

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

Table of Contents

<b>1. Key Themes (to be explored)</b> .....	2
<b>2. Research Questions</b> .....	3
2.1. Mission/Vision/Objectives/Goals.....	3
2.2. History.....	3
2.3. Sponsor/ Organization/Structure/Governance .....	3
2.4. Roles and Responsibilities .....	3
2.5. Accountability.....	3
2.6. Complaints .....	3
2.7. Conflict Of Interest – Power Dynamics .....	3
2.8. Decision-Making.....	3
2.9. Interventions/Referrals/Diversions .....	3
2.10. Activities/Services/Approaches .....	3
2.11. Offences .....	4
2.12. Clients .....	4
2.13. Human Resource Management .....	4
2.14. Financial Resource Management .....	5
2.15. Material Resource Management.....	5
2.16. Project Administration .....	5
2.17. Community Services/Resources.....	5
2.18. Audits/Evaluations/Reviews .....	5
2.19. Working Supportive Collaborative Relationships.....	5
2.20. Other Issues.....	6
2.21. Successes .....	6
2.22. Challenges.....	6
<b>3. Relevant Documents, Studies and Practices – Yukon</b> .....	7
3.1. Council of Yukon First Nations .....	7
3.2. A Key Informant Study Of The Native Criminal Courtworker Program - 1996.....	7
3.3. A Review of the Justice System in the Yukon - 1986.....	8
<b>4. Relevant Documents, Studies and Practices – Other Northern Territories</b> .....	10
4.1. The Role of Court Workers and Para-Legals -1990 .....	10
4.2. Nunavut (Northern) Justice Issues - 2000 .....	11
<b>5. Relevant Documents, Studies and Practices – Other Canadian</b> .....	13
5.1. Native Courtworker Program .....	13
5.2. Native Courtworker Program - 2001 .....	13
5.3. Overview of Recent Activities and Achievements -2001 .....	14
5.4. Community Council Reports 1993-1995 .....	14
<b>6. Relevant Documents, Studies and Practices – USA</b> .....	16
<b>7. Relevant Documents, Studies and Practices – International</b> .....	17

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

## 1. Key Themes (to be explored)

Over the last few years, the work of Native Courtworkers has been evolving beyond the traditional court-based role to meet the needs of Aboriginal people involved in the criminal justice system. This has provided a gateway for clients to alternatives to the criminal justice system. These alternatives are being developed and implemented across Canada by Aboriginal communities in partnership with the federal, provincial and territorial governments.<sup>1</sup> See [5.1](#)

As part of this evolving role in the community, Courtworkers **are becoming increasingly involved with community-based alternatives to the criminal justice system.**

In 1996 a study was conducted in which the Yukon participated. It was found that Courtworkers also **provide services to victims either on a request basis or more routinely** depending on the jurisdiction. Very few respondents, including criminal justice respondents, felt that this constitutes a conflict of interest. See [3.2](#)

Similarly, **involvement at the sentencing stage is sporadic although this role may increase when more innovations, such as sentencing circles, are introduced.** Some Courtworkers expressed the need to be more involved at the sentencing level to advise clients about sentencing alternatives. With recent cutbacks to Legal Aid programs, **Courtworkers are being asked to assume a greater role - such as being involved in community justice alternatives.**

Courtworkers expressed the need to provide a more holistic service, in keeping with Aboriginal cultural values. Also, with the evolving self-government role of Aboriginal communities, **Courtworkers will likely be asked to play a more community-driven role, as is presently being experienced in the Yukon jurisdiction.** Training needs were identified in all jurisdictions as key to being able to adapt to the changing role of the Courtworker. These training needs included: counselling skills; how to deal with angry or difficult offenders; criminal court procedure; how to present in court; conflict resolution skills, among many others.

