

Table of Contents

1.	Key Themes.....	4
2.	Research Questions.....	5
2.1.	Poverty and Social Assistance	5
2.2.	Education.....	5
2.3.	Employment.....	5
2.4.	Economic/Business Development	5
2.5.	Housing and Living Conditions	5
2.6.	Substance Abuse.....	5
2.7.	Domestic Breakdown	5
2.8.	Domestic Violence	5
2.9.	Suicide	5
3.	Relevant Documents, Studies and Practices – Yukon.....	6
3.1.	Community Housing Study	6
3.2.	Restorative Justice in the Yukon - 1999	6
3.3.	Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon -1992	7
4.	Relevant Documents, Studies and Practices – Other Northern Territories.....	8
4.1.	Inuit Women and the Nunavut Justice System – 2000	8
4.2.	Nunavut (Northern) Justice Issues - 2002.....	8
4.3.	A Framework for Community Justice in the Western Arctic – 1999	8

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

4.4.	The Housing Crisis and Violence - 1995	10
4.6.	Responses to Crime in Northern Communities - 1994	13
5.	Relevant Documents, Studies and Practices – Other Canadian	14
5.1.	Commission On The Future Of Health Care in Canada • Interim Report - 2002.....	14
5.2.	New Canadian Study Links Criminal Activity to Alcohol and Drug Abuse – 2002	14
5.3.	Shifting the Paradigm: Social Knowledge and Learning for Canada's Future - 2002	14
5.4.	Social Capital in Situation of Cooperation and Conflict- 2001	14
5.5.	The Mental Health of Indigenous Peoples - 2000	19
5.6.	Criminal Justice and Public Health: Opportunities Across Systems-2000.....	19
5.7.	From Restorative Justice to Restorative Governance- 2000	19
5.8.	Aboriginal Peoples and the Criminal Justice System - 2000.....	21
5.9.	Aboriginal Justice Strategy (AJS) Trends - 2000.....	28
	5.9.1. Social Conditions	28
	5.9.2. Holistic Principles	28
5.10.	Diversion Programs for Adults - 1997.....	29
5.11.	Entries Related to the Mentally Handicapped Offender-1996	30
6.	Relevant Documents, Studies and Practices – USA	31
6.1.	Building Community Support In The Context Of Other Social Change	31
6.2.	The Concept of Social Justice	31
6.3.	Restorative justice and social work-2002.....	31
6.4.	Is Restorative Justice Appropriate for Persons with Mental Health Problems?-2001	35
6.5.	The Rocky Road to "Restoring" Justice: An Examination of Restorative Justice Activity as a Social Movement-2000	38
6.6.	Criminal Justice/Public Health: Opportunities across Systems -2000	39

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

6.7. Restorative Justice The Public Submissions-199845

1. Key Themes (to be explored).

- The need for a holistic and integrated approach: In developing and implementing a community-based justice initiative, the strategy developed and adopted must incorporate the community, all relevant sectors (social, economic, and political) and all levels of government.
- The shift represented by community justice is part of a larger shift in our social institutions (community policing, social services, education, business/industry, and the legal field) from power-based structures and practices to relationship-based structures and practices.
- By the time the justice system is called upon we are often reacting to problems created by failed or inadequate policies in other areas. The restorative justice movement could serve as a catalyst to transform our approach to social choices. Does restoration of the imbalances reflected in crime need to be tackled through a **restorative governance** approach that includes health care, education, social services and justice decision-making?

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

2. Research Questions

<p>2.1. Poverty and Social Assistance What is the average income of the community? How many household incomes are below the poverty line? How many female single-parent households are below the poverty line? How many children live below the poverty line? How many households depend on social assistance?</p>
<p>2.2. Education How many community-operated schools exist? How many school-aged children are enrolled in these schools? How many school-age children are enrolled in kindergarten, elementary and secondary schools? What is the rate of student dropout? How many community members did not attend high school? How many community members are enrolled in college or university?</p>
<p>2.3. Employment What is the unemployment rate? What is the average pay rate? What percentage employed part-time? How many are in the labour force? How many engage in traditional First Nations' activities e.g. hunting, trapping, fishing?</p>
<p>2.4. Economic/Business Development How many businesses are owned and operated by community members in the community?</p>
<p>2.5. Housing and Living Conditions How many households have more than one person per room? How many households have running water? How many households have safe waste disposals?</p>
<p>2.6. Substance Abuse How many members of the community are admitted to hospitals for alcohol-related illnesses? How many criminal offences in the community involved substance abuse? How many criminal offences involved offenders who were diagnosed with FAS/E?</p>
<p>2.7. Domestic Breakdown What is the percentage of single parent households?</p>
<p>2.8. Domestic Violence How many women are victims of violence? How many children are victims of violence? How many elderly are victims of violence? How many men are victims of violence? How many are abused physically? abused emotionally? abused sexually? abused psychologically? abused economically? How many were death caused by a violent act?</p>
<p>2.9. Suicide What is the rate of suicide?</p>

3. Relevant Documents, Studies and Practices – Yukon

3.1. Community Housing Study ¹

See report online

3.2. Restorative Justice in the Yukon - 1999²

Alcohol Abuse:

- Six (6) communities indicated that alcohol is either the cause or catalyst for most crimes.
 - o Many people said they know someone who is a ‘great person’ while sober, but acts ‘crazy’ or do ‘stupid things’ that get them into trouble with the law while intoxicated.
 - o It was felt by many that alcohol abuse should be treated as an illness, and that substance abuse treatment is a better way to address the ‘root cause of crime’.
 - o Some community members noted that alcohol abuse could be a symptom of deeper psychological or emotional issues resulting from sexual abuse, residential school syndrome, or some other traumatic experience.
 - o Some communities felt they would benefit greatly from having local alcohol and/or drug treatment centers (ie. many First Nations have traditional healing camps they would like to see utilized to a greater degree).
 - Six (6) communities noted under-age drinking and drug abuse is a concern with youth in their community.
 - Four (4) communities raised the issue of FAE/S.
 - o Many felt that victims of FAE/S ‘don’t know right from wrong’ and wanted to know how Restorative Justice would deal with them differently from the mainstream justice system.
 - Two (2) communities were especially concerned with problems associated with bootlegging.
 - o They were not only concerned with the alcohol abuse itself (increased violence, spousal assault, impaired driving etc.) but also by the crimes committed to obtain money to purchase the alcohol.
 - o These communities were also very concerned by threats of harm from bootleggers against those who would like to report them to the police (or the angry ‘customers’ of bootleggers who were arrested and put out of business.)
 - Two (2) other communities, concerned about ‘over-service’ to intoxicated patrons, are considering initiating a liquor prohibition.
 - One (1) community noted that they have a unique but disturbing problem.
 - o Prohibition of alcohol was instituted in the 1980s as a way of addressing the alcohol abuse problem.
 - o Unfortunately, instead of curing the ‘alcohol problem’ a new one was created: alcohol abusers now run the risk of being labeled as a ‘criminal’.
 - Eight (8) communities advocated the idea of offering projects that address/prevent many social problems that lead to criminal behaviour.
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¹ <http://www.housing.yk.ca/>

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

3.3. Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon -1992³

- Examining aboriginal justice in Canada has become somewhat of a national obsession in the past few years but the volume of activity has not made the task any less difficult or the boundaries any clearer.
 - The issues in themselves are complicated and have been made increasingly complex by what appears to be a growing belief by government, some criminal justice players and in the discourse of many aboriginal politicians, in the ability of a justice system and the criminal justice system, in particular, to be the harbinger of fundamental and permanent social change.
 - The social and economic conditions of the majority of aboriginal communities in Canada underscore the urgency to find solutions that will improve the quality of life for First Nations people.
 - In that haste, however, it is important to signal the need for realism and caution in considering the criminal justice system as providing the vehicle for long term social and economic well-being in communities.
- The issue of developing and implementing actual aboriginal justice ‘systems’ is much more a preoccupation of government and politicians than of most First Nation communities.
 - For those communities, justice is not a system but a way of life and a way that has been seriously eroded over the past several generations.
 - People in contemporary aboriginal communities are preoccupied with how to make their communities healthier and better places in which to live and to raise healthy children.
 - Better than anyone else, they realize that a justice system, as commonly construed, will deal with only a very small part of the problem and it is counterproductive to think of ‘justice’ in a narrow sense.
- The findings of the fieldwork are that First Nation communities recognize the social problems underlying in the involvement of their members in the criminal justice system and are interested in exploring justice approaches which better address and respond to these problems.
- There are a number of community realities, which must be taken into account in any justice initiatives. These include
 - long-standing problems of alcohol abuse,
 - unemployment,
 - lack of education and skills,
 - loss of traditional practices,
 - the sedentary nature of contemporary communities which often produce strained relations and divisions between people.
- For the criminal justice system, these problems translate into
 - Frequent contact,
 - Repeat offenders
 - Fetal alcohol-affected clients and a
 - Level of activity in communities in which the criminal justice system is involved, but which is much more disruption and disorder than crime.
- The responses to crime at the formal level of criminal justice system are
 - Incarceration
 - Probation
 - Finesall of which appear to have little impact in changing offending behaviour or satisfying communities.
- Focusing exclusively on the criminal justice system is a short-sighted and a piece-meal solution.
 - Energies must be channeled into more fundamental and long-lasting solutions.
 - Let me acknowledge, however, that I, like others interested in this issue, have fallen into the trap of looking at ‘justice’ too narrowly and worse still, have focused almost exclusively on criminal justice.

³ Laprairie, Carol, Report to Department, Yukon Territorial Government, First Nations, Yukon Territory, Justice Canada, Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon. September 1992. This document represent two months of fieldwork in the Yukon Territory, the objective of which was to elicit information from First Nation communities and criminal justice personnel about the state of tribal justice (also referred to as aboriginal justice) in the Territory. The methodology involved interviews with First Nations leadership, band managers, NNADP workers and social service personnel, RCMP, judges, courtworkers, correctional officials (including probation) and the collection and analysis of secondary data including police, courts, corrections, and demographic data and criminology and aboriginal justice literature available in 1992.

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

4.1. Inuit Women and the Nunavut Justice System – 2000 ⁴

The Northern Environment: Social Problems, Crime, and Justice Issues in the North

- There is without doubt a specific Northern environment. Consequently demographics, geography, and crime, as they operate in the North, must be recognized and incorporated into development and implementation plans.
 - In fact, understanding that environment is vital to the success of any initiative, whether grounded in health, justice or politics. Some specificities of the Northern environment that are discussed by the authors highlighted in this report include:
 - The traditional settlement patterns are very different than the present artificially - constructed ones.
 - Traditionally, Inuit peoples were nomadic.
 - The North presents challenges and opportunities because of its vast space.
 - The North, for the most part, is made up of small communities.
 - Language is a key issue.
 - In many communities there is inadequate and unsafe housing for the residents.
 - Crime rates are high and represent a high level of violent offences.
 - High rates of alcoholism are reported.
 - High rates of domestic violence and sexual assault are reported.
 - The general sentiment is that the circuit courts, intending to address this specific context, have failed to adequately do so.
 - Within many communities in the North there is an absence of adequate mental health facilities, recreation facilities, and social services.
 - Few lawyers are available to provide legal support and representation.
-

4.2. Nunavut (Northern) Justice Issues - 2002⁵

The need for a holistic approach:

- In developing and implementing a community-based justice initiative, the strategy developed and adopted must incorporate all relevant social, economic, and political factors.
 - Organizers must be aware of these factors as they operate within their community and the justice project itself must address (if not focus on) them.
 - These larger issues, especially in Northern communities, are intrinsically linked and must be holistically addressed and encompassed in their strategies.
-

4.3. A Framework for Community Justice in the Western Arctic – 1999⁶

- A large majority of respondents feel that the community development approach is the right one for carrying out the program. Respondents based this opinion on:
 - avoiding the danger of having the program driven by government or department staff;
 - bringing together the right supports at the community level to address needs;
 - involving not only the justice community but people from all backgrounds in the community;
 - letting the community define the solutions that work for them;
 - providing the community with choices and options to address justice needs;
 - assisting and strengthening the community rather than doing it for them.

⁴ Department of Justice Canada, Research Report, Research and Statistics, Mary Crnkovich and Lisa Addario with Linda Archibald Division, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf>.

⁵ 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>

⁶ Campbell Research Associates, Kelly & Associates, Smith & Associates, prepared for Government of Northwest Territories, Department of Justice, A Framework for Community Justice in the Western Arctic – June 1999

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- Respondents who do not feel that the community development approach is the right one indicated that:
 - the time for "developmental" work is over, let's get on with the task;
 - this is not really community development, it is a government-led cookie cutter approach where communities are given a format that is appropriate to the government and the justice system but it does not leave a lot of room to be unique or to show the strengths of the community/people.

- Overall, there is a high level of agreement among respondents endorsing the intent of the Community Justice Program.
 - All of our respondents affirmed that community justice is not only an important and necessary program but that they would like to see communities take on even more justice functions.
 - Most see it as enabling communities to have greater control over developing alternatives to the justice system that can benefit their community members.
 - There is also a general consensus that the community development approach is appropriate for addressing the communities' justice-related needs.
 - There is less agreement, however, on just what "community justice" itself means.

Relationships with External Organizations

Relationships with Other Organizations

- Few community justice committees maintain formal relationships with organizations external to the justice system.
 - Community and organizational respondents acknowledged a need for greater involvement and improved linkages between community justice initiatives and external organizations as a way of enhancing the ability of communities to address justice needs.
 - However, with a couple of exceptions, most justice initiative projects are not connected to external networks of supporting organizations.
 - Respondents from the social services sector feel that, ideally, community-based justice initiatives and service agencies should work together to close gaps in the system, to better address community issues and needs and to more effectively help individuals with healing, restoration of self-esteem and personal growth.
 - In a resource-constrained environment, relationships, partnerships, networking and sharing of information and assistance needs to be encouraged among agencies/organizations within communities, at the regional level.

