to address them.
- **Indigenization as an ineffective solution:** Indigenization has been the way that community involvement has been incorporated into socio-legal control. In other words, justice initiatives and community involvement have taken place in a framework that incorporates Inuit people into the existing system, not Inuit values and methods.
- Finkler looks at some examples of how community involvement in socio-legal control has been grounded in the existing system and how, although these initiatives are successful in meeting the immediate needs of the community, they do not represent an example of real Inuit community control and direction.
- Instead, they are a creative use of the existing system.
 - For example, the author discusses alcohol control in communities and how communities have used the legal restraints that are available, such as by-laws, to address the problem.
 - He also discussed youth justice committees, seen as solutions of the community to divert youths from the criminal justice system, as an approach that is legislated in the Young Offender's Act.
 - These examples are not being criticized, but rather they are explored as ways that justice initiatives in the North are being developed in a Southern framework, one provided by the mainstream system,

Conclusions

- **Indigenization as the route for community involvement in the North is problematic:** These initiatives are important and have been successful, but they do not challenge the framework that created the conditions in the first place.
 - Further, it does not explore the effects that both modernization and the intrusion of formal agencies have had on displacing communities.
 - As a result, the underlying assumptions of the imposed system, as well as the effects that it has on undermining traditional norms of socio-legal control, are not examined and refinements are made only at the micro-level.
 - This leaves questions about who develops and administers the program unexplored.
- Grounding initiatives in a macro-level framework: Increased community involvement must take place within a macro-level framework that recognizes the need for changes in the existing power structures and the relationships that they create.
 - Such a framework must restore Inuit control over their political, social, economic and legal affairs.
 - The author holds that “long-term solutions to the tragedy of natives in conflict with the law and the enhancement of increases community involvement in the control process will only emerge through success on political fronts that provide the macro-framework for development of an autonomous, indigenously controlled justice system”.

5 Relevant Documents, Studies and Practices – Other Canadian

5.1 How to Build a Community Based Organization ¹⁶

- This handbook is intended to help with the basics of getting a community based program or organization developed.
 - It is a step-by-step guide on the questions to ask, the places to look, the things to consider, the strategies to plan and of the course, the big one – where to find the money?

5.2 Commission On The Future Of Health Care in Canada • Interim Report - 2002

Take the word “need” for example. Some equate “need” with an individual’s own views or preferences – what they want is, by definition, what they need. Others say that “need” can only be determined by a skilled and knowledgeable professional who gives due weight to the individual’s circumstances. Still others argue that “need” should be based on more “objective” assessments, generally defined as statistical evidence based on a large number of similar cases.

What leads to these diverse interpretations? They are based on different, and sometimes conflicting, underlying values. Values shape our opinions about whether we are spending too much or not enough.

5.3 Restorative Justice - A program for Nova Scotia - 2001¹⁷

The Role of Community ¹⁸

Perhaps the strongest recommendation coming out of the September symposium was that the role of Government in this Initiative should be that of facilitator, or overseer. Government should not become the de facto deliverer of restorative justice programs. Individual communities should be empowered to shape these programs and to deliver the service of restorative justice.

Undoubtedly, financial support from Government will be required to implement individual restorative justice programs and to oversee the Initiative. Although Government has a leadership role to play in areas such as establishing a legal framework for the programs, enabling community- based programs, initiating interest, setting standards, and monitoring progress, Government cannot create and run restorative justice programs in every community. The overwhelming consensus is that community ownership is essential to a successful restorative justice program. This does not mean a downloading of Government responsibilities onto communities without resources. The goal is a genuine partnership and collaboration, not Government avoidance of its responsibility with respect to justice services.

Fortunately, in Nova Scotia there are many active volunteer organizations committed to the delivery of service in the justice system. Notable amongst them are the seven alternative measures societies throughout the Province. These organizations provide an alternative to court for young people in trouble with the law for the first time. A recent review of the Alternative Measures Program in Nova Scotia¹¹ resulted in recommendations which support the development of a more restorative approach to justice:

Develop a model of mediation which is specific to alternative measures in Nova Scotia and which is focused on community/victim-offender reconciliation and other principles of restorative justice.¹²
Develop a philosophy on victim involvement in the justice process, [and] ensure more effective delivery of victim support services for participation in the alternative measures hearing...¹³

¹⁶ AJLN, Justice Canada funded by Youth Policy Branch, Mary Anne Arcan, Punky Lake Wilderness Camp Society and Shane Spice, Justice Canada

¹⁷ Restorative Justice - A program for Nova Scotia, Update 2001, <http://www.gov.ns.ca/just/rj/rj-update.htm>

¹⁸ <http://www.gov.ns.ca/just/rj/rj-develop.htm>

Develop more effective concepts and models of community service and victim/offender reconciliation (i.e., personal service to the victim) that will recognize the critical importance of these measures in providing opportunities for restitution and reconciliation.¹⁴

Consultation with system stakeholders and the community must continue to be emphasized throughout the Initiative. As a first step, broad consultation with stakeholders in the criminal justice system provided the Department with an opportunity to begin the education process, and encourage input from many different sectors of the system. Similarly, engaging the community in the early stages of the Initiative allowed for the development of a new partnership between the formal justice system and community agencies. Perhaps the most important benefit at this stage of the Initiative is that it allows community agencies to focus on what restorative model would be appropriate for their particular community. Restorative justice will not work if there is a perception that Government officials are deciding what is best for communities.

5.4 Treasury Board Secretariat of Canada Performance Report- 2001¹⁹

- **Definition of Community:** Communities are much more than geographic groupings.
 - Ideally, they are
 - unified bodies of individuals with mutual interests,
 - linked by a common history, by social, economic and political ties, and by a sense of shared destiny.
 - It is in our communities and neighbourhoods that the abstract idea of quality of life takes on real meaning.

A strong and healthy community

- consists of members who participate and contribute to the strengthening of social bonds;
- is made up of individuals who engage, interact and co-operate in social, cultural and political spheres, and participate in voluntary partnerships; and
- accepts and celebrates diversity.

Strong communities are essential to quality of life and the fabric of Canadian society. The Government of Canada supports the quality of life in communities by promoting economic growth, by strengthening the social fabric, and by reflecting and reinforcing the values that are important to Canadians.

In 1998, the Government of Canada responded to the Royal Commission on Aboriginal Peoples with Gathering Strength: Canada's Aboriginal Action Plan, a long-term, broad-based plan designed to improve the quality of life of Aboriginal people and promote self-sufficiency. It envisions a new partnership between Aboriginal people and other Canadians that reflects our interdependence; the long-term goal is to work together to ensure that Aboriginal people enjoy a quality of life comparable to that of other Canadians.

Source: Indian and Northern Affairs Canada, Performance Report 2000

These values include multiculturalism and respect for diversity, respect for human and individual rights, equal access to essential public services such as health care, and respect for peace and the rule of law. Many government departments, through their policies and activities, contribute in this regard, including Citizenship and Immigration Canada, Human Resources Development Canada, Canadian Heritage, Solicitor General Canada, Justice Canada and Health Canada.

Indicators of social relationships: examines the strength and health of Canada's communities by looking at five indicators of social relationships:

- **Volunteerism** provides a key measure of the type of active participation that helps our society work well. According to the National Survey of Giving, Volunteering and Participation 2000, and other studies, there is a positive correlation between volunteering and other forms of participatory behaviour, such as philanthropy, group membership or voting.
 - Volunteering is thus one way to track the involvement and investment of Canadians in their society.

¹⁹ Treasury Board Secretariat of Canada, Canada Performance 2001, The Strength of Canadian Communities, http://www.tbs-sct.gc.ca/report/govrev/01/cp-rc2_e.html#_Toc530286203

- **Attitudes toward diversity** are indicative of the health of Canada’s communities.
 - An important component of our shared citizenship is the willingness to accept and understand differences between groups.
 - This allows diverse groups and individuals to work together with a common purpose.
- **Participation in cultural activities** serves to strengthen the sense of connection that diverse groups have to their roots, community and country.
 - It fuels creativity and innovation and promotes social harmony.
- **Political participation** rates are an indicator of the degree to which decisions reflect or are seen to reflect the needs and desires of citizens.
 - Taking part in the electoral system strengthens people’s connection with the democratic decision-making process.
 - It demonstrates concern for the future and commitment to collective action.
- The **crime** rate (particularly the violent crime rate) has often been used as an indicator of the wellness of a community.

What We Know

Volunteerism fosters community integration and cohesion by encouraging friends, colleagues and neighbours to work together on matters of common interest or concern. The voluntary sector is a channel for Canadians to become engaged and involved in improving life in their communities. In 2000, volunteerism accounted for 1.05 billion hours of unpaid work in Canada—approximately one fifth of the total hours of paid labour performed in the same year, or the equivalent of 549,000 year-round full-time jobs. These figures represent a decline from 1997, in part because over 1 million more Canadians were working in 2000 than three years previously, leaving less discretionary time (Labour Force Survey 2000, Statistics Canada).

Rate of volunteering, Canadians aged 15+		1987	1997	2000
Total population (000s)		19,202	23,808	24,383
Total volunteers (000s)		5,337	7,472	6,513
Volunteer participation rate		26.8%	31.4%	26.7%
Hours volunteered				
		1987	1997	2000
Total hours volunteered (000s)		1,017.5	1,108.9	1,053.2
Full-time year-round job equivalence		530,000	578,000	549,000
Average hours volunteered per year		191	149	162

Source: Caring Canadians, Involved Canadians, Statistics Canada, 2000

In 2000, only 7 per cent of volunteers contributed 73 per cent of all volunteer hours. There is a risk of burnout for this core group as the number of volunteers falls and the pressure on the sector rises.

- The volunteer sector has a significant impact on the Canadian economy but it may be underestimated because it does not involve monetary exchanges.
 - For example, gross domestic product measures only economic transactions taking place in the market.
 - It is not designed to reflect the contributions of volunteerism to the Canadian economy.
 - Among the diverse sectors in which volunteering can take place are recreation, arts and culture, social services, education, and health care.
 - Volunteering among young people is particularly important.
- According to recent research findings, involvement in volunteering or other extra-curricular activities during the formative years is likely to translate into community involvement later in life.

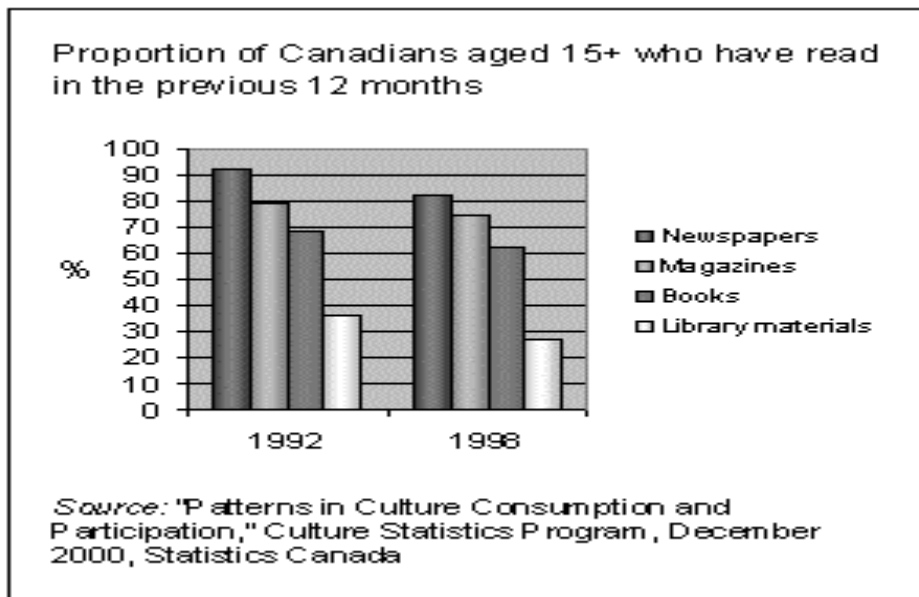
Attitudes toward diversity: Canada’s economic, social and cultural development has been shaped by immigration. Our country’s ethnic and cultural make-up has become steadily more diverse over the past 40 years. Canadian society is enriched by its linguistic duality and by its acceptance of different ethnic groups and by positive social interaction between people of all backgrounds. Most Canadians continue to take pride in our country’s acceptance of people from all races and ethnic backgrounds, and feel that immigration makes Canadian

In 1996 immigrants represented 17.4% of Canada’s population, up from 15% in 1950. In Canada’s largest urban centres (Vancouver, Toronto and Montreal), ethnic minorities make up from 30% to nearly 40% of the population. The proportion of Canadians approving of inter-ethnic marriages was 52% in 1968. In 1995 it was 81%. *Source: "Multiculturalism Promotes Integration and Citizenship," The Evidence Series: Facts About Multiculturalism, Vol. 3, (1998), Canadian Heritage*

culture stronger. According to the findings of public opinion research conducted in the late 1990s, Canadians are genuinely concerned about racism and discrimination.

- Of young people who were surveyed, 29 per cent agreed that racism existed in their own neighbourhoods (March 21 Youth Survey Study 1998-3, Environics).
- Of people of all ages surveyed, 18 per cent agreed that they had personally been victims of racism (Focus Canada 1997-2 Flash Report, Environics).
- Of people of all ages surveyed, 52 per cent regarded racism as a serious problem; the figure indicated no real attitudinal change from 1995 to 1999 (Rethinking Government V Poll, Wave III, Compendium Report, September 1999, Ekos Research).

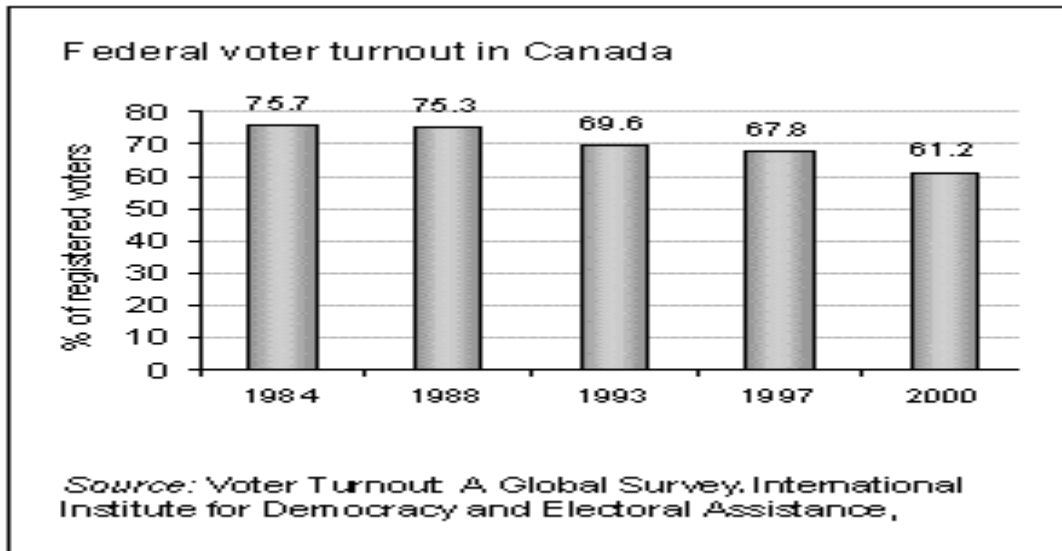
Participation in cultural activities exposes citizens to a diverse range of people and ideas, encourages



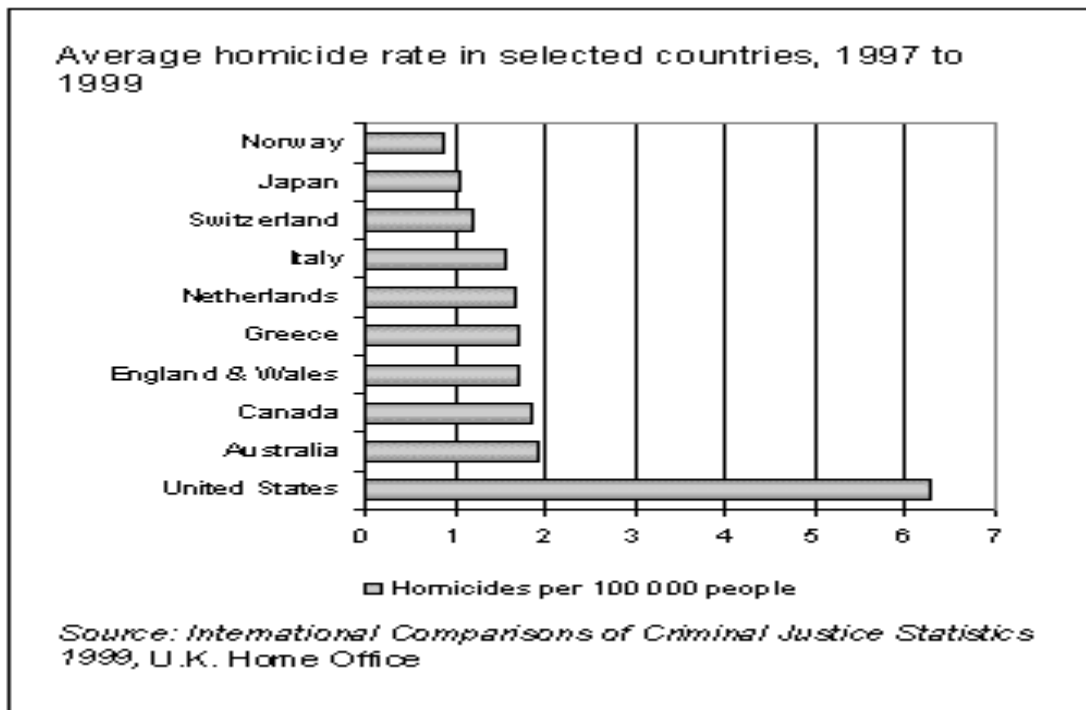
understanding, and creates linkages between community members.

- From 1992 to 1998 there was a decline in the proportion of the Canadian population aged 15 and over who read newspapers, magazines and books, or borrowed library materials. In 2000, however, nearly 53 per cent used the Internet. This may be a sign of the development of a new type of community.
- Again for the same age group, attendance figures for 1998 decreased from 1992 levels at performances of live theatre (down 4 per cent), popular music (down 4.1 per cent), symphonic music (down 4 per cent) and opera (down 1.4 per cent). Accounting for much of the decline was a drastic increase in ticket prices. In contrast, there was a rise in visits to art galleries (up 2.8 per cent) and attendance at cultural performances (up 2.2 per cent). Movie-going rose by 10.5 per cent; visits to historic sites rose by 5.7 per cent (General Social Survey, Participation in Cultural Activities, 1992 and 1998, Statistics Canada).

Research Framework for a Review of Community Justice in Yukon
Community Justice - Community



Political participation is a measure of a democracy's health. A citizen who exercises his or her civic responsibility demonstrates a concern for the future development of the community. Voting is a primary means by which citizens participate in the political sphere, and is a key indicator of political engagement. In terms of voter turnout, Canadian political participation is in decline. Voter turnout was 75.7 per cent in the 1984 federal general election, and has steadily fallen since then to 61.2 per cent in 2000. Many variables influence voter patterns, but turnout is generally lower in municipal or provincial elections than in federal ones. Federal voter turnout can be used to provide an overall picture of Canadian political participation, recognizing that it does not provide a comprehensive picture. Canadian figures mirror those for the United States, where voter turnout has dropped from 74.6 per cent in 1984 to 51.2 per cent in 2000 (Voter Turnout: A Global Survey, International Institute for Democracy and Electoral Assistance).



Research Framework for a Review of Community Justice in Yukon
Community Justice - Community

Crime rates in Canada have fallen over the last 10 years.

Since the early 1990s there has been a steady drop in overall property crime: in 1991, 6,160 incidents were reported per 100,000 people, compared with 4,070 cases per 100,000 in 2000.

That represents a decrease of 34 per cent.

Similarly, violent crime rates decreased by 10 per cent, from 1,059 incidents per 100,000 people in 1991 to 955 incidents per 100,000 in 1999. In 2000, however, the violent crime rate rose by 3 per cent to 982 incidents per 100,000 people.

In Canada, the average homicide rate per 100,000 people is less than one third that of our closest neighbour, the United States.

However, Canada's homicide rate is higher than that of many other OECD countries.

Western Canadian cities are experiencing high rates of crime. Aboriginal people are disproportionately involved in the criminal justice system, a phenomenon that could be partly attributable to poor socio-economic conditions.

Aboriginal people make up 2% of Canada's adult population but now account for 17% of the federal offender population.

The **Aboriginal Justice Strategy** was established to address these problems by supporting community-based alternative measures programs in Aboriginal communities in partnership with provinces and territories.

Sources: Statistics Canada, 1996 Census; *The Adult Corrections Survey 1999–2000*, Canadian Centre for Justice Statistics

Statistics from Correctional Service Canada (CSC) show that members of the Aboriginal community are over-represented in provincial and federal correctional facilities in Canada. CSC is making an effort to ensure that as many Aboriginal offenders as possible are safely and successfully reintegrated into society. In doing so, CSC is respecting the distinct needs of Aboriginal offenders.

Program Performance Information

Federal organizations are working to improve our communities. There are many factors that affect the health of communities and one of them is crime.

To deal with the problem of property crime, the Royal Canadian Mounted Police (RCMP) conducts public education and awareness programs, undertakes crime prevention and problem-solving activities in conjunction with communities, and holds restorative justice forums for young offenders and victims of crime. These efforts on behalf of the public have yielded notable results.

To find an effective and affordable solution to the problem of property crime, the RCMP has formed partnerships with community groups and associations, with the aim of implementing a joint police-community crime prevention and problem-solving strategy. Concurrently, property crime in areas policed by the RCMP has declined over recent years. While cases of breaking and entry increased slightly (by less than 1%) between 1999 and 2000, the number of charges against youths fell by 3% over the same period. Theft over \$5,000 dropped by 24.9%, and theft under \$5,000 by 10.6%. Auto theft decreased by 3.6%, although theft from autos showed a slight increase (less than 1%). The decline in property crime is in part attributable to reduced opportunities for committing property crimes as a result of the joint police-community crime prevention and problem-solving strategy.

Source: RCMP Performance Report 2001

The RCMP plans to improve on this performance. For instance, because property crime is declining and economic crime such as credit card fraud is climbing, the RCMP is focusing more on these new forms of crime, especially where they are influenced or committed by organized groups. The RCMP is also placing greater stress on crime prevention and education programs for at-risk youth. It recognizes that numerous

community stakeholders have played a significant role in the reduction in property crime rates, and that this reduction is also related to other socio-economic factors.

Programs and Initiatives Related to Communities

Following is a list of other major federal programs and initiatives that are working to improve Canadian communities. Additional information on these programs and initiatives (including performance information in some cases), is available via hyperlinks in the electronic version of this report.

Many of the programs and initiatives are horizontal partnerships, meaning that various departments, agencies, governments or third-party stakeholders are working in collaboration to achieve common results. Further information on horizontal initiatives is available on-line at http://www.tbs-sct.gc.ca/rma/epi-ibdrp/coll_res/coll_res_e.htm

The list is organized according to the indicators addressed in this chapter. Nevertheless, many of the programs involve actions or policies that touch on more than one indicator or issue.

