

## **APPENDICES AND BIBLIOGRAPHY**

## **APPENDIX A**

### **SEVEN CENTRAL THEMES FOR FOCUS GROUP DISCUSSION**

1. CRIME IN PEI FN COMMUNITIES- HOW SIGNIFICANT IS IT AND IS IT INCREASING OR DECLINING? WHY?
2. ARE THERE SIGNIFICANT FAMILY JUSTICE ISSUES (CUSTODY, MAINTENANCE ETC) AMONG FN PEOPLE IN YOUR AREA?
3. ARE THERE SIGNIFICANT ISSUES ABOUT BAND BYLAWS AND BAND POLICIES / AGREEMENTS THAT CAUSE CONFLICT IN YOUR COMMUNITY OR AREA?
4. WHAT HAS BEEN THE EXPERIENCE OF FN ADULTS IN YOUR AREA WITH RESPECT TO THE JUSTICE SYSTEM (CRIMINAL OR FAMILY, OFFENDERS OR VICTIMS)? WHAT CHANGES SHOULD BE MADE IN THIS SYSTEM TO IMPROVE ITS RESPONSE TO ABORIGINAL PEOPLE? FIRST DISCUSS THE CRIMINAL JUSTICE SYSTEM AND THEN THE FAMILY JUSTICE SYSTEM
5. WHAT DO YOU AND YOUR CLOSE FRIENDS THINK ABOUT THE AJP JUSTICE PROGRAMS THAT HAVE BEEN AVAILABLE IN THE COMMUNITY? (E,G, CIRCLE KEEPERS, DIVERSION CIRCLES)
6. WHAT ARE THE ADDITIONAL JUSTICE SERVICES OR PROGRAMS THAT ADULTS IN YOUR AREA MIGHT WANT TO CONSIDER? WHAT ARE THE OBSTACLES THAT HAVE TO BE OVERCOME IF WE TRY TO ACHIEVE THESE? HOW CAN THESE OBSTACLES BE OVERCOME?
7. HOW MUCH PRIORITY SHOULD BE GIVEN TO EACH OF THE FOLLOWING AND WHY?
  - A) AWARENESS AND CULTURAL SENSITIVITY TRAINING FOR THE JUSTICE OFFICIALS IN THE AREA.
  - B) MORE INFORMATION AND AWARENESS FOR ABORIGINAL PEOPLE ABOUT THE JUSTICE SYSTEM
  - C) MORE INFORMATION AND ACCESS WITH REGARD TO THE MCPEI AJP ACTIVITIES.
  - D) NATIVE COURT WORKER PROGRAMS TO ASSIST PEOPLE WHO GO TO COURT
  - E) USE OF AJP CIRCLE KEEPERS TO HANDLE LESS SERIOUS CRIMES AND OTHER COMMUNITY CONFLICT
  - F) OTHER?

8. CURRENTLY MCPEI AJP SERVICES ARE DELIVERED BY THE PROVINCE-WIDE AJP UNDER THE DIRECTION OF MCPEI AND WITH AN ADVISORY COMMITTEE CONSISTING OF THE 2 BANDS, AWA, AND NATIVE COUNCIL.

A) ARE THE FN PEOPLE IN YOUR AREA SATISFIED WITH THIS ARRANGEMENT?

B) ARE THERE ANY CHANGES THAT MIGHT BE CONSIDERED? WHICH? WHY?

## **APPENDIX B**

### **INTERVIEW GUIDE FOR PEI MI'KMAW ABORIGINAL JUSTICE PROGRAM: SEVEN CORE TOPICS TO EXPLORE WITH STAKEHOLDERS**

#### **A. MAIN JUSTICE ISSUES FOR MI'KMAQ PEOPLE IN PEI**

What are the main justice issues facing Mi'kmaq people in your area today?

- (1) What are the major crime or offender problems? Is the crime level high? Is it increasing or declining?
- (2) What are the major civil (e.g., neighbour-neighbour disputes,) and family justice (divorce, access to children, maintenance payments) issues?
- (3) What about regulatory justice issues such as violations of band policies/agreements in areas such as in fisheries or use of reserve lands by band members – is this a challenge area?

#### **B. THE CURRENT MAINSTREAM JUSTICE SYSTEMS**

- (1) Does the current PEI criminal justice system serve Mi'kmaq people well?
- (2) Are there some justice matters (such as legal representation, sentencing, help for victims?) handled well there for Mi'kmaq people?
- (3) What are the shortcomings for Mi'kmaq people? What would be your major priorities for change in the criminal justice system?
- (4) Does the current PEI justice system serve Mi'kmaq people well in the civil justice system (small claims court etc) and the family court (issues such as divorce, maintenance, custody rights)?
- (5) Are there some justice matters (legal assistance?) handled well there for Mi'kmaq people? Which?
- (6) What are the shortcomings for Mi'kmaq people?
- (7) What would be your major priorities for change in the civil and family justice systems?

### **C. CURRENT MI'KMAQ POSSIBILITIES AND CAPACITY IN PEI**

Do you anticipate and/or want more Mi'kmaq control or influence in justice matters? (PROBE FOR SPECIFICS)

- (1) In the criminal justice system? Discuss specifics.
- (2) What about in the civil and family justice systems? Discuss specifics.
- (3) What about in the regulatory area concerning fisheries, natural resources? Discuss specifics.
- (4) Does the Mi'kmaq community in PEI have the capacity to undertake more management and direction of criminal and civil justice matters? Discuss
- (5) What further resources are needed? (education? financial? organizational? other?)
- (6) Are there major obstacles that would have to be overcome?
  - Are these obstacles internal to the Mi'kmaq community (not enough consensus? scattered, small population etc)?
  - Are some obstacles external (e.g., resistance from federal and provincial governments)?

### **D. FAMILIARITY WITH MCPEI AJP AND THE PROGRAMS**

- (1) How well informed are you about the AJP and its three chief programs – (a) circle keepers, (b) justice circles, and (c) cultural sensitivity training for Justice officials? (Consider Each)
- (2) Have you had any experience / contact with these programs (Please provide Specifics);
- (3) Do you know about the (a) MCPEI AJP mandate, (b) its organizational structure, (c) its membership and (d) its funding? (Consider Each)

## **E. ASSESSMENT OF THE AJP ORGANIZATION AND THE PROGRAMS**

- (1) What is your assessment of the specific programs and of the AJP overall?
- (2) Do you think that the organization and the programs are valuable? If so, How?
- (3) Is the MCPEI AJP doing the right things in the right way?
- (4) Should it be doing other things in the justice area? What would you recommend?

## **F. ISSUES AND CHALLENGES FOR MI'KMAQ JUSTICE INITIATIVES**

- (1) What are the chief issues that Mi'kmaq justice initiatives should focus on? (Suggestions: community courts, reintegration of offenders, cultural awareness training for justice officials, community dispute resolution)?
- (2) What are the challenges that achieving these new Mi'kmaq justice initiatives would have to contend with? (Suggestions: is there community support for them? small population too small and scattered?)
- (4) Should these desired changes be done through the AJP? Are the AJP and its programs the building blocks for new, needed justice initiatives for Mi'kmaq people in PEI?

## **G. SUGGESTIONS FOR STRUCTURE AND SERVICE DELIVERY**

MCPEI AJP is a province-wide Mi'kmaq organization providing justice programs.

- (1) Is that organizational structure or service delivery model the best way to create greater Mi'kmaq direction over justice matters for Mi'kmaq people?
- (2) What are the advantages of that province-wide model?
- (3) Are there any disadvantages or challenges for it?
- (4) Is there sufficient community identification with the organization and its programs?
- (5) Any suggestions for change?

- (6) If MCPEI AJP were to expand into other justice areas, involving say serious offenders or community justice arrangements (courts, probation and parole supervision) or disputes concerning band policies, would there be strong support (a) among the Mi'kmaq political leaders? (b) among community members in general?
- (7) How might the AJP advance that agenda in these constituencies (among leaders and in the communities)?
- (8) What strategies might be usefully employed? (Suggestions: presentations of strategic plans to chief and council? community meetings, interagency meetings)

## APPENDIX C

### COMMUNITY SURVEY: THE FUTURE OF ABORIGINAL JUSTICE PROGRAMMING IN PEI

Hello, I am conducting this survey on behalf of the MCPEI's AJP and the federal Aboriginal Justice Unit. The project deals with what community residents think are the major justice priorities and how best to achieve them. This questionnaire asks about (1) assessments of current social problems and justice issues in the community; (2) one's view of, and possible participation in, current justice programs; (3) what changes or justice options are considered desirable and how they might be achieved; (4) how residents would wish Aboriginal Justice would develop in the short-run and in the long-run. All answers will be treated in complete anonymity and confidentiality. No report or presentation will ever cite anyone by name or by any identifying characteristic. This interview is for people 18 years of age or over.

<b>Basic Codes</b>	
Phone Number	
ID of Respondent NUMBER ONLY	
Sex of Respondent	
Interviewer	



**A. First of all I would like to ask you a few questions about your community in general.**

1. What is the name of this community? \_\_\_\_\_

2. How long have you lived in this community?

All my life \_\_\_\_\_ OR

\_\_\_\_\_ years      \_\_\_\_\_ months (if less than 1 year).

3. Do you think this community is an area with a high amount of crime and related wrongdoing, an average amount or a low amount?

<b>High</b>	<input type="checkbox"/>
<b>Average</b>	<input type="checkbox"/>
<b>Low</b>	<input type="checkbox"/>
<b>Don't Know</b>	<input type="checkbox"/>

4. Why do you say that?

---

---

5. In the last few years do you think crime and related wrongdoing has increased, decreased, or remained the same in this community?

<b>Increased</b>	<input type="checkbox"/>
<b>Same</b>	<input type="checkbox"/>
<b>Decreased</b>	<input type="checkbox"/>
<b>Don't Know</b>	<input type="checkbox"/>

6. I am going to read a short list of things that are sometimes problems in communities. Please tell me if you think they are a big problem, somewhat of a problem, or not a problem at all here in this community

	<b>Big Problem</b>	<b>Somewhat Problem</b>	<b>No Problem</b>	<b>Don't Know</b>
Homes or other places being broken into	1	2	3	4
Wife battering	1	2	3	4
Child abuse	1	2	3	4
Vandalism or property destruction	1	2	3	4
Poor maintenance of property, broken windows, etc.	1	2	3	4
Feuding among different families or groups	1	2	3	4
Noisy parties, quarrels, loud music	1	2	3	4
Drug/alcohol abuse	1	2	3	4
Sexual or other harassment	1	2	3	4
Anything else you would consider a big problem?				
<b>SPECIFY:</b> _____				

7. . Do you worry very much, much, some or not at all about any of the following things happening to you or your loved ones in the community?

	<b>Very Much</b>	<b>Much</b>	<b>Some</b>	<b>Not at All</b>
Being attacked or molested	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Having your house or property broken into	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Having your car or other property vandalized	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Being bullied or harassed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. (a). Were you yourself the victim of a crime or wrongdoing in this community during the past two years?