- Few community justice committees maintain formal relationships with organizations external to the justice system.
 - Most relationships appear to be informal at this time and are based on trying to find areas of commonality for mutual assistance.
 - Community and organizational respondents acknowledged a need for greater involvement and improved linkages between community justice initiatives and external organizations as a way of enhancing the ability of communities to address justice needs.
 - However, with a couple of exceptions, most justice initiative projects are not connected to external networks of supporting organizations.
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- In some communities service networks have formed, or are forming, and are involved with broad social issues including community justice.
 - o At this time, however, these appear to be few in number and their effectiveness is not known.
 - o In other places, community justice committees, through their coordinators and individual group members, have already established relations with community programs and services.
 - o Among the organizations involved with community justice initiatives at this time are:
 - schools and education authorities;
 - social services and income support;
 - health councils;
 - alcohol, drug and substance abuse centres;
 - community programs such as Brighter Futures;
 - mental health organizations;
 - hamlet and municipal offices;
 - elders' groups.

- Cooperative relationships with human services organizations hold considerable potential for community justice committees looking to expand their activities and services to their clients.
 - o While networks of service agencies have been established in a limited number of communities (and many of these are rudimentary), such networks do provide opportunities to maximize resources and develop collective approaches to social issues which all too often result in crime.

Recommendations

- It is widely recognized that social problems are responsible for many of the justice needs and issues facing communities in the Northwest Territories.
 - o It is also acknowledged that the Community Justice Initiative is limited in scope and funding and cannot be expected to address all of the underlying causes of crime at the community level.
 - o While some communities and committees have successfully developed partnerships with external supporting agencies, greater emphasis needs to be placed on finding appropriate roles and defining relationships between the community justice system and those agencies in health, social services, healing and other related sectors that could support community justice activities.
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4.4. The Housing Crisis and Violence - 1995⁷

This report highlights the Northern environment.

General Overview

- Pauktuutit prepared this report for the Canadian Mortgage and Housing Corporation.
 - o The first section overviews the causes and consequences of the disastrous housing conditions in the North.
 - o The second part of the report links the housing crisis to domestic violence, making a strong case for the need to have the housing crisis adequately addressed in any strategy for change in Inuit communities, especially one that intends to meet the justice needs of the community.

Themes

- The high rates of spousal assault, Elder abuse and low education attainment in Inuit communities in the North are directly linked to the devastating and disastrous housing conditions.
- Inuit women are particularly vulnerable as a result of the housing crisis.

⁷ Pauktuutit. The Housing Crisis and Violence. Ottawa: Inuit Women's Association, 1995. 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>.

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- The virtual absence of alternate housing arrangements makes it very difficult for women to leave an abusive relationship.
- The Northern context is very different from the Southern context.
 - In the North, the small isolated communities, plagued by unemployment and poverty, require different ‘solutions’.
 - Strategies based in the Northern experience will have more success affecting the social conditions of the North than Southern ones.

Findings

- *Need for immediate attention:* While the population is rising in the North, housing is deteriorating.
 - Severe overcrowding, inadequate and unsafe living conditions characterize the housing situation in the North where the Inuit occupy 90% of social housing units in the Inuit regions of the Northwest Territories.
 - With a population of 57,649, more than 3,584 households are in need of core housing.
 - That is, they are either unaffordable, inadequate or inappropriate for living in.
- *Lack of funding:* The lack of funding by the federal government and the limited resources of the Government of the Northwest Territories has contributed to this situation.
- *Dehumanizing living conditions:* These living conditions are related to substance abuse, family violence, child sexual abuse, suicide and low education attainment by youths.
 - Students who lack a place to work and study will more often than not drop out of school.
 - Elders suffer from physical and financial abuse as a result of overcrowding and the frustrations of younger generations as a result of their reliance on parents.
- *Housing and domestic violence:* The housing crisis in the North affects the dynamics and cyclical nature of domestic violence in a number of ways.
 - Not only does the lack of housing and poor living conditions exacerbate the occurrence of domestic violence, the lack of alternative housing make it difficult for a woman to leave an abusive relationship.
 - Community members, the network of family and friends are already overcrowded and as a result cannot offer respite to the victim.
 - As options decrease, the potential violence increases.
 - Further, most communities do not have a shelter that a woman can use.
 - This means that the woman, to effectively escape the violence, more often than not has to leave the community.
 - This necessary exodus creates a whole host of other problems.
 - Being forced to leave a support system and employment, having to choose whether to go back to the community or make a new life in another one, having to face the criticisms of the community for leaving, the high cost of travel and often being forced to leave the children behind are some of the problems that exist.
 - These problems often seem insurmountable for woman to deal with and as a result, she may stay in the abusive home.
 - The cycle of violence then continues, and part of that cycle is grounded in the housing crisis.
- *Role of Shelters:* There is much debate about the role of shelters.
 - Shelters are often inaccessible to abused Inuit women in many ways: because of their location (they are often far from the community and as such high financial and human costs arise) and form (they are seen as an inappropriate way of addressing the problem).
 - For some communities a shelter for women may be the answer.
 - For others, however, shelters may be problematic.
 - For example, in communities that are small and isolated and do not have adequate policing services, there must be attention paid to the question of how the woman and the shelter will be protected from the abuser.
 - Similarly, in small isolated communities the physical and psychological effects of having the victim and the abuser in the community may be difficult for the shelter to address.
 - This means that another, more geographically and culturally specific focus is necessary.
- Any justice initiative must be aware of the dynamics of domestic violence in the North and the tensions that potential solutions create.

Conclusions

- Funding must be supplied by the federal government to end the intolerable living conditions in Northern communities.
 - Policies and decisions affecting housing must not re-victimize people seeking assistance or safety.
 - For example, rent should be based on income and number of children, and adequate and safe housing must be available to families.
 - The problem of overcrowding must be addressed.
 - The report discusses the innovative Northern solutions and strategies to ending family violence:
 - (1) Establish shelters for abusers so they can cool off and get counseling. The report holds that many Inuit women in the North do not necessarily want the relationship to end - just the violence.
 - (2) Develop second-stage housing for women just coming out of shelters. This ensures that follow-up support and a more effective healing period is possible. Without this support the cycle of violence continues because in many cases the abused woman has no other alternative but to go back to the community and family home.
 - (3) Develop multi-service centres as opposed to a victims' shelter, representing a holistic approach to addressing problems in the community. Such a multi-centre would address social services, education, and health, and would provide linkages to other agencies.
-

4.5. Pauktuutit, Justice Project Coordinator -1995⁸.

#21 - advocacy support and confidential protections

- The issue of lack of support and protections are indirectly addressed in this comment to ensure aboriginal women and men requiring the same level of services available to other victims and offenders in Canada.
 - This reference, which implies that women and men now have the same level of services and that these should not be diminished, minimizes one of the major criticisms raised by Pauktuutit with respect to these community-based initiatives.
 - Pauktuutit is very clear that unless services are in place to provide support to both offenders and victims and do not rely on these services being provided without additional resources - to train and pay those involved-alternatives are not welcome.
- It is important to identify the success of the implementation of these alternatives is conditional upon the necessary infrastructure being implemented or already in place- such as victims service workers, male batterer counselling program, in addition to the social worker and addiction's counsellors in the communities.
 - This point again relates to the earlier one on credibility and accessibility of alternatives.
- The issue of credibility of an alternative will arise if it is poorly funded and not accountable; these issues must be addressed so that the choice between the existing system and alternative does not come down to which is better funded and able to support, assist and protect the woman.
 - If this is the basis of the decision, the alternative will never be seen to be credible in the eyes of the woman, young girls and children who are the victims in these cases.
 - The women working with Pauktuutit on the Justice Project have been very clear in stating that one of the reasons the existing system is not working is because they don't have the advocacy services available in other parts of Canada, and other services available to victims and offenders found elsewhere.
- This raises a general point/issue that I think is missing and perhaps a separate paragraph under the Aboriginal Women section is required. Any alternative, be it traditional or a community-based conventional initiative, must have the necessary infrastructure in place to sustain this alternative, including trained and skilled community service providers who are paid for their services.

⁸ Pauktuutit, Memorandum from Pauktuutit Justice Project Coordinator to General Counsel of Aboriginal Justice Directorate, David Arnot, Comments on the Justice Memorandum, November 7,1995 *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>.

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- If an alternative is reliant upon a significant volunteer component, it will be unreliable and can vary considerably in level of services, it also means that existing, over-utilized community resources will be further taxed. In the new Corrections legislation dealing with early release, there is an express provision dealing with the need to establish within aboriginal communities, half way houses (s. 81).
 - This provisions is followed by a very explicit provision expressing the federal government's obligation to fund these initiatives.
 - This type of statutory commitment is needed for alternatives we are discussing as well I think.
 - The reference to "traditional systems" or "practices" implies there is something already in place, waiting to be implemented by people who are skilled and trained to do so.
 - We know this is not the case with respect to Inuit communities.
 - This terminology, furthermore, makes it difficult to argue and substantiate the need for funding to promote activities at a community level that provide opportunities for members of the community to design community-based initiatives and implement them and to provide training for community members to deliver these services.
 - We must address the need to have infrastructure and services in place prior to implementing a community-based program or initiative.
 - Furthermore, the requirement for funding of infrastructure and resources associated with the initiative can also be directly connected to the requirement of funding being conditional on these programs or initiatives having certain safeguards and protections in place for victims that are supported by organizations representing women before they are eligible for funding.
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4.6. Responses to Crime in Northern Communities- 1994⁹

Preliminary findings -- The role of alcohol:

- The role of alcohol and alcohol abuse in communities across the Baffin region, as well as community response to it, varies.
- While some communities are dry because of by-laws enacted by the community, some are dry because of the strength of informal social controls and the dynamics of the community.
- These differences in informal social controls and community dynamics are very important to understand if any initiative is to be effective.

⁹ Winther, Neil, Corporal Paul Currie, Ken Bighetty (Resource Persons). "Northern Fly-In Sports Camps: A Self-Responsibility Model for Delinquency Prone Youth", in Preventing and Responding to Northern Crime, Burnaby: Northern Justice Society, Simon Fraser University, 1990 cited in Department of Justice Canada, Research Report, Research and Statistics, Mary Crnkovich and Lisa Addario with Linda Archibald Division, Inuit Women and the Nunavut Justice System, 2000-8e, March 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-8a-e.pdf>.

5. Relevant Documents, Studies and Practices – Other Canadian

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

Focusing on the Determinants of Health

There is an ever-growing body of evidence that factors such as education, income, poverty, and social exclusion have a significant impact on health outcomes. In addition, increasingly robust population health data allow us to identify segments of the population with a higher than average incidence of certain types of health problems. Both developments enable policy-makers to develop targeted and effective health and social policy initiatives.

At the same time, better information about the impact of these broader factors on the health of Canadians leads to wide debate on where the best investments should be made to improve health outcomes. What relative share of governments' investments in health should be focused on prevention of illness and injury, promotion of good health habits, treatment of illnesses, or "healthy" public policy to address the socio-economic and other inequalities that lead to ill health? These issues are difficult for governments to address because mounting costs for acute care services combined with longer waiting lists put pressure on them to spend less on promotion and prevention and more on acute medical services.

Are these not the same issues facing justice reform?

5.2. New Canadian Study Links Criminal Activity to Alcohol and Drug Abuse¹⁰ – 2002

5.3. Shifting the Paradigm: Social Knowledge and Learning for Canada's Future - 2002¹¹

- Jenson examines changes in economic and social structures that are remaking Canadian society.
 - She identifies a certain "room to manoeuvre", today. Within that space lie policy choices that will have a profound effect on our future society.
 - Fundamental to her argument is the assertion that, "we are not hostages to the present."
 - Nothing is already set in stone...Choices (including choices not to act) made now will mediate the impacts of structural change due to globalization, technology and demography...The future is, in other words, being chosen now."
 - She shows how our earlier premises about the line between public and private realms, the capacity of markets and families to distribute well-being, and our concepts of economic, social and political spaces are no longer appropriate.
 - We need to adapt our assumptions to accord with new conditions. In turn, new premises will pose new policy choices, new opportunities for shaping our collective future.
-

5.4. Social Capital in Situation of Cooperation and Conflict- 2001

- Social capital — the structure of relationships, the mutual trust between stakeholders and participation in associations — can be measured based on the number of contacts that stakeholders have with each other
- This article shows that contacts vary not only in terms of content but also in terms of intensity in that there are weak ties and strong ties.
 - Good connective social capital lies in the proper balance of primary and secondary contacts.
 - It is just as important to consider disconnective social capital and structural holes — situations in which two actors cannot communicate with each other except through an intermediary.

¹⁰ Canadian Centre on Substance Abuse

¹¹ Jenson, Jane, Director of Canadian Policy Research Network Family Network, to a conference of the federal Policy Research Initiative, March 2002, http://www.cprn.org/family/files/pzstp_e.pdf

- The article shows that social capital based on connections and disconnections between actors is useful in situations of conflict as well as situations of co-operation between social actors.
- Social capital is special category of resources like economic or human capital.¹²
 - Unlike other types of capital, however, social capital lies in the structure of relationships between individuals or groups.
 - This is the view of social capital presented in this article,[2] although there is no denying that social capital also lies in the mutual trust between actors and in participation in associations.
 - But if, as Bateson suggests,[3] the structure of relationships takes precedence over their content, then a definition of social capital relationships would precede a definition of their content.
- **Measuring social capital by number of contact:** Coleman offers a simple way to measure social capital.
 - The number of contacts indicates the extent of an actor's social capital.
 - A contact consists of a direct relationship with another actor.
 - Since the number of contacts between persons, groups or organizations varies considerably, social capital is a variable quantity.
 - We see the same thing in our personal lives.
 - We all know people with a very wide network of contacts and others with none.
 - The same is true for groups and organizations.
 - Mathieu Ouimet showed this in his master's thesis on the networks of public and private organizations working with drug addicts in the Quebec region.[4]
 - Dozens of organizations responded to the questionnaire and identified contacts with whom they share information.
 - The regional health and social services board maintains contact with almost all the other organizations, whereas small public and private organizations have only a few contacts.
 - Ouimet showed that the content of the contact varies as well.
 - It is less demanding and therefore more common for organizations to share information rather than services and joint initiatives.
- **Strong ties, weak ties:** Relationships with contacts, which indicate the social capital of an individual or group actor, vary in their intensity as well as their content.
 - In his now classic article, Granovetter[5] distinguished between strong ties and weak ties.
 - People devote more time to strong ties than weak ones; strong ties are also more varied, more intimate and have greater emotional intensity.
 - Within family networks, people usually maintain strong ties with their immediate family and weaker ties with more distant relatives (uncles and aunts, nephews and nieces, and cousins).
 - Weak ties are just as important a part of an actor's social capital as strong ties, however.
 - There is also a drawback to strong ties in that they are closed off and inward-looking.
 - If A maintains strong ties with B and C, it is quite likely that B and C have strong ties. The same is true in families and groups of friends. In other words, sets of strong ties tend to form complete networks or "cliques," in which participants have direct relationships with each other.

