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## 1. Key Themes (to be explored)

**The RCMP transfer policy and working relationships with the RCMP.** Changes in RCMP leadership can mean ‘starting over’ for these communities in terms of developing a working relationship with the RCMP. Turnover in RCMP staff can mean negotiations for referrals can be put off and different philosophies once again have to be mediated. Consequently, consistency and stability are difficult to sustain and community-based justice loses community support and goals are difficult to develop. See [4.1.1](#), [4.2](#) [5.5.2](#)

The RCMP has endorsed restorative justice within its community policing philosophy since 1995, as part of a diversionary and community devolution strategy. Conferencing forms a major component in the form of *Community Justice Forums*. See [5.1](#) [5.2](#)

The RCMP is an integral component in community development and justice projects in all jurisdictions where there are Aboriginal Justice Strategy (AJS) community justice projects, except in Ontario and Quebec. The RCMP is contributing \$550,000 annually to the AJS and is also expending and administering \$200,000 per year on alternative justice training (Community Justice Forums (CJF)). A training video on CJF’s was developed with funding from the Aboriginal Justice Learning Network and is used to train recruits. For successful community justice projects, the cooperation of the RCMP is required to refer clients for diversion, attend circle sentencing and conduct CJF’s. Most community justice projects form a steering or administrative committee and RCMP membership on the committee is the norm. See [5.5.1](#)

There is however, **controversy around police involvement in restorative justice conferencing**, a researcher used findings to explore some of the key issues. The research findings derive from three large-scale police-led projects in conferencing: Bethlehem, Pennsylvania (USA); Canberra, Australia; and the Thames Valley Police (England). Issues addressed by the researcher include the following: police power and punishment; whether the process of conferencing can turn into a form of punishment; whether the shaming aspect of these conferencing projects (which are influenced by the theory of reintegrative shaming) is essentially punitive in effect; the practice of shaming and disciplining; procedural fairness and police accountability; and whether police-led outcomes are disproportionate or unfair. See [7.2](#)

In another review, during interviews with community justice workers it was suggested that **more training of constables in Aboriginal justice approaches, not just CJF’s would go a long way to improving acceptance of community justice projects as an alternative**. In an effort to respond to this concern, the RCMP also train recruits in restorative justice approaches and encourage all officers to work with community justice committees in an effort to develop relationships between the local detachments and community-based projects that will sustain even with transfer of RCMP personnel. See [5.5.3](#)

## 2. Research Questions

<p><b>2.1. Mission/Vision/Objectives/Goals</b></p> <p>- see also chapter on <b><u>“Definitions/Principles”</u></b> and <b><u>“Results/Performance Measurement/Accountability”</u></b></p> <p>What are the stated mission/vision/objectives/goals of the RCMP in community justice? Short term? Medium term? Long term?</p>
<p>Does the RCMP have any suggestions as to what the mission/vision/objectives/goals/values of the other stakeholders should be with respect to community justice?</p>
<p><b>2.2. History</b></p> <p>- see also chapter on <b><u>“History”</u></b></p> <p>What is the history of the RCMP’s role and participation in community justice?</p>
<p><b>2.3. Sponsor/ Organization/Structure/Governance</b></p> <p>How does the RCMP support the work and decisions of the community justice projects?</p>
<p>Does the RCMP have any suggestions as to how should community justice projects be structured? Does the RCMP have any suggestions as to how governmental/non-governmental organizations (that sponsor/support the project) could be organized/structured to support community justice?</p>
<p><b>2.4. Roles and Responsibilities</b></p> <p>What are the roles and responsibilities of the RCMP in community justice?</p>
<p>Does the RCMP have any suggestions as to what the roles/responsibilities/activities of government/related organizations, councils or working groups should be in community justice?</p>
<p><b>2.5. Accountability</b></p> <p>- see also chapter on <b><u>“Results/Performance Measurement/Accountability”</u></b></p> <p>What are the overall accountability mechanisms of the RCMP with the community justice projects?</p>
<p>Does RCMP have any suggestions as to what other accountability mechanisms should be in place for community justice?</p>

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<p><b>2.6. Complaints</b></p> <p>- see also chapter on <b><u>“Results/Performance Measurement/Accountability”</u></b></p> <p>Does the RCMP have any suggestions as to what kind of mechanism should be in place to respond to complaints about community justice projects?</p>
<p><b>2.7. Conflict Of Interest – Power Dynamics</b></p> <p>Does the RCMP have any suggestions as to how community projects should handle conflict of interest situations and power dynamics?</p>
<p><b>2.8. Decision-Making</b></p> <p>Does the RCMP have any suggestions as to how community justice projects should make decisions?</p> <p>Does the RCMP have any suggestions as to how community justice projects enhance its team-building exercises, workshops, training, advice or outside assistance to resolve the differences/disputes?</p>
<p><b>2.9. Interventions/Referrals/Diversions</b></p> <p>- see also chapter on <b><u>“Interventions/Referrals/Diversions”</u></b></p> <p>Does the RCMP have any suggestions about interventions/referrals/diversions that should be handled by the community justice project?</p>
<p><b>2.10. Activities/Services/Approaches</b></p> <p>- see also chapter on <b><u>“Activities/Services/Approaches”</u></b></p> <p>What activities/services/approaches does the RCMP undertake in community justice? How much time is spent on them?</p> <p>Does the RCMP have any suggestions as to what activities/services/approaches should be undertaken by the other stakeholders in community justice?</p>
<p><b>2.11. Offences</b></p> <p>- see also chapter on <b><u>“Offences”</u></b></p> <p>What types of cases (offences) does the RCMP divert to the community justice projects?</p> <p>How does the RCMP screen the cases – based on what criteria?</p> <p>Does the RCMP have any suggestions as to what kinds of offences should be handled in community justice?</p>

**2.12. Clients**

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

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

**2.13. Human Resource Management**

Does the RCMP 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 RCMP have any suggestions as to what kind or roles/responsibilities these members should have?  
Does the RCMP have any suggestions as to what kind of experience/skills these members should have? Does the community have any suggestions as to what kind of education/qualifications these members should have?  
Does the RCMP have any suggestions as to what kind of informal and formal training these members should have?  
Does the RCMP have any suggestions as to what whether members should be paid or be volunteers?  
Does the RCMP have any suggestions as to how volunteers could be recruited?  
Does the RCMP have any other suggestions regarding human resource management in community justice projects?

What experience and skills do you have with community justice?  
What training/support do you have/received to work with the community justice project?  
How many hours per week do work with the community justice project?  
Do you take a break from these duties?  
Are you formally or informally recognized and rewarded for your work with community justice? By whom? How often?  
How has the workload of the RCMP changed as a result of involvement with the community justice project?

**2.14. Financial Resource Management**

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

Does the RCMP have any suggestions as to how funding should be determined for community justice projects?  
Does the RCMP have suggestions as to how much core funding should be available to the community justice projects?  
Does the RCMP have any suggestions as to what financial accountability mechanisms should be in place for community justice projects?

**2.15. Material Resource Management**

Does the RCMP have any suggestions as to what material resources community justice projects should have?

**2.16. Project Administration**

Does the RCMP have any other suggestions as to whether policies/procedures/standards should exist for community justice? see also chapter on **“Standards”**  
Does the RCMP have any suggestions as to whether community justice processes should be open to members of the public?  
Does the RCMP have any suggestions as to community justice project administration?

**2.17. Community Services/Resources**

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

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

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<b>2.19. Working Supportive Collaborative Relationships</b>
- see also chapter on <b><u>“Relationships/Partnerships”</u></b>
Does the RCMP meet with the following stakeholders in the area of community justice? If so, how often? For what purpose?
Does the RCMP have the support of the following stakeholders in the area of community justice? What is working well, in terms of the RCMP’s relationship with the following stakeholders in the area of community justice?
What are the challenges in terms of the RCMP’s relationship with the following stakeholders in the area of community justice? How are disagreements or disputes between parties resolved?
Does the RCMP have any suggestions on how to improve working collaborative relationships with the following stakeholders?
Victims – see also chapter on <b><u>“Victims”</u></b>
Victims’ support/advocacy groups – see also chapter on <b><u>“Victims”</u></b>
Offenders – see also chapter on <b><u>“Offenders”</u></b>
Offenders’ support/advocacy groups – see also chapter on <b><u>“Offenders”</u></b>
Community justice project – see chapter on <b><u>Community Justice Projects</u></b>
Volunteers - see also chapter on <b><u>“Volunteers”</u></b>
Community – see also chapter on <b><u>“Community”</u></b>
First Nations - see chapter on <b><u>“First Nations/Aboriginal Justice”</u></b>
Native Courtworkers – see also chapter on <b><u>“Native Courtworkers”</u></b>
Elders – see also chapter on <b><u>“Elders”</u></b>
Other community resources (eg. 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>



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**2.20. Other Issues**

Does the RCMP have specific concerns and/or issues about community justice?

**2.21. Successes**

– see also chapter **“Successes”**

According to the RCMP, what are the top (5) five best practices in community justice projects?

**2.22. Challenges**

– see also chapter **“Challenges for Change”**

According to the RCMP, what are the (5) five greatest challenges facing community justice?