---

<sup>1</sup> Government of Canada, Department of Justice, Priorities and Planning Division Policy Integration and Coordination, Current Policy Activity, January 2000, [273-42.pdf](#)

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

## 2. Research Questions

### 2.1. Mission/Vision/Objectives/Goals

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

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

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

### 2.2. History

- see also chapter on “History”

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

### 2.3. Sponsor/ Organization/Structure/Governance

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

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

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

### 2.4. Roles and Responsibilities

What are the roles and responsibilities of the Courtworker in community justice?

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

### 2.5. Accountability

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

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

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

### 2.6. Complaints

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

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

### 2.7. Conflict Of Interest – Power Dynamics

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

### 2.8. Decision-Making

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

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

### 2.9. Interventions/Referrals/Diversions

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

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

### 2.10. Activities/Services/Approaches

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

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

What activities/services/approaches does the Courtworker undertake in community justice? How much time is spent on them?

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

**2.11. Offences**

- see also chapter on **“Offences”**

Does the Courtworker have any suggestions as to what kinds of cases should be handled in community justice?

**2.12. Clients**

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

Does the Courtworker have any suggestions as to whom the community justice services should be targeted?

Accused? Offenders? Victims? Other?

**2.13. Human Resource Management**

Does the Courtworker have any suggestions as to who should be members of the community justice projects?

How they should be selected? Based on what criteria? Community Process, Elders' recommendation, Healthy/respected members of the community, Recovered from abuse, Ex-Offenders, Ex- Victim, Experience/Skills, Interest in justice, other

Does the Courtworker have any suggestions as to what kind or roles/responsibilities they should have?

Does the Courtworker have any suggestions as to what kind of experience/skills they should have? Does the community have any suggestions as to what kind of education/qualifications they should have?

Does the Courtworker have any suggestions as to what kind of informal/formal training they should have?

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

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

Does the Courtworker have any other suggestions regarding human resource management?

What experience and skills do you have with community justice?

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

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

Do you take a break from these duties?

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

How has the workload of the Courtworker changed as a result of involvement with the community justice project?

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

**2.14. Financial Resource Management**

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

Does the Courtworker have any suggestions as to how funding should be determined for community justice projects?

Does the Courtworker have suggestions as to how much core funding should be available to the community justice projects?

Does the Courtworker have any suggestions as to what financial accountability mechanisms should be in place for community justice projects?

**2.15. Material Resource Management**

Does the Courtworker have any suggestions as to what material resource community justice projects should have?

**2.16. Project Administration**

Does the Courtworker have any other suggestions as to whether policies/procedures/standards should exist for community justice? see also chapter on **“Standards”**

Does the Courtworker have any suggestions as to whether community justice processes should be open to members of the public?

Does the Courtworker have any suggestions as to community justice project administration?

**2.17. Community Services/Resources**

- see also chapter on **“Social Development Factors”**

Does the Courtworker have any suggestions as to how other stakeholders could facilitate collaboration with programs and agencies providing different supports to participants of the community justice project?

**2.18. Audits/Evaluations/Reviews**

- see also chapter on **“Results/Performance Measurement/Accountability”** and chapter on **“Review Methodology”**

Does the Courtworker have any suggestions regarding the conduct of audits/reviews/evaluations with respect to community justice projects? How often? By whom?

**2.19. Working Supportive Collaborative Relationships**

– see also chapter on **“Relationships/Partnerships”**

- Does the Courtworker meet with the following stakeholders? If so, how often? For what purpose?

- Does the Courtworker have the support of the following stakeholders?

- What is working well, in terms of the Courtworker’s relationship with the following stakeholders in the area of community justice?

- What are the challenges in terms of the Courtworker’s relationship with the following stakeholders in the area of community justice?

- How are disagreements or disputes between parties resolved?

- Does the Courtworker have any suggestions on how to improve working collaborative relationships with the following stakeholders?