Since we devote a lot of our time to strong ties, the information that circulates is often repetitive and stale. The opposite is true for weak ties. When two friends or former classmates get together for the first time in several years, they have a lot to share. In his doctoral thesis, Granovetter showed that weak ties were more effective than strong ties for obtaining information on employment. Subsequent researchers have confirmed this finding. Weak ties are more commonly used to build bridges between "cliques" made up of strong ties. For example, if an association wants to widen its membership, it should recruit people who belong to close networks made up of strong ties. These people will in turn recruit members from their own networks.

¹² J.S. Coleman, "Social capital in the creation of human capital," *American Journal of Sociology*, Vol. 94 (supplement) (1988) S95–S120 in Lemieux, Vincent, Social Capital in Situation of Cooperation and Conflict, ISUMA, Canadian Journal of Policy Research, Volume 2, Number 1, Spring 2001, http://www.isuma.net/v02n01/lemieux/lemieux_e.shtml

In other words, weak ties are better than strong ties at extending the social capital or contacts of a person or group. However, since these weak ties are less varied and intense than strong ties, there is usually less mutual trust among the actors. Good social capital seems to be based on the right blend of strong and weak ties.

Sources, levers and targets

One of the current uses of social capital is to use contacts to recruit, inform or persuade their own set of contacts. For example, if I want someone whom I scarcely know to apply for a job, I would turn to one of my contacts who has some influence with this person.

Lazega conducted an interesting study on this subject in a law firm of 36 partners.[6] Using a sociometric questionnaire, Lazega determined whether the lawyers had relationships of consultation, collaboration or friendship with each other. Any two given lawyers had possible two or even three of these types of relationships. A weak tie consisted of only one type of relationship, and a strong tie of two or three types. It was even possible for two lawyers not to have any of the three types of relationships.

Lazega asked each partner (or *source*) the following question: If you were in charge of the firm, which person (or *lever*) would you approach to speak to a partner (or *target*) whose personal problems were threatening office productivity and therefore the common good? Each partner had to answer the question in relation to each of the other lawyers in the office.

We are most interested in the partners with whom the source had no ties since the other partners are the source's contacts and make up his or her social capital. The study shows that, in these cases, sources tend to use levers who have weak ties with them but strong ties with the target.

These results confirm that weak ties often serve as bridges to connect actors who have no direct relationship. According to Lazega, they also show that actors tend to make greater use of their contacts' social capital than their own in cases where they have no ties with the targets, and the outcome of their action is uncertain.

When sources have a strong or weak tie with the target, they tend to use contacts with whom they have strong ties and who have strong ties with the target when possible. Sources use more of their own social capital when the outcome is less certain.

Co-operation and conflict

In Lazega's scenarios, sources make more use of their own social capital when they anticipate that the results will not create conflict. When they anticipate that their lever's intervention may fail and spark conflict, sources prefer to save their social capital.

Most of the literature on social capital focuses on co-operative situations. In a local community or organization in which the actors have many strong or weak ties, there seems to be a great deal of co-operation. When each actor's social capital is more limited, co-operation and mutual trust seem to be more limited as well.

This trend appears in many studies of family, affinity or support networks. People experiencing temporary or ongoing difficulties receive more help if their support network is extensive; in other words, if their social capital is made up of many contacts. The same is true for networks to mobilize people. Adrian Mayer's classic study of social networks[7] showed how an Indian politician who wanted to get elected mobilized the support of his contacts belonging either to his caste, profession or party. These contacts mobilized some of their contacts, who reached out to some of their contacts, and so on.

Another study by Boissevain[8] followed an Italian student as he tried to get study materials for an exam. Many of the materials were not available from the library, and the student used his social capital to try to get them. As in the preceding case, the student's contacts used their own contacts to get the books that they did not have.

In both cases, the levers (or intermediaries) are like an extension of the contacts in the source's social capital. In addition, social capital is being used co-operatively but in a basically competitive situation. Although Mayer and Boissevain do not deal with this aspect, the Indian politician is competing against other politicians for support, and the Italian student is competing against others for the required readings. Their social capital may conflict with that of their competitors and thus be limited.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

In a remarkable study, Burt focused on the social capital of individuals in competitive situations involving both conflict and co-operation.[9] Using several empirical studies, Burt showed that an actor benefits from having “structural holes” between his contacts in these situations.

There is a structural hole between two actors in relation to a third when they cannot communicate with each other except through this third actor, or when they cannot unite against the third. Burt gave the example of a real estate agent who shows a house to two potential buyers. If the two buyers do not know each other, the agent can exploit the situation by telling the first buyer that the second is ready to offer a higher amount, and by telling the second buyer that the first has made a higher offer.

Structural holes are useful in politics, where they help groups “divide and conquer.” For example, it is better for a coalition government to have its members united and its opponents divided among themselves.

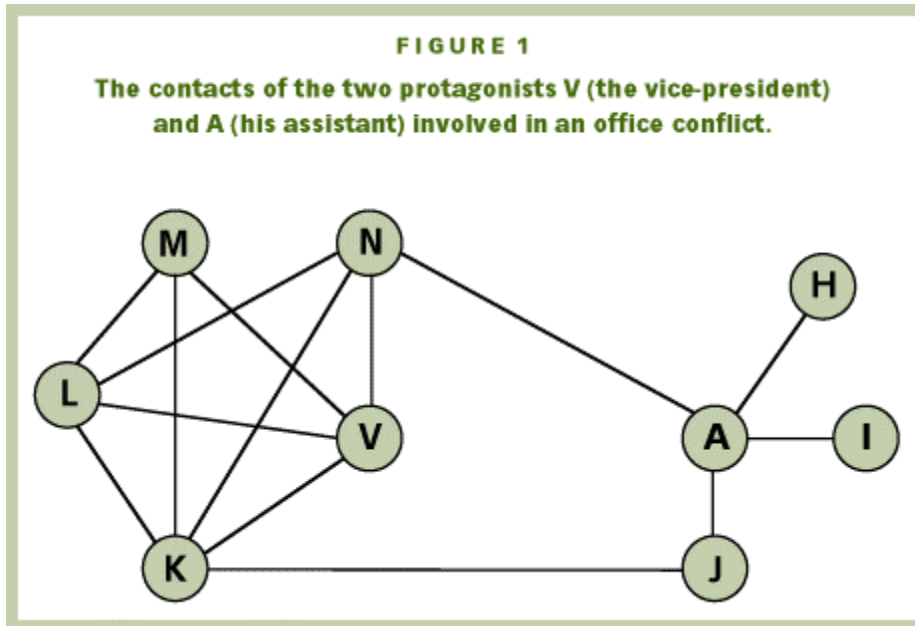
In one of his empirical studies, Burt showed a similar situation in the field of economics. Using data on 77 markets from the U.S. Department of Commerce, Burt employed complex techniques to show the presence or absence of structural holes between producers, suppliers or clients doing business in these markets. He then related the structural holes to the producers’ profit margins. Burt pointed out that structural holes between producers reduced profit margins in a given market and structural holes between suppliers and clients increased the profit margins.

In another empirical study, Burt showed the relationship between “disconnective” social capital— so called because it is based on structural holes— and the promotion of managers in a large American high-tech firm. The relative speed with which they are promoted depends largely on their individual human capital. The cases that cannot be explained by human capital are not the result of chance. They can be explained by the “disconnective” social capital of the managers seeking promotion, particularly the structural holes between their contacts outside the firm.

Two types of social capital

Burt’s work on structural holes and disconnective social capital shows the limitations of measuring social capital simply in terms of the number of contacts. We must also consider whether these contacts have relationships. The extent of the source’s connective or disconnective social capital is determined by the number of relationships between contacts.

Studies of workplace conflict show that structural holes may help a source prevail over his or her contacts. But they hinder a source when he/she is in conflict with another source with roughly the same connective social capital.



Thurman analyzed this kind of situation in an office in which a very popular vice-president was in conflict with a less popular assistant.[10] Figure 1 is a very simplified representation of the protagonists' principal contacts and the main links between these contacts.

The figure shows that the vice-president (V) has the same number of contacts as his assistant (A) and the only structural hole is between his contacts M and N.

There are six structural holes between the assistant's contacts. She exerts more control over her allies more than the vice-president. One of her contacts, N, is also a contact of the vice-president. Her contact J is also a contact of K, who is another of the vice-president's contacts.

The two protagonists also have secondary contacts, with whom the primary contacts act as levers or intermediaries. The secondary contacts make the difference in this situation. The assistant has four secondary contacts, one through J and three through N. The vice-president has no less than twelve, four through K, three through L, two through M and three through N.

In conflict situations like the one studied by Thurman, an actor in conflict with another can strengthen support by using primary contacts to establish connections with secondary contacts. Although these secondary contacts are the primary contacts of the other protagonist, the fact that another actor reaches out to them may help them make up their minds. When an actor is a primary contact of each protagonist, as in the case of N, this individual may side with the person with whom he is most often a secondary contact. In Figure 1, N is a secondary contact of the vice-president in two cases, but has no secondary contact with the assistant. This example shows why we should remember that an individual's connective social capital is composed of primary as well as secondary contacts.

Social capital: one of many resources

As Michel Forsé noted in a recent article,[11] sociologists such as Pierre Bourdieu question whether social capital is a specific resource. They feel that social capital is closely linked to economic and cultural capital. Forsé believes otherwise. His research indicates that social capital is not a function of human, economic or cultural capital but has its own impact.

Whatever the case, social actors clearly use resources other than their social capital to get what they want. Their positions and prestige are factors as well as their human, economic and cultural capital. The recent focus on social capital, supported by studies on social networks, fills a gap that seems surprising in this day and age. It is as if we had long forgotten that the ties between social actors are every bit as much a resource as the ties they have with "things."

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

However, social capital should not be seen simply as a means of co-operation between actors. In this article, we have tried to show that social capital is also used in situations of conflict or competition and that in these situations it was present both in the connections and disconnections between the protagonists' contacts.

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- [2.](#) We developed this idea of social capital in our two publications, *Les réseaux d'acteurs sociaux* (Paris: Presses universitaires de France, 1999) and *À quoi servent les réseaux sociaux?* Collection Diagnostic, No. 27 (Sainte-Foy: Les Presses de l'Université Laval, 2000).
 - [3.](#) G. Bateson, *Mind and Nature* (New York: Dutton, 1979).
 - [4.](#) M. Ouimet, *La mise en oeuvre de la politique en matière de drogue dans la région de la Capitale nationale (1999–2000) : une analyse structurale exploratoire*, master's thesis, Département de science politique, Université Laval (2000).
 - [5.](#) M. Granovetter, "The strength of weak ties," *American Journal of Sociology*, Vol. 78 (1973) pp. 1360–1380.
 - [6.](#) See E. Lazega and M.-O. Lebeaux, "Capital social et contrainte latérale," *Revue française de sociologie*, Vol. 36 (1995) pp. 759–777.
 - [7.](#) A. Mayer, "The significance of quasi-groups in the study of complex societies," pp. 97–122, in M. Banton (ed.), *The Social Anthropology of Complex Societies* (London: Tavistock).
 - [8.](#) J. Boissevain, *Friends of Friends* (Oxford: Basil Blackwell, 1974) pp. 134–138.
 - [9.](#) R.S. Burt, *Structural Holes*, (Cambridge Mass.: Harvard University Press, 1992).
 - [10.](#) B. Thurman, "In the office: networks and coalitions," *Social Networks*, Vol. 2 (1979) pp. 47–63.
 - [11.](#) M. Forsé, "Les relations sociales comme ressources," *Sciences humaines*, No. 104 (April 2000) pp. 34–37.

5.5. The Mental Health of Indigenous Peoples - 2000¹³

5.6. Criminal Justice and Public Health: Opportunities Across Systems-2000¹⁴

5.7. From Restorative Justice to Restorative Governance- 2000¹⁵

- In this brief commentary, we attempt to enlarge the scope of the debate surrounding restorative justice by relating the concept to governance.
 - We will argue that in order to really advance restorative initiatives we cannot rely solely on the criminal justice system.
 - The task is too big.
 - It is the responsibility of all sectors and all levels of government to further healing necessary to repair the damage done to and by offenders.
- Judges have long struggled with the multiple purposes of sentencing, which include rehabilitation, deterrence, incapacitation and rehabilitation.
 - Restorative justice is the newest among concepts of sentencing and it may represent the key to transforming the way in which we respond to offenders in the future.
 - But in struggling to define its practical relevance, it becomes clear that none of the aims of punishment, including this one, will speak to the fundamental social problems that the criminal justice system is ultimately called upon to resolve.
 - We have been unable to find the common ground since long before the Ouimet Report in 1969.¹⁶

¹³ Kirmayer, L.J., M.E. MacDonald, G.M. Brass, Proceedings of the Advanced Study Institute The Mental Health of Indigenous Peoples McGill Summer Program in Social & Cultural Psychiatry and the Aboriginal Mental Health Research Team, 29-31 May 2000 <http://www2.mcgill.ca/psychiatry/amh/workingpapers.html>

¹⁴ Jeremy Travis, Senior Fellow, Criminal Justice and Public Health: Opportunities Across Systems, The Urban Institute, May 19, 2000, <http://www.urban.org/crime/speeches/healthfound.pdf>

¹⁵ Shereen Benzvy Miller (Correctional Services of Canada) and Mark Schacter (Institute of Governance), Canadian Journal of Criminology, July 2000

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- Perhaps we cannot all agree because we asking the wrong question.
 - The issue is not how criminal justice can restore balance in society.
 - That is a burden that the criminal justice system was neither designed nor intended to bear.
 - It might be more productive to ask simply, what is the role of the criminal justice, together with public and civic institutions, in this struggle?
 - What we need is not merely a model of ‘restorative justice’, but a model of restorative governance’, in which criminal justice plays only a small role.