<b>Yes</b>	<input type="checkbox"/> (Continue with 9B)
<b>No</b>	<input type="checkbox"/> (Go to Question 10)

8 (b). Did you report it to the police?

<b>Yes</b>	<input type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

If not, why not?

---



---

9. In any community there are some crimes or legal wrongs that are not reported to the police. In your opinion, what kinds of things that could be reported, are often not reported in this community?

---



---

10. Are any of the following wrongs often not reported to the police?

	Usually Not Reported	Usually is Reported	Don't Know
Wife battering	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Child abuse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Petty theft	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vandalism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bootlegging	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Substance abuse	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Underage drinking	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

11. (a) When wrongs are not reported to police, are they dealt with informally in the community by organizations such as the band council, family services, or alcohol/drug counselors?

Often <input type="checkbox"/>	Sometimes <input type="checkbox"/>	Rarely <input type="checkbox"/>	Don't Know. <input type="checkbox"/>
--------------------------------	------------------------------------	---------------------------------	--------------------------------------

11. (b) Are these informal ways of dealing with problems satisfactory in your view?

Comment: \_\_\_\_\_

12. Now, looking at issues in the area of Family Justice, I am going to read a short list of things that are sometimes problems in communities. Please tell me if you think they are a big problem, somewhat of a problem, or not a problem at all here for people in this community

	<b>Big Problem</b>	<b>Somewhat Problem</b>	<b>No Problem</b>	<b>Don't Know</b>
Fair Divorce property settlements	1	2	3	4
Enforcement of maintenance obligations	1	2	3	4
Compliance with custody and visiting children arrangements	1	2	3	4
Enforcement of child support obligations	1	2	3	4
Adequate information available to residents re dealing with family legal matters.	1	2	3	4
Anything else you would consider a big problem in family justice?				
<b>SPECIFY:</b> _____				

13. **Looking at issues in justice concerning rules and regulations**, are any of the following problems for native people in your community. Please tell me if you think they are a big problem, somewhat of a problem, or not a problem at all here in this community

	<b>Big Problem</b>	<b>Somewhat Problem</b>	<b>No Problem</b>	<b>Don't Know</b>
Compliance with band bylaws	1	2	3	4
Enforcement of band agreements re fishing and other resource management	1	2	3	4
Conflict over housing and related decisions	1	2	3	4
Disruptions over band policies.	1	2	3	4
Anything else you would consider a big problem?				
<b>SPECIFY:</b> _____				

**B. NOW I WOULD LIKE TO ASK YOU A FEW QUESTIONS ABOUT THE JUSTICE SYSTEMS AND PROGRAMS**

14. Within the past three years have you or any other member of your household appeared in criminal court either as an accused or a victim?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

If yes, how well were you informed about the proceedings? Was the information adequate? **RECORD VERBATIM FOR BOTH ISSUES**

---



---

If yes, how well were you treated in the court proceedings? Was the treatment satisfactory? **RECORD VERBATIM FOR BOTH ISSUES**

---

15. In your view, what are the main problems that native people around here have when they come into contact with the criminal justice system (whether at defense, prosecution, courts, or corrections levels) as accused or victims?

---

16. Are any of the following issues major problems, minor problems or no problem at all? **MARK ONE RESPONSE FOR EACH.**

	Major Problem	Minor Problem	No Problem
Prejudiced court officials	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Language and	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

cultural differences between natives and non-natives			
The court system does not understand Aboriginal people	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lawyers who are difficult to talk with	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Knowing what to do and how to act in court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The sentences given are either too light or too severe	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The needs of victims are neglected	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17. How, if at all, do you think the present court and correctional systems' way of dealing with offences needs to be changed?

---



---

18. Do you think the following possible changes should have high, medium or low priority?

	<b>High</b>	<b>Medium</b>	<b>Low</b>	<b>Don't Know</b>
More legal advice and services for natives (such as	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



courtworkers for example)				
More Community Involvement in how sentences are decided	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More Community Programs and services for convicted persons (e.g., open custody places, half way houses)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Regular court sessions held in FN communities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community JPs to hear minor cases and bail hearings	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More services for victims of crime/abuse (such as a safe house)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Training lawyers and judges in native rights and traditions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
A community justice system for almost all minor crimes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Moving towards an independent Mi'kmaw justice system for aboriginal people in PEI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Establishment				

of community justice committees to discuss new and different justice programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
---	--------------------------	--------------------------	--------------------------	--------------------------

18 (b) Which of the ten possible changes would be your top two priorities?

---

18 (c) Are there certain crimes (wrongdoings) or types of offenders that you believe should only be dealt with by the current justice system? **PROBE FOR SPECIFICS**

---



---

19. Within the past three years have you or any other member of your household appeared in **family court in any role** (appellant, witness etc)?

Yes <input type="checkbox"/>	No <input type="checkbox"/>
------------------------------	-----------------------------

If yes, how well were you informed about the proceedings? Was the information adequate? **RECORD VERBATIM FOR BOTH ISSUES**

---



---

If yes, how well were you treated in the court proceedings? Was the treatment satisfactory? **RECORD VERBATIM FOR BOTH ISSUES**

---

20. In your view, what are the main problems that native people around here have when they come into contact with the family justice system?

---

21. How, if at all, do you think the present justice systems' way of dealing with family justice issues needs to be changed?

---



---

**C. NOW I'D LIKE TO ASK YOU ABOUT ABORIGINAL JUSTICE INITIATIVES.**

22. How well informed are you about the following programs or organizations:

	<b>Very Much</b>	<b>Somewhat</b>	<b>Not at All</b>
The MCPEI's Aboriginal Justice Program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Circle Keepers of PEI	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The AJP's restorative justice program	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Native Court Worker program in Canada	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PEI Aboriginal Treatment and Counseling Programs	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The Wellness Courts in USA Tribal jurisdictions			

23. Have you had any personal contact with any of the above? **PLEASE DESCRIBE YOUR EXPERIENCE**

---



---

24. Do you think these organizations/programs are important for this community? **VERY MUCH, SOMEWHAT, NOT AT ALL, UNSURE**

---

Why? \_\_\_\_\_

25. Do you have any suggestions how these programs or other Mi'kmaq justice alternatives should be operated? or improved? **(ASK SEPARATELY)**

---

**D. FUTURE DIRECTIONS FOR ABORIGINAL JUSTICE IN PEI**

26. Do you think there is a need for a Mi'kmaq justice program or organization to deal with any of the following matters?

	<b>Yes</b>	<b>No</b>	<b>Unsure</b>
Disputes between bands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Non-compliance with band bylaws and band regulations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Community disputes or feuds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Victim-offender mediation and reconciliation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dealing with civil matters such as property disputes, inheritances and family property issues	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Doing community research on native justice issues and possibilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other? _____			

27. What, in your view, would be the main obstacles to having such aboriginal initiatives here in PEI?

---



---



---

28. Would any of the following factors be major, minor or no problem in being obstacles?

	<b>Major Problem</b>	<b>Minor Problem</b>	<b>No Problem</b>
Lack of community resources for training and service delivery	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There would be, at least in the short-run, little	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

community support			
The existing Justice system would be resistant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The provincial government would be resistant	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Many residents would not respect the community-based alternatives	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Many residents would think that the changes are not needed	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
The aboriginal communities in PEI are too small and too scattered	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other: Please Specify	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

29. Are there any special new justice alternative programs or organizations that you want to have in this community? Please specify.

---

30. Do you think that the MCPEI's Aboriginal Justice Program should be the organization responsible for organizing and delivering new justice alternatives in your community?

<b>Yes</b>	<input type="checkbox"/>
<b>No</b>	<input type="checkbox"/>

If yes, why? \_\_\_\_\_

If no, why not? \_\_\_\_\_

**NOW A FEW BACKGROUND QUESTIONS WHICH WILL HELP US DETERMINE WHICH SERVICES ARE NEEDED / WANTED MOST BY VARIOUS GROUPS OF PEOPLE.**

31. In what year were you born? 19\_\_\_\_\_

32. Are you single, widowed, married, separated or divorced?

<b>Single</b>	<input type="checkbox"/>
<b>Married/Common Law</b>	<input type="checkbox"/>
<b>Widowed</b>	<input type="checkbox"/>
<b>Separated/Divorced</b>	<input type="checkbox"/>

33. Which of the following best describes your main activity during the past year?

Working at a job or business? <i>Please Specify (F/T, P/T, Seasonal):</i> _____	<input type="checkbox"/>
Looking for work	<input type="checkbox"/>
A student	<input type="checkbox"/>
Retired	<input type="checkbox"/>
Homemaker or housewife	<input type="checkbox"/>
Other: _____	<input type="checkbox"/>

34. What is the highest grade or year you completed in your schooling?

---

---

36. If you are not the chief income earner in this household what is the current job of that person?

---

---

36. How would the following definition fit with your approach or life style?

I am much interested in Mi'kmaq traditions

Yes Much <input type="checkbox"/>	Yes Some <input type="checkbox"/>	Very Little <input type="checkbox"/>
-----------------------------------	-----------------------------------	--------------------------------------

Do you participate much in events such as pow-wows, sweats and sundances?

---

COMMENTS:

\*\*\*\*\*



**THANK YOU VERY MUCH FOR PARTICIPATING IN THIS SURVEY. ONCE AGAIN LET ME ASSURE YOU THAT THIS INFORMATION WILL BE TREATED WITH RESPECT AND REMAIN CONFIDENTIAL.**

**INTERVIEWER'S COMMENTS: How did the interview go? Any peculiar circumstances? Any interesting remarks on current justice programming, or on priorities or hopes for the future or on the community support and capacity for a community-driven justice system?**

**APPENDIX D**

**A MI'KMAQ "HEALING TO WELLNESS COURT"**

**A PROPOSAL FOR ASSESSING THE FEASIBILITY OF AND LAYING THE  
GROUNDWORK FOR A DRUG TREATMENT COURT**

**SUBMITTED TO**

**THE DRUG TREATMENT COURT FUNDING PROGRAM**

**DEPARTMENT OF JUSTICE, OTTAWA**

**BY**

**THE ELSIPOGTOG JUSTICE ADVISORY COMMITTEE**

**ELSIPOGTOG FIRST NATION, NEW BRUNSWICK**

**JUNE 26, 2007**

## **PURPOSE**

Elsipogtog First Nation is the largest First Nation in New Brunswick. It is a community on the move in that there have been impressive economic developments in recent years (e.g., fisheries, forestry), continued significant growth in the human capital of its residents (e.g., involvement in higher education, training programs), and over the past decade a basic infrastructure for health and related treatment programming has been put in place. On the Justice side, several programs have complemented earlier initiatives in probation services and RCMP policing, such as the Elsipogtog restorative justice and victim assistance projects. In addition, the community has created coordinating committees such as the Elsipogtog Justice Advisory Committee and the Violence and Abuse Committee to focus community efforts and foster inter-agency problem solving in these areas. Recent initiatives in both Justice and Health, which have built upon this base and which have especial significance for this proposal, include the community's and band council's endorsement of a multiyear, research-based strategic action plan for Justice for the next decade, and specific, culturally sensitive programs concerning offender reintegration (the OELIELMIEMGEOEI PROJECT translated as "coming home in a good way") and conflict resolution (the APIGSITOGAN PROJECT). Elsipogtog's programming in psychological services, (both traditional and mainstream in orientation), and in alcohol and drug counseling has been enhanced with the community's leadership in FASD diagnosis and treatment (the EASTERN DOOR initiative) which has been well acknowledged through-out Atlantic Canada.