Victims – see also chapter on **“Victims”**

Victims’ support/advocacy groups – see also chapter on **“Victims”**

Offenders – see also chapter on **“Offenders”**

Offenders’ support/advocacy groups – see also chapter on **“Offenders”**

Community justice project – see chapter on **Community Justice Projects**

Volunteers - see also chapter on **“Volunteers”**

Community – see also chapter on **“Community”**

First Nations - see chapter on **“First Nations/Aboriginal Justice”**

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

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

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

### **3. Relevant Documents, Studies and Practices – Yukon**

#### **3.1. Council of Yukon First Nations<sup>2</sup>**

The justice program works with other CYFN departments and First Nations to ensure that common goals are reached and that our vision and resources are shared wherever possible. The department includes the following positions: Manager, Adult Courtworker, Youth Courtworker, Pre-Release Transition Worker and the Secretary/Courtworker.

The Council of Yukon First Nations Justice Program was created to assist First Nation people who come into conflict with the law in better understanding their rights and responsibilities within the justice system.

The Court workers work with First Nation individuals to provide liaison between Justice personnel and those citizens concerned with regards to their matters before the court. Whitehorse Court Workers also cover the Carcross, Haines Junction, Burwash, Beaver Creek and Teslin circuits.

The Pre-release transition worker works with those individuals who are incarcerated in providing cultural and skills development programs and also assist in after-care plans for finding employment, housing, education, counseling, etc. and to provide ongoing support after the individual is released from custody.

Justice staff provides information, basic counseling, interpretation of documents, guidelines and regulations, etc., and assist clients in obtaining legal services and other assistance where necessary. The manager is responsible for the delivery of the programs and is also responsible for programs development and community liaison in matters of aboriginal justice and young offender issues.

---

#### **3.2. A Key Informant Study Of The Native Criminal Courtworker Program - 1996<sup>3</sup>**

The five jurisdictions included in the study are: Labrador; Ontario; Manitoba; Alberta; and Yukon. Labrador and Yukon each had one central site where in-person interviews were conducted and another non-urban site where interviews were conducted by telephone. Researchers for the Ontario, Manitoba and Alberta jurisdictions conducted in-person interviews in two sites, one urban and one rural. Jurisdictions were asked for input regarding site selections.

Key Informants for each sites included: Courtworker Program Director; Courtworkers; Police; Crown Prosecutors; Judges; Legal Aid or other defence counsel representatives; Aboriginal Leaders; local Justice Committee representatives (if appropriate); Advisors to the Courtworker Program; and any other appropriate individuals.

Interview Schedules were developed and approved by federal and Courtworker Program representatives. These Interview Schedules form the basis for the uniform collection of data in all sites.

There were a number of similarities among the five jurisdictions. Almost all respondents indicated that Courtworker services are particularly essential at the pre-court and in-court stages of the justice process. Some indicated the arrest stage as being an important contact point for Courtworkers, but the logistics and shortage of resources make it difficult to operationalize.

#### **Support to Victims**

---

<sup>2</sup> <http://www.cyfn.ca/workingForOurChildren/departments/justiceProgram/index.html>

<sup>3</sup> Department of Justice Canada Research and Statistics Division, Thérèse Lajeunesse & Associates Ltd. Technical Report A Key Informant Study Of The Native Criminal Courtworker Program 1996: October 1996, tr1997-2e <http://canada.justice.gc.ca/en/ps/rs/rep/tr97-2a-e.html>

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

Courtworkers also provide services to victims either on a request basis or more routinely depending on the jurisdiction. Very few respondents, including criminal justice respondents, felt that this constitutes a conflict of interest.

Little in-court interpretation is handled by Courtworkers although some do provide this service when requested to do so by a Judge or Crown Prosecutor. Similarly, involvement at the sentencing stage is sporadic although this role may increase when more innovations, such as sentencing circles, are introduced. Some Courtworkers expressed the need to be more involved at the sentencing level to advise clients about sentencing alternatives. With recent cutbacks to Legal Aid programs, Courtworkers are being asked to assume a greater role, including acting as Agent for the accused. Courtworkers are also experiencing greater demands in other areas, such as being involved in community justice alternatives. Criminal Justice respondents very clearly indicated that Courtworker services are invaluable and almost all respondents indicated that there are no services provided by Courtworkers that could be considered non-essential.