### 3. Relevant Documents, Studies and Practices - Yukon

#### 3.1. RCMP Alternative Justice Policy “M” Division<sup>1</sup>

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#### 3.2. A Framework for Community Justice in the Western Arctic – 1999<sup>2</sup>

- A joint Yukon Government/RCMP vision statement establishes a pre-charge diversion process.
    - The RCMP and community justice committees have been reviewing cases that could better be handled through this process and have established conferences for Aboriginal and non-Aboriginal youth and adult offenders.
      - A strategic plan will be developed so the program can continue to evolve to meet the needs of the community.
      - This plan will include the distribution of resource material, training opportunities, and the development of performance measures to review projects. . (Solicitor General Canada, 1998, p.40)
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#### 3.3. Restorative Justice in the Yukon- 1999<sup>3</sup>

- **Policing**
    - While most of the communities had positive comments about the RCMP, a few suggestions for improvement were noted.
      - **Public Relations:** Two (2) communities felt that the RCMP need to work on developing better public relations.
      - **Community Constable:** One (1) community suggested that the RCMP could institute a ‘ride along’ project for youth or select and train a local person as a community constable, or officers could become advisors on community justice projects.
      - **Recruit/Hire:** Two (2) other communities, concerned about low police staffing levels, believed that the RCMP need to hire more members and/or open a detachment in their community.
        - They suggested the RCMP could augment the full-time detachment staff by hiring summer students or Auxiliary Officers to perform some of the minor duties of a full-time officer.
    - **Uniform Enforcement:** Two (2) communities were concerned that traffic laws are not consistently being enforced ie. some people get charged with impaired driving, while others merely receive a warning/road-side suspension. They advocated uniform enforcement of traffic laws.
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<sup>1</sup> Contact the Yukon RCMP “M” Division Chief Superintendent/Commanding Officer’s Office at 867-633-8611 for a copy of this Policy.  
<sup>2</sup> 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  
<sup>3</sup> 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.

### 3.4. Alternative Measures in Canada – 1998 <sup>4</sup>

#### **The Role of the Police**

**Youth:** As the first point of contact with the criminal justice system, the police may play a significant role in the overall delivery of alternative measures programs.

Following an investigation, the police generally have three options to proceed. They may choose to take no further action with the youth, they may divert the young person informally, which may include a referral to a community-based agency or investigative report prepared by a youth worker) to assist in determining the young person's personal suitability for alternative measures.

The pre-court enquiry report shall be completed within ten working days or two accompanying the youth home, or the police may refer the case to the Crown with or without a recommendation for alternative measures.

In some communities, the police may also play an active role in the Diversion Committee or may be used as a resource called upon to assist in the provision of training or in the formation of a committee.

**Adult:** There are currently no alternative measures programs for adults. Yukon Justice is, however, in the process of developing a program with the intent of modeling the program on existing alternative measures programs for youth.

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### 3.5. Exploring the Boundaries of Justice: Aboriginal Justice in the Yukon – 1992 <sup>5</sup>

- In discussions of police there are quite obvious contradictions between people saying they like the police in their community, on the one hand, and that police are there only to arrest people or to lay charges so they can be credited by the Force or government, on the other.
  - One difficulty in understanding current opinion is that people often refer to events in the past as if they were recent occurrences.

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### 3.6. A Review of the Justice System in the Yukon – 1986 <sup>6</sup>

#### **Policing**

- People are generally satisfied with the level of service provided by the RCMP.
- **Complaints:** From the time to time problems arise and complaints about the Police Forces have to be made to those police forces.
  - People feel complaints reported to police and investigated by the police will not receive the degree of attention that is required.
- **Posting Periods:** A number of members of the RCMP expressed some concern over their short posting periods in the Yukon.
  - The average is about 2 years.
  - This is not enough time to become involved with the community.

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<sup>4</sup> Statistics Canada, Barry Mackillop, Correctional Services Program, Canadian Centre For Justice Statistic Alternative Measures in Canada – 1998, Feb 1999 <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-545-XIE/85-545-XIE.html>

<sup>5</sup> 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.

<sup>6</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.

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- Some members of the Force advised the Panel that there are sufficient numbers of RCMP throughout Canada who would be eager and willing to spend many years of their careers in the North.
- **Territorial Police:** The issue of territorial police was mentioned with no general consensus.
  - Some of those interviewed suggested a greater number of native people should be involved as special constables and ultimately find their way into the ranks of the RCMP as regular members.
- **Band Policing/By-Law Enforcement:**
  - Many bands are in the process of passing by-laws and there is concern there are no enforcement mechanisms available as the RCMP, by in large, do not enforce by-laws.
  - Some bands indicate a need for band police following the example set by the Kwanlin Dun Band in Whitehorse; however, there are jurisdictional problems and other administrative problems that have not been adequately addressed, in that example.
    - If band police forces were established, it was suggested that a centralized training and quality control mechanism be established in the Territory.
    - A concern amongst some band members is that because band policing is part of the land claims negotiation, the Justice Review might not be an appropriate vehicle in which to address this particular issue.
- **Diversion from Court:** There was a perception that where the Police deal with matters themselves and avoid bringing charges into court, that the effect and value to the community seems to be greater than in those communities where the courts are used to handle most of the problem.
- **Recommendations:**
  - **Analysis of Requirements:** A comprehensive analysis of the Yukon's police requirements be conducted.
  - **Complaint Body:** Independent body be established which will receive and investigate complaints against the police.
  - **Cross cultural workshop:** be designed by Yukon aboriginal people which speaks to Yukon conditions and given to all law enforcement personnel to assist them in understanding and dealing with Yukon aboriginal people.
  - **Dialogue:** the senior RCMP member in each community meet on a regular basis with the community/band councils or community clubs to keep aware of community policing concerns and to provide a timely response to those concerns.

**Circuit Courts**

1. The police are generally seen positively by the communities.
2. It was felt that the police follow their procedure to bring the accused before the court, only to have the delays add work to their already heavy schedule.
3. Resubpoenaed witnesses become angry because they must remain in court for sometimes days, then experience another adjournment and this anger is often directed at the police.
4. The police on occasion are seen as being ridiculed by the defence lawyers and on some occasions by the judges.
5. The communities expressed resentment toward their behaviour because it was felt that the concept of the law was negatively affected.
6. The impressions created on the young people was not positive.

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

### 4.1. Aboriginal Justice Strategy, Trends - 2000 <sup>7</sup>

#### 4.1.1. Turnover

- **Nunavut and the Northwest Territories:** Another northern project is the RCMP transfer policy and working relationships with the RCMP. Changes in RCMP leadership can mean ‘starting over’ for these communities in terms of developing a working relationship with the RCMP. Turnover in RCMP staff can mean negotiations for referrals can be put off and different philosophies once again have to be mediated. Consequently, consistency and stability are difficult to sustain and community-based justice loses community support and goals are difficult to develop.

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### 4.2. Nunavut (Northern) Justice Issues -2000 <sup>8</sup>

- Another issue for community-based justice initiatives in the North is the transfer policy of the RCMP.
  - RCMP officers are moved to a different community approximately every three years.
  - This has serious complications for justice delivery in the North in a number of ways.
  - If this external policy is not addressed within the development and implementation of the justice strategy it may aggravate the operation of the initiative and delay the acquisition of its goals. The literature in this collection points out that this policy may:
    - Prevent officers from becoming trusted by the community.
    - Hinder efforts to apply community-based policy.
      - For example, a new officer may undermine the initiative by not diverting cases to the community, or they may have a different vision of justice that does not reside in the wishes and needs of the community, but instead arises from the strict application of the *Criminal Code* and the goals of the formal mainstream system.

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### 4.3. A Framework for Community Justice in the Western Arctic – 1999<sup>9</sup>

- One of the most important relationships in the Community Justice Program is between the RCMP and community justice communities regarding diversions.
  - The RCMP are the "gatekeepers" of diversion in that they decide which cases will be diverted to committees.
  - Most RCMP officers indicated support for the program and have been involved with committees in the communities to which they have been posted.
  - Half of the interviewed RCMP have diverted cases to the committees and one-third have attended committee hearings or meetings.
  - A number have provided training and information about the justice system and some have assisted with the development of a justice committee in the community.
- The RCMP is currently undertaking a territory-wide initiative to train its personnel in family group conferencing and to encourage local officers to lead the development of this initiative in their communities.