What is governance?

- Why introduce yet another term into the debate?
 - Why restorative governance?
 - Because the term ‘governance’ is coming to be understood as a process by which entire societies address social problems.
 - Restorative justice is but a part of a larger frame of reference, which is restorative governance.
- The United Nations (1997) describes as:
 - ...the exercise of political, economic and administrative authority to manage a nations’ affairs. It is the complex mechanisms, processes, relationships and institutions through which citizens and groups articulate their interests, differences. Governance embraces all of the methods – good and bad – their societies use to distribute power and manage public resources and problems.¹⁷
- A Canadian think-tank, the Institute on Governance, describes governance, as simply as ‘the traditions, institutions and processes that determine how power is exercised, how citizens are given a voice, and how decisions are made on issues of public concern.’¹⁸
- The criminal justice struggles daily to deal with the consequences of our collective social choices, that are in turn the product of our system of governance.
 - To place the burden of social healing on the justice system is like having the proverbial tail wag the dog.
 - What we need, therefore, are overarching guiding principles, and commonly understood goals, to steer our decision-makers – not just in the criminal justice system but throughout the government and civil society – so that every new challenge our shared values will be furthered.
- That criminal justice has become so well integrated into the political fabric is reflection of a combination of factors, but fundamentally it is because courtrooms and penitentiaries provide the highly visible end-products of untreated social problems.
 - Crime and punishment has become an all-too-easy target for angry editorializing and parliamentary grandstanding.
 - The cure for the problems, however, lies in a broader and more considered approach that defies rhetoric.
 - It lies among other places, in pre-school education, in proper care for mental illness, in poverty alleviation, in improved literacy rates – places that, over the last half-century, have been pushed off the political agenda.
 - A wide-ranging political choice needs to be made in favour of restoration.

Why is the restorative mantle too heavy for justice to carry alone?

- Some crime, disease, and poverty will always be with us.
 - The question is what do we do about them?
 - Prevention is certainly one approach worth pursuing in order to minimize the weight of these challenges.
 - To the extent that it can succeed, crime prevention relies on public education, economic stability, enforcement and a wide array of social systems working together.
- But there must be another goal to aim for when prevention has failed.
 - Principles of restoration should be prevail.
 - Restore individuals to wellness.

¹⁶ Canadian Committee on Corrections (Ouimet Report) 1969, *Toward Unity: Criminal Justice and Corrections*. Ottawa: Queens Printer, Canada

¹⁷ United Nations, 1997, *Reconceptualising Governance*. (Management Development and Governance Division, Discussion Paper No. 2) New York: United Nations Development Programme

¹⁸ <http://www.log.ca/about.html>

Community Justice – Social Development Factors

- Restore the balance in the community that was upset by the crime (or the disease or the poverty).
- Restore people's sense of belonging, of safety.
- But the restoration processes involves far more than the sentencing process or carceral system can possibly handle.
- Crime springs from broad social ills like poverty, illiteracy, physical and mental health problems.
- Sentencing and (sometime) incarceration are responses to the symptoms of the problems.
- As we have read, these sentiments were captured in the Supreme Court of Canada's *R. v. Gladue* (1999)¹⁹ in relation to the over-representation of aboriginal offenders in our courts and penitentiaries. The court said that:
 - It is clear that sentencing innovation by itself cannot remove the causes of aboriginal offending and the greater problem of aboriginal alienation from the criminal justice system....What can and must be addressed is the limited role that sentencing judges will play in remedying injustice against aboriginal peoples in Canada.
- Similarly, the judiciary and the sentencing process play but a small part in addressing the root causes of crime generally, or the problems that parade through our courts hourly.
 - These must be addressed through an integrated commitment in the realm of education policy, health planning and social programming to attack these problems from all angles: we need a restorative governance agenda.

Why not rely on the 'restorative justice' model primarily?

- The criminal justice system should not be allowed and encouraged to focus its diminishing resources and personnel on protecting the rights of the accused, since it is those rights that are most at risk in that arena.
 - Therefore judges, academics, and justice experts must insist that restoring the imbalances reflected in crime is not their primary job.
 - The job must be tackled through a restorative governance approach that includes health care, education, social services, and justice decision-making.
 - Then and only then will we find the common ground with respect to the purposes of punishment.
- It is difficult for the criminal justice system to serve more than one master.
 - For example, in the battle that is adversarial process, all parties must protect the rights of the person who stands to lose the most: the accused.
 - Prosecutors and defence lawyers must lock horns thinking only of the accused and the crime.

Conclusion

- By the time the justice system is called upon we are often reacting to problems created by failed or inadequate policies in other areas.
 - The restorative justice movement in Canada and elsewhere can and should serve as a catalyst to transform our approach to social choices.
 - It can serve as an example of how decision-making can use community values that set us apart from other nations.
 - But it cannot succeed as a stand-alone theme without risking grave disillusionment from the public and the professionals who struggle in the systems every day.
- There needs to be discussion of how a restorative governance model could be implemented, what it would like and who the key motivators of change need to be.

5.8. Aboriginal Peoples and the Criminal Justice System - 2000²⁰

- Increasingly, research points to a correlation between socio-economic disadvantage and involvement in the criminal justice system.
 - A larger proportion of the Aboriginal population in Canada suffers from socio-economic imbalances in comparison to non-Aboriginal Canadians, as demographic and socio-economic data illustrate.

¹⁹ *R.v.Gladue* (1999), 133, C.C.C. (3d) 385 (Supreme Court of Canada)

²⁰ Canadian Criminal Justice Association, *Aboriginal Peoples and the Criminal Justice System*, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- Justice programs may not be able to solve the problems generated by underlying social conditions, but programming must take into account the social context in which it functions.

Poverty and Social Assistance

all Aboriginal children, whether on or off-reserve, live in poverty	~ 50% ²¹
data on household incomes - Aboriginal households in Winnipeg, Regina, and Saskatoon were below the poverty line.	> 60% ²² (1991 census data)
female single-parent households in these cities were below the poverty line	80 to 90% ²³
all Aboriginal people over 15 years of age depended on social assistance for at least part of the year	~ 28.6% ²⁴ (1990) , compared to 8.1% of the general Canadian population.

- The Report of the Royal Commission on Aboriginal Peoples states that Aboriginal people are among the poorest in Canada²⁵
- Poverty among Aboriginal people is primarily attributable to unemployment, but it is also linked to low paying or part-time work, and continued participation in a hunting and trapping lifestyle.²⁶
- The Royal Commission concluded that unemployment and reliance on social assistance is very high and likely to get higher.²⁷ [xliiv](#)
- Many Aboriginal people told the Royal Commission that they despise their reliance on social assistance and wish to be more productive.
- Aboriginal people cite certain barriers that prevent them from making the transition from dependency to self-sufficiency:
 - o the absence of on-reserve employment;
 - o an inadequate land and resource base to promote economic development;
 - o a lack of educational and job skills, and discrimination in the labour market²⁸.
- Several viable solutions directed at alleviating poverty and economic dependency among Aboriginal peoples were proposed by the Royal Commission.
 - o The recommendations included recognizing past treaties and establishing new ones designed to provide a sufficient land and resource base to promote economic development, extending Aboriginal jurisdiction over economic development, and improving education and job skills training.²⁹

Education

- A significant barrier contributing to the inability of Aboriginal people to escape poverty stems from their lack of a formal education.

²¹ Towards a Just, Peaceful and Safe Society: 71e Corrections and Conditional Release Act Five Years Later, Solicitor General of Canada, at 499 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²² Towards a Just, Peaceful and Safe Society: 71e Corrections and Conditional Release Act Five Years Later, Solicitor General of Canada, at 479 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²³ Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²⁴ Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²⁵ Towards a Just, Peaceful and Safe Society: 71e Corrections and Conditional Release Act Five Years Later, Solicitor General of Canada, at 478 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²⁶ Towards a Just, Peaceful and Safe Society: 71e Corrections and Conditional Release Act Five Years Later, Solicitor General of Canada, at 479 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²⁷ Towards a Just, Peaceful and Safe Society: 71e Corrections and Conditional Release Act Five Years Later, Solicitor General of Canada, at 488 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²⁸ Towards a Just, Peaceful and Safe Society: 71e Corrections and Conditional Release Act Five Years Later, Solicitor General of Canada, at 3 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

²⁹ Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- Many Aboriginal children are confronted with unemployment and are caught up in the welfare cycle right from birth³⁰.
- In addition, many consider the pursuit of an education to be futile as they believe their job prospects to be extremely limited³¹.
- The experiences of Aboriginal children in the residential school system has contributed to a disenchantment with formal education opportunities.
 - Aboriginal children were taught in a "White" educational system, which was better suited for White than Aboriginal children, and did not accommodate or acknowledge the different learning and teaching styles of Aboriginal peoples.
- Most First Nations children have parents who encountered negative experiences in the formal school system and it is obvious why these parents are reluctant to exert pressure on their children to travel to pursue post-secondary education³².
- Furthermore, since the majority of Aboriginal parents and grandparents received little or no higher education, it is a large step for their children to see any value in pursuing it³³.
- Those First Nations children from remote communities who do wish to attend high school must often go off-reserve, leaving behind their families and support network.
 - Thereafter, it is difficult for some to return home and bridge their two worlds.
- Statistics provide some idea of changing educational levels among First Nations peoples.

School-Age Children On-Reserve Enrolled In Kindergarten, Elementary And Secondary Schools	Has increased from 72% in 1960/61 to nearly 97% in 1992/93. This enrolment increase is due in large part to the decrease in the number of student dropouts.
First Nations Children Who Remain In School Until Grade XII	Has also increased from about 3% in 1960-61, to more than half in 1992/93.
Who Did Not Attend High School,	The statistics on Aboriginal people in 1986 ³⁴ were as follows (percentage of the population 15 years and over): Status Indians (on-reserve) 45 % Status Indians (off-reserve) 24 % Inuit 53 % Métis 35 % Compared to the 17% of non-Aboriginal Canadians
The Number Of Registered Aboriginal Individuals Enrolled In University	Increased from 60 in 1960/61 to 5,800 in 1985/86. Between 1985/86 and 1992/93, this population increased nearly four times to 21,566 students. However, while the rate of students attending post-secondary education continues to rise, the participation rate of registered Aboriginal student aged 17 to 34 remain below the non-Aboriginal average for the same age group. ³⁵
The number of band-operated schools has also	Increased from 53 in 1975/6 to 353 in 1992/93.
The proportion of children enrolled in band-operated elementary secondary schools,	Is increasing (from 4% in 1975/6 to 49% in 1992/93) Is declining (a drop from 41 % in 1975/6 to 5% in

³⁰Lafond, supra note 2 at 18. 75 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccia/angl/aborit.html>

³¹Lafond, supra note 2 at 11 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccia/angl/aborit.html>

³²Frideres supra note 5 at 486 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccia/angl/aborit.html>

³³Frideres supra note 5 at 97 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccia/angl/aborit.html>

³⁴Frideres supra note 5 at 97 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccia/angl/aborit.html>

³⁵Frideres supra note 5 at 96 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccia/angl/aborit.html>

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

while the proportion enrolled in federal and other schools	1992/93). (It is noted that many of the band schools are now providing indigenous language classes).
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- Not only do barriers to education make it difficult for individuals to escape the "welfare cycle", they also impede economic development in Aboriginal communities.
- Many do not have the knowledge base or expertise to develop effective strategic plans for the economic development of Aboriginal communities.³⁶

Unemployment

- A high proportion of Aboriginal people are presently absent from the labour force.

Were Not In The Labour Force,	In 1986, approximately 57% of on-reserve First Nations and 46% of registered off-reserve First Nations people compared to roughly 12% for Canada generally.
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- These differences may be related to lower education and literacy levels among Aboriginal populations.
 - o However, the low level of reported employment may be due in part to many Aboriginal people and others not identifying traditional Aboriginal activities, such as hunting, trapping and fishing, as work.
 - o Thus, potentially large numbers of Aboriginal people may have been omitted from the occupational categories in the census collections.
- Fishing, trapping, forestry and other related primary occupations are twice as common among Aboriginal communities compared to the rest of the Canadian population.³⁷

Lack of Capital

- The economic development of Aboriginal communities has been restricted by their difficulty in raising the capital required to establish business ventures³⁸, and Indian Act restrictions with respect to bank loans and securities.
- On an individual basis, prejudice and discrimination prevent many Aboriginal people from obtaining the financial resources necessary to support a new business³⁹.
- Federal government policy related to Aboriginal capital is questionable.
 - o Although the federal government holds Aboriginal capital for both welfare and development initiatives, accumulated finances enter what is known as the "trust fund" and are invested in government bonds.
 - o This money, which is kept out of Aboriginal control, is reputed to be valued at well over \$100 million annually, and is held while many First Nations business ventures do not receive the necessary financial support.⁴⁰
 - o Aboriginal groups or individuals requesting money from the Department of Indian Affairs and Northern Development are regularly turned down.
 - Each request must go through a series of bureaucratic procedures and be approved by the federal government, generally taking between one and five years for a grant to be accepted or rejected⁴¹.

Insufficient Business Infrastructure

³⁶ Frideres supra note 5 at 96 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

³⁷ Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

³⁸ Frideres supra note 5 at 96 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

³⁹ Frideres supra note 5 at 97 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁰ Highlights of Aboriginal Condition, 1981-2001, Part II: Social conditions, Quantitative Analysis and Socio-demographic Research, Indian and Northern Affairs Canada, September 1989, at I I - 12 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴¹ Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra note 20 at 176 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- Numerous detrimental consequences result from inadequate access to business capital for Aboriginal communities.
 - First Nations communities have been unable to develop the business infrastructure required to accommodate the purchasing needs of their populations.
 - Therefore, when a band does manage to increase its per capita income, the money is not re-invested in the reserve or the band⁴².
- Residents of reserves with money to spend often do so outside the community, since there are so few businesses owned and operated by Aboriginal interests⁴³.
- Even when money is spent on-reserve, the community may still not benefit.
- Of the few on-reserve businesses, many are owned by outside groups⁴⁴.
- In addition to the problems associated with inadequate access to financial provisions, the development of business infrastructure is also impaired by the quality of the land on reserves.
 - With the exception of a small number of resource abundant reserves, most are rural and have a limited primary production capacity⁴⁵.
 - The majority barely provide any potential for agriculture, forestry, and trapping⁴⁶.
 - Less than 10 percent of all arable Aboriginal land of fair to good quality is under cultivation and, under current conditions, well over 300 additional farms could be operating.
 - Although First Nations lands contain over 11,000 square kilometres of forests and commercial yield potential, only a small amount is presently being harvested⁴⁷.
 - Thus, a large proportion of the Aboriginal communities' limited existing potential for agricultural and forestry development is not utilized.

