# A Review of Research on Criminal Victimization and First Nations, Métis and Inuit Peoples 1990 to 2001

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Acknowledgements

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Executive Summary

This literature review discusses criminal victimization among First Nations, Métis and Inuit peoples in Canada in order to identify the research needs of these populations. The review begins with a contextual and statistical overview of the victimization of Aboriginal peoples in Canada. The data shows that Aboriginal victimization is disproportionately higher than for Canadians generally. Moreover, personal violence experienced by Aboriginal women, children and individuals with disabilities is particularly striking. The perpetrators of such violence are most often spouses, relatives and friends of the victims. Studies reporting victimization rates of Aboriginal women in the area of 80-90% are commonplace.

The issue of under-reporting victimization by Aboriginal people to criminal justice authorities is also discussed. Rates of under-reporting victimization are considered high in Aboriginal communities ranging from 40-75%. Several factors may contribute to this high rate of under-reporting, such as the "normalization of violence", lack of victim services to access in order to report victimization and a lack of culturally appropriate services where they do exist. Thus, although there may be high rates of victimization as demonstrated in self-disclosure surveys, the actual reporting of such victimization may be disproportionately low. Some explanations of under-reporting in Aboriginal communities are addressed in the literature.

The particularly high rates of victimization among Aboriginal women, youth and people with disabilities are examined individually. Domestic violence, the impact of childhood experiences of abuse, sexual exploitation of Aboriginal youth and youth gang involvement are documented. In particular, some of the research traces a link between childhood experiences of victimization and subsequent involvement in violence either as a perpetrator or as victim in adulthood. In terms of people with disabilities, the particular issues of Fetal Alcohol Syndrome and Alcohol-Related Neurodevelopmental Disorders (Fetal Alcohol Spectrum Disorder or FASD) and people living with HIV/AIDS are examined as they relate to victimization. The literature shows that these groups are especially vulnerable to victimization.

Explanations for such high rates of victimization are varied but the predominate view links high victimization to the overall impact of colonization and the resultant collective and individual "trauma" and its impacts that flows from cultural disruption. Furthermore, the need to break the cycle of family violence that has become internalized is identified throughout the literature as a critical step in reducing criminal victimization.

The benefits and shortcomings of alternative dispute resolution processes such as Aboriginal diversion and circle-sentencing programs for addressing Aboriginal victimization are identified in this review. Some comprehensive Aboriginal healing processes are examined. From a victim perspective adequate protection of abused Aboriginal women and children are integral to the program design. We also briefly examine the provision of victim services. The need for culturally relevant services, particularly in northern communities, for Aboriginal victims of crime was identified in the literature.

The summary of existing research provides a basis on which to develop future research projects that are culturally appropriate for Aboriginal peoples and discusses appropriate methodological best practices. Although there are some national statistics documenting the extent of Aboriginal victimization generally, there are few studies that systematically examine the prevalence community by community or Aboriginal group by Aboriginal group. Mainstream statistics tend to be overly general.

There is considerably more information on status Indian victimization than on non-status, Métis or Inuit. Moreover, there is a serious lack of information on certain groups such as youth and those with disabilities. Other needs include a further and more detailed understanding as to why there is such a high level of under-reporting of crime within Aboriginal communities. The impact of Aboriginal alternative justice processes in meeting the needs of victims and their ability to reduce the rate of victimization needs to be assessed. To date, most assessments and analysis have been undertaken from the perspective of the offender.

The literature leads to a conclusion that Aboriginal peoples are being re-victimized by colonization – this time indirectly as colonization is turned inside out by Aboriginal peoples victimizing themselves and where women and children bear the brunt of such trauma. We need to get a real handle on the nature and scope of Aboriginal victimization. The existing literature tells us that there is a serious problem in Canada. The levels of Aboriginal victimization are simply unacceptable on any standard. Thus, the need for more reliable and targeted research and knowledge to advance appropriate policies responses has never been more pressing.

Part I: Literature Review

1.   Introduction

Considerable attention and study have been focused on the impact of the Canadian criminal justice system on Aboriginal peoples over the last decade.[1] Commission and justice inquiries have been conducted in virtually every province and territory. These studies report on the unfair and oppressive nature of the existing system because of cultural differences and the impact of colonization on the over-representation of Aboriginal offenders.[2] The majority of recommendations from these inquiries and commissions focus on how to ameliorate the impact of the system on Aboriginal offenders.[3]

However, when one reviews these criminal justice studies and recommendations, one sees that they are largely "offender" focused. Significant attention is spent on addressing questions such as how we can make the criminal justice system more relevant and fair for Aboriginal offenders. Concern is focused on how to reduce the levels of over-representation of Aboriginal offenders in the correctional system. Less attention, however, has been focused on Aboriginal victims of crime. The perspective of the victim has often not been well addressed in these studies. This literature review is a step towards addressing this gap in our understanding and subsequent need for research of Aboriginal criminal victimization.

1.1   Scope

This research is being completed for the Department of Justice Canada (Policy Centre for Victim Issues and the Research and Statistics Division). The "Terms of Reference for Development of a Multi-Year Research Agenda for Victims Issues among First Nations, Métis and Inuit Populations" sets out the following background for this literature review:

> During the 1990s, victims of crime and their advocates became more vocal in their call to enhance the role of victims of crime in the criminal justice system, and to achieve more of a balance between the rights of victims and offenders. In response, a comprehensive review of the role of victims in the criminal justice system was undertaken. The report of this review, *Victims' Rights - A Voice, Not a Veto*, made a number of recommendations, one of which was to establish an office of the Victims of Crime Initiative at the federal Department of Justice. This Initiative set up both the Policy Centre for Victim Issues (including policy development and consultation) and funding to support research,

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[1]   See Appendix A for a list of the various major justice inquires conducted in Canada within the last 15 years. Please note, this review was undertaken in 2002.

[2]   Statistics Canada reports that in 1998/99 Aboriginal people comprise 2% of the adult population but account for 17% of the admissions to provincial/territorial custody (2001a).

[3]   Recommendations range from improving the existing system by implementing, for example, cross-cultural programs for justice personnel, to the full recognition of the right of Aboriginal peoples to control and develop their own separate justice systems.

coordination, and communication activities. The intent is to work together with provinces and territories to bring about improvements that benefit victims.

While a research agenda has been developed for victims of crime for the general population, the victimization patterns among First Nations, Métis and Inuit populations have a number of unique components in Canadian history.

The first step of this project is to complete a literature review that identifies and summarizes the existing knowledge of, and gaps in, research on Aboriginal victimization in Canada. The objective is to then outline a research agenda to meet the needs of Aboriginal victims of crime in Canada to begin to address the gaps identified in this review.

There are several possible meanings of the term "victimization" as it is applied to Aboriginal peoples of Canada. A broad social science definition of Aboriginal victimization would attribute the term to the full historical and present day impact of colonization in Canada.[4] The idea of Aboriginal peoples as victims of genocide would be understood within this broader definition of victimization.[5] However, the mandate of this review is more limited in scope. This review is concerned with victimization from the perspective of the criminal justice system. The definition of "victim" that is adopted for this study is that used in s.722(4) of the *Criminal Code of Canada*. It defines victim as meaning "a person to whom harm was done or who suffered physical or emotional loss as a result of the commission of an offence." Although the narrow definition of criminal victimization is used in this review, it is still essential to understand how the impact of colonization on the nature and prevalence of Aboriginal criminal victimization in Canada is still very much relevant and must be taken into account in further research.

The importance of examining the issue of victimization from the perspectives of First Nations, Métis and Inuit peoples is critical, as the historical explanation for victimization of Aboriginal people in Canada is different from other citizens and members of Canadian society. Indeed, Canada's history of colonization and its current manifestations are root causes of the disproportionately high level of involvement in the Canadian criminal justice system of Aboriginal peoples, both as victims and offenders.

In this review, we address several areas of victimization, including high rates of crime by Aboriginal peoples against Aboriginal peoples, both in general terms and specifically in terms of violence against children and violence against women. We then examine the impact of Aboriginal restorative justice alternatives on Aboriginal victimization. In addition, we will identify some of the victimization issues facing Aboriginal peoples with disabilities and in particular those who suffer from FASD. We will examine the impact of racism on Aboriginal victims, both by members of society at large, and by the various actors within the criminal justice

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[4]   See for example the presentation by Professor Mary Ellen Turpel (1992, November).
[5]   In several instances, the actions of Europeans in North America towards the Indigenous populations would be found to be in violation of the Genocide Convention of 1948 (Berger, 1991, p. 124). The experience of the Beothuk in Newfoundland is an example of a successful campaign of genocide of an Aboriginal nation in North America (Dickason, 1997, p. 73).

system. Literature specific to First Nations, Inuit and Métis peoples are addressed throughout where appropriate.

1.2   Terminology

In this literature review, Aboriginal peoples are defined as Indian (status and non-status), Métis and Inuit. Status Indians are those Indians who are registered as Indians under the *Indian Act* and may or may not live on a designated Indian reserve. The term "First Nations" has become a more popular term to describe status Indians and their communities.[6] However, for the purposes of this paper, "First Nations" refers to status and non-status Indians.[7] Non-status Indians are those who identify culturally with an Indian people or community but do not have official legal Indian status under the laws of Canada. Métis are those Aboriginal people who have a mixed Aboriginal and non-Aboriginal ancestry that identify with a Métis community and are accepted by such community as Métis. Inuit are those people who identify as Inuit and are accepted by an Inuit community as Inuit.

In studying the impact of victimization on Aboriginal peoples, it is important not to misunderstand the scope and application of various conclusions as applying to all Aboriginal peoples when in fact they are relevant to only a sub-group or certain specific communities. For example, there is a tendency in the literature to define Aboriginal peoples in reference to First Nations which is generally restricted to status Indians living on reserves or in some cases status Indians living on and off reserve and a few cases may include reference to non-status Indians. Thus, some of the literature on "Aboriginal" victimization is really about victimization of status Indians and often does not include Inuit or Métis peoples although authors may use the more general term "Aboriginal" to describe the scope of their research. This is misleading to the reader and unfair to Inuit and Métis peoples.

Researchers need to be more cautious about the categorizations they rely upon and to define the particular group of Aboriginal people studied. If they only study status Indians they ought to say so. Likewise, if a study involves Métis and First Nations peoples, the exclusion of Inuit people should be noted. It may be a worthwhile project in itself to assess the literature in light of this perceived tendency. Our impressions are based on an overview of the literature and we have not scientifically tested this observation.

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[6]   However, depending on the context some authors may define "First Nations" as including Métis and/or Inuit. This usage of the term "First Nations" can be confusing since legislation and the Assembly of First Nations define the term "First Nations" as restricted to status Indian communities. See for example the *First Nations Land Management Act,* S.C. 1999, c.24 and the proposed *First Nations Governance Act,* Bill C-7.

[7]   We prefer to define First Nations as including non-status Indians because it is inclusive of those who culturally identify with a particular Indian community and is not dependent on the arbitrary definition of status Indian in the *Indian Act*.

2.   Methodology

T he literature identified in this review and indexed in the references section was obtained by searching academic libraries, relevant organization, and internet databases as listed below.

1.   General searches on University of Ottawa libraries and other electronic databases were conducted by three independent research assistants of the terms "victimization" and "Aboriginal peoples" and related terms. Relevant documents were then reviewed and annotated bibliographies of relevant material were prepared for this review.

2.   Searches were also conducted using a number of related terms in government libraries and non-governmental organizations such as the library of the Solicitor General. Summaries of relevant sources were then prepared.

3.   Relevant material identified by national global electronic catalogues that were not available in libraries within the National Capital region were obtained by inter-library loan processes.

4.   General Internet searches were conducted with keyword searches as per below.

5.   The following is one example of searches conducted by our research assistants.

   Outline of Searches Performed:

      ORBIS library Guide (Fauteux, Morrisset, Carleton, and Ottawa Public Libraries)

      University of Saskatchewan Library
         Publications – title, subject, and keyword searches:

           Aboriginal, Indian, Native, First Nation, Inuit, Métis

           Crime, Gang, Prostitution, Youth, Victim/victimization, Urban, Sex trade, Sexual abuse, Child abuse

   Electronic Periodical Indexes:
        Canadian Periodical Index
        Advanced Academic ASAP
        First Nations Periodical Index

Popular Periodicals:

        Ottawa Citizen

        Edmonton Sun

        Calgary Herald

        Vancouver Sun

        Regina Leader Post

        National Post

        Winnipeg Free Press

        La Ronge Northerner

Journals:

        American Indian Quarterly

        Artic

        Ayaagwaangwaamizin: The International Journal of Indigenous Philosophies

        Canadian Journal of Native Studies

        Canadian Journal of Native Education

        Inuit Studies

        First Nations Gazette

        Native Studies Review

        Saskatchewan History

        First Nations Free Press

        Journal of Indigenous Studies

        Native Youth News

        The Northerner

        Saskatchewan Indian

        Saskatchewan Sage

6.   The reports of the Royal Commission on Aboriginal Peoples (RCAP) including the CD Rom "Seven Generations" also provide a wealth of information on Aboriginal victimization. Therefore, considerable time was spent searching RCAP reports and submissions.

A total of 74 references to victimization were located in the materials reviewed referencing some 71 categories. (Some of these categories could be collapsed.)

Each of the 71 categories detailed in the following list contains a number(s) in brackets following the category. The numbers referenced therein relate to extract paragraphs of

relevant materials from the RCAP report created in a separate internal research document not included in this report.

The breakdown in terms of references per category is as follows:

- Aboriginal communities (46, 47, 69)
- Aboriginal women's criminal behaviour (3)
- Action required to help those suffering from victimization (63)
- Approach to and Aboriginal justice systems (40)
- Behaviours stemming from (57)
- Canadian Urban Victimization Survey (34)
- Child victimization – needing to deal with as adult (65)
- Children (54, 62)
- Children's sadness (5)
- Children's sexual victimization (8, 23)
- Contemporary (59)
- Context of – in Aboriginal communities (44)
- Crime rates (64)
- Criminal justice system (54, 66)
- Culture, custom, tradition, social control, conflict resolution (12)
- Definitional challenges (39)
- Degraded in (51)
- Denial of difference (47, 69)
- Determinant in future relations (68)
- Discrimination – homophobia (26)
- Economics (2)
- Elders (54)
- Elders – male – perpetrators and arbitrators of victimization (45)
- Elderly – violence against (15)
- FAS/FAE (29)
- Gender (9, 31)
- Healing victimization (39)
- Heightened by incarceration (48)
- Higher susceptibility to victimization as factor in incarceration rates (56)
- Imbalance in relations between sexes – attributable to *Indian Act* (37)
- Impact on victim, victimizer, family, community (39)
- Interpersonal violence (11, 13, 15)
- Male/Men's victimization (20, 32)
- Media's depiction (67)
- Motivation for incarceration (39)
- Nature of victimization (10)
- Non-traditional (60)
- Not an excuse (41)

- Pan-Aboriginal organizations (22)
- Parents' victimization carried by children (18)
- Personal responsibility – lack of (33)
- Power through victimization (49)
- Priests (7)
- Protection (lack of) for Aboriginal women and children by police (14)
- Psychology of victimization and challenges flowing therefrom (71)
- Racism/racist (1, 17, 19, 21, 24, 25, 69)
- Rape – attempted by community member (Chief) (30)
- Reporting of violence – lack of reporting (34)
- Residential schools (16, 50, 53, 72, 74)
- Responsibility – lack of (60, 70)
- Restoration of balance and sentencing (39)
- Resulting from genocide (52)
- Re-victimization – institutional (36)
- Re-victimization of women by community (38)
- Rights – contravention of (27)
- Role of in shaping Aboriginal criminal justice administration (43)
- Rooted in (51)
- Sentencing – role in (39)
- Sexual abuse – women (23)
- Sexual offences (42)
- Sexual victimization (73)
- Similarities/differences experiences Aboriginal/non-Aboriginal women (35)
- Single parent families – lack of data re victimization (28)
- Spousal assault (6, 11, 13, 15)
- Student victimization (4)
- Survival (27)
- Use of Aboriginal people as further victimization (58)
- Vulnerability to (61)
- Welfare system – fostered by (55)
- Women (54, 62, 69)
- Youth (25)

Based on this review we organized our findings according to the following topics:

1. Issues of victimization of Aboriginal peoples generally, including:
   a. The rates of crime by Aboriginal peoples against Aboriginal peoples, and
   b. The impact of racism on Aboriginal victimization by citizens and by various actors within the criminal justice system.

2. Issues of victimization of vulnerable groups such as women and children, including:
   a. Feminist implications of restorative justice initiatives,

     b. Issues unique to First Nations, Métis and Inuit women on and off reserve and between north and south communities,

     c. Sexual assault rates in remote communities, and

     d. Youth victimization in the sex trade and gang activity.

3. Issues of victimization of Aboriginal peoples with disabilities and in particular FAS and HIV/AIDS.

Where victimization issues outside the above-noted categories were identified by the researcher, they were also included in the literature review. In order to avoid duplication and dated material, the search focussed on materials from 1990 onwards.

Research materials collected were summarized and evaluated according to their relevance and quality. Materials identified in this process were examined in greater detail by the authors with important findings and conclusions incorporated into this literature review.

3.   The General Context of Colonization

Before discussing Aboriginal victimization issues, this section provides a discussion of the context of Aboriginal victimization as a product of the historical process of colonization. This discussion will assist us in developing a fuller understanding of the phenomenon of Aboriginal victimization in Canada. No theory of crime and victimization is complete without an understanding of the devastating impact of colonization on Aboriginal peoples (RCAP, 1996a). Its effects are often explained as the root causes of social disorder in Aboriginal societies where alcohol, suicide, abuse and indeed victims of violence are but symptoms of this underlying traumatization.[8]

Colonization is the outcome of a process of colonialism, whereby Europeans assumed superiority over Aboriginal peoples and denied any competing sovereign claims to land and government because Aboriginal peoples were non-Christian and largely non-agricultural. This project of colonization involved the need to "civilize" Aboriginal peoples. This included attempts to assimilate Aboriginal peoples into European lifestyles through force if necessary. The *Indian Act*, residential schools, land alienation processes were all designed with such objectives in mind.

Scholars and Aboriginal Elders have reported that early and pre-contact Aboriginal societies were generally peaceful societies with little "crime" to deal with (see, for example, Jennings, 1975; Ryan, 1993). This is not to say that there were no crimes. For example, sexual assaults did occur in pre-contact society and to deny they did is to live under a delusion (Supernault, 1993). However, "there is no evidence that the nature or extent of sexual abuse within traditional Aboriginal communities resembled, even in the most remote way, the problems that exist today" (Hylton, 2002, p. 7). Yet today, Aboriginal communities are plagued with high rates of crime (La Prairie, 1991).   As the Royal Commission on Aboriginal Peoples (RCAP) notes after reviewing a number of key Aboriginal justice inquiry reports and their own commissioned research, this high rate of crime in Aboriginal communities is directly related to the history of colonialization and its continuing effects experienced by Aboriginal peoples (RCAP, 1996a).