Courtworkers expressed the need to provide a more holistic service, in keeping with Aboriginal cultural values. Also, with the evolving self-government role of Aboriginal communities, Courtworkers will likely be asked to play a more community-driven role, as is presently being experienced in the Yukon jurisdiction. In areas where there are no Family Courtworkers, they expressed frustration at explaining to clients why their coverage only applies to criminal court. In addition, respondents indicated a need to broaden the geographical coverage of the Courtworker Program.

Training needs were identified in all jurisdictions as key to being able to adapt to the changing role of the Courtworker, particularly due to changes in Legal Aid. These training needs included: counselling skills; how to deal with angry or difficult offenders; criminal court procedure; how to present in court; conflict resolution skills, among many others.

In terms of whether services should be delivered uniformly across Canada, the majority of respondents replied "yes and no" in that everyone should have access to the same services but local variations should be respected. Similar responses were obtained to questions regarding uniform training standards in that a core curriculum could be developed but local and regional needs should be respected.

A strong majority of respondents indicated that the Courtworker Program is successfully meeting its goals.

---

### **3.3. A Review of the Justice System in the Yukon - 1986<sup>4</sup>**

- The panel was frequently asked about courtworkers and their availability.
- Individuals in the outlying communities expressed a need to have someone employed from their community to act as a courtworker performing at least the following duties:
  - Setting up appointments for Crown and defence lawyers to minimize the time these lawyers spend in the communities and therefore reduce cost to the justice system.
  - Advising victims, witnesses and accused persons about the judicial process and their participation in the process.
  - Delivering or arranging for the delivery of legal information or education to individuals or groups in the communities.
- It was recognized that the vast majority of individuals impacting the justice system in outlying communities were native Indian.
  - It was felt because of this that the courtworker should be of Yukon Native ancestry.
  - However, it was strongly felt that this native courtworker would assist all members of the community who come in contact with the justice system, native and non-native.
- Several individuals stated that Mary Kane's report on the Yukon Courtworkers Service represented a comprehensive and accurate assessment of the courtworker needs and the recommendations contained in that report were valid.
- **Recommendations:**

---

<sup>4</sup> John Wright and Joanne Bill – A Review of the Justice System in the Yukon, 19 December 1986 – The Government of the Yukon, in response to concerns expressed about the justice system, appointed a panel to review the Justice System in the Yukon.



*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

- Native Courtworkers be employed and available in each community.
- Outlying communities should receive priority over Whitehorse where defence lawyers and other supports are readily available.
- Courtworkers be members of the community they are employed to serve and be accountable to the Band Council.
- Native Courtworkers carry out at least the following tasks:
  - Explaining the court process to accused, victims and witnesses
  - Assisting Crown and defence lawyers in arranging for appointments, and
  - Acting as a public legal education/information resource in the community.
- Comprehensive training program be developed for courtworkers.
- Detailed job description be developed for each courtworker position.
- The report “Yukon Courtworker Services – February, 1986” be used as the information base for all the decision related to the courtworker program.
  - However, under **no** circumstances should courtworkers represent or defend or be perceived to represent or defend the accused in court.

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

### 4.1. The Role of Court Workers and Para-Legals -1990<sup>5</sup>

- This article, part of a workshop compendium, highlights the vital role that is played by Court Workers and para-legals in the North.
- The vast space and small communities lacking adequate legal counsel, let alone police, provide a situation where the Court Workers and para-legals are an integral part of justice and representation in the North.
- It also highlights the limitations and justice needs in the North.
- Court Workers do not represent a community-based initiative or focus.
- Rather, the program is about ensuring that the Inuit accused or victim is aware of the formal legal system and their rights and responsibilities within it.
- This piece speaks to the Northern environment, the relationship with the mainstream justice system, as well as lessons learned.