Unfortunately, there are many serious underlying problems and challenges too. There is still much unemployment and welfare-dependency. Most salient for this proposal there are still very high levels of crime and substance abuse. While neighbouring communities, and Canadian society more generally, have seen their crime rates decline over the past several years, those of Elsipogtog have remained high. Of particular concern the offenses have been more likely than in neighbouring communities to involve inter-personal violence and addiction issues. There also appears to be a strong pattern of repeat offending among the young adults who account for the large majority of the crime and self-destructive behaviour. These facts, plus the extremely large number of persons arrested under the Mental Health Act (again most common among young adults), point to major problems in individual well-being, interpersonal relations and also in the re-integration of offenders into their families, positive social networks and the community at large. Drug addiction and associated disruptive behaviours have become the central focus of Justice and Health concern as indeed has been the case among First Nations throughout Atlantic Canada and in Canada and the United States more generally.

In light of the significant experience that the Elsipogtog First Nation has had in mounting credible initiatives in the recent past with respect to the Justice and Health programming bearing on, among other things, drug and alcohol addiction and disruptive behaviour, it has become evident that there is a major missing piece and that is an effective, holistic Mi'kmaq Justice and Health approach to responding to addicted offenders. The strategic action plan noted above has identified the drug treatment court /

healing to wellness court as an initiative that could make a substantial difference in meeting the challenges. With this proposal the Elsipogtog Justice Advisory Committee, an authorized committee of the band council, hopes to set in train a process that will culminate in 2009 with the establishment of a special provincial court functioning as a healing to wellness court and dealing with addicted offenders from Elsipogtog and other First Nations in New Brunswick.

## **BACKGROUND: THE DRUG TREATMENT COURT (DTC)**

The DTC has been one of the most exciting manifestations of the problem-solving court or therapeutic justice movement which has been dramatically becoming rooted in the justice system. It has grown from one court in Miami in 1989 to over 2000 world-wide. The first Canadian DTC began in Toronto in the late 1990s but now there are six DTCs in major Canadian urban centres and several other embryonic DTCs elsewhere. Its major feature, from the point of view of the Elsipogtog Justice Advisory Committee, has been breaking through the “silos” that separate the different sectors (i.e., Justice, Health etc) and constructing a more holistic, team approach, bringing together prosecutor and defense counsel, and justice system officials and treatment providers under the democratic leadership of a state / provincial / tribal court judge. Its philosophy of “tough love” emphasizes rehabilitation, close monitoring of participants, immediate consequences, both positive and negative, for the compliance or non-compliance of the participants, and concern for public safety. Its protocols guarantee voluntary admission into the program, protect the rights of the participants, provide for both individual and group level treatment, and address the sustainability of the rehabilitative intervention. It appears that while it is not “a slam dunk” in that all eligible participants do not elect to participate nor do all who do opt in successfully complete the program, nevertheless, it has a healthy rate of success and presumably will improve on that as the time goes by.

It is also of great relevance that, as the DTC has evolved, it has spawned important variation with respect to eligible participants (adults and youth), type of offences (federal and provincial / state / tribal jurisdiction), types of addiction (alcohol as well as drug addiction) and cultural format. In the mid-1990s the DTC became labeled as “Healing to Wellness” (HW) court in what is referred to in the USA as “Indian Territory”. While retaining the essential features in philosophy, protocols and practice as the mainstream DTC, the HW incorporates aboriginal culture and community participation into the court team and into the rehabilitative treatment (see appendix C for the key components of the HW courts). There are now more than 50 and perhaps as many as 75 HW courts in the USA and a handful have become “mentor” courts for other tribes that are considering launching such initiatives. This elaboration of the DTC into a HW format is particularly appreciated by the Elsipogtog Justice Advisory Committee which places emphasis on cultural salience and ‘ownership’; in addition, it is congruent with research which has shown that effective responses to addicted repeat offenders often require impacting on the identity and community support issues that such offenders have.

The concept of the problem-solving court, flexible enough to incorporate cultural variations and significant community partnership is very appealing to the Elsipogtog

Justice Advisory Committee. Apart from general issues of efficacy, the DTC program raises issues of equity. To what extent can DTCs or their HW equivalents be established outside the larger urban centres and thus also serve smaller, more scattered populations? What would the special challenges be in these regards for efficient court administration, provision of treatment and the like? The feasibility and groundwork examination being proposed here would address such questions for the Elsipogtog and by extension for other First Nations.

## **BACKGROUND: ELSIPOGTOG AND THE PRIORITY OF A DTC / HW COURT**

There is little doubt that Elsipogtog needs access to a DTC / HW court in order to more effectively respond to the significant addiction problem it must confront. Appendix A indicates the high levels of serious offending that has characterized the community over the past several years. A full report on police statistics for the period 1998 to 2006 is available but not provided here for brevity reasons. The RCMP data on offenses, for the five year period from 1998 to 2004 inclusive, indicated three central points, namely (a) the very high level of serious offenses in Elsipogtog; (b) that while crime was generally decreasing across the country, it remained very high still in Elsipogtog; (c) that the rates were especially high in comparison to neighbouring communities. The tables provided in appendix A for 2005 and 2006 indicate that the level of police recorded incidents remains high. The data show that was a significant increase in recorded occurrences in 2006 as compared with 2005, almost a doubling or more of incidents with respect to “Intoxicated Persons Detention Act” (from 26 to 48), the “Mental Health Act” (from 30 to 75), “disturbing the peace” (from 36 to 56), “resisting arrest or obstruction” (from 3 to 12), “harassing phone calls” (from 5 to 9), “breach of peace” (from 34 to 111), “robbery/extortion/threats” (from 19 to 52), “total assaults excluding sexual assaults” (from 66 to 147), “theft under \$5000” (from 27 to 52), “break and enter” (from 32 to 71), and “crime against property” (from 52 to 102). It is not clear why the large jump in incidents took place but generally the increase occurred at the low end of the offence category, that is, common assault not aggravated assault, uttering threats not robbery, and theft of property under \$5000 not other theft categories. This suggests greater police activity was a crucial factor, whether by design (e.g., a crackdown) or greater police presence (e.g., more officers available) or both. It will be necessary to examine the data for 2007 and 2008 to determine whether there is a trend towards the even higher level of offenses that characterized the period 2000 to 2004 inclusive.

The tables for 2005 and 2006 also indicate the sharp difference in violations and incidents between Elsipogtog and its neighbouring communities. Elsipogtog is roughly the same population size as Bouctouche (Elsipogtog is slightly smaller but has a younger population thus balancing out the primary causal factors associated with levels of police arrests) but recorded 45 times as many cases under the Intoxicated Person Detention Act, 12 times as many under the Mental Health Act, 19 times as many in disturbing the peace,

19 times as many in breaching the peace, 7 times as many for robbery and threats, 13 times as many in total assaults, and 12 times as many in break and enter. Similar large percentage differences were indicated in virtually all other offence categories.

The police statistics do not convey well the addiction problem. They do indicate that virtually all the alcohol charges and the drug trafficking arrests in the larger area from Bouctouche to Richibucto occurred in Elsipogtog. But the data, as police authorities would be the first to acknowledge, do not capture the extent of drug use or trafficking on the part of local addicts. Arrests for possession or for trafficking are very difficult to make in such a modest-sized, close-knit community. Extensive research conducted over the past two years, involving in-depth interview among community leaders and justice authorities, a community survey and focus groups has established that drug addiction is the priority social problem in Elsipogtog, replacing alcohol abuse which continues to be still a significant community problem. Table 3 in Appendix A presents data on how community residents view the social problems. Approximately 90% of the respondents considered that drugs constituted a big problem, a significantly higher percentage than for any other potential social problem. The community survey was a random, probability sample of households in Elsipogtog. One adult in every third household was interviewed. There were 209 completed questionnaires. The full report of 133 pages is available from the Elsipogtog Justice Advisory Committee. Several recent deaths in Elsipogtog have been connected to drug abuse (i.e., overdoses) underlining the community's fear and concern.

It is clear too that incarceration has not put much of dent into the drug problems. Elsipogtog and other native offenders who serve prison terms tend to have high levels of recidivism and, according to a 2006 report of Correction Services Canada, are more likely not to participate in prison rehabilitative programs and not to secure early parole. Of course in the provincial correctional facilities - where Elsipogtog and other aboriginal persons are in much greater number - there is virtually no rehabilitative programming and, not surprisingly, there is also a high rate of recidivism. In sum, then, the priority for a DTC / HW is high and the challenges of scale and service delivery and so forth need to be seriously assessed.

## **THE CAPACITY OF ELSIPOGTOG**

It has been noted above that Elsipogtog has been progressively developing a solid capacity in the fields of Justice and Health. It is reasonable to advance that in both respects it has been a leader among the First Nations and in certain respects, such as restorative justice programming and FASD diagnosis and treatment, also compared to mainstream society in New Brunswick. Some of the Elsipogtog programs and services such as the Mi'kmaq probation officer, the Mi'kmaq duty counsel, and the Medicine Wheel approach in FASD work, have also served other First Nations in New Brunswick. The Offender Reintegration program ( the OELIELMIEMGEOEI PROJECT) and Mi'kmaq conflict resolution program (the APIGSITOGAN PROJECT) have also reached out beyond Elsipogtog.

Over the past two years the Elsipogtog Justice Advisory Committee has conducted extensive research and community consultation and produced a strategic action plan to guide Justice initiatives over the next ten years. The action plan was vetted and endorsed at a public meeting and subsequently received the support of chief and council in a band council resolution. They have also been meetings with Justice officials and governmental authorities to discuss the strategic action plan. A few pages extracted from that strategic action plan are appended in Appendix B (the full report and action plan are available upon request). These pages specify the “placement” of access to a DTC / HW court in the community’s planning, and underline the careful consideration that has gone into this proposal.

## **THE PROPOSED STRATEGY**

On the premise that the current federal funding mandate for the DTC program ends in march 31, 2009, this proposal seeks funding to assess the feasibility of a DTC / HW court centered at Elsipogtog and to do the groundwork for preparation of a full-blown proposal when the calls for proposals are issued by the Justice / Health federal unit in 2008. Major features of the proposal are

1. Identifying and specifying in depth the targeted populations, the potential numbers, treatment providers and so forth.
2. Identifying – firming up - support in CJS, especially at the judiciary level who will provide the jurisdiction and leadership for the problem-solving court. This process has already begun as per a recent meeting in May 2007 with three provincial judicial authorities, namely the chief justice, a well-known senior Mi’kmaq judge, and the judge currently presiding over the local provincial court.
3. Shoring up the provincial support. This of course is crucial for many reasons namely the cost-sharing nature of the DTC program, provincial jurisdiction for most offenses and provincial responsibility for court administration. Again there have been positive developments already. The current provincial government included the establishment of a DTC in its election platform. Moreover, a recent agreement (June 2007) has been reached between the premier and cabinet to have regular meetings between provincial government and First Nation leaders, twice a year between the chiefs and the premier, and more frequently between the certain cabinet ministers and the chiefs. There are good relationships to work with in advancing the establishment of a healing to wellness court.
4. Consultation with federal DTC officials concerning the parameters of the DTC funding program and the experience of the DTC movement in Canada.