Victimization of Aboriginal people has occurred not only to Aboriginal people as individuals, but as a people through the colonization process in which communities lost control over their families and cultures (e.g., through the residential school system and the child welfare system) and their societies (e.g., through the imposition of the paternalistic *Indian Act*) in which land and resource bases belonging to Indian communities were removed without compensation in many

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[8]   Lane, Bopp, Bopp, and Norris (2002) in their recent report entitled *Mapping the Healing Journey* provide an excellent definition of "trauma" in the Aboriginal context. After listing the various policies, programs and activities that the government implemented over the history of colonization that undermined Aboriginal traditions, identity and social cohesion, the authors then state that:

It becomes clear when considering these various sources of trauma, that the eventual impact of trauma originating from outside Aboriginal communities was to generate a wide range of dysfunctional and hurtful behaviours (such as physical and sexual abuse) which then began to be recycled, generation after generation *inside* communities. (Lane et al., 2002, p. 3)

cases and inadequate compensation in many others.[9] Similar processes of alienation of lands and resources occurred to the Métis under the *Manitoba Act* and the *Dominion Lands Acts* of the late nineteenth and early twentieth centuries. While the parameters of this report exclude a discussion of the residential school system and colonization, these impacts are important to acknowledge if a contextualized understanding of victimization in the narrower sense is to be fully understood. The far-reaching impacts of colonization have been articulated well by Brown in her report to RCAP:

> Additionally, the relationship to the land is central to the Aboriginal worldview, and this relationship informs various aspects of cultural expression that constitute the fabric of Aboriginal society. In all cultures the worldview, the values and beliefs, underlie the development of key spiritual, social, economic, educational, communication and political institutions. All these institutions are interrelated and all have, as part of their function, the role of socializing members of the society. If a dominant society controls, overshadows or wipes out this fundamental institutional function then it also takes control of the cultural constructs that become the defining characteristics of the smaller society. As a result, the smaller culture becomes sapped of its traditions and its autonomy – in short, it loses touch with its life blood and a period of social disease ensues. This has been the partially effective strategy behind the Canadian government's relationship with Aboriginal peoples. The impact of these phenomena are numerous; most notably Aboriginal people feel immense rage and shame that has been internalized (within the individual, the family and the community) through a long-term process of racist victimization. *These feelings are apparent in the symptoms of depression, family violence, suicide and addictions that prevail in Aboriginal communities and are described as a dark period in the cultural development of Aboriginal peoples by numerous writers* [italics added].
> (Brown, 1994)

The above describes the all-encompassing impact that colonization had on Aboriginal peoples and continues to have. The continuing impacts of colonization and government policies of assimilation are highlighted in the demographic profile provided below.

The rest of the report will discuss the key issues of Aboriginal victimization, many of which are rooted in a past (and present) policy and experience of colonization.

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[9]   These are but only a few of the many examples in which the government attempted to assimilate Aboriginal peoples in Canada. For a good overview of these attempts by government to assimilate Aboriginal people, see RCAP (1996c).
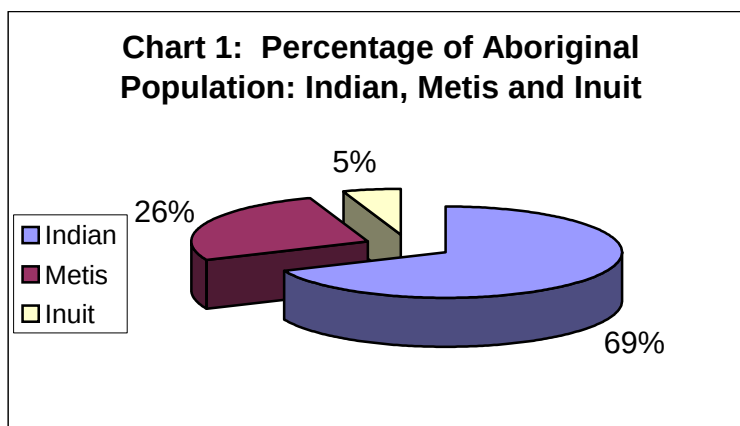
4.   Demographic Profile of Aboriginal Peoples

I n this section we provide some basic demographic information and some data regarding involvement of Aboriginal peoples in the criminal justice system. In particular, we examine data on Aboriginal victimization generally and more specifically from urban, gender, and youth perspectives.

4.1   General Demographic Information

According to the 1996 Census, the Aboriginal population in Canada comprises 3% of the total population in Canada.[10] Chart 1 illustrates the proportion of the Aboriginal population who identify as Indian, Métis and Inuit.[11] Statistics Canada's (2001a) profile of Aboriginal peoples has found that the largest concentrations of Aboriginal people live in the West.[12] They are a relatively rural population with an increasing urban presence. In 1996, 67% of the Métis, 43% of Indian people and 28% of Inuit people lived in urban centres. Aboriginal people are also a young population relative to the overall Canadian population. The average age of Aboriginal people is 25.5 years compared to 35.4 years for the general Canadian population. Aboriginal children are twice as likely than non-Aboriginal children to be living in lone-parent families. Aboriginal women head 86 % of the lone-parent families.

Chart 1: Percentage of Aboriginal Population: Indian, Metis and Inuit

- Indian
- Metis
- Inuit

5%
26%
69%

In terms of social and economic indicators, Aboriginal people are a very disadvantaged population within Canada. Although Aboriginal peoples have been making important gains in educational achievement they are still significantly underrepresented in educational attainment. For example, 3% of Aboriginal people have a university degree compared to 13% of the non-Aboriginal population. They are also much less likely than non-Aboriginal people to be in the paid workforce and unemployment rates continue to be extremely high – more than double the rate of non-Aboriginal people. Not surprisingly then, Aboriginal people have low average incomes and are disproportionately represented in low-income categories. In 1995, 46% of all Aboriginal people had incomes below $10,000 compared to 27% of non-Aboriginal people.

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[10]   This demographic profile is very general and the reader is cautioned to not make generalizations for all Aboriginal people because there are often important differences between Aboriginal communities in their demographic profiles.

[11]   Source: Statistics Canada (2001a).

[12]   Unless otherwise noted, the Aboriginal Peoples in Canada profile (Statistics Canada, 2001a) regarding general demographic information are based on the 1996 Census. Statistics relating directly to criminal justice issues and victimization are largely based on the 1999 General Social Survey.

The Department of Indian and Northern Affairs maintains a yearly overview of basic demographic information in a series entitled *Basic Departmental Data.* This data refers to status Indians and Inuit only. Given that the federal government typically does not claim responsibility over the Métis, nor do the provincial governments for the most part, this group is often ignored in research initiatives. General demographic data regarding the health status of Métis, for example, is practically non-existent (RCAP, 1996d).

The *Basic Departmental Data* of Indian and Northern Affairs Canada (INAC, 2001) provides some useful demographic data regarding status Indians. For example, in terms of health status, despite gains over the years, life expectancy of status Indians continues to be 6.3 years less than the general Canadian population. Tuberculosis remains a serious problem with Indian communities having a rate eight times that of the national average. The *National Population Health Survey* (1996/7) found that the prevalence of diabetes among Aboriginal peoples is at least three times the general population.[13]

The number of children in non-family care (needing protection from abuse) increased from 4% in 1994 to 6% in 2000 (INAC, 2001). The *Canadian Incidence Study of Reported Child Abuse and Neglect* (Trocmé et al., 2001) found that 8% of child maltreatment investigations involved households with at least one parent who was Aboriginal.[14] In 2000, only 56% of houses on reserve were considered to be in adequate condition (INAC, 2001).[15]

4.2 Criminal Involvement

The social breakdown caused by a history of colonization and current levels of impoverishment have resulted in an over-representation of Aboriginal peoples (youth, women and men) as offenders in the Canadian justice system. Statistics Canada's 2001 profile on Aboriginal peoples in Canada found that Aboriginal peoples accounted for 17% of persons in custody yet they represented only 2% of the adult population in 1998-99 (Statistics Canada, 2001a). This disproportionate incarceration rate was particularly acute in the Western provinces. For example, in 1998-99 the proportion of Aboriginal persons admitted to adult provincial facilities in Saskatchewan (76%) was almost ten times that of their proportion in the provincial adult population (8%) (Statistics Canada, 2001a). The extent of disproportionate incarceration has prompted many commissions and inquiries and all have reported that such circumstances are a national crisis. This reality has also motivated a variety of reforms such as amending the *Criminal Code of Canada* to require judges who sentence Aboriginal offenders to avoid imposing a sentence of incarceration if at all possible under the circumstances (*R.v. Gladue*,

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[13] See http://www.hc-sc.gc.ca/hpb/lcdc/publicat/diabet99/d04_e.html#6

[14] See http://www.tbs-sct.gc.ca/search/results. Note: Aboriginal identity was based on self-disclosure regarding ethno-cultural status.

[15] Adequate condition is defined as the number of houses that do not require any minor or major renovations or replacement.

1999). Other reforms have focused on implementing various alternatives to deal with offenders. These include sentencing circles, diversion programs and Aboriginal courts. Such reforms continue to be of central concern to the government as is reflected in the most recent Speech From the Throne.[16] It was stated that the government will "expand community-based justice approaches". Some of these developments have important implications for Aboriginal victims which we shall review in the section on alternative justice processes in Part 9 below.

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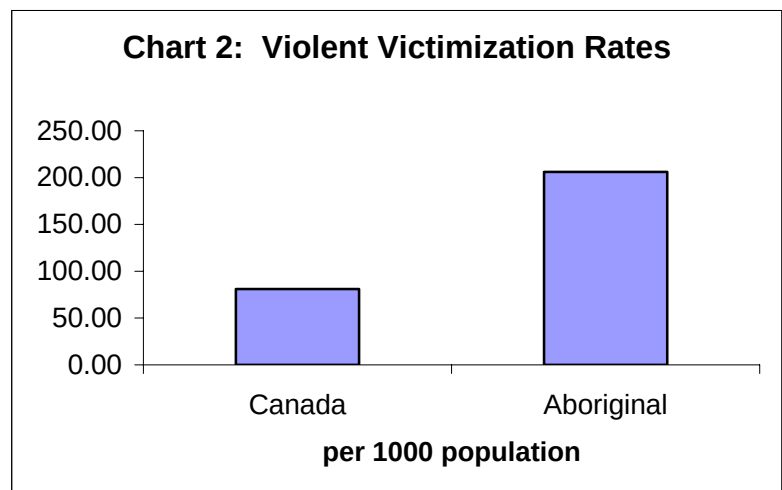
[16]   See: http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/1033417414133_28826614///?hub=Specials
or http:www.pco-bcp.gc.ca.

5.   Prevalence of Aboriginal Victimization

Not only is the Aboriginal population over-represented as offenders, it is over-represented as victims of crime. Thirty five percent of Aboriginal people report being a victim of crime compared to 26% of non-Aboriginal people (Statistics Canada, 2001c). In terms of violent crime, Aboriginal people are nearly three times more likely to be victims than non-Aboriginal people (206 incidents of violent victimization per 1000 Aboriginal people versus 81 incidents per 1,000 non-Aboriginal population) Statistics Canada, 2001c), and Hylton (2002) found that Aboriginal people were five times more likely than the general population to have been the victim of sexual offending.

Statistics Canada's (2001a and 2001c) reports are based on the findings of the 1999 General Social Survey (GSS), a survey focused on issues of criminal victimization. In particular, the 1999 GSS examined the risk of violent victimization and household victimization, fear of crime, the perception of victims towards the justice system, victims' use of social services, and it compares data by urban and rural areas.

Chart 2: Violent Victimization Rates

Unfortunately, the main report (*A Profile of Criminal Victimization: Results of the 1999 General Social Survey,* 2001c) of this important and valuable contribution to our knowledge and understanding of victimization in Canada fails to provide comprehensive data on Aboriginal victimization. The report does provide some data on the prevalence of violent crime among Aboriginal people and the particular vulnerability of spousal violence experienced by Aboriginal women (three times more likely than non-Aboriginal women). However, other than these, the report does not provide data on the experiences of Aboriginal people for any of the other victimization issues. This is disturbing given the high prevalence of victimization experienced by Aboriginal peoples referred to in the report itself. The report also fails to include the unusually high prevalence of victimization among Aboriginal peoples in its Highlights Synopsis.

Similarly, the recently released *Canadian Incidence Study of Reported Child Abuse and Neglect* (Trocmé et al., 2001) only briefly addresses Aboriginal specific data. It does not explain the significance of the findings or relate the Aboriginal specific data to the other variables studied in the report. We suggest that as a matter of social policy that government examine the shortcomings of their national studies and how specific analysis of the data related to Aboriginal peoples could be used to provide useful information about Aboriginal victimization issues. It

may be that much new Aboriginal specific research need not be undertaken if only the data that already exists was more fully utilized from the Aboriginal perspective.

An example of a report that does provide comprehensive data is Statistics Canada's Aboriginal profile report (Statistics Canada, 2001a) regarding justice statistics. Data in this Aboriginal profile report indicate that Aboriginal peoples' level of fear of crime is relatively low notwithstanding that Aboriginal people experience high levels of victimization (Statistics Canada, 2001a). This finding is relevant to other findings in the literature that indicate there may be a normalization of violence in Aboriginal communities. If communities have normalized certain levels of violence, one could argue that it would be logical to have lower levels of fear of violence since it is to be expected anyway. We examine this issue later in our report.
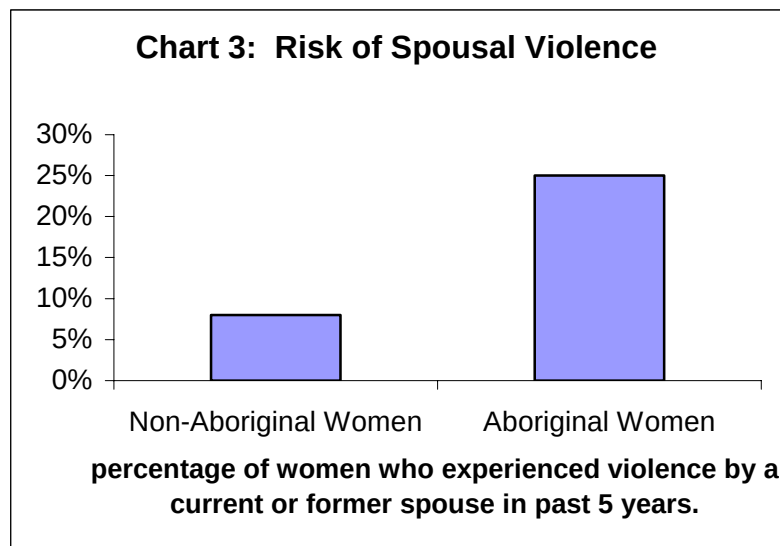
Even more surprising is the finding from the GSS that the majority of Aboriginal peoples felt that crime in their neighbourhood was lower than in other areas of Canada. This is in contrast to data that suggest there are higher levels of victimization in Aboriginal communities, and that majority of the victims of Aboriginal offenders are Aboriginal themselves (Department of Justice Canada, 2000; La Prairie, 1995a). For example, in a study concerning sexual assaults it was found that "Aboriginal sex offenders often committed their offences in Aboriginal communities, and almost all of their sexual offences were committed against members of their immediate or extended family" (Hylton, 2002, p. 75).

5.1   Urban Aboriginal Victimization

High rates of Aboriginal victimization is not just a serious problem in homogenous First Nations communities, but is also prevalent in urban centres (Hanselmann, 2001). In a Saskatchewan report, Quann and Trevethan (2000) found that Aboriginal people comprised 42% of all victims of violent crime in Prince Albert and Regina. La Prairie (2001) in reviewing data from the Canadian Centre for Justice Statistics (CCJS) found that Aboriginal people accounted for 8% of the incidents of victimization in Vancouver, but represented only 2% of the population.

Moreover, La Prairie (1995b) found in her study on urban Aboriginal victimization that, of the total sample, 66% reported having been personally victimized and that of this group 45% were victimized by Aboriginal offenders, 41% by non-Aboriginal offenders, and 14% were victimized by a combination of Aboriginal and non-Aboriginal offenders.   Since Aboriginal people are only a very small minority in most urban centres, the rate of urban victimization of Aboriginal peoples raises serious concerns about the prevalence of Aboriginal victimization in urban centres compared to non-Aboriginal victimization. In particular, the reason that some Aboriginal women relocate from a rural or reserve community to the city is to escape violence in their home communities. Unfortunately, the safe haven of the city may prove to be anything but. However, with the exception of Carol LaPrairie's study (1995a), there are few studies that explore victimization of Aboriginal peoples in urban centres.

5.2 Victimization of Aboriginal Women

Chart 3: Risk of Spousal Violence

percentage of women who experienced violence by a current or former spouse in past 5 years.

Source: Statistics Canada, 2001a

While victimization of Aboriginal people is much higher than non-Aboriginal people, statistics show that it is Aboriginal women and children who are largely bearing the burden of victimization (Health Canada, 1996). The literature has consistently reported high rates of victimization of Aboriginal women in Canada (Proulx & Perrault, 2000; Hylton, 2002).[17]

In an early study, Aboriginal women were reported to account for as high as 80% of all victims of sexual assault (Ontario Native Women's Association [ONWA], 1989). The report also found that offenders were most likely to be Aboriginal men (ONWA, 1989).

Other studies are consistent with the ONWA findings of 1989. Although conducted on a small scale, Dumont-Smith and Sioui-Labelle (1991) found that 71% of an urban sample and 48% of a reserve sample of Oneida women experienced domestic assault. Bastien, Bastien, Eastman, and Wierzba (1990) found that 91% of Aboriginal women in a Lethbridge study had experienced family violence. McGillivray and Comaskey (1999) found that of the 26 Aboriginal women in their study, all but one had experienced wife abuse. La Prairie (1995a) in one of the largest studies of urban victimization found that of the 621 respondents, 74% experienced family violence. These and other studies summarized by Hylton (2002) consistently demonstrate high rates of family violence and sexual abuse within Aboriginal communities.

McIvor and Nahanee (1998) report that over one-third of Aboriginal men in federal prisons are sex offenders. Inuit women are particularly vulnerable to sexual assault (Levan, 2001). Sexual assault rates are 4-5 times higher in the north than in the rest of Canada (Canadian Panel on

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[17]   The high rates of Aboriginal women victimization is not exclusively a Canadian issue. A review of American Indian victimization indicates that Indian women are the most susceptible to victimization in terms of homicide and sexual assault (RedBird, 1995).

Violence Against Women, 1993). This report by the Panel includes a chapter on Inuit women with many testimonials about their experiences.

It is violence in the domestic context that is the most pervasive form of victimization experienced by Aboriginal women. Statistics Canada (2001a) found 11% of Aboriginal women reported being assaulted by a current spouse and that Aboriginal women were three times more likely than non-Aboriginal women to have been assaulted by a spouse in the five year period prior to the 1999 GSS survey.