Volunteerism

Correctional Service Canada

- [Citizens Advisory Committees](#)
- [Community Engagement](#)

Department of Canadian Heritage

- [Community Partnerships Program](#)
- [International Year of Volunteers 2001](#)
- [Sport Canada](#)
- [Youth Cyberstation](#)

Fisheries and Oceans Canada

- [Canadian Coast Guard Auxiliary](#)
- [Harbour Authorities](#)

Human Resources Development Canada

- [Community Engagement](#)

Industry Canada

- [Voluntary Sector Network Support Program \(VolNet\)](#)

Privy Council Office

- [Voluntary Sector Task Force](#)

Social Sciences and Humanities Research Council of Canada

- [Non-profit Sector in Canada Program](#)

Attitudes toward diversity

Citizenship and Immigration Canada

- [Host Program](#)
- [Immigration Settlement and Adaptation Program](#)
- [Language Instruction for Newcomers to Canada \(LINC\)](#)

Correctional Service Canada

- [Aboriginal Programs and Issues](#)
- [Ethnocultural Programs](#)

Department of Canadian Heritage

- [Aboriginal People's Program](#)
- [Human Rights Program](#)
- [March 21 Campaign to Promote Racial Harmony](#)
- [Multiculturalism Program](#)
- [Support for Linguistic Duality](#)

Department of Justice Canada

- [National Program for the Integration of Both Official Languages in the Administration of Justice](#)

Indian and Northern Affairs Canada

- [Public Education Unit – Kids' Stop](#)

Industry Canada

- [Aboriginal Youth Business Initiative](#)

Participation in cultural activities

Canadian Heritage

- [Arts Presentation Canada](#)
- [Book Publishing Industry Development Program](#)

Community Justice - Community

- [Canadian Film or Video Production Tax Credit \(CAVCO\)](#)
- [Canadian Television Fund](#)
- [Canada Travelling Exhibitions Indemnification Program](#)
- [Cultural Initiatives Program](#)
- [Exchanges Canada](#)
- [National Arts Training Contribution Program](#)
- [Northern Distribution Program](#)
- [Official Languages Communities](#)
- [Publications Assistance Program \(PAP\)](#)
- [Sound Recording Development Program](#)
- [The Virtual Museum of Canada](#)

Department of Justice Canada

- [Diversity and Gender Equality Analysis](#)

Indian and Northern Affairs Canada

- [Cultural/Educational Centres Program](#)
- [DIAND Support of Cultural Initiatives](#)

Industry Canada

- [Canada's Digital Collections](#)
- [Community Access Program](#)
- [Francommunautés virtuelles](#)

Political participation

Elections Canada

- [Accessibility of the Electoral System](#)
- [Electoral Insight magazine](#)

Crime

Citizenship and Immigration Canada

- [Immigration Enforcement](#)

Department of Justice Canada

- [Aboriginal Justice Strategy](#)
- [Canadian Firearms Centre](#)
- [Funding Grants and Contributions Program in the Department of Justice](#)
- [National Strategy on Community Safety and Crime Prevention](#)
- [Policy Centre for Victims Issues](#)
- [Public Legal Education and Information Program \(PLEI\)](#)
- [Youth Justice](#)
- [Youth Justice Renewal Initiative](#)

Fisheries and Oceans Canada

- [Habitat Enforcement Program](#)

Health Canada

- [Family Violence Initiative](#)

Indian and Northern Affairs Canada

- [INAC Family Violence Prevention Program](#)

Royal Canadian Mounted Police

- [Drug Awareness Service](#)

Solicitor General Canada

- [Aboriginal Community Corrections Initiative](#)
- [Corrections and Conditional Release Statistical Overview](#)
- [First Nations Policing Policy and Program](#)

5.5 The Force of Community -2001²⁰

- Pavlich notes in recent years both an increasing advocacy of community and communitarianism (e.g., community justice, community work, community policing, community corrections, and community psychiatry) and a number of voices raised in skepticism of what are considered to be simplistic and optimistic views of community.
 - Against this background, Pavlich examines key ideas among advocates of community, especially the “unifying strategy” that informs their approach to community.
 - In response to those views, he highlights ambiguity in community – its negative as well as its positive effects – and proposes an alternative approach to community to mitigate and overcome totalitarian and exclusivist dynamics in some approaches to communitarianism.

5.6 Law, Justice, And The Community -2001²¹

New Brunswick

- Asset mapping is not an inventory of skills and abilities, rather it’s creating the environment to allow the connections to be made and then facilitating things to happen. The formula is Community Building is based on RAFF - Relationships, Action, Food and Fun.
- A project undertaken in the Province of New Brunswick witnessed the establishment of computer access for all citizens throughout remote communities all over the province.
 - Even though access centers were very widely established with state of the art technology, usership was far below what was expected.
 - Consequently, a “Community Mapping Exercise”
 - The results were startling, usership almost tripled and the number of access centers nearly doubled and there have been no shortage of volunteers to work in the centers.
 - Essentially, Dave Roberts, the project leader, and his people went back to ask the community residents “what their communities had to offer” and they built from that point.

5.7 Developing a Restorative Justice Programme - 2000²²

The individual Community

- Before an RJ programme can be put into place, the community must answer the three questions mentioned earlier:
 - What are our values regarding those who have acted in a disruptive manner?
 - What are our philosophies regarding “justice”?
 - What needs with respect to these aspects of our community are not being met by the current justice system? Can RJ meet those needs?
 - What are our values regarding those who have acted in a disruptive manner?
- Establishing fundamental values is key to starting the process of exploration into how exactly the community differs in its perception of dispute resolution from the Euro-Canadian model.
 - The Community should discuss, “what are the traditional values regarding acts that affect the harmony of the community.”
 - When one offends against another, how did the community respond?
 - Of the aspects of RJ that have been reviewed that refer specifically to the transgressor, which does it support?
 - Which aspects do they identify with, either as stated or in some altered perception?

²⁰ Pavlich, George.. (2001). *The force of community*.. In Restorative justice and civil society, eds. Heather Strang and John Braithwaite, 56-68. Cambridge, UK: Cambridge University Press. <http://www.restorativejustice.org/asp/details.asp?ID=1690>

²¹ Report on the 28th Canadian Congress On Criminal Justice, June 20 - 23, 2001/20 Halifax, Nova Scotia Law, Justice, And The Community, hosted by the Canadian Criminal Justice Association: Do You Know How To Have Fun In Community Building? <http://home.istar.ca/~ccja/angl/report.html>

²² Michael R. Peterson, Developing a Restorative Justice Programme, Part One, Justice As Healing Newsletter, Vol. 5, No.3 (Fall 2000) <http://www.jahvol5no3.pdf>

Community Justice - Community

- Which do they reject?
- The role of the transgressor is a key point where restorative and retributive justice philosophies diverge.
 - How a community reacts to *the person* is an important trait of the community when trying to define its sense of justice.
 - As the treatment of a transgressor is discussed, the RJ values the community embrace will come out, and a 'picture' of their perspective on justice will begin to emerge.
 - *What are our philosophies regarding "justice"?*
- Consider the earlier Table: of the elements of RJ that were listed, which does the community agree with?
 - Which would it revise?
 - Which would it reject?
 - The question posed here will oblige participants to puzzle out how the *personal* aspect of transgressor treatment fits with the larger theory of justice that the community supports.
 - Both common and opposing or complicating features will begin to take shape, and the facilitator will see how the community addresses conflict in its midst.
 - As participants describe the fundamental structure of justice, a framework will be built, and from that framework the participant can move to the third question:
 - What needs with respect to these aspects of our community are not being met by the current justice system? Can RJ meet those needs?
- Once participants have constructed a framework of justice beliefs, the framework can be applied to the problems the community has decided it needs to resolve.
 - As stated earlier, a community may decide to construct an RJ programme for a number of reasons, most notably among them are either dissatisfaction with the success of the current model, or, a fundamental disbelief in the goals, motivations, and methods of conflict resolution the Euro-Canadian model employs.
 - The community, then, has real problems they are determined to tackle on their own.
 - Common problems include, but are not limited to:
 - high incarceration rates among members
 - police intervention into matters felt to be purely private in nature
 - no community involvement in either diversion discussions or sentencing
 - a perception of harsh treatment for minor offences
 - high incidence of police involvement in disputes
 - unwillingness of Crown and police to use diversion solutions
 - racist or inappropriate treatment of members of the community
 - ineffective or even non-existent programmes during and post-incarceration
- A community will relate the problems with which they want to deal with the extent or pervasiveness of those problems and the goals they are trying to achieve.
 - It is important for a community to discuss how the answers to the three questions posed interact and interconnect with one another to form a cohesive juristic approach.
 - This process is an *exploration*, and should highlight the strengths of traditional approaches to justice.
 - This stage of the workshop may very well not result, at the end of the day, in complete agreement or a perfect picture of the community's approach.
 - What it will do, however, is illustrate that there is determination to resolve a problem, and the insight, knowledge and will to do something about it.

5.8 Restorative Justice in Canada - 2000²³

- The community is responsible for:
 - defining standards of acceptable conduct and
 - determining what can be done – materially or symbolically – to repair the damage when these standards are violated.

²³ Federal-Provincial-Territorial Working Group on Restorative Justice, Restorative Justice In Canada, A Consultation Paper, May, 2000
<http://canada.justice.gc.ca/en/ps/voc/ripap.html#n6>

- Even the words that are used can raise questions, such as what exactly is meant by "restorative" or "community".
 - Restorative justice requires community members to be involved as active participants, as early as possible in the resolution of the conflict.
 - The community is involved in providing programs for these processes to occur, opportunities for offenders to make restitution, and safe environments where rights are respected.
 - Community involvement depends on having individual members who are willing and able to volunteer in restorative justice programs.
 - Communities also differ in their willingness to accept restorative processes and in their ability to administer programs.
 - Therefore, communities may need time and assistance to develop restorative processes.
 - How can the criminal justice system balance the accused person's right to a fair and open trial against public safety and the need for community participation?
-

5.9 Aboriginal Justice Strategy (AJS) Evaluation-2000 ²⁴

5.9.1 Capacity Building:

- ◆ While many Aboriginal communities want projects for community-based justice, there are many challenges, including the levels of education and training and power relationships within the community.
 - ◆ Case studies and interviews indicate that AJS-funded projects are not just providing service delivery, but are also contributing to **community development and wellness**.
 - ◆ In **communities with few agencies**:
 - projects need to develop a full complement of services,
 - they need to go beyond supervising community service orders,
 - to also offer anger management, alcohol and drug counseling etc.
 - ◆ Projects can assist in developing a greater sense of community by bringing together volunteers and committee members and demonstrating that their communities have skills, knowledge and experiences enabling them, as a community, to provide service to their people.
 - ◆ Positive role models can be found in the community including Elders, spiritual leaders, social service workers, school employees, local business people, youth leaders and women's shelters staff and volunteers.

5.9.2 Community Accountability:

- ◆ One project has had measurable success in terms of the level of community support and interest in the project.
 - ◆ For example, they held a Wellness Retreat for women and had 23 come even though some of their partners were threatening them.
 - ◆ Following this retreat, men began asking when they could have one, which resulted in 36 men attending a retreat.
 - ◆ The next organized a Natural Helpers workshop retreat for youth and had 27 participate.
 - ◆ The community requests workshops now, which demonstrates a high level of trust in the project staff.
 - ◆ Parents are also willing to let their children attend the camps, which is also significant achievement considering the parents' experiences in residential schools.
 - ◆ Participants fill out evaluation forms after circles and workshops and so far, feedback has been positive, respondents are appreciative that something is being done and to have such a resource.
 - ◆ The community has also shown their support financially and through letters.

5.9.3 Sponsor

- ◆ There are some **projects that under the umbrella of a larger organization**, which can increase the level of credibility within the community as it is seen as part of a larger structure, rather than being run by one or two people.

²⁴ Department of Justice Canada, Evaluation Division, Final Evaluation Aboriginal Justice Strategy, Technical Report, October 2000

- ◆ On the other hand, it can be problematic if the project is perceived as part of the political system of the community.
- ◆ One project's funding is insufficient to allow the project to have separate office space and so the project is in the same building as the Council offices.
- ◆ As well, the resources were not sufficient to enable the project to hire an administrative assistant, so the Council Financial Officer administers the project funding, though the money is held in a separate bank account.
- ◆ One of the main issues identified by project and community members in this situation is the limited confidentiality due to the public nature of the office space. In this community, as in many small communities, office space is often limited, crowded and expensive.

5.9.4 Conflict of interest

- ◆ An inherently complicated issue arises when projects with few staff/volunteers are asked to address cases involving family members.
 - ◆ This **conflict of interest** arises particularly in small communities and can have a significant impact on the level of community legitimacy.
 - ◆ A project's ability to enforce dispositions and deal with non-compliance in a visible way to the community can also affect credibility.

5.9.5 Staff working out of offices in isolation:

- This can be stressful for the worker, it can be challenging to recruit and train volunteers, difficult to develop and implement services in the new area and generally difficult to create a significant presence in the community.
 - Accessibility is also affected, as community member can only access the project when the worker is in the office.
 - All of these issues can affect community buy-in, which is necessary for project success.
 - To alleviate these difficulties, some projects have focused initial efforts on networking with other agencies in the expansion area.
 - In this way, staff have support, potential sources of referrals and possible sources of volunteer recruitment.
 - Networking can also help to identify placements for clients to complete community service orders, or other conditions of other dispositions.
- ◆ There are many aspects for projects to consider when expanding, such as the need for additional funding, staff or volunteers, training and services/resources geared to the specific new group/area.
 - ◆ One community justice project has begun expansion by developing agreement with the elementary school to provide a venue and community work for acts of violence against schoolmates.
 - ◆ The school provides an Education Assistance (EA) to accompany the student to the project.
 - ◆ This project arranges for age-appropriate work for the student to perform and the EA provides tutoring while the student is on break.
 - ◆ At the time of the report, only 2 children had gone through the project, but both have reportedly stopped missing behaving at school.
 - ◆ School representatives were pleased with the project's assistance, and there are plans to develop this further.

5.10 Aboriginal Justice Strategy (AJS) Trends -2000²⁵

5.10.1 Use of Consultation and Foundation Building: Projects in Development

- A number of projects used some of (or all) their funding to lay the groundwork for developing and implementing community-based justice projects.
- These projects were not yet accepting person referrals, but instead were consulting with the community, understanding needs assessment, developing long-term strategic plans and objectives, and ensuring community preparedness.

²⁵ Department of Justice Canada, The Aboriginal Justice Strategy: Trends in Program Organization and Activity 1996-1997, 1997-1998 and 1998/1999, Prepared for the Aboriginal Justice Directorate, Department of Justice Canada by Naomi Giff, March 10, 2000 -

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Community Justice - Community

- This has proven to a very important step in the process and can facilitate the success of the project.
- In 1996-97, 11 projects (8 found in Saskatchewan) used contributions from AJS to do consultation and community-based justice development work (42%). In 1997-98, 7 projects (17%) did the same (2 in Manitoba and 5 in Saskatchewan). In 1998-99 the figure increased to 12 projects that used funds to do developmental work (19%).

5.10.2 Community Involvement

Province/Territory	# of Programs Reporting Community Involvement		
	1996-97	1997-98	1998-99
British Columbia	1	1	6
Saskatchewan	12	14	19
Manitoba	1	2	5
Ontario	0	3	5
Quebec	0	0	1
Nova Scotia	1	1	1
Newfoundland	0	0	0
Nunavut	0	3	4
Northwest Territories	0	3	6
Yukon	3	3	4
TOTAL	18	30	51

Form of Community Involvement	# of Programs		
	1996-97	1997-98	1998-99
Use of media	5	19	30
Open meetings/workshops for community	12	20	29
Organizing or Sponsoring Cultural Activities	2	8	17
Questionnaire distribution	7	2	5
TOTAL	26	49	81

- More than half of the projects reported in engaging in at least one of the community involvement types
 - Use of media (ie. air time on the local radio station, bulletin board, brochures and pamphlets for distribution and display)
 - Open meetings/workshops for community,
 - Organizing or Sponsoring Cultural Activities,
 - Questionnaire distribution (to the community generally or to participants who took part in the project)
 - As of 1998-99 the most common form of community involvement was the use of media. Following that was holding open meetings and workshops that the community was invited to attend. Organizing and sponsoring cultural activities and distributing questionnaires were at least reported on as forms of community involvement.
 - All provinces and territories (with the exception of Quebec, with only one program in the development stage) have projects that report on each of the forms of community involvement. However, within each province or territory, only half of the projects as of 1998-99 reported on each form of community involvement.

Community Justice - Community

- This same split is (approximately half) is observed in each of the four locations (on-reserve, off-reserve rural, urban, and Northern) as of 1998-99.
- National Perspective (Shared Concerns): while not every AJS project articulated this concern, a large number across Canada did. ***Mobilizing community to get involved was a challenge*** for many of the projects that indicated that the community was not participating in the project. Once mobilized, ***sustaining community involvement was also reported as a difficulty***.

5.10.3 Letters of Support

Province /Territory	# of Programs with Letters of Support on File		
	1996-97	1997-98	1998-99
British Columbia	0	0	2
Saskatchewan	1	1	6
Manitoba	0	0	0
Ontario	0	2	2
Quebec	0	0	0
Nova Scotia	0	0	0
Newfoundland	0	0	0
Nunavut	0	1	2
Northwest Territories	0	4	1
Yukon	0	1	1
TOTAL	1	9	14

- **Letters of support** are highlighted as one indication of community support and may be indicative also of the development and fostering of community links and community involvement within the program.
 - The letters of support were provided by local agencies, police, RCMP, schools, clients and politicians emphasizing the important role of the project in the community.
 - These letters were not a requirement for funding from AJS.
 - Relative to the number of projects in the Northwest Territories has the highest number of projects that have letters of support on file. Of the 6 projects, 4 have them.

5.11 Restorative/Criminal Justice—Identifying Some Preliminary Questions, Issues & Concerns - 1998²⁶

Increased Community Responsibility

- The emphasis on the need for communities to take on more responsibility for resolving minor conflicts between individuals was viewed as potentially positive contribution of restorative thinking.
 - There was however, some degree of skepticism as to how such an objective could be effectively accomplished as well as an acknowledgement of the dangers inherent in conceptualizing certain types of offenses as ‘conflict’.
- Measures related to young offenders which increased the participation of communities were seen as potentially positive developments IF those measures included sustained support/intervention in the form, of example, meaningful training programs or job opportunities which require resources and coordination.
 - Measures directed at both adult and youth offenders which were preventive in nature had the most support.
 - In fact, a restorative approach, which anticipated an expanded role for communities in the prevention of crime, would likely garner more support.
- There was also some interest in a flexible **definition of ‘community’** that is inherent in some of the restorative justice literature/media.

²⁶ Goundry, Sandra A., Legal Consulting and Research Services, Restorative Justice and Criminal Justice, Reform in British Columbia – Identifying Some Preliminary Questions, Issues and Concerns, Prepared for: BC Association of Specialized Victim Assistance & Counseling Programs, 30 April, 1998

- There was an acknowledgement that ‘community’ need not be limited to geographic parameters – that, in fact, ‘communities of interest’ are often the most relevant constellations of support/criticism.
 - A flexible definition of community is also necessary to address the absence of traditional notions of community in some large urban centres.
 - Given the increased role for communities in all formulations of restorative justice, the need for the development of clear, equality-promoting principles and guidelines which would define the parameters of all community-based restorative justice programs across the province is evident.
 - While flexibility has some advantages, there is a higher obligation on the province to ensure a fair, consistent and equitable approach to restorative justice initiatives.
-

5.12 Planning/Evaluating Community Projects - 1998 ²⁷

The Need To Target Programs Based On Community Needs

New justice programs are continually being implemented across Canada. Some, like family violence courts and youth justice committees, fill an important community need and slowly spread across the country. Others fail for a variety of reasons including failure to accomplish their goals, lack of funding, loss of interest by participants, or a realization that they may involve more work than the problem merits. All too often programs are implemented with no systematic analysis of needs. Planners sometimes find a program they like and try to find a place to implement it, so programs may be offered simply because they have worked elsewhere or because they have become fads.

To be effective, justice programs must be based on a community's needs and directed where they will do the most good. Focusing your community's efforts on these carefully selected targets has several positive consequences:

First, limited resources, both human and financial, can be directed towards the most serious problems.

Second, if programs are systematically planned and targeted, the activities of different agencies can be coordinated.

Third, it is easier to assess the results when activities are focused on carefully-defined problems. This provides information about the success of different strategies or programs, and also adds a degree of accountability to the process.

The idea of developing new programs can result from dissatisfaction with existing justice services or from the need to deal with new problems that are affecting the community. We can illustrate this process by looking at the reasons why communities started several recent Canadian programs. The results of some of these programs will be discussed later. In this section we will look at how a community's analysis of its justice problems led to the implementation of programs designed specifically to address these problems. Organizers of each of these projects made use of statistical information to identify a need and to plan their program. This analysis played a vital role in the success of the program.

Waseskun House

Waseskun House is a charitable organization that operates a Native community residential centre in Montreal for First Nations and Inuit men from Quebec. Waseskun House provides a variety of services including:

Residential and intensive programming services for male Native offenders;

²⁷ Solicitor General Canada, Rick Linden University of Manitoba and Don Clairmont Dalhousie University, Making It Work: Planning And Evaluating Community Corrections & Healing Projects In Aboriginal Communities, 1998
<http://www.sgc.gc.ca/epub/Abocor/e199805b/e199805b.htm>

Community Justice - Community

- Direct supervision of federal clients;
- Parole supervision for clients in First Nations communities;
- Private treatment services;
- Private community referral services;
- Community reintegration services and training; and,
- Intensive training and support networks for front-line workers.

Over 400 men have taken the program since 1988. One of the core programs involves men completing their sentences in a five month residential program. Up to 20 men at a time participate in an intensive program that covers a variety of subjects including life skills, sexuality, and anger and stress management. Waseskun House has a holistic philosophy that emphasizes healing and restoration, and an important component of the program is a community healing circle that involves all the participants. During the summer, clients and their families are given the opportunity to participate in intensive therapy camp sessions in a secluded environment. Waseskun House has also established an Internet site (<http://www.waseskun.net>) that is part of a nation-wide Aboriginal computer network. The site is a resource for caregivers and social workers serving Aboriginals and is an excellent source of information on community corrections issues.

The Hollow Water Community Holistic Circle Healing Program

In 1984 a Resource Team in four neighbouring Manitoba communities came together to discuss community problems. Three were Metis communities and the fourth, Hollow Water, was a status Indian Reserve. The team was concerned about youth problems in their communities and sought to work together to deal with youth issues. However, the team's focus began to change in 1986 when a disclosure of child sexual abuse caused them to investigate intergenerational cycles of abuse. As they gathered information about this problem, they were shocked at the high levels of abuse. The team estimates that 80 percent of the residents of their community have been victims of sexual abuse, most at the hands of family members, and 50 percent of the population have been abusers (Ross, 1996). The team realized that responding through the conventional justice system would be devastating to the community and began to develop a restorative program that emphasized individual and community healing rather than punishment. The investigations and trials in such a large number of cases where victims and offenders were family members and neighbours would have been very divisive to the families and to the communities. Also, child sexual abuse is a very serious offense and if the mainstream justice system had been used, a high proportion of the population would have been incarcerated.

The Community Holistic Circle Healing Program was developed to deal with sexual abuse and family violence. The program is aimed at healing abuse victims, offenders, families, and the community. The community-based healing model takes community members through thirteen steps from the initial disclosure to the final public cleansing ceremony over a period of several years (Lajeunesse, 1993). Many adults in the community have received special training and an organizational structure was put in place to administer the program. Representatives of the conventional justice system have been very supportive of the program and have given their cooperation. By 1995, over 100 victims and offenders and over 200 of their relatives were involved in the healing program. Only five offenders have been sentenced to jail and only two offenders in the program had reoffended (Ross, 1996). Community members intend to use the program as the core for future community development work, including transforming educational institutions, creating youth development and employment programs, and articulating the community's cultural foundations.