5. Communication and consultation with other DTCs in Canada and with others engaged in kindred initiatives in Canada, both First Nation and mainstream.
6. Community consultation and specific support for a HW court from chief and council in the form of a band council resolution.
7. A learning trip by a four person Elsipogtog party to the USA to observe and learn from several of the mentor tribal 'healing to wellness' courts there. This experience would be crucial to appreciate how the DTC court can incorporate aboriginal cultural imperatives and reflect community partnership. It is envisaged that the party will include the project coordinator, a representative from the band council, a representative from the criminal justice system and one from the treatment system.
8. Exploring the treatment options. At this point the inclination is towards having a provincial government treatment carrier but all options will be explored and of course the partnerships with Elsipogtog treatment providers will be considered.
9. Exploring the linkages to and feasible involvement with other First Nations in New Brunswick.



## **KEY COMPONENTS OF HEALING TO WELLNESS COURTS**

### **KEY COMPONENT #1**

TRIBAL HEALING TO WELLNESS COURTS BRING TOGETHER COMMUNITY- HEALING RESOURCES WITH THE TRIBAL JUSTICE PROCESS, USING A TEAM APPROACH TO ACHIEVE THE PHYSICAL AND SPIRITUAL HEALING OF THE PARTICIPANT AND THE WELL BEING OF THE COMMUNITY.

### **KEY COMPONENT #2**

PARTICIPANTS ENTER THE WELLNESS COURT PROGRAM THROUGH VARIOUS REFERRAL POINTS AND LEGAL PROCEDURES WHILE PROTECTING THEIR DUE PROCESS RIGHTS.

### **KEY COMPONENT #3**

ELIGIBLE SUBSTANCE ABUSE OFFENDERS ARE IDENTIFIED EARLY THROUGH LEGAL AND CLINICAL SCREENING FOR ELIGIBILITY AND ARE PROMPTLY PLACED IN THE TRIBAL HEALING TO WELLNESS PROGRAM.

### **KEY COMPONENT #4**

TRIBAL HEALING TO WELLNESS PROGRAMS PROVIDE ACCESS TO HOLISTIC, STRUCTURED AND PHASED, SUBSTANCE ABUSE TREATMENT AND REHABILITATION SERVICES THAT INCORPORATE CULTURE AND TRADITION.

### **KEY COMPONENT #5**

PARTICIPANTS ARE MONITORED THROUGH INTENSIVE SUPERVISION THAT INCLUDES FREQUENT AND RANDOM TESTING FOR ALCOHOL AND OTHER SUBSTANCE USE.

### **KEY COMPONENT #6**

PROGRESSIVE CONSEQUENCES (OR SANCTIONS) AND REWARDS (OR INCENTIVES) ARE USED TO ENCOURAGE PARTICIPANT COMPLIANCE WITH PROGRAM REQUIREMENTS.

**KEY COMPONENT #7**

ONGOING JUDICIAL INTERACTION WITH EACH PARTICIPANT AND JUDICIAL INVOLVEMENT IN TEAM STAFFING IS ESSENTIAL.

**KEY COMPONENT #8**

MONITORING AND EVALUATION MEASURE THE ACHIEVEMENT OF PROGRAM GOALS AND GAUGE EFFECTIVENESS TO MEET THREE PURPOSES: PROVIDING INFORMATION TO IMPROVE THE HEALING TO WELLNESS PROCESS; OVERSEEING PARTICIPANT PROGRESS; AND PREPARING EVALUATIVE INFORMATION FOR INTERESTED COMMUNITY GROUPS AND FUNDING SOURCES.

**KEY COMPONENT #9**

CONTINUING INTERDISCIPLINARY EDUCATION PROMOTES EFFECTIVE WELLNESS COURT PLANNING, IMPLEMENTATION, AND OPERATION.

**KEY COMPONENT #10**

THE DEVELOPMENT OF ONGOING COMMUNICATION, COORDINATION, AND COOPERATION AMONG TEAM MEMBERS, THE COMMUNITY AND RELEVANT ORGANIZATIONS ARE CRITICAL FOR PROGRAM SUCCESS.

**APPENDIX E**

**EXCERPT FROM CLAIRMONT,  
ELSIPOGTOG FUTURE JUSTICE DIRECTIONS, 2006**

**A STRATEGIC PLAN FOR JUSTICE PROGRAMMING IN ELSIPOGTOG**

**THE ELSPOGTOG JUSTICE ADVISORY COMMITTEE**

**PREPARED BY DON CLAIRMONT, MARCH 1, 2006**

**“We can keep toying with the system but the solution is staring right at us: restorative justice” (Elsipogtog front-line staff focus group)**

**“The way things are now, we are always the ‘visiting team’ in the mainstream system. We never have home ice, the restorative justice program being the exception. We need to do things our own way and on our turf. We are ready as a community to take on more turf” (Elsipogtog program manager’s focus group)**

## **THE BACKGROUND TO THIS DRAFT STRATEGIC PLAN**

This draft strategic plan has emerged out of several years of exploring justice initiatives in Elsipogtog in the light of community needs, collective efficacy, perceptions and priorities. The details of this extensive examination are set out in the report that is appended to this brief strategic plan and the reader is encouraged to consult that document.

A strategic plan has to be rooted in a vision and a set of principles. As the biblical admonition asserts, without a vision we are lost. The vision advanced here is one that is congruent with the agenda recommended by the Royal Commission on Aboriginal Peoples, namely that aboriginal societies, by dint of constitutional rights and cultural tradition, should be encouraged to develop justice systems in which they exercise substantial autonomy and where their cultural perspectives and preferences are meaningfully incorporated. Like other Canadians, native persons should expect fair and culturally sensitive treatment within the mainstream justice system, but unlike other Canadians, constitutionally they can legitimately “move outside the box” whether in an administrative or a policy sense. While the contours of the “outside the box” path are always impossible to fully specify or grasp since social circumstances and cultural styles are inherently dynamic and subject to evolution and occasionally dramatic change, such a vision sets the agenda for many First Nations people in justice matters today. The vision suggests a continuum where one end is basic ‘integration and fairness’ within the mainstream justice system and the other end is a parallel First Nations justice system. Different First Nations may have different views on where they want to position themselves on this continuum regarding justice considerations now and in the future. What is feasible certainly will affect that positioning too, and feasibility is also subject to change. The Elsipogtog Justice Advisory Committee (EJAC) has been examining issues of vision and feasibility for several years and in considerable depth as indicated in the accompanying report. EJAC holds that the above vision is common among band members and that the community is developing a significant capacity to advance and direct new justice initiatives, to move more along the continuum as it were. It accepts the challenge explicit in the introductory quotations (e.g., “We need to do things our way and on our turf”) and proposes a strategic plan in justice for the immediate future.

Another major component of a strategic plan is the identification of the principles or philosophy that are associated with the vision. There appear to be at least three central principles that the research has identified as reflecting the Elsipogtog justice perspective. First, there is the view, common to the First Nations' approach, that emphasis should be placed as much as possible on prevention and on restorative justice. By restorative justice is meant the concern to encourage healing and reconciliation among offenders and victims and at the community level. A second major principle is that, as much as possible, justice programming and initiatives should be community-driven in administration and policy development. The concept, community, may be interpreted at either the band or the "tribal" levels depending upon a variety of concerns (e.g., feasibility, impartiality etc). The third principle that EJAC has identified is that justice initiatives launched by Elsipogtog should respond to the major issues and needs that exist. Justice ownership and direction should not be confined to minor criminality matters referred by mainstream justice officials.

The EJAC-directed research and evaluation, upon which this draft strategic plan is based, began several years ago (2002) with an evaluation of the Nogemag and Restorative Justice Circles projects. The basic conclusion drawn then was that while both projects were well managed and beneficial to the clients, community leaders, local service providers and the programs' clients themselves typically wanted to see the community become more engaged in justice initiatives that moved the First Nation more along the continuum noted above. As a result, the EJAC sponsored more in-depth research into the feasibility and desirability of new justice initiatives. This research effort has taken almost two years and has explicitly followed the strategy of root, assess and engage. Root referred to the strategy of determining in a thorough, representative way what the community residents, service personnel and leadership identified as the major social and crime problems, their views on whether these were being addressed by the criminal justice system or informally in the community, their criticisms of and suggested priorities for changes in the justice system, their preferences and priorities regarding alternative justice initiatives, and the major obstacles they saw to putting in place their justices preferences. Assess referred to both assuring the high quality of the data gathered and analyzing the data thoroughly in order to appreciate as fully as possible their meaning and significance. Engage meant collecting, analyzing and reporting the research results in a manner that emphasized participation with and feedback to community residents and stakeholders. EJAC wanted this justice project to be as transparent as possible and to facilitate consensus generation and community mobilization.

As indicated in the attached report, the justice project called for a six-stage model of implementation. First, there were special, in-depth, face- to- face interviews with a score of key Elsipogtog justice and other social agency role players and political leaders. This research was intended to ensure that the mandate of the research exercise was appropriate and to vett the proposed research strategies with knowledgeable local persons. The second step was an extensive, one-on-one community survey of adults (dealing with all the matters referred to above in the discussion of roots). A community survey questionnaire was developed, vetted by the EJAC and personnel from other local agencies, and pre-tested to ensure its clarity and appropriateness. A random sample of

210 households was selected and two mature, well-educated, bilingual and enthusiastic Elsipogtog women were hired and trained to do face-to-face interview with one adult from each of the selected households. The third step involved focus groups with youths (those at risk and those still in senior high school), neighbours, and elders. Information packages were prepared for the focus groups from data secured through the community survey and these formed the basis for discussion. The focus groups were seen as an essential part of the effort to engage the community in the process of generating consensus and mobilizing for change. The fourth step involved a series of focus groups among front-line agency staff, managers of the service agencies, local and external justice officials, and other stakeholders. For these focus groups the information package was elaborated to include the results of the earlier round of focus group meetings. The fifth step, represented by this draft strategic plan, involved the preparation of a strategic plan for discussion by EJAC members. The sixth and final implementation step entailed presenting the EJAC-approved strategic plan to band council and/or a general community meeting.