In addition, Aboriginal women were more likely to experience severe, potentially life-threatening types of violence at the hands of their spouse. In a study of urban Aboriginal people, (La Prairie, 1995a) the same patterns were found to exist: more females were personally victimized than men (70% versus 60%), and the offenders were most often spouses, partners, or boyfriends. The level of violence against Aboriginal women has been characterized at levels that are of "epic proportions" (McGillivray & Comaskey, 1996). The prevalence of Aboriginal domestic violence is a serious issue and is examined more fully in Part 6 of this review.[18]

5.3   Youth Victimization

There is some evidence that youth victimization is a serious problem in Aboriginal communities (Kingsley & Mark, 2000). However, there is no comprehensive survey of Aboriginal youth victimization in Canada (Dion, 1999). The Statistics Canada Profile (2001a) does not provide a breakdown by age and does not address the issue of youth victimization. This omission may be partly explained by the fact that much of the literature categorizes victimization of Aboriginal youth and women within the category of family violence. For example, there is a considerable amount of literature that examines the staggering problem of Aboriginal child abuse within the framework of family violence. The National Clearinghouse on Family Violence (Health Canada, 1996) includes findings from Dumont-Smith and Sioui-Labelle (1991) that 40% of children in some northern communities were victims of family violence. A study by Bopp and Bopp (1998) found that sexual abuse among children was very high; half of females and one third of males had been victimized, usually by someone in their family or extended family.

Indeed, much of the literature on Aboriginal victimization is examined within the framework of family and domestic violence because of the very high prevalence of such victimization in this context. For this reason, chapter six, which is the first substantive discussion in this review, begins with an examination of family violence generally.

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[18]   For the purposes of this review, domestic violence is analogous to family violence which is defined by the Department of Justice, Canada as violence "that includes the many different forms of abuse, mistreatment or neglect that adults or children may experience in their intimate, kinship or dependent relationships." (Department of Justice Canada, 2002, p. 1)

6. Victimization of Aboriginal Women and Youth

We review some of the major issues regarding victimization of Aboriginal women and youth in this section. In particular, we examine the serious problem of domestic violence from the perspective of Aboriginal women and children. In addition, we address youth victimization more broadly by examining the link between youth victimization in the family and subsequent anti-social behaviour. In particular, we address the issue of victimization in the sex trade and in gangs by Aboriginal youth.

6.1   Women

Domestic violence by men, both Aboriginal and non-Aboriginal, against Aboriginal women is examined in this section. Although all women experience abuse by intimates because of gendered power imbalances and male privilege, the disproportionately high rate of domestic violence against Aboriginal women in particular requires further examination beyond the mainstream feminist critic. In Part 9 we examine the various theories that attempt to explain this disproportionate rate. In particular, we examine the impact of colonization once again and how Aboriginal men's "internalization of colonization" may account for, at least to some extent, such high rates of domestic violence.

A number of reports have attempted to document the rates of family violence in Aboriginal communities. Timpson (1994) summarizes the research as follows:

> The incidence of wife assault in the Canadian population is said to be one in 10. The Indian and Inuit Nurses Association of Canada consider the national figures "grossly under-estimated" for Aboriginal women. The organization cites studies indicating 70 to 100 percent victimization in Nova Scotia; 75 to 90 percent in Northwestern Ontario; and 71 and 48 percent in an urban and reserve setting in Southern Ontario. The Ontario Native Womens' Association estimates an 80 percent victimization rate. The Manitoba Justice Enquiry found that two thirds of Aboriginal women were abused. A British Columbia study estimated that 86 percent of Aboriginal women had personally experience family violence. The regional studies do not have consistent definitions of abuse rendering comparisons difficult. What is evident is the desire for these organizations to bring attention to the problem.

The Canadian Council on Social Development (1984) report also made a number of recommendations to address Aboriginal victimization issues that continue to have relevance today. In particular, one recommendation called for the establishment of "family support services" to support victims within the community. According to the literature, there is considerable merit in such a proposal because of two reasons described below.

Firstly, there are circumstances within Aboriginal communities that contribute to the "normalization" of domestic violence (Stewart, Huntly, & Blaney, 2001). Some researchers have noted that the prevalence of violence, particularly in smaller remote communities, has

essentially become an accepted part of life (Evans, Hann, & Nuffeld, 1998). The following report prepared by David (1993) based on a community workshop explains this problem in these words:

> Participants spoke about establishing more shelters for battered women, more counselling for children victimized by violence, and counselling for men as victimizers. But delegates spoke about violence as a way of life, as a means of venting frustration and a signal of despair. They also spoke about years of being ordered to keep silent about the violence, both as victims and as victimizers.
> After I gave a talk about family violence and abuse, a nun stood up and objected for making her feel sad and said those things never happened. The Church is afraid to say anything.
>
> Child, sexual, and elder abuse is common, but not talked about. Communities won't admit there is a problem, even when the information is gathered and shows it's a big problem. One issue never talked about is child sexual abuse, it's a taboo to talk about such a thing. In most communities, everyone says 'shhh!, don't talk about it.' (p. 24)

Moreover, a woman's ability to leave an abusive relationship in smaller remote communities is often much more difficult than elsewhere due to the lack of community support for abused women or the lack of victim support services (Levan, 2001; Bryce, Dungey, & Hirshman, 1992). Leadership within communities may also exacerbate victims' feelings of helplessness as one community member from Easkasoni recently stated:

> Corruption in high places is a major obstacle to healing, and really is part of what needs to be healed. When this sort of systematic undermining of the community's will and intention happens, people get discouraged about their own ability to make a difference or to bring about change. They are less and less willing to get involved in anything controversial, more passive and more inclined to wait for and depend upon others to solve community problems. The reality is that many people feel helpless and powerless to change an environment that they know is slowly grinding them down. There's lots of discontent, but also a strong fear to speak up. We are afraid those in power will come down on us somehow, like when we need something fixed, or when we need a house for one of our children. They control our access to services and programs that may be our "right" to have, but they still control everything. So many of us remain silent. We are ruled by our own fear. (Lane et al., 2002, pp. 40-41)

Some possible explanations for such heightened and accepted victimization are reviewed in Part 9.

6.2   Youth Victimization

There is considerable literature that examines the issue of "family violence", focusing on wife and child abuse, often however, without making much of a distinction between the experiences of women and children. This section examines the issue of child victimization within the domestic context. We recognize, however, that outside of this domestic framework, little attention has been paid to the victimization of Aboriginal youth and children generally. We have

attempted to summarize what literature does exist in this area. In doing so, we separately discuss the victimization of Aboriginal youth in commercial sexual exploitation and gang involvement.

The literature is lacking a comprehensive survey of Aboriginal youth victimization in Canada (Dion, 1999). The literature tends to be comprised of qualitative studies of experiences encountered by youth or recollections of experiences by adults of their childhood. There is also some literature that focuses on identifying service and resource needs of youth generally and the needs of children and youth who are victims of violence specifically.

6.2.1   Youth Victimization in the Domestic Context

A significant amount of the literature draws the conclusion that child abuse in Aboriginal communities is staggering (RCAP, 1996d). A review by the Simon Fraser University National Crime Victimization Project provides a comprehensive summary of the studies that have examined family violence (Cohen, 2002). The review identifies a number of studies that document high levels of family violence in Aboriginal communities. Recent studies continue to support the conclusions of older studies that domestic violence is epidemic in Aboriginal communities (Thomlinson, et. al., 2000; Trocmé et al., 2001). For example, La Prairie's study (1995b) of Aboriginal victimization and family violence in a number of urban centres in Canada showed disturbingly high rates of domestic violence. Findings from interviews with 621 informants revealed that 74% of the respondents experienced family violence and 49% experienced child sexual abuse.

One of the key conclusions made in the La Prairie study was that child abuse and sexual abuse were more likely to occur in non-biological or extended family contact situations. This conclusion was supported by the study of Kingsley and Mark (2000) who consulted 150 Aboriginal youth and children from 22 communities across Canada. They state that "many of the Aboriginal youth consulted shared stories of trauma at the hands of family friends, neighbours, and/or peers" (p. 15) indicating that abusers come from a wide circle of people other than immediate family members.

Perhaps one of the most important findings that La Prairie makes, for the purposes of this review, is that the experience of family victimization is linked to subsequent victimization and criminal activity in later life. The more severe the child abuse, the more likely the child will become involved in juvenile delinquency, particularly for males. Moreover, such male children are at a significantly higher risk to repeat the cycle of violence with their future spouses (McGillivray & Comaskey, 1996). The link between child abuse and future delinquency has been documented elsewhere (see Fattah, 1991).

There are indications that age at victimization as well as gender are factors in victims' subsequent responses. Widom (1989) found that abuse of children under the age of eleven increased their likelihood of adult criminality and violent behaviour and that this was particularly the case for female victims (77%). In contrast, the Kingsley and Mark (2000) study of commercial sexual exploitation of Aboriginal youth and children found that for females there were links between childhood abuse and self-destructive "criminal" behaviour of sex trade involvement, but not violent crimes towards others. The impact on future behaviour is unclear in

the existing literature. Thus, more research is needed to understand the impact of various types of abuse in childhood and whether there are important gender differences.

The link between childhood victimization and the perpetuation of a cycle of violence became painfully obvious in the work of Absolon and Winchester (1994) for the Royal Commission on Aboriginal Peoples. The authors also discuss how Aboriginal identity can be a factor in exacerbating the ability to cope with victimization. They identified various themes and issues from urban learning circles. In particular many of the participants talked about their "survival" of the residential schools and the child welfare system. They reported that:

> Although not all people who went through foster care or adoption had terrible experiences, in most cases their Aboriginal identity suffered because the majority of them were placed in non-Aboriginal homes where their identity was either overtly humiliated, consciously denied or simply overlooked through ignorance. Only one woman, from the Saskatoon circle, told about how her adoptive parents always acknowledged her Aboriginal identity, always told her to be proud, and admitted their own ignorance and inability to tell her more about it, though they supported her efforts to learn. At the other end of the spectrum were stories about multiple foster homes, shaming of anything Aboriginal and all forms of abuse. The men in the inmates circle were testimony to this pattern as most were the children of residential school students and were graduates of the child welfare system. These men expressed the anger and rage of their victimization with great frankness.

Thus, there are unique issues resulting from society's negative attitudes about Aboriginal identity that may contribute towards increased pathological responses including the perpetuation of violence as learned behaviour fuelled by frustration due to identity conflicts and turmoil.

6.2.2   Exposure and Impact of Domestic Victimization in Childhood

The study by McGillivray and Comaskey (1999) supports the relationship between victimization in childhood and victimization in adulthood. Their study of 26 Aboriginal women who were victims of wife abuse disclosed that all but one of the respondents witnessed abuse of others as they were growing up, including the abuse of their mothers. In addition, all but one reported being a victim of abuse in their childhood. This study provides further evidence of a clear connection between childhood abuse and abuse of women in later life. McGillivray and Comaskey (1999) make an important observation about the focus for further research:

> Connections between intimate violence in adulthood and that experienced in childhood, whether it be experienced or only witnessed, are well established. One dimension usually omitted in the study of wife-battering generally and in indigenous communities in particular is childhood experiences. If we are to explain the heightened rate of intimate violence in Aboriginal communities in terms of intergenerational patterns of violence, violence as learned behaviour, and the normalization and internalization of violence, then the investigation of childhood is central to understanding partner violence. (p. 57)

Exposure to violence also victimizes and traumatizes Aboriginal youth as if they were the direct targets themselves (Aboriginal Nurses Association of Canada, 2001). The damage wrought by

these eye-witness experiences of a father beating a mother is manifest in many ways. Walker (1979, 1984) states that female children who witness spousal assault may learn that such violence is a part of life and that they cannot do anything about it. This may predispose them to becoming victims themselves in adulthood and to the normalization of such abuse. This theory is controversial, however, and requires further research to determine its accuracy.

According to reports reviewed by the Aboriginal Nurses Association of Canada (ANAC), children exposed to violence are 10-17 times more likely to have serious "emotional and behavioural problems when compared to children who are raised in a non-violent home environment" (p. 11). McGillivray and Comaskey (1999) also report that children exposed to such victimization can lead them to perpetuate violent behaviour in later life. "Where the witness to the violence is a child unable to oppose the abuse, it begins the process of brutalisation and violent coaching that may lead to a trans-generational cycle of intimate violence and to offending outside the family setting" (p. 72).

ANAC (2001) identifies a number of psychological and behaviour problems throughout childhood developmental stages up to 18 years of age that are associated with children who are exposed to violence in the home. Social, education and justice personnel would benefit from understanding these symptoms so that early detection and intervention can be facilitated. According to McGillivray and Comaskey, early and effective "childhood intervention that is culturally sensitive and balances needs for protection with the need for cultural and family connections is central to breaking the intergenerational cycle of intimate violence" (1999, p. 137).[19] In terms of social policy, these studies strongly suggest that there should be funding for a pro-active approach to addressing domestic violence.

Thus, what research has been completed in this area reveals that there is a high correlation between childhood domestic victimization and subsequent victimization and criminal activity in later life.[20] Colonization and its negative psycho/social effects may be a strong mediating factor between a low and a high correlation of future inter-personal violence. However, there is still very little empirical evidence to support this hypothesis and further research is necessary. In its Volume 3 report, the Royal Commission on Aboriginal Peoples provides other possibilities:

> Family violence is perceived to be widespread in Aboriginal communities, but there are few national statistics demonstrating the incidence of violence or whether the situation is improving as a result of greater public awareness and programs to combat the problem. Studies reporting on the incidence of violence are often initiated by groups providing

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[19] Later in our review, we complete an in depth examination of Aboriginal healing processes that may partially address this criteria for intervention.

[20] Caution is needed here before making conclusions too quickly that child abuse is the major link or cause of subsequent delinquency and victimization later in life. Widom (1989) undertook a critical evaluation of the 'violence breeds violence' hypothesis by examining a number of studies which examined this hypothesis. Widom's conclusion was that there was little convincing empirical evidence that the cycle of violence is a sufficient or key determinant. Of parents who were abused, about one fifth continue the pattern of abusive behaviour against their own children. Of special note here, Widom's analysis did not review any Aboriginal specific research. It may be that the impact of colonization is a crucial difference between the Aboriginal community and mainstream society.

services, raising the possibility that the study group includes a high representation of persons with service needs. (RCAP, Vol 3, 1996c, p. 57)

As discussed above in Section 5.2, there are a few small scale studies that support the conclusion that Aboriginal family violence is overwhelming. However, there is no longitudinal or extensive empirical research on regional or national lines. Furthermore, the studies that do exist do not necessarily categorize their findings along the various Aboriginal sub-groups of Indian, Métis and Inuit peoples. The studies that do exist provide only tentative correlations between child abuse and future violence. There is very little information about the extent to which the type of abuse, the duration, or the age at which it occurs is related to later outcomes. We know little about whether sexual abuse as opposed to physical abuse affects children differently. There is some evidence in the literature that abuse affects males and females differently but nothing that is empirically definitive. Widom posed these research questions in 1989 and they continue to be relevant in 2002 in respect of knowledge that we need to obtain in regards to Aboriginal people's victimization in Canada.

6.2.3 Sexual Exploitation of Aboriginal Youth

The Kingsley and Mark (2000) [21] study is one of the only available works which specifically targets Aboriginal children and youth involved in the sex trade. It is a model study of direct youth participation in research.[22] It supports the conclusions of other research that Aboriginal children and youth represent a disproportionate percentage of commercially sexually exploited youth in Canada and that in some western cities, Aboriginal youth are an overwhelming majority of those involved in the sex trade. As Kingsley and Mark write:

> In some communities, the visible sex trade is 90 per cent Aboriginal… While Aboriginal peoples make up only two to three per cent of Canada's population, in many places they form the majority of sex trade workers. In Winnipeg, for example, virtually all street-involved youth are Aboriginal. (Kingsley & Mark, 2000, pp. 8, 12)[23]

These findings are consistent with a case study by Elliot (1997) who examined the sex trade in the small urban setting of Kamloops. The focus on a rural setting makes this study unique since most research to date focuses on prostitution in urban centres. Elliot interviewed 51 sex trade workers, 37 of whom were non-Aboriginal females and 14 of whom were Aboriginal females. Kingsley and Mark (2000) noted that 75-80% of those involved in commercial sex exploitation are female. Elliot (1997) begins by looking at the sex trade in general in Kamloops and then moves on to examine issues of violence against sex trade workers, concerns with health and social support, and finally, legal issues. This report provides a number of recommendations in response to the problems identified. There are separate, although brief, sections dealing with First Nations sex trade workers and child prostitutes. One of the issues identified for Aboriginal

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[21]   This study is found on the web at https://secure.savethechildren.ca/en/publicat.html

[22]   Aboriginal youth were directly involved in consultations and focus groups from 22 communities across the country. Their input dictated the direction of the study as their combined voices resulted in 6 themes that became the framework of the study and the focus of recommendations.

[23]   The conclusion that virtually all street-involved youth are Aboriginal is questionable. Further research is needed to verify such statements.

women is the concern about lack of access to various support services because of a lack of culturally relevant services.[24]

The Federal/Provincial/Territorial Working Group on Prostitution (1998) also looked cursorily at Aboriginal involvement in the sex trade and the specific problems they face. The report looks at all facets of youth prostitution from why and how they enter the trade, to the types of harms experienced in the trade. This research is sound, but its failure to address Aboriginal-specific concerns is a research limitation in an otherwise very important study. This gap points to a cultural bias that minimizes its usefulness. Given that this study is relatively recent and given the high proportion of Aboriginal participation in the Canadian sex trade, the study missed a research opportunity by failing to be sensitive to the existence of culturally relevant solutions and barriers to escaping the sex trade for Aboriginal peoples.

In terms of "solutions", Kingsley and Mark (2000) found that the youth regarded cultural connection as important in any healing strategy. They state:

> The theme of finding strength and power from their Aboriginal heritage was of fundamental importance to almost all youth who participated in the consultation…. Cultural connection for these youth can take a variety of forms, including sweat lodges, pow wows, fasting, artwork and oral traditions. The vast majority of the youth expressed interest in having access to a Native center which would both help them exit the sex trade and guide them on their healing path. (pp. 65-67)

Kingsley and Mark (2000) identified several factors that contribute to an Aboriginal youth entering the sex trade and simultaneously create barriers to their exit. Aboriginal specific barriers included the high risk of Aboriginal youth to escape dysfunctional families and having no visible support or place to turn for help. They speak of a lack of role models and Elders and of racism and how it contributes to low self-esteem which was one of the largest influencing factors in their lives. Kingsley and Mark explain how racism is one of the barriers to escaping the sex trade:

> Mainstream society's expectation for Aboriginal peoples to walk a 'negative path' had led to a pervasive invalidation of Native cultures and history. This common stereotyping leaves Aboriginal children and youth feeling worthless and undeserving of help. Being told all your life that you are inferior because of the colour of your skin shapes your thoughts, your actions, and your sense of self-worth. (p. 24)

The Federal/Provincial/Territorial Working Group on Prostitution (1998) does recommend that issues specific to Aboriginal youth need to be considered. The report found that many of the Aboriginal youth who eventually joined the sex trade had left their rural home communities for urban areas. Because of the culture shock of moving from reserve communities, these youth were often homeless and had feelings of cultural alienation. Therefore, they were alienated from the society in which they found themselves (Kingsley and Mark, 2000). This can make them particularly vulnerable to sexual exploitation by pimps and sex trade users.