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<sup>7</sup> 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 -

<sup>8</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>9</sup> 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

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- The possibility of being trained to carry out family group conferences will be appealing to committees and will address some of the expressed needs of communities.
  - However, it will also place more demands on existing committees and could shift the focus of both existing and new committees to carrying out a single program which is not community-determined.
  - This will be counter to the philosophy of the Community Justice Initiative although family group conferencing would be a valuable adjunct to it.
  - The Department of Justice should carefully consider how this RCMP initiative will fit with the aims of its own Community Justice Program and with the capacity of communities to carry it out.
- One of the most important relationships in the Community Justice Program is between the RCMP and community justice communities regarding diversions.
- The RCMP are the "gatekeepers" of diversion in that they decide which cases will be diverted to committees.
  - When a committee is first established, the program requires that members sign a standard protocol for diversions which spells out the roles of RCMP, Crown and committees as well as the criteria for eligible cases.
  - The signed protocol is forwarded to the Community Justice Division for its signature and then circulated to the RCMP Superintendent and the office of the Crown (Justice Canada) for their signatures.
  - Signed copies are returned to the committee and to the local RCMP Detachment.
- Since the protocol is standard across the Territories, it is not clear whether there is a requirement for the committee and the local RCMP to establish relations and develop a mutual understanding of the diversion process prior to acceptance of the protocol.
- There appear, however, to be differences in interpretation of the criteria for diversion among RCMP detachments.
  - Some RCMP cited a written 'policy' (without making reference specifically to the "protocol") which they have been given by headquarters (although different 'policies' were shown to us) as the one that they must follow but others regarded the received policy only as 'guidelines' to which discretion could be applied.
- The RCMP respondents in community detachments were asked to identify the criteria they use when diverting a case to a community justice committee.
- Among them, these respondents described a total of five criteria.
  - However, no one respondent gave all five.
  - Those identified are:
    - 1. The accused does not have a previous criminal record or history of crime (mentioned by 8 RCMP respondents);
    - 2. The accused will take responsibility for the offence and be willing to comply with the committee (mentioned by 9 RCMP respondents);
    - 3. The nature and severity of the crime: violent crime, sexual offences, domestic violence, bootlegging and narcotic-related offences are not diverted (mentioned by 12 RCMP respondents);
    - 4. The committee must be able to meet the needs of the victim and the community (mentioned by 3 RCMP respondents);

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- 5. The committee is capable of fairly hearing the accused: not related or involved in the crime (mentioned by 2 RCMP respondents).
- Given that most diversions come from the RCMP, the volume of cases handled by a committee is dependent upon the interpretation and application of the diversion criteria by the RCMP.
- In a number of cases, neither committees nor RCMP officers indicated that they are aware of the protocol.
  - This may be due to the high turnover of committee members, coordinators and RCMP personnel in communities.
  - It is likely that the initial protocol is "filed" and subsequently overlooked as these individuals change.
  - With this turnover in personnel relationships become disrupted. New committee members and coordinators almost have to start at the beginning and not all RCMP officers demonstrate the same degree of interest in diverting cases to community committees, especially if they have not been contacted by the committee or have observed that committees are unstable.
  - Community justice specialists can play an important role in facilitating this relationship.
  - Most RCMP officers indicated support for the program and have been involved with committees in the communities to which they have been posted.
  - Half of the interviewed RCMP have diverted cases to the committees and one-third have attended committee hearings or meetings.
  - A number have provided training and information about the justice system and some have assisted with the development of a justice committee in the community.
- Half of those officers interviewed see the existing committees as being effective.
  - Others doubted committees' effectiveness for a number of reasons:
    - the committee being "backlogged" with diversions;
    - effectiveness depends upon only one or two committee members;
    - diversion is seen by the community simply as a way out of court and the committee is not providing adequate monitoring to ensure compliance with their conditions;
    - the community does not support the committee;
    - the committee lacks understanding of legal issues and of the purpose of community justice;
    - the committee is not accountable to victims, the RCMP or the CJS;
    - power relations in the community mean that some individuals receive preferential treatment.
- Slightly more RCMP respondents feel that they are not receiving from committees the information that they need than those who described their communication with committees as being "open and honest".
  - Just over half of this latter group reported that they are informed by committees of the diverted individual's progress in meeting the committee's requirements.
  - Information needs identified by RCMP overall are for:
    - progress reports of diverted persons;
    - information about the customs and traditions of the community;
    - background information about persons involved in RCMP investigations.
- The RCMP is currently undertaking a territory-wide initiative to train its personnel in family group conferencing and to encourage local officers to lead the development of this initiative in their communities.

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- This may involve a proactive approach on the part of RCMP detachments to develop committees that can participate in family group conferencing.
  - It will also present existing justice committees with the opportunity to take on another activity.
  - This initiative is being discussed with the Department of Justice in the hope of developing a partnership at the "headquarters" level.
  - The possibility of being trained to carry out family group conferences will be appealing to committees and will address some of the expressed needs of communities.
  - However, this will also place more demands on existing committees and could shift the focus of both existing and new committees to carrying out a single program which is not community-determined.
  - This will be counter to the philosophy of the Community Justice Initiative although family group conferencing would be a valuable adjunct to it.
  - The Department of Justice should carefully consider how this RCMP initiative will fit with the aims of its own Community Justice Program and with the capacity of communities to carry it out.
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#### 4.4. Alternative Measures in Canada – 1998 <sup>10</sup>

##### **Role of Police**

##### **Youth**

Police are important partners in the ongoing functioning of a local Community Justice Committee. As the primary referral agent, the police are authorized to make referrals directly to a Committee for alternative measures for youth.

As the primary referral agent, the police play a significant role in the overall delivery of the alternative measures programs for youth. As the first point of contact with the criminal justice system when an incident occurs, the police retain their discretion to take no further action or to divert the young person, informally, from the system. Although caution letters are not formally mandated in the Northwest Territories, they may be utilized by some officers as a way of informally diverting youth from the system.

In the event the police choose not to exercise their discretion to informally divert the youth or to take no further action, they may proceed with a charge or they may choose to refer the youth to a formal alternative measures program. In the case of a referral to alternative measures, the police assume responsibility for ensuring that the youth has been advised of his/her rights, and that the youth accepts responsibility for his/her actions and consents to participate in the program. The police will then make the referral directly to the local Community Justice Committee.

The role of the police may also include significant involvement with the local Community Justice Committee. Committees are encouraged to develop supportive relationships with the police as well as other professionals in the formal justice system.

##### **Adult**

The police may also divert adult cases informally, at the pre-charge stage, to a local Community Justice Committee for diversion rather than alternative measures.

There are currently no formally authorized pre-charge alternative measures programs for adults. There is, however, a protocol agreement that can be signed by the Community Justice Committee, the RCMP, the NWT Department of Justice, and Justice Canada. Under this agreement, the police may divert adult cases informally,

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<sup>10</sup> Statistics Canada, Barry Mackillop, Correctional Services Program, Canadian Centre For Justice Statistic Alternative Measures in Canada – 1998, Feb 1999 <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-545-XIE/85-545-XIE.html>



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at the pre-charge stage only, from the formal justice system. These cases are primarily dealt with by the same justice committee as that which deals with the youth cases and the cases essentially follows the same process.

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

### 5.1. Restorative Justice; A Fresh Approach<sup>11</sup>

Many Canadians believe the formal justice system is failing. It is often criticized for being too costly and time consuming. Meaningful reparation is rare. All too often, offenders leave court only to commit similar types of crimes. Victims are often excluded from the court process and are rarely provided with an opportunity to heal from the effects of an offenders' actions. A more satisfying system of justice is needed.

The philosophy of restorative justice is based on community healing. In other words, the community decides what is best for itself in terms of resolving certain criminal matters. While the formal justice system is adversarial and punishment-based; the focus of restorative justice is on offender accountability, problem solving, and creating an equal voice for offenders and victims. The best results occur when the victim, offender, and the community jointly resolve the effects of a offenders' behaviour. There are many options within restorative justice. The RCMP is championing one specific process: *Community Justice Forums* (CJF).

A CJF is a safe, controlled environment in which an offender, victim and their families or supporters are brought together under the guidance of a trained facilitator. Together they discuss the offence, how they have all been effected, and jointly develop a plan to correct what has occurred. "Righting the wrong" can involve a simple apology and restitution for the victim. Other agreements may include community service work, counselling, or addictions treatment for the offender.

In a CJF, offenders must accept responsibility for their own actions. They are confronted with how their behaviour affected the victim personally - and they hear it directly from their victim. This is the first step toward healing and reintegrating the offender into the community as a productive member.

#### **Benefits**

- Often more cost-effective and immediate than the court process.
- All participants have a chance to be heard equally and to learn.
- Individuals directly affected have a say in the outcome.
- Offenders, victims and supporters gain a deeper perspective on the incident.
- Victims receive an answer as to why the offence was committed.
- Bonds between people can be restored or created.
- Offenders take responsibility for their actions.
- Victims and offenders receive closure and healing.
- Lower recidivism rates.

#### **Community Justice Forums**

A CJF is powerful in its ability to reintegrate an offender and restore balance for victims. The process provides an opportunity for offenders to accept responsibility for their actions and to understand the impact of their behaviour on others. This realization often brings about deep feelings of remorse and empathy. Consequently, when offered the chance, many offenders are willing to do whatever they can to repair the harm they have caused. Moreover, when victims are able to express how they have been affected by what has happened and then see and hear genuine expressions of remorse, they are often quick to accept and to forgive. This brings about the closure they need to put the matter behind them and move on with their lives.

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<sup>11</sup> <http://www.rcmp-grc.gc.ca/html/restjust-e.htm>

## Criteria

The following criteria must be met before an offender can be considered for the process:

- The offender must take responsibility for his or her actions and be willing to participate voluntarily.
- Victim involvement is essential to the process.
- Criminal cases are referred to the process by the police or Crown.
- The facilitator must feel the case is suitable for a CJF.