The results from each of the completed steps are contained in the attached report. Perhaps it suffices here to note that this research has found that community members and agency personnel believe that crime and social disorder are widespread and cause extensive and unacceptable levels of victimization, fear and worry among residents. This position is especially pronounced among women but common in all social groupings. These views dovetail well with official statistics even while the latter are deemed to under-report the justice problems. Residents and knowledgeable service providers are sharply critical of the mainstream justice system from a variety of vantage points (e.g., ineffective, not reflecting community values); as well, they do not believe that there are in place any effective informal responses to these problems. They readily identify changes they would like to see in the mainstream justice system (e.g., duty counsel or court workers, more communication and awareness between court officials and community residents) and, as well, are cautiously in favour of new justice initiatives that deal with issues from a Mi'kmaw perspective (e.g., a wellness court, community or First Nation-based dispute resolution in certain civil and family conflicts). They value the existing community justice programs because they are community-based (e.g., restorative justice) and are strongly in favour of more such justice initiatives. At the same time they readily identify obstacles (both internal to Elsipogtog and external) in launching justice initiatives that would be more subject to community administration and policy development and in general have a pragmatic, incremental approach to change. Moving further along the continuum towards a Mi'kmaw-influenced justice system will require much sensitivity, consensus building and community mobilization. It will have to be well-thought out and implemented with much community input and feedback.

The EJAC believes that the community capacity to realize new and, in some cases, alternative justice initiatives has increased appreciably in recent years as a result of the trends in post-secondary education attainment, the economic and symbolic implications of the Supreme Court of Canada's Marshall decision and so forth. There has been more governmental acknowledgement of Mi'kmaw rights and more buy-in. There is much that can and should be done. To that end the following draft strategic plan is

offered, identifying, in tabular form, seven major goals that have emerged from the two-year research effort. It may be noted that some initiatives would entail collaboration with other New Brunswick First Nations and others would require the establishment of a tripartite forum justice committee as exists in Nova Scotia.

In an appendix to this report three specific prevention / rehabilitation initiatives are described. These are congruent with the strategic plan and have been discussed in the Elsipogtog Justice Advisory Committee; they are advanced here to illustrate how specific initiatives link up with the strategic plan. The three are (1) an offender reintegration project which has been recently funded for three years; (2) a proposal to focus directly on problems related to young adult males, and (3) some thought about policing that have emerged from the interviews, surveys and focus groups carried out in the past two years under the sponsorship of the EJA committee.

**GOAL # 1 EXPANDING THE RJ PROGRAM (CRIMINAL JUSTICE SYSTEM)**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS/ROLES	TIMING	OUTCOMES REQUIRED
<p>1. OBTAINING CROWN AND CORRECTION REFERRALS</p> <p>2. HAVING SENTENCING CIRCLES IN ELSIPOGFTOG</p> <p>3 ASSISTING IN RESPONDING TO THE UNDER 12</p>	<p>A. GETTING SUPPORT OF JUSTICE OFFICIALS.</p> <p>B. EXPANDING AND TRAINING STAFF/VOLUNTEERS.</p> <p>C. COLLABORATING WITH OTHER COMMUNITY AGENCIES</p> <p>D. BUILDING THE BASE FOR JUSTICE INITIATIVES, WITH THE COLLABORATION OF FEDERAL AND PROVINCIAL GOVTS)</p>	<p>EJAC</p> <p>RJ COORDINATOR</p> <p>JUSTICE OFFICIALS AND EJAC'S GOVERNMENT CONTACT GROUP</p> <p>INTERAGENCY, ELSIPOGTOG</p> <p>CHIEF AND COUNCIL</p>	<p>FALL 2006 FOR #1</p> <p>APRIL 2007 FOR #2</p> <p>APRIL 2007 FOR #3</p>	<p>A NEW PROTOCOL.FOR RJ REFERRALS</p> <p>ANOTHER RJ STAFF POSITION IN 2007-08</p> <p>A 50% RJ ADMIN SUPPORT POSITION BY FISCAL 2007-08</p>



**GOAL # 2 PROVIDING FOR A MORE MIGMAG-SENSITIVE COURT PROCESS (CRIMINAL AND FAMILY)**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS	TIMING	OUTCOMES REQUIRED
OBTAINING AN ABORIGINAL DUTY COUNSEL AND/OR A COURT WORKER	ON-GOING EJAC ACTIVITY IN SECURING AN ABORIGINAL DUTY COUNSEL  NEGOTIATING WITH FEDERAL AND PROVINCIAL AUTHORITIES RE NCWP	EJAC AND JUSTICE COORDINATOR  NB DEPARTMENT OF JUSTICE  ABORIGINAL JUSTICE DIRECTORATE	FALL 2006 FOR DUTY COUNSEL AND FISCAL 2007-08 IF COURT WORKER INITIATIVE	FUNDING FOR COORDINATOR ROLE  MULTI-FN CASELOAD FOR DUTY COUNSEL AND/OR COURT WORKER
2. EXCHANGE AND AWARENESS (PARTNERSHIP DAYS) CRIMINAL AND FAMILY MATTERS	PARTNERSHIP DAY PLANNING FOR TWO SESSIONS  COSTING AND FUNDING	CRIMINAL AND FAMILY COURT OFFICIALS PLUS ECJS REPS  EJAC AND JUSTICE COORDINATOR	PARTNERSHIP DAY, WINTER 2006/2007	AGENDA SET AND SESSION REPORT DONE FOR PARTNERSHIP DAYS
3. INFORMT'N CENTRE, CRIMINAL AND CIVIL / FAMILY MATTERS	FINDING THE COMMUNITY LOCATION AND ARRANGING FOR ACCESS FOR PHAMPLETS VIDEOS, FORMS AND DIRECTIONS  re LEGAL / FAMILY AID	EJAC AND JUSTICE COORDINATOR  PROVINCIAL AND FEDERAL INFO AND SELF-HELP CENTERS	WINTER 2007 FOR CENTRE	A CENTRE OPENED AT CERTAIN TIMES DURING THE WEEK

**GOAL# 3 FACILITATING MORE MIGMAG OWNERSHIP IN THE JUSTICE SYSTEM (CRIMINAL)**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS	TIMING	OUTCOMES REQUIRED
1. CRIMINAL COURT SITTING ON RESERVE ONCE A WEEK	CONSULT WITH JUSTICE OFFICIALS SELECT AND PREPARE SITE COUNCIL DECISION	EJAC  JUDGE AND OTHER CJS  CHIEF AND COUNCIL	JANUARY 2007	COUNCIL RESOLUTION  SUPPORT OF THE JUDGE
2. PREPARE CASE FOR A WELLNESS COURT (A 'PROBLEM-SOLVING COURT') FOR FNS IN NB CENTERED IN ELSIPOGTOG	SECURE INFO FROM JUSTICE AND HEALTH CANADA  SECURE PROVINCIAL SUPPORT  GATHER DATA  CONSULT WITH LOCAL AGENCIES RE TREATMENT NEEDS  CONSULT WITH OTHER NB FN <sub>s</sub>  COSTING AND FUNDS SEEKING	EJAC  PROJECT LEADER  FEDERAL AND PROVINCIAL HEALTH AND JUSTICE  TREATMENT TEAM	ENGAGE A PROJECT LEADER BY 2007  PROPOSAL PREPARED BY FALL 2007 FOR A STARTING DATE IN FALL 2008	1.PROJECT LEADER HIRED  2. GAINED SUPPORT OF LOCAL TREATMENT PEOPLE  3.PROVINCIAL JUSTICE SUPPORT  4.DETAILED PROPOSAL DEVELOPED  5.DESIGNATE THE JUDGE (FN JUDGE IF POSSIBLE)

**GOAL# 4 WORKING TOWARD AN FN MODEL OF JUSTICE PROCESSING  
(CRIMINAL AREA)**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS	TIMING	OUTCOMES REQUIRED
WELLNESS COURT FOR SERIOUS OFFENDERS WITH SUBSTANCE ABUSE AND MENTAL ILLNESS	<p>SUCCESSFUL PROPOSAL</p> <p>LEARNING FROM DTC PROGRAMS ELSEWHERE AND FROM BIG COVE OFFENDER REINTEGRATION PROJECT</p> <p>COMMUNITY AND COUNCIL SUPPORT</p> <p>OTHER FN BUY-IN</p>	<p>PROJECT LEADER AND WELLNESS COURT TEAM</p> <p>DESIGNATED JUDGE (FN IF POSSIBLE)</p> <p>OTHER CJS OFFICIALS</p> <p>OFFENDER BUY-IN</p>	FALL 2008	<p>A MULTI-FN PROGRAM CENTERED IN ELSIPOGTOG</p> <p>HEALTH AND JUSTICE COLLABORATION AND PROBLEM-SOLVING</p> <p>'USUAL FEDERAL FUNDING FOR DTC' PLUS</p>
FN VICTIM SERVICES (VS)	<p>BUILD UPON CURRENT VS AT ELSIPOGTOG</p> <p>OTHER FN<sub>s</sub> BUY-IN</p>	<p>VS COOR'D'R</p> <p>EJAC LIAISON</p> <p>FEDERAL AND PROVINCIAL</p>	FALL 2008	A MULTI-FN VS PROGRAM

**GOAL # 5: WORKING TOWARDS AN FN JUSTICE APPROACH (CIVIL AND FAMILY MATTERS)**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS	TIMING	OUTCOMES REQUIRED
DEALING WITH CERTAIN CIVIL AND FAMILY ISSUES	<p>IDENTIFY KEY ISSUES AND STAKE HOLDERS</p> <p>CONSULT WITH SMALL CLAIMS AND FAMILY DIVISION COURT OFFICIALS</p> <p>BUILD ON THE APIGSITOGAN MI'KMAW ADR PROJECT</p> <p>LIAISE WITH KEY LOCAL AGENCIES</p>	<p>PROJECT COOR'D (RJ COORDINATOR)</p> <p>APIGSITOGAN GROUP (ADR)</p> <p>INTERAGENCY WORKING GROUP</p> <p>CIVIL AND FAMILY DIVISION JUSTICE OFFICIALS</p>	<p>BEGIN PROCESS IN WINTER 2006/2007</p> <p>START-UP IN 2007/2008</p>	<p>A PART-TIME COORD'ER ENGAGED</p> <p>PROPOSALS DEVELOPED</p> <p>FOCUS GROUPS FOLLOWED BY A GENERAL MEETING</p> <p>A PROTOCOL DEVELOPED FOR ADR UTILIZATION</p>
DEALING WITH INTRA-BAND DISPUTES OVER BAND POLICIES, ESPECIALLY IN AREAS OF FORESTRY, FISHING AND RESOURCE UTILIZATION	<p>IDENTIFY KEY ISSUES AND STAKE HOLDERS AS ABOVE</p> <p>FORM A WORKING GROUP WITH RESOURCES' STAFF REPRESENTATIVES</p> <p>LIAISE WITH BAND COUNCIL</p>	<p>JUSTICE COOR'D AND EJAC LIAISON</p> <p>APIGSITOGAN GROUP (ADR)</p> <p>RESOURCES' SECURITY STAFF</p>	<p>BEGIN PROCESS ISSUES IN FALL 2006</p> <p>START-UP IN FISCAL 2007-2008</p>	<p>ACTION PLAN COSTED AND FUNDED</p> <p>PROTOCOL DEVELOPED FOR ADR</p>