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[24]   We address the issue of victims services in more detail in Part 10.

One of the most significant risk factors identified in the literature is the correlation between child abuse and entrance into the sex trade. Kingsley and Mark (2000) identified no less than eight independent studies that address sex trade workers: all of which have similar findings that support these conclusions for the general Canadian population.[25] In their study, Kingsley and Mark (2000) found that a full 80% of the Aboriginal youth in their study reported being a victim of sexual abuse.

Other than references to two additional articles in the popular Aboriginal press (Larose, 2001; Needham, 2000) we found very little that specifically addresses Aboriginal youth victimization in the sex trade. In both articles, prior child abuse was regarded as a major factor in Aboriginal youth becoming involved in sexual exploitation. Kingsley and Mark (2000) express such lack of attention to this area as a "crucial oversight in the literature" (p. 42). They explain the need in these words:

> Extensive reviews reveal that there has never been any work done specifically with Aboriginal children and youth in the sex trade. Considering the serious overrepresentation of Aboriginals experiencing abuse and exploitation in Canada, this deficiency is shocking. (p. 42)

The Kingsley and Mark report also documents, as did the Elliot (1997) study, that historical, cultural and economic factors experienced by Aboriginal children and youth are different and unique and "that these factors limit the application of non-Aboriginal research, programs, and policy to Aboriginal youth-at-risk" (p. 42).

It may be argued that the factors that lead Aboriginal youth, especially young Aboriginal women to become involved in the sex trade are also factors that lead Aboriginal youth to get involved in gangs. Barnsley (2000) argues that gangs recruit insecure, disassociated teens and exploit their naivety for personal gain. Barnsley suggests that poverty and "ghetto-like" living conditions also contribute to gang membership. Indeed, Larose (2001) makes the link between Aboriginal street gangs and the sex trade of young Aboriginal girls. In this sense, while Aboriginal youth often

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[25] The studies cited include:

Bamly, L., Tubman, M., & Summit Rapporteurs. (1998). *International summit of sexually exploited youth: Final report.* Vancouver, BC: Save the Children Canada.

Calgary Police Commission. (1997). *Children involved in prostitution.* Calgary, AB: Author.

Capital Regional District. (1997). Report of the Sexually Exploited Youth Committee of the Capital Regional District. Victoria, BC: Author.

Jesson, J. (1993). Understanding adolescent female prostitution: A literature review. *British Journal of Social Work, 23*, 517-530.

Jiwani, Y., & Brown, S. (1999). *Trafficking and sexual exploitation of girls and young women: A review of select literature and initiatives.* Vancouver, BC: FREDA Centre for Research on Violence Against Women and Children.

Manitoba Child and Youth Secretariate. (1996). *Report of the Working Group on Juvenile Prostitution.* Winnipeg, MB: Author.

McIntyre, S. (1994). *The youngest profession: The oldest oppression.* Unpublished doctoral dissertation, Department of Law, University of Sheffield, United Kindgom.

Rich, A., & Michaud, M. (1995). *Juvenile prostitutes – A profile.* Ottawa: Solicitor General of Canada.

become engaged in criminality, their involvement is often as a component of their continued victimization. This is an area that is deserving of further study.

6.3   Problematic Data and Gaps in Research

The quality and quantity of reliable data dealing with Aboriginal domestic violence has been questioned. For example, ANAC and the Royal Canadian Mounted Police (RCMP) recently conducted a review of the literature on family violence in Aboriginal communities and concluded that

> [e]xisting data are primarily from a few often-quoted sources, and the research presented in this publication identified a pattern of referencing the same studies and authorities repeatedly. That is to say, not a lot of new, original research has been done, just new reports that cite the same existing reports (ANAC & Royal Canadian Mounted Police [RCMP], 2001, p. 32).

This is a theme that seems to repeat itself. In an earlier literature review on Aboriginal victims of crime, Van der Put (1990) made the observation that many of the studies refer to data in vague terms and draw the conclusion that there is a substantial gap in useful available data. More recently, in the context of sexual abuse victimization, Hylton (2002) found that there is a lack of knowledge and research.

> Despite the substantial and sustained efforts of a few Aboriginal organizations that have attempted to focus attention on the issue of sexual abuse, surprisingly little is known about victimization and offending patterns in Aboriginal communities, and about how Aboriginal offenders are dealt with by the criminal justice system, or about Aboriginal community perspectives on the extent of the problems and what should be done about them. (Hyton, 2002, pp. 77-78)

There is also a general lack of Aboriginal specific data on child victimization. This is evident in the important study by McGillivray and Comaskey (1996). In their review of the literature on child abuse, there were no Aboriginal specific references, but rather references were made of general studies of child and family violence. Their study does confirm that child victimization may indeed be pervasive. Of the 26 Aboriginal women interviewed, 24 had experienced some form of child abuse (McGillivray & Comaskey, 1996). The small scale of this study does not allow statistical conclusions to be drawn. However, if this study is even remotely representative of the Aboriginal population there is truly a crisis in family violence within Aboriginal communities. However, more research needs to be undertaken to substantiate such conclusions and to identify any differences within Aboriginal communities and why. There is also a need to reconcile general statistics and national studies with these more specific Aboriginal statistics and studies. For example, the 1999 GSS study states that 11% of Aboriginal women were victims of family violence by a current spouse, whereas the ONWA study found that 90% of Aboriginal women were victims of family violence. These types of discrepancies need to be examined. In addition, as discussed above is the issue of how exposure to abuse by children in the family contributes to future abusive behaviour or victimization.

7.   Victimization of Aboriginal Peoples with Disabilities

In this section we examine the concerns and issues of Aboriginal peoples with disabilities and their increased susceptibility to victimization due to their vulnerability as a result of having disabilities. We examine this issue generally and focus more specifically on the victimization of Aboriginal peoples with fetal alcohol syndrome disorder. In addition, we discuss in a separate section the increased risk of HIV/AIDS Aboriginal peoples face due to the levels of sexual victimization.

7.1   General Overview

Victimization of Aboriginal peoples with disabilities is increasingly recognized as a concern. For example, Disabled Women's Network (DAWN) has sponsored a number of studies and reports examining the issue of Aboriginal women's abuse and violence (see Doucette, 1987; Farrar and Pope, 1996; Elias and Demas, 2001). However, other than these few DAWN sponsored studies and a few government studies (Federal Task Force on Disability Issues, 1996), there is little research on Aboriginal peoples with disabilities, let alone specific research on their victimization experiences.   The studies that do exist indicate that victimization of women with disabilities is a serious problem, but it is one that has not been the subject of much attention in research. The Human Resources and Development Canada (2002) publication *Policy Directions to Guide Future Action* reports that Aboriginal peoples have a disability rate that is double the national rate for adults and three times the national rate for 15-34 year olds. There is some recent evidence that Aboriginal women with disabilities are at an increased risk of being victimized (National Crime Prevention Centre, 2000).

RCAP heard from a number of Aboriginal peoples about their victimization including Aboriginal women with disabilities. One account of Aboriginal people's experiences with disabilities was described as follows:

> As far as Aboriginal people with disabilities [are concerned] … we are less recognized and the most violated against by both races, both sexes, and both communities. We are raped by disabled men; we are raped by disabled women; we are raped by Aboriginal women; we are raped by Aboriginal men; we are raped by white women; we are raped by white men. And believe you me we have been raped by our medical attendants, doctors, nurses, occupational therapists — you name it, we've had it. We know what it is like to be down low, but for God's sake, you don't have to keep us there either'. (J. Johnny, November 18, 1992 as cited in RCAP, 1996d, p. 56).

These charges are very serious and increased attention is needed to understand and learn more about the victimization of Aboriginal people with disabilities. We would like to now examine the specific case of victimization of those with fetal alcohol syndrome disorder.

7.2   Fetal Alcohol Spectrum Disorder (FASD)

One area that has been the subject of increased attention is the area of FASD. According to research, individuals with FASD are at an increased likelihood to be in trouble with the law. Streissguth et al (1996) studied 415 individuals with FASD in British Columbia. Overall, 60% of such individuals aged 12 and over had been in trouble with the law.

Offenders with FASD have a mental disorder that puts them at risk to commit crime. Thus, they are in need of treatment as opposed to punishment. However, many courts are frustrated and at a loss as to what to do because of the lack of therapeutic services for such offenders (*R. v. C.J.M.*, 2000). The words of Judge Trueman in *C.J. M.* are illustrative of this frustration:

> In all cases of brain injury, however caused, permanent or otherwise, there exists the proven advantage of early intervention, to maximize social skills and shape behaviour. To incarcerate an individual in a prison setting that fails to recognize FAS, and fails to accommodate those with the disability, is to further the development of socially maladaptive behaviours that occur from forcing those with compromised mental functions to respond daily in a hostile environment. This is not only detrimental to them, but to the rest of society when they are ultimately released. (para. 82)

Research in this area shows that individuals with FASD are also highly vulnerable to victimization. According to a study referred to by Boland, Burrill, Duwyn and Karp (1998), 86% of individuals with FASD were neglected, 52% had a history of physical abuse and 35% had a history of sexual abuse.   Although the disorder affects anyone in society, it is of great concern to the Aboriginal community because of studies that indicate a significant over-representation of Aboriginal people with FASD. In a study of offenders sentenced in the criminal justice system by Chartrand and Forbes-Chilibeck (2002), 39 reported cases were identified in which the offender being sentenced had a diagnosis of FASD or suspected FASD. Of the 39 cases, 25 of them were confirmed to be Aboriginal offenders, 4 non-Aboriginal and 10 unknown. This figure is consistent with other research that has reported that Aboriginal over-representation of individuals with FASD is as high as 10 times the national rate (Phillips, 1999).

Research shows that FASD individuals are at a great risk of being victimized and are more likely to be in conflict with the law and as the above research shows, Aboriginal peoples are disproportionately affected by FASD. Yet, there is *no* research that examines the extent of victimization of Aboriginal people with FASD. This is a serious research gap given the extent of victimization by those most vulnerable in Aboriginal communities and the extent of this disability in the Aboriginal community.

In one sense the increased awareness of FASD and its prevalence within Aboriginal society can act as a competing theory for the over-representation of Aboriginal people in the criminal justice system with other theories of why there is such over-representation. For example, the social and behavioural symptomology of FASD individuals is very similar to those identified by Health and Social Services and referred to in the report by ANAC (2001) which are said to be the effects of child exposure to violence in the family. The diagnosis of FASD is very difficult and there is still no standardized diagnostic approach that has the approval of the medical profession. The

possibility of false diagnosis is a factor to consider (Tait, 2002). There is a danger of over-diagnosis of FASD among Aboriginal offenders given the prevalence of domestic violence in Aboriginal communities and the common symptomology between FASD offenders and those who have experienced violence or who have been exposed to violence. Even a cursory review of the case law where the offender was diagnosed as having FASD or suspected of having FASD there is in almost every case acknowledgment that the offender was abused as a child (Chartrand & Forbes-Chilibeck, 2002).

7.3   Victimization of Aboriginal Peoples with HIV/AIDS

The literature on the issues that Aboriginal people with HIV/AIDS face show that there are serious concerns with increased risk of victimization particularly due to increased risk of sexual assault and the prevalence of discrimination of people with HIV/AIDS from both Aboriginal and non-Aboriginal communities.

The work by Matiation (1995, 1999a, 1999b) is particularly informative. In one report, Matiation (1995) draws a number of connections between the effects of colonization through increased sexual violence on Aboriginal peoples in Canada and the increased risk of HIV infection, particularly Aboriginal women. Examples include higher rates of violence in Aboriginal communities compared with non-Aboriginal communities and generally poor health status prevalent among many Aboriginal communities and the increased risk of HIV infection. The role of government and the role of religious institutions in increasing sexual violence are referenced.

The need to identify violence against women directly as a prerequisite to reducing the risk/incidence of HIV/AIDS in Aboriginal women also is discussed. Matiation notes that high rates of sexual and physical abuse are also risk factors for the transmission of HIV/AIDS. This is further aggravated by the inappropriate depiction of AIDS in terms of blame and personal responsibility. Neron and Roffey (2000) in their article also address connections between HIV and sexual violence among Aboriginal women, particularly through rape, abuse and incest. Other factors contributing to HIV risk among Aboriginal women are also explored.

Although the literature identifies sexual victimization as a serious problem because of the connection between high risk of HIV/AIDS and the prevalence of high rates of physical and sexual violence in Aboriginal communities, there are very few quantitative studies to verify these conclusions. One study, however, does provide some indication of the extent of the problem. Ratnam and Myers (2000) presents the findings of a series of interviews conducted with 69 individuals living in seven communities in Labrador. Respondents were either service providers or community members. Some respondents identified a number of social problems as being of greater importance and concern to the community than HIV/AIDS. These factors were basic needs (i.e., housing, food), unemployment, poverty (including child poverty), child neglect, domestic and child violence, gas sniffing, suicide and alcoholism. Nonetheless, among the study's conclusions is that women were identified as being at particular risk for HIV for a number of reasons including that 'many women' are victims of rape, abuse and domestic violence. The respondents generally perceived victims of rape, abuse and incest as having no control over what happens to them (Ratnam & Myers, 2000).

Aboriginal people living with HIV/AIDS are frequently victims of discrimination from their own communities as well as from non-Aboriginal society (Matiation, 1995). The increasing prevalence of HIV/AIDS in federal institutions is also of concern to Aboriginal people given that Aboriginal people are over-represented in Canadian prisons.[26] Matiation also considers the increased risk of HIV/AIDS amongst Aboriginal youth, particularly Aboriginal youth that are street-involved. Risks identified include IV drug use and prostitution. This concern for youth being at increased risk was attributed to the prevalence of poverty (Canadian HIV/AIDS Legal Network [CHALN] & Canadian Aboriginal AIDS Nework [CAAN], 1999). This report argues that poverty results in young people heading for cities where they become street-involved and often are engaged in sex and drug-related activities.

Monette, Albert, and Waalen (2001), also argue that the same pattern that leads youth to the streets exists with respect to two-spirited men[27]. However, in addition to poverty being a precipitating factor, the prevalence of discrimination is a major factor. Monette and colleagues (2001) conducted a survey which found that two-spirited people experience hostilities within their communities and that in an effort to escape such hostilities, they go to large urban centres. Lack of education and experience frequently leads to two-spirited people, particularly youth, becoming street-involved. This, in turn, frequently leads to high risk of victimization and self-destructive behaviour. Respondents to the survey were exposed to a myriad of negative social influences including racism, homophobia, physical abuse, sexual abuse, gay bashing, partner abuse, abuse specifically because they were gay or were perceived to be gay, ridicule, poor housing and poverty. Fear of discrimination is among a number of factors cited that make two-spirited people reluctant to access social services to address these factors.

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[26] This view that Aboriginal inmates are at a greater risk of HIV infection has been supported by at least two reports (Canadian HIV/AIDS Legal Network, 1999; Matiation, 1999). However, a review of the research of Aboriginal people with HIV/AIDS by the Northern Health Research Unit of the University of Manitoba (1998) documented one study that found that "Aboriginal inmates are not at a greater risk of HIV infection but are less likely to test for HIV than non-Aboriginal inmates." (p. 22)

[27] The term "two-spirited" refers to lesbian and gay Aboriginal people.

8. Under-reporting of Victimization

R oss (1996) writes that in his view one of the most striking and unacknowledged failures of the Western justice system is that a great many Aboriginal victims choose not to use it. McGillivray and Comaskey (1999) elaborate on the reasons offered by Ross. They attribute much of the failure to respond to a complex web of factors that effectively "silenced" victims such as isolation, inadequate services, including police racism and the chilling effect it has on decisions to call for help, community norms, kinship networks, and band politics. In some cases Aboriginal victims have been ostracized and driven out of their own community. The case of *R. v. F.(A.)* (1994), is a shocking account of how one northern Ontario Aboriginal community supported the accused sexual offender instead of the victim ultimately resulting in the victim having to leave the community for her own safety. Unfortunately, this is not an isolated incident.

The under-reporting of victimization, particularly domestic forms of violence, is a serious concern in Canada. However, it is argued that in many Aboriginal communities the problem is far more acute than in non-Aboriginal communities. La Prairie (1995a) in her study of Aboriginal victimization in urban centres reported that 74% of the respondents that experienced family violence did not report such incidents of victimization. For example, the literature discusses the hesitancy of Aboriginal women to report incidents of abuse and to use the "protections" of the justice system for fear of the consequences of using a racist system that over-polices and criminalizes Aboriginal men. McKay (2001) refers to a number of studies that support this conclusion.[28]

The literature provides some useful insights as to why there is a low rate of reporting. Ross (1996) provides an explanation as to why Aboriginal victims are reluctant to report. In his book, he discusses his experience as a prosecutor in Aboriginal communities, where he became aware that a great number of problems were not reported at all:

> Whether Aboriginal or non-Aboriginal … [w]hen the abuse is within families, there are extra pressures of divided loyalties, and fears about what the criminal process will do to all the other members of that family. There is also the possibility that Aboriginal people face special pressures not to involve the police, for with them comes exposure to the untrusted outsiders, with all their adversarial ways and punitive powers. Perhaps there is also an issue of communal shame at work here, reinforcing the "conspiracy of silence" that surrounds sexual abuse. (pp. 201-202)

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[28] See for example, Hamilton and Sinclair (1991b, pp. 96, 102, 104-105), Koshan (1998, p. 25) and Denis (1997, pp. 79-80).

In one study prepared for RCAP, Lutra Associates Ltd. (1993), found that despite improvement in the reporting of family violence in the Northwest Territories, the reporting of family violence continues to be a serious problem.[29] They report that in the Aboriginal community of Lutsel K'e, many people do not report family violence and abuse, seek help, or even admit that it is happening or is wrong. According to community members, reporting or dealing with family violence and abuse is hampered by:

- A fear of being charged for their own use of drugs or alcohol;
- A fear of criticism or alienation from community or family members; and
- A lack of confidence in the ability of agencies or the community to stop the violence.

The report also noted that child abuse, including child sexual abuse, is probably the most under-reported of violent and abusive acts in the family. In Lutsel K'e disclosures and reporting of sexual abuse, particularly child sexual abuse, skyrocketed due to joint school-RCMP education programs between 1990 to 1992. Education programs showed children "that it is not alright for Dad to come home drunk and crawl into bed with them," according to a northern law enforcement officer. However, the high rate of reporting in Lutsel K'e captured incidents that had happened in the past. Sexual abuse occurring at the time was not necessarily being reported.

Not only is there a high level of non-reporting among victims within the domestic context, the urban victimization study by La Prairie (1995a) shows that non-reporting of victimization is high generally, particularly with respect to inner-city Aboriginal people. La Prairie defined this group as those who lived on the streets (Inner 1) and those who lived in the inner city area (Inner II). In her study, La Prairie found that the majority of victims did not report their victimization to the police. The reasons given were that the injury was not serious enough, that they did not want to "rat" on others, that they were afraid of retribution or they did not think police would respond appropriately.