Atoskata – Victim Compensation Program for Youth

As in many other Canadian cities, rates of auto theft increased dramatically in Regina. Many of these thefts were committed by young joyriders, and the justice system responded by increasing the number and length of closed custody sentences given to juvenile car thieves. The Saskatchewan Department of Social Services began to question the use of closed custody when research showed that rate of youth taken into closed custody in Saskatchewan was 70 percent higher than the Canadian average and almost 250 percent higher than the average in the United States. Concerns about this rising use of custody led the Department to look at other sentencing options. One of these was Atoskata which was run out of the Regina Friendship Centre. Atoskata is a supervised work program in which convicted youth earn money to compensate victims for money they have lost because of the vehicle theft. An important component of the program involves Aboriginal elders mentoring the youth as part of a healing process (Church Council on Justice and Corrections, 1997).

Aboriginal Legal Services of Toronto

A 1989 report on native justice in metropolitan Toronto found that Aboriginal people were disproportionately represented in provincial criminal courts. The report showed that there was a kind of 'revolving door' justice as many Aboriginal people were repeat offenders who were neither being rehabilitated nor effectively sanctioned by the justice system. The high levels of substance abuse and related offences such as prostitution indicated the presence of deep-seated social problems that would be very difficult to heal. A large number of the charges were court-related offences such as failure to appear and failure to comply with court orders suggesting a high level of estrangement of Aboriginal offenders from the formal justice system.

According to some estimates, Metropolitan Toronto is home to 60,000 Aboriginal people and over forty native cultural and social service organizations. The community had the challenge of taking advantage of the population numbers and the organizational infrastructure to develop a healing program that would help reduce the number of Aboriginal people in the justice system.

The adult diversion program began in 1991 at Aboriginal Legal Services of Toronto (ALST), an organization that also provides legal aid, courtworker services, and various types of training. The program diverts adult Aboriginal offenders before their cases are formally processed in court. The program has a small staff that coordinates the work of a diversion panel consisting of Aboriginal volunteers. The program has placed an emphasis on the healing of offenders and on connecting them with the Aboriginal community in Toronto. Program staff have systematically collected data on many factors including offense type, socio-economic characteristics of offenders, and compliance with dispositions. The program has been very well-managed and has outlasted all other Aboriginal adult diversions programs. ALST also plans to implement a post-release program to help reintegrate offenders back into Toronto's Aboriginal community.

Define the Community

Before you begin to develop your program, you must decide who is going to be involved. The issue of who should be involved in developing a program and who should be its clients partially depends on where you draw your community's boundaries. Defining the community is sometimes a simple task, as communities often correspond to natural geographical areas or administrative areas. For example, a reserve, a small town, or a distinct urban neighbourhood is easy to define. However, in other cases, such as in urban Aboriginal communities, you may have to make an arbitrary decision about the boundaries of your community before beginning your research. Sometimes the community does not correspond to a geographical area or political jurisdiction. It may be a community of people who do not necessarily live near one another, but who share a common interest or a common set of problems. For example, urban Aboriginal people may be geographically dispersed, but still make up a community with common justice interests. Thus the offender supervision programs run by the Waseskun House deal with Aboriginal people across the Montreal area as well as those in the Akwesasne community.

Adapting Programs to Community Characteristics

One of the elements that is most critical to the success of restorative justice programs is ensuring that programs fit the characteristics of the communities in which they are implemented. The "one size fits all" approach to programming will fail. Each program must be designed to meet the needs of its own particular community. For example, different legislation may apply to Aboriginal communities than to other Canadian communities. The specific legislation may depend upon whether the community is Indian, Metis, or Inuit. It may also vary from group to group within these categories. For example, status and non-status Indians have a different status under Canadian law. One needs to know the legal authority of the community and the rights that have been negotiated with that community by the federal or provincial governments. Native justice agencies have specific jurisdictions that must be considered in establishing your programs. These legal differences can often complicate the determination of the social and geographic boundaries of justice projects.

One issue you must consider is whether the program will apply to offenses that take place outside the community and to offenses where neither the victim nor the offender is not a community member. Should a circle sentencing program apply to non-Aboriginal people who may be temporary or permanent residents of an

Aboriginal community? How should an Aboriginal offender be dealt with when his or her offence victimizes a non-Aboriginal member of a nearby community? It is obvious that a sound understanding of the relevant law is vital to the success of any justice project.

Other community factors that must be considered are the nature of the formal and informal authority structures, socio-economic conditions and the financial resources available for programming, the willingness of community members to participate in restorative justice programs, the degree to which the community is satisfied with the regular criminal justice system, and the degree to which traditional practices are known and followed in the community.

Community Support for Restorative Justice: One of the keys to successful restorative justice projects is the participation and support of the community.

- In some cases, victims have been unwilling to participate in victim-offender mediation programs (Umbreit, 1996)²⁸ and some surveys have shown a relatively low level of public support for alternative programs.
- There are several reasons why public support for these programs is by no means automatic.
 - First, we have become used to the retributive model of justice that is the foundation of the mainstream system.
 - For many Canadians, justice has not been done until the guilty party has been punished.
 - People accustomed to this system may be reluctant to support restorative justice programs that they feel are soft on crime.
 - While this objection may be difficult to overcome at a time when fear of crime is high, there is evidence that successful restorative initiatives can lead to a change in public attitudes.
 - Victims are less hostile if they are allowed to have a say in the disposition of their case, and members of the community become more forgiving if they participate in community justice initiatives.
 - Second, communities may simply have too many other problems to deal with the additional burden of coping with offenders without extra support.
 - In her study of a Saskatchewan Aboriginal community, Carol LaPrairie found that the community was apathetic and that residents were unwilling to volunteer their time for community programs.
 - For example, community members were unwilling to help with diversion programs even when family members were involved.
 - LaPrairie concluded that, "The expectation that communities, through their members designated with the responsibility for offenders and

²⁸ Umbreit, Mark and Mike Niemeyer. 1996. "Victim offender Mediation: From the Margins Toward the Mainstream". *Perspectives*, (Summer) 28, 29 cited in. Solicitor General Canada, Rick Linden University of Manitoba and Don Clairmont Dalhousie University, Making It Work: Planning And Evaluating Community Corrections & Healing Projects In Aboriginal Communities, 1998 <http://www.sgc.gc.ca/epub/Abocor/e199805b/e199805b.htm>

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victims, will have the long-term commitment or resources to meet these goals does not seem to have been considered, much less evaluated, in the haste to implement 'community' justice.

- While individual community members may have the commitment, a common lament in many communities is that the same people always volunteer and eventually 'burn out' " (1997a:8).²⁹
 - Empowering the community to take control of justice issues can be a major step in community healing.
 - However, it can be a difficult step because the community institutions that must do this – including the family, schools, and religious and economic institutions – may not themselves be healthy.
- Finally, community justice is supposed to empower and unite communities.
 - However, there is also the possibility that community justice may divide rather than unite people.
 - This may occur in small isolated communities where punishment, even when it is intended to reintegrate offenders, may alienate individuals and their friends and relatives from one another.
 - To prevent this, everyone must understand that restorative justice is in the best interests of the entire community.
- Many efforts to implement restorative justice programs have failed because of a lack of community support.
 - Organizers must prepare the community for their role in restorative justice programs.
 - Everyone must share the responsibility for ensuring that they live in a safe community in which disputes are handled fairly.
 - Community education and outreach efforts must be made to ensure the support and cooperation of the community and there must be sufficient consensus within the community to support a common set of standards.
 - Also, may wish to begin with modest programs before taking on larger challenges.

²⁹ LaPrairie, Carol. 1997a. "The 'New' Justice: Some Implications for Aboriginal Communities". Unpublished Manuscript, Ottawa: Justice Canada. cited in. Solicitor General Canada, Rick Linden University of Manitoba and Don Clairmont Dalhousie University, Making It Work: Planning And Evaluating Community Corrections & Healing Projects In Aboriginal Communities, 1998
<http://www.sgc.gc.ca/epub/Abocor/e199805b/e199805b.htm>

5.13 Raising Some Questions About Sentencing Circles - 1997³⁰

Community Issues: They talk about basic community issues as per earlier LaPrairie papers, namely:

- defining the community,
 - representing the community,
 - community participation and involvement, and also
 - whether the community has the skills, and
 - willingness to deal successfully with chronic offenders, as well as the occasional ones.
-

5.14 Placing Indigenous Justice Developments In Context - 1996³¹

- **Meaningfulness within Community Context.** To what extent does the Indigenous justice initiative draw upon and fit into the reality of the community?
 - Probably the greatest strength and the greatest potential weakness of Indigenous justice initiatives lies in the bonds and allegiances among the people within the community.
 - Strength, because when these allegiances can be mobilized to achieve a worthwhile aim, they are incredibly powerful; and potential weakness, because in many communities, especially small, isolated ones, allegiances can turn into factions and warring interests.
- LaPrairie (1995)³², in her comparison of the bases behind family group conferencing as practiced in Australia and circle sentencing as practiced in Canada, suggests that a strength of family group conferencing, which is more difficult to achieve in circle sentencing, is that the former is more easily able to draw on the “significant others” - the meaningful bonds among people directly affected by the offence - to achieve a solution.
- **Cultural/Community Context.** No two communities are entirely alike, and it is clear that no one “solution” will work in all communities.
 - Therefore it is important to be cognisant of the cultural, social, economic, political and other conditions in the community where the initiative is occurring which may affect its operation and transferability to other settings.
 - Among the key factors which the Workshop’s discussion will note are:
 - **the degree of social cohesion which exists or social breakdown which has occurred in the community.**
 - Is this a community with a strong consensus around community values, or are there significant schisms, for example around traditional vs. modern/“mainstream” values and lifestyles?
 - Are large numbers of people in the community dysfunctional as a result of experiences with substance abuse, or physical or sexual abuse?
 - Are the roles of community members stable and clear?
 - A community which has experienced a relatively low degree of social breakdown will likely experience fewer difficulties in realising some of its justice aspirations than will a community which has more issues to contend with.

³⁰ Roberts, Julian and Carol LaPrairie. "Raising Some Questions About Sentencing Circles", *Criminal Law Quarterly*, 1997 cited in Ministry of the Solicitor General of Canada, Don Clairmont and and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

³¹ Joan Nuffield, Ph.D. Senior Associate, The International Centre for Criminal Law Reform and Criminal Justice Policy, Placing Indigenous Justice Developments In Context: Some Dimensions For Analysis Of The Experience A Background Paper Prepared For The Indigenous Justice Workshop (Session 2.3) Of The 11th Commonwealth Law Conference, Vancouver, Canada, August 27, 1996 <http://www.law.ubc.ca/centres/crimjust.html> justice.pdf

³² LaPrairie, Carol (1995). “Altering Course: New Directions in Criminal Justice. Sentencing Circles and Family Group Conferences,” in *Australian and New Zealand Journal of Criminology*, December, 1995. cited in Joan Nuffield, Ph.D. Senior Associate, The International Centre for Criminal Law Reform and Criminal Justice Policy, Placing Indigenous Justice Developments In Context: Some Dimensions For Analysis Of The Experience A Background Paper Prepared For The Indigenous Justice Workshop (Session 2.3) Of The 11th Commonwealth Law Conference, Vancouver, Canada, August 27, 1996 <http://www.law.ubc.ca/centres/crimjust.html> justice.pdf

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- For example, a community whose traditional spiritual beliefs and practices have been preserved and are “alive” for a majority of the community members will probably have less difficulty enforcing its justice “orders” simply by virtue of their accepted moral authority.
- A community where theft is the main criminal problem will have fewer justice challenges than one plagued by widespread substance abuse, sexual abuse, and suicide.
- **the distribution of influence among community members.**
 - What is the distribution of influence, resources, authority and power among community members vis-a-vis one another?
 - Communities with some members who are seriously “disempowered” relative to the rest will face formidable challenges in ensuring that justice initiatives and components yield fair and equitable outcomes, whatever that may mean within the community’s reality.
 - Community members who are disempowered may be unlikely to participate fully in the justice system, either as victims, as witnesses, or as treatable offenders.
 - This in turn weakens the entire justice process.
 - The disadvantage which women and youth face in some Indigenous communities has received considerable attention in recent years (e.g., Crnkovich, 1993)³³, and they deserve particular mention in this context, both in terms of their exclusion from certain key processes and their risk of criminal victimization.
 - The origins of this reality are less clear; a number of authors have suggested that some of the allegedly “indigenous” aspects of Aboriginal societies may have been an artefact of Colonial authorities.
- **the community’s degree of integration with or isolation from the rest of society.**
 - Is this a remote community within a larger, separate society, or is it more connected to other parts of the society, in terms of geography, as well as community members’ social and economic opportunities, and access to justice?
 - A community’s degree of integration into the larger society can affect the degree to which the community will be able to mobilize or unite behind an initiative of its own, as well as the degree to which individual community members will be able to seek alternatives or turn to outside avenues of redress.
 - In addition, an isolated community will face greater challenges in terms of ongoing training opportunities for its justice workers, access to specialized recovery services, and synergy with other Indigenous communities.
- **the resources available within and to the community.**
 - Related to all of the above factors is the question of the resources which the community is able to draw on from within itself and from the larger society.

³³ Crnkovich, Mary (1993). “Report on the Sentencing Circle in C,” in Pauktuutit Inuit Women’s Association: Brief to the Royal Commission on Aboriginal Peoples in Canada cited in Joan Nuffield, Ph.D. Senior Associate, The International Centre for Criminal Law Reform and Criminal Justice Policy, Placing Indigenous Justice Developments In Context: Some Dimensions For Analysis Of The Experience A Background Paper Prepared For The Indigenous Justice Workshop (Session 2.3) Of The 11th Commonwealth Law Conference, Vancouver, Canada, August 27, 1996 <http://www.law.ubc.ca/centres/crimjust.html> justice.pdf

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- Are there significant numbers of respected Elders, spiritual leaders and medicine people who are still active in the community?
- Do these or other members of the community have the skills and the willingness to take on key roles such as deciding on appropriate restitution, keeping track of the behaviour of offenders, and healing child sexual abuse victims?
- Can the community easily and quickly draw on outside resources, including training resources, specialized legal, investigative or healing resources?
- A community which has few internal or external resources on which to draw may be willing to take on the justice challenges, but facing a lengthy implementation period before it can effectively handle a wide range of activities.
 - For example, it was discovered during some of the earliest experimentation with circle sentencing in Canada that ordering the offender into the “care and custody” of the community did not necessarily ensure that anyone in the community was concerning him/herself with the required activity.
 - Even where traditional practices and resources are still strong, some problems facing modern Indigenous communities may be beyond the capacity of traditional practitioners to solve them.

5.15 Mapping Community Capacity, Program on Community Development - 1996 ³⁴

Mapping Community Capacity offers a blueprint for regenerating low-income urban neighborhoods in the absence of large new infusions of federal money or private reindustrialization. It identifies resources within the community that can be tapped for internal development. Chief among these "building blocks" are residents, schools, associations, public institutions and services, welfare payments, and information.

To help elicit information on the skills and abilities of residents that can be utilized in community building, this policy guide features a 13-page questionnaire, a "Capacity Inventory." It also contains an "Associational Map" that lists typical community organizations -- from service clubs to gardening groups -- around which these new activities can develop.

Mapping Community Capacity (with John L. McKnight). Evanston, IL: Center for Urban Affairs and Policy Research, Northwestern University, 1990.

<http://www.northwestern.edu/ipr/publications/community/mcc.html>

Building Communities from the Inside Out: A Path Toward Finding and Mobilizing a Community's Assets (with John L. McKnight). Evanston, IL: Institute for Policy Research, Northwestern University, 1993.

<http://www.northwestern.edu/ipr/publications/community/buildingblurb.html>

ABCD Publications <http://www.northwestern.edu/ipr/abcd/abcdtopics.html>

³⁴ McKnight John & John Kretzmann, Mapping Community Capacity, Program on Community Development, Institute of Policy Research, Northwestern University, 1996 <http://www.nwu.edu/IPR/publications/mcc.html>

5.16 Community Development & Research -1995 ³⁵

This monograph is the result of an intensive two-day session focused on community development and research in relation to justice issues in the broad sense and especially relating to Aboriginal corrections. The consultation was held in Ottawa August 25-26, 1994 under the auspices of the Aboriginal Corrections Policy Unit of the Solicitor General. The purpose was to assist in the preparation of a community development manual which Aboriginal people would find useful in furthering communities' effective and efficient initiation of justice and corrections projects. All phases, from resource mobilization to securing funding to having evaluations carried out, were considered. A number of Aboriginal communities were represented as were some of the more well-known Aboriginal justice projects (e.g. Hollow Water). There was much discussion of how research fits in, how it can be participatory, entail some community ownership, be a positive force for community development, and what should be in a protocol guiding the evaluative research.

Some basic themes of community development are detailed including developing a capacity to self-direct, integrating past and present customs and practices, and involving all members. The complexity and mutual requirements entailed in the government-community relationship were highlighted. The Community Action Pack (Health Canada) was deemed to be a useful kit for communities wanting to act on problems and refers to all aspects from running a meeting to evaluating results. There was much concern too about the lack of community involvement in developing research projects and new styles of research were called for such that participation and community empowerment results. There was consensus that research funding should include money for the development of proposals in order to respond to the Aboriginal view that money is available for research but not programs. A large section of the report is devoted to how a community might undertake a research project – reasons for the project, specific objectives, establishing a committee, informing the community, using consultants and outside resources, etc. There is a useful checklist for developing community projects and also a comprehensive list of funding sources (i.e. funding programs that might be accessed).

Executive Summary: Community Development & Research is the result of two initiatives by the Aboriginal Corrections Unit, Policy Branch, Solicitor General Canada.

First, a Unit researcher compiled material about community development and research. The material included sources of research and community action funds, with an emphasis on funds for Aboriginal communities.

Second, the Unit brought together 14 people for two days. The 14 people, representing Aboriginal communities, academic researchers, and private consultants, joined Unit staff in discussing the realities of community development, research, and government roles and funding in community development and research.

The participants in the two days of discussion reached consensus on two major points: governments can help best through flexible, responsive partnership research, whether by government, academic institutions, or private consultants, should be participatory and fully involve Aboriginal people at all stages

5.17 View from the Community – 1995³⁶

- Using "the Women of Our People" (a community-based organization addressing issues of sexual assault and violence for First Nations women, their families and their communities) and child protection as an illustration, the presentation touched on a number of issues common to culturally and community based models. They include:

³⁵ Aboriginal Corrections Policy Unit (eds.). *Community Development & Research*. Ottawa: Aboriginal Peoples Collection, Solicitor General Canada, 1995 (also available at this Internet site) cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, *Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature*, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

³⁶ Debra Seysener (Canada) cited in *The International Centre for Criminal Law Reform and Criminal Justice Policy and The School of Criminology, Simon Fraser University and with the support of The Department of Justice Canada and The Ministry of the Attorney General of British Columbia, Putting Aboriginal Justice Devolution Into Practice: The Canadian And International Experience Workshop Report*, July 5-7, 1995 <http://137.82.153.100/Reports/Aboriginal.txt>

- legislative authority to ensure First Nations involvement and jurisdiction;
- accountability to community members, as distinct from accountability to government ministries or professional guidelines;
- equity of access, especially for women, to culturally appropriate services;
- the potential dangers of the separation of the macro political processes (such as treaty making and self-government) from service and individual safety provision initiatives; and
- access to funding and decision-making, especially for organizations which are not "recognized" First Nations organizations.
 - The last point is well illustrated by the experience of "the Women of Our People", a newly establish "grass root" organization. It faces constant barriers to access because governmental funding is usually from structure to (established) structure, and consultation respecting decision-making is usually with recognized groups.

5.18 Evaluating the quality of justice - 1995³⁷

Community Measures: The most important step in evaluating alternative justice models, then, is working with communities to clarify their objectives.

- If the community equates "justice" with improved deterrence, notwithstanding what has been said here, then its program must be evaluated using more conventional, "objective" measures such as offence rates.
 - However, if community members agree that their ultimate objective is just-ness and the hypothesized long-term social advantages of just-ness, its program must be evaluated through subjective measures.
-

5.19 Tribal Council Justice Review Committee – 1990 ³⁸

- This report discusses the administration of justice in the context of the larger issues of economic development, language, education, and health.
- The Committee advances many specific recommendations, some forty-three in total, covering topics from housing to the conducting of inquests, but its report is
 - most noteworthy for locating justice issues facing Aboriginal people in the wider context of colonialism;
 - "any attempt to reform the justice system must address this central fact: the continuing subjugation of First Nations people".
- Consistent with that emphasis, the Committee stresses that justice reforms have to be placed in the context of a wider agenda of re-establishing Aboriginal communities as healthy, strong, and vibrant.
- Economically viable land bases and powers of self-government, including the power to develop Aboriginal justice systems, are deemed to be required.
- The authors "feel that our Report confirms [that First Nations must have recognition of their right to control important aspects of their lives which must include control of the criminal justice system on their reserves and in their communities]".

³⁷ Russel Lawrence Barsh, Associate Professor, Native American Studies, University of Lethbridge. Professor Barsh is U.N. representative for the Mikmaq Grand Council of Nova Scotia in association with the Four Directions Council, a non-governmental organization in consultative status with the Economic and Social Council of the United Nations. Evaluating the quality of justice, <http://www.usask.ca/nativelaw/jah.html> Justice as Healing Spring 1995 http://www.usask.ca/nativelaw/jah_barsh3.html

³⁸ Osnaburgh-Windigo Tribal Council Justice Review Committee. Tay Bwa Win: Truth, Justice and First Nations. Report prepared for the Ontario Attorney General and Solicitor General, Toronto, 1990 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

6 Relevant Documents, Studies and Practices – USA

6.1 Organizational Self Assessment Restorative Justice - Community ³⁹

Rank each of the following statements from one to seven, one being "strongly disagree," four being neutral, and seven being "strongly agree."

The community (i.e., neighborhoods, schools, business, faith communities, etc.) allows the offenders to provide meaningful work as means of "earned redemption"	Rank _____
Volunteers are recruited and trained to provide services to offenders, victims, and the community	_____
The community provides mentors for the offenders and their significant others, and offers assistance to increase their skills	_____
Community businesses provide training and work opportunities for offenders	_____
The community provides support services to victims	_____
Community members have opportunity to offer guidance and feedback to justice professionals by serving on planning and advisory groups, and other means, and help set the goals and priorities of the justice system	_____
Justice system professionals collaborate with community organizations in order to provide community based interventions	_____
Justice system professionals assist with community and police in preventing crime and in solutions to challenging social conditions	_____

Describe ways in which your organization is restorative with the community, and practical ways your agency could improve its restorative practices with the community. Consider what can be done now and what else can be done.

6.2 A Comparison of Four Restorative Conferencing Models - 2001⁴⁰

Building Community Through Restorative Conferencing

The true test of restorative conferencing. The ultimate measure of success for any approach that claims to advance restorative justice should be its ability to strengthen the capacity of communities to respond effectively to crime (Bazemore, 2000). In restorative justice, crime is viewed as both a cause and result of broken or weakened relationships. As Pranis (1998, p. 10) suggests: "The fabric of community is the weaving of relationships. Crime harms relationships and thus weakens community. Our response to crime needs to attend to these relationships to rebuild or strengthen the community fabric."

If restorative conferencing models are to be more than another programmatic add-on, advocates of the models should be challenged to ask whether the models meet the test of building community. Do these models:

- Create positive new relationships or strengthen existing relationships?
- Increase community skills in problem solving and constructive conflict resolution?
- Increase the community sense of capacity and efficacy in addressing problems?
- Increase individual awareness of and commitment to the common good?

³⁹ Carey, Mark, Director, Dakota County Community Corrections, Minnesota Organizational Self Assessment Restorative Justice: How Are We Doing? <http://www.ojp.usdoj.gov/nij/rest-just/ch3/selfassess.html>

⁴⁰ 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

- Create informal support systems or safety nets for victims and offenders?