**GOAL# 6 WORKING TOWARDS AN FN JUSTICE APPROACH (SAFETY AND REINTEGRATION)**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS	TIMING	OUTCOMES REQUIRED
OFFENDER REINTEGRATION PROJECT	<p>FUNDS SECURED FOR 2.5 YEARS</p> <p>PROGRAM AND PROTOCOLS TO BE DEVELOPED</p>	<p>EJAC</p> <p>PROJECT COOR'D</p> <p>SELECTION AND REHAB TEAMS</p> <p>FEDERAL AND PROVINCIAL FUNDERS</p>	<p>STARTING FISCAL 2006- 2007</p>	<p>STAFF HIRED SPRING 2006</p> <p>SELECTION AND REHAB TEAMS IN PLACE</p> <p>PROGRAM ELABORATION AND EVALUATION</p>
TEMPORARY SHELTER FOR VICTIMS (e.g., TRANSITION HOUSE)	<p>IDENTIFYING THE ISSUES, SCOPE OF THE PROBLEM, AND KEY STAKEHOLDERS</p> <p>EXAMING THE POSSIBILITIES OF COLLABORATION WITH NEARBY FNs</p> <p>PREPARATION OF PROJECT PROPOSAL</p> <p>COSTING AND SEEKING FUNDS</p>	<p>EJAC</p> <p>JUSTICE COOR'D</p> <p>VIOLENCE COMMITTEE</p> <p>CHILDREN AND FAMILY SERVICES</p> <p>FEDERAL AND PROVINCIAL AGENCIES</p>	<p>STARTING IN FISCAL 2007-2008</p>	<p>WORKING PROPOSAL</p> <p>FOCUS GROUPS AND GENERAL MEETING</p>

**GOAL# 7: ESTABLISHING THE BROADER CONTEXT FOR A FN JUSTICE APPROACH**

OBJECTIVES	ACTION REQUIRED	LEAD PERSONS	TIMING	OUTCOMES REQUIRED
COLLABORATING WITH OTHER FNs TO DEVELOP A STRATEGIC PLAN FOR MAJOR JUSTICE INITIATIVES	DISCUSSIONS WITH OTHER FNS' JUSTICE PEOPLE.  SPECIFIC PROPOSALS SUCH AS WELLNESS COURT DEVELOPED.  DRAWING ON FN EXPERIENCE ELSEWHERE ESPECIALLY NOVA SCOTIA	EJAC COMMITTEE  JUSTICE COORD'ER AND FN WORKING GROUP  COUNCIL LIAISON  MAWI AND UNION LIAISON	BEGIN PROCESS IN 2007	COMMUNITY MOBILIZATION FUNDING AND JUSTICE COORD'R HIRED  DISCUSSION PAPERS PREPARED  FN WORKING GROUP FORMED  SYMPOSIUM IN MONCTON FALL 2007  AGENDA FOR AN ACTION PLAN
ESTABLISHING A TRIPARTITE FORUM COMMITTEE ON JUSTICE IN NEW BRUNSWICK	WORKING GROUPS FORMED AT FN AND AT FN/FEDERAL AND PROVINCIAL LEVELS	EJAC COMMITTEE LIAISING WITH FN WORKING GROUP  FN LIAISON GRP AND BAND COUNCIL LIAISON GROUP  GOV'T REPS	BEGIN THE PROCESS IN 2007  TRIPARTITE FORUM IN PLACE IN 2008	DEVELOPMENT OF AN ORGANIZATIONAL MODEL  A MANDATE SET FORTH  REGULAR MEETINGS SCHEDULED

## APPENDIX TO STRATEGIC PLAN

### (A) POLICING IN ELSIPOGTOG

Neither the stakeholder interviews nor the community survey, conducted in the course of this project, directly sought information (i.e., assessments, preferences and priorities with respect to policing tasks) concerning the policing service in the community. There were, however, many such comments made by respondents, and in the focus groups the number one matter discussed turned out to be the policing service. Elsipogtog adults and youth were critical of the police service on the grounds of poor presence or visibility, too little community engagement, and insufficient effectiveness in responding to crime and social disorder, especially in dealing with the community's drug dealing and drug abuse. In general, there was a widespread view that the police service has shortfalls in terms of what the interviewees considered 'community-based policing', basically conceived as collaborative problem solving and a "policing for people" style. It was evident that the police service bore the brunt of widespread criticism of the criminal justice system, especially unpopular and perhaps misunderstood, bail rules, sentencing practices and the emphasis on individual rights over collective rights. It seems apparent that there needs to be more communication and exchange of views and issues between police and community, perhaps along the lines of the "partnership days" advanced in the strategic plan. Community policing may require more police resources. Certainly a comparison of the RCMP complement at Elsipogtog with that in other First Nations such as Indian Brook and Eskasoni indicates that a larger complement of officers would be appropriate given the reserve population, the high level of offenses, and the large number of 'arrests' under the Mental Health Act (responding to these latter incidents consume considerable time at the scene, at the hospital and in orchestrating local agency support). In addition, political issues whether intra-band conflict or broader disputes concerning access to resources and rights/claims can consume considerable police resources. It would be very appropriate for the RCMP to work with the community on the development of a community policing plan, something which is now commonplace in other RCMP jurisdictions and is required by official RCMP policy. Elsewhere in Canada, the RCMP in advancing on its stated priority for policing in aboriginal communities, has developed a number of initiatives such as cadets, auxiliary officers and regular engagement of elders. There are many quite feasible ways to improve the community assessments of the police service. It is the view of EJAC that action should be taken on a number of these possibilities during this calendar year, subsequent to discussion between the Community Consultative Committee and RCMP leaders in the area.

In sum, the following specific suggestions emerge from the EJAC research:

1. More police resources are necessary and justifiable for Elsipogtog. Successful models for securing such resources are available.
2. There has to be more effective partnership between the RCMP and the community. In achieving this change, initiatives such as "partnership days",

auxiliary police or cadet programs, and “two-way learning programs should be considered.

3. A formal community policing plan should be developed by the RCMP in collaboration with the Community Consultative Committee and other parties identified by the latter (e.g., interagency groupings). The community plan should be formally reviewed every two years.
4. Specific police initiatives such as a crime prevention / school liaison officer, and an elder contact program should be formally put in place.
5. The high demand for conventional policing services and for police engagement in community problem-solving clearly underscore that police-community collaboration, the challenge of community-based policing, is considerable in Elsipogtog.



## **(B) THE ELSIPOGTOG RE-INTEGRATION PROJECT**

### **THE CHALLENGE**

Elsipogtog First Nation is the largest First Nation in New Brunswick. It is a community on the move in that there have been impressive economic developments in recent years (e.g., fisheries, forestry), continued significant growth in the human capital of its residents (e.g., involvement in higher education, training programs), and over the past decade a basic infrastructure for health and related treatment programming has been put in place. On the Justice side, several programs have complemented initiatives in probation services and RCMP policing, such as the Elsipogtog restorative justice and victim assistance projects. In addition, the community has created coordinating committees such as the Elsipogtog Justice Advisory Committee and the Violence and Abuse Committee to focus community efforts and foster inter-agency problem solving in these areas.

Unfortunately, there are many serious underlying problems. There is still much unemployment and welfare-dependency. Most salient for this project there is still a very high level of crime and substance abuse. While neighbouring communities have seen their crime rates decline over the past several years, those of Elsipogtog have remained high. Of particular concern the offenses have been more likely than in neighbouring communities to involve inter-personal violence. There also appears to be a strong pattern of repeat offending among the young adults who account for the large majority of the crime. These facts, plus the extremely large number of persons arrested under the Mental Health Act, again most common among young adults, point to major problems in interpersonal relations and also in the re-integration of offenders into their families, positive social networks and the community at large.

The Elsipogtog First Nation has explored possible initiatives in the recent past with respect to half-way houses and community-based, parole supervision, and, while these initiatives did not get implemented, they indicate the concern and interest that the community has had in dealing with the above problems. It is particularly heartening then to be able to now focus on the integration of offenders with respect to their families and positive community roles and networks.

### **THE PROJECT**

The proposed project would focus on re-integration issues and treatment for offenders before and after their release from incarceration and/or probation; in the case of youth, group home referrals would also be considered. A variety of salient interventions would be considered aimed at the objectives of facilitating the development of positive offender/family/community networks and involving a range of strategies from counseling and tradition-based healing circles to employment and mentoring possibilities. Potential cases would be screened for selection by an assessment team composed of project staff and Justice and Health personnel. A program team would then be established which

would develop a program suited to the specific circumstances and particularities of the case. This program team would be composed of Justice and Counseling service providers and would engage the collaboration of special experts (e.g., family group conferencing) as required. The participation of the offender and others (family members, victims, other community members) would of course be completely voluntary and an agreement would be signed to that effect between the project and the offender. It is envisaged that a relatively modest number of cases (i.e., a minimum of six) would be selected at least in the first year of the proposed project. A project coordinator would be engaged to oversee the work of case managers who would take front-line responsibility for linking case participants to the program's counseling, healing circles and so forth. Counseling and other features of the re-integration program (exit circles in institutions, healing circles, family group counseling, employment counseling) would be provided by seconded current Elsipogtog service providers with special outside expert assistance as required. The approach in all cases would be a **team model** wherein the project coordinator and the case manager would regularly meet to examine progress and obstacles with the team of Elsipogtog-based service providers (both Justice and Counseling staff) specifically established for the particularities of the case as determined by an assessment team.

## **ANTICIPATED OUTCOMES**

It is anticipated that the project will result in much better reintegration of offenders into the Elsipogtog community, and especially with respect to their families and supportive social networks. That reintegration would be expected to manifest itself also in the offenders' taking on positive life style changes with respect to employment, dealing with substance abuse and perhaps mentoring others at risk. Apart from the more individually-focused outcomes, it is anticipated that the project will facilitate capacity building at the community level, contribute to the training of local service providers, and, through new partnerships and networking, facilitate sustainability of best practices.

## **A FORMATIVE EVALUATION**

The evaluation for the project would be a formative evaluation, that is one where the evaluation is an integrated part of the project and thus able to impact on the project as it advances. The main tasks of the evaluation would be (1) to document and describe/analyze what is done; that is, how the project has been implemented; (2) to assess its impact for offenders and other participants; (3) to examine the initiative from the multiple perspectives involved, namely project staff, Justice and Treatment personnel, offenders and families; (4) to consider the lessons learned, the community capacity developed and the generalizability of the project's initiatives. It is expected that the evaluator would participate in all major project tasks including team meetings.

### **(C) THE YOUNG ADULT MALE CENTRE**

Extensive research carried out under the coordinative leadership of the Elsipogtog Justice Advisory Committee (EJAC) has indicated that this First Nation has one of the highest levels of crime and social disorder among First Nations in Canada. The social problems transcend conventional criminal offenses even though the local RCMP detachment has also indicated that criminal offenses and files per officer are the highest for any RCMP detachment in Canada. The community too has an exceptionally high level of attempted self-harm which is captured statistically by the RCMP in its records for arrests under the Mental Health Act (this level annually is more than 40 times that found in the population of the comparatively sized neighbouring area). Unfortunately, unlike the neighbouring areas, the rates of crime and of social malaise have not appreciably declined over the first five years of the 21<sup>st</sup> century's first decade.