## More Information

The RCMP is undertaking a major effort to train facilitators in communities throughout Canada. If a trained facilitator is not available within your community, check with a neighbouring detachment or jurisdiction. For more information about CJF's or to discuss a specific case, please contact your local detachment.

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## 5.2. Survey of Pre-charge Restorative Justice Programs -<sup>12</sup>

The development of *community policing* has been seen as representing a *profound shift* in methods of intervention and crime prevention. Brodeur (1994) outlines the five major characteristics of community policing as: an expanded police mandate, a pro-active approach, the establishment of partnerships with the community, decentralization, and 'softer' policing using persuasion and communication rather than force. Community policing has expanded considerably in Canada over the past 10 years, and both the RCMP and the OPP have adopted it as a service philosophy. In principle, it is compatible with much of the philosophy of restorative justice with its emphasis on communication, localized problem-solving, and community partnerships.

The RCMP has endorsed restorative justice within its community policing philosophy since 1995, as part of a diversionary and community devolution strategy. Conferencing forms a major component in the form of *Community Justice Forums*. The first conferencing project was initiated in 1995 in Sparwood, BC. Systematic training in conferencing techniques (a three day session) was initially provided in 1997 by those responsible for establishing police-led conferencing in Australia. The RCMP is currently providing training for police and citizens in conferencing techniques across Canada, and in association with the Department of Justice, as well as initiating conferencing projects in a number of communities across the country. All RCMP divisions now have a trainer and a resource guide have been produced.

Restorative justice has become a much broader and more complex concept in Canada in the 1990's with an international presence, a wider range of approaches and a strong community focus, and one in which the police now sees themselves as playing a much more central role.

## Challenges for the Police and Communities in Canada

For the police to take on a major role in restorative justice in their communities and re-think the delivery of justice, will require more than increasing the scope for diversion or providing brief training sessions in specific techniques. It will require a shifting of power from the police to communities. Most police services in Canada are experiencing considerable change in terms of orientation, reorganization and downsizing. Restorative justice presents a number of challenges linked with community policing with which it shares some core values: problem solving rather than blame fixing, shared responsibility with the community, concern with underlying problems and reintegration, the localization of initiatives and operations, and consensus building using mediation and communication rather than confrontation.

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<sup>12</sup> Shaw, Margaret and Frederick Jané, [Department of Sociology & Anthropology, Concordia University, Montréal, Québec, Network for Research on Crime and Justice, Survey of Pre-charge Restorative Justice Programs, http://qsilver.queensu.ca/rcinet/projects/execsum.htm](http://qsilver.queensu.ca/rcinet/projects/execsum.htm)

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While there appears to be compatibility, the adoption of a community policing model is no guarantee that a restorative justice philosophy will be fully accepted or implemented without problems within a police service. There would also appear to be considerable variation across Canadian police services in the extent of implementation of community policing. If restorative justice is to be developed in a substantive way it must have a significant impact on policing at all levels of policy and practice, and at management and local levels. Establishing formal protocols and procedures and training will not be sufficient, however. Police occupational culture which guides daily practice is often cited as a major factor inhibiting change. Primarily transmitted through stories and anecdotes, it is argued that giving police 'different stories to tell' (because of their closer involvement in justice decision-making) will facilitate a shift towards restorative justice (and community policing).

Training eg. in conferencing is still an important component, but it is essential that it takes account of the organizational context within which projects are to be developed. Stability of personnel is also crucial for the development of community partnerships and good programmes. The policing environment, its population, economic, social and crime characteristics, public attitudes towards crime and the police, and minority concerns will all require particular attention. They will influence the extent to which community partners are willing to enter into partnerships with the police.

Police involvement in conferencing, and the speed of its development has been the subject of concern in Canada and elsewhere. Apart from the difficulties of effecting change within policing, there has been criticism of police coordination and facilitation of conferencing, the extent to which victim and offender interests can be balanced, and attendance non-coercive, and the impact of mistrust of the police particularly among minorities. Independent facilitators, and shared decision-making in the selection of cases are recommended, as well as particular attention to cultural and gender factors and victim needs. Multi-agency and community partnerships appear to be the best way of avoiding many of the problems inherent in restorative justice and diversionary programmes but require considerable police attention to sharing power.

Thus while the police are well placed to develop restorative justice because of their discretionary role as gatekeepers to the justice system, the current push to expand diversion, and because they are well placed to develop community partnerships, it may be much harder for them to do so appropriately and effectively than others. More than any other agency or community group, the police face much stronger pulls and expectations, both internally and externally, towards a retributive offender-based justice system. There is, therefore, a much greater need for the police to develop broad-based community partnerships, to have strong support at all service levels, to establish clear principles, goals and protocols, and for careful planning, implementation and evaluation.

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### **5.3. Restorative Justice - A program for Nova Scotia - 2001<sup>13</sup>**

Police Services<sup>14</sup>

Restorative justice has been identified as a national and provincial priority of the RCMP. RCMP officers and community representatives in each detachment area across the Province have been trained to facilitate a family group conferencing model known as a community justice forum. The investigating officer has the option of referring a matter pre-charge to one of the trained facilitators in a given detachment area. The facilitator will contact all the parties involved in the case, prepare them for their participation in the community justice forum, and facilitate the forum. The officer or a community representative from the forum will follow-up with the offender and the victim. The officer may refer the offender back to the conventional system if he does not comply with the agreement arising out of the community justice forum.

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<sup>13</sup> Restorative Justice - A program for Nova Scotia, Update 2001, <http://www.gov.ns.ca/just/rj/rj-update.htm>

<sup>14</sup> <http://www.gov.ns.ca/just/rj/rj-framework.htm>

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In the early development of this Initiative, the Department of Justice established a timely collaboration with the RCMP. A full-time provincial Restorative Justice Coordinator has been appointed for the RCMP, and is working closely with the Department's Restorative Justice Coordinator and the Steering Committee.

Municipal police services in Nova Scotia have also shown an interest in participating in the Restorative Justice Initiative. It is expected that most of their participation will occur in their capacity as a referring body to the community agencies. If however, some services in some municipalities choose to take on the responsibility of delivering the Program, this may be done in consultation with the Department of Justice.

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#### 5.4. The Role of Police Challenges on Restorative Justice - 2000<sup>15</sup>

Good afternoon to all of you, participants and presenters. I am very pleased to be here today with so many knowledgeable and committed people like you, to discuss one of the most important aspects of modern criminal justice thinking, namely the concept and the practice of restorative justice.

##### **Restorative Justice**

Restorative justice, in my view, is a path that offers a series of areas of hope to us. First, the hope is of holding offenders accountable in ways that promote personal responsibility, growth, reparation and eventually successful reintegration. Second, the hope of helping victims get the information that they need and bringing some closure to their experience. Third, the hope for inclusion and healing for all parties. And finally, a hope for safer, more peaceful, healthier and more empowered communities.

Following that path is a lofty goal. Yet over the course of this conference, I am convinced that many stories will have been shared that indicate that restorative justice approaches are having those kinds of positive impacts. But if we believe that restorative justice can make a meaningful and lasting impact on our search for safety and harmony in our communities, we must successfully address some of the challenges facing this approach.

You will find these issues well documented. For instance, you will find them in the Law Commission's recent discussion paper on restorative justice, in Susan Sharp's book *Restorative Justice: A Vision for Healing Change*, and in Carol La Prairie's article on the *Implications for Aboriginal People*. Recently, a couple of women's organisations, one from Nova Scotia and one from Newfoundland, have raised some serious concerns about restorative justice, as we know it. A national consultation with victims groups has also articulated certain concerns and cautions. Finally, a federal-provincial-territorial working group is completing a consultation paper that summarises the challenges that we have already identified.

##### **The State and the Community**

How do we best define or describe the respective roles of the state, including the police and correctional services and other agencies, on the one hand, and the community on the other hand?

To me, restorative justice is fundamentally a community concern. It is a matter of how we want to live together. The justice system is very much a question of choosing how do we want to relate to one another. When we get together to try and repair the harm done by serious crimes in a fulfilling, inclusive way, all parties must be included. When we come together to try and repair the harm done by serious crimes in a way that improves our ability to listen, to solve the problems, to apologise and make things right, both tangibly and symbolically, we are reaffirming ourselves as communities.

Restorative approaches drive us increasingly to work with grassroots and local organisations rather than calling on professionals, rather than working in isolation. It is therefore wonderful to see that we have all kinds of restorative justice initiatives across the country: in faith communities, in schools, in Aboriginal settings, in homes and in families.

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<sup>15</sup> Ole Ingstrup, PhD, Commissioner of the Correctional Service of Canada, Royal Canadian Mounted Police Conference on Achieving Justice with the Community in Canada: The Role of Police Challenges on Restorative Justice March 25, 2000 Ottawa, Ontario [http://www.csc-scc.gc.ca/text/speeches/commish/00-03-25\\_e.shtml](http://www.csc-scc.gc.ca/text/speeches/commish/00-03-25_e.shtml)

## Community Justice - RCMP

Last year, the Correctional Service of Canada awarded a Restorative Justice Certificate of Recognition to a construction manager who, in the course of building a school in a northern village, uncovered deeply held conflicts among the citizens. Using the collaborative process he had already set up for the school, he helped people come together to discuss their hurts and to move forward in a good way.