Although there is some consistent data that indicates a high non-reporting rate of violence and crime within Aboriginal communities, there is little data that identifies explanations or important differences. Some questions that have remained unanswered include: Are the reasons listed above the only factors? What are the reasons for non-reporting? Are there differences in reporting depending on the type of violence experienced or its locality (rural or urban, First Nation, Inuit or Métis)?

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[29] Lutra Associates Ltd. (1993), reported that sexual assault reporting has more than doubled in the N.W.T. and elsewhere in the country from 1982 to 1988. Moreover, the number of reported sexual assaults in the N.W.T. was consistently four to five times the national average for the period 1977 to 1988. According to northern professionals, reporting of all forms of sexual assault is improving in the NWT (estimated at 50%-75% of actual sexual assaults).

In addition, other studies have found that even when incidents of violence are reported and charges are laid, there is a higher rate of dismissed or not guilty charges. In a recent study by Ursel (2001) on domestic violence policies and their impact on Aboriginal peoples, she found that the dismissal and discharge rate of Aboriginal accused was 60% due to a significant reluctance on the part of victims to attend court and testify, compared to 44% of non-Aboriginal accused. This study confirms Ross's (1996) discussion that Aboriginal accused stand a higher-than-average chance of being acquitted. He finds that Aboriginal victims and witnesses are often unable or unwilling to testify in a convincing manner especially before non-Aboriginal judges if they testify at all. Ross describes this problem of dismissal/acquittal following a victim's reluctance or inability to testify as "corrosive in itself"' (p. 203). It sends a message that the justice system is wholly inadequate and that the victimization of the vulnerable in Aboriginal communities is tolerated. Such a low rate of guilty verdicts is seen as a serious failure of the Western justice system.

9. Explanations for Aboriginal Victimization

This section examines the explanations offered in the literature for the high rate of Aboriginal criminality and how they may relate to Aboriginal victimization. In addition, explanations for the extraordinarily high rates of domestic victimization are explored. Convergence seems to be forming around versions of a cross-cultural or trauma theory of victimization that is rooted in the overall effects of colonization. In addition, we examine, in particular, the impact of racism on Aboriginal victimization in this part of the report.

9.1 Victimization and the Impact of Colonization

There is virtually no literature or research that explains the high rate of Aboriginal victimization on a general level. There are a few theories that attempt to explain the high prevalence of family violence in Aboriginal communities (ANAC & RCMP, 2001). We examine in greater detail the discussion of why family violence is so prevalent later in this section.

There is, however, no shortage of research and literature that attempts to explain the over-representation of Aboriginal offenders in penal institutions. There is no general consensus in this literature as to the sources and causes of Aboriginal crime, although the majority of theories offered support a colonization theory to explain such over-representation. Although not directly dealing with victimization, we examine some of the literature that examines Aboriginal crime and violence below. This literature is relevant because the high rates of violence and crime in Aboriginal societies is a mirror image of Aboriginal victimization rates since studies show that most Aboriginal crime is committed against Aboriginal victims in Aboriginal communities.

Smandych, Lincoln, and Wilson (1993) provide a very useful study that summarizes the various theories for explaining Aboriginal criminal behaviour. They examine various explanations of Aboriginal over-representation such as racial bias, visibility, cultural factors, legal factors, extralegal factors, over-policing, and other explanations. The goal of their work is to identify a "cross-cultural" theory of Aboriginal crime that would be broad enough to explain all aspects of Aboriginal criminal behaviour. Although the authors note that additional work needs to be done in this area, they point to the research of two authors that they "feel should be the direction taken by theory and research on aboriginal criminal justice issues" (p. 18). They refer to La Prairie (1992) and Marenin (1992). For example, they summarize La Prairie as follows:

> [M]any of the research findings that have been reported show 'disproportionate levels of crime and violence, both on and off-reserve' and suggest that these are the result of 'a serious rupture of traditional control mechanisms in contemporary aboriginal communities.' She implies in her discussion that the processes of colonization … and modernization… have both contributed to creating the social and economic conditions faced by indigenous peoples and that these conditions have in turn led to serious disruption in, and sometimes even the total disintegration of, more traditional

'communitarian' Aboriginal methods of dispute settlement and social control. (Smandych et al., 1993, pp. 18-19)

This "cross-cultural" theory (i.e. colonization and modernization) is not only valuable and relevant to explaining Aboriginal criminal behaviour, but also Aboriginal victimization. It is similar to the "trauma theory" offered by the ANAC and RCMP study as the predominate explanation of the high rates of Aboriginal family violence.

The joint review by ANAC and the RCMP (2001) provides a useful summary of the various theories that attempt to explain the prevalence of high domestic violence rates in society.[30] The majority of theories summarized are culturally neutral except for the "trauma theory" which attempts to explain disproportionate rates of victimization and crime based on the effects of colonization.[31] These other theories, however, have not gained general acceptance. Currently, the "trauma theory" has also been the main explanation adopted by majority of researchers including the many Aboriginal justice inquiries (Manitoba in 1990, Alberta in 1991, Saskatchewan in 1992). It is the preferred theory in many of the studies that examine family violence in Aboriginal communities (Ursel, 2001). Ross (1996) provides an insightful summation of the impact of colonization and its connection to domestic violence. He states:

> [R]esidential schools were not the solitary cause of social breakdown amongst Aboriginal people. Rather, they were the closing punctuation mark in a loud, long declaration saying that nothing Aboriginal could possibly be of value to anyone. That message had been delivered in almost every way imaginable, and it touched every aspect of traditional social organization. Nothing was exempt, whether it was spiritual beliefs and practices, child-raising techniques, pharmacology, psychology, dispute resolution, decision-making, clan organization or community governance…. And what happens when you are told, from every direction and in every way, that you and all your people have no value to anyone, no purpose to your lives, no positive impact on the world around you? No one can stand believing those things of themselves…. At some point people brought to this position stand up and demand to be noticed, to be recognized as being alive, as having influence and *power*. And the easiest way to assert power, to prove that you exist, is to demonstrate power over people who are weaker still, primarily by making them do things they don't want to do. The more those things shame and diminish the weaker person, the

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[30] The theories examined are Characterological or Personality, Psychological Processes, Interactional explanations, Homeostatic or Functional Mechanisms, Dysfunctional interactions, Developmental theories, socio-cultural, feminist and Socio-political, Biological-genetic origins and Trauma theory.

[31] For example some researchers argued that Aboriginal criminality was a function of social and economic status which is a variable that transcends race and culture. Satzewich and Wotherspoon, (1993) argued that the explanation for such rates of crime and victimization are attributable to differences in socio-economic status and not to Aboriginality. Such explanations, however, deny the historical context of Aboriginal victimization and the corresponding unique barriers faced by Aboriginal peoples as colonized societies. In any event, other studies refute such limited explanations of Aboriginal victimization (La Prairie, 1990). Cattarinich (1996) decided to also study this debate regarding the relevance of Aboriginality as a relevant factor in criminality. Cattrainich (1996) proposed the hypothesis that class (economic circumstances and age) were more responsible for Aboriginal criminality than race. In testing this hypothesis, he found that he was wrong and that there was more to Aboriginal over-representation than simply class status.

more the abuser feels, within the twisted logic of victimization, that they have been empowered and restored themselves. [italics in original] (pp. 46, 48)

The following discussion in the RCAP report is also worth quoting at length, particularly in regards to the inter-generational impact of violence.

[M]any factors contribute to weakening the fabric of a society and loosening the bonds of relationships and self-regulated behaviour: social change that is rapid or beyond the control of a society; family breakdown, which interferes with the nurturing and socialization of children; poverty and economic marginalization, which restrict opportunities for youth and contribute to a loss of hope; loss of respect for the wisdom of Aboriginal people's culture; and learned patterns of self-defeating or self-destructive behaviour passed on from one generation to another.

We pointed out in *Choosing Life* that these depressing conditions afflict Aboriginal people more frequently than others in Canada, and this is no accident. Aboriginal people were not simply caught in an onslaught of development. In fact, they were subjected persistently and systematically to interventions that sought to eliminate or replace Aboriginal institutions with the allegedly better institutions of colonial society. In Volume 1 of our report, particularly chapters 8 to 13, we documented the historical policies that had a devastating effect on the culture and cohesion of Aboriginal nations and communities and lasting intergenerational consequences in the lives of families and individuals.

In our hearings and commissioned research we found further evidence that assaults on Aboriginal identity, culture and community institutions continue today. Aboriginal people recounted racially motivated incidents experienced in their daily lives. The stereotyping and devaluing of Aboriginal women, a combination of racism and sexism, are among the most damaging of attitudes that find expression in Canadian society. These attitudes are not held exclusively by non-Aboriginal people either. Indeed … members of powerless groups who are subjected to demeaning treatment tend to internalize negative attitudes toward their own group. They then act on those attitudes in ways that confirm the original negative judgement. (RCAP, 1996d, pp. 62-63)

The negative impact of colonization on identity and the subsequent social pathology that results has been an offered as an explanation for some time (Robbins, 1974). However, the links and the relationships between colonization and subsequent pathology, identity and victimization needs to be clarified by further research. There are few recent studies that have examined identity and its relevance to Aboriginal victimization. There has been some related work in terms of examining the relationship between cultural preservation and suicide rates in Aboriginal communities. Chandler and Lalonde (1998) have found that those communities that have taken active steps to preserve and to maintain their Aboriginal cultures and collective identities have dramatically lower suicide rates. If one of the negative effects of colonization is its impact on self-identity and cultural connection then we should examine the relationship between victimization and the strength of individual and community self-identity and cultural connection.

Although there is considerable research on Aboriginal family violence against women, much of this research is of a "snap-shot" variety.[32] Consequently, it is not surprising that a review of literature on Aboriginal women's policy issues made the recommendation that "priority be given to the development and implementation of longitudinal studies" to track key indicators pertaining to Aboriginal women's victimization over time (Dion Stout & Kipling, 1998). We agree that this is a research gap. We suggest, however, that this need for more longitudinal studies should be conducted on Aboriginal victimization with communities including women, men and youth. As discussed earlier, the normalization of violence in Aboriginal communities is of serious concern and there is a need to learn more about this socialization process where crime and victimization become accepted everyday realities (Stewart et al., 2001).

The predominant theory of colonization or "trauma theory" (ANAC & RCMP, 2001) to explain Aboriginal domestic violence has obvious implications for supporting a broader theory of Aboriginal victimization generally and can be applied by analogy to explain why there is such a disproportionate rate of Aboriginal victimization generally.

Racism has been identified as a separate explanation for Aboriginal victimization. It too can be explained as a symptom of the impact of colonization. However, it is thought that its importance as a factor in Aboriginal victimization is worth discussing in a separate section. The following section examines the impact of racism on Aboriginal victimization in greater detail.

9.2   Racism

This part examines briefly the issue of systemic discrimination of Aboriginal peoples by the Canadian justice system. An in-depth review of this issue is beyond the scope of this review. Although it is true that systemic discrimination of the justice system can be viewed as victimizing Aboriginal peoples, it is not directly about criminal victimization. It can, however, exacerbate and contribute to high victimization in the Aboriginal community and this will be briefly addressed.   We also examine direct racism by non-Aboriginal individuals in this part because of its link to criminal victimization.

9.2.1   Systemic Discrimination of the Justice System

Aboriginal peoples experience systemic discrimination every time they come into contact with the justice system. Systemic discrimination is the norm and effects offenders and victims indiscriminately. It is pervasive and endemic. Various Aboriginal justice inquires have studied the issue of systemic discrimination of the criminal justice system, particularly as it affects offenders.[33] Less attention has been focused on the victims. Nonetheless, the literature in dealing with systemic discrimination and racism in the justice system is extensive.[34]

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[32]   See research referenced in Sections 4 to 6 of our review.

[33]   See Appendix A for a List of Inquiries and Commissions.

[34]   This issue of systemic discrimination is beyond the scope of this paper, although as Ross (1996) and others have argued, its existence can and does exacerbate an Aboriginal victim's alienation and marginalization of the justice system to the point of re-victimization. For a relevant bibliography on racism in the criminal justice system, including references to Aboriginal peoples, see Mathews and Lewis (1995).

The most comprehensive review of the issues of systemic discrimination in this area continues to be the Manitoba Justice Inquiry report (Hamilton & Sinclair, 1991b). Other inquiries have added little original content or recommendations since this inquiry (RCAP, 1996b). The RCAP *Bridging the Cultural Divide* report (1996a) provides an excellent summary of the major inquiries. Despite the recommendations of these reports very little has changed. For example, racism and systemic discrimination continue to exist in Saskatchewan. The recent allegations that the Saskatoon police have a practice of dropping Aboriginal "troublemakers" off at the edge of town where one such troublemaker was later found to have frozen to death has prompted the formation of a public inquiry (currently being chaired by William Littlechild). The existence of such a practice reinforces the conclusion that notwithstanding previous inquiries in that province conducted in 1992 which set out numerous recommendations to address systemic discrimination and racism by justice personnel very little seems to have changed. This sentiment was recently stated with regard to circumstances in Manitoba as well. In 1999, Judge Sinclair, one of the Co-Chairs of the Manitoba Inquiry made a presentation to the First Nation Shelter Director's Meeting. In his remarks, he expressed considerable disappointment that "not a lot of change has happened" (Sinclair, 1999).

Most recently, the province of Manitoba has conducted a 10-year review of the status of the Manitoba Inquiry (Chartrand & Whitecloud, 2001). The report is informative for a number of reasons, not the least of which is the acknowledgment that not much has been done in the past 10 years with regard to the implementation of the recommendations of the Manitoba Inquiry. The Review Commission asks that the province make an institutional commitment and recommends setting up a permanent commission and hold a round table. The report is also informative in the change in emphasis on reform from that of setting up an Aboriginal controlled justice system (which has been criticized as primarily replacing brown faces with white faces) advocated by the Manitoba Inquiry to reforms that emphasize more restorative alternative and community prevention approaches.

It has been argued that systemic discrimination contributes to Aboriginal victimization because the existing system does not address, and is inherently incapable of addressing, the underlying causes of Aboriginal criminality (RCAP, 1996a). Sending offenders to jail only makes them better criminals and more bitter and angry when they return back to the community (Hollow Water First Nation Community Holistic Circle Healing, 1994).   Aboriginal alternative to the existing justice system have, in part, been motivated by this failure of the existing system to "heal" offenders.

9.2.2   Hate Crime and Victimization

Direct personal racism also contributes to continued victimization of Aboriginal people by non-Aboriginal people who target Aboriginal victims simply because they are "different". Many of the major justice inquires concerning the impact of the criminal justice system on Aboriginal peoples arose out of individual accounts of Aboriginal victimization fuelled by racist attitudes by non-Aboriginal people (for examples, the Manitoba Justice Inquiry of 1990 and the Osnaburgh/Windigo Justice Inquiry of 1990).

The form of violence against Aboriginal women is violence by Euro-Canadian men against Aboriginal women outside the home, in which non-Aboriginal men exercise their gendered racial privilege by victimizing Aboriginal women (Razack, 2002). This form of violence against Aboriginal women is unique to this group and arises as a result of gendered racism. For example, gendered racism is often manifested in the violence targeted at Aboriginal women sex trade workers by non-Aboriginal men.

The case study of Pamela George by Sherene Razack (2002) explains in a revealing and powerful way how racism and gender contributed to her death by two white men. Two middle-class university athletes raped and murdered Pamela George who was working as a prostitute in Regina. Race, despite the court's interpretation of the events in which racism was deemed to be irrelevant, was a factor in her victimization. Razack explains:

> Two white men who buy the services of an Aboriginal woman in prostitution, and who then beat her to death, are enacting a quite specific violence perpetrated on Aboriginal bodies throughout Canada's history, a colonial violence that has not only enabled white settlers to secure the land *but to come to know themselves as entitled to it*. In the men's encounter with Pamela George, these material (theft of the land) and symbolic (who is entitled to it) processes shaped both what brought Pamela George to the Stroll and what white men from middle-class homes thought they were doing in a downtown area of prostitution on the night of the murder. (Razack, 2002, p. 128)

For a recent review of material documenting gendered racism and its connection to violence and victimization see McKay (2001). The intersection of gender and race increase the risk of Aboriginal women experiencing violence (National Association of Women and the Law, 1993). McKay also asserts that Canada's continued failure to ameliorate the gendered racism that Aboriginal women face in terms of increased rates of violence and rape is a violation of Article 2.2 of the *Convention on the Elimination of All Forms of Racial Discrimination*.

Thus, Aboriginal women are at increased risk of victimization due to racism and sexism, embodied in stereotypes of Aboriginal women within Canadian society. Crimes motivated by racism are arguably hate crimes and should be pursued by Crown prosecutors as such. A recent incident arising from Saskatchewan involved demands from the Federation of Saskatchewan Indian Nations that the death of a native woman, Cynthia Sanderson, in Prince Albert should also involve the laying of hate crime charges. In this case, the CBC reported that witnesses alleged that the driver of the truck shouted racial slurs at Sanderson before running her over.[35]

Considerable attention and research has been devoted to addressing systemic discrimination in the justice system against Aboriginal peoples, but little attention has been directed at identify the motivating factors of personal racial violence against Aboriginal people by non-Aboriginal people. What factors motivate white-middle class men to react violently against Aboriginal people, particularly Aboriginal women?

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[35]   Information obtained from a CBC New Online report at http://cbc.ca/news

The Simon Fraser review (Cohen, 2002) briefly discusses how racism and stereotypes of Aboriginal women exacerbate and aggravate the risk of victimization including increasing the risk of victimization from Aboriginal men. "Internalized colonialism" is manifested in Aboriginal men victimizing Aboriginal women and children because of the reinforced belief in the devalued nature of their own people because of gendered racism within society at large (Cohen, 2002, LaRocque, 1994).

9.3   Summary

There is no debate about the prevalence of Aboriginal family violence and victimization in Canadian society. It is a serious social issue. There is also no longer any real debate about the explanations for such prevalence of victimization. Factors such as alcohol abuse and poverty are increasingly being recognized as the symptoms they are of a broader explanation based on the impact of colonization. What remains an issue for debate in the literature at the present time is the question of what to do about it. How should the offenders, the majority of whom are Aboriginal, be dealt with?

Unfortunately, as Johnston (1997) argues, society's response to dealing with the trauma experienced by abused Aboriginal individuals and consequential effects has often been to institutionalize the affected individuals in prisons and other institutions. Often, Aboriginal victims in need of therapeutic help or culturally relevant healing methods fall through the social safety net and do not receive any assistance. In these circumstances, Aboriginal victims often become victimizers themselves. Both the Sugar and Fox (1990) and the La Prairie (1996) studies note that most of the female inmates in prison were victims of violence themselves. Sugar and Fox movingly capture the tragedy of many Aboriginal women's involvement in prison in these words:

> As our stories show, aboriginal women who are in prison grow up in prison, though the prisons they grow up in are not the ones to which they are sentenced under law. (p. 3)

As explained by McIvor (1992), many of the Aboriginal women in prison are there for violent crimes because they were "pushed to the wall and responded in violence". They were victims of incest, sexual assault and physical abuse as children.