Potential roles for the community. Experience has shown that given the chance, citizens and community groups can play significant roles in restorative justice. Such roles may include service on advisory boards at local, county, and State levels; policy input through public forums and community surveys; prevention policy development; a variety of victim and offender support activities, including church- and community-based programs, police chaplain programs, healing circles, and neighborhood outreach programs; and volunteer service as victim advocates, mediators for victim-offender mediation programs, and reparative board members.

New functions for juvenile justice professionals. Despite emphasis on the community role, restorative justice should never be viewed as something independent of the formal justice system. Juvenile courts and juvenile justice professionals must play key leadership roles in partnerships with community groups to develop and sustain a credible community response to youth crime. Because current job descriptions for juvenile justice professionals usually do not include functions associated with restorative justice, another test for efforts to engage the community in decision-making must be whether new professional roles are being developed. 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.

The process of engaging the community. The process followed by juvenile justice professionals in engaging the community may be the most important aspect of creating a new collaborative relationship between the justice system and the community. Such a process is illustrated in the following steps suggested by the Minnesota Department of Corrections:

- Gather information about restorative justice and possible models in the community.
 - Educate yourself about the community you will be working with.
 - Identify credible leaders in the community or neighborhood, attend community gatherings, read local papers, and ask local residents about issues and leaders.
 - Educate yourself about victim services in the community and establish contact with those services.
 - Clarify your own goals and values in approaching the community. (What are you trying to achieve? What is important to you about what you are doing and how you do it?)
 - Assess potential support in the criminal and juvenile justice systems and educate key leaders about restorative justice.
 - Working with community leaders, plan informational sessions to explore community interest. Invite participation by victims' representatives.
 - At each session, recruit volunteers who would like to be involved in creating a new approach in the community based on restorative values.
-

6.3 Community Justice: A Conceptual Framework -2000⁴¹

Five elements of community justice

Community justice can be identified by its five core elements. Community justice explicitly focuses on (1) neighborhoods, (2) problem solving, (3) decentralization of authority and accountability, (4) community quality of life, and (5) citizen participation.

1. Community justice operates at the neighborhood level.

Criminal law jurisdictions are defined by political boundaries (States, municipalities, and governments), but from the point of view of community life, these legal perimeters are often without meaning. Both Lubbock and El Paso implement

Texas criminal law, but the nature of community life in these towns, which are hundreds of miles apart, is quite different when it comes to crime and its control. Operationally, this means thinking in terms of *blocks* of space, not cities, counties, or States. Under the community justice ideal, criminal justice activities will be tied to these delimited localities and will be free to adapt to particular manifestations of community life there.

2. Community justice is problem solving.

Traditional criminal law is defined as a contest between the accused and the state. Under community justice, crime is not a contest to be won but a series of problems to be solved. The emphasis is placed on both the public safety problems that need to be solved in order to improve community life and the potential consequences of the means taken to solve those problems. Problem-solving approaches are different from the conflict paradigm in that they rely on information, deliberation, and mutual interest for a resolution. The belief is that citizens share a set of values and concerns, and with proper information and order, a way out of the problem can be found.

Community-level information is used in three problem-oriented ways. First, geospecific information organizes places into priorities (Taylor and Harrell 1996). High-crime locations receive greater attention and greater investment of local resources, for not only is the problem more difficult, but the potential payoff in improved quality of life is greater. Second, residents' concerns and desires are a source of program information. They tell justice workers which factors residents see as most closely tied to quality-of-community-life problems (Kelling 1992). Third, information translates into targets that can be used to evaluate the success of a given strategy for confronting crime (Sherman et al. 1997).

3. Community justice decentralizes authority and accountability.

Traditionally, criminal justice management is hierarchical; at each level of the organization, a worker reports to an immediate superior, who in turn reports to the next level. Community justice approaches have nontraditional organizational alignments. Staff may report to citizen groups in addition to professional superiors. Managers in one organization (for example, policing) may be "matrixed" with managers of another organization (for example, probation or prosecution) in order to improve coordination and increase cross-fertilization of ideas and action. For example, in Boston's Operation Nightlight, police officers and probation officers are partnered in their outreach to ex-offenders living in the community (Corbett, Fitzgerald, and Jordan 1996). The communication channels

⁴¹ Karp, David and Todd Clear, "Community Justice: A Conceptual Framework" in *Boundary Changes in Criminal Justice Organizations*, Volume 2, p, 323-368, 2000 http://www.ncjrs.org/criminal_justice2000/vol_2/02i2.pdf

under such inventive organizational structures are complicated. Lateral information sharing and short-term, ad hoc problem-solving groups may be dominant modes of work.

The spirit of innovation requires a transformation of the justice profession from hidebound antagonisms among citizens and across agencies to interconnected processes of problem identification, information gathering, intervention design, and evaluation. For example, new line authority in community policing often enables the cop on the beat to do much more than exercise enforcement powers. He or she is often able to organize community anticrime campaigns, mediate ongoing disputes, and coordinate the solution to problems by collaborating with workers from other agencies. Whether a social worker places an at-risk youth in a drug treatment program or a transportation planner alters traffic flow through a highly visible drug market or “bazaar,” the solution to any particular public safety problem will nearly always require organizational integration.

4. Community justice gives priority to a community’s quality of life.

Traditional criminal justice concerns itself with individuals accused of crimes and—somewhat more recently—their victims. The processes and outcomes the system applies to those individuals produce justice. Community justice understands these as important but subservient to a more significant aim: to improve the quality of community life. One of the lessons of neighborhood prosecution initiatives has been the acute need among inner-city residents for legal assistance that goes well beyond the prosecution of serious crimes (Boland 1998). Because an offender has been convicted and punished—and even when the specific crime victim is fully satisfied with the penalty—it cannot be assumed that justice prevails in its broadest meaning. Under the theory of community justice, the aim of crime-related processes is not merely to change the circumstances of offenders and victims but to strengthen the capacity of communities for self-regulation (Bursik and Grasmick 1993) and realization of the collective aims of welfare—what others have called “collective efficacy” (Sampson, Raudenbush, and Earls 1997). Justice, then, is not exclusively the experience of individuals around their particular criminal cases; it is also a collective experience in everyday life (Kelling and Coles 1996).

At least two challenges are posed by this concern for justice as an aspect of community life. First, communities are composed of diverse individuals and layers of competing interests. To find ways to put justice practices into action such that diversity is recognized and fostered is not an easy task. As the harmfulness of crime to community life becomes apparent, the temptation grows to

adopt zero-tolerance approaches to crime that treat fellow citizens as a kind of enemy. How the aim of quality of life can be held high, without excluding certain community members from the vision, is a profound challenge to advocates of community justice. Second, the social fact of extraordinary inequality has meant that those communities most damaged by severe levels of crime are least capable of mobilizing resources to deal with it. Community justice, to be a meaningful vision, must include strategies for enhancing the capacity of these already hard-pressed local areas.

5. Community justice involves citizens in the justice process.

A variety of roles exists for citizens in community justice initiatives, but every role involves the capacity of the citizen to influence the local practice of justice. The least involved citizen may influence practices by attending and participating in meetings in which issues of crime and order are discussed. Others may volunteer their time to work on particular projects, provide support to victims, assist offenders in their reintegration back into the community, and carry out community crime prevention activities. Still others will take more formal roles as members of advisory boards, such as Austin's Community Justice Council (Earle 1996), to provide more structured input into community justice practices.

The shift toward citizen participation is grounded in two important insights. First, formal social control by police and the courts is a thin layer in a much thicker foundation of institutions and cultural practices that produce social order. The thin blue line is buttressed by the important work of families, schools, churches, civic organizations, and others in the creation of law-abiding citizens and safe public spaces. Second, the shift toward citizen participation is grounded in the basic recognition that community members are citizens in a democratic society. It is assumed that citizens in a democracy actively work toward the welfare of the whole society and do not just look out for themselves. Our past failures in part result from a false assumption that the onus of public safety falls entirely on the criminal justice system.

The aforesaid elements represent responses to changes in crime and community life. They call for a justice system that is more attuned to the need to improve the quality of community life in America. They also contain the seeds of safer communities and more responsible community members. The vision promoted by these changes is of an increasingly relevant and purposeful set of justice practices carried out in close cooperation with citizens affected by those practices.

CRIMINAL JUSTICE 2000

6.4 It Takes A Just And Capable Village – 1997 ⁴²

- **Community** Communities are our primary ecologies as humans.
 - We thrive living in communities—not in a singular type of community, but in a society that nurtures a diversity of communities to meet the needs of its members.
 - As we entered this century, social theorists⁴³ predicted a transformation from “solitary” communities (e.g., town, neighborhood, and country) to “organic” communities (e.g., professional affiliations, self-help group, and unions).
 - Communities are tied together in a complex subjective and practical web.
 - Communities are often nested within each other.

⁴² Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997. <http://www.capablecommunity.com/asdc/pubs.html>

⁴³ Durkheim, E.(1951). *Suicide: A Study in Sociology*. Glencoe, IL: Free Press cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

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- They are networked among themselves and almost all people make connections among different communities each day of their lives.
- They also create boundaries that need to be bridged.
- **Getting to the heart of the problem** Systems are also a key component of the ecological perspective and have been shown to produce the broadest reaching changes if they are activated to promote the conditions that foster human development.
 - Social and environment systems link communities and they are essential targets for prevention strategies.
 - If there are any “facts” that exist in the social and medical sciences, then among the most established is that the three primary underlying causes of social, psychological, and physiological problems are:
 - the degree to which one has a sense of *community* and support;
 - a sense of individual and collective *control*; and
 - a sense that one has enough resources such as *cash* ^{44 45 46}.
 - Scientists may have developed multiple terms for these basic concepts (e.g., locus of control, empowerment, efficacy, or alienation, bonding, social support, and community) and by doing may have hindered attention to these potent factors.
 - These factors have been so powerful and pervasive in research that we have to statistically and procedurally control for them in order to find other causes in most studies, especially on the subjects of crime and justice.
 - The scientific evidence, in fact, shows that the prevention of social problems requires health, economic equity, and social justice applied to and through communities.
 - Dockeci (1983)⁴⁷ has argued that the impact of all public policies on human and community development be assessed much in the same way that physical environment impact assessments are required.
 - There are proven incremental strategies available that can create these healthy communities and people.
 - In recent years, community development and prevention strategies have been combined ⁴⁸.
 - Community prevention strategies using a community development approach can promote greater community, control, and cash where it is needed.
 - Community organizing, self-help groups, and genuine citizen or community member participation in decision-making and justice have been shown to increase

⁴⁴ Albee, G. (1987). Powerlessness, Politics, and Prevention: The Community Mental Health Approach. In K. Hurrelman et al. (Eds.), *Social Intervention: Potential and Constraints*. New York: Walter de Gruyter, 37-52. cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁴⁵ Cassel, J. (1976). The Contributions of the Social Environment to Host Resistance. *American Journal of Epidemiology*, 104, 107-123. cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁴⁶ Chavis, D.M., and Newbrough, J.R. (1986). The Meaning of “Community” in Community Psychology. *Journal of Community Psychology*, 14 (4), 335-340. cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁴⁷ Dockeci, P. (1983). The Place of Values in the World of Psychology and Public Policy. *Peabody Journal of Education*, 60, 108-125 Health cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁴⁸ Chavis, D. M., & Florin, P. (1990). *Community Development, Community Participation, and Substance Abuse Prevention*. San Jose, CA: Santa Clara County Department of Health cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

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the highly beneficial senses of community and control in people of all ages and other distinctions.^{49 50}

- Community based development strategies also have been successful in the economic and physical revitalization of impoverished areas^{51 52}
- **Building Community Capacity** An infrastructure needs to be in place to appropriately replicate the numerous successful prevention and early intervention programs at a massive scale⁵³.
 - Communities are a system or network of institutions that have been developed to meet the needs and aspirations of their members (e.g. families, schools, religions, etc.).
 - Knowledge, skills, relations, and resources can be disseminated through this network of institutions.
 - A community's well being depends on effective and pro-social community institutions.
 - Community institutions such as families, schools, police, hospitals, government and those of faith are experiencing a widening gap between them and their constituencies in many places in our country.
 - The most successful community-based prevention strategies use coalitions and other collaborative structures to build the capacity of institutions to better serve their functions in the community.
 - A community's ability to be just will depend on its capacity to develop healthy and capable people and institutions.
 - Given the complexity and entrenchment of the causes of crime and impediments to community justice, a community needs the capacity to address negative conditions over a long time.
 - Community capacity is defined in this paper as the *sustained ability to effectively develop, mobilize, and use resources to manage change*.
 - The most important resources are knowledge, skills relations, and money.
 - Community coalitions can improve the capacity of local leaders, organizations, and community institutions to develop communities and prevent crime and violence.
 - Institutions need to serve their primary functions:
 - schools need to educate, police need to provide security, hospitals need to promote health, communities of faith need to develop the community's moral fiber; businesses need to develop jobs, government needs to govern; and citizens need to keep their institutions accountable.
 - Community capacity building's main objective is to enable community institutions to serve their primary functions.

⁴⁹ Chavis, D. M., & Wandersman A. (1990). Sense of community in the urban environment: A catalyst for participation and community development. *American Journal of Community Psychology*, 18, 55-81 cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁵⁰ Levy, L.H. (1976). Self-help Groups: Types and Psychological Processes. *Journal of Applied Behavioral Sciences*, 12, 310-322. cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁵¹ Vidal, A.C. (1992). *Rebuilding Communities*. New York: Community Development Research Center, New School for Social Research. cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁵² Pierce, N.R. and Steinbach, C.F. (1987). *Corrective Capitalism*. New York: Ford Foundation cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁵³ Milton S. Eisenhower Foundation. (1996). *Policy Framework*. Washington, D.C.: By author. Mizrahi, T. and Rosenthal, B.B. (1993) cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

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- If all institutions were able to do their respective jobs, community justice would occur.
- New challenges require institutions to develop new capacities.
- One of the most important and achievable goals of a community coalition is to develop a **learning community**^{54 55}
 - A learning community can be seen as a system where organizations and ..."(P)eople continually expand their capacities to create the results they truly desire, where new and expansive patterns of thinking are nurtured, where collective aspirations are set free, and where people are continually learning how to learn together."⁵⁶
 - Capable communities are learning communities.
- The following capacities are proposed as necessary for communities to prevent social problems such as crime and violence:
 - Resource acquisition and mobilization:
 - Increased resources for prevention and community development
 - Recruitment and use of volunteers and other non-monetary resources
 - Fundraising strategies, structures, and resources
 - Learning/intellectual:
 - Knowledge and skills for successful prevention
 - Enabling system (workshops, seminars, consultations and TA, information and referral networks) to disseminate knowledge, skills and relations
 - Evaluation and research
 - Political:
 - Inter-institutional linkages and practices that promote prevention and community development
 - Goal setting and planning
 - Goal attainment
 - Development of process and structures that foster responsiveness and accountability
 - Leadership development and support
 - Psycho-social:
 - Mobilization and management of social relations
 - Fostering of a sense of community and caring
 - Support for the development and maintenance of community organizations and more local communities
 - Promotion of appropriate and effective help seeking
 - Effective management of organizations
 - Responsive institutions

Conclusions

⁵⁴ Senge, P.M. (1990). *The Fifth Discipline: The Art and Practice of Learning Organizations*. New York: Doubleday cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁵⁵ Knowles, M.S. (1970). *The Modern Practice of Adult Education*. New York: New York City Press. cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

⁵⁶ Senge, P.M. (1990). *The Fifth Discipline: The Art and Practice of Learning Organizations*. New York: Doubleday cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, *It Takes A Just And Capable Village: Prevention Strategies For Community Justice*, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997 <http://www.capablecommunity.com/asdc/pubs.html>

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- If there is going to be community justice, there must be healthy, just, and capable communities. Coalitions and other collaborative can be strategically used to develop community capacities and resilience in order to prevent and resist the threats to community justice.
 - The most important component – an active citizenry – is a monumental challenge and is frequently abandoned in frustration.
- The driving force for a healthy, just, and capable community is citizens that hold their institutions accountable to them.
 - Active citizens insure that institutions meet their needs through community organization, participation in the political process, and participation in other governance structures.
- Community organization and development methods have been able to mobilize the most destitute communities into action.
 - Community justice programs have to make a genuine investment in independent widespread citizen organizing and participation methods.
 - Genuine community mobilization methods will bring greater accountability and responsiveness, it will also bring greater conflicts to be transformed.
- To paraphrase Saul Alinsky: It's a law of nature, if there is going to be change there is going to be friction, if there is friction, there will be heat. The heat will bring us justice if we recognize it is as part of the process for building community.⁵⁷

⁵⁷ cited in Chavis, David M., Ph.D., Association for the Study and Development of Community, It Takes A Just And Capable Village: Prevention Strategies For Community Justice, Paper presented at the Research Seminar on Communities, Crime, and Justice sponsored by the National Institute of Justice, George Washington University, Washington, D.C. March, 1997
<http://www.capablecommunity.com/asdc/pubs.html>

6.5 **Engaging the Community - A Guide For Community Justice Planners- 1997**⁵⁸

⁵⁸ Greg Bergman, David Anderson, Center for Court Innovation and Bureau of Justice Assistance.

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ENGAGING THE COMMUNITY

A Guide for Community Justice Planners

"You have to go in with open ears and an open heart," says Greg Berman of the Center for Court Innovation, who managed early planning for a community court in the Red Hook neighborhood of Brooklyn. "And you have to recognize that each community is different. One of the very first things that we did in Red Hook was convene a series of focus groups with neighborhood residents to identify community needs and community resources. We held separate discussions with community leaders, social service providers, young people and single moms. The conversations were extremely lively. Once people started talking, it was difficult to get them to stop."

Introduction

This document is a guide for community justice planners seeking to build stronger links with individual communities. Community justice, boiled down to its essence, is about two things: partnerships and problem-solving. No criminal justice agency — not police, not courts, not prosecutors, not probation, not parole — can hope to build partnerships or solve neighborhood problems without investing significant time and energy in engaging the community. This paper outlines how community justice planners might begin this process, starting with the earliest stages of program development. It highlights basic tools that have worked in the past as well as some of the potential stumbling blocks that planners must confront as they reach out to residents, merchants, service providers and others.

Early Planning

Community justice initiatives are designed to build stronger connections between citizens and the justice system; community outreach is therefore a crucial component of any planning effort. Engaging the community should be the top priority in a project's early stages — above staffing, fundraising, even program planning. There are three principal reasons for this. The first, perhaps, is obvious. If justice agencies seek to work in partnership with community members to solve local problems and strengthen a neighborhood, that partnership needs to start early. People who live and work in the neighborhood should be involved in identifying issues, setting priorities and crafting solutions. And planners must earn the trust of skeptical communities by listening attentively and demonstrating that they are there for the long haul.

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Center for Court Innovation

A second reason for beginning the conversation with local players is that community justice initiatives, whether they originate with courts, police, prosecutors or other agencies, are designed to address the unique needs and concerns of their target neighborhoods. There is no one-size-fits-all model. Different communities have different problems. And different problems merit different responses.

The third reason for engaging the community is more pragmatic. The basic job of a planner is to organize financial, political and material resources on behalf of his or her project. This means building support among funders, social service providers, elected officials, community leaders and the media. The only way to develop these kinds of partnerships is to be an active and visible presence in the neighborhood — attending public meetings, interviewing local stakeholders and convening discussion groups.

Although community justice seeks to create safer, stronger and healthier neighborhoods, planners dare not take their community's support for granted — particularly in an era of "not-in-my-backyard" activism. Some local residents may oppose the project. Others may simply be apathetic; the challenge is to get their attention. Residents of many communities, particularly poor ones, are often deeply alienated from government and skeptical of promises made by agency bureaucrats, however sincere they seem.

Even where people are receptive, the idea of community justice is unfamiliar and will require a great deal of careful explaining. The process is unavoidably labor-intensive and time-consuming. Community relations are not built in a day and they certainly are not built by sitting in downtown office complexes. Planners should expect to spend from six months to a year building trust, making sure that they understand the community, are reflecting local concerns and that the community endorses their efforts.

In the initial stages, planners should spend time with individual residents and community groups in order to explain their ideas and hear the responses. The education is mutual: planners learn about the neighborhood — who lives there, the problems they face, what they expect from the criminal justice system, how those expectations are and are not being met, and what resources the neighborhood could provide to support a new experiment. The community learns how community justice differs from traditional approaches and how it could enhance local efforts to improve the quality of life.

As it progresses, this process can help mold priorities, determining which neighborhood issues — juvenile delinquency? landlord-tenant disputes? low-level drug dealing? — need attention first. It can also lay the foundation for partnerships with community leaders, neighborhood organizations and other public agencies already at work in the area.

Not least, the initial outreach process serves to publicize the planning effort: meetings with community groups spread the word that the project is underway. The goal is to understand the neighborhood's problems, build an agenda

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Engaging the Community

endorsed by local residents and mobilize community resources well before the project actually begins.

"I learned a couple of important things from the focus groups," Berman continues. "The first was that despite Red Hook's reputation for drugs and serious violence, the way that local residents talked about their community was not markedly different from the way that residents of Midtown Manhattan talked about their neighborhood before the creation of the Midtown Community Court (New York's first community court). Red Hook and Midtown are about as different as two neighborhoods can be. Midtown is the tourist and cultural center of Manhattan, the home of Broadway and Times Square. Red Hook is dominated by one of New York's oldest public housing developments and is so isolated that I sometimes doubt whether any tourist has ever set foot in the neighborhood. Still, the same quality-of-life conditions — graffiti, littering, noise violations, loitering — weighed heavily on the minds of both Midtown and Red Hook residents. I remember one participant in the Red Hook focus groups saying, 'Violations do not receive any priority...we need a [better] quality of life.'"

Stakeholders

Once it was called a "key person" survey; the modern term is "stakeholder." The basic point is the same: what groups have an interest in the welfare of the community, and who speaks for them? The list of possibilities is long: local politicians, churches, schools, students and their parents, merchants, tenant and block organizations, fraternal orders, ethnic societies and other social or civic clubs, sports teams, youth groups, precinct-based police, health care clinics, drug treatment groups, literacy programs, other social service providers. There is also the less visible community — young people who aren't in school, older people who are unemployed, welfare mothers, the elderly who stay at home. Even defendants can be included as stakeholders.

In the first phase of community engagement, planners should identify all such groups and craft strategies for reaching them. The goal is to get answers to some fairly basic questions: What do local residents think about the quality of life in their neighborhood? What are the community's strengths? What issues are chronic problems? How do people feel about the criminal justice system? And what do they expect from it? Too often, planners presume that they understand what is going wrong in a neighborhood without asking the people who really know — the citizens who live and work there.

Community justice begins and ends with neighborhoods. Identifying and prioritizing local strengths and weaknesses is a job best left to the community. A variety of tools can be used to engage community stakeholders in this process. What follows are several strategies that have proven successful for community justice planners in the past.

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Interviews

In order to gain a full understanding of a community's problems, there is no substitute for simple communication. Talking with a broad spectrum of local voices — the store owner, the senior citizen on the park bench, the teacher at school — is crucial. Planners should pay special attention to neighborhood leaders — the school principal, the block association president, the tenant organizer and the like. There may also be others with special knowledge of the community and its history: a newspaper reporter who has covered the area or a researcher at a local college. The approach to these stakeholders should be straightforward and humble: planners should emphasize that they are engaging in this process to learn about the community. This approach can go a long way towards disarming skeptical residents, who may be unaccustomed to government officials taking a deferential tone.