I am absolutely sure that this man had never heard of the term "restorative justice", but it did not matter because he was living it in the community where he worked.

Kay Pranis, an American writer on restorative justice and a restorative justice advocate, has said that Canadians, with their historical faith in government processes, have been quicker than Americans to permit state leadership and influence in the area of restorative justice. This, she says, is not necessarily all that bad, but she warns us not to ignore the strength of the community roots of restorative justice.

Closer to home, Wayne Northey, a well-known Mennonite writer on restorative justice, also fears that the state can play too much of a role. He uses a powerful image to express his idea. He says that in the early days, many people in the community who were committed to the restorative justice vision felt like tiny speed boats out at sea, trying to get the attention of the big state-controlled criminal justice ocean liners. The little boats almost disappeared in the wake of the government liners, but when they recovered, they looked at the sides of the ships and my God, the name had changed to Restorative Justice!

There are serious fears about state intervention versus community intervention in restorative justice. Let us look briefly at a couple of them. Some community groups are fearful that governments may be tempted to co-opt restorative justice for their own purposes, purposes such as cost-cutting, smaller court dockets, less crowding in prisons. Victims groups are worried that correctional and court agencies will implement restorative justice in ways that may advantage the offenders at the expense of victims, many of whom legitimately struggle to get basic support services and information. Aboriginal groups are concerned that their traditional restorative justice practices and teachings may not be honoured or applied in a good way.

So where does all of this lead us? Is there a role for government at all? Yes, I believe so, but I think we all need to recognise that there are implications for change inherent in the restorative justice approach that we need to consider carefully.

We must realise that we are fundamentally altering the way the justice system has been operating for hundreds of years. As a matter of fact, that system was developed as far back as the thoughtful Roman lawyers of ancient times. One of the principles at that time was to make sure that personal emotions and private revenge did not play a role in the way we administer justice.

We need to learn how to effectively focus on repairing harm, as opposed to assigning blame; and resolving issues, not just balancing rights. This has implications both in the community and for those of us in government.

### **What the Correctional Service of Canada is Learning**

Let me give you a few examples of what we have learned about our new role in the Correctional Service of Canada.

Lesson one, we must listen more and act on what we hear.

Lesson two, we must base our decisions on research and factual information. We must include more people, victims groups, victims, and voluntary organisations in planning processes to support projects that will provide sound information on the important issues that face us.

Lesson three teaches us that we must help communities build the capacity to become involved in meaningful and satisfying ways without taking over.

And lesson four should be that we, as public servants and representatives of the government, ought to work with our partners in all our restorative justice initiatives. The Correctional Service of Canada should not and cannot do it alone. We have to work with others. We have to work with our community partners, including victims and ex-offenders.

Lesson five, we need to have some kind of intervention on the part of the state. We cannot have a totally free-floating system that absorbs major parts of the justice process without the state taking some responsibility. We should do so when we grant money to these projects, but at the least possible interventionist fashion because if we only come up with new standards, we are leading people into a path that, as Nils Christie says, steals the process and the conflict away from people.

It is crystal clear that we must contribute much more when we are in partnership with other government agencies and in collaboration with representatives of the Canadian communities.

### **Walking the Talk**

There is one restorative justice role that the Correctional Service of Canada can pursue. We can learn how to better walk the restorative justice talk inside our own institutions and parole offices. If we are part of a movement to promote the fundamental principles of restorative justice in the larger community, then we must be prepared to live it.

I am very encouraged by the fact that inside our institutions, we have a large number of projects based on restorative justice. The best examples are the Healing Lodges for Federally Sentenced Women and Men. They are based on Aboriginal restorative justice philosophy. They have been thoroughly entrenched in what we do in these institutions and, more encouraging, they are driving recidivism down.

Soon in Vienna, there will be a proposal made to the United Nations Congress on Prevention of Crime and the Treatment of Offenders on "Basic Principles on Restorative Justice". Canada will play a role in the development and presentation of these guidelines, which will serve us as we try to walk the talk at the Correctional Service of Canada. It is only through dialogue that there is hope for advancement.

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## **5.5. Aboriginal Justice Strategy (AJS) Evaluation -2000 <sup>16</sup>**

### **5.5.1. Role/Responsibilities**

- The RCMP is an integral component in community development and justice projects in all jurisdictions where there are AJS community justice projects, except in Ontario and Quebec.
- The RCMP is contributing \$550,000 annually to the AJS and is also expending and administering \$200,000 per year on alternative justice training (Community Justice Forums (CJF)). A training video on CJF's was developed with funding from the AJLN and is used to train recruits.
- For successful community justice projects, the cooperation of the RCMP is required to refer clients for diversion, attend circle sentencing and conduct CJF's. Most community justice projects form a steering or administrative committee and RCMP membership on the committee is the norm.

### **5.5.2. Turnover**

- The high turnover of RCMP constables in Aboriginal communities makes continuity and commitment difficult to sustain.
- In one community, a **RCMP** officer noted the need for all of the officers to be involved in the project.
- Consequently, the officers rotated attendance at the justice committee meetings, which increased familiarity with the project and their willingness to refer offenders.
- In the long run this will assist the project in maintaining their contacts with the detachment as officers transfer.

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<sup>16</sup> Department of Justice Canada, Evaluation Division, Final Evaluation Aboriginal Justice Strategy, Technical Report, October 2000

### 5.5.3. Training

- During interviews with community justice workers it was suggested that more training of constables in Aboriginal justice approaches, not just CJF's would go a long way to improving acceptance of community justice projects as an alternative.
  - In an effort to respond to this concern, the RCMP also train recruits in restorative justice approaches and encourage all officers to work with community justice committees in an effort to develop relationships between the local detachments and community-based projects that will sustain even with transfer of RCMP personnel.
  - In addition to the Community Justice Forums, the Aboriginal Policing Branch of the RCMP is involved in two national initiatives directed at youth at risk and Aboriginal youth in particular. (RCMP/Community Suicide Intervention Project – funded under the National Crime Prevention Centre, and the RCMP Aboriginal Youth Training Program, which has DIAND as a major funding partner).
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## 5.6. Evaluation of RCMP Restorative Justice Initiative -1999<sup>17</sup>

### Executive Summary

The concept of "*restorative justice*", in spite of the wide diversity in its actual implementation methods, can generally be described as a way of dealing with the harm caused by an offence by involving the victim(s), the offender(s), and the community that has been affected. The outcomes that are sought include restoring harmony in the community by repairing, as much as possible, both material and psychological damages to the victim(s), and re-integration of the offender (thereby preventing recidivism) by the use of shame and remorse for committing a wrong action. The offender is expected to 'pay' by taking active responsibility for causing the harm and by being accountable to the victim and the community for repairing or minimizing the injuries. The process helps the offender to experience shame for committing the harmful action - but in a reintegrative way, in a caring and supporting context. The proponents of *restorative justice* believe this approach to be more fair, satisfying, efficient and effective than the conventional, court-based, adversarial approach to justice.

This new (yet ancient) way of dealing with offending behaviours was seen by all key players in Canada (e.g., The Solicitor General, the Director of RCMP Community, Contract and Aboriginal Services Directorate or CCAPS and Judge David Arnot) as a natural extension of the Aboriginal Justice Initiative launched by the Federal Department of Justice in 1991. Consequently, the RCMP adopted the philosophy of restorative justice, and has taken the initiative to implement this approach through one of its tools, the "Community Justice Forum" (CJF), a term of choice for its emphasis on community involvement, instead of the term "Family Group Conferencing" (FGC) as it is known in Australia and New Zealand. The initiative has expanded to a large number of detachments across the country through three "Train the Trainers" workshops, held by the RCMP in January, 1997. Currently, CJFs are being successfully used for youths and sometimes for adults in conflict with the law, and the types of offences which are being commonly dealt with include theft, assault, vandalism, "bullying", property damage, drug use and possession, shoplifting, and breaking and entering.

The current evaluation project of the RCMP initiative was undertaken by the Research and Evaluation Branch of the CCAPS directorate in December, 1997. The first part was an evaluation of the "Train the Trainers" component, which includes (a) effectiveness of the three initial training workshops in training RCMP and community members to be competent trainers, and (b) effectiveness of these trainee-trainers to train others in conducting CJFs, and the second part consists of an evaluation of the effectiveness of CJFs through perceptions of CJF participants and facilitators, based on their actual experience. The first report provided information on the first major part of the evaluation, and the present report provides information regarding the second part, dealing with how effective the CJFs have been according to those who had direct experience with them.