How Aboriginal offenders are to be treated given that their life stories reveal that they are as much victims as offenders in many cases has given rise to considerable debate. Should they benefit from alternative Aboriginal justice processes that emphasis healing and reconciliation or should they be punished and isolated from the rest of society for the protection of others?

Opinion on this issue can be categorized in two different directions. Ursel (2001) summarizes this debate:

> [F]rom a historic stand point it is difficult to separate the victims and the abusers because of the profound history of abuse of Aboriginal people. From the stand point of Aboriginal offenders (who may well have been abused as children) the question arises; do they merit a different consequence because of their history? (p. 3)

In a national study of Aboriginal offenders, Johnston (1997) found that during their childhood, Aboriginal offenders suffered a number of socio-economic disadvantages, including the following:

> It was found that early drug (60.4 %) and alcohol abuse (57.9 %) were commonplace, as were behavioural problems (57.1 %). Other frequently-noted occurrences were both physical (45.2%) and sexual abuse (21.2 %), as well as severe poverty (35.3 %), and parental absence or neglect (41.1 %). Suicide was attempted by 20.5 percent of these offenders (Johnston, 1997).

In light of the above, Ursel (2001) goes on to identify the issues that need to be addressed:

> From the stand point of Aboriginal victims the weight of history and the urgency of immediate risk seem to pull in different directions. Do Aboriginal victims merit greater police intervention because of their greater risk, or less police intervention because of their assailants history of abuse? How is protection best provided? Much of the debate seems to revolve around the question of whether we privilege past or present victims? (p. 3)

In the following section on the impact of the justice system and alternatives to the existing criminal justice system, we explore these and other tensions in greater detail.

10. Impact of Alternatives to the Criminal Justice System

This section highlights the strengths and weaknesses of Aboriginal alternative justice processes such as circle sentencing in recognizing and promoting victim's interests.[36] For example, we discuss how alternative processes can improve victim's involvement in the criminal process. We also address the literature that is very critical of such processes because of the dangers of re-victimization of victims, particularly women, in the process and the likelihood of reinforcing inequitable power relations within the community. We conclude by discussing how, with certain precautions, alternative processes can be effective in addressing the concerns of Aboriginal women.

Over the years, courts and legislatures have responded to the over-representation of Aboriginal offenders by recognizing the value of Aboriginal approaches to justice and incorporating an understanding of Aboriginal colonization in dealing with such offenders. This recognition has translated into various reforms. One such reform is the enactment of s.718.2(e) of the *Criminal Code*. This provision states that:

> [A]ll available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

This provision directs the courts to take into account Aboriginal culture and the effects of colonization in sentencing Aboriginal offenders (*R v. Gladue*, 1999). This legislation and subsequent affirmation of Aboriginal approaches to justice by the Supreme Court of Canada in *Gladue* has given increased legitimacy to "healing" and "reconciliation" approaches to sentencing.

There are important reforms that are being implemented throughout Canada in various Aboriginal communities designed to deliver justice in a culturally relevant and meaningful way. Many Aboriginal communities have implemented various alternative justice initiatives aimed at making justice more meaningful, effective and relevant to the lives of their community members. Clairmont and Linden (1998) reviewed many of these initiatives. These developments are often described as important developments in furthering Aboriginal self-government and as more culturally relevant and effective systems (RCAP, 1996b). Such initiatives are often framed as culturally relevant because they promote a holistic approach to healing the offender. It is an approach that differs fundamentally in theory and worldview from the mainstream retributive system of criminal justice (Dumont, 1993; Koshan, 1998).

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[36] Circle sentencing is an alternative process from the normal adversarial approach where lawyers representing the Crown and the Offender argue their cases before an independent neutral third party. In the circle process, there are more participants such as the victim, community elders, police, parole officers etc.. who sit in a circle and come to a consensus as to what is the best course of action for dealing with the offender. Typically, the approach tries to further rehabilitation and healing options rather than punishment. For such a process to work, the community must be actively involved. See Green (1998).

10.1 Benefits of Aboriginal Alternative Justice Processes for Victims

Aboriginal justice initiatives have the potential of benefiting both offenders and victims. They are seen as consistent with Aboriginal traditional approaches because they focus on healing as opposed to punishment. In fact, most of the literature in this area is concerned with the over-representation of Aboriginal offenders and views the Aboriginal healing model as a preferred model for long-term rehabilitation of the offender. Ironically, as mentioned above, healing of the victim is almost a secondary thought if mentioned at all in this literature (e.g. Task Force on the Criminal Justice System, 1991, RCAP, 1996b).

However, some alternative Aboriginal justice approaches do have the potential of significantly improving victim participation and input such as in sentencing circles and comprehensive community healing approaches (Griffiths & Belleau, 1995). Although victim criminal justice reforms have advanced considerably since the 1970s (Young, 2001), none have gone as far as Aboriginal alternative justice processes have in providing victims with real and meaningful participation.

Ross (1996) discusses the impact a circle sentencing process had on a young victim and her mother. In this case, the offender robbed the young victim at a gas station. She and her mother attended a circle sentencing of the accused. The victim spoke about how grateful she was to have had the opportunity to voice her feelings directly to the accused so he could know how terrified she was that night. She explained how she no longer had the same sense of security and confidence that she used to have. The mother also explained how the incident affected her. She lived in much greater fear for her daughter's life to the point where she has become overly intrusive in her daughter's affairs. In addition, the victims appreciated listening to the offender himself and others who spoke of him and the kind of person he was. "Until that day, he had been, in their eyes, a one-dimensional monster who had lurched drunkenly out of the night" (p. 174).

Koshan (1998) notes that circle sentencing processes are likely to be more successful in taking into account the victim's perspective than mainstream reforms such as Victim's Bill of Rights reforms or victim impact statements. This is because in a circle process, the victim is a full participant and party to the proceedings, whereas, with Bill of Rights reforms and victim impact statements, the victim, although he/she has a voice, does not have status as a party to the proceedings. The case law dealing with the legal process of circle sentencing also identifies considerable value in having the victim present during the sentencing circle process (*R. v. Joseyoumen*, 1995). However, courts remain divided over the necessity of having the victim participate in a circle sentencing process. Some courts are prepared to accept alternative means of victims' communication of their concerns and perspectives such as having their statements read into the circle to avoid being present (*R. v. Gingell*, 1996).

It is important, however, not to generalize in this area by assuming all Aboriginal alternatives are of the same quality as misunderstandings may occur. For example, the review by Wemmers and Canuto (2002) states that circle sentencing provides little victim involvement. They refer to a study by La Prairie (1995b) to support this point. However, they mistakenly labeled what were diversion programs as circle sentencing programs when they made the argument that circle sentencing does little to promote victim participation. However, there are important distinctions

between diversion programs and sentencing circles. Although diversion programs can incorporate a circle consensus-decision making format as part of the process, they need not do so. Some diversion programs, for example, involve referring the offender to a council of Elders for determining a solution (RCAP 1996b). Judicial supervised circle sentencing generally endorses the need for the victim to be present in the circle despite some judicial pronouncements to the contrary. The theory behind an inclusive consensus-based circle decision-making format is one that requires victim input and participation (Green, 1998). Thus, it is not the process that is at fault when victims are not present but the management of the process and their failure to include them.

Courchene (1990) has indicated that Aboriginal women prefer the healing approach over the punitive criminal justice system. Such an approach offers a better chance at rehabilitating the offender in the long run. However, as the literature below indicates, this is certainly not a universal perspective of how Aboriginal women feel about restorative justice approaches.

10.2   Criticisms of Aboriginal Alternative Justice Processes for Victims

Not all Aboriginal justice initiatives are created equally. Some run the risk of not addressing the needs of the more vulnerable persons within Aboriginal communities or worse yet aggravating and compromising such persons, particularly women and children who are often the victims of violent crime and sexual abuse. Ross (1996) argues that reforms which call for Aboriginal "community courts", which are essentially a mirror image of the existing process, have been discredited to the extent that they "continue to promise identical failures, the secrets of abuse will remain, and the illness will continue to spread from one generation to the next" (p. 203). Furthermore, where communities adopt circle sentencing as the only aspect of Aboriginal justice reform with the existing criminal process remaining largely in tact and no comprehensive healing plan or a lack of community commitment, the process may merely continue to perpetuate existing patriarchal power imbalances in the community (Drummond, 1997; Crnkovich, 1995b, 1996).

Aboriginal alternative justice processes, including circle sentencing can be nothing more than a replication of existing inequalities within the community (Drummond, 1997). The system can be abused in the case of vulnerable groups within a community such as Aboriginal women.

> [I]t has been questioned whether victims are truly free to participate, or must bow to community pressure and the lack of meaningful alternatives. The prevalence of violence against women and children and the internalization of dominant attitudes may test whether healing is a viable option today. (Koshan, 1998, p. 42)

Nahanee (1995b) has maintained that treating Aboriginal women differently by allowing Aboriginal offenders to benefit from a healing approach which inevitably results in more lenient sentences is a violation of their human rights.[37] Moreover, such use of culture as a defence is offensive to Aboriginal women. Koshan (1998) explains:

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[37]   The concerns expressed by Aboriginal women in the literature regarding the possibility of reinforcing existing inequities by the implementation of Aboriginal justice alternatives parallels a body of literature that has raised

Aboriginal women perceive as too lenient, and indeed racist, the "culturally sensitive" sentencing of Aboriginal men convicted of crimes of violence. Sentences which allow a violent offender to remain in his community are seen as imposing very serious risks for survivors and potential victims of such crimes, emphasizing rehabilitation at the expense of community safety. Political and judicial support for community sentencing combined with the apathy or outright tolerance of some Aboriginal community leaders and elders towards violence against women may exacerbate these risks. (pp. 40-41)

Similar views were echoed in a study by Stewart and colleagues (2001) for the Aboriginal Women's Action Network. In this study, a number of focus groups were held with Aboriginal women throughout British Columbia. The women were concerned that Aboriginal alternatives should not be "romanticized and removed from the context of our lives as Aboriginal people" (p. 9). "These reforms can and do have a profound impact on women and children's safety particularly in communities that are geographically and socially isolated" (p. 9). Stewart and colleagues also noted that the view held by many women "was that cultural myths that have been taken on by the judiciary, and by extension the larger society, needed to be deconstructed, and that offenders should not be slotted into the role of victims" (p. 62). Some of the women were of the view that restorative justice processes should never be used for sexual abuse.

Furthermore, the study by McGillivray and Comasky (1999) found that most of the Aboriginal women victims in the study supported punishment over diversion and sentencing alternatives. In questioning this perspective further, however, the authors learned that:

Alternatives to the criminal justice system will not be acceptable to victims of intimate violence unless diversion can do what jail is now seen as doing, however, unsuccessfully – punish, visibly, actually, and symbolically, and protect, at least long enough for victims to begin to get their lives back on track. Alternatives will not be acceptable without reliable indication of successful treatment for abusers in programs that guarantee victims' safety for the duration of treatment. Concerns about political interference, lack of fair hearing for the victim, and lack of protection resulted in a generally negative response to the diversion of cases of intimate violence. (pp. 130-131)[38]

Caution must be exercised so that we do not jump too quickly to the assumption that all Aboriginal justice alternatives are problematic because of concerns with perpetuating Aboriginal women's inequality and failing to truly address their needs as victims in male dominated Aboriginal communities. Policy-makers must be aware that there is significant differences in the

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similar concerns with respect to alternative dispute resolution generally and mediation processes in particular (Rifkin, 1984; Bailey, 1988; Astor, 1991). We have found no comparisons between this literature and the Aboriginal justice literature. We are of the opinion that it may be useful to undertake a comparative feminist critique between the literature on alternative Aboriginal justice processes and the ADR mediation process generally.

[38] The review by Zellerer (1994) of Aboriginal family violence treatment programs for men acknowledged that programs for Aboriginal men who are abusive is a new area and only beginning to be developed. We have not found any other study that examines abuse from an Aboriginal man's treatment perspective and no studies that have evaluated existing programs.

quality of various Aboriginal justice alternatives and that there are examples of programs that take seriously into account the perspective of victims in addressing violence against women and children. Section 10.3 below discusses some of these.

10.3 Comprehensive Aboriginal Healing Processes

The Hollow Water healing model has been held out as an example of an alternative Aboriginal justice project that has been successful in addressing family violence and sexual abuse in the community. Although a circle healing process is part of the program, it is only part of a more comprehensive formal process that ensures that all participants are "ready" to participate including the victims who are provided support from a team approach of social, justice and health personnel. The healing plan is also based on a long-term therapeutic approach to treatment also supported by a comprehensive support team of trained experts and Elders (Ross, 1996). There are thirteen independent steps to completing the program at the end of which a cleansing ceremony is conducted (Native Counselling Services of Alberta, 2001).

A cost benefit study of the Hollow Water community healing program has also been recently conducted (Native Counselling Services of Alberta, 2001). Not only did this research study find that the Hollow Water approach saved money for the government (1/3 cost for Manitoba and ½ cost for Federal government over regular justice system expenses) it also found that in the past ten years, the recidivism rate is only 7% compared to the overall recidivism rate of 13%. It has a higher success rate than the mainstream justice system in terms of prevention. More research, however, needs to be undertaken from the perspective of the victim and victim satisfaction with such processes.

An earlier study by Ellis and Beaver (1993) seems to support the finding of Native Counselling Services of Alberta (2001) that Aboriginal approaches to justice are more effective. The objective of the Ellis and Beaver study was to describe the frequency and patterning of wife-abuse and identify its correlates and testing the impact that Aboriginal and mainstream criminal justice interventions have on it. The social context of this study was a First Nation community of approximately 8,000 people. In their conclusion the authors state:

> [T]he findings of the study are tentative … and relevant to only minor assaults (but) (t)hey strongly suggest that holistic, re-integrative, healing, community-based informal-indigenous interventions are more effective in reducing repeat wife-assaults than are formal [criminal justice interventions] involving charging/arresting suspects. (p.36)

In addition, Native Counselling Services of Alberta (2001) has found that the Hollow Water community has indirectly benefited from the program in terms of a markedly improved sense of community health and well-being. The authors of the report tracked how health and well-being has improved over the course of the program's implementation.

The link between the implementation of Aboriginal community justice healing programs and increased social cohesion and well-being is not well understood. Although the Simon Fraser review (Cohen, 2002) examines the literature on victimization and social cohesion, it is evident

from this review that there is no Aboriginal specific research examining the contribution of Aboriginal justice programs to improving overall social cohesion within communities.

The literature on social cohesion as a concept in addressing social order and harmony in society has evolved significantly in recent years. A useful study by Jenson (1998) as modified by Bernard (1999) has identified a number of dimensions that are useful in measuring the degree to which communities or society as a whole have a healthy sense of social cohesion. It may be useful to explore how Aboriginal justice programs contribute to social cohesion in terms of their impacts on these identified dimensions and how social cohesion impacts on victimization.

Canim Lake is another less known example of a community family violence program, which has been reported as a successful initiative (Warhaft, Palys, & Boyce, 1999). It works very much on the same principles of Hollow Water, that is, it implements a comprehensive holistic healing approach to dealing with offenders and victims. Unlike Hollow Water, however, this program does not require that offenders be charged with a criminal offence before being diverted to the program.

The examples of Hollow Water and Canim Lake illustrate the need to be careful about generalizations regarding the ability of Aboriginal justice alternatives to meet the needs of all community members including Aboriginal women. At the same time, it must be observed that programs such as Hollow Water may not necessarily work in other communities. Parachuting the model into other communities is not going to work unless there is a community process from the ground up that is committed to change. (Warhaft et al, 1999)

> Notwithstanding Canim Lake's continuing success, there are dangers to adopting any single model of Aboriginal justice development for all Aboriginal communities. Canim Lake's lengthy and community-driven path to the FVP must be considered by other communities (and government agencies) that may be tempted simply to adopt an existing programme into their communities. It is not the FVP *per se* that is the strength here, but the painstaking, inclusive *processes* by which it was generated. (pp. 179-180)

It is argued that it is the quality of the *process* element that is key and the part that is instrumental in facilitating real change in communities. It may be that processes that enhance collective social cohesion within the community are what have the greatest impact on reducing victimization than the implementation of Aboriginal justice programs *per se.* As part of this process adequate safeguards need to be in place to ensure victim safety and inclusion in the process.

For example, Crnkovich (1995b) does not argue that circle sentencing processes by themselves are necessarily inappropriate. If certain precautions are taken, the dangers of victimizing women in the process can be minimized. She offers a number of conditions that ought to be present before implementing a circle sentencing process.[39] Further research should be undertaken to explore how such precautions can ensure victims safety and interests.

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[39] She recommends the following safeguards:
- Exclusion of domestic violence and sexual assaults
- Ensure that there is sufficient infrastructure to support community-level alternatives
- Ensure volunteers are well resourced and avoid volunteers if possible by employment

There is a danger that judges who are seemingly sensitive to Aboriginal cultural differences will render judgments that are intended to be culturally sensitive, but in actual fact legitimize a distorted perspective of Aboriginal culture that benefits offenders at the expense of victims of abuse. For example, a well-intentioned judge might accept the argument that in Inuit culture it is a traditional custom for men to have intercourse with women as young as 14 years of age. The judge who accepts such an argument may be seen as "progressive" by modifying "mainstream" justice sentencing through accepting and legitimating Inuit cultural differences resulting in a less harsher punishment for the offender (Levan, 2001). However, in rendering such a decision, a judge is at the same time devaluing women and in particular Inuit women and could arguably be viewed as discriminatory by treating Inuit women as less worthy of the protections of the justice system (Koshan, 1998). Aboriginal male abusers may be released with lenient sentences, having not dealt with their anger issues that lead to offending in the first place, only to return to re-victimize their wives and children. As LaRocque (1994) argues, unless the offender is "treated" in an intensive healing approach like Hollow Water which involves long-term qualitative counselling/therapy programs in the community, the needs of women victims are not likely to be met (LaRocque, 1994).

Culturally sensitive sentencing processes such as circle sentencing is not enough without ongoing long-term treatment management in an environment where women's victimization is acknowledged and their concerns are addressed in a meaningful way and where their participation in the design and implementation of alternative justice systems is significant. Otherwise, such processes may actually cause greater harm than good (LaRocque, 1994).

The circumstances of the Aboriginal offender and his/her needs have been well researched and presented in the literature (RCAP, 1996a). Yet, there is little information on the impact of such Aboriginal justice initiatives on victims and communities. The review of the literature by Clairmont and Linden (1998) on developing and evaluating justice projects in Aboriginal communities made the important observation that there is minimal data on the intermediate or long term impact for victims of alternative Aboriginal justice programs. There is little evaluation on how alternative programs can overcome domestic victimization.