Possible questions include:

What do you think of your neighborhood? Is this a good place to live? To do business? To own property? What are the main sources of aggravation, of fear, of crime? Are there street conditions — rowdiness, noise, prostitution, drug dealing — that seem to be out of control? What do you think is causing them? Do the people involved in crime live in the neighborhood, or do they come here from somewhere else? How do you think these problems might be curbed? What's it like for children and teenagers here? What do you think of the schools? Are too many children and teenagers on the street when they should be in school? Are there things for kids to do after school and on weekends? Is there a problem with gangs?

What resources exist in the neighborhood already? What are the community's strengths? Which churches, social service providers and community groups are the most respected? What do people in the neighborhood think about the way the police patrol the community? About the way defendants are prosecuted? About how probation and parole work? About the way the court system handles crime, family matters and housing disputes?

These questions get the conversation going; more specific ones depend on what planners may already know or suspect about community life. Planners should try not to bring too many preconceived notions to the conversations, however. Be open to surprises. In one case, community prosecution organizers went into a neighborhood armed with reams of statistics about drugs, violence and other serious crime, only to be told by community members that stray dogs were their most vexing problem. Taking these issues seriously and devising strategies to address them will do much to win community support.

In addition to helping planners identify neighborhood concerns and priorities, individual interviews can be an effective tool for gauging local politics. Ask interviewees who else should be consulted in the same way. At this stage it should be possible to learn who plays the most important leadership roles in the community: who is respected, who is pursuing what hidden agenda, what factions have formed and what issues divide them.

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our largest obstacle. We got off to a good start in overcoming it with the focus groups. Almost by accident, we had sent a powerful message to Red Hook residents by convening the focus groups. And that message was: your voice counts. The focus groups were a visible sign that we intended to consult the community at each step of the process. This was not lost on participants."

Neighborhood Meetings

In addition to convening their own meetings, planners should respect the existing infrastructure of the neighborhood by appearing at regular sessions of community groups: the P.T.A., the block association, the tenants' organization, the community board. Here the approach needs to be a bit more formal: begin with a five to 10 minute talk about the idea of the community justice initiative, where it came from and who supports it. This introduction could also explain how community justice is working in other places, the problems it has addressed and the ways that community justice efforts incorporate input from neighborhood residents.

Following the talk, planners should invite questions from the audience and lead a discussion of how the generic concept of community justice should be adapted to this particular neighborhood. Sometimes, the best way to engage an audience in a conversation about justice is to role play. For example, community court planners in New York have asked local residents to play the role of the judge, presenting them with a couple of hypothetical cases drawn from real life. What would they do if they were sitting on the bench and were confronted by a recidivist prostitute with a history of abuse at the hands of her boyfriend/pimp? How would they handle a homeless defendant arrested for trespassing at a local bus terminal? What would be an effective sentence in these cases? The community court planners explained to participants the kinds of information about a defendant that a typical judge would have. They also told them how long a judge would have to render a decision.

For community members to step into a new pair of shoes — whether it be those of a judge, prosecutor, police officer or probation officer — can be an eye-opening experience. In addition to helping them understand the pressures and demands of working in the criminal justice system, this exercise can also help residents develop a more nuanced response to crime, forcing them to grapple with the types of underlying problems — substance abuse, homelessness, unemployment — that often lead an offender to crime.

Outreach to Government Agencies

Talking with residents should not be the end of the conversation, however. Planners should also reach out to government agencies, both those within the justice system and those whose work intersects with the system (welfare, foster care, education, public housing and others). Neighborhood problems like juvenile delinquency or quality-of-life crime cut across institutional boundaries, involving dozens of government players in one way or another. Any response to these problems should be equally multi-faceted.

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When reaching out to government agencies, the questions to ask are slightly different: How is government currently responding to the neighborhood's problems? In a more perfect world, what could the criminal justice system be doing better? The point of these conversations is twofold: to get a clear picture of "business as usual" and to tap into the creative energies of the people who know the system best.

Planners should take pains to understand their audience: it makes sense to emphasize different elements of the project to different listeners. For example, meetings with the local health department might focus on social services, emphasizing the needs of criminal justice populations. Meetings with board of education officials might concentrate on ways that law enforcement currently handles juveniles as well as on crime and disorder — rowdiness, noise, drug dealing, thefts, mugging of students going to and from school — that disrupt the school day.

Even if community policing already exists in your jurisdiction, don't forget to reach out to the police. Meetings with police might emphasize ways that courts, prosecutors, and probation and parole officers can complement community patrol initiatives. For example, a community court can facilitate the quick sanctioning of offenders arrested in sweeps and providing of social services that remove prostitutes, substance abusers and the homeless from the streets. The court's community service program might help police by painting over graffiti, reclaiming neglected parks and refurbishing other run-down locations that attract prostitutes and drug dealers. Police might also be interested in discussing a community court's capacity to provide them with access to court outcomes, something they often do not receive from the traditional court system. Since police are inevitably the criminal justice agency that is most visible and active in the life of a neighborhood, planners should consider paying special attention to its officers at this early stage — accompanying them on patrol, sharing lunch or dinner, hanging out with them after hours in order to get to know them and learn from their insight into the community and its problems.

The bottom line is partnership. The goal of meeting with police officers, health officials, educators, welfare specialists and others is to bring them into the fold, engaging their expertise and manpower to solve neighborhood problems. The importance of building personal connections with their representatives cannot be overstated.

Planners often assume that other agencies will want to "do the right thing" and participate in a community justice effort simply because it is a good idea. This is not always the case. Agencies are like people: they do things for a variety of reasons, some altruistic, some not. Planners should be prepared to articulate how their community justice project will benefit other agencies, furthering their mission as well as the project's. In some cases, the payoff for partners may be increased public visibility. In other cases, it may be access to information or the potential for new funding opportunities.

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Early Achievements Interviews, focus groups and public meetings are valuable tools that can help planners gain a detailed understanding of the community and develop a sense of connection with those who live and work there. Planners may have to go further, however, if they want to build legitimacy.

The simplest way to develop credibility is to deliver something tangible to the neighborhood. Promises often ring hollow when they are not backed by action. So the quicker that planners can make good on some of the ideas that have emerged during the course of their meetings, the better. In many cases, this may mean that planners have to launch an activity related to public safety before their project itself is ready to open its doors.

Have residents identified a local park as a hot spot for criminal activity? Perhaps planners could organize a "take back our park" night of speeches and resident patrols. Are local kids idle during the summer months? Perhaps a baseball league is the answer. Is low-level youth crime on the rise? Perhaps a peer court could be created to address the problem.

It almost does not matter what the early achievement is, so long as it is real and responds directly to neighborhood concerns.

Roles and Responsibilities

Community justice initiatives raise provocative questions about the roles and responsibilities of communities and criminal justice agencies in combatting crime, addressing quality-of-life issues and strengthening neighborhoods.

Beyond identifying and setting local priorities, what role should community members play in program development? What are the pitfalls when communities and criminal justice agencies work in tandem to implement the program?

As is often the case in community justice, different projects offer different answers. Some define the community's role quite narrowly, while others engage neighborhood partners at every step of the way. There's no right or wrong answer, but community justice planners must decide early on what their approach will be.

In many cases, planners feel tremendous pressure to create a community advisory board for their projects. Sometimes this pressure is internal: planners think that an advisory board will help them manage community relations. In other cases, the pressure comes from the community itself, which demands a formal acknowledgment of its role in the process. Whether driven by internal or external forces, an advisory board makes good sense. By convening one, planners send a strong message that they intend to hold themselves accountable to the neighborhood.

The primary issue with advisory boards is not whether to have one, but when. The timing of a community advisory board must be weighed very carefully. In many cases, a community advisory board may make more sense after a project is operational, when there are actual accomplishments to review and report. No matter what stage an advisory board is assembled, one thing is certain: its role must

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be clearly defined. In what areas do planners seek community input? What elements of the program are not up for debate? Try to be as honest as possible. Very few community residents will expect to run the show. Most will respect boundaries as long as they are rational and clearly articulated.

But advisory boards are just one mechanism to guarantee community involvement over the long haul. Whether it's community impact panels at the Midtown Community Court or Reparative Probation boards in Vermont, or Community Justice Councils in Denver which involve community members in long range strategic planning for their neighborhoods, the point is the same: to engage the institutional strengths of a community — schools, churches, families — in addressing local needs. Community justice, in other words, seeks to test the extent to which government and communities can work together to build safer, stronger neighborhoods.

Concept Paper

At the end of the community outreach process, planners should draft a report that summarizes what they have learned from their meetings in the community. It might include a general description of the neighborhood followed by the relevant problems that residents have identified. It would then discuss ways the criminal justice system might respond in cooperation with other local institutions.

The concept paper should be both a planning document that summarizes work to date and a fundraising tool that can be used to approach foundations, corporations, elected officials and other potential funders. In drafting the document, planners should take pains to underline community "buy-in." Has a local city councilman publicly endorsed the project? Is there a letter of support from the police department? Has the local newspaper written a favorable op-ed piece? All of these indicators of support should be incorporated into the concept paper. The idea here is to let readers know that the project will be accepted as a valued addition to community life rather than the local outpost of an alien criminal justice process.

"What I learned from all of these encounters was that there is no substitute for face time," Berman concludes. "As the months passed, I found my connections with community leaders deepening. I met their children, attended their church services and shared meals with them. I saw them in good times and bad, at public gatherings and in more intimate settings. These ties would serve the community court well when it was necessary to mobilize neighborhood support for a grant proposal, a newspaper article or a public meeting."

Conclusion

Engaging the community requires time and energy; it also requires tact and imagination. Introducing a new initiative into any political and social environment requires a deep understanding of that environment and an ability to adapt to it in constructive ways. Planners have to understand how the

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community works — who enjoys power and respect, how factions form, who can bring them together — and how to maintain neutrality. No community justice project can be identified as "belonging" to one group or another. This may not be easy: a neighborhood is smaller than a city, but its politics are not necessarily less complex. A failure to understand them early on could put the whole plan at risk. Each project and each community have to work out their own relationship. The earlier planners start, the better it will be.

6.6 Spirit of Community: Rights, Responsibilities & Communitarian Agenda - 1996⁵⁹

- This paper is a review of Etzioni's celebrated book, The Spirit of Community (see below).
 - Its chief point is succinctly stated by the author: "rebuilding communities is not now, nor ever has been, always synonymous with the creation of social order, moral superiority, and cohesion. An assertion of community identity at a local level can be beautifully conciliatory and socially constructive but it can also be parochial, intolerant, and punitive".

⁵⁹ Crawford, Adam. "The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda", Journal of Law and Society 23(2), 1996 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

- Crawford points out some of the dangers of community and communitarianism such as having to contend *with differential power relations*, coercion within communities, and other constraints, moral and otherwise.

6.7 How to Build Community Support for Restorative Justice⁶⁰

A restorative response to crime is a community-building response. It is necessary to build a broad base of support for restorative justice principles and practices. Because restorative justice is grounded in community involvement, it is not possible to implement a comprehensive restorative system without community ownership and support. A comprehensive restorative response to crime engages the community as a resource for reconciliation of victim and offenders and as a resource for monitoring and enforcing community standards of behavior. The restorative justice framework calls for the inclusion of all stakeholders, especially victims and community members, in designing and implementing local justice practices. It is an empowerment model that must clearly be grounded in grassroots commitment at the local level.

Seek Broad-Based Decision Making

Corrections agencies are not typically oriented toward grassroots participation and are generally very hierarchical organizations. Restorative justice, on the other hand, is based upon highly participatory decision-making, from individual cases to system design. Thus the corrections agency promoting changes toward the restorative justice model is challenged to provide leadership while not usurping the power of other participants. Any agency promoting change must model the values of restorative justice in its process by providing vision and encouragement to all stakeholders while avoiding specific directives.

There is an inherent tension between the desire of traditional stakeholders for details of implementation in order to understand the functional framework and the need for the leading agency to leave the details of implementation to the participatory process.

At early stages of discussion, participants may become impatient with philosophy and just want to be told what to do. The question of "how to" can be turned back to the participants; ask them to apply the principles and identify practices which fit the principles. Over a period of time the responses from participants can become the basis for providing multiple examples of restorative practice to bring life to the concepts. However, at all times the leading agency should resist the urge to develop detailed plans unilaterally because that might supplant the development of plans based on the participation of all the stakeholders.

Avoid Top-Down Mandates

Restorative justice should not be mandated in a top-down authoritarian process. The work of implementing the principles of restorative justice must be done at the local level and must involve all stakeholders. There is no single road map or blueprint for building a restorative system; nor do we have answers to all the questions raised by the principles of restorative justice. The process of searching for answers should involve dialogue with all who have an interest in the question. The appropriate role of state, national, or regional leadership is to articulate the vision, disseminate information, and provide support and technical assistance to jurisdictions attempting to evolve to a more restorative approach. State and national agencies can also carry out pilot programs to demonstrate applications of the principles. State and national governments are responsible for monitoring outcomes to insure fairness, equity, and effectiveness of processes designed at the local level. A clear understanding by practitioners and stakeholders, including the community, of the philosophical underpinnings is essential to ensure that changes are substantive and not merely cosmetic. Program implementation without an explicit understanding of underlying values often leads to undesirable results.

Look Beyond the Criminal Justice Arena

The process of implementing restorative approaches must model the principles themselves—e.g. victims must have a voice, the community must be involved. In fact, every citizen should be given opportunities to contribute to the community's vision of restorative justice. The community contains natural allies in fields outside criminal justice who can bring depth and credibility to the advocacy of a restorative approach. The

⁶⁰ National Institute of Justice, Kay Pranis, Restorative Justice Planner, Minnesota Department of Corrections, *editor's note*: This article, from the January/February 1997 Community Corrections Report, is adapted from a 1995 paper delivered in Montpelier, VT.) <http://www.ojp.usdoj.gov/nij/rest-just/ch4/how2build.htm>

work of promoting and supporting the use of restorative practices in criminal justice must be carried out across multiple organizational systems and levels. In particular, since the lead agency in change efforts will have direct authority over only a small percentage of those who shape criminal justice practice, progress toward a restorative approach requires engaging voluntary participation and interest.

Efforts to promote restorative justice should involve all levels of state, county, and city government and multiple sectors of the community, such as schools, social services, civic organizations, and faith communities, in addition to the traditional players, such as corrections, police, judges, prosecutors, and defense lawyers. Moreover, besides those community entities whose missions and interests are logically part of, or related to, the justice process, it is also essential to involve a diverse variety of other organizations from all cultural perspectives, with the objective of achieving proportional representation from cultural subgroups and ethnic communities.

Don't Minimize Problems to Be Faced

Though the restorative justice movement has recently experienced remarkable growth of awareness and interest, there are very serious problems ahead. Even where there is a high level of support for the restorative philosophy in the criminal justice system or community, the broader public policy trend around the nation is in the opposite direction. Prison populations are growing rapidly and the cost of that expansion threatens the availability of resources to work with victims and offenders in the community. Increasing dependence on incarceration may further paralyze the system, making change much more difficult. Practitioners are frequently so overloaded that it is very difficult for them to think about questions of underlying values or philosophy. There is also great risk that the existing system, with its overwhelming orientation to offenders, will be unable to shift to a truly victim-centered approach to resolving crime. The habits of the system are strong. Even in jurisdictions committed to shifting to restorative justice, corrections practitioners frequently forget to involve victim representatives in their planning at the beginning. It will take great vigilance to insure that victims issues are given proper consideration.

Facilitate the Process

The greatest risks identified by most critics involve implementation which fails to be true to the values underlying restorative justice. It is crucial that the values be clearly understood and frequently articulated to guard against the dangers of straying from them in practice. Research is needed to identify ways for the community to be more involved both in system decision making and working with victims and offenders. Engagement of the community in affirming and maintaining community standards is central to the success of a more restorative approach within the criminal justice system. Greater community involvement in a restorative justice process is a powerful way both to break the cycles of crime and violence and to increase the connections among community members. The more connected with each other community members are, the more likely they will be to restrain impulses which would be disapproved by the community. Professionals within the system can facilitate the process of engaging the community to become a primary resource in responding to crime in a restorative framework. Expanded community involvement and opportunities for constructive collective action will result in less fear and isolation and a stronger sense of community. Building community support includes gaining community approval of new approaches within the criminal justice system and engaging the community as a key actor in the process of responding to crime. The success of a restorative approach is dependent upon community support and involvement and requires specific attention and resources allocated to those efforts.

6.8 Spirit of Community: Rights, Responsibilities & the Communitarian Agenda - 1993⁶¹

- This book has been heralded around the world as advancing the social movement for communitarian ideals, with the attendant implications of community-based justice and community problem-solving.
- Etzioni attempts to shift the moral agenda away from individualism and formal legal rights back to the community, away from "market-driven consumerism towards morally-driven, inter-personal relations".
- He presents a positive vision of communitarian politics more than an attack against liberalism and the all-powerful interventionist state.

⁶¹ Etzioni, A., *The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda*. New York: Crown Publishers, 1993 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

- Arguing for the current need for balance, he emphasizes responsibilities more than rights, the rebuilding of moral communities, and a decentralized pluralism of communities ("pluralism within unity").
 - Acknowledging that communities *may not have resources* and may be characterized by *power imbalances and local elitism of one sort or another*, Etzioni calls for a 'suasive' rather than 'coercive' community power, and for evaluation to monitor the extent to which the vision of the community is "*fully responsive to all the authentic needs of all members of the community*".
 - Certainly there are real concerns raised by this book, such as the danger of off-loading responsibilities onto resource-limited communities, but the ideas are clearly articulated and quite timely.
 - The arguments developed seem quite congruent with trends within Aboriginal society for more autonomy, more community-based solutions, and new strategies of healing and balance.
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6.9 Resolving Disputes Locally: Alternatives for Rural Alaska - 1992⁶²

Homogeneity of Community. Homogeneity of a community's population did not appear to be related to the ability of the organization to resolve disputes.

Community Support and Acceptance. Each organization has been continuously active in varying degrees, for a number of years. This continuity is tied to broad-based community support and acceptance. In Minto, every member of the village had the opportunity to assist in drafting village ordinances. Public participation in law-making has given the tribal court heightened credibility and visibility within the community. In Minto and Sitka, community support and awareness of the court's work serves to attract participants and to be a factor in their compliance with the courts' decisions. In a few instances, non-Native members of the community voluntarily used or cooperated with the tribal courts in the resolution of children's and family matters, and in civil regulatory cases. Community support is also key in Barrow, since PACT hears cases only when both disputants consent.

6.10 Building Community Support for Restorative Justice Principles and Strategies - ⁶³

In this article, Kay Pranis suggests steps that can be taken to *build public support for restorative justice programmes*.

- While grounded in her work in the State of Minnesota, the principles she suggests are universal.
- The potential of restorative practices to transform criminal justice can only be realized if those practices move from the periphery to the mainstream.
 - To accomplish this, it is necessary to build a broad base of support for restorative justice principles and practices.
 - Because restorative justice is grounded in community involvement, it is not possible to implement a comprehensive restorative system without *community ownership and support*.
- Efforts to promote and assist implementation of restorative justice have no explicit model to guide their development.
 - Though there is no single blueprint to describe the path for building community support, these efforts nevertheless need to be guided by a clear set of principles and informed through the identification of effective strategies.
 - The purpose of this paper is to specify
 - some guiding principles for building community support for restorative values,
 - to identify some promising strategies, and
 - to describe some actual experiences where these approaches were employed.
- Restorative justice is defined by several key principles around which community support can be built.

⁶² Alaska Judicial Council, Resolving Disputes Locally: Alternatives for Rural Alaska, August 1992, <http://www.aic.state.ak.us/Reports/rirframe.htm>

⁶³ Pranis Kay, Director of the Restorative Justice Program of Minnesota DOC, Building Community Support for Restorative Justice Principles and Strategies http://www.restorativejustice.org/rj3/Action/Tutorial.1/BuildingSupport_Pranis.html

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- Restorative justice is not a specific program or set of programs; it is a way of thinking about responding to the problem of crime, a set of values that guides decisions on policy, programs and practice.
- Restorative justice is based on the redefinition of crime as injury to the victim and community, rather than as effrontery to the power of the state.
- The primary purpose of justice in the restorative model is to repair the harm of the crime to whatever degree possible.
- Victims' involvement and perspective are essential to the processes of defining the harm of each crime and identifying how that harm might be repaired.
 - A comprehensive restorative response to crime engages the community as a resource for reconciliation of victims and offenders and as a resource for monitoring and enforcing community standards of behavior.
 - Restorative justice defies traditional 'liberal' and/or 'conservative' labels, and embraces values found in both perspectives.
- A restorative response to crime is a community-building response.
- **Guiding Principles:** The following principles should guide efforts to gain greater commitment to restorative justice values in the community:
 - ** Restorative justice should not be mandated in a top-down authoritarian process.*
 - The work of implementing the principles of restorative justice must be done at the local level and must involve all stakeholders.
 - ** There is no single road map or blueprint for building a restorative system; nor do we have answers to all the questions raised by the principles of restorative justice.*
 - The process of searching for answers should involve dialog with all who have an interest in the question.
 - ** The appropriate role of state, national or regional leadership is to articulate the vision, disseminate information, and provide support and technical assistance to jurisdictions attempting to evolve to a more restorative approach.*
 - State and national agencies can also carry out pilot programs to demonstrate application of the principles.
 - State and national governments are responsible for monitoring outcomes to insure fairness, equity and effectiveness of processes designed at the local level.
 - ** Special outreach efforts to victims groups are important because victims have historically been left out of the criminal justice process.*
 - Victims' groups have had to fight the system for nearly every gain they have achieved.
 - Consequently, many are skeptical that an initiative of an agency serving offenders can genuinely have victim interests at its center.
 - An unwavering commitment to involve victims despite obstacles that may be encountered is critical to insure that the outcomes are genuinely restorative.
 - ** A clear understanding by practitioners and stakeholders, including the community, of the philosophical underpinnings of the approach is essential to ensure that changes are substantive and not merely cosmetic.*
 - Program implementation without an explicit understanding of underlying values often leads to undesirable results.
 - ** The process of implementing restorative approaches must model the principles themselves, e.g.,: victims must have a voice, the community must be involved.*
 - In fact, every citizen should be given opportunities to contribute to their community's vision of restorative justice.
 - ** The community contains natural allies in fields outside criminal justice who can bring depth and credibility to the advocacy of a restorative approach.*
 - ** Energy is most effectively expended working with those who are actively interested in trying restorative approaches.*
 - Seeds sown in fertile soil produce the most impressive results which, by example, will convince skeptics more readily than direct persuasion.
 - ** A feedback loop between stakeholders and leadership is very important.*
 - ** All persons involved must be prepared to make mistakes.*
- Thus the work of promoting and supporting the use of restorative practices in criminal justice must be carried out across multiple organizational systems and levels.