### A Summary of Findings from the First Report:

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<sup>17</sup> Chatterjee, J. (1999). A report on the evaluation of RCMP Restorative Justice Initiative: Community justice forum as seen by participants. Ottawa, Ontario: Royal Canadian Mounted Police, Research and Evaluation Branch. <http://www.rcmp-learning.org/restjust/docs/ccap0004.htm>



## *Research Framework for a Review of Community Justice in Yukon*

### Community Justice - RCMP

- Seventeen hundred individuals across Canada were trained to conduct CJF sessions (up to October, 1998).
- Sixty-seven workshops were held at 48 geographical locations across Canada.
- RCMP collaborated with at least 29 organizations and numerous communities.
- Most respondents (93%) believed that the CJF would be highly effective in improving the Canadian Justice System.
- Most respondents (73%) believed in their own competence as trainers (quite a bit or very much), and 25% rated it as moderate .
- Most respondents also felt that they had the supervisory or organizational support behind them (18% rated it as moderate and 71% as high).
- A total of 30 different types of offences or combination of offences were reported by the 67 facilitators who had actually conducted CJFs. CJFs were most frequently reported for theft (26%) and assault (21%). The next few major categories of offences dealt with at CJFs were Public Mischief (7%), Drugs (6%), Property damage and Break & Enter (5%), Sexual Abuse (4%) and Harassment or bullying (4%). There were some cases where more than one offence, for example, both Break and Enter and Theft, Theft and Fraud, or Break and Enter, Property Damage and Public Mischief were committed. CJFs were also used for offenders who committed fraud (2%), arson (2%), assault with a weapon (2%), loitering (.4%), trespassing, impaired driving, obscene phone calls, breach of probation (.4%) and illegal possession of alcohol. Other offences such as threats and intimidation, verbal abuse, dangerous operation of a vessel and "bumper skinning" were also resolved using the CJF process.
- The majority of those facilitators (79%) who had conducted CJFs indicated that the offenders were 19 years-old and under. The most frequently reported age range for offenders participating in CJFs appeared to be 14 to 16 years of age (38%), and another 15% were between 17 and 19 years-old. There were 6 cases (2%) where the offender was over 50 years of age and 18 cases (7%) where the offenders were 11 years of age and under. However, it is to be noted that the reported data for the age categories, in several instances overlapped. The reason for this is that many facilitators had to guess the age of the offenders, since they had not recorded the exact age.

#### **Recent Training Activities:**

In October, 1998, two one-day sessions were held at the Royal Canadian Mounted Police Academy (Depot) in Regina to provide information on 'restorative justice' and specifically, on CJFs to the instructors responsible for training RCMP cadets. The Director of Community, Contract and Aboriginal Policing Services (CCAPS), the members of CCAPS Research and Evaluation Branch, OIC Training Research, the District Commander of Southern Alberta, two trainer/facilitators and a Crown Prosecutor presented relevant information, data and views based on their own experience and expertise to about 78 instructors. The rationale for holding these information sessions was to keep instructors fully knowledgeable about this new philosophy of policing adopted by the RCMP, so that in their turn, they can impart this knowledge to the would-be RCMP officers and encourage them to apply this approach in community problem-solving. Restorative Justice philosophy and principles have been formally incorporated in the cadets' training curriculum as one of the tools for practising community policing. Since October 1998, 64 Depot instructors and 4 community members have been trained as new CJF facilitators at Depot by local trainers.

For the second major part of the evaluation project, various data collection methods, such as mail-in questionnaires, telephone interviews and in-depth personal interviews were utilized in order to collect information regarding the following basic variables hypothesized to be associated with restorative justice (not compared to those associated with conventional 'retributive' justice, because the methodology did not allow such a comparison): (1).CJF participants' overall satisfaction, (2). CJF participants' satisfaction with the process, and (3). CJF participants' satisfaction with the outcome/agreement. A 5-point Likert-type scale was utilized for

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collecting all quantitative data: where 1 meant 'very little', 2 meant 'somewhat', 3 indicated 'medium', 4 denoted 'quite a bit' and 5 meant 'very much'.

Additional information was collected regarding other issues such as participants' perception of regained control over what happened in the community, victims' *willingness to give the offender a second chance*, *victims' fear of revictimization*, *the extent to which participants felt that justice was done*, and *if they had to do it over again what would they choose: the court or the CJF*. Similar information was collected from CJF facilitators as well, by using questionnaires and face-to-face in-depth interviews. Most respondents seemed to enjoy the interviews, and to provide honest, thoughtful and candid responses (the CJF participants were assured of anonymity and confidentiality).

**CJF Participants' Views.** The results of this study, based on responses collected from a total of 239 CJF participants, showed that the mean ratings for overall satisfaction as well as *levels of satisfaction with procedural and outcome fairness* were high among all participants. Almost all participants reported they felt 'quite' (39% rated it 4) or 'very' (51% rated 5) satisfied with the CJFs, and others felt 'moderate' level of satisfaction. Eighty-five percent of offenders and 94% of victims reported they felt either 'quite' or 'very much' satisfied with the CJF overall.

Similarly, 96% of all participants indicated that they felt the CJF *process* was 'very' (5) or 'quite' (4) fair. In spite of the generally high level of satisfaction with the CJF process, there was a slight indication of perceived undue pressure to attend the CJF on the part of victims. Responses also suggested that before coming to the CJF, not all participants had a completely clear and thorough understanding of what it involved. However, in spite of their imperfect understanding of the process, the majority of participants had participated in CJFs voluntarily (100% of offenders and victims' supporters, over 95% of victims' and offenders' supporters).

Results for *satisfaction with agreement/outcome* were also consistently high: 91% of all participants felt that the agreement/outcome was 'quite' or 'very' fair and most participants acknowledged that they were given a chance to provide input into the agreement with no pressure from anyone. Ninety-seven percent of victims rated the fairness of the *agreement/outcome* as 'quite' or 'very' fair while 77% of offenders rated it either 'quite' or 'very' fair. These results are significant, particularly in relation to victims who often report feeling frustrated with both the *process* and the *outcome* of the traditional court system. Another measure of participants' satisfaction with their CJF experience was demonstrated in their reported choice between the CJF and the court, if they had to do it all over again. The majority of them - 87% of the offenders, 93% of the victims, 95% of offenders' supporters and 93% of victims' supporters would choose CJFs over the court.

Results showed that 98% of all offenders indicated that the CJF helped in their understanding of the consequences of their actions and their willingness to take responsibility for the same. About 97% of their supporters and everyone in the categories of victims and their supporters (100%) indicated that they felt the offenders understood and took responsibility for the consequences of their offenses at least to some extent. The total percentage of interviewees who stated that the offenders had actually complied with the CJF agreement was 84.8%, with other cases still on-going. Both offenders and their supporters expected that there would be quite a bit (or higher) of support for the offenders from their family and friends in complying with the agreement. Over 90% of victims who answered the questionnaire indicated that they would be 'quite' or 'very' willing to give the offender a second chance. In fact, some of the victims indicated that they came to the CJF because they wanted the offenders to have a second chance. Victims' supporters and offenders' supporters were also willing to give the offenders a second chance (ranging from 'moderate' to 'very much'). Following their participation in CJFs, 97% of questionnaire respondents reported 'somewhat' or higher regained sense of control over what happens in their community. The majority of respondents in each category reported that the CJF process gave them back 'quite a bit' of control. In this study, 88% of victims interviewed reported that the CJFs helped 'quite a bit' or 'very much' with their psychological healing. An additional 12% reported that it helped 'moderately'. The mean response to the question 'Was justice done?' was high for the total group of participants. Also, both victims' supporters and offenders' supporters indicated that in their view, harmony was restored. The data indicated that the CJFs took place within 1 to 20 weeks (average 5.4 weeks) after the offending incident occurred. The facilitators' observations corroborated this fact. Responses to the question about the likelihood of the offenders re-offending showed that offenders themselves and their supporters believed that they were unlikely to offend again, although victims' supporters were a little less convinced.

**Facilitators' Views on CJFs.** In-depth, face-to-face interviews were conducted with thirty facilitators in various parts of Canada, to discuss a wide range of issues such as the type of communities they worked in (mixed

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socio-economic levels, urban and rural, multi-ethnic), these communities' receptivity to CJFs (informed communities were receptive), the types of cases where CJFs should be applied (mostly non-violent crimes), perceived willingness of participants to attend CJFs (mostly willing) and factors likely to be associated with agreement-compliance (parental support). These interview data complement the findings presented in the first report. In addition, sixty-nine CJF facilitators, mostly police officers, filled out questionnaires immediately following the completion of CJF sessions they had facilitated, to provide us with their perceptions on specific issues.

The questionnaire data showed: The number of participants present at the CJFs ranged from 3 to 23, with the mode or the most frequent numbers being 5 and 7. Overall satisfaction of these facilitators with CJFs was rated 4 or 'quite a bit'. They believed that in general, participants showed open-mindedness about solving the problem, that the agreements were quite fair and that the likelihood that they would be honoured was high. They felt that there was some undue pressure on participants, the cases were considered quite appropriate for CJFs and the damages from wrong actions were likely to be repaired. The offenders and their supporters both seemed to have realized the impact of the wrong actions on others, and finally, CJFs seemed to have answered victims' questions and brought about a sense of closure. As can be seen, the immediate feedback of the facilitators was really positive in almost all respects, and mirrored the data obtained from CJF participants themselves.

Results of the present study provided strong support for the claim of the advocates of restorative justice philosophy. However, this was not a controlled experiment, the sample was not random or sufficiently large, and data collection was not as systematic as desired. Yet, the internal consistency of the results, and the similarity of the present findings with the available research literature including studies that involved controlled experiments seem to lend validity to the findings. It is also evident from the results that the restorative justice initiative, initially considered as an extension of the Aboriginal Justice Strategy, has expanded far beyond the Aboriginal communities into the mainstream, and communities who are informed of this approach are usually receptive to it.