#### General

This article describes the expanding role of the Courtworker, from assisting Northern offenders and victims in understanding the laws and their role in it, to representing them (as lawyers) in summary and indictable offences. It gives a clear overview of the roles of Court workers, the important role they play in Northern communities, and the challenges they face. The resource persons were representatives from Maliiganik Tukisiiniakvik (Joamie and Katsuk), an organization of Court Workers and translators, The Odawa Native Friendship Centre (Eagle) and the Territorial Court Judiciary (Troy).

#### Underlying Themes from the Dialogue

- The participants discussed how the circuit courts have failed to meet the needs of Northern residents.
- It was held that it is important that Northern residents - as victims or offenders – know the justice system, their legal rights and responsibilities.

#### Findings

*General Courtworkers' environment:* Courtworkers are Inuit para-professionals. They are not given any formal training. Instead, for many, it is a learning process, guided by on the job training. In the Baffin Region, as of 1990, there were 9 court workers to serve 14 communities.

*Why Courtworkers are needed:* The lack of time that the circuit court has to offer victims, witnesses, and accused has made it necessary to have a system where the individuals are informed of and understand the system that they are being subjected to. In the North there are few lawyers available. Participants pointed out that lacking a resident lawyer means that when a youth or adult is charged with an offence, there are no lawyers available to advise him or her. Courtworkers act as the agent of the accused and inform them of their rights and the criminal justice process..50

Inuit Courtworkers are able to inform the court about the community that the court is addressing. Finally, Courtworkers are needed because they speak Inuktitut. As a result, they are able to communicate to the accused and the other parties in their native tongue.

*Roles of the Courtworkers:* Courtworkers perform a variety of roles. They act as a **liaison** between the criminal justice system (court, judge, and counsel) on one hand, and the accused and his or her community on the other. Participants noted that Courtworkers better understand the environment, the accused's culture, and the problems they face. Because of this knowledge they are better able to explain to the court the nature of the problem and what should be done to correct it. They know the language of the communities so they can interview in Inuktitut. This means that more accurate and relevant information is gathered and shared in both directions –from the court to the accused and from the accused to the court. They **represent the accused** in the Territorial and Justice of the Peace courts on summary matters for adults, and for both summary and indictable for young offenders. They **educate** the public/community on a host of

---

<sup>5</sup> Joamie, Eric, Judge Orral Troy, Rhoda Katsuk, Jim Eagle. "The Role of Court Workers and Para-Legals<sup>52</sup>", in the Justice System in *Preventing and Responding to Northern Crime* Burnaby: Northern Justice Society, Simon Fraser University, 1990.

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

legal matters and if the community has any concerns or questions, Courtworkers act as a resource. In many cases, they are the only contact that the community (accused, victim or general member) has other than the circuit court and as a result they play a fundamental role in the delivery of justice.

*Courtworkers and young offenders:* Courtworkers play a vital role in representing the criminal justice needs of young offenders in the North. They act as a representative of the youth. At the request of a young offender, Courtworkers speak to the court on behalf of the youth, whether it is a summary or indictable matter. One of the resource persons described the process, highlighting the lawyer-like role of the Courtworker: The youth often calls a Courtworker upon being arrested and the Courtworker explains to them their rights, advising them about what to do and what not to do. They schedule a meeting with the youth and his/her parents to explain the process to them, learn all they can about the youth, discuss the youth's plea and any alternatives that are available to them as well as the possibility of having the matter transferred to the local Justice Committee, if one exists. If the matter stays in the court, the Courtworker arranges to have a predisposition report done and the will go over it with youth. In fact, as many participants pointed out, defense lawyers may never even become involved.