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- In particular, since the lead agency in charge efforts will have direct authority over only a small percentage of those who shape criminal justice practice, progress toward a restorative approach requires engaging voluntary participation and interest.
- Beyond the traditional 'players' (corrections, police, judges, prosecutors, and defense lawyers), efforts to promote restorative justice should involve all levels of government (state, county, city) and multiple sectors of the community (schools, social services, civic organizations, faith communities).
- Moreover, besides those community entities whose missions and interests are logically part of, or related to, the justice process, it is also essential to involve a diverse variety of other organizations from all cultural perspectives, with the objective of achieving proportional representation from cultural subgroups and ethnic communities.
- **Strategies**
 - *Education about restorative justice is the primary strategy.*
 - Building community support requires building the capacity among all peoples at all levels to think about criminal justice issues from a restorative perspective.
 - *Public speaking and distribution of written materials are key elements for this public education.*
 - *Succinct one-page informational pieces are essential, with more lengthy written materials available for those interested in more detail.*
 - *Radio interviews are an effective way to reach a broad audience and are fairly accessible in most communities. Local cable access TV shows can provide opportunities to reach some people.*
 - *Contacts with local press can sometimes result in coverage of a major public speaking event, thus reaching a much broader audience.*
 - It is very important to talk about the conceptual framework, but *stories of real experiences are also vital to the process of education.*
 - Look for stories that relate to local personalities or local conditions.
 - Especially effective are stories that show (more than the retributive system would have) a restorative resolution that involved the community and victims.
 - It is also useful to have stories that prove the failure of the retributive system.
 - With small audiences contrasting stories can be presented, with the audience asked to identify the differences in the two cases.
 - Having victims tell their own stories can be very powerful in communicating key messages about dissatisfaction with the current system or satisfaction with a restorative process.
 - *Opportunities to speak about restorative justice in the community may come from churches, civic groups, college or high school classes, violence prevention groups or policy makers.*
 - *Secondary strategies include*
 - linking people with common interests and complementary strengths and
 - *engaging community leaders in discussions about creating safe communities.*
 - Once the community's interest in the conceptual framework is engaged, it becomes very important to be prepared to provide technical support for developing restorative practices within the community.
 - *Strategies for technical support include*
 - *providing responses to proposals,*
 - *identifying expert resources for additional opinions,*
 - *providing forums for collegial interaction and*
 - *maintenance of a resource library.*
 - It is also important to be an enthusiastic 'cheerleader' for the process to maintain volunteers' enthusiasm and energy.
 - Leadership toward a restorative vision in response to crime can come from a variety of directions.
 - In Polk County (Des Moines), Iowa, and Travis County (Austin), Texas, the prosecutor's office is providing key leadership.
 - At the national level the National Organization for Victim Assistance has produced a paper describing a comprehensive restorative system.

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Community Justice - Community

- In Minnesota and Vermont the State Department of Corrections has initiated movement toward a restorative system.
- In Oregon, Florida and Pennsylvania some county corrections units have started the process.
- In other communities around the nation private community groups have been working for years to create a more restorative process through programs like victim offender mediation.
- Putting the principles and strategies to work to build community support requires several basic community organizing skills:
 - *Finding your natural allies in the community:*
 - Listen to peoples' interests, and find out how restorative justice fits with their interests.
 - Using language that 'connects' with your audiences, talk to people who are interested in violence prevention, underlying causes of crime, social justice, building stronger neighborhoods, regaining a sense of community, children's issues, etc.
 - Among them you are likely to find some who 'resonate' with restorative justice values and see in restorative justice some potential for addressing their interests.
 - Educators will care about the connections between restorative justice and school discipline problems.
 - Law enforcement officials will care about the natural fit between community based policing and restorative justice.
 - Business people will understand restorative justice in the language of total quality management or of effective government and fiscal issues.
 - Engage people in a discussion of their own worries, fears and concerns, and identify (where possible) how a restorative approach provides a potential solution to their problems.
 - For example, the Minnesota League of Women Voters, in conducting a study on violence, identified the restorative justice approach as part of the solution to the problem of violence. City planners involved in a major effort by the City of St. Paul to develop a long range plan for public safety found restorative justice to be a useful framework. Educators have identified the framework as useful in approaching school discipline procedures.
 - ** Avoiding becoming identified with a particular political label:*
 - Find community allies on both ends of the political spectrum.
 - Some conservative Christian groups actively work for restorative justice.
 - Restorative justice is consistent with fiscal conservatism, the call for a reduced role for government and an emphasis on personal accountability.
 - On the other hand restorative justice's reduced emphasis on physical punishment and call for community accountability are consistent with traditional liberal values.
 - Seek out respected leaders from divergent points of view as key supporters of restorative justice.
 - ** Listening to those who disagree:*
 - The entire community is a stakeholder in the issue of community safety so everyone deserves to be respectfully heard while deciding the direction of the system.
 - Listen carefully so that you can understand the objections.
 - Develop an explanation responding to the objection to use when speaking to other groups.
 - Acknowledge the need to have dialog and explore further on issues for which you don't have answers.
 - Be prepared to learn from the objections raised.
 - This is a model in formation and should be responsive to valid objections.
 - Probe beneath surface objections to identify underlying issues that may be more readily resolved than is initially apparent.
 - For example, what may seem a desire for retribution is often actually a concern for public safety.

Community Justice - Community

- A restorative approach cannot deliver retribution but can potentially deliver at least as much public safety as the current system.
- ** Putting victims first:*
 - If those raising objections are victims' groups or advocates, then do all of the above repeatedly.
 - Be willing to travel to engage them in dialog on their own home territory ... make a point of offering to come to hear their concerns.
 - In order to be sure you understand them, ask them to listen as you re-articulate their concerns in your own words.
 - Ask a sympathetic victim supporter to help you understand the issues being raised.
 - Seek victim ideas for any proposed change.
 - Learn about victim issues and the experience of victimization.
 - Listen to victim stories. Use victim stories in your public speaking.
 - In written materials, overheads, etc. list items related to victims before those related to offenders.
- ** Balancing focus with flexibility:*
 - It is critical to be clear and consistent about the values and vision but there are multiple ways to achieve the vision.
 - Be prepared to modify your approach if it is not working and other more promising avenues appear.
 - Success may be more dependent on responses to opportunity than on detailed long range action plans.
- ** Monitoring your own assumptions and stereotypes:*
 - Promoting a new paradigm requires breaking out of your own paradigms in many ways.
 - Unexpected sources of support and opportunities may be missed if you don't become aware of your own assumptions about others and consciously put those aside.

Building Support for Restorative Justice

http://www.restorativejustice.org/rj3/Action/Tutorial.1/building_support_for_restorative.htm

One of the most significant challenges for restorative justice advocates is developing public understanding. Community support is important for any criminal justice programme, but especially for restorative justice programmes with their emphasis on community participation. This tutorial will help you build a realistic plan for building community support for your restorative efforts. It proceeds in a step-by-step fashion to help you think through your goals, identify obstacles, enlist allies, and take specific action steps. It is based on Kay Pranis' paper "[Building Community Support for Restorative Justice: Principles and Strategies](#)" which you can find in the Library.

[Lesson 1: Set your goal](#)

[Lesson 2: Face challenges and obstacles](#)

[Lesson 3: Build on your assets](#)

[Lesson 4: Decide on basic strategies](#)

[Lesson 5: Set action steps](#)

[Lesson 6: Prepare a draft plan](#)

Tutorial lessons:

Introduction

[1: Set your goal](#)

[2: Face challenges and obstacles](#)

[3: Build on your assets](#)

[4: Decide on basic strategies](#)

[5: Set action steps](#)

[6: Prepare a draft plan](#)

7 Relevant Documents, Studies and Practices – International

7.1 Developing Community Driven RJ Programs -2001⁶⁴

Community driven RJ programs are a powerful model but like other programs require leadership, coordination, and maintenance of relationships with: community, partners, and volunteers. Government assistance is needed in the form of funding and legislation, however there is sometimes the fear that this assistance comes with unwanted regulation. This paper is an assessment of community RJ programs through the eyes of a police officer who facilitated the development of two such community driven programs with geographic and demographic differences.

Who will take the leading role? In cases involving criminal offenders, the police would be the most obvious choice. It was the police who spear headed the two community programs mentioned in this paper. However, without additional resources, the police could not take on the all encompassing role of coordinator, facilitator, and evaluator. A community driven RJ program could take on the challenge.

RJ leaders in a community must have a clear understanding and passion of RJ principles. For an officer to provided impetus s/he must be respected within the police culture as well as the community. There is a need to know community leaders with both positional and personal power in forming a network of influence. It is wise to identify young officers in a department who will champion RJ, this encourages buy-in by peers and sustains growth of the program. Management can assist in creating an RJ culture through rewards, cadet boards, and orientation that hinge upon RJ participation. At our department a new employee is required to attend the Nanaimo John Howard Society and discuss RJ with the coordinator as part of an orientation package.

In a small northern community with an urban and rural population of about 25,000 we advertised for a community RJ coordinator. A qualified person came forward who started training volunteer facilitators. The coordinator was located away from the police office because of possible perception. Soon, it was determined that it was more effective having her on site with access to both the files and the investigating police officers. A trust developed, referrals went up, and a community perception problem was not evident in the evaluations.

In Nanaimo, a larger urban area with a population of about 95,000 people, a creative approach was needed to promote a community driven RJ model. An employee of the Nanaimo Regional John Howard Society (NRJHS) advised that minor crimes that police recommended for diversion were often not dealt with, thus no consequences to the offender and definitely no closure for the alleged victim. Since NRJHS was coordinating several alternate programs funded by the Attorney General of the province, they seemed a natural fit to coordinate a community driven RJ program. A letter of understanding was drafted between the Society and the Nanaimo RCMP outlining their commitment to explore RJ. The benefits of having an established non-profit organization coordinate RJ included: a ready pool of community volunteers, a working relationship with volunteers, an established network in the community, and a blanket insurance coverage for volunteers.

Community coordinators share a large load of educating the community and police officers on the RJ philosophy and local procedure. In hindsight, a one day seminar/workshop format involving RJ partners and community would have been a good marketing strategy with impact. Documents were created, procedures were mandated, and referral protocols established. Facilitators require training and the process promoted by the RCMP in Canada is the Community Justice Forum (CJF) that was developed in consultation with Transformative Justice Australia (TJA). It is both convenient and cost effective to have a trainer on site.

In order to maintain relationships within the community RJ information needs to be shared: through the media, a web page, public presentations, information pamphlets, and newsletter. Evaluations need to be completed in order to assess any program. Our RJ program has been identified to pilot a software called CJFAST. This program records data that includes evaluation results. This data is researched and feedback is

⁶⁴ Randy Munro, Staff Sergeant, Royal Canadian Mounted Police, British Columbia, Canada CANADIAN EXPERIENCE: Developing Community Driven RJ Programs Restorative and Community Justice Inspiring the Future An International Conference March 28 – 31, 2001 Winchester, England <http://www.law.soton.ac.uk/bsln/rj/rjsummu.htm>

provided on our successes and shortfalls. The last report spurred us to create information sheets for victims/offenders.

Partners can be prosecutors, defence counsel, city officials, business community, service clubs, schools, churches, and provincial/federal government representatives. There can never be enough networking to promote RJ. In our case, this networking provides feedback, education, funding, and identifies future volunteer resources. Volunteers must be informed, recognized for their efforts, participate in regular facilitator meetings, and receive valuable feedback.

Our experience in Canada has been that RJ programs have not been funded adequately by government as core programs. Canadian parliament has tabled new youth criminal legislation that will mandate more discretion at all levels of the criminal justice process, including the court. This legislation will encourage government funding that will come with some form of regulation. A minimal standard would regulate consistency and quality in areas like: training, just process, job descriptions, and proper evaluation.

Community driven RJ programs mirror many other models of RJ. Some differences include: police participate but do not facilitate, increase to the RJ circle of influence that includes the volunteers spreading the message, impact on politicians as the volunteers and community are the electorate, community can make RJ a reality when there are limited police resources, and RJ is sustainable when key people leave because the program is community not personality driven. It does require high maintenance: to screen and nurture volunteers, training, and monitoring. There is some government, police, and community resistance, as in other programs, due to a difficulty in grasping the concept. Roles must be understood, comfort zones established, and barriers removed with a unified community delivery format. Communication is imperative. Support from the top is necessary for example our RCMP Commissioner identified RJ as a top priority in his Directional statement and instructed that youth and alternative justice be identified in our organization's strategic framework.

The Community Justice Forum (CJF) process is the RJ model of choice for many communities and the RCMP in Canada. These programs boast the same high successes as other models already in place in our ever shrinking global community. The community driven model has brought our officers even closer to community. Government involvement is inevitable in Canada, especially with the tabling of new youth criminal legislation. This will follow with some form of regulation of RJ, hopefully, it will not effect current successful programs. The important point is that RJ is becoming grounded in several environments like schools, the legal system, and corrections. Collaboration, as we see at this International Conference, will move RJ forward and a community

7.2 Keeping the Community Involvement in Restorative Justice -2000⁶⁵

- Evans, in this paper, writes about restorative justice with a concern that it could become merely another program in the penal apparatus.
 - o He argues that maintaining the grassroots orientation of restorative justice can prevent that and can keep core beliefs and values vitally connected to restorative program efforts.
 - o Specifically, developing and keeping community involvement in the three phases of the criminal justice process – pre-charge, pre-sentence, and post-sentence – can cultivate the grassroots orientation of restorative justice.
- Let me begin by saying how pleased I am to be in Vienna and to be part of this panel discussing what I believe is a very important approach to the efforts to create healthy communities and foster individual well-being as well as a means to secure justice in a more satisfying way.

⁶⁵ Evans, Donald G. (2000). Keeping the community involvement in restorative justice. Paper presented at the Ancillary Meetings of the Tenth United Nations Congress on the Prevention of Crime and Treatment of Offenders. Vienna, Austria, 10-17 April 2000, http://www.restorativejustice.org/rj3/UNBasicPrinciples/AncillaryMeetings/Papers/RJ_UN_DEvans.htm

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- The main purpose of our gathering together is to share ideas, questions and possible solutions to the challenges we are facing in dealing with crime and order problems in our communities.
- Over the last number of years there has been an expansion in the use of restorative approaches to meet these challenges and we are noticing that these programs are emerging both outside and inside the criminal justice system.
- In my remarks I will talk about the use of restorative approaches in Canada at three specific points in the criminal justice system: pre-charge, pre-sentence and post-sentence.
- A key point that I want to make is to establish the need to get and keep the community involved in these approaches.
 - A danger, as I see it, is that these approaches will be colonized to meet the needs of the penal apparatus and become just another program to manage resource allocation problems.
 - This can be avoided by keeping the grassroots orientation of restorative justice front and center.
 - It is also a means to keep the values and beliefs that underlie restorative justice vital and connected to the program efforts.

Let me begin by a brief description of the philosophy of restorative justice. Then a quick overview of selected program approaches in use in Canada at various levels of the penal system and finally, close with a word about possible hazards and a caution regarding the danger of loss of community involvement as restorative approaches become mainstream and incorporated into the penal apparatus.

1. Restorative Justice: A brief description.

Restorative justice is a way of thinking about harm and conflict and a way of acting on that thinking. It challenges us as a community to examine how we respond to and resolve conflict and the results of harmful behavior. Restorative justice comes in various forms depending on the circumstances of the event and seeks to intervene at appropriate points in the process, for example either at the pre-charge or pre-sentence stage and seeks to find a resolution that doesn't invoke the full force of the criminal justice system.

There are basic principles that underlie and inform restorative justice approaches. Briefly these elements include a focus on holding the offending party accountable, providing means to repair the harm done, providing opportunities for the reintegration of the individual into the community, involving the victim and working towards the victim's healing.

Restorative justice is a way of settling disputes. The victims, their families and friends, and the broader community are viewed as the recipients of the harm caused by the offender's behavior. Restorative approaches attempt to repair the harm done by direct contact between victim and offender rather than a resolution conducted by the state.

The process of reparation involves bringing the offender, victim and representatives of the community together to problem solve and look for outcomes that are satisfying to all parties. It is the intent that this process of mediation would negotiate a settlement and initiate a process of understanding that would culminate in forgiveness and healing for the offended and the offender.

Restorative justice practices that most people are familiar with are victim-offender reconciliation meetings and more recently the development of conferencing and sentencing circles. Key to all these approaches is the involvement of the victim and the community. Thus we see the participation of victims and community participating in the administration of justice and also the management of offenders in the community. To summarize my remarks to this point, most restorative programs adhere to three basic principles:

- Crime is a violation of a relationship among victims, offenders and the community.
- Responses to crime should encourage the active involvement of victim, offender and community.
- A consensus approach to justice is the most effective response to crime.

Let me turn now to a brief overview of some examples of restorative approaches in Canada.

2. Restorative approaches at three critical points in the response to offending behavior.

The first critical point is at the pre-charge stage, that is when a harm has been noticed and an offender apprehended and the victim identified. A number of police services in Canada are using the conferencing model of restorative justice to manage youthful offenders who have committed property offences or behavior

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incidents in schools. The Edmonton Police Service creation of a Community Conferencing Association is one example of the use of this model. The CCA has focused on training facilitators, creating relationships with schools and conducting conferences. Community conferencing provides an alternative response to harmful behavior. Using the concept of the circle, participants in the conference share their experiences about what happened during the incident and discuss what can or should happen in the future. The process requires that offenders accept responsibility for their involvement in the incident. Participation of offenders and victims is voluntary. There are usually three stages in the process.

First, participants discuss how they have been affected by the incident and through the work of the facilitator come to an understanding of the impact of the incident and the harm caused. The offender is given an opportunity to respond.

Secondly, participants seek to determine how the harm should be mitigated or repaired. This is an opportunity to talk about the responsibility of the offender to make things right as well as an opportunity for the rest of the community who have been affected might assist in the offenders reintegration. If there is an agreement, a written statement is developed with clear arrangements for follow-up that will ensure compliance.

The final stage is the beginning of the reintegration process. It is a time for socializing that allows for additional gestures of apologies and support. The process helps bring closure for victims and gives offenders a chance to be accountable for their actions.

The CCA may receive referrals from various sources including the community, police and the courts. The organizers of this approach hope to be able to deal with minor offences such as bullying or harassment in schools that traditionally have received little attention from the justice system. CCA hopes to resolve underlying problems while they are still relatively minor and before they escalate to more serious incidents. This approach seeks to have offenders recognize how their actions affect others and how with the assistance of the community they can behave more appropriately and positively.

Another type of program initiative uses restorative principles to provide an opportunity for offenders to be diverted from the court proceedings. This usually occurs after a charge has been laid.

A local agency, Operation Springboard in Toronto, Canada is using restorative principles in the design and delivery of a diversion program connected to one of the courts in that city. This effort is intended to assist the Court in responsibly increasing the number of non-violent offenders approved for diversion and to prevent their further involvement in criminal activity.

As an alternative to proceeding with criminal charges through formal court proceedings the program provides a community-based option for adult, non-violent offenders, usually first time offenders. If the offender chooses to participate in the program by admitting responsibility, they are expected to satisfy specific requirements prior to the charge being withdrawn.

This program focuses on holding offenders accountable for their behavior and provides them opportunities to make amends for the harm done to the victim and the community. The staff of the agency receives referrals of appropriate offenders from the prosecutor and is responsible for explaining the diversion implications and the offender's rights to seek legal counsel. If the offender agrees, meaningful and accountable conditions are determined and closely monitored. The staff reports to the court prior to the remand date on the offender's progress. If the progress is satisfactory and the agreement completed the charge is withdrawn otherwise the case proceeds to trial.

Agreed upon conditions for diversion may require the completion of community service, donation to a charitable organization, restitution to the victim, and or an apology to the victim. Referrals to specific services for identified needs of the offender that contributed to the offence such as substance abuse, unemployment or lack of literacy skills are made available.

This diversion program attempts to hold the offender responsible and to provide a meaningful experience for victims where applicable.

Another critical point in the offender's situation is the sentencing after a conviction has been registered. Another local agency in Winnipeg, Canada developed the Restorative Resolutions project that seeks to involve the offender, the victim and the community in repairing the harm that the offender has caused. Offenders are eligible to participate in the program if they:

- Plead guilty.
- Face a prison sentence.
- Are motivated to take responsibility for the harm done.

This project considers both property offences and crimes of a personal nature. Excluded from the project are offenders who have committed domestic assaults, sexual assaults, drug trafficking or gang related incidents. When the offender is accepted in the project a community based plan is developed to assist him or her to deal with the behavior that has brought him or her into conflict with the law. This sentencing plan proposes a specific course of action for the offender to follow. When the plan is finished the defense lawyer introduces it to the court at the sentencing stage. If the court accepts the plan the Restorative Resolutions project is responsible for supervising the offender in the community. An unacceptable plan leads to a sentence of imprisonment.

A key element of this plan is the involvement of the victim. Victims are contacted and given an opportunity to participate in the development of the sentencing plan through a face-to-face meeting with the offender and/or through a victim impact statement. This project is seeking to use a restorative approach to the provision of pre-sentence information to the court. The effort to bring victims into the sentencing process and to have the offender plan how he will repay or make right the wrong done is an attempt to hold the offender accountable and to meet the needs of the victim.

The last example I want to discuss is the work being done by the Mennonite Central Committee and the Toronto Community Chaplaincy of the Correctional Services of Canada. The circle of support and accountability has been established to work with sex offenders being released from Federal prisons at warrant expiry. The circle involves community volunteers who form a support group (circle) for high profile or potentially high profile sex offenders who are re-entering the community after completion of their sentence. Offenders are selected on the basis of the following guidelines:

- A sex offender serving sentence in a Federal prison
- Will likely be detained at sentence expiry, possibly through the use of civil commitment procedures.
- Are potentially high profile upon release
- May need extra assistance in reestablishing in the community and have limited or no-existent support in the community
- Are prepared to have the victim's perspective included as part of their reintegration plan
- Accept the limits of accountability imposed by the support circle
- Commit to learning to live a pro-social lifestyle and join the circle voluntarily.

The circle assists the offender to return to the community by providing intensive, caring, practical support. The circle offers help in mediating between police, media, the larger community and the offender. The relationship between the released offender and the circle includes a commitment to act responsibly and to follow a relapse prevention plan agreed upon by the members of the circle. The circle lasts as long as the risks to the community and the offender are assessed as medium to high risk of re-offending.

The general techniques and processes used in conferencing and sentencing circles are employed. This approach involves a faith community in an exercise of what the innovators call "radical Christian hospitality" by which they mean acknowledging the expression of the healing power of God by living as a risking, reconciling community in the world.

This is a promising approach in working with the new "lepers" of modern society and there are early indications that the circles of support are providing the assistance needed and is lowering the risk to the community of re-offending by this selected group of offenders.

3. Community and victim involvement

In this quick overview of some restorative approaches to correctional intervention I wish to draw attention to two specific points. First is the high involvement of non-governmental agencies in the delivery of these

programs. Either the voluntary sector or faith-communities are carrying out the majority of the restorative justice initiatives in Canada. This connection to the local community is the strength of these approaches. These groups are better situated to mobilize community support than are the traditional criminal justice agencies.

The second point I would like to make is to draw attention to the fact all of the programs discussed stress the involvement of victims. A program that purports to be restorative and does not take victims seriously or give them a voice is flawed and doomed to fail as a restorative activity.

In the concluding section of my presentation I want to raise some issues that are emerging as restorative justice becomes more widely accepted.

4. Issues emerging for a restorative approach

The first issue that I see is the need for more definition of the scope and extent of restorative justice. For me restorative justice must become more than just another option or alternative to the traditional criminal justice system. If we are to avoid colonization by the traditional system to meet their resource and population management needs we will have to involve ourselves in a fuller definition that covers more than minor offences or diversionary programs. As one of my examples demonstrates we are capable of working with restorative principles with higher risk offenders. In United States work is being done on restorative efforts with violent offenders and with the victims of homicide.

The second issue facing restorative efforts relates to the need to keep a grassroots, community base to the approaches. As the principles and programs move deeper into the penal system I fear that it will be a gloss on the retributive nature of most penal systems and not an alternative paradigm for dealing with law-breaking and harmful behavior in a community context.

Finally, as our societies become more diverse we will have to reach out and explore the concepts of restorative justice in other cultures and faith communities. We have all ready learned a great deal in Canada from our dialogues with our First Nations people and their approach to harmful behavior. We owe them a deep gratitude for helping us understand the concepts embodied in circles. The same can be said of the Maori of New Zealand who have done so much to assist our understanding of conferencing. The peacemaker concepts of the American Native are also an influence on the development of restorative justice. But we need to continue this dialogue and reach beyond to other faiths and cultures if we are to fully realize the promise of restorative justice. We owe it to our communities and to our children and grandchildren to try so that the level of crime in our communities goes down without sacrificing justice.