Exploring beneath these blatant statistics one finds that most of the crime is committed by young adult males (i.e., 18 to 30 years of age), not youth and not females. Moreover, these same young male adults are most likely to be arrested under the Mental Health Act, indicating that they are both victimizing others and turning on themselves. A recent survey we have conducted in Elsipogtog among adults (a representative random sample of 210 households, making up 30% of all households), as well as focus groups subsequently carried out to assess further the implications of the survey findings, indicate that the large majority of residents believe that the community's crime is at a crisis point and that they, themselves, exhibit much fear and worry for the safety and well-being of themselves and their loved ones. The grouping exhibiting the greatest fear and worry, as well as the highest level of victimization, is the young adult females. They demand solutions to the crime and social problems yet are very skeptical about the conventional responses of the justice system and consider community factors as factionalism and strong family loyalty to constitute major obstacles to community-based initiatives and alternatives.

It is clear that something has to be done to change the behaviour and thinking of the young adult males. Many seem to be caught up in substance abuse and without regular employment. Ill-educated and poor models of parenting, they command little respect in the community's – and in their own – eyes. In the parlance of contemporary social work, they have “zero status” in Elsipogtog. Our proposal is directed at this grouping and is designed to directly confront their issues and alter their life styles. The core of the proposal is to bring the young adult males into a milieu where they can develop better self-images and access readily the counseling and upgrading that they need, in a supportive context. Such programming has been effective among young adult males in the ghettos of some large American cities such as Boston and we believe it can be successful in Elsipogtog, drawing upon the strong family supports and an extensive service capacity.

It is proposed that a recently constructed but currently unoccupied (and available) work-out center in Elsipogtog be turned into a center for young adult males willing to abide by specific rules of conduct in the facility and wanting to put their lives in order. It

would not be a residence – and, indeed, most recent therapy and rehabilitation literature emphasize that the most effective way to alter life styles is through some kind of “out-patient” approach. The center would be staffed with a coordinator and a health trainer consultant. A committee of community specialists would determine eligibility and an individualized program would be developed with the participants. The program coordinator would network closely with the community’s service providers (health, education, employment, alcohol and drugs) and the health consultant would be a fitness provider with a vision, as for example in the classic YMCA approach (i.e., fitness to develop self-respect and spearhead other behavioural change).

Access to the center, at least initially, would be limited to young men. Those wanting to access the facilities would have to indicate some commitment to a life style without substance abuse and a willingness to accept counseling and other services should these be required to achieve what the community would regard as an acceptable status for a young man. The building itself would be provided rent-free to the project in testimony of the community leaders’ recognition of the value of such an initiative. The project costs would include personnel (a coordinator, health fitness consultant, and maintenance worker), training for personnel, payment for some special treatment or counseling above and beyond existing community services, equipment costs, and regular, independent evaluation and feedback to the sponsoring body, the Elsipogtog Justice Advisory Committee.

## **APPENDIX F**

### **EXCERPT FROM CLAIRMONT AND McMILLAN, FUTURE DIRECTIONS IN MI'KMAQ JUSTICE IN NOVA SCOTIA**

#### **FUTURE DIRECTIONS**

Here the researchers suggest some recommendations and possible options for the future evolution of MLSN. We stress that these are advanced in the hope of contributing to the discussions planned for reviewing MLSN, its mandate and future growth, and no special claims are being made for the researchers' standpoints, other than to note that they are empirically grounded in Mi'kmaq views and feasibility considerations as we have interpreted them. Hopefully they will contribute to fruitful strategic planning by all stakeholders.

#### **A STRATEGIC PLAN**

A strategic plan has to be rooted in a vision and a set of principles. As the biblical admonition asserts, without a vision we are lost. The vision advanced here is one that is congruent with the agenda recommended by the Royal Commission on Aboriginal Peoples, namely that aboriginal societies, by dint of constitutional rights and cultural tradition, should be encouraged to develop justice systems in which they exercise substantial autonomy and where their cultural perspectives and preferences are meaningfully incorporated. Like other Canadians, native persons should expect fair and culturally sensitive treatment within the mainstream justice system, but, unlike other Canadians, constitutionally they can legitimately "move outside the box" whether in an administrative or a policy sense. While the contours of the "outside the box" path are always impossible to fully specify or grasp since social circumstances and cultural styles are inherently dynamic and subject to evolution and occasionally dramatic change, such a vision sets the agenda for many First Nations people in justice matters today. The vision suggests a continuum where one end is basic "integration and fairness" within the mainstream justice system and the other end is a more parallel First Nations justice system. Different First Nations may have different views on where they want to position themselves on this continuum regarding justice considerations now and in the future. What is feasible certainly will affect that positioning too, and feasibility is also subject to change.

A strategic plan involves articulating priorities, feasibilities, responsibilities, timing, and anticipated challenges and positive outcomes. Rough ideas are advanced here. Guiding the strategic plan are several key themes, namely (a) the concept of building upon, not jeopardizing, what has been accomplished and is working well (as exemplified in the CMM approach and in its accountability framework adopted by MLSN); (b) the patient perspective of Mi'kmaq political leaders which emphasizes getting it right rather than getting it quickly; (c) the concept of a continuum of Mi'kmaq

justice from the perspectives of management, ownership and values. Such a continuum, as noted above, would be anchored at one end by the standpoint of “integration and fairness” as exemplified in most inquiries and commissions on aboriginal justice since the late 1980s and, at the other end, “autonomy and control” as exemplified in the recommendations of the Royal Commission on Aboriginal Peoples. It seems fair to say that currently MLSN is more at the ‘integration and fairness’ end of the continuum since its programs are principally reactive to CJS referrals (providing restorative justice alternatives in cases of minor crime) and court charges (providing information and support to defendants). Movement along the continuum has explicitly been adopted by the Tripartite Forum’s Justice Working Committee in its 2005-2006 Operational Plan (i.e., “Incorporate the spirit and intent of the 1996 report of the Royal Commission on Aboriginal People, Bridging the Cultural Divide, in the work of the Justice Committee”). The strategic planning encouraged by this report would be incremental, starting with feasible changes in Mi’kmaq involvement within the mainstream justice system, and with the support of Mi’kmaq leaders and FN members and, in collaboration with the governmental partnerships that have been nurtured and should continue to be nurtured, evolving into a more Mi’kmaq system for Mi’kmaq communities in Nova Scotia.

The principles that underline the strategic plan are at least three-fold, namely (a), Do not jeopardize the significant MLSN achievements. Overloading MLSN staff, and not tailoring MLSN’s evolution to management capacity and funding feasibility, factors which contributed significantly to MLSN’s predecessor’s demise, has to be always guarded against since the demands for more justice initiatives are considerable; (b) Moving along the continuum toward the RCAP pole requires both province-wide organization and Mi’kmaq direction and vision sustained by community linkages and accountability to Mi’kmaq FNs. Given the powerful centrifugal forces inherent in construct of independent FNs and particularly now that the bar for consultative policy formation has been raised by KMK practices, this principle is crucial and applies even if short and mid-term MLSN evolution will be largely in the criminal justice sphere (e.g., getting more engaged routinely in serious offending); (c) Evolution will require some institutionalization of MLSN, manifested in longer term core funding so that such planning and strategizing for the future can occur and virtually all management energies not be focused on survival of the existing state of affairs. It would appear that significant growth would require a three to five year core budget, apart from CWP and CLP funding, of roughly \$235,000 annually (sufficient to maintain a full-time managing director, a full-time community liaison person, ad hoc consultancy, adequate administrative support, and modest honoraria for the chairs of the proposed CJC). The current level of MLSN management, altered only by the replacement of a part-time manager with a full-time manager, would mean limited growth potential for MLSN.

There are several assumptions which undergird this strategic plan. The most basic is that there is a three-fold way by which MLSN may advance the justice agenda along the direction envisaged, namely (a) through direct program development, management and direction, (b) through coordination and partnering with other Mi’kmaq and perhaps mainstream agencies, and (c) through advocacy with its collaborators in the Tripartite Working Committee. Thus far, it would appear that MLSN’s thrust has been to mount

programs such as CWP and CLP. There may well be further such initiatives in the future but funding constraints and management capacity suggest that, in areas such as interpreters' service, victim services and conflict resolution, the short and mid-term strategy might be to find partners to co-deliver such services, whether these be with MCFS, UINR and so forth. For example, there is much demand among Mi'kmaq people for more balance in MLSN services by having it provide more information and support for victims, largely though not limited to the court process. A victims' services unit along the lines of the CWP does not seem feasible and having the CWP serve both offenders and victims in cases of violent offending does not seem manageable. Solutions may be found in partnering with the provincial Victim Services for modest "para-legal" funding (as is the case in New Brunswick among a handful of FNs) and simultaneously partnering with bodies such as Eskasoni Mental Health and the two Mi'kmaq transition / safe houses (in Millbrook and Waycobah) for their provision of support to victims of violence. In these latter cases, there could be a necessity to do more for the victims than just providing information and help with compensation forms etc).

The third role for MLSN relates back to the purpose of the TWC to discuss Mi'kmaq justice issues and assist in their advocacy. There is some of that going on at present (e.g., the cultural gatherings in Corrections) but much more might be done. It is clear from the Mi'kmaq interviews with opinion leaders, local agency personnel and political leaders that the two consensus justice priorities are more cultural awareness, visibility and presence of Mi'kmaq persons in the mainstream justice systems and dealing more effectively with the matter of alcohol and drug abuse and addiction. The TWC seems to be a very appropriate and effective forum to consider possible initiatives along these lines, some of which could bring funding for services (aboriginal perceptions orientation), involve identifying other service deliverers, or encouraging proposals submitted by other bodies. For example, a wellness court is a provincial criminal court and leadership on such a proposal would have to come from judges and provincial officials as well as Mi'kmaq advocates. Interestingly, there are senior judges in both the Truro / Shubenacadie and Membertou / Eskasoni areas who have indicated that they might be willing to head up such a native criminal court and who also have much credibility in the Mi'kmaq society. The TWC also would be an appropriate body to discuss with Dalhousie University's IBM officials and with Mi'kmaq law graduates the issue of why virtually no graduates become practitioners in mainstream justice systems.

The MLSN may have a role funneling justice issues such as the above from the revitalized Advisory Committee and the CJC's to the Tripartite forum and getting the support and advocacy of the TWC to push for their realization but they need never result in specific programs that would be managed by MLSN. It would seem that this way through which MLSN might advance the Mi'kmaq justice vision has largely been side-tracked by the pressing quest for survival (i.e., securing the core annual budget). There is little doubt that the federal and provincial governments will be hesitant to respond to any suggestions that involve substantially new monies and limited pressures would likely come from Mi'kmaq political leaders in that regard. It is argued here that any additional monies or re-shuffling of existing MLSN monies should be directed to

securing the staff complement identified above and facilitating the development of strong, formal CJs and a revitalized AC.