Housing and Living Conditions

- An important indicator of the quality of living conditions is the proportion of a population living in crowded dwellings.
 - The size of the average Aboriginal family tends to be larger than that of an average non-Aboriginal family.
 - Accommodations on-reserve are 16 times more likely than other Canadian homes to have more than one person per room.
 - Off-reserve Aboriginal dwellings are 6 times more likely than other Canadian dwellings to be crowded⁴⁸[\[ix\]](#).
- In addition to inadequate housing, poor living conditions create additional problems.
 - Testimony and briefs submitted to the Royal Commission gave evidence that living conditions, with respect to water, sanitation and housing conditions in many Aboriginal communities, is comparable to developing countries⁴⁹.

⁴² Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra note 20 at 177 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴³ Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra. note 20 at 181. Reserve in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁴ The Health Effects of Housing and Community Infrastructure on Canadian Indian s (Ottawa: Supply and Services, 1991) at 60, as cited in the Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra note 20 at 181 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁵ Laurence Kirmayer et al., "Emerging Trends in Research on Mental Health Among Canadian Aboriginal Peoples", research study prepared for RCAP, 1994, as cited in the Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra note 20 at 157 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁶ Zimmerman, supra note 42 at 372 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁷ Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra note 20 at 162 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁸ Report of the Royal Commission on Aboriginal peoples, vol. 3, supra note 20 at 55 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁴⁹ Ontario Native Women's Association, Breaking Free: A Proposal for Change to Aboriginal Family Violence (Thunder Bay, Ontario: 1989) as cited in the Report of the Royal Commission on Aboriginal Peoples, vol 3, supra note 20 at 57 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- Sydney J. McKay of the Manitoba Métis Federation told the Royal Commission that "the only facilities that seem to have the running water in northern communities are the stores, [and] of course the Royal Canadian Mounted Police, fire halls, nursing stations, and teachers residences"⁵⁰[lxxi](#).
- Poor living conditions, lack of clean water and safe waste disposal can lead to higher rates of sickness and possibly death.
- The Royal Commission Report states that poor housing has been linked to infectious diseases, and non-infectious respiratory diseases such as asthma.
 - Over-crowding is a crucial factor in the spread of infectious diseases⁵¹[lxxii](#).
- The Royal Commission Report also notes that water, sanitation and housing conditions affect mental and spiritual health.
 - Over-crowding contributes to mental illness, especially where domestic violence is concerned⁵².

Alcohol Abuse

- Of all addictive substances, alcohol poses the greatest threat to Aboriginal people and their communities.
 - According to the Canadian Centre of Substance Abuse (CCSA), one in five people admitted to hospitals for alcohol-related illnesses are Aboriginal.
 - The CCSA also reports that alcohol psychosis found in Aboriginal communities is four times the national average.⁵³
- Alcohol abuse is associated with unemployment, family violence, criminal behaviour, suicides, accidents and the general inability to succeed⁵⁴.
- Alcohol abuse is considered one of the single largest contributors to the disproportionate levels of First Nations offenders within the criminal justice system.
 - A recent report on conditions in four northern Ontario Aboriginal communities found that approximately 80 percent of a criminal offences involved alcohol or solvent abuse on the part of the accused.⁵⁵
- Aboriginal addiction has been described as: "part of a circle of oppression, despair, violence and self-destructive behaviour that must be addressed as a whole."⁵⁶[lxxvi](#)
 - According to the Royal Commission, the most successful alcohol treatment programs are those that follow a model of holistic treatment, taking all of these factors into consideration when treating alcohol abuse, including loss of self-esteem and cultural identity.⁵⁷

Solvent Abuse

- Solvent abuse also poses a threat to Aboriginal communities, particularly Aboriginal youth and children.
 - In the First Nations and Inuit Community Solvent Abuse Survey and Study, almost half (48.81%) of the Aboriginal communities that responded recognized solvent abuse as a problem affecting the entire community⁵⁸.
- Solvent abuse is more common in northern and remote communities where social and economic structures may not be as strong⁵⁹

⁵⁰ Zimmerman, supra note 42 at 370 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵¹ Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra, note 20 at 54 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵² Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra, note 20 at 57 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵³ Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵⁴ Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra, note 20 at 86 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵⁵ Report of the Royal Commission on Aboriginal Peoples, vol. 3, supra, note 20 at 382 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵⁶ Mary Hyde and Carol La Prairie, "Amerindian Police Crime Prevention," working paper prepared for the Solicitor General of Canada, Ottawa, 1987, as cited in the Report of the Aboriginal Justice Inquiry of Manitoba (Winnipeg: Queen's Printer, 1991) at 88 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵⁷ Canadian Corrections Association, Indians and the Law, August 1967, survey prepared for the Department of Indian Affairs and Northern Development, at 47, as cited in Zimmerman, supra note 42 at 382 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁵⁸ 58-Report of the Aboriginal Justice Inquiry of Manitoba, supra note 49 at 30-36382 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- The Study also discovered respondents began using solvents at a very young age with half abusing them between the ages of 4 and 11.
- Unfortunately, the age of first use is becoming younger⁶⁰.
- Aboriginal peoples identified these conditions as contributing to solvent abuse⁶¹:
 - loss or absence of cultural identity;
 - absence of family and/or community support;
 - lack of awareness of the effects of solvent abuse;
 - lack of spiritual guidance, and
 - presence of other forms of abuse, such as sexual, physical, verbal or mental.
- Solvents are attractive to adolescents for a variety of reasons.
 - They are legal, inexpensive, often more accessible than drugs or alcohol, and have almost immediate effects (rapid mood elevation can occur within 15-45 seconds).
 - Solvent users can also display a variety of other symptoms such as blurred vision, nausea, and slurred speech with chronic abuse potentially resulting in brain damage, paranoid psychosis, and heart failure.

Domestic Breakdown

- The percentage of single parent families among Aboriginal people is about twice the overall Canadian figure.
 - Approximately five times more single-parent families are headed by women than men⁶²[lxxxii](#).
 - Aboriginal single parent families off-reserve(30% of all families) on-reserve(24% of all families)

Domestic Violence

- Domestic violence can include physical violence, sexual, psychological, and economic abuse (where women and the elderly are dominated by another family member who controls their finances).
 - A Statistics Canada (1993) survey found that 51 % of Canadian women have been physically or sexually abused at least once by the age of 16, and 25% of married women have been physically or sexually abused by their spouses⁶³.
- In contrast, a study conducted by the Ontario Native Women's Association reported that 80% of Aboriginal women were victims of violence.
 - Of this total, 87% had been abused physically and 57% had been sexually abused⁶⁴.
 - In addition, death caused by a violent act occurs three times more frequently within Aboriginal than non-Aboriginal communities with this rate even higher among the Inuit⁶⁵.
- Sharon Caudron, Program Director for the Women's Resource Centre of Hay River in the Northwest Territories, described the price that children pay when domestic violence occurs - "The cost to our children is hidden in their inability to be attentive in school, in feelings of insecurity and low-esteem and in acting out behaviour which may manifest itself in many ways, such as vandalism, self-abuse, bullying; and often the children suffer in silence."⁶⁶[lxxxvi](#)
- The Royal Commission pointed out ways that Aboriginal domestic violence is distinct from non-Aboriginal:
 - Aboriginal domestic violence does not rest within the boundaries of the family unit but permeates the whole community;

⁵⁹James Dumont, "Justice and Aboriginal People," research paper prepared for the Aboriginal Justice Inquiry, Sudbury, September 1990, at 46. 382 in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶⁰ Rupert Ross, *Dancing with a Ghost*, (Markham: Webcom, 1996) at 28-29. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶¹ Rupert Ross, *Dancing with a Ghost*, (Markham: Webcom, 1996) at 33. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶² Bridging the Cultural Divide, supra note 54 at 62. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶³ Report of the Aboriginal Justice Inquiry of Manitoba, supra note 49 at 22-4 1. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶⁴ Zimmerman, supra note 42 at 371. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶⁵ Curt Griffiths & Simon Verdun-Jones, *Canadian Criminal Justice* (Toronto: Harcourt Brace & Company, 1994) at 665. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶⁶ Bridging the Cultural Divide, supra note 4 at 117. in Canadian Criminal Justice Association, Aboriginal Peoples and the Criminal Justice System, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

Community Justice – Social Development Factors

- dysfunctional family relations can be traced back to deliberate intervention on the part of the Crown to disrupt the First Nations family, and
- devaluing of Aboriginal traditions and language destroys cultural pride and identity and sets the stage for violence within Aboriginal communities⁶⁷

Suicide

- Suicide is a significant concern in many Aboriginal communities, is two to three times more common among Aboriginal peoples and is also five to six times more prevalent among Aboriginal youth than non-Aboriginal youth⁶⁸.
- According to Aboriginal tradition, suicide was rare in Pre-colonialism times because it was viewed as unacceptable.
 - Those who did commit suicide were generally the sick or elderly who felt they could no longer contribute to their community and their deaths were perceived as acts of self-sacrifice.
- In First Nations communities today, suicide is more common among the young and usually results from feelings of hopelessness and despair⁶⁹.
- The following factors are often linked to suicide⁷⁰:
 - continuous family disruptions and instability
 - family history of mental health problems
 - alcohol and/or drug abuse
 - physical and/or sexual abuse, and
 - extended periods of grief

Summary

- The social and economic conditions outlined in this section attempt to illustrate a correlation between these factors and Aboriginal criminal conduct.
- Poverty, inadequate educational opportunities, unemployment, poor living conditions, alcohol abuse and domestic violence, among other factors, all contribute to constrain cultural identity and promote feelings of hopelessness and despair.
- It is clear that the Canadian criminal justice system presently is not meeting the needs of Aboriginal peoples.⁷¹

5.9. Aboriginal Justice Strategy (AJS) Trends - 2000⁷²

5.9.1. Social Conditions

- Nunavut and the Northwest Territories: northern projects share the same concerns about social conditions. Family violence, suicide and substance abuse are epidemic in some of these communities.
- National Perspective (Shared Concerns): while not every AJS project articulated this concern, a large number across Canada did.
 - Many projects spoke about the challenges of effectively addressing the role of substance abuse in their communities, aware that this has a large impact on the anti-social or violent acts that community members engage in.

5.9.2. Holistic Principles

- AJS should be guided by holistic principles.
 - Justice issues separated from an integrated plan to address other social, political, and economic problems at the community level, represents a plan that adopts artificial distinctions.
- While addressing justice needs is vital, flexibility and shared approaches to deal with systemic problems in Aboriginal communities must also be incorporated.

⁶⁷ Op. cit. at 665 in Canadian Criminal Justice Association, *Aboriginal Peoples and the Criminal Justice System*, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶⁸ 45 Royal Commission on Aboriginal Peoples. *Choosing life: special report on suicide among Aboriginal people* (Ottawa: Canada Communications Group, 1995) at 1. in Canadian Criminal Justice Association, *Aboriginal Peoples and the Criminal Justice System*, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁶⁹ Op.cit. at 10. in Canadian Criminal Justice Association, *Aboriginal Peoples and the Criminal Justice System*, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁷⁰ Op.cit. at 22. in Canadian Criminal Justice Association, *Aboriginal Peoples and the Criminal Justice System*, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁷¹ Canadian Criminal Justice Association, *Aboriginal Peoples and the Criminal Justice System*, A special issue of the Bulletin Ottawa, May 15, 2000 <http://home.istar.ca/~ccja/angl/aborit.html>

⁷² 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 -

5.10. Diversion Programs for Adults - 1997⁷³

Diversion of the Mentally Ill from Justice Processing

- Although no rigorous evaluations were found of programs for diverting the mentally ill from pretrial detention and later justice processing, some process descriptions serve to shed light on the more effective approaches.
- There is no question of the importance of diverting mentally disordered persons from the justice system.
- Questions of diminished criminal responsibility aside, the justice system is ill-equipped to deal effectively with such persons, including problems of treatment, safety, and control which they present in the correctional population.
- Their diversion into settings where their needs can be better met and the risks which they present to themselves and others can be better contained is therefore considered generally desirable by jail administrators and other justice system officials.
- Unfortunately, with the deinstitutionalization of much of the mental health system, mentally disordered persons have increasingly found themselves in the justice system.
- Estimates of the percentages of seriously mentally disordered persons in local jail systems at any given time vary markedly, from three percent to 16 percent.
- Early identification of mental disorders in arrested persons and appropriate action are critical to an integrated response to these situations.
- Steadman *et al.* (1995) paid field visits to 12 jail diversion programs rated as highly effective and six rated not highly effective by the local jail administrator, the mental health system official closest to the program, and the program director.
- Based on their observations, six characteristics were found present in all the effective programs.
- First, there was close communication and cooperation among the mental health system, justice system and social service system at the local level; formal interagency agreements were considered "essential" by half the program directors.
- One noteworthy program used an interdisciplinary team of 10 members who work intensively with up to 100 forensic clients at a time.
- Also involved closely in the workings of the program were representatives of the judiciary, the public defender's office, prosecutors, probation, and the jail services supervisor.
- Second, there must be regular meetings of representatives of the three systems, both at the service delivery level and at the policy/administration level.
- Third, it is helpful to have a designated person who is responsible for liaison among the three systems; this person is the "glue" that holds the various program components together.
- Fourth, there must be strong leadership which eventually turns informal cooperative relationships into institutionalized ways of working together.
- Fifth, jail inmates must be assessed early in the process - an initial medical assessment within 24 hours and a more in-depth mental health screening within 48 hours were recommended.
- Sixth, there must be active case management at all stages including intake, linkages with needed services, information and advice to the courts, monitoring of service delivery, client advocacy and direct service provision.
- The researchers found (1995: 1634) that very few of the programs which paid careful attention to linkages with community-based services "had any mechanism to ensure that the initial linkage was maintained". They suggest that this is a final characteristic of long-term effectiveness.
- McDonald and Teitelbaum (1994) assessed a privately run day treatment program in Milwaukee which had many of these characteristics.
- Offenders were ordered into the program as a condition of pre-trial release, probation, or some other court order.