7.3 Democracy, Community And Problem Solving -1999⁶⁶

Democracy Decayed

Indonesia, the world's fourth largest state, became a democracy this year, to become the most recent of a community of democratic states that numbered only 8 in 1850, 19 in 1914, 28 in 1981 and 53 in 1995 (Mann, 1993: 766-7; LeDuc, Niemi and Norris, 1996: 9). In the historical period when representative democracy is sweeping away one dictatorship after another, democracy is becoming more shallow in its meaning for human lives. The lived experience of modern democracy is alienation. The feeling is that elites run things, that we do not have a say in any meaningful sense.

It is certainly a poll-driven democracy, and polls are admittedly a kind of safeguard against tyranny. However, a poll-driven democracy is also a tyranny of the unreflective median voter. We see this tyranny vividly with criminal justice. Crime is one of the insecurities of swinging voters. In an unreflective democracy where the political imagination is limited to bigger doses of punishment as the cure, the swinging voters say they want

⁶⁶ John Braithwaite The Australian National University, Democracy, Community And Problem Solving http://www.realjustice.org/Pages/vt99papers/vt_brai.html

longer sentences and they defect from parties that come under attack in the mass media for being soft on crime.

Such a democracy is impoverished. What our experience with restorative justice has taught us is that there is a rich diversity of things that citizens want out of the criminal justice process that they only come to grasp through serious deliberative engagement with it. Listening to the arguments and the experiences of others and then reflecting on their needs and aspirations for decent outcomes.

But of course this malaise of democracy reduced to the politics of the opinion poll, television brab and tabloid beat-up is much wider. It results from the density of governmental decisions in complex societies and the density of people who would like to have a say. In such a world, to aspire to much more than the democracy of the ballot-box seems romantic. There are just too many decisions and too many people for participatory democracy to be feasible. Besides, few of us want to spend our lives in the endless meetings it would require. The expanding impracticability of all affected citizens participating in important decisions that affect their lives has reinforced the dominant view that representative democracy is all that is feasible. Since the defeat of the participatory town meeting aspirations of the anti-federalists by more pragmatic federalists such as Madison in the eighteenth century constitutional debates, participatory democracy has come to be seen as progressively more utopian. Indeed it is true that even in the eighteenth century the anti-federalists longed nostalgically for a participatory democracy that could only work in a village society and not in Philadelphia or Boston. The version of democracy Madison favoured had checks and balances against tyranny that made it more sustainable. Americans should be thankful the federalists won the debate. At the same time, if Madison or Jefferson returned to America today they would be disappointed at how remote government is from the people, at how much power governments, and worse, democratically unaccountable corporations, exercise in ways that educated citizens dimly understand. The utopianism of the participatory democracy they defeated has been used by generations of elected politicians to erode the sovereignty of the people in favor of the sovereignty of executive government. The road and the weapons system are built by experts remote from elected officials, let alone from the citizens who live by the road and are protected by the weapons. How could it be otherwise?

Democracy Renewed

Progressively, the distancing of the people from the scale of modern state and corporate governance is producing a backlash. Contemporary Madisons and Jeffersons who see direct democracy as worse than an impossible dream nevertheless keep faith with the hope that a new amalgam of citizen participation can be forged. These are folk who participate in social movements like the social movement for restorative justice. My argument is that these citizens are indeed at the frontier of a new Madisonianism, a civic republicanism, for a complex world.

Native American "republicanism" had an influence on American revolutionary republicanism. The freedom of the Indian was part of the imagery of the Native American garb at the Boston tea party. Some of the framers of the US constitution seem to have been admirers of the Iroquois confederacy, leading Iris Young (1997) to invoke Homi Bhabha's notion of hybridity to suggest America may be a "hybrid democracy". We see the symbol of the Iroquois federalism, the eagle clasping bundled arrows, on the US dollar note. What I see as the hybrid civic republicanism of the restorative justice movement equally draws upon the institutional wisdom of Native Americans, and Polynesian Americans as well, though revealed more influentially through New Zealand Maori than Hawaiian experience. Western ADR (alternative dispute resolution) models invented in the 1970s were going nowhere slowly during the 80s until they learnt some crucial lessons from indigenous justice in the 1990s. In the criminal justice context, there were three most crucial lessons.

The first was that dyadic mediation between a victim and an offender is an impoverished formula for restorative justice compared with bringing into a circle a multiplicity of people who are affected in different ways, but particularly people who love and want to support those affected as victims and offenders. Western feminist critiques of power-imbalance in ADR, for example, have more force when applied to a meeting of a man and a woman, a man and a child, or when applied to an adversarial encounter between a teenage rape victim and a cross-examining lawyer. They still have force, but less so, when applied to a healing circle where both victims and offenders are assured of support from both men and women, adults and children who stand with them.

The second lesson from indigenous justice was, in the words of Ada Melton (1995) that it is better to put the problem rather than the person in the centre of the circle. There is a connection of the second insight with the first. This is the Maori view that it is barbaric to allow an offender or a victim to stand alone in the dock. While the shame of letting one's loved ones down can be healthy and readily transcended by love and forgiveness from them, the shame of exposure in the dock, individualized guilt, and the stigma which is a formal objective of Western punishment can eat away at a person's self.

The third crucial insight was that material reparation was less important than symbolic or emotional reparation (see also Retzinger and Scheff, 1996). Remorse and apology, as recent New Zealand evidence suggests, is more predictive of reduced reoffending following restorative justice conferences than material compensation (Maxwell, 1999). And it is often more important to victims (Sherman et al., 1998). In some contexts it can even make sense for the victim and the community to make a gift to the offender, as among the Crow people (Austin, 1984: 36). On Java I was told of a village where a boy was caught stealing and dealt with according to principles of *musaywarah* - decision by friendly cooperation and deliberation. The chief of the village summarized the feeling of the village meeting: "We should be ashamed because one from our village should be so poor as to steal. We should be ashamed as a village". Their solution was to give the offender a bag of rice.

With this rediscovered institutional wisdom, the evidence is now strong that we can offer restorative criminal justice rituals that on average citizens find more satisfying, fair and more respectful of rights than court. There are lively and important debates about differences between various kinds of conferences and circles that defines a research agenda for we evaluation scholars. However, I suspect there are more important things that are shared in common and these include learning from the above three insights from indigenous justice.

The more abstract lesson is that for most participants circles and conferences are democratically satisfying (and indeed victim-offender mediation, though perhaps somewhat less so (McCold and Wachtel, 1998)). The practical lesson is that victims and other participants can be readily persuaded to attend so long as implementation failures are solved to make this convenient. It follows that conferences and circles can salvage some not insignificant participatory democracy in the twenty-first century. Moreover, we may be able to expand the application of conferences beyond criminal offending by juveniles and adults, beyond the care and protection of children, beyond bullying in schools, beyond business regulatory domains such as nursing home inspections (Braithwaite, 1999), to other problems that affect peoples' lives directly enough for them to want to participate. Candidates seem to me unemployment, homelessness and truancy/dropout/educational failure.

Political scientists may say that such concerns do not go to the heartland of the democratic process. True. But how can citizens hack a path to the heartland of the democracy if the democracy has no strategy for teaching them how to be democratic citizens? Circles and conferences about matters that ordinary people care about in their lived experience can teach them. If all students experience and witness serious acts of bullying at school and care about this, then before they reach adulthood all can have the experience of participation in circle solving of a difficult problem on which there are multiple perspectives.

And democracy is something that must be taught. We are not born democratic. We are born demanding and inconsiderate, disgruntled whiners, rather than born listeners. We must learn to listen, to be free and caring, through deliberation that sculpts responsible citizenship from common clay (Barber, 1992).

Punitive criminal justice, like the accountability mechanisms of the contemporary state more generally, teach us not to be democratic, not to be citizens. This is because of their passive model of responsibility (Bovens, 1998) Passive responsibility occurs when we hold someone responsible for what they have done in the past. The President is censured for his sexual misconduct, the Treasury secretary is fired for failing to prune the deficit, Colonel Gadaffi's child is killed in a bombing raid on his home to teach his father that it is wrong to support terrorism.

Circles and conferences, in contrast, teach active responsibility. Active responsibility means taking responsibility. In a healing circle, most citizens in the circle are not passively responsible for any wrongdoing; they are certainly not held responsible for criminal wrongdoing. Yet the hope so often realized is that they will take active responsibility for solving the problem. This is part of the ambition of putting the problem rather than the person in the center of the circle. In the most moving conferences, participants take active responsibility for confronting structural problems like racism in a community (see the Country Womens' Association case study on the Real Justice web site: realjustice.org), sexual exploitation and domination of girls

by boys in a school (Braithwaite and Daly, 1994) even a Prime Minister taking responsibility for restructuring the regulation of the Australian insurance industry (Braithwaite, 1999). But mostly the active responsibility is more banal — the uncle who takes responsibility for ensuring that a car is left in the garage on Saturday nights to prevent a recurrence of drunk driving, the aunt who offers a home to a child abused by her parents, and yes, the burglary victim who decides to install an alarm system.

The lesson that democracy requires active responsibility is being learnt in the banal and personal cases just as it is in the less common cases that grapple with structural change. The outputs we hope for are not only solving the problem but also building community and building democracy or at least the competence to be democratic.

To rebuild a democracy of which Madison and Jefferson would be proud, we need to do more than motivate people to participate in circles that address problems of living that directly affect their personal relationships. The extra step to democratic citizenship is taken when the citizen moves from participating in a restorative justice conference to being active in some way in the social movement for restorative justice. The extra step is taken when a citizen moves from supporting the residents of a nursing home where he has a relative in an exit conference following an inspection, to being an aged care advocate. It is taken when a young woman who learns in a whole school anti-bullying program how to confront bullying and then applies those skills to confront corporate bullies who destroy forests on which our wildlife depends.

Of course restorative justice experiences will never be the principal way that social movement activists acquire the consciences and skills to be actively responsible. On the other hand, when we broaden our conception of restorative justice to include the learning of restorative practices in everyday life (Wachtel, 1999), it may be that much of the learning to be actively responsible has always arisen from restorative everyday practices in families, workplaces and peer groups.

But the approach to the revitalization of the civic republic I now articulate does not depend on NGO activism being nurtured by restorative practices. This approach has four components:

1. Institutionalize circles/conferences to enable all affected citizens to participate in solving problems that directly affect them in important ways (crime, the safety and wellbeing of children they love, of aged and infirm they love, unemployment, homelessness).
2. Where appropriate, facilitate the personal becoming political in such cases. Bring in advocacy groups (e.g. feminist shelter workers) who can define options for structural change, possibilities for transforming personal troubles into public issues.
3. Foster social movement politics as vehicles for active responsibility in domains where we are not necessarily directly personally affected. Abuse of power can be checked without everyone being actively responsible for every issue that concerns them. It requires that *some* citizens be actively responsible around every issue of central democratic concern. It helps when everyone is concerned about refugees in Kosovo or Ethiopia; but it helps more when a few have enough concern to be genuinely and effectively politically active on the issue.
4. In a civic republic where active responsibility is invigorated by points 1-3, more of the most disenfranchised citizens might be motivated to take the responsibility to vote, thus revitalizing the representative democracy.

More briefly, this republican program is for restorative problem-solving which teaches active responsibility, thereby motivating the making of the personal political, thereby motivating social movement politics and grass-roots engagement with the representative democracy. For restorative justice to reach for these democratic ambitions, its advocates must advance certain values. To these I now turn.

Restorative Justice Values

If restorative justice means no more than a process for empowering through dialogue all the stakeholders affected by a problem, then it will be a rather limited force for reinvigorating democracy. It seems that the social movement for restorative justice needs to valorize active responsibility in civil society by pointing to the limitations of statist passive responsibility (Braithwaite and Roche, forthcoming). It needs to valorize healing

more than hurting following a wrong, restoration (especially of relationships) over retribution. Most fundamentally, it should valorize democracy, especially core democratic values such as all voices being heard and treated with equal respect.

Yet if democracy is the most fundamental value, it brings a paradox. What if the result of all voices being heard is that none of them want to take active responsibility, none want to heal, most want the state to invoke passive responsibility through brutal and exclusionary punishment. While this happens much less than we all expected, it does happen. When it does, if democracy is really our fundamental value, then we will want the will of the circle to prevail and for the matter to be handed back to the state for the exaction of what its legal system finds to be just punishment. The paradox of democracy here is really a familiar one: if the electorate votes in a government with an anti-democratic agenda, democrats who voted against them should not seek to overthrow them by undemocratic means.

Nevertheless, for the republican, majoritarian democracy is only the centrally sanctioned political process because it is a means to the end of a deeper value. This value is freedom as non-domination (Pettit, 1997) or dominion (Braithwaite and Pettit, 1990). For a start this means that we are not moved by the majoritarian will of the conference if the voices of deeply affected persons are dominated during the conference. But more fundamentally it implies a need to constrain majoritarian decision-making to protect against the tyranny of the majority. Hence the will of the majority to flog a child should not be honored because this would be a tyrannous violation of fundamental human rights.

A further paradox of democracy is that democracy is the only acceptable way to decide what are the tyrannies we should constrain majorities against imposing. The people should vote on a constitution that constrains them, constrains their legislature and judiciary from engaging in a variety of forms of domination. On the republican analysis, whose heritage includes Rome, Montesquieu and Madison, freedom as non-domination both motivates majority rule and is more fundamental than it. No one can enjoy freedom on this republican analysis in a society where majorities fail to legally tie their hands against trampling on the freedom as non-domination of those in the minority on a particular issue.

One of the good things about restorative justice institutions is that they can enrich the process of bubbling up the kinds of constraints that the majority should impose on itself through both law and policy. For example, a non-RISE conference was held in Canberra at which the victim proposed that a young shoplifter wear a T-shirt for a day saying "I am a thief". The offender's mother felt this was a good idea and the offender said he did not care, treating the failed restorative process as a joke. Many of us in Canberra outside the conference thought it was a bad idea and said so when we heard of it, especially when the case became a public issue. The public debate around this case was rich and threw up a great deal of mature thinking about how popular justice should be constrained. There is now a consensus in Canberra that conferences should be constrained against degrading and humiliating punishments, just as they are constrained against incarcerating offenders. The mother of the offender has been persuaded to this consensus as a result of the dialogue. She suggested a ceremony to burn the T-shirt or the production of an "I am not a thief" T-shirt, a suggestion vetoed by the young offender who by then had had enough.

There is therefore a need for the justice of the law to constrain the justice of the people (especially through the institution of rights). Equally, however, there is a need to ensure that the justice of the people percolates up to influence the justice of the law (Parker, 1999). A judicial system that is cut off from impulses bubbled up from popular restorative justice will be an inferior one (see generally Habermas, 1996). Equally, a restorative justice that is cut off from the filtering down of the justice of the courts will be inferior.

This is a controversial claim in respect of indigenous justice. In a multicultural society, however, it would be intolerable to suggest that an indigenous girl who did not wish to submit to the justice of the elders should be denied protection that would be extended to her if she were non-indigenous. This is especially so if the girl contests her very membership of this indigenous group by dint of mixed birth, by attempting to leave the community, or perhaps even simply by asserting that she "doesn't want any of that Maori shit" (Maxwell and Morris, 1993).

Indeed it may be that just as Western justice has something to learn from indigenous restorative traditions, so indigenous justice has something to learn from the rights of liberal legalism. Many indigenous people themselves today agree that fundamental legal protections against the tyranny of the majority should extend to

all citizens regardless of ethnicity. That said, there are major dangers in the re-import of restorative justice back into indigenous communities with added Western baggage. A good example is the accreditation of mediators. This kind of Western professionalizing project can disempower indigenous elders. While dialogue where indigenous elders and Western mediators/facilitators exchange the wisdom of their experience must be a good thing, policies which usurp respected elders for "better trained" non-elders are a threat to good governance (and are unjust). This follows from our republican analysis that active responsibility is the key to good governance. Indigenous peoples who have experienced Western occupation/domination have suffered loss of active responsibility to the most extreme degree. They have suffered most from the dead hand of the passive responsibility of the Western state. Few acts of domination could therefore be worse than to seize back from them those manifestations of active responsibility that survive.

There will never be consensus on all the values that should inform restorative justice. Most restorative justice advocates think reintegration into communities, community development, holism, shared learning, repair of harms, restoration of relationships, forgiveness and love are values that should centrally inform restorative processes. Many, especially indigenous elders, think spirituality is fundamental². All these values are contested to varying degrees within the movement, however. Some leading figures emphasise that punishing wrongdoing should have a central place (Daly, 1999). While dissensus and debate on most values is inevitable and desirable, it may be that there must be consensus on certain minimum values that allow the very possibility of a restorative justice space. My submission is that these values are democratic deliberation itself, equal respect for the voices of all stakeholders, a rule of law that secures freedom as non-domination and allows a space for those stakeholders to have a say.

Conclusion

This essay sought to understand how people in ordinary families and communities can have more of a say in a world dominated by big business, professional politicians and technocrats. Democratic participation requires democratic competence which must be learnt through the exercise of active responsibility. Restorative justice processes can be one crucial vehicle of empowerment where spaces are created for active responsibility in civil society to displace predominantly passive statist responsibility.

Representative democracy with a separation of powers is more sustainable than direct democracy. There are too many of us and the world is too complex for us to find time to participate in a direct democracy, even in endless citizen-initiated referenda. However, the conference-circle technology of democracy can give us an opportunity to directly participate in certain major decisions that impact our lives and those of our loved ones. Through this engagement with democratic participation in complex problem-solving citizens learn to be actively responsible. This is deliberative theory's answer to a representative democracy that by failing to cultivate relationships in a community, produces a people "...characterized by selfishness, apathy, alienation, lack of knowledge and prejudice" (Warren, 1992: 11). Fishkin and Luskin (1999: 8) claim to observe among participants in their deliberative polling "a gain in empathy and mutual understanding". Restorative justice processes have produced more systematic evidence of such gains (Braithwaite, 1999).

Once citizens learn to be actively responsible as opposed to learning to rely totally on protection by a state that enforces passive responsibility, they will become active in social movement politics. NGOs offer the second great avenue for revitalizing meaningful forms of citizen participation in a democracy. They can be as relevant to democratizing global institutions such as the IMF and the WTO that were forged nearby at Bretton Woods as they can be to re-democratizing the state (Braithwaite and Drahos, 2000).

NGO influence can feed back into restorative justice conferences as advocacy of making the personal political, by invoking the possibility of agitating for structural change. The most important way this happens is when the justice of the people puts pressure on the justice of the law to change. This indeed is a shared project of the partnership we seek to forge at this conference.

Endnotes

¹ RISE is a restorative justice experiment being conducted in Canberra by Lawrence Sherman and Heather Strange where 1300 adult and juvenile criminal offenders are randomly assigned to a court case or a conference.

² In mentioning the values discussed in this section I am grateful to restorative justice colleagues who participated in an Open Society Institute retreat on this and other questions in February, 1999. I am drawing upon their wisdom about the shared values here.

Research Framework for a Review of Community Justice in Yukon
Community Justice - Community

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7.4 Restorative Justice: The Public Submissions-1998⁶⁷

Role of Community and Volunteers

Restorative justice was seen as putting more responsibility for the causes and effects of crime onto the community, while enhancing the community's ability to resolve and respond to issues arising from crime. Some saw the prospect of greater community involvement in the administration of justice as positive.

Restorative justice is a means by which the community's involvement is claimed back. This is not a sacrificial process, rather it is one where the community and its members have much to gain. Through the process of reconciliation and resolution with offenders, people (and that is what the community comprises) can be empowered to take responsibility for members of their family (Whanau). This in itself can lead to reappraisal of family and community values; what is right and wrong and what really is important to the community. (Te Oritenga Restorative Justice Group, 109)

Hand over the complete package to community level. Local people who know local offenders will keep an eye on what happens. They will no doubt be quite harsh at times, but that should not be interfered with by outsiders - especially from Ministers wanting to off-load the problem. (Dillon, 103)

But there were concerns from others. Some saw such a move as the state renegeing on its responsibilities, or "dumping" onto low-cost community and volunteer resources that might already be under pressure.

The value of community input needs to be carefully assessed as this sector is rapidly being "burnt out" by the demands being placed on the ever decreasing pool of local volunteer leaders. (Women's Division of Federated Farmers of New Zealand, 81)

The present contribution of the community and volunteers was thought to be insufficiently recognised and some believed that it was unrealistic to expect volunteers to take up increased workloads. There was also concern that ill-will would occur if volunteers were working beside (waged) Government workers.

The Community Organisations are stretched to the max. The Government Agencies are stretched. Community Organisations rely on volunteers, who get disgruntled when they are working by their hearts and the Government worker is reaping in the pay. (Ngati Rarua Trust, 64)

There was uncertainty as to how community group conferences might work, who would be eligible to take part (and how eligibility would be determined), whether greater community involvement was desired and indeed if a cohesive community existed.

"Communities" must vary from area to area & for RJ to work they would need to be strong and empowering.

Would outcomes be as effective - where the victim and offender are from the same community; from different communities; North Island/South Island; large cities; or where communities have different values? (Women's Division Federated Farmers, North Auckland, 82)

There were specific concerns regarding increased community involvement and professionalism since some placed value on a professionally administered justice system. The importance of consultation with the community was reinforced.

Two submissions maintained that if the community was to be given increased responsibilities, power would have to be devolved to community level and community decisions would have to be respected, so that community authority would not be undermined. Community-based alternatives to incarceration were thought to be positive for families of offenders and for helping to break the cycle of offending. Furthermore, utilising communities in criminal justice processes was thought to increase the strategies available when dealing with offenders, and made possible early intervention before criminal offending escalated. Conversely, the National Collective of Independent Women's Refuges warned that with present attitudes towards domestic violence, community-based sanctions would not result in positive outcomes for victims.

7.5 Community Is Not A Place: A New Look At Community Justice Initiatives -1997⁶⁸

⁶⁷ Ministry of Justice – New Zealand - Restorative Justice: The Public Submissions First published in June 1998, © Crown Copyright http://www.justice.govt.nz/pubs/reports/1998/restorative_justice/ex_summary.html

⁶⁸ McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

Van Ness and Strong⁶⁹ While they distinguish the local (i.e., geographical) community from the community of interests (micro-communities), they fail to distinguish the injuries, needs, and responsibilities of the local community from those of the personal micro-communities.

- **ABSTRACT:** Community justice initiatives, such as community policing and restorative justice, have tended to *define community rather loosely*.
 - There is some consensus that a primary goal of community justice is to mobilize communities to be active partners in crime-control and problem-solving efforts.
 - However, community justice initiatives have largely failed to reach this goal.
- *One of the obstacles seems to be that, in many areas, "genuine" community does not in fact exist.*
 - *If community justice is going to have any success, then, it is necessary to take a deeper look at the meaning of community.*
 - *The question remains if there are alternative ways of defining community which take into account the absence of "genuine" communities but recognize the viability of community justice strategies.*
 - This paper will discuss the various ways that "community" has been conceptualized by current community justice initiatives and we consider a reconceptualization of community which is more consistent with restorative justice principles that emerges out of problem-oriented policing of Herman Goldstein and the work of Australians John Braithwaite and David Moore.
 - *Micro-communities are the social networks that we all belong to that are fluid and dynamic, and include home, work, leisure, religious and other social sub-structures that bind us to society.*
 - An incident-based definition of community seeks to define community differently for each incident or problem by including members from among the "micro-communities" of concern for each particular incident.
 - The implications for community justice practice implied by this micro-communitarian perspective for community policing and restorative justice are realized in police-based family group conferencing, a restorative model of policing.
- **Introduction:** Community justice initiatives, such as community policing and restorative justice, *have tended to define community rather loosely, if at all.*
 - This has led to confusion about and variation in what exactly constitutes a community justice program.
 - In community policing, community has often been equated with neighborhood.
 - In restorative justice literature, community is often indistinguishable from society.
 - These ways of defining community have significant consequences for these new justice initiatives.
 - Not only do they affect the way in which these approaches are designed and implemented, but they may cause confusion about the underlying values and thwart goals of community justice.