*Challenges they face/ limitations:* The Courtworker has to work **within the existing system**. They have to explain the process of the formal system to people who do not see it as meeting their needs. One participant stated that the program is just a form of using Inuit people to apply the criminal justice system to other Inuit people. Also, there is not enough **funding** to do their job properly and to the extent that the community needs them. Finally, participants spoke about the problems with justice delivery generally in the North and how because of the lack of any infrastructure to meet the justice needs of the communities, their legal rights are not being met. (i.e. often there is simply no counsel available. As a result the accused does not even have an opportunity to consult with a lawyer if they preferred to discuss the case with one instead of a Courtworker.).<sup>51</sup>

---

## 4.2. Nunavut (Northern) Justice Issues -2000<sup>6</sup>

### Importance of liaison services

- Liaison services, such as the Native Courtworker program, victim-witness programs and Inuktitut-English interpreters are an important element of community-based justice initiatives.
- These services are essential not only because of the limited resources of the initiatives, but also because the community-justice initiatives will still have an interface with the Canadian criminal justice system.
- This interface introduces legal obligations on the part of the community-based initiative.
- These programs attempt to assist them in meeting those obligations and meeting their needs.

### Important Roles Played by Native Courtworkers:<sup>7</sup>

#### General Overview

This article is a part of a larger collection that addresses the potential for criminal justice self-sufficiency in the North and some of the strategies that communities can use to facilitate it. The participants are often front-line community workers and through their dialogue and commentaries some of the important issues on the topic are uncovered.

- This article, part of a workshop compendium, describes the important roles played by Native Courtworkers.
- Through examining the variety of functions they fulfill for both the community and the circuit court, this program plays a vital role in justice delivery in the North and must be given further support.
- Courtworkers often act as lawyers and they are the voice of the community in many cases.
- This cannot be overlooked when discussing justice in the North.

---

<sup>6</sup> 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>

<sup>7</sup> Avison, Don, Alice Mackenzie and Helen Nuvalik Tolonganak. "The Changing Role of Native Courtworkers in Northern Justice Society", *Self-Sufficiency in Northern Justice Issues* Burnaby: Northern Justice Society, Simon Fraser University, 1992 cited in Department of Justice Canada, Research and Statistics Division, by Naomi Giff, Nunavut Justice Issues: An Annotated Bibliography, March 31, 2000, <http://canada.justice.gc.ca/en/ps/rs/rep/rr00-7a-e.pdf>

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

- This piece addresses the Northern environment, lessons learned, and the relationship with the mainstream criminal justice system.

**Underlying Themes from the Dialogue**

- Courtworkers are an integral component of justice delivery in the North. They will continue to play an important role as long as the infrastructure of justice is administered from outside the community and is in the form of a circuit court.
- The important roles that Native Courtworkers have are the result of the circuit court system of justice and the inadequate justice services they make available to Northern communities.

**Findings**

- **Native Courtworkers have a number of roles:**
  - Clients and lawyers in the North often do not speak the same language (many Northern residents only speak Inuktitut while many of the lawyers and judges only speak English and/or French). As a result, Courtworkers often act as **interpreters and translators** between clients and their lawyers and clients and the court.
  - They explain the criminal justice system to the accused and in some cases they act as a **paralegal**, representing the accused when counsel is not available.
  - Courtworkers convey the needs, values and interests of the communities to the courts and assist in **making communities meaningful to the courts**.
- They are able to do this through their Inuktitut interviews and/or because of their experience with(in) the community.
  - Courtworkers also invest a lot of time in developing personal relationships and spending time with the community.
  - This helps to ensure that their activities are as relevant to the community as possible and they are able to do the most effective job possible.
  - The Courtworkers in the discussion recognized that this is a key element in assisting the community in any meaningful way.
- **The challenges Native Courtworkers face:**
  - The participants held that the major problem facing Native Courtworkers in Northern communities is the lack of an effective professional support system.
  - They have an awesome responsibility in that they are often the only person in the community that others depend on for information and assistance in legal matters.
  - Being alone in this responsibility can often result in professional isolation. This, combined with the geography of the North and the isolated nature of many Northern Inuit communities can contribute to a sense of being abandoned.
- **Future directions for Native Courtworkers:**
  - In this workshop, the participants discussed the idea of enlarging the role of the Courtworkers (officially) within the Justice of the Peace courts. There was mixed support for the initiative.
  - They spoke of how such an approach would better serve the legal needs of the communities, how it may address some of the limitations of the adversarial process and how such an approach may better meet the needs of the victim.
  - The move was also seen by some of the participants as a limited direction for reform.
  - Such an expansion, which focuses on better delivery of the formal justice system, does not represent a community-based path.
  - Justices of the Peace courts are still working within the framework of the larger criminal justice system, its form and content, and serves the interests of the larger system, not necessarily the community.