⁷³ Nuffield, Joan, Ph. D., Written for Solicitor General of Canada, Diversion Programs for Adults, 1997, <http://www.sgc.gc.ca/EPub/cort/e199705/e199705.htm>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

- The average client was a man with two prior arrests, a diagnosed major mental illness, and an average of 75 days in a psychiatric facility in the previous two years.
- Priority was given to "referrals that represent a genuine alternative to incarceration".
- The program offered a range of services, including required daily attendance, the provision of medications, individual psychotherapy and group therapy, and assistance with housing, money management and health and social assistance.
- Some indirect measures were found of the program's success at diverting some of the estimated 1000 mentally ill arrestees annually (the program has the capacity to serve about 250 clients at any given time, and the average stay in the program was 18 months).
- During 1992, the program accepted 67 clients; 30 others were referred to other community-based support programs, and 40 others "remained in custody through the end of the year and therefore were not eligible for admission to the program" (1994:5), apparently because of the program's capacity limits.
- Another indication of the catchment of this program was in the discharge status of the 84 persons who left the program in 1992.
- Of these, 57% performed successfully in the program until the end of their legal obligation (three-fifths of these declined the offer of a referral to another, less structured program afterwards), 18% were jailed for a new offence or a violation of the terms of their court order, 14% were transferred to a residential treatment facility, and 11% died, disappeared or moved to another state.
- An unattributed article entitled "Diverting the Mentally Ill from a County Jail" (1987) describes the Alternative Community Treatment Program (ACT) in Orange County, California.
- This program also had a close collaborative relationship with the justice, mental health and social service systems, and "active case management".
- It attempted to divert from county jails inmates with three or more incarcerations for "minor law violations" within the previous 12 months, a primary diagnosis of a major mental disorder, and a substantiated history of chronic dysfunction due to the mental disorder.
- During 1984/85, 58 inmates were served by the program, for an estimated net reduction of 989 jail days (how the estimate was obtained was not detailed). Dispositions included 22 referrals to inpatient facilities, 23 to outpatient mental health, one to a halfway house, one to a drug abuse service, and four to temporary shelters.
- These studies tend to suggest that it is possible to divert from pretrial detention seriously mentally disordered persons and place them in more appropriate settings, although how long some of them will remain out of jail is an open question.
- Effective strategies involve close working relationships between mental health, social service and justice administrators, processes for early identification of mentally disordered offenders, active case management and long-term follow-through on service delivery to meet offenders' needs.

5.11. Entries Related to the Mentally Handicapped Offender-1996⁷⁴

The Court Outreach Project - Ottawa, Ontario 92
Opportunities for Independence - The Developmentally Disabled , Winnipeg 130
El' dad Ranch - Steinbach, Manitoba 140

⁷⁴ The Church Council on Justice and Corrections, Correctional Service Canada, Satisfying Justice, Safe Community Options That Attempt To Repair Harm From Crime And Reduce The Use Or Length Of Imprisonment 1996 <http://www.csc-scc.gc.ca/text/pblct/satisfy/juste.pdf>

6. Relevant Documents, Studies and Practices – USA

6.1. Building Community Support In The Context Of Other Social Change⁷⁵

- The shift represented by restorative justice is part of a larger shift in our social institutions from power-based structures and practices to relationship-based structures and practices.
 - On one level it appears that this movement is toward greater centralization of authority and greater use of retributive approaches, but at another level there are powerful forces moving in the opposite direction.
 - This shift is evident in several fields:
 - * Community based policing is based on building community relationships and using proactive problem solving instead of brute force responses designed to demonstrate power over others.
 - * The field of social services is struggling to shift from a deficit model, in which a beneficent outside power rescues an individual or community from weaknesses, to a capacity building model, in which individuals or communities rescue themselves based on their own strengths and relationships in the community.
 - * In the field of education, a new approach to discipline called judicious discipline involves students in setting standards and maintaining them.
 - * The total quality management (TQM) transformation in business and industry is fundamentally a shift from motivating workers based on fear and power over them to motivating workers based on relationships and an opportunity to shape their own work lives.
 - * In the legal field the movement toward greater use of alternative dispute resolution processes rather than court processes represents a similar shift from reliance upon the power and authority of the abstract law to reliance upon human relationships and interaction to reach agreement.
- All these processes give more power for finding solutions to those most directly involved (rather than a distant authority), and decrease reliance on fear of consequences as the primary mechanism of achieving desired behavior.
 - Efforts to expand the use of restorative practice in the criminal justice system and build community support for those practices will be more effective if they are understood in the context of this substantial social change that is reshaping many of our institutions.
 - Drawing parallels between those changes and the restorative framework gives legitimacy and viability to restorative justice, and places restorative justice at the center of some the most hopeful (encouraging) changes occurring in our nation.
 - It also assists those not in the criminal justice system in relating these changes to something familiar in their lives.

6.2. The Concept of Social Justice⁷⁶

6.3. Restorative justice and social work-2002⁷⁷

Van Wormer has professional experience in both social work and criminal justice. She finds them vastly different, as she illustrates through a contrast of some key terms and concepts in each field. Yet she also observes that they may find convergence in the principles and practices of restorative justice, though it is little known in the field of social work. With all of this in mind, writing to a social work audience, she explains what restorative justice is and how it is relevant to social work.

Before I became a social worker, I spent a lot of time around the courts. As an instructor of criminal justice, I

⁷⁵ 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

⁷⁶ Jacki Charity, The Concept of Social Justice Do People Get What They Deserve, or Deserve What They Get?, <http://www.umm.maine.edu/BEX/students/jackicharity/jc360.html>

⁷⁷ Van Wormer, Katherine. (2002). MSSW, PhD Restorative justice and social work. Social Work Today 2 (1).

<http://www.restorativejustice.org/rj3/Full-text/vanwormer/restorative1.htm> Social Work Today, January 7th, 2002, Vol. 2 No. 1

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

studied the adversary system and played a limited role in helping defense attorneys with jury selection. Much of what I learned about justice in the United States—the plea bargaining, the guilty released on minor technicalities, the “one-size-fits-all” harsh sentencing, the win-or-lose mentality—was disillusioning. Books such as Karl Menninger’s *The Crime of Punishment*, Howard Zehr’s *Changing Lenses: A New Focus for Crime and Justice*, and Jeffrey Reiman’s *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice* provide compelling critiques of the standard, Anglo-Saxon form of justice.

Contrast the terminology of criminal justice—punishment, zero tolerance, criminal personality—with that of social work—empowerment, social justice, cultural competence—and the fields come across as worlds apart. For these two fields to come together would take a paradigm shift. Such a shift may be occurring, in fact, in the form of a seemingly new movement that harks back to ancient times. It is known in its present reincarnation as restorative justice.

The adversary system will not be replaced; prisons will not be razed and correctional officers won’t be throwing away their uniforms just yet, but, according to the National Institute of Corrections, “a revolution is occurring in criminal justice.”

Rarely noted in the social work literature, restorative justice involves a reorientation of how we think about crime and justice. As a set of values, restorative justice offers great promise in regard to promoting healing and strengthening community bonds by addressing the criminal harm done to victims and communities.

What Is Restorative Justice?

Restorative justice is a collective term that loosely refers to a number of initiatives that hold offenders directly accountable to victims and the community. Victim-offender mediation is probably the most common restorative justice program in the United States; restitution and community service are widely used sanctions. There are more than 650 victim-offender mediation programs in the United States, and many more are operating around the world. New Zealand and Canada make extensive use of family group conferencing and healing circles for work with juveniles.

To learn how the process works, consider the Canadian healing circle facilitated by social worker Angel Yuen, as reported in “Healing Circle Shows Offenders their Human Toll” in the *Toronto Star*. “All the people touched by an offense have an opportunity to speak—at length—about how they were affected,” writes the author. “That means an offender sees and hears, firsthand, the human impact of his or her actions. It means the victim hears why the offense occurred. And it means the offender hears his or her own voice, often apologizing through tears, offering to make amends. At the close, a contract is drawn up detailing what took place and how the offender will repair the harm” (2001).

On a global scale, the most amazing example of truth telling and catharsis for crime has taken place in South Africa before the Truth and Reconciliation Commission. In intensely emotional sessions, former officials of the apartheid regime were brought face to face with their victims, many of whom they had tortured. Healing was centered on the communication process itself rather than on retribution for the pain that was inflicted.

On a visit to Canada, I learned from social workers how juvenile justice had interpreted restorative strategies to help kids stay out of trouble. One youth who had burglarized the home of his neighbors was held accountable by the neighbors. Seated in a circle, surrounded by family members, the boy was brought face to face with the personal suffering generated by the crime. The impact of such a community encounter can be positive, eliciting sincere apologies, reconciling neighbors who may then lose their fear of each other. In contrast to court adjudication, the conferencing encourages truth-telling and creative ways of making amends. Social workers who had participated as facilitators in such proceedings were gratified by the good feelings that often emerged from such dialogue. Just as calls for retribution often bring out the baser instincts in people, a focus on restoration and empowerment also tends to bring out the best in human nature.

Although the term restorative justice has become popular only since the 1990s, this form of dispensing justice is rooted in the rituals of indigenous populations as tribal members settled disputes in sentencing circles. A feather or “talking stick” may be passed around ceremoniously from speaker to speaker to signify whose turn it is to speak.

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

Canadian Mennonites, noted for their emphasis on pacifism and communal decision making, began to experiment with meetings between victims and offenders to establish restitution. From these simple beginnings, the victim-offender reconciliation movement was born; it continued to be used widely in Canada and came to the United States in the 1970s (Zehr, 1990). Feminist-inspired victims' rights activists played a role in raising consciousness regarding the need for victims to be heard in the criminal justice process.

Restorative justice is the growing movement that aims to change the direction of criminal law by focusing it on the needs of victims and on repairing communities. Unlike retributive justice, which focuses on punishment of the guilty offender, restorative justice takes a more caring approach. Proponents of this nonadversarial model adopt a different lens for viewing crime and rectifying the harm done by the crime. Restorative justice entails active involvement by members of the community operating with official sanction of the local court.

In Minneapolis, for example, the Central City Neighborhood Partnership has begun using a panel of residents to meet with offenders charged with soliciting prostitutes. If the offender cooperates with the panel, the criminal case will be dismissed. At the conference, individuals in the neighborhood tell the offender about the effects of prostitution on the neighborhood. Typical sanctions would be for the offender to contribute to an organization helping women escape prostitution, writing a letter of apology, and helping to construct a halfway house.

In 1991, Vermont decided to overhaul its system, setting up reparative boards statewide to focus on repairing the damage to the victim and community. Composed of volunteers, the reparative group is charged with ensuring that low-risk, nonviolent offenders are made aware of the impact of their behavior on members of the community. Vermont, in fact, is the first state to implement such conferencing on a statewide basis and the first to institutionalize the restorative justice philosophy.

The goal is to have all offenders pay back their victims even if they are in prison. Treatment is provided to meet the offender's needs as well. As with all restorative justice programs, the goal is to reduce the harm the offender has done to the victims and community and to reintegrate the offender into the community. Preliminary studies from Vermont show that more than 80% of the 4,000-plus offenders who entered the mediation process have completed it successfully and that they are less likely to reoffend than those who enter probation.

The most remarkable program I have encountered is AMICUS in Minneapolis. This program for girls in trouble with the law combines gender-specific concepts with the principles of restorative justice. A major challenge of this approach is to counter what the girls—hardened by experiences with the criminal justice system—have learned: don't trust anyone, don't look anyone straight in the eye, the victim is the enemy. Now they are asked to sit in a circle—along with victims, victims' family members, their own family members, and their probation officers—and to trust the truth that will emerge from the circle. Individuals tell the offender how her behavior has caused them harm with an emphasis on feelings; a spirit of empathy, dialogue, and healing prevails.

Relevance to Social Work

This focus is relevant to the field of social work, first and foremost because social workers may have caseloads containing persons who have been victimized by crime or who are court-ordered into treatment because of offending behavior. Such clients may or may not be entangled with the criminal justice system. Social workers may be directly or indirectly involved in court proceedings; they may even be in a position to influence legislation pertaining to correctional treatment.

The mission of social work is rooted in a set of core values. According to the National Association of Social Workers' Code of Ethics, the core values of social work are as follows: social justice, dignity and worth of the person, importance of human relationships, integrity, and competence (1996). Restorative justice relates closely to social justice or fairness in that the victims and offenders each have their interests represented in the proceedings. Restorative justice as a nonadversarial approach moves beyond simplistic either-or, winner-take-all modes of settling disputes into the realm of negotiation and the attempt to be fair to both parties. Third-party solutions can maximize benefits for all and minimize social costs. When lawyers are involved, they work with each other rather than against each other.

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

Social justice is provided to the victim in that effort is made to restore what the victim has lost, while at the same time requiring the offender to face the consequences of his or her acts and the personal pain caused to the victim, the victim's family, the offender's family, and the community. These strategies can be combined with those of community-based corrections to create multifaceted programs of benefit to all involved (Hahn, 1998). Rehabilitation, rather than retribution, is the thrust of this approach.

Through embracing members of the extended family, restorative justice also has been found to be highly effective in minority communities. These minority communities—including Native American, African American, and Latino traditions—are collectively, rather than individually, focused. The Circle Sentencing approach, as used in the Yukon of Canada, utilizes traditional justice processes of tribal communities to view crime holistically. Tapping into the strengths of community resources, the process develops sanctions based on consensus of community members. Often a strong, spiritual component is part of such sentencing and healing circles.