#### **Recommendations and Future Implications.**

- **Training Standard for Facilitators:** Without some minimal standard of training, we risk causing harm to communities instead of restoring harmony through joint problem-solving in a caring, respectful environment. We also risk losing credibility for this relatively recent restorative approach itself.
- **Prior Briefing of CJF Participants:** It is of utmost importance that all potential CJF participants are fully informed of how CJFs work and what to expect at the forum. This step should also help alleviate the undue pressure perceived and reported by some participants.
- **Possibility of power imbalance at CJFs:** The facilitator has to get together a genuine 'community of care' to participate at the forum, and to ensure that all participants have equal input into the process and outcome. The facilitator also has to ensure that the focus of the forum remains on solving problems or undoing the harm and not on assigning blame.
- **Monitoring/Follow-up for agreement-compliance:** In order to enhance the credibility of the CJF process, the facilitator must ensure proper follow-ups of agreement-compliance by offender(s).
- **Applicability of CJFs:** So far in Canada, most of the cases dealt with through CJFs have been conducted at the pre-charge stage (RCMP policy), and have involved property-crimes (e.g., B & E, theft, vandalism) or minor offenses such as bullying, drug possession and assault. Most interview participants, including facilitators were reluctant to recommend CJFs for cases that involve violent or serious crimes, many refused to consider this option for repeat offenders, and some, for adult offenders. But can CJFs be used for a wider variety of cases? Not just as a pre-charge mechanism, but as a restorative tool to be used at various stages of the judicial process, such as at the post-sentencing stage or pre-release stage? Given the limited but consistent empirical evidence regarding the satisfaction of all participants including victims, these questions merit serious consideration.

- **Police Role:** By the very nature of their duties as ‘gatekeepers’, the police most often have the first and direct contact with the victim and the offender. From the maximum resource utilization and immediate impact points of view it would be efficient for the police to resolve problems through CJFs. This type of proactive role of the police should also help the cause of community policing by enhancing the image of the police in the community which views the police only as a law-enforcer. CJFs constitute a powerful tool for community policing.
- **Referrals:** In this context of police role, clear but flexible policies and guidelines need to be established regarding referrals for CJFs. Policies should ensure that use of discretion is indeed unbiased to all. Practical policies and guidelines are also necessary to deal with cases where offenders are found not to comply with the CJF agreements without justification.
- **Increased Education and Awareness:** Continued efforts to increase education and awareness of police and the communities are essential for the success of this initiative.
- **Documentation necessary for longitudinal analysis:** Finally, this new approach can flourish only through careful longitudinal research demonstrating its usefulness, its limitations and an ongoing effort to improve the process. The preliminary findings gleaned from the present research project are undoubtedly encouraging, but systematic documentation (not necessarily extensive paper work) is absolutely essential for restorative justice to find a meaningful place in the Canadian justice system.

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### 5.7. Restorative/Criminal Justice—Identifying Some Preliminary Questions, Issues & Concerns - 1998<sup>18</sup>

- A number of questions emerge when contemplating the use of this set of principles as a guide to policy makers and program administrators. For example, further examination of the following is necessary:
  - How police will go about identifying candidates for a restorative justice process, and what safeguards will be put in place to ensure that innocent accused individuals do not admit guilt as a way of staying out of court

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### 5.8. Alternative Measures in Canada – 1998 <sup>19</sup>

#### **The Role of the Police National Overview**

As the initial point of contact when an incident occurs, the police may play an important role in the overall delivery of alternative measures programs.

When called to investigate a specific incident, police generally have three basic options to consider in deciding how best to proceed.

Firstly, police in all jurisdictions can exercise discretion, even where an infraction of the law has occurred, not to lay a charge. In such cases, the police may give a warning or may send or accompany the person home.

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<sup>18</sup> Goundry, Sandra A., Legal Consulting and Research Services, Restorative Justice and Criminal Justice, Reform in British Columbia – Identifying Some Preliminary Questions, Issues and Concerns, Prepared for: BC Association of Specialized Victim Assistance & Counseling Programs, 30 April, 1998

<sup>19</sup> Statistics Canada, Barry Mackillop, Correctional Services Program, Canadian Centre For Justice Statistic Alternative Measures in Canada – 1998, Feb 1999 <http://dsp-psd.pwgsc.gc.ca/Collection-R/Statcan/85-545-XIE/85-545-XIE.html>

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The police also have the option of laying a charge, or completing a Crown Brief in jurisdictions where charge approval rests with the Crown Attorney.

The third option that police have is that of initiating a referral to alternative measures. In some jurisdictions, the police may initiate this referral through recommendations made in the completion of the documents forwarded to the Crown Attorney.

Police may, in some jurisdictions such as Manitoba and the Northwest Territories, and the adult alternative measures program in Nova Scotia, refer cases directly to a formal alternative measures program.

In New Brunswick, an investigating officer may refer a case to a Senior Police Officer, designated as an Attorney General Agent for consideration for alternative measures. The Senior Police Officer reviews the case to determine if it meets with prescribed conditions (e.g., scheduled offence, sufficient evidence to proceed with a charge, no pending charges, attitude of the accused and the victim).

If the case meets with prescribed criteria, the case is forwarded to an Alternative Measures Coordinator who is responsible for determining whether or not to refer the case to an alternative measures committee for further action.

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### **5.9. Developing & Evaluating Justice Projects in Aboriginal Communities-1998<sup>20</sup>**

Many Aboriginal justice initiatives will entail the collaboration if not the leadership of the police. Three publications available through the library of the Solicitor General Canada may be helpful in understanding the role of policing in Aboriginal communities today. They are Social Policy Research Associates, National Evaluation Overview of Indian Policing, 1983; Jamieson, Beals and Lalonde Associates, Evaluation of the First Nations Policing Policy and Program, Volumes 1 and 2, 1995; Murphy and Clairmont, First Nations Police Officers Survey, 1996.

Responsibilities for First Nations policing were transferred from Indian Affairs to Solicitor General Canada.

A major thrust of the Solicitor General Canada's Aboriginal policing policy has been the development of tripartite agreements (federal and provincial governments and Aboriginal communities). Since 1991 the number of such agreements has increased more than fifty-fold and they now cover about two-thirds of the targeted population. A recent study (Murphy and Clairmont, 1996) has indicated that the large majority of front-line officers in Aboriginal communities across Canada are themselves Aboriginal, and that the fastest growing type of police organization is the self-administered, First Nations police service. The latter is popularly called 'stand alone policing'. None of these police services is fully autonomous and all have established protocols with the R.C.M.P. and/or provincial police organizations; nevertheless the trend towards increased autonomy is unmistakable.

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### **5.10. First Nations Police Officers Survey - 1996<sup>21</sup>**

This report deals with a nation-wide survey of police in Canada's Aboriginal communities. Over 60 percent of all front-line officers policing in these communities completed the survey. The police were attached to one of the five following organizational structures, namely RCMP, 'stand-alone' independent Aboriginal police services, OPP-affiliated Aboriginal police, SQ-affiliated Aboriginal police, and band constables. The objectives were to provide baseline data on field-level policing in Aboriginal communities, to compare the perceptions, values, concerns and policing styles of officers attached to the different organizational structures, and to analyse specific issues such as stress, job satisfaction, the impact of cultural values/identity and so on. In general the officers indicated a commitment to both conventional, reactive policing and to community-based policing, a

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<sup>20</sup> 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>

<sup>21</sup> Murphy, C. and D. Clairmont. First Nations Police Officers Survey. Ottawa: Solicitor General Canada, 1996 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

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modest level of job satisfaction, concern for further training of all sorts, and special problems dependent upon organizational attachment. The authors recommend a dual path of development, encompassing both conventional police craft and community-based policing and problem-solving.

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**5.11. Smart Policing: Faust Detachment, 'K' Division - 1996<sup>22</sup>**

This report discusses RCMP policing in a largely Aboriginal detachment area where the RCMP are doing community-based policing, community revitalization work, and much varied problem solving. The RCMP is working there on establishing a family conferencing program as a possible option to the formal criminal justice system in some instances.

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<sup>22</sup> Wiseman, Marie. Smart Policing: Faust Detachment, 'K' Division. Ottawa: Aboriginal Policing Services, 1996 cited in Ministry of the Solicitor General of Canada, Don Clairmont and Rick Linden, *Developing & Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature*, March 1998 <http://www.sgc.gc.ca/epub/abocor/e199805/e199805.htm>

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

### 6.1. Community In Community Policing-?<sup>23</sup>

Community policing has tended to define communities as existing in specified locales or neighborhoods. Community policing initiatives often involve the creation of foot patrols, permanent geographic assignment of officers and mini-stations serving a particular neighborhood. Attempts to organize and unify neighborhood residents into a "community" are also common practice (Rosenbaum, 1994). In urban settings, each neighborhood may have its own look, and perhaps residents feel some sense of collective ownership of their area. However, this does not translate into significant interaction or the formation of stable personal relationships. The natural communities that exist are spread out over varying distances, rarely co-locating with geographic boundaries.