Further research is necessary to determine the perception in the Aboriginal community about the appropriate process for Aboriginal offenders and the degree to which Aboriginal people actually advocate rehabilitation and healing processes for offenders over punishment and societal protection (imprisonment) processes. It is not at all clear how much support exists for Aboriginal healing processes (Warry, 1998). Nor is it certain that, as has been often claimed, Aboriginal traditional processes were typically restorative in nature as opposed to punishment oriented (Ryan, 1993).

- A coordinated and comprehensive approach is necessary
- The definition of community must be broad and inclusive
- The process must be implemented from within the local community
- Guidelines for circle sentencing or other alternatives need to be established
- Recognition of power relationships and dynamics necessary.

Finally, a comment on Hazelhurst (1995) is valuable. Although process is as important if not more important than the particular justice program adopted by a community, it is still important that such programs be viewed as culturally appropriate and have a social reconstructive thrust to them. Hazelhurst summarizes the knowledge from a collection of essays and concludes that "indigenous solutions appear to be taking a three-pronged approach" (Hazelhurst, 1995, p. xxvii). In addition to the community healing approach describe above, such as Hollow Water, her solutions also include initiatives that recognize the value of customary and traditional processes of resolving disputes within the community and that implement such systems into the present justice system or allow for them to evolve separate and apart from the existing criminal justice system. Thirdly, crime prevention strategies are critical.

> Primary prevention helps to divert identified offending groups, particularly youth, away from offending by making life-involving activities more attractive than criminal ones. Popular examples include work-skills and employment training, arts, culture and dance programmes, outdoor recreation and sports, community festivals and social events- all of which enhance the social environments of communities. (Hazelhurst, 1995, p. xxvii)

The potential of reducing crime through community development has garnered the attention of the recent *Aboriginal Justice Implementation Commission in its Final Report*. The Commission devotes an entire chapter to crime prevention.

> Aboriginal people are not only over-represented as offenders in the justice system, they are over-represented as victims. A long-term goal must be to reduce the victimization of Aboriginal people. This means a greater focus on crime prevention measures in Aboriginal communities. Crime prevention requires commitment to improve a wide range of social factors, to focus on the roots of social disorganization rather than on the symptoms of that disorganization, and to nurture and strengthen families, young people, and communities. (Chartrand & Whitecloud, 2001)

However, this crime prevention "solution" is one that has not received much attention in the context of victimization studies. Questions that need to be addressed include: To what extent is the lack of recreational programs and facilities in a community related to victimization? Are communities with significant and varied recreational choices less likely to have high rates of victimization?

11. Services for Aboriginal Victims

An in-depth description of services for Aboriginal victims is beyond the scope of this review. However, we would like to make a few overall comments regarding common themes from the literature we reviewed. Every Canadian province and territory offers programs for victims of crime.[40] However, the difficulty with the majority of programs and services for victims of crime provided by provincial and territorial governments is their failure to be Aboriginal specific. Moreover, there is a lack of victim's services particularly for northern and remote communities (Levan, 2001). However, many Aboriginal social programs aimed at the causes of Aboriginal offending and resulting victimization (i.e., alcohol abuse, effects of colonization, poverty, etc.) are not categorized as programs for victimization although they accomplish many of the same goals. Indeed, a comprehensive healing program that addresses both the needs of the offender and the victims could be classified as a service for victims.

Frank (1992) found that:

> Aboriginal peoples who use mainstream services may find that their linguistic, cultural and spiritual differences and needs may not be understood, respected nor met. A report in British Columbia identified the following issues concerning the use of mainstream services: racism; women's fear of losing children; fear of re-victimization by institutions; fear of not being understood; not culturally relevant; lack of follow-up; fragmentation of services; lack of resources; ineffective communication; and jurisdictional disputes.

Other studies have found that there is both a shortage of programs particularly for the north (Levan, 2001; Evans et al., 1998) and a lack of sufficient funds to ensure existing programs are meeting essential needs (Heatherington & Mackenzie, 1994). For example, in the survey of victims services in Nunavut, Levan (2001) found that all respondents expressed frustration and concern over an almost complete lack of safety and recovery programs for victimized individuals. Van der Put (1990) provides a good literature review of issues pertaining to Aboriginal victim services. A project that updated the Van der Put review to the present day may be sufficient to obtain a comprehensive overview of the area.

In terms of studies that examine service delivery, one key report is a government report that summarizes a consultation of national Aboriginal organizations on the issue of sexual exploitation of children and youth (Blondin-Andrew, 1999). The recommended government action is to create an Urban Multipurpose Aboriginal Youth centre to provide programming that encourages Aboriginal youth to complete their education and employability. If the answer were only that simple! We know from the above synthesis of the literature that youth who have experienced violence in the family or who have been exposed to violence are at greater risk of

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[40]   For a review of these services, see the Victims of Crime website at http://www.acjnet.org/victims/english.htm.

being sexually exploited. Based on a synthesis of the literature, such programs may be a partial answer to addressing the needs of youth once they have been alienated and marginalized due to abusive situations, but they are not preventative in nature. They may provide some surface assistance, but such approaches to addressing victimization fail to address the complexities and depth of the socio-economic problems that lead to the continuation of the cycle of abuse. The solutions need to be much more multi-faceted to be effective in breaking the cycle of abuse.

12.   Conclusion

This literature review provides an overview of research needs of Aboriginal peoples (First Nations, Métis and Inuit) in the area of victimization. The effects of colonization must be understood as the foundation to the current over-representation of Aboriginal victims if adequate solutions are to be found. Studies have shown that victimization of Aboriginal peoples in Canada is pervasive, as compared to rates of victimization of other Canadians. Statistics confirm these conclusions. However, more research needs to be completed regarding the high rates of under-reporting of crime by Aboriginal people and why there is such reluctance.

Power imbalances lead to a particularly high level of victimization amongst the following groups: Aboriginal women, children and people with disabilities. This vulnerability without any supportive intervention can lead to prostitution and street gang activity. Thus, troubled or victimized Aboriginal youth are further victimized by their street activity. Studies show that Aboriginal youth who are victims to these activities have often experienced victimization as children, in terms of physical, sexual and/or emotional abuse.

The solutions to addressing Aboriginal victimization may lie in supporting the development of alternative dispute resolutions processes such as community healing models. However, as has been noted by Aboriginal women, there is a tendency by the criminal justice system and Aboriginal communities to develop models that fail to provide adequate protection to victims, particularly women in situations of domestic violence.   If victims, primarily Aboriginal women and children, are to be protected there is a real need to ensure that community processes have certain precautions that recognize the gender power imbalances that often exist in Aboriginal communities.

Part II: Research Gaps, Framework and Future Agenda

1.   Introduction

T his document is a research report based on the literature review on criminal victimization among First Nations, Métis and Inuit peoples. It begins by providing a suggested framework for approaching research in this area that recognizes and takes into account the particular identities and diversity of Aboriginal peoples in Canada. Within this framework, research ethics are discussed, which involve unique considerations when Aboriginal peoples and communities are involved. These considerations are important in order to ensure respect for Aboriginal peoples in the context of future research endeavors.

The report then provides a summary of the research that exists in the area of Aboriginal victims of crime. Next, it identifies research gaps, potential projects to address these gaps and suggested methodology for the particular project. The research gaps, potential projects and suggested methodology is set out in chart format.

2. An Aboriginal Research Framework

In identifying and implementing future research on Aboriginal victimization issues, consideration should be given to the proper identification of the Aboriginal peoples concerned and fulfilling the ethical standards appropriate to research involving Aboriginal communities.

2.1 Aboriginal Identity in Research

Aboriginal communities in Canada are very diverse. There are a multitude of distinct Aboriginal nations within the borders of Canada. After applying the criteria of nationhood status to the Aboriginal peoples of Canada, the Royal Commission on Aboriginal Peoples (RCAP, 1996b) found that there would be at least 60 –80 distinct Aboriginal nations.[41] Government policy makers and researchers should be aware of the existence of Aboriginal nations and conduct research that respects these natural political divisions. At a minimum, research should be specific as to whether the group being researched is Indian, Inuit or Métis. There are very different historical, political, social, cultural and legal differences between these broader categories that make it often inappropriate to generalize these groups into one Aboriginal category. In addition, when researchers are including all three groups then it is appropriate to use the term "Aboriginal peoples" in reference to groups being studied. If, however, only First Nations or Inuit are being studied, care must be undertaken to ensure that the reader knows that the Métis are excluded from the definition of Aboriginal under the circumstances. It is preferable to avoid using the term "Aboriginal peoples" when one of the major groupings such as Métis is excluded.

Moreover, there is diversity even within the three main categories of Aboriginal peoples. This is not to say that statistics that lump all Aboriginal peoples into the category of "Aboriginal" are not useful. General comparisons between Aboriginal and non-Aboriginal peoples can be very informative particularly in showing discrepancies in basic levels of social welfare and community safety between Aboriginal and non-Aboriginal Canadians. The demonstration of stark contrasts in social and economic well-being between non-Aboriginal people and Aboriginal peoples are often necessary to motivate governments to act. However, when research is designed to achieve certain policy objectives, then it becomes increasingly more important to be as specific of the Aboriginal population as possible. It is important that government policy makers and researchers have a solid understanding of Aboriginal history and sociology in order to ensure that research is relevant and meaningful.

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[41] RCAP (1996b) stated:

An Aboriginal Nation should be defined as a sizeable body of Aboriginal people that possesses a shared sense of national identity and constitutes the predominant population in a certain territory or collection of territories. Thus, the Mi'kmaq, the Innu, the Anishnabe, the Blood, the Haida, the Inuvialuit, the western Métis Nation and other peoples whose bonds have stayed at least partly intact, despite government interference, are nations. There are about 1,000 reserve and settlement communities in Canada, but there are 60 to 80 Aboriginal nations.

Ironically, our literature review on Aboriginal criminal victimization can be criticized for failing to be more specific as to whether the research under discussion was related to Indian, Métis or Inuit peoples. Our review more often than not uses the broad category of "Aboriginal peoples" in describing the findings of research reviewed. That this is the case was largely due, however, to the fact that the research and literature we were reviewing failed to make any distinctions within the broader category of Aboriginal peoples. Greater care is needed by researchers in classifying the Aboriginal group studied. Thus, it is important for future research to be as specific as possible about the Aboriginal community under discussion than is currently the practice.

Future research on Aboriginal criminal victimization should ensure that research survey instruments allow for meaningful and relevant identification of Aboriginal community identity. For example, any Aboriginal individual research participants should be allowed to identify if they are Indian, Métis, or Inuit in research instruments. Sub-categories should also be relevant for each of the three larger categories. For example, if someone identifies as Indian or First Nation[42], they should also be allowed to identify if they are, for example, Cree, Ojibwa, Salish or Mi'kmaq. For some of these Indian nations, further sub-categorization would be useful and necessary. For example, the Cree people are a very large group and include Swampy Cree, James Bay Cree and Woodlands Cree peoples. In addition, with respect to Indian or First Nations, depending on the region, particularly in Western Canada, it may be more relevant to have research participants identify with their Treaty affiliation.   Similarly within Métis and Inuit groups there are sub-identities that are more accurate in defining these peoples. For example, the Métis are comprised of the Western Métis who are descendants of the historic Métis Nation of the prairies and there are other self-identifying mixed-blood Métis peoples in other parts of Canada who have different evolutions and traditions. Likewise, the Inuit of Nunavut are different from the Inuit of Nunavik or Innuvialuit.

These sub-categories of identity are often more meaningful for Aboriginal peoples than the broader classifications and researchers should have an understanding of these distinctions in order to allow Aboriginal peoples to identify accordingly.

In addition, differences between urban and rural First Nations, Métis and Inuit peoples can be very useful comparisons. This victimization literature review shows that urban Aboriginal people are no less immune from high rates of victimization than are rural or on-reserve communities. In fact, some evidence indicates that urban Aboriginal peoples have higher rates of victimization. Arguably, the pressures of assimilation are greater in a heterogeneous urban environment than they are in a relatively homogenous rural environment. Does the increased pressure of assimilation, assuming it is a factor, increase the risk of victimization? The urban/rural distinction is a valid one to consider in addition to the sub-categories of Aboriginal identity discussed above.

The distinction between urban and rural populations may also be a more appropriate factor for researching victimization issues than other distinctions that are typically used in research such as

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[42]   It may be more correct to identify Indian people as "First Nations" people. In our literature review we define First Nations people as including status and non-status Indians. Furthermore, we restrict the term First Nations to Indians and do not include the Métis or Inuit within this definition.

on-reserve/off-reserve living. The on-reserve/off-reserve distinction may be relevant if the research is concerned only with First Nations (status Indians) and not Métis or Inuit communities. Métis or Inuit peoples generally do not live on reserves. There are some Métis in Alberta who live on Métis settlements which are comparable legally and socially to rural reserve communities, but this group represents only a fraction of the Métis population in Canada. Furthermore, the Métis and Inuit peoples have not been directly impacted by the imposition of the *Indian Act* – a history that is unique to First Nations peoples.

The 1999 General Social Survey focused on victimization in Canada, and for the first time, this victimization survey collected data on race and cultural background including Aboriginal status. It is not clear from the GSS report how Aboriginal peoples were defined. However, as discussed in the literature review above, it acknowledges the significantly higher rates of violent victimization of Aboriginal peoples, but the report provides no further analysis of this population (Statistics Canada, 2001c). Another national study, the *Canadian Incidence Study of Reported Child Abuse and Neglect* (CIS), dealing with the incidence of reported child abuse in Canada included a section in their report on the incidence of child abuse among parents of Aboriginal heritage (Trocmé et. al., 2001). The CIS report does not inform us about how Aboriginal heritage was defined. One could assume that the CIS report's definition of Aboriginal heritage would include those who identified as Indian, Métis and Inuit.[43] However, the CIS report then goes on to compare the incidence of child abuse between Aboriginal people living on reserve and Aboriginal people living off-reserve. As discussed above, however, this distinction of off-reserve/on-reserve is meaningless for Métis and Inuit peoples. Arguably, a more accurate distinction would have been based on an urban/rural dichotomy.

> *Recommendations*:
>
> A. Future research on victimization of Aboriginal peoples must ensure that the definitions used to define the Aboriginal group are as accurate and as meaningful as possible given the objectives of the research. Distinctions and comparisons must be based on accurate information regarding the unique social and legal circumstances that exist among Aboriginal peoples in Canada.
>
> B. The inclusion of the Aboriginal population as an identifiable factor in general research such as the GSS or CIS should continue to be encouraged. However, such research should not be undertaken without the advice and expertise of a specialist in Aboriginal studies in order to ensure that adequate categorization of the Aboriginal peoples is made within the research and that appropriate distinctions are drawn. It may not be necessary to consult an expert if the ethical standards for conducting research in Aboriginal communities are followed as discussed below.

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[43]   Arguably those who have "Aboriginal heritage" is a larger group than those who identify as "Aboriginal" whether Indian, Métis or Inuit. One can have Aboriginal heritage and not identify with such a part of their heritage.

2.2   Research Ethics involving Aboriginal Clients

Research involving Aboriginal clients raises unique ethical issues. There are considerations when conducting research involving Aboriginal communities that should be followed in addition to the ethical standards that all researchers must comply with in conducting research involving human subjects. If particular Aboriginal communities are involved in the proposed research, these communities may have unique collective interests in how the research is to be conducted.

Collective Aboriginal interests may arise where cultural property belonging to the community or Aboriginal nation as a whole is affected. These interests may include physical properties such as burial grounds and sacred sites or intellectual interests such as legends, stories and songs. Collective interests may also be affected if the research is intended to analysis or describe characteristics of the group being studied. Thus, it is important that researchers are aware of the unique ethical standards that exist with respect to conducting research that involves Aboriginal peoples and communities. The Tri-Council Policy Statement *Ethical Conduct for Research Involving Humans* (Tri-Council, 1998) provides a useful list of "good practices" that will assist researchers in complying with ethical standards in this area.

Primary among these "good practices" is that researchers must respect Aboriginal knowledge, traditions and laws. They need to avoid applying Eurocentric assumptions about knowledge and accept that there may be differences between Aboriginal understandings and Western understandings. Respect for Aboriginal communities requires "drawing up appropriate protocols for entering into reciprocal relationships following traditional laws and rights" (Battiste & Henderson, 2000, p. 135). Ideally, researchers, particularly non-Aboriginal researchers, should have cross-cultural training and an understanding of the language. "Indigenous languages offer not just a communication tool for unlocking knowledge, they also offer a theory for understanding that knowledge and an unfolding paradigmatic process for restoration and healing" (Battiste & Henderson, 2000, p. 133).

Related to the respect requirement is the need to form true partnerships with Aboriginal communities. The common theme among the literature dealing Aboriginal research ethics is the importance given to involvement of the Aboriginal community. The more the community is involved, the more likely the research will have complied with the applicable ethical standards.[44] For example, the American Indian Law Center provides a useful "checklist" for researchers to review to ensure that any potential ethical issues are flagged for consideration. This checklist also provides a useful "spectrum" of how a researcher's invitation for community involvement can be measured. It provides summaries of the least satisfactory model to the most satisfactory model. We set out their continuum of involvement in full below:

1.   "Safari" or helicopter research, in which the researcher drops into the community, gathers the data, then leaves with the data for good;

2.   "Show and Tell" research, in which the researcher comes back to report the research results to the community;

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[44]   For a useful discussion of how "participatory research" models complement ethical guidelines as they pertain to research involving Aboriginal peoples, see Macaulay and colleagues (1999).

3.   The tribe and the researcher agree that in exchange for the tribe's approval of and consent to research in the community (in addition to the essential consent of individual research subjects), certain additional services or benefits will be accorded to the tribe or community by the researcher;

4.   As part of the project, the researcher increases the capacity of the tribe or individuals, i.e., improves the capabilities of the tribe to deliver services or do its own research, trains individuals to work in research projects or conduct their own research;

5.   The researcher and the tribe are partners in the design, execution, analysis and reporting of the research; with its own capacity the tribe contributes resources and ideas that contribute significantly to the research;

6.   The tribe determines its research priorities, and initiates the research. It calls in researchers as needed to be partners or consultants in the design, execution, analysis, and reporting of the research.

Arguably the first and second type of community involvement in research would not meet present day understandings of ethical research when Aboriginal communities are involved unless the communities themselves are fully aware of the nature of their proposed involvement and consent accordingly. The importance of meaningful Aboriginal community involvement is reflected in the emerging literature dealing with Aboriginal governance regarding research. The National Aboriginal Health Organization (NAHO) has been promoting dialogue on this issue recently by holding forums and conferences on the issue of Aboriginal governance and ethics in Aboriginal research. For example, a key recommendation coming from NAHO is that specific Research Ethic Board(s) be created (NAHO, 2002).