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

## 5. Relevant Documents, Studies and Practices – Other Canadian

### 5.1. Native Courtworker Program<sup>8</sup>

#### What is the Native Courtworker Program

The Native Courtworker Program (NCW), established in 1978, is a cost-shared program that benefits all Aboriginal adults and youth in conflict with the law, regardless of their status or residency. This Program works to ensure that Aboriginal people involved in the criminal justice system obtain fair, just, equitable and culturally-sensitive treatment under the law

Native Courtworkers provide counseling (other than legal) to adults and youths who have committed or are alleged to have committed a criminal offence. They also help Aboriginal adults or young offenders to understand their legal rights and to obtain legal assistance; and they promote better appreciation of the cultures and socio-economic conditions of Aboriginal people on the part of those who administer the criminal justice system.

#### Native Courtworkers and Community Justice

Over the last few years, the work of native courtworkers has been evolving beyond the traditional court-based role to meet the needs of Aboriginal people involved in the criminal justice system. This has provided a gateway for clients to alternatives to the criminal justice system. These alternatives are being developed and implemented across Canada by Aboriginal communities in partnership with the federal, provincial and territorial governments.<sup>9</sup>

As part of this evolving role in the community, courtworkers are becoming increasingly involved with community-based alternatives to the criminal justice system.<sup>10</sup>

In this context, the Federal Government, in cooperation with its provincial, territorial and Aboriginal agency partners, conducted a review of the program addressing a wide range of policy and operational issues.<sup>11</sup>

With the review completed, officials responsible for the program will work closely with their provincial, territorial and Aboriginal agency partners to review and, if necessary, revise the written agreements that formalize their partnership, and implement recommendations stemming from the review. This will ensure that the program remains vital and relevant, and continues to effectively meet the needs of Aboriginal people in a changing environment.<sup>12</sup>

### 5.2. Native Courtworker Program -2001<sup>13</sup>

---

<sup>8</sup>Government of Canada, Department of Justice, Native Courtworker Program, <http://canada.justice.gc.ca/en/dept/pub/trib/NCWP.html>

<sup>9</sup> Government of Canada, Department of Justice, Priorities and Planning Division Policy Integration and Coordination, Current Policy Activity, January 2000, [273-42.pdf](#)

<sup>10</sup>Government of Canada, Department of Justice, Native Courtworker Program, <http://canada.justice.gc.ca/en/dept/pub/trib/NCWP.html>

<sup>11</sup> Government of Canada, Department of Justice, Priorities and Planning Division Policy Integration and Coordination, Current Policy Activity, January 2000, [273-42.pdf](#)

<sup>12</sup> Government of Canada, Department of Justice, Priorities and Planning Division Policy Integration and Coordination, Current Policy Activity, January 2000, [273-42.pdf](#)

<sup>13</sup> Department of Justice Canada, Performance Report, For the period ending, March 31, 2001 [http://www.tbs-sct.gc.ca/rma/epi-ibdrp/est-bd/p3dep/dpr\\_i-m\\_e.htm#j](http://www.tbs-sct.gc.ca/rma/epi-ibdrp/est-bd/p3dep/dpr_i-m_e.htm#j)

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

□□ The Native Courtworker (NCW) Program, through its work in both the courts and Aboriginal communities, has achieved recognition as an effective instrument for dealing with many of the challenges posed by the interface between criminal justice and Aboriginal people. This program is important for all Canadians, as Aboriginal people are involved with criminal justice in disproportionate numbers, with serious social and fiscal consequences.