The Innovative Neighborhood Oriented Policing (INOP) programs, funded by the Bureau of Justice Assistance to implement community policing approaches to drug demand reduction, are a prime example of the interchangeability of "community" and "neighborhood." INOP program efforts included increased law enforcement, drug prevention, education and treatment, as well as the creation of satellite offices and the purchase of motor homes to increase police presence in specific problem neighborhoods. The cumulative results of these efforts were unimpressive. There was a lack of involvement of community residents in program design, citizens were largely unaware of the project goals and they did not become involved (Sadd & Grinc, 1994).

In general, community policing means many different things to different people (Hunter & Barker 1993; Bayley 1994). There is some consensus that its general aims are to prevent crime and create a better quality of life and to change the reactive, control-oriented style of policing to a proactive, problem-solving, service-oriented style. Its specific objectives, however, are varied: to reduce crime, fear of crime, calls for service and complaints against police; to increase preventative knowledge, crime clearance rates, public satisfaction, number of volunteers, police satisfaction, police efficiency and police effectiveness; and to build police-community partnerships (Normandeau, 1993). The specific methods of achieving these aims may differ very little from previous policing approaches, and despite its popularity, community policing has been characterized as being "more rhetoric than reality" (Mastrofski 1988; Klockars 1988; Jones, et al. 1994; Bull & Stratta, 1994; Stenson 1993).

In summarizing how the community has been utilized in community policing, Buerger (1994: 270-271) points out that community participation has largely been limited to four primary roles: 1) "eyes and ears of police"; 2) cheerleading (political support for police); 3) monetary assistance (e.g., taxes supporting foot patrols) and 4) statement-making (threats of opposition, intolerance and sanctions for misconduct, such as "Drug-Free School Zone" or "Neighborhood Watch" signs). In addition, education and training of neighborhood residents for their roles in community policing has been virtually non-existent (Sadd & Grinc, 1994). For the most part, then, community policing initiatives have failed to involve communities in meaningful and effective ways.

There are, however, promising signs of innovation in policing. Much of this innovation can be traced to the work of Herman Goldstein, considered by many to be "the father of problem-oriented policing." Community policing and problem-oriented are often considered one and the same, but Goldstein is careful to make a distinction between the two. Community policing is "designed to place great emphasis on one great need in policing, which is to engage the community" (1997: 8). Problem-oriented policing has a broader focus--to adopt an analytical approach to identify and solve the specific problems that police confront. A key element in this is intensively engaging the community in problem solving (Goldstein, 1990, 1997).

The job of social control in society ultimately depends upon networks other than the police, networks that the police can only facilitate and support.

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<sup>23</sup> Community In Community Policing <http://www.restorativepractices.org/Pages/albany.html>

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*Several arguments can be made for maximum use of informal controls that are already available in the community. First, invoking informal nongovernmental control may truly be the most effective means for dealing with the problem. Second, doing so reinforces the concept of the police as facilitators in getting the community to control itself rather than depending on the police and the criminal justice system for control. Third, it supports the strong preference, when an option exists, for using the least restrictive, least intrusive method of dealing with a problem (Goldstein, 1990:121).*

The community should become responsible for policing itself. Goldstein offers numerous examples of police mobilizing the community and making use of existing forms of informal social controls, such as involving citizens in developing solutions to specific crime problems, promoting interaction among populations of varying age and racial composition to reduce fear, holding meetings to resolve ongoing conflicts among neighborhood residents, and seeking the help of "those who, because they have some power over an individual, may be able to influence his or her behavior" (1990:121).

Goldstein claims that, in actuality, individual police also tend to have a clearer definition of community:

*In what I have observed of the practice, as distinct from the rhetoric of community policing, police tend to engage the citizenry in a very pragmatic and more relaxed manner. They use "community" rather deftly to describe those affected in any way by the specific problem they are attempting to address, or the program being launched in response to the problem. (1990: 25)*

The community that should be involved in community policing processes, then, are those individuals that have been affected by a specific problem, and their roles should be as active participants in developing solutions and as sources of informal social control and support. Drawing on the work of David Moore (1997), we will call this community the "micro-community."

#### **Restorative Policing**

The collaborative processes developed from restorative justice practitioners are a natural tool for police interested in engaging communities for crime control and prevention. While those experienced at mediation tend to be distrustful of the police and stereotype them as authoritarian, the police have tended to distrust "social workers" and stereotype them as naive and permissive. There is some truth in both perceptions, but both are largely incorrect. Conscientious police officers have always use soothing and smoothing techniques in the vast majority of encounters with citizens.

*Against the background of major work in the development of mediation and other dispute-resolution techniques in both the public and private sectors, relatively little systematic attention has been given to perfecting the methods of responding to disputes by the governmental agency that probably handles the greatest number of them. (Goldstein, 1990: 113).*

Research on police-based family group conferencing projects has demonstrated that police officers are quite capable of assuming the non-directive, empowering role of facilitator (McCold & Stahr, 1997; Sherman & Strang, 1997). Restorative justice and community policing come together in the Real Justice model of family group conferencing, which operationalizes the micro-community perspective. A powerful way of demonstrating the community empowerment and community building potential of conferences is through a conference story:

*In an upper middle class suburb a group of youths vandalized a number of ice fishing houses on a local lake. The public prosecutor, because of the difficulty of matching specific damage to specific offenders, decided not to pursue the case. The traditional justice system failed to deal with the crime.*

*The police, however, had implemented a family group conference program for juvenile offenses and offered the victims an alternative response to the wrongdoing they had suffered. One particular victim, whose elaborate two-story ice fishing house had suffered considerable damage, was particularly irate, agreed only begrudgingly to attend the conference and threatened to display his rage at the conference.*

*The perpetrators, ice fishing house owners, and their respective family and friends gathered for the family group conference. First, the offenders admitted their wrongdoing and described the damage that they had done. Then each of the victims expressed how they had been affected by the destruction of ice houses that they had built themselves, over many years, with their families and friends. The son of the owner of the two-story fishing house spoke for his father and expressed, in rather poignant terms, how he had spent much of his childhood working with his father and the rest of his family building their house for each winter fishing season. He suddenly*



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*realized, when faced with the destruction the youths had caused, how much that experience meant to him. His father, instead of expressing his rage as he had threatened, saved his comments for the close of the conference, after the whole group had worked out the terms of reparation.*

*Then he spoke with great emotion and thanked the youths for having vandalized his ice fishing house. He explained that until the conference he had never heard his son express how much all those years of shared experience meant to him. The father then invited all of the boys and their fathers, when the damage was repaired, to spend a weekend with his family fishing on the lake.*

All of the people who participated in this conference lived in geographic proximity, but until they were grouped into a "micro-community" through this powerful restorative justice process, they hardly knew each other. After the conference, bonds had been established that did not exist before the conference. Community, for purposes of a family group conference, can be defined identically to Goldstein's description of community that is used by good problem-oriented police officers: "They use 'community' rather deftly to describe those affected in any way by the specific problem they are attempting to address."

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

### 7.1. If your only tool is a hammer, all your problems will look like nails -2001<sup>24</sup>

- Pollard maintains that a fundamental limitation in policing has been that the police only had the traditional criminal law and criminal justice processes to deal with a wide range of problems in communities, many of which would be better addressed through other approaches.
    - Restorative justice, raising fundamental questions about the traditional criminal justice system, presents the possibility of a shift in police culture to a more problem-oriented, community style of policing.
  - With this in mind, Pollard looks at policing and problem-solving in a civil society, the evolution of restorative justice in the Thames Valley Police, community safety and the limitations of the formal criminal justice system, limitations in the formal trial system, community safety and restorative justice, and prospects for advancing restorative justice in the national and international spheres.
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### 7.2. Just Cops Doing “Shameful” Business?: Police-Led restorative justice/the lessons of research -2001<sup>25</sup>

- Noting the controversy around police involvement in restorative justice conferencing, Young uses research findings to explore some of the key issues. The research findings derive from three large-scale police-led projects in conferencing: Bethlehem, Pennsylvania (USA); Canberra, Australia; and the Thames Valley Police (England). Issues addressed by Young include the following: police power and punishment; whether the process of conferencing can turn into a form of punishment; whether the shaming aspect of these conferencing projects (which are influenced by the theory of reintegrative shaming) is essentially punitive in effect; the practice of shaming and disciplining; procedural fairness and police accountability; and whether police-led outcomes are disproportionate or unfair.

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<sup>24</sup> Pollard, Charles.. (2001). "If your only tool is a hammer, all your problems will look like nails.". In Restorative justice and civil society, eds. Heather Strang and John Braithwaite, 165-179. Cambridge, UK: Cambridge University Press.

<http://www.restorativejustice.org/rj3/bibliography>  
<http://www.restorativejustice.org/asp/details.asp?ID=1691>

<sup>25</sup> Young, Richard. 2001. Just cops doing “shameful” business?: Police-led restorative justice and the lessons of research. In Restorative justice for juveniles: Conferencing, mediation and circles, ed. Allison Morris and Gabrielle Maxwell, 195-226. With a foreword by DJ Carruthers. Oxford: Hart Publishing. <http://www.restorativejustice.org/rj3/bibliography>