Forgiveness and healing can go hand in hand. Forgiveness—in the sense of an ability of the aggrieved party to let go—can never be forced. When it occurs, forgiveness can be a powerful force for both victim and offender. Through counseling preparatory to victim-offender-community conferencing, social workers can play a key role in helping participants deal with strong feelings connected to the offense.

Dignity and worth of the person is the second core value of social work. Through restorative justice, the dignity of both the offender and victim are maintained through a process that is the opposite of customary criminal justice proceedings—the orange suit, publicity attached to the arrest and trial, the indignities and accusations heaped upon witnesses by lawyers on the opposing side. The focus of restorative justice is on the offender's whole personality, not only on the acts that have caused the harm. Ideally, this informal but emotionally intense process will have a humanizing effect on all participants. Unique to this process is the emphasis on restoring the individual to the community rather than on temporarily removing him or her from the community. This aspect of restorative justice can produce a special benefit to women, minorities, and other vulnerable persons who often fail to receive individual attention through the adversarial process. In this framework, voice can be given to concerns, for example, those relating to his or her sense of safety.

Importance of human relationships is another theme of the restorative justice movement. Through community service projects and psychologically through the contrition and remorse shown toward persons who are injured by the wrongdoing, offenders help compensate for what they have done. Such a drawing together of offender and victim in a face-to-face meeting might be especially conducive to helping youth appreciate the impact of their behavior and begin to turn their lives around.

What does research say about the effectiveness of such encounters? Follow-up surveys show that victims consistently rate the process positively, according to Mark Umbreit, PhD, director of the Center for Restorative Justice and Peacemaking, School of Social Work, University of Minnesota, St. Paul. The most extensive research to date shows that while the possibility of receiving restitution appeared to motivate victims to enter the mediation process, they reported that meeting the offender and being able to talk about what happened was more satisfying than receiving restitution. In closely monitored meetings between inmates and former victims in British Columbia, victims reported they could see the offender as a person rather than a monster. This view helped them feel less fear and more peace. Offenders, in turn, felt more empathy for their victims' feelings and provided evidence of increasing self-awareness.

The core social work value of integrity is evidenced in a format built on truth and frank disclosure. In contrast to traditional forms of justice, in which the accused remains silent while his or her lawyer fights against disclosures of guilt being admitted into evidence and challenges the integrity of prosecution witnesses, restorative justice encourages open sharing of information among involved parties. Related to integrity is the notion of accountability. For example, counselors subscribing to this model would encourage girls in trouble with the law to take an active role in the modification of their own behavior. Putting them in touch with their own victimization often is seen as a first step in helping them to empathize with persons they may have victimized. For these girls, as well as for men and women serving time in prison, victim impact panels may be invited to speak of the suffering they and their families have endured as victims of crime.

Competence, the final core social work value, comes into play in the professionalism shown by facilitators engaged in the practice of restorative justice. The facilitators may be lawyers, tribal leaders, or clergy. In Australia, the police play an active role. In New Zealand, Canada, and increasingly in the United States, social workers are trained for such facilitation. Of the professions, social work is the most ideally suited for conflict resolution of this sort. Through the School of Social Work at the University of Minnesota, the National Restorative Justice Training Institute trains professionals in mediation and conflict resolution in communities, schools, and workplaces, as well as within the justice system. Support and technical assistance are provided by systemic change in the juvenile justice system.

The core social work values, as we have seen, are compatible with the principles of restorative justice. Schooled in strength-based interventions, social workers, at the present time, are striving to shift from a deficit, pathology-based model to one that builds on the untapped resources of people and communities. Social work, as a profession, is steeped in a history of advocacy for social justice and prevention work, especially with juveniles. Experience in family counseling and interdisciplinary teamwork are further attributes of the profession.

In my book, *Counseling Female Offenders and Victims: A Strengths-Restorative Approach* (2001), I present a paradigm of the strengths-restorative model. This model represents the principles of restorative justice with two modifications. The first is a formal recognition of the role of the state in overseeing that justice is done and that victims' rights are protected. The second is an elimination of shaming—sometimes termed integrative shaming—a concept borrowed from New Zealand's indigenous rituals. The concept is incongruent with the strengths perspective. The challenge to members of social work, “the policy-based profession” is to learn ways of making correctional strategies more consistent with social justice and to participate in the planning and implementation of restorative community justice initiatives.

Effective strategies for restorative justice advocacy are as follows: to embark on cost-effective analyses of ongoing programs; engage in special outreach efforts to victim/witness assistance groups to dispel any initial skepticism; unite with progressives in the field of criminal justice as well as natural allies at the grassroots level for educational efforts; lobby legislators for funding of state and local pilot projects for certain designated categories of offenders; and, finally, build community support with outreach to minority groups, especially native populations, to promote a restorative framework. If we can begin to repair the harm that's been done to the offender while helping the offender take responsibility for his or her actions, the offender will begin to repair the harm he or she has done to the community. At the same time, paying attention to the victim's emotional and physical needs can promote recovery of personal losses and a sense of satisfaction through active involvement in the resolution and reconciliation process.

The social work profession—with its long history of advocating for community-based treatment, believing that most human beings are redeemable, and stressing interdisciplinary team work—can expect to play an increasingly active role in facilitating such nonadversarial forms of justice as restorative justice

References

- Hahn, P.H. (1998). *Emerging Criminal Justice: Three Pillars for a Pro-Active Justice System*. Thousand Oaks, CA: Sage.
- “Healing Circle Shows Offenders their Human Toll. (2001). *Toronto Star*. p. NE04.
- Menninger, K. (1996). *The Crime of Punishment*. New York: Viking Press.
- National Association of Social Workers. (1996). *Code of ethics*. Washington, DC: NASW.
- Reiman, J.H. (2001). *The Rich Get Richer and the Poor Get Prison: Ideology, Class, and Criminal Justice*. Boston: Allyn & Bacon.
- Zehr, H. (1990). *Changing Lenses: A New Focus for Crime and Justice*. Scottsdale, PA: Herald Press.
- Van Wormer, K.S. (2001). *Counseling Female Offenders and Victims: A Strengths-Restorative Approach*. New York City: Springer Publishing Company.

6.4. Is Restorative Justice Appropriate for Persons with Mental Health Problems?-2001⁷⁸

Restorative Justice (RJ) focuses upon education, empowerment, and reintegration of both victims and offenders, promoting a collaborative, mediated dialogue between parties were indicated.

⁷⁸ Eric Y. Drogan, J.D., Ph.D., ABPP, Attorney and Forensic Psychologist, Associate Clinical Professor, University of Louisville School of Medicine, Kentucky, and Mark E. Howard, J.D., Assistant United States Attorney, Adjunct Professor, Criminal Law and Federal Courts, New Hampshire, *Is Restorative Justice Appropriate for Persons with Mental Health Problems?*, *Restorative and Community Justice: Inspiring the Future An International Conference* Winchester, England March 28 – 31, 2001
<http://www.law.soton.ac.uk/bsln/rj/rjsumdr.htm>

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

This presentation focuses upon the extent to which RJ principles and techniques are appropriate for persons with mental health problems. Focal issues will include risk of retraumatization, boundaries of responsibility and redress in light of preexisting conditions, and maintenance of a level playing field in the context of mediation. Attendees will review clinical attributes of specific mental illnesses and/or disabilities, with practical advice on implications thereof for the RJ process. Traditional defense and prosecutorial perspectives on the role of mental health problems will be reviewed, including sentencing guidelines and competency, responsibility, and mitigation, with special attention to the transformation and evolution of these approaches within an RJ framework.

Mediation and Psychotherapy

The content of mediation and psychotherapy sessions can be quite similar. Several aspects of strategic family therapy (SFT), for example, are related to success in mediation:

- (1) SFT and mediation are oriented to problems, not growth;
- (2) SFT and mediation are contemporary, as opposed to historical, with the result that background material is sought only in addressing the presenting problem;
- (3) SFT, like mediation, is more action than feeling oriented, although mediation may be aided by a momentary venting of emotions;
- (4) In SFT and mediation, therapists and mediators actively reflect the struggle of clients, but recognize fundamentally that nothing is to be done for clients that they can do for themselves;
- (5) SFT and mediation both involve recognition of coalitions and triads;
- (6) SFT and mediation are competency-based, empowering, and recognizing of client capabilities;
- (7) In SFT, problems are behaviorally defined, which would also be useful in mediation to get tasks accomplished;
- (8) Both SFT and mediation are brief and intensive with rapid disengagement; and
- (9) Both SFT and mediation are more directive than interpretive.

Depression as an Example of Mental Illness:

According to the *Diagnostic and Statistical Manual of Mental Disorders* (hereinafter, *DSM-IV*), persons suffering from a Major Depressive Episode may display:

- (1) depressed mood;
- (2) diminished interest or pleasure;
- (3) weight loss;
- (4) sleep disturbance;
- (5) agitated or slowed movements;
- (6) fatigue or loss of energy;
- (7) feelings of worthlessness or guilt;
- (8) concentration problems or indecisiveness; and
- (9) thoughts of death or suicide.

During mediation, depressed individuals may be listless, apathetic, and seemingly disinterested in the details of these proceedings. Often, the depressed individual may dissolve into tears, seemingly incapable of taking an

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

active role in the mediation process. The depressed individual is not merely so "sad," "miserable," or "unhappy" that a preoccupation with these emotions is crowding out the desire to participate in mediation. Rather, clinical depression is characterized cognitively by a "negative cognitive triad," involving an entrenched negative of one's self, situation, and prospects that interferes *logically* with the desire and/or ability to interact effectively.

Substance Dependence as an Example of Mental Illness:

Persons who have become dependent on any of a range of substances may share several of the following experiences:

- (1) tolerance (needing more to become intoxicated, or not getting as intoxicated with the same amount);
- (2) withdrawal symptoms;
- (3) consuming more, and for a longer time, than intended;
- (4) failed attempts or persistent desire to minimize consumption;
- (5) increased time spent in obtaining or recovering from the substance in question;
- (6) giving up social, occupational, or recreational activities; and
- (7) continuing to consume despite knowledge that there is a problem.

"Withdrawal" is likely to be marked by considerable pain and psychological disturbance. This is distinct from the longer-term process of "recovery," which involves, among other aspects, the gradual return of the central nervous system to an approximately pre-morbid level of functioning. In the case of long-term alcohol dependence, this component of "recovery" is generally estimated to take between 9 and 15 months.

These persons often lead chaotic personal lives, are likely confused, and frequently have difficulty with trust issues, in a fashion seemingly similar to persons with paranoid personality disorder. Comprehension difficulties are a significant issue in these cases. While deficits are typically neither as profound nor as pervasive as those encountered with, for example, mental retardation, they may still provide a substantial barrier to collaboration and communication.

The trademark attitude (and primary psychological defense) of the addicted person is *denial*. Mediators should not be surprised when addicted persons resolutely refuse to acknowledge aspects of their cases that would seem readily apparent to anyone else.

Schizophrenia as an Example of Mental Illness:

Persons who have received a diagnosis of schizophrenia will often experience some or all of the following:

- (1) delusions;
- (2) hallucinations;
- (3) disorganized speech;
- (4) disorganized or catatonic behavior; and
 1. social or occupational dysfunction.

Clearly, an active phase of this disorder will probably render an individual incapable of effective collaboration and communication. In those cases where psychotic symptoms are currently inactive, and thus at least temporarily in "remission," there may be a working basis for participation in mediation. From a classic reference designed for the families of persons with schizophrenia:

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

Interpretations of this kind may indeed increase the anxiety of the patient and hasten a new psychotic episode ... [h]owever, distance is not desirable either and does not promote rehabilitation ...

Many of these patients were not able to express their emotions. An apparent insensitivity should not be interpreted as imperviousness. Even a catatonic schizophrenic who seems insensitive and immobile like a statue feels very

strongly ...

With the recovering schizophrenic we find ourselves in a completely different situation. He is very sensitive ... and would not forgive relatives for not telling him the truth. And yet knowing the truth may be detrimental to him when he is still unstable and still struggling to recover fully his mental health.

Conclusion:

Restorative Justice (RJ) is appropriate for persons with mental illness, assuming that acute phases of their conditions have not rendered them incapable of participating effectively in the mediation process. Mediators must be apprised of the nature of an individual's mental health status, such that the nature and timing of subsequent interactions may be structured accordingly.

6.5. The Rocky Road to "Restoring" Justice: An Examination of Restorative Justice Activity as a Social Movement-2000⁷⁹

- In this paper, I examine restorative justice activity in the United States and the manner by which the actions of associated groups can be seen as constitutive of a social movement.
 - o I argue that looking at the subject of restorative justice through a social movement lens allows for insights into contemporary attempts at changing the criminal justice and legal systems that otherwise escape investigation or receive scant attention.
 - o Foremost among these insights is that the potential of restorative justice actions must be viewed in relationship to the formation of a collective identity among advocate groups and with an eye to the formidable obstacles posed by the social structure.
 - o In addition, I draw upon critical criminological and sociolegal theories in order to address the question of how (and if) the variety of actions taken in the name of restoring justice address the power imbalances inherent in the criminal justice system.
 - o I conclude by contrasting this approach to the study of restorative justice with other more popular approaches in order to demonstrate its potential
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⁷⁹ Swan, Richelle, University of California, The Rocky Road to "Restoring" Justice: An Examination of Restorative Justice Activity as a Social Movement, <http://www.asc41.com/www/2000/absla103.htm>

6.6. Criminal Justice/Public Health: Opportunities across Systems -2000⁸⁰

⁸⁰ Jeremy Travis Senior Fellow The Urban Institute May 19, 2000 Criminal Justice and Public Health: Opportunities Across Systems

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

Members of the Board of Directors; staff of the Foundation; invited guests:

Allow me first to express my thanks for the invitation to speak with you as you begin this strategic planning retreat. As Jan Bogner can tell you, when you first extended the invitation to me, I quickly responded that I was about to leave the National Institute of Justice to join the Urban Institute as the latest refugee from federal service to find a safe haven in a Washington think tank. Perhaps the Foundation would rather invite my successor, or someone else within NIJ. No, Jan replied, the Foundation really wanted to invite me, not someone representing the Department of Justice. So, I thank you for that well-timed affirmation that I would have a life after my government service ended.