Other considerations include ensuring that the research is shaped in such a way that it will benefit the community positively. Outside researchers have not always ensured that this important outcome was a part of their research and in some cases researchers have actually harmed the communities researched (Tri-Council Report, 1998).[45] Also consideration must be given to how information and data will be controlled and disseminated to the public at large. There should be an agreed upon repository. Additional considerations are necessary to protect confidentiality if the knowledge is sensitive and involves Aboriginal culture or customs considered sacred and private. Failure to protect indigenous knowledge and culture may involve legal repercussions to the extent that such knowledge is a protected Aboriginal right under s. 35 of the *Constitution*. Finally, where conflict exists in interpreting the data between

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[45]   Tri-Council Policy Statement *Ethical Conduct for Research Involving Humans* (Tri-Council Medical Research Council of Canada [MRCC], Natural Sciences and Engineering Research Council of Canada [NSERC] & Social Science and Humanities Research Council of Canada [SSHRCC], 1998) provides a useful list of "good practices" that will assist researchers in complying with ethical standards in this area. See http://www.ncehr-cneeh.org

community and researchers, it is important that the community views be explained within any research publication.

The above considerations are important for researchers to apply when projects involve Aboriginal communities and individuals. Thus, researchers in the area of Aboriginal victimization should also incorporate Aboriginal specific ethical standards in any projects that include Aboriginal individuals and Aboriginal communities.

Recommendation

C.   Community-based research on victimization must involve the Aboriginal community at all stages of the research process and conceptualize the research process as a true partnership. Where research is regional, provincial or national in scope, the appropriate Aboriginal organizations representing Aboriginal peoples at those levels should also be approached and invited to participate as partners in proposed research activities.

D.   Justice Canada should continue to not grant any research funds unless it is satisfied that at a minimum the criteria for "good practices" have or will be satisfied.

3.   A Summary of Existing Research on Aboriginal Victimization

There exists a sizable body of literature involving Aboriginal victimization. National studies are beginning to include Aboriginal identity as a factor in their analysis. These national studies, however, fail to examine in any significant degree Aboriginal victimization issues beyond a few general statistics concerning the high rate of victimization of Aboriginal peoples by violence.

There are also a number of specific community-based studies that have examined the prevalence of victimization among Aboriginal women. Many of these studies are qualitative in nature with small populations being studied. In addition, there have been some attempts to explain the reasons for such disproportionately high rates of spousal violence as well. These explanations flow logically from various theories of Aboriginal colonization and the negative impacts of colonization on Aboriginal peoples. However, these explanations have yet to be statistically evaluated in any comprehensive manner.

There are also some studies that have examined child abuse and the "cycle of violence" that exposure to childhood victimization can cause. The data that examines the degree to which such behaviour is learned and its impacts, however, remains inconsistent and controversial. There are some good examples of participatory research dealing with Aboriginal sex trade involvement that includes important insights about child victimization. Such a study would be a good model to begin to look at Aboriginal youth victimization generally.

There has been some excellent research conducted which examines the issue of Aboriginal victimization in urban centres. This research is insightful and informative. However, further research comparing the differences between rural Aboriginal communities and urban communities would be beneficial.

There is also some work that is now beginning to examine the impact of alternatives to mainstream justice processes in Aboriginal communities and whether they are serving the needs of victims fairly and appropriately. There is division within the existing literature regarding the cultural validity of such alternatives and whether they are positive developments for overall community well-being. There is some evaluative work that has been done of Aboriginal alternatives and healing approaches (Lane et al., 2002). For example, the Hollow Water study showed that there was a positive improvement on community well-being (Native Counselling Services of Alberta, 2001). However, more evaluative research is needed in this area particularly from the perspective of victims.

The research in this area tends to be piece-meal and somewhat scattered. There is no overall theme that provides a common thread for assessing the findings of disparate research studies. There is really no visible efforts or attempts evident that expands upon or builds from existing knowledge. It is difficult, if impossible, with much of the existing research to make important comparisons within the Aboriginal community or between Aboriginal and non-Aboriginal societies.

4.   Identified Research Gaps

B ased on the literature review, we identify several key research gaps. In this section we briefly identify these gaps, including some specific research questions that seem to logically flow from the identified gap. We then offer a Research Agenda in chart form that elaborates on the gaps by identifying methodological issues and potential specific research projects. Finally, we offer a few suggestions for projects that could be completed within a two-year time frame.

The following research gaps have been identified:

1.   More and more research examines each of the Aboriginal groups separately, however, research on First Nations seems to have been the predominate focus with little to no research on Inuit people and less on Métis people. Although there is a need to conduct further research on victimization in First Nations and even more of a need for Inuit communities, there is almost no Métis specific research or data on victimization within Métis communities. Research on victimization within the Métis community must be a priority to ensure some semblance of equity of research data between the various Aboriginal groups.

2.   The impact of colonization on the level of victimization experienced needs to be better understood. In particular, what effects does it have on cultural identity both on an individual and a community level? Knowledge gained from further research on these types of questions will help policy makers determine program priorities and direction.

3.   We agree with the recent literature review by ANAC and the RCMP (2001) that there is little quantitative data on victimization. There is more qualitative data that is valuable but it does not always meet statistical standards and have been criticized.

What is needed is a comprehensive quantitative research examining Aboriginal community by Aboriginal community and compare rates of victimization with other factors such as socio-economic status and education level. There is a gap in the research regarding any studies that have a longitudinal component to them. How do Aboriginal peoples experience victimization over time? How do Aboriginal communities' rates of crime and victimization change? What factors enhance or exacerbate victimization? Longitudinal studies will help to answer these and other similar questions. A national comprehensive survey is needed which can address these and other important questions. It could help to tell us where, in real numbers, the majority of victimizations against Aboriginal peoples are taking place. Are there rural and urban communities that are more characteristic of the national norms or better? If so, why? What makes these communities healthier?

4.   There is a need to learn more about the perception that Aboriginal peoples (First Nations, Inuit and Métis) have about the appropriate processes for dealing with Aboriginal offenders. To what extent do Aboriginal people advocate punishment over healing? Is there a difference

among Aboriginal groups? For example, Métis groups may be less inclined to advance healing approaches since Métis culture is a mixture of Indigenous and European cultures. What are the differences between the perceptions of men and women? Some of the qualitative research seems to suggest women are less inclined to be in favour of "healing" approaches especially in the area of family violence. There is also some debate as to the traditional nature of Aboriginal dispute resolution and whether a community's perception of Aboriginal healing as a traditional process is a factor in their acceptance and legitimacy.

5.   In terms of alternative justice processes, there is little research that evaluates their effectiveness and this is particularly so in terms of victimization. Do Aboriginal "healing" programs have a positive impact on reducing victimization? What impacts do alternative justice processes have on victim satisfaction? Is there an important difference between victim participation and the type of alternative process? How does the degree of victim participation in alternative community justice processes relate to the community's overall health and well-being? What safeguards are necessary to make alternative processes effective in addressing the needs of victims and offenders?

6.   It is unclear in the literature as to the different effects child abuse has on an individual's adult life and their future risk of victimization. Are there gender differences related to the impact of sexual abuse experienced as a child? Is child abuse a factor in youth and adult participation in the commercial sex trade? Are there differences if a child was physically abused as opposed to sexually abused? What is the impact of witnessing abuse in the home?

7.   Non-reporting of violence and crime is a serious concern in Aboriginal communities. What factors cause such high rates of non-reporting and are there important difference between Aboriginal communities, gender and age?

8.   There is a need to obtain more data about the rate of victimization of Aboriginal peoples with disabilities and some of the issues that are unique to this population. There is also growing concern about victimization of Aboriginal Elders. Currently, Durst, Bluechardt and Morin (2001) from the Social Policy Research Unit of the University of Regina are undertaking a project examining barriers to urban Aboriginal people with disabilities. It is a two-year study of Aboriginal people in Regina and Saskatoon which will collect data by surveys and interviews intended to clarify the problems faced by urban Aboriginal people and to identity gaps in services. It is unknown from the description of the project whether victimization issues are being explored. It would seem that a few targeted questions concerning victimization and access to victim services could be added to such a study. It would be unfortunate to miss an opportunity to "tag" on to such studies concerns regarding victimization. The Policy Centre for Victims Issues and the Research and Statistics Division of the Department of Justice would benefit from keeping abreast of research proposals dealing with Aboriginal issues in other departments and agencies and from getting involved at the design stage in order to put forth, where appropriate, questions concerning victimization.

9. The literature has shown that Aboriginal communities are diverse and that not all have a serious problem with violence or other social dysfunction (Stenning & Roberts, 2001). More research needs to be done from the perspective of why some Aboriginal communities are relatively "victim free". There is very little research that has examined the issue from a "positive" perspective. Some research coming out of Australia has examined community crime and violence by looking at protective factors such as cultural resilience and personal and family control factors (Homel, Lincoln, & Heard, 1999). Fostering future research that takes this perspective may prove to be quite fruitful.

In understanding the relationship between "cultural health" and victimization, we would want to ask questions that get at the degree to which individuals within the community participate in cultural activities and the degree to which traditional activities and language are maintained. Such questions would have to be tailored to the specific Aboriginal group.

5.   An Aboriginal Victimization Research Agenda

Table of Possible Projects

Research Gap Priorities	Possible Projects	Proposed Methodology
A. There is a need for a national profile of Aboriginal criminal victimization. This survey should have as major components the examination of child and spousal violence and the victimization of people with disabilities. This national study should also have a longitudinal component so that changes in victimization rates and perceptions can be measured over time. Impacts such as colonization, the residential school system, normalization of crime and lack of services generally and culturally appropriate services specifically could be examined within this study. In addition, there is a need to learn how Aboriginal communities themselves perceive the extent of the problem and what actions should be taken to address the problem.	A comprehensive national survey of Aboriginal victimization issues should be undertaken. This survey would examine many of the factors and issues of the 1999 GSS survey and thus allow for comparison between Aboriginal and non-Aboriginal communities of equivalent social and economic status. In addition to the factors raised in the GSS survey, additional factors unique to Aboriginal peoples should also be surveyed such as the impacts of cultural and language maintenance and racism on victimization rates. Emphasis should be on learning more about sexual assault victimization and offending patterns.	A general survey instrument should be prepared which allows for Aboriginal identity along the lines discussed in the above framework and should also allow for a breakdown by rural and urban categories. Socio-economic data should also be collected in a manner that allows for comparison to the general population. Partnerships with national Aboriginal organizations should be developed at the initial stages of survey design. Experts in Aboriginal studies should also be consulted and involved as researchers. The survey would ideally be administered to a cross-section of Aboriginal communities representative of the diversity of Aboriginal communities in Canada. A sampling of those Aboriginal respondents who have been the victim of childhood abuse should be identified and asked if they would be willing to participate in a separate study to examine the effects of childhood victimization of Aboriginal peoples.
B. There is a need to understand the experiences of Aboriginal victimization over time and how rates of crime and victimization change on a community level.	A cross-section of Aboriginal communities in Canada would be identified and surveyed several times over a period of many years (e.g., a survey every 5 years for 25 years) based on the above national survey design for consistency and comparison.	Certain communities would be singled out as a "panel" group for subsequent future surveys to enable a monitoring of change over time. These communities would be representative of Indian, Métis, Inuit, rural and urban communities. Research partnerships would be formed with these communities.

Research Gap Priorities	Possible Projects	Proposed Methodology
C. There is a need to better understand the relationship between positive Aboriginal identity and cultural connection and victimization experiences and rates within Aboriginal communities.	A quantitative and qualitative study of several Aboriginal communities should be undertaken that focuses on the impact that a positive Aboriginal identity and cultural health and connectedness has on the prevalence of victimization in such communities. Communities that are perceived as already relatively victim free and safe communities should be a part of study to better understand the factors that contribute to positive community resilience and social order. In addition, a sampling of neighbouring communities perceptions of the subject Aboriginal communities levels of the cultural health and connectedness should be conducted.	In partnership with regional and local Aboriginal organizations, a number of Aboriginal communities representative of the diversity of Aboriginal peoples in Canada should be identified for research. Individual surveys and focus groups should be conducted to measure the perceived impact of culture and identity on crime and victimization levels in their communities. This information would be compared to available crime and victimization statistics from other sources for each community. If possible, similar questions and survey design from the national survey should be incorporated to allow for national and local comparisons.
D. There is a need to measure the effectiveness of Aboriginal alternatives to mainstream criminal justice processes on victim satisfaction and reducing victimization in Aboriginal communities. Healing programs need to be assessed and measured in terms of their ability to reduce victimization rates in the community.	A number of Aboriginal communities have established Aboriginal alternatives to the mainstream justice system and have been implemented for several years. The impact that these alternatives have on victimization within their communities should be measured. In addition, the perceptions of victims of such alternatives should be obtained. For example, their fairness from the victims perspective and level of victim involvement should be measured. In addition, a general survey should be conducted to determine the desirability within the Aboriginal	In partnership with national, regional and local Aboriginal communities and experts in Aboriginal justice, a catalogue of alternative Aboriginal justice processes should be designed. For example, there are communities that have very comprehensive "healing" models for dealing with Aboriginal offenders and victims and there are communities that use "Elders panels" during sentencing. There is a need for evaluative research in this area. Communities representative of the various models of alternative justice should be identified and their effectiveness on victimization rates and victim satisfaction should be measured.

Research Gap Priorities	Possible Projects	Proposed Methodology
	communities of establishing alternatives to the mainstream system and to what extent they are perceived as traditional or otherwise. (Is there widespread support for such alternatives or is it the influence of a few influential and vocal members?)	
E. There is a need to understand why some communities have "normalized" violence. A related gap is the need to identify the barriers that exist in some Aboriginal communities for victims of family violence to seek safety and help.	A number of communities that are identified as having high family violence rates, but low reporting rates of such victimization should be studied with a view as to understanding the social and cultural factors that contribute to the "normalization" of violence and the "helplessness" of victims to seek help.	The national survey should be designed in such a way that communities that fit this profile can be identified. (i.e., communities with high levels of family violence but low levels of reporting). As a part of these studies, the theory that Aboriginal men become abusive because they have lost their traditional roles and hence sense of power and dignity in society should be tested.
F. There is a need to understand the relationship between racism and discrimination and Aboriginal victimization. In addition, a survey of non-Aboriginal offenders that caused harm to Aboriginal victims should be studied to determine from their own perspectives whether their actions were racially motivated or based on stereotypical and discriminatory views of Aboriginal peoples.	A study of Aboriginal victimization (as a component of a national survey or separate study) should examine the extent to which Aboriginal people feel that their victimization was in part due to the existence of racist or discriminatory attitudes of the offender.	Although the literature so far supports the finding that the majority of Aboriginal victimization was caused by Aboriginal offenders, there is a significant number of Aboriginal victim and non-Aboriginal offender scenarios. A survey instrument should be designed that identifies whether specific instances of victimization involved non-Aboriginal offenders and whether the victims perceived that the offender was racially motivated to cause harm.
G. A study on the issues of youth victimization should be undertaken that is comprehensive quantitative study.	This project should involve an analysis of reasons for Aboriginal youth victimization and youth involvement in gangs and the sex trade and strategies to decrease such involvement.	This study should be national in scope, involving a statistically significant number of Aboriginal youth. Partnerships with Aboriginal youth organizations may ensure that the target group is adequately reached.

Research Gap Priorities	Possible Projects	Proposed Methodology
H. Research on the relationship between victimization and disability is needed. Although disability and criminal victimization would be an issue to learn more of through a national general survey as discussed above, we believe the area requires separate treatment so that more specific research and analysis can be undertaken. This should also include an examination of the relationship between HIV/AIDS and sexual assaults.	Research projects in this area should be both quantitative and qualitative. Surveys could be conducted on a community level. In addition, much could be learned from focus group discussions.	In developing the methodology for projects in this area, inclusion of Aboriginal organizations that represent Aboriginal people with disabilities is essential.

The above chart represents seven general areas where further research on Aboriginal victimization would be desirable to facilitate our understanding of the factors that contribute to Aboriginal victimization and those factors that may reduce the incidence of victimization in Aboriginal communities. Although we have listed the research gaps in a particular sequence, our numbering should not be viewed as a priority list. We are uncomfortable in concluding that one research gap is more important than the others. However, we do feel that the national survey is an essential first step to subsequent research and therefore have prioritized those projects that relate to a national Aboriginal survey of victimization as the first research gap priority.

5.1   Short Term Projects

The Policy Centre for Victims Issues asked us if we would identify projects that might reasonably fall within a two-year time frame. It is obvious that many of the above gaps and projects listed in the chart would require long-term implementation beyond two years. Consequently, we have identified the following projects that might be undertaken in a two-year time frame.

1.   A limited and scaled-back national survey that examines basic questions such as the incidence of victimization in Aboriginal communities in Canada by selecting a sampling of communities that would be said to be representative of Aboriginal communities in Canada may be possible. The survey could also be limited to obtaining basic incidence rates of victimization, social and economic data and cultural health. Questions that attempt to identify the level of cultural health of a community

would need to be developed in consultation with Aboriginal communities
and organizations.

2.   A project could be undertaken to measure the impact on victimization rates between communities that have implemented different types of justice and healing programs. Do certain types of programs have greater success on victimization rates than others? This would not be a longitudinal study, but rather a comparison between various programs.

3.   A project that examines the issue of "normalization" of violence through focus group workshops in various communities and with various Aboriginal stakeholders may be possible. The information that would be obtained could then be used to examine the issue on a broader national level in a subsequent survey.

4.   A case study of non-Aboriginal offenders that committed crimes against Aboriginal victims could also be undertaken to examine the prevalence of racism in the motivation of such crimes. Potential informants could be accessed from those who have been sentenced for crimes where the offender was white and the victim was Aboriginal. A cross-section of penal institutions may be identified for study.

5.   A specific and targeted project that tries to examine, in depth, the extent and nature of youth sex trade involvement may be possible. Case studies of two or three cities where the over-representation of Aboriginal youth have been perceived as a serious problem may be possible in a two-year time frame.

The above list includes projects that could reasonably be undertaken within a short time frame of two years. Other research gaps, which examine victimization patterns over time, evaluations of programs to measure victimization impacts and broader large-scale comparisons are unlikely to be possible in such a short time frame.

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R. v. Gingell (1996), 50 C.R. (4th) 326.

R. v. Gladue [1999] 1 S.C.R. 688.

R. v. Joseyman [1995] 6 W.W.R. 438.

Appendix A

List of Justice Inquiries and Commissions

Provincial/Regional:

1989   The Royal Commission on the Donald Marshall Inquiry (Nova Scotia)

1990   The Osnaburgh/Windigo Tribal Council Justice Review (Northern Ontario)

1991   Report of the Aboriginal Justice Inquiry of Manitoba

1991   The Task Force on the Criminal Justice System and its Impact on the Indian and Métis People of Alberta

1991   Policing in Relation to the Blood Tribe (Southern Alberta)

1992   Indian Justice Review Committee and Métis Justice Review Committee (Saskatchewan)

1993   The Caribou Chicoltin Justice Report (Interior British Columbia)

1995   Report and Recommendations of the Advisory Committee on the Administration of Justice in Aboriginal Communities (Quebec)

Federal:

1990   Indian and Northern Affairs Canada: Indian Policing Policy Review

1991   Correctional Services Canada: Task Force on Federally Sentenced Women

1991   Law Reform Commission of Canada: Aboriginal Peoples and Criminal Justice

1996   Royal Commission On Aboriginal Peoples: Bridging the Cultural Divide