⁶⁹ Van Ness, D. & Strong, K. (1997). Restoring Justice. Cincinnati, OH: Anderson Publishing Company. *cited in* McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>.

Research Framework for a Review of Community Justice in Yukon
Community Justice - Community

- **Definition of Community;** What is community?
 - *Community is a feeling, a perception of connectedness--personal connectedness both to other individual human beings and to a group.*
 - *Building community, then, involves building bonds between human beings.*
 - *Where there is no perception of connectedness among a group of people, there is no community.*
 - *Although we may live in the same neighborhood, municipality, county, state or nation, be governed and served by the same institutions, we may have no sense of connection with each other, no sense that we are part of a unified group.*
 - *As such, we are not of one community.*
 - *On the other hand, we may belong to the same bowling league. We may go to the same place of worship, work in the same office, or go to the same school. We may be relatives or friends.*
 - *As such, if we perceive a connection between each other and a common interest in the activities and well-being of the group--the sports league, the religious group, the workplace, the school, the family, the circle of friends--then we are, by definition, part of a community.*
 - When we speak about the "sense of community" that is missing from modern society, we are speaking about the absence of meaningful interrelationships between human beings and the absence of a sense of belonging to and common interest in something greater than ourselves.
 - At a societal level, this manifests itself as individualism.
 - Excessive individualism tends to breed selfishness and a lack of empathy, which lays the groundwork for crime.^{70 71}
 - We can, of course, simultaneously value both ideals of the individual and of the group.
 - In terms of political philosophy, we might equate this with valuing elements of both libertarianism and communitarianism.
 - In modern society we have a problem in that we seem to undervalue collective responsibility and overvalue individual rights, thus losing a sense of balance between the two (if such a balance ever actually existed).
 - As such, we have diminished respect for others and have only a limited sense of responsibility to the collective.
 - Thus, the promise of community justice initiatives in empowering and building community has strong popular appeal.

⁷⁰ Braithwaite, J. (1989). Crime, Shame and Reintegration. New York: Cambridge University Press *cited in* McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁷¹ Moore, D B. (1997). Pride, shame and empathy in peer relations: New theory and practice in education and juvenile justice. In K. Rigby and P. Slee (eds.). Children's Peer Relations. London, UK: Routledge *cited in* McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

Community Justice - Community

- Against a tide of individualism and a perceived decline of community life, we long for a sense of connectedness in our lives and a sense of safety in our neighborhoods.
- Our sense of safety is obstructed when neighbors are strangers.
- As Kay Pranis, restorative justice planner for the Minnesota Department of Corrections has suggested, neighborhoods are caught up "in a downward spiral where crime leads to greater fear and increased isolation and distrust among community members, which in turn leads to even more crime. As community bonds are weakened by fear and isolation, the power of community disapproval is reduced and crime increases"⁷²
- Place, therefore, can play a role in creating a community of interest around a crime in a specific location, but only coincidentally.
 - In and of itself, community is not a place other than as a mythical reflection of a romanticized past.
 - *In many areas, geographical units do not constitute or correspond to communities.*
 - The resident population may lack a sense of shared interests and there may be relatively few interpersonal connections between neighbors.
 - Even where genuine community does coincide with place, "the socio-political constructions of that community may differ greatly from one culture to another"⁷³
 - There is most likely not one unified community, but a number of fairly distinct communities, perhaps at odds with one another, excluding those on the proverbial "other side of the tracks."
- The consequences of crime extend beyond neighborhoods, towns and cities, because our networks of relationships are not confined by geographical boundaries.
 - A theft committed against a family member in another state would probably affect someone more personally than a burglary committed in their own neighborhood.
 - *The problem with many community justice initiatives is that they have defined community primarily in terms of geography, ignoring the very vibrant sense of community that exists in personal networks of relationships.*
 - In doing so they may, in reality, be indistinguishable from existing justice practices, failing to address collateral harm and the weakened community caused by crime and failing to establish meaningful roles for community members in justice interventions.
- Retributive justice approaches can actually make matters worse by alienating both offenders and victims.

⁷² Pranis, K. (1996 p.10). Building Community Support for Restorative Justice: Principles and Strategies. Internet: <http://www.quaker.org/fcadp/Community.html> cited in McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁷³ Tyler, W. (1995). Community-based strategies in aboriginal criminal justice: The Northern Territory experience. Australian and New Zealand Journal of Criminology 28(2): 127-142 cited in McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>.

Community Justice - Community

- John Braithwaite explains how offenders who have been stigmatized by the justice system often are drawn together to form their own subcultures.
- These become communities in themselves, unsympathetic to the norms of conduct and morality of the larger society.⁷⁴
- Ironically, members of these "criminal subcultures" may have a greater sense of belonging and connection than members of mainstream society.
 - The influence that any community has on individuals belonging to that community--community as a perception of connectedness to an individual or a group--is a source of informal social control.
 - It is a powerful motivator in maintaining group norms, whether these norms are positive or negative.
- For community justice initiative to be effective they must capitalize on the fact that people act in a certain way because they want to avoid experiencing the external shame of disapproval by people they care about and because of the internal shame experienced through conscience.
 - Conscience is largely developed through a maturation process in which the behavioral values of interdependence become internalized.
 - Where conscience is not fully developed, approval of others is the primary motivator, not punishment or fear of punishment⁷⁵.
 - It follows, then, that a primary goal for community justice should be mobilizing informal social control mechanisms by strengthening, creating or restoring healthy interdependencies and by encouraging the development of mature internalized control, or conscience.
 - In this process, harm can be repaired, offenders and victims can be reintegrated (or perhaps integrated for the first time), empathy can be fostered and relationships can be healed and formed.
 - Fundamentally, community justice is about building and utilizing perceptions of connectedness to individuals and groups as a way to respond to and prevent crime and wrongdoing.
- ***Community In Restorative Justice:*** Central in understanding the new restorative justice paradigm is an understanding of the roles of stakeholders in crime and the response to crime.
 - The stakeholders in restorative justice include the victim, the offender and the community.⁷⁶
 - *Yet, for the most part, community remains a concept vaguely defined.*

⁷⁴ Braithwaite, J. (1989). *Crime, Shame and Reintegration*. New York: Cambridge University Press cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice Initiatives*, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁷⁵ Braithwaite, J. (1989). *Crime, Shame and Reintegration*. New York: Cambridge University Press cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice Initiatives*, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁷⁶ Zehr, H. (1990). *Changing Lenses: A New Focus for Crime and Justice*. Scottsdale, PA: Herald Press, 271p. cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice Initiatives*, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

Community Justice - Community

- While restorative justice advocates are less likely to fall prey to the fallacy of community as place, there is a tendency, by some restorative justice advocates, to confuse the role of community with the role of society.
- The problem begins with an ill-defined concept of the victim.
 - To whom does the offender owe reparation:
 - 1) the victim,
 - 2) the victim and the community, or
 - 3) the victim, the community and society?
 - All three perspectives are represented in the descriptions of programs calling themselves "restorative."
- Since it seems to be a basic principle of restorative justice that crime harms communities and that some sort of action needs to be taken to repair that harm, how we define community becomes crucial to the development of restorative justice practice.
 - The community "wants reassurance that what happened was wrong, that something is being done about it, and that steps are being taken to discourage its recurrence."⁷⁷
 - These are needs shared by all three categories of crime victims--primary, secondary and vicarious victims (the public or society; in other words, those who become aware of the crime).
 - A geographic definition of community brings this assertion dangerously close to the traditional justice system view that offenders must pay their debt to society.
 - Restorative justice initiatives may, in reality, be no different than existing practices and continue to weaken community by stigmatizing offenders and neglecting victims.
- With the advent of family group conferencing and sentencing circles, the restorative justice movement has recognized the importance of including the *personal communities of care* of both offenders and victims in resolution of criminal conflict.⁷⁸
 - Restorative justice practice is moving from excluding the micro-community under early victim offender mediation models, to including them as a central part of the restorative process.⁷⁹
 - Tony Marshall⁸⁰ suggests that restorative justice seeks to reduce crime by strengthening bonds of interdependency while holding offenders accountable.

⁷⁷ Zehr, H. (1990:195). *Changing Lenses: A New Focus for Crime and Justice*. Scottsdale, PA: Herald Press, 271p. cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice Initiatives*, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁷⁸ Umbreit, M. and Zehr, H. (1996). Family group conferences: a challenge to victim offender mediation? *Victim Offenders Mediation Association Quarterly*. 7(1):4-8. cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice Initiatives*, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁷⁹ Van Ness, D. & Strong, K. (1997). *Restoring Justice*. Cincinnati, OH: Anderson Publishing Company. cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice Initiatives*, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁸⁰ Marshall, T F. (1994). Grassroots initiatives towards restorative justice: the new paradigm? In A. Duff, S. Marshall, R.E. Dobash, et. al. (eds.). *Penal Theory and Practice: Tradition and Innovation in Criminal Justice*. Fulbright Papers, volume 15. Manchester, UK: Manchester University Press, p245-262. cited in McCold Paul and Benjamin Wachtel *Community Is Not A Place: A New Look At Community Justice*

- Marshall defines restorative justice as
 - *a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future. Parties with a stake in an offence include, of course, the victim and the offender, but they also include the families of each, and any other members of their respective communities who may be affected, or who may be able to contribute to prevention of a recurrence.*⁸¹
 - Thus, restorative justice, like problem-oriented policing, is moving toward a more practical micro-communities perspective.⁸²
 - If done correctly, restorative justice programs empower the victim and offender with control over the nature of the reparation, and empower the personal communities to exercise informal social support and control of the process.
 - Not only are the micro-communities important in the restoration process, but they are the means through which healing and reintegration is possible.
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7.6 Restorative Justice,-1996⁸³

Community and Family

- Restorative processes are claimed to benefit the community by resolving relationships between individuals and placing the control of crime with the community.
- Where those involved are from shared communities, it is suggested that victim-offender meetings may enhance community cohesion through the direct involvement of the parties in the process and in finding the solutions.
- In reality, the extent to which the locus of control actually moves from state to community depends on a series of choices which are discussed in chapter 6.
- With urbanisation and the social changes that have occurred in the last 50 years, there are questions about whether communities continue to exist as "stable units of shared social experience" ⁸⁴.
- *Marshall⁸⁵ has suggested that modern realities require an adjustment in thinking about what constitutes a community.*

Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation
<http://www.restorativepractices.org/Pages/albany.html>

⁸¹ Marshall, T F. (1997). Forthcoming. European Journal for Criminal Policy and Research. *cited in* McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁸² Wundersitz, J. and Hetzel, S. (1996) Family conferencing for young offenders: the South Australian Experience. in G. Maxwell and A Morris (eds.) Family Group Conferences: Perspectives on Policy & Practice. Monsey, NY: Criminal Justice Press *cited in* McCold Paul and Benjamin Wachtel Community Is Not A Place: A New Look At Community Justice Initiatives, Paper presented to the International Conference on Justice Without Violence: Views from Peacemaking Criminology and Restorative Justice Albany, New York, June 5-7, 1997 Community Service Foundation <http://www.restorativepractices.org/Pages/albany.html>

⁸³ New Zealand, Ministry of Justice, Restorative Justice, A Discussion Paper, 1996,
<http://www.justice.govt.nz/pubs/reports/1996/restorative/index.html>

⁸⁴ Fisher T (1994:4) Victim/Offender Mediation: A Mediator's Perspective On Current Research and Programs. Address to the 8th International Symposium on Victimology, Adelaide cited in. New Zealand, Ministry of Justice, Restorative Justice, A Discussion Paper, 1996, <http://www.justice.govt.nz/pubs/reports/1996/restorative/index.html>

⁸⁵ Marshall T (1992) Restorative Justice on Trial in Britain, in H Messmer & H U Otto (eds.) Restorative Justice on Trial: Pitfalls and Potentials of Victim-Offender Mediation - International Research Perspectives. Kluwer Academic Publishers, Dordrecht, The Netherlands. cited in. New Zealand, Ministry of Justice, Restorative Justice, A Discussion Paper, 1996,
<http://www.justice.govt.nz/pubs/reports/1996/restorative/index.html>

Research Framework for a Review of Community Justice in Yukon

Community Justice - Community

- He suggests that communities of geography (*neighbourhood, parish, suburb, or village*) have largely given way to communities of association (*friends, clubs, professional and work associations*) and membership of these is flexible over time.
- A combination of members of communities of geography and association may be said to constitute a community of interest in respect of offending incidents.
- In the New Zealand youth justice system, the offender's family group and the victim's family or supporters principally represent the community of interest.
- Other members, for example the offender's sports coach, are also on occasion involved in family group conferences.
 - This community may be quite diverse in its composition and might never have had any intersection of interest but for the offence.
- Participants may represent several points of view.
 - For instance they may represent minority groups within the wider community as well as their particular local community.
 - Victims may be people involved in local businesses.
 - While most restorative programmes involve interactions between an individual offender and victim, thefts and burglaries from businesses place the livelihood of owners and employees at risk.
 - Thus business owners have needs, emotions and legitimate claims against the offender as do individual victims.
 - The business community is also an integral part of the wider community.
 - Their response to crime (fortification of business premises, increased insurance premiums or relocation to less crime-prone areas) may adversely affect the services and infrastructure available to the community.
- Large numbers from a community cannot usually be actively involved in a single restorative justice process.
 - The objectives of the programme and the type of process used both influence decisions about who should participate in addition to the victim and offender.
- The idea of some form of general community representation raises questions about the *definition of community* and about "community values".
 - Such values may in fact be only the values of the middle class, who have the power and influence to assert them on others.
 - A victim and offender may well be members of different cultures and communities of geography and association, and it may be as difficult to represent that diversity, or achieve an appropriate balance, as it is in the formal court system.
- The family and the particular community of the offender may also have contributed to the offending problem.
 - In such cases, restorative justice programmes may place onerous demands on them which they are ill-equipped to meet.

- Research into the New Zealand youth justice system found that a number of the families involved were dysfunctional and had reached the limits of their capabilities in responding to the offending situation and the needs of their offending family member⁸⁶
 - The extent to which it might be desirable or useful to involve communities, the family or supporters of offenders and the family or supporters of victims in restorative processes involving adult offenders is further discussed in paragraph 6.4.
 - The exposure of citizens to conflict resolution through peaceful means in restorative programmes provides a model for the application of the process in other situations.
 - Dispute resolution techniques involving the increased use of mediation and structured negotiation are being promoted in schools, to deal with bullying and aggression, and in the civil courts.
 - While the establishment of a community mediation service did not survive in New Zealand beyond its pilot stage⁸⁷, the adoption of such techniques in response to criminal offending could serve to reinforce the general approach and assist in promoting long-term social changes.
-
- Central to all case studies is the issue of community empowerment.⁸⁸

It seems to be a common starting point.

This phrase is not necessarily a politically-laden term if one does not fall into the trap of compartmentalizing the political from administration and service delivery.

As can be seen in the case studies, community empowerment refers to the collective examination and identification of the sources of the social problems that the justice system (however defined and structured) is created to address, a level of agreement within the community as to the approach to take respecting these problems, and the ability to take action based on the agreed-upon approach.

If community empowerment is the starting point, the end point is community healing and harmony.
 - As one participant pointed out, no matter how well the "system" works, the ultimate question is whether the people experience more or less risk of harm.

From community empowerment to community harmony, the discussions of the Workshop spanned the macro and micro issues first raised in the introductory presentations: definitions, the community needs and aspirations, and the role of governments and research. In discussing empowerment, the term "devolution" was debated, noting that it may connote a status difference between aboriginal justice and mainstream justice that is unwarranted in an era of self-government.

Since empowerment can be realized by creating new jurisdiction or powers, by taking advantage of jurisdictional vacuum, or by broadly interpreting existing jurisdictions and powers, some may prefer to view empowerment as the "restoration" of powers, either formal or informal, to the community (though the term "restoration" may have its own debatable connotations). The issue of jurisdiction is not just idle political rhetoric, as the case of Alaska and the up-hill battle to exercise Native sovereignty well illustrates. In the absence of clear criminal jurisdiction in Alaska tribal governments, justice devolution is not a realistic policy.

⁸⁶ Maxwell G & Morris A (1993) *Family, Victims and Culture: Youth Justice in New Zealand*. Social Policy Agency and Victoria University of Wellington New Zealand, Institute of Criminology, Wellington. cited in. New Zealand, Ministry of Justice, *Restorative Justice, A Discussion Paper*, 1996, <http://www.justice.govt.nz/pubs/reports/1996/restorative/index.html>

⁸⁷ Cameron J & Kirk R (1986) *Assessing an Innovation: An Evaluation of the Christchurch Community Mediation Service June 1984 - December 1985*. Community Mediation Service & Evaluation Research Group, Christchurch. cited in. New Zealand, Ministry of Justice, *Restorative Justice, A Discussion Paper*, 1996, <http://www.justice.govt.nz/pubs/reports/1996/restorative/index.html>

⁸⁸ The International Centre for Criminal Law Reform and Criminal Justice Policy and The School of Criminology, Simon Fraser University and with the support of The Department of Justice Canada and The Ministry of the Attorney General of British Columbia, *Putting Aboriginal Justice Devolution Into Practice: The Canadian And International Experience Workshop Report*, July 5-7, 1995 <http://137.82.153.100/Reports/Aboriginal.txt>

Workshop participants were constantly reminded of the concerns expressed regarding the compartmentalization or separation of the macro political issues from service and safety provision ones.

- As in most societies in the world, the players involved in the political arena of land claims and treaty making are by and large male.
The macro political processes will ultimately define issues of jurisdiction, and women have repeatedly expressed concerns that the views and interests of women, who are more involved with service and safety provisions and who make up a large proportion of the victims of family and sexual violence, would not be adequately addressed.
A number of the case studies (e.g. the Canim Lake program, the Hollow Water process and the Australian We-Al-li programs), indicate that successful aboriginal justice devolution initiatives invariably include prominent input by women of the community in their design, planning and implementation.
- Empowerment also involves knowledge.
Centuries of colonialism have caused both the destruction of collective and institutional memory, and social destruction which has resulted in a lack of education for many members of Aboriginal communities.
The need to share and transfer knowledge is no less important than that for formal powers. For many aboriginal communities, the sharing and transferring include not only training, but also the ability and methods of gathering knowledge, i.e. research.
It also includes the re-discovery of lost knowledge (such as customs) and a chance to allow an Aboriginal expertise to flourish.
- It has been suggested that the term "community" is meaningful only for self-contained, small population collectivities which are largely rural.⁸⁹
- However, the New Zealand's efforts in youth justice seem to indicated that "the community" in an urban setting can comprise (but is not limited to) the young offender, his/her family, the wider family, teachers, sport coaches, social workers, the police, the victim and his/her supporting parties.

7.7 Putting Aboriginal Justice Devolution Into Practice -1995

The View from the Community⁹⁰

- Using "the Women of Our People" (a community-based organization addressing issues of sexual assault and violence for First Nations women, their families and their communities) and child protection as an illustration, the presentation touched on a number of issues common to culturally and community based models. They include:
 - legislative authority to ensure First Nations involvement and jurisdiction;
 - accountability to community members, as distinct from accountability to government ministries or professional guidelines;
 - equity of access, especially for women, to culturally appropriate services;
 - the potential dangers of the separation of the macro political processes (such as treaty making and self-government) from service and individual safety provision initiatives; and
 - access to funding and decision-making, especially for organizations which are not "recognized" First Nations organizations.

⁸⁹ The International Centre for Criminal Law Reform and Criminal Justice Policy and The School of Criminology, Simon Fraser University and with the support of The Department of Justice Canada and The Ministry of the Attorney General of British Columbia, Putting Aboriginal Justice Devolution Into Practice: The Canadian And International Experience Workshop Report, July 5-7, 1995 <http://137.82.153.100/Reports/Aboriginal.txt>

⁹⁰ Debra Seysener (Canada) *cited in* The International Centre for Criminal Law Reform and Criminal Justice Policy and The School of Criminology, Simon Fraser University and with the support of The Department of Justice Canada and The Ministry of the Attorney General of British Columbia, Putting Aboriginal Justice Devolution Into Practice: The Canadian And International Experience Workshop Report, July 5-7, 1995 <http://137.82.153.100/Reports/Aboriginal.txt>

Community Justice - Community

- The last point is well illustrated by the experience of "the Women of Our People", a newly established "grass root" organization. It faces constant barriers to access because governmental funding is usually from structure to (established) structure, and consultation respecting decision-making is usually with recognized groups.

Central to all case studies is the issue of community empowerment. It seems to be a common starting point. This phrase is not necessarily a politically-laden term if one does not fall into the trap of compartmentalizing the political from administration and service delivery. As can be seen in the case studies, community empowerment refers to the collective examination and identification of the sources of the social problems that the justice system (however defined and structured) is created to address, a level of agreement within the community as to the approach to take respecting these problems, and the ability to take action based on the agreed-upon approach. If community empowerment is the starting point, the end point is community healing and harmony. As one participant pointed out, no matter how well the "system" works, the ultimate question is whether the people experience more or less risk of harm. From community empowerment to community harmony, the discussions of the Workshop spanned the macro and micro issues first raised in the introductory presentations: definitions, the community needs and aspirations, and the role of governments and research.

In discussing empowerment, the term "devolution" was debated, noting that it may connote a status difference between aboriginal justice and mainstream justice that is unwarranted in an era of self-government. Since empowerment can be realized by creating new jurisdiction or powers, by taking advantage of jurisdictional vacuum, or by broadly interpreting existing jurisdictions and powers, some may prefer to view empowerment as the "restoration" of powers, either formal or informal, to the community (though the term "restoration" may have its own debatable connotations). The issue of jurisdiction is not just idle political rhetoric, as the case of Alaska and the up-hill battle to exercise Native sovereignty well illustrates. In the absence of clear criminal jurisdiction in Alaska tribal governments, justice devolution is not a realistic policy.

Workshop participants were constantly reminded of the concerns expressed regarding the compartmentalization or separation of the macro political issues from service and safety provision ones. As in most societies in the world, the players involved in the political arena of land claims and treaty making are by and large male. The macro political processes will ultimately define issues of jurisdiction, and women have repeatedly expressed concerns that the views and interests of women, who are more involved with service and safety provisions and who make up a large proportion of the victims of family and sexual violence, would not be adequately addressed. A number of the case studies (e.g. the Canim Lake program, the Hollow Water process and the Australian We-Al-li programs), indicate that successful aboriginal justice devolution initiatives invariably include prominent input by women of the community in their design, planning and implementation.

Empowerment also involves knowledge. Centuries of colonialism have caused both the destruction of collective and institutional memory, and social destruction which has resulted in a lack of education for many members of Aboriginal communities. The need to share and transfer knowledge is no less important than that for formal powers. For many aboriginal communities, the sharing and transferring include not only training, but also the ability and methods of gathering knowledge, i.e. research. It also includes the re-discovery of lost knowledge (such as customs) and a chance to allow an Aboriginal expertise to flourish.

It has been suggested that the term "community" is meaningful only for self-contained, small population collectivities which are largely rural. However, the New Zealand's efforts in youth justice seem to indicate that "the community" in an urban setting can comprise (but is not limited to) the young offender, his/her family, the wider family, teachers, sport coaches, social workers, the police, the victim and his/her supporting parties.

The case studies provided many examples of communities taking steps towards healing and harmony. A perusal of the examples across the six countries cannot fail to note the commonality in the values on which the devolution initiatives are based and the futility of a strictly punitive approach.