In 2000-2001, the Department focused its efforts to strengthen the NCW Program in three key areas:

- It undertook a joint process with its provincial /territorial and Aboriginal delivery agency partners that will lead to renewed cost-sharing agreements reflecting the evolving role of courtworkers across Canada.
- Within the established policy forum known as the NCW Tripartite Working Group, it developed tripartite working arrangements that will allow the implementation of recommendations for the future of the Program, and it led the first phase of this work with the joint drafting of a national courtworker training manual.
- It responded to funding pressures in the NCW Program by developing a business case for the expansion of this effective program through enhanced federal funding.

---

### 5.3. Overview of Recent Activities and Achievements -2001<sup>14</sup>

Aboriginal community-based justice programs work in harmony with the Native Courtworker (NCW) Program, which has functioned since 1978 as an ongoing program to help Aboriginal people involved in the criminal justice system obtain fair, just, equitable and culturally sensitive treatment. The annual federal contribution to this cost-shared program was established at \$4.5 million in 1997-98.

From 1996 to 1999, the Department reviewed the Native Courtworker Program in co-operation with its provincial, territorial and Aboriginal program delivery partners, with a view to enhancing its ability to meet the changing needs of Aboriginal people. In October 1999, the evolving role of court workers was acknowledged and recommendations from the review were approved at a meeting of federal, provincial and territorial Deputy Ministers responsible for Justice. The NCW Tripartite Working Group is currently implementing many of these recommendations, in particular those related to court worker training, program evaluation and data collection. Also, the Department is currently revising the NCW cost-sharing agreements

---

### 5.4. Community Council Reports 1993-1995 <sup>15</sup>

Aboriginal Legal Services consists of a courtworker program, an Aboriginal legal aid clinic, a training program for court workers, an inmate liaison program, and a diversion program. This latter intervention diverts adult Aboriginal offenders in Toronto before their cases get processed in court. The protocol established with the federal and provincial governments is quite broad excluding only the most serious offences and incidents of family violence. In most respects the program is quite similar to other major Aboriginal adult diversion programs (e.g. Indian Brook, Nova Scotia) in terms of protocol, selection of panel members, post-charge referral, format of the hearing, minimum involvement of victims, types of dispositions, budget level, and pivotal status of crown prosecutor. It differs in having a broader eligibility for offences, in its handling of cases where the disposition is not completed, in the pattern of offences dealt with (primarily theft, prostitution, and court offences), and in its aggressive advocacy and pursuits of cases for diversion. Extensive data are systematically compiled on the socio-demographic characteristics of clients, type of offences involved, dispositions rendered, completion rate, and recidivism. It has been one of the most successful Aboriginal adult diversion programs initiated in Canada.

---

<sup>14</sup> Government of Canada, Department of Justice <http://canada.justice.gc.ca/en/dept/pub/achieve2001.html>

<sup>15</sup> Aboriginal Legal Services of Toronto. *Community Council Reports, Quarterly Reports, 1993-1995*, Toronto cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, *Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature*, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

Aboriginals are effectively served in the context of the current judicial system as long as a native court worker is present. We often observed very good liaison service by these court workers; where they do not exist, native people are at a disadvantage in the courts.<sup>16</sup>

---

<sup>16</sup> [wd94-14a-e.pdf](#) Research and Statistics Directorate / Direction générale de la recherche et de la statistique Corporate Management, Policy and Programs Sector/...

URL: <http://canada.justice.gc.ca/en/ps/rs/rep/wd94-14a-e.pdf>

*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

**6. Relevant Documents, Studies and Practices – USA**



*Research Framework for a Review of Community Justice in Yukon*  
Community Justice - Native Courtworkers

**7. Relevant Documents, Studies and Practices – International**