On a more serious note, however, I would like to express my admiration for your willingness to undertake this strategic planning activity. I have watched foundation boards for the better part of my career — some up close, some at a distance. Not many are willing to take the time to challenge the foundation's investment strategy, nor are they willing to go through the hard work of asking whether a new strategy is right. Typically, boards of directors either think complacently that their foundation is going in the right direction; or, if not, think they have all the answers; or, more likely, are far too willing to delegate this important assignment to the executive director and staff to figure it out themselves. So I find it commendable that you have gathered in this format to grapple with this question of a new strategic undertaking.

I would also like to commend you for taking on this particular strategic challenge. As you already know from the superb background document prepared by the staff, you have decided to take on an issue that is timely and difficult — the intersection between the criminal justice and health systems and the populations they serve at that intersection. In my experience, philanthropic organizations involved in investing in health issues shy away from the criminal justice arena, and those involved in criminal justice issues are reluctant to get too involved in health and mental health issues. So, the willingness of a major foundation such as this one to take this issue on directly — and particularly to look at it from the perspective of a single community — is very refreshing.

Now, let's get down to the business at hand.

I. National Trends.

I would like to define six national trends that I think provide the context for your deliberations — three trends that directly influence any discussion of bringing criminal justice and public health policies together, and three trends that provide important social policy backdrop.

Although these may not define the precise investment strategy you choose as you move down this path, these trends do, in my view, underscore the importance of your investment choices and frame the principles that might guide your discussion. If you are

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

successful here, your investment strategy can influence a large number of communities, practitioners, government agencies and foundations — and through them the individuals affected by these policies.

Major Trend No. 1. Crime is at the lowest level in a generation. After a sharp increase beginning in the mid-1980's, principally due to the introduction of crack into our inner cities, rates of violent crime have dropped steadily for seven years in a row to reach the lowest levels since the 1960's. Property crime rates have declined steadily for twenty years so they are now half the rate of a generation ago. Notably, rates of child fatalities and child abuse have not declined appreciatively.

Major Trend No. 2. Imprisonment is at the highest level in a generation. After decades of stability, the per capita rate of imprisonment started to go up in the early 1970's to the point where the rate is now four times higher than it was in 1972. Nearly two million people are in prisons or jails; about four million are under community supervision. One consequence of the growth in imprisonment is that larger numbers of people are returning from prisons to their communities. This year, 570,000 individuals will leave state and federal prisons to go back to their communities. Compare this to 1980 when there were 320,000 people IN state and federal prison.

Major Trend No. 3. Institutionalization of the mentally ill in health facilities is at the lowest level in a generation. In 1955, there were 560,000 mentally ill individuals in hospitals; today there are about 70,000. Over the same period, the institutionalization of mentally ill in prisons and jails has increased. In 1998, about a quarter of a million offenders in prisons and jails were identified as mentally ill. Approximately three quarters of the two million incarcerated individuals have histories of substance abuse. And 60 percent of incarcerated mentally ill offenders reported that they were under the influence of alcohol or drugs at the time of their offense.

Major Trend No. 4. The economy has never been better; the welfare state has been fundamentally redefined; governments are flush with cash. Unemployment rates have fallen below four percent, by definition a "full employment" economy, generating enormous tax revenues and providing enhanced job opportunities across the board. The relationship between the government and the poor has been redefined as welfare caseloads have plummeted. Unprecedented surpluses are being generated at the national, state and local levels of government. Yet, according to the Bazelon Center for Mental Health Law, total state spending for treatment of the seriously mentally ill is now one third the rate of the 1950's.

Major Trend No. 5. The health care system of this nation is undergoing profound redefinition as managed care providers are responsible for ever greater shares of the health care market. This has consequences for the population you are concerned with today. For example, the research shows that individuals who participate in residential or outpatient drug treatment have greater chances of success if they stay in treatment for at least 90 days. But many managed care programs do not provide that length of coverage.

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

Major Trend No. 6. Science is rapidly advancing, particularly our understanding of brain functioning and the mapping of the human genome, opening up revolutionary new possibilities for scientific interventions. New technologies have enabled us to think quite differently about the delivery of health care. New research has validated the effectiveness of various treatments, in particular treatments for drug involved individuals.

II. Nexus Between National Trends and The Proposed Strategy.

I do not pretend expertise in all of these major social forces, but I hope you will agree that, combined, they provide a major opportunity for creative interventions at the intersection of the health and justice systems. The low crime rate has reduced the pressure on the police to respond to epidemic levels of violence; they can now focus more attention on lower level offenses and be more responsive to other concerns of the community. In particular, the introduction of community policing philosophies — with the focus on problem solving to prevent crime as the preferred methodology — means that the police are much more open to working with communities, and working with other sectors, particularly the health sector of our society. For example, I have observed around the country a new willingness of the police to work in partnership with the health professions on the problems of mentally ill persons on our streets, on the issue of family violence, on responding to at risk youth.

The increased use of imprisonment presents a different opportunity. State and local governments are acutely aware of the costs of incarceration, even though the robust economy has made it possible for our society to support all these new prisons. Most jurisdictions are acutely aware of the irony that their prisons are major service delivery systems — for health, education and training services. For example, the Los Angeles County jail is known as the largest mental health facility in the country.

More sophisticated jurisdictions also recognize that their prisons and jails process lots of people in and out who pose serious health risks to the community. Some quick examples make the point. According to the Centers for Disease Control and Prevention, 17 percent of the people living with AIDS in 1996 passed through a correctional facility that year. About 1.4 million people released from prison or jail that year were infected with hepatitis C. According to the National Commission on Correctional Health Care, during 1996 about 3 percent of the U. S. population spent time in prison or jail, but between 12 and 35 percent of the total number of people with selected communicable diseases passed through a correctional facility the same year.

So, sadly, our prison growth has created new opportunities to deliver health care services to those who need them. And, if effective, those new services could reduce imprisonment (by providing judges with alternatives to incarceration), reduce crime (by reducing, for example, drug addiction) and enhance public health (by, for example, reducing TB prevalence).

The history of deinstitutionalization of the mentally ill — and the growth of the mentally ill in the criminal justice system — presents a different challenge. Many observers

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

think the deinstitutionalization movement failed because it was not matched by effective, well-funded community mental health resources. People tend to make those arguments with greatest urgency when a mentally ill person living in the community who might otherwise be in a hospital does something that is socially unacceptable — commits a crime, harasses people on the street. So, a strategy that develops effective treatments that do not result in recommitment to either institution — hospital or jail — could take some of the edge off the deinstitutionalization debate.

The final three trends combine to make the investment you are considering particularly timely. Having a full economy, but solid government funding, and declining welfare caseloads means that employment opportunities are there for the hard to employ, governments are better situated to develop new programs for needy populations, and state governments have been freed up to experiment with different forms of welfare reform. The health care revolution is also challenging traditional assumptions, and many critics are acutely aware of the holes in the health care safety net, so a focus on the least well served is timely. And the advances in science and technology mean that the medical community may be interested in testing new ways of delivering services. One example comes to mind, telemedicine, which is increasingly providing ways to bring health care to individuals in prison.

So, in sum, it is harder to imagine a better time in our recent history to focus on the health care needs of individuals caught up in the criminal justice system. They represent one of society's most vulnerable populations and, even though we are not living in an era of new, Great Society-like programs for such populations, the convergence of these trends makes a focused, practical, results-oriented intervention on their behalf highly likely to succeed.

III. The Logic of the Investment Strategy.

So, let's think through the logic of the proposed investment strategy. The logic might go like this:

First, the criminal justice system has become a major repository for individuals who suffer health problems, particularly mental health and substance abuse problems.

Second, the criminal justice system, because of its underlying philosophy and purpose, is poorly equipped to respond to those health problems. The focus on case processing, punishment, security, and adversarial proceedings mitigate against appropriate care for those problems.

Third, mounting a health response in a criminal justice setting would serve the goals of health policy. The public health system would be able to reach a hard-to-reach population. Health care services could be delivered much more efficiently, through economies of scale if nothing else. And there might be some ways in which the use of criminal justice sanctions could achieve therapeutic purposes. For example, there is a growing body of literature, coming from evaluations of therapeutic communities in prisons and drug courts, that the

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

proper use of the coercive powers of the criminal justice system can enhance treatment outcomes.

Fourth, mounting a health response in a criminal justice setting would serve the goals of justice policy. People who should not be prosecuted, for example, because their behavior was not truly criminal, could be diverted from the system. Community based supervision could allow judges to release individuals who might otherwise be incarcerated. Reoffending rates could be reduced through effective treatment. Successful reintegration of offenders with families and communities could be encouraged. All of these outcomes are criminal justice goals that could be achieved through partnership with the health system.

IV. Obstacles.

One needs to be mindful of the many obstacles to success when considering interventions at the intersections of the health and criminal justice systems. There are enormous "cultural" differences between these two systems. Just consider the language differences — one system's client or patient is another system's suspect, offender, inmate, "perp" or worse. It is even hard to find the common language of common purpose — when the rehabilitation ideal reigned supreme in the criminal justice system, that "linguistic crosswalk" came in handy, but it is hard to find similar bridging concepts today. Safety is one; justice is another; but these are very hard to operationalize. The environment of the criminal justice system could not be more anti-therapeutic — prison cells, isolation, deprivation of liberty, stress about the future, physical restraints, body searches, and sparse contacts with families and psychological support systems.

Notwithstanding these obstacles of culture, language and environment, I think the greatest obstacles to successful collaboration between the criminal justice and public health systems can be found within the two professions. Lawyers, law enforcement officers, judges and correctional personnel live in a world unto themselves, with their focus on winning cases, moving cases, personal safety, and community safety. In this world, the needs and concerns of defendants, victims and their families have difficulty getting a hearing. So, these professions are poorly prepared to think about health care, particularly long term health care; mental illness outside of the limited instances of insanity defenses and mental competency; communicable diseases, except as they might threaten the correctional institution; therapy or other interventions. In most criminal justice systems, this is a foreign way of thinking about the individuals who present themselves at the front door.

Unfortunately, I have found a similar difficulty in convincing the health professions to look at the criminal justice system as a vehicle for providing health care. Doctors, nurses and other health professionals do not like to work in police lock-ups and prisons. The folks who are involved in criminal activities are often very difficult clients and patients. They lead very complicated lives. The levels of reimbursement for health care services are usually below other rates. The social standing associated with this work is not high. And there are important equity issues here as well. Health policy analysts could rightly ask why someone locked up in prison should get drug treatment when his neighbor who did not commit a crime has to wait

Research Framework for a Review of Community Justice in Yukon
Community Justice – Social Development Factors

months to get that service, if ever.

So, I think the greatest challenge is to bring these professions together to talk about these issues, to find common purpose and common language, to think together about ways to provide services of greatest benefit to the larger community. This is highly ironic, because the same individuals cross the boundaries between the two systems. We found in Winston Salem, North Carolina, for example, that sixty percent of the violent juveniles had at least one contact with the mental health system. So, our "clients" know how to navigate both worlds, we just need to find ways to align our professions in ways that follow their lead.

V. The Strategic Opportunity.

These observations about trends, obstacles and opportunities lead me to a final thought for your deliberations. You are about to consider a new initiative at this intersection and presumably have many options. One would be to offer health services to individuals caught up in the criminal justice system. You could offer health care services to a sector of the population with certain health needs — for example, mental health, substance abuse, or both, i.e., co-occurring mental health and substance abuse. You could offer those services to individuals in custody, or to those in the community but under supervision, or both. You could offer services to individuals as a form of diversion, an intervention that would presumably reduce levels of incarceration and prosecution.

I would like to urge you to do something quite different. Offering services to the currently unserved is a worthy goal, but is a goal for government, or a charitable institution, but less appropriately a goal for foundation, in my view. A foundation such as yours has an opportunity to reframe the public policy debate in this area by challenging the assumptions that result in the underserved population. By challenging the cultural obstacles that make it difficult for criminal justice and health professionals to work together. By challenging the traditional ways of doing business. By showing a different way.

My hope is that you would use this opportunity to examine the nexus, to unpack it, to shed light on it. In my view, the best way to do that is to look at every individual who comes into one or more sectors of the criminal justice system to understand the health care needs of that individual. In this approach, you would challenge the public health institutions in your community to embrace the broader issue. You would invite them to the table — the hospitals, the medical community, the mental health providers, the insurance companies, the HMOs — to review, for example, one month's intake at the county jail, or a random sample of those detained in the prison, or all women who appear at the domestic violence shelter. Take a slice through the criminal justice population and look at their health care needs, without considering the fiscal or policy or operational constraints, and ask whether they are getting the health care they deserve. Then, armed with this information, challenge the policies and budgets of the governments and institutions by asking why the world is organized the way it is. This is not a study for study's sake; it is, rather, a study to stimulate immediate action.

The net effect of this approach would be to change the framework for the policy

6

debate within your community, and by extension throughout the country. It would also provide you with a better sense of a next step, a more specific intervention perhaps, a demonstration program in a particular area to serve a particular population. But by taking that first step, you would have stirred up the pot and leveraged existing capacity in Greater Cincinnati — not your capacity, but latent capacity — to enhance the level of services delivered to this population. You would have made significant progress toward the Health Foundation's mission to ensure that "people of this region will have access to appropriate healthcare, be able to practice health behavior, and live in communities that support good health."

6.7. Restorative Justice The Public Submissions-1998⁸¹

Societal Factors and Restorative Justice

⁸¹ 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

Research Framework for a Review of Community Justice in Yukon

Community Justice – Social Development Factors

Several submissions considered that certain factors in society could impact on the implementation of restorative initiatives. These factors included unemployment and working conditions, education, health (particularly drug and alcohol abuse), poverty and welfare services. Some also believed that the state of the economy (or its "market", "monetarist" or "individualistic" focus) would have strong, usually negative effects on restorative programmes. Others wrote of societal structure and change and the need for holistic and integrated approaches.

The breadth of the restorative justice debate was indicated in one submission as being located:

...not only in discontent with retributive outcomes, but in prison reform movements, indigenous peoples sovereignty movements and religious movements...the restorative justice debate is much more than a critique of the criminal justice system, but could be extended to encompass differences in religious philosophy, colonialism, and general civil rights issues. (Department of Social Welfare, 51)