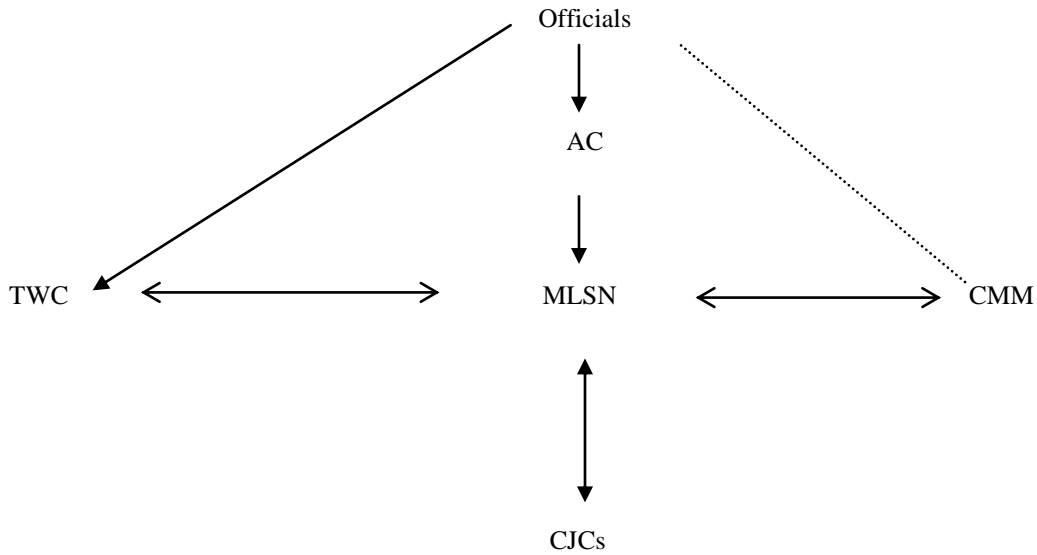
A second assumption behind the proposed strategic plan is that “justice”, for the nonce anyway, will remain in the regular Tripartite Forum context where presumably all significant new initiatives will continue to have to be approved by the Officials’ Committee on which sit all thirteen Mi’kmaq chiefs. The large majority of interviewees did envisage some movement toward a more independent MLSN which would be more transparently pan-tribal and accountable. This research has found sharply divergent views about future governance models for MLSN, with some persons advocating that MLSN, like MCFS, should be directed by the chiefs (e.g., it would ensure the government’s attention, it would facilitate growth in other areas of justice) and others offering equally salient reasons for having a board arms-length from political leaders (e.g., conflict of interest, the chiefs’ plate may already be overloaded). There may be no need to belabor the creation of a new board, pending the Made in Nova Scotia (MINS) framework agreement or interim agreements if political leaders decide to take “justice” out of the regular Tripartite Forum and into the MINS work table format. It seems reasonable then to continue with the governance structure, altering it slightly to be congruent with the originally proposed governance model for MLSN (e.g., revitalizing the AC but maintaining its delineated role) and structuring in the important layer of community justice committees.

In line with this assumption, and the principle of moving cautiously, the diagram, Model C, is advanced as a possible governance system two or three years “down the road”. The thin management structure and staff turnover issues make it crucial for MLSN to continue to draw upon the TWC with its senior and committed government officials and CMM with its solid financial accountability and tested management practices. While retaining these relationships, the model reflects a more independent MLSN collaborating with the TWC (on justice policy formation) and CMM (at the minimum, contracting financial administration with CMM), where oversight and vision is provided by a strong Advisory Group drawing upon Mi’kmaq justice stakeholders throughout Nova Scotia, and linked with formally constituted CJs. The tasks over the next few years would be to move forward toward the Model C format (or some preferred alternative), devising the specifics and securing the approval for same in the current fashion which is via the Officials’ Committee. While mobilizing effective CJs may not be an easy job, more formally constituted but still basically volunteer committees, where a number of members and a chair and proposed work plan - liaison (two way information flow) and other tasks (e.g., assisting in ‘justice circles’, monitoring court dockets for the CWP) - are submitted to the band council for endorsement, have been successfully implemented elsewhere. The Advisory Committee, now largely dormant, might have to be revitalized with additional temporary members in order to generate subcommittees to examine the options of that body and MLSN’s other relationships and future program thrusts. The 2002 document on the role of and procedures for the Advisory Committee (included replacement of members and other considerations) could be usefully consulted. Over time, as indicated in Model C the role of TWC – if the institutionalization regarding funding and time frame suggested above were realized – would become more that which was presumably



envisaged in the Marshall Inquiry recommendations, namely discussing, suggesting and advocating valuable Mi'kmaq justice initiatives in concert with Mi'kmaq representatives. MLSN has done very well but it is unlikely, we assume, to move much further along the continuum defined above, even in the CJS trajectory, without a stronger Mi'kmaq mandate. At the very minimum there should be more community outreach and an enlargement of the advisory group to include more Cape Breton Mi'kmaq participants.

## Model C: FUTURE GOVERNANCE?



### Where:

Officials Committee = 13 Chiefs and Federal & Provincial Government Representatives

TWC = Tripartite Working Committee in Justice

CMM = Confederacy of Mainland Mi'kmaq

AC = Advisory Council

CJC = Community Justice Committees

## **SPECIFIC ISSUES**

The Tripartite Working Committee has been essential to the re-emergence and continuance of MLSN. At the same time, if MLSN funding was secure, the TWC could be able to concentrate on issues of the kind the Marshall Commission and Government initially envisaged (see Prelude), two of which are (a) the issue of more Mi'kmaq visibility in mainstream justice systems (leading discussions concerning the possibilities, encouraging cultural awareness or aboriginal perceptions orientation at all levels and systems of mainstream justice work, examining why so few IBM graduates assume posts as lawyers); (b) exploring prospects for the recommended Native Criminal Court (presumably in its current "wellness court" guise). These two thrusts correspond to the two most widely held and deeply experienced Mi'kmaq concerns, namely the visibility/presence issue and the alcohol and drug addiction issue.

MLSN clearly has been a significant success story. Just as clearly, it is in need of a full-time manager who can spend much more time on guiding the organization in the three roles described above. The current part-time manager would be, according to virtually all MLSN staff and TWC members, an excellent choice were he available. He is well regarded by MLSN staff for his competence, participatory democratic approach to leadership and his vision for Mi'kmaq justice. Given the fact that MLSN remains in a precarious budget situation, one always has to be looking for economies in order to husband well the scarce resources. The management level is not the place to look as it is already too thin. There may be saving in reorganizing the administrative work if, as we have been led to believe, there are office workers (not managers) in both Eskasoni and Millbrook.

Clearly a central problem for MLSN has been staff turnover, particularly in the CLP program. Turnover can be discussed in terms of external and internal job satisfaction. The key factors in external satisfaction are compensation, conditions of work, career opportunities and environmental control factors (such as employees being able to exercise some control over the determinants of caseload and so forth). The compensation in MLSN is in the "fair to middling" range but reportedly below the premium for young well-educated para-professionals in the burgeoning Mi'kmaq service sector. The career prospects of MLSN staff are quite limited as there are few promotion opportunities. The MLSN program is essentially reactive so, to that extent, there is little control to be exercised on supply and demand and so forth by MLSN staff. It is unclear whether the conditions of work can be altered so as to generate more satisfaction and less turnover. Most MLSN turnover appears to have been related to better pay and career opportunities elsewhere, but some has been related to dissatisfaction with the working conditions. MLSN staff members are engaged in work that involves them in situations of strain (e.g., client suicides and problem life styles) and, in the case especially of CLP staff, experience considerable travel demands. Given the understandable need of CMM to have consistent personnel policies across a mélange of programs, it is unclear whether it can accommodate to these special work roles (e.g., having a flex-time arrangement) but there should be some discussion of the possibility. There should also be regular modest salary increments for MLSN staff as found in the rest of the government-related, working

world. Internal satisfaction involves considerations such as clarity of job expectations, job complexity which is usually associated with job diversity, having the resources to do the job well, knowing whether you have done the job well, and being allowed to do the job. Since this assessment did not, by mandate, focus on the MLSN programs little can be said about whether the internal job satisfaction factors were adequate. The efforts of the TWC, CMM and MLSN management to encourage team building “get-aways” and the open, consultative MLSN management style have reportedly been well-received by staff and should be continued. It may well be that job diversity can be strengthened as well through cross-training between CWP and CLP and in other ways (e.g., the cultural gatherings); some of this has also been done in the last year and a half and should be encouraged. There is no magic answer to the turnover problem but the above suggestions could help. Given the total set of factors it is likely that turnover will continue to be an irritant at the least and perhaps the MLSN management can prepare for turnover by engaging more volunteers and also draw satisfaction from the fact that its members went on to serve the Mi’kmaq community in other ways.

The CWP and CLP programs were not under review in this assessment but some comments and suggestions for their operation have been made above. Both programs have a service delivery problem on the mainland, especially west of Shubenacadie to HRM and Yarmouth. The problem has at its roots the challenge of responding to small widely scattered populations. Meeting that challenge has been a hallmark of MLSN as a province-wide organization and is something that should be maintained. It would appear that the best way to accomplish that would be to link some CWP and CLP activities to the proposed community justice committees; through these CJsCs, volunteers would liaise with CWP and CLP staff to ensure that routine salient justice matters in the areas are well attended to and that when more serious matters or cases crop up, staff would become involved. There may be a need to be clearer concerning what the court workers’ mandate is in court. If the court workers are encouraged to “speak to the sentence” when a defendant is unrepresented by counsel, it might be wise to have some orientation on this intervention provided by the Bar and NSLA (recall from the Prelude that such liaison was a basic Marshall Inquiry recommendation so there should be little problem obtaining cooperation). Another concern that might be addressed is CWP assistance in matters of family justice since they apparently have had no training in this area and any help / advice rendered could be problematic. It seems very crucial that MLSN in its advocacy role collaborate with TWC members to bring the FLIC program to Eskasoni and to facilitate better access to family court services (e.g., assistance in completing forms, use of the free summary advice counsel or family court duty counsel). Elsewhere, suggestions have been made for CWP becoming engaged in victim services, collaborating with other local agencies in instances of violent offences to ensure, at least in these cases, some support is provided to victims. The CLP has been the leading edge culturally of MLSN and usually its most celebrated program. Aside from the service delivery problem already referred to, caseload and future population projections, as well as crime trends, suggest that the CLP should be expanding into cases of more serious youth offending (developing a strategy for dealing with serious and chronic offenders) and, more cautiously perhaps, into adult referrals – in both instances perhaps on a project basis seeking additional funding from NSRJ and NCPC). Networking with the referral sources remains a major

and time consuming activity and here the CLP should collaborate with its NSRJ partners to seek NSRJ assistance. In the larger picture and the near future, serious consideration should be given to how CLP's facilitation and conflict resolution capacity can be enhanced and the role it might assume with respect to other kindred Mi'kmaq initiatives (e.g., UINR's elder panels, MCFS' family group conferencing etc). There is a case to be made for a leadership role for CLP in coordinating a centralized conflict resolution / facilitation Mi'kmaq capacity.

## PHASES

Some brief suggestions are noted below. They hinge on the institutionalization of MLSN as discussed above, namely multiyear funding with an annual budget of approximately \$235,000. If such funding is not forthcoming, nothing more than "same old", "same old", then "regular" funding presumably can still yield at least a full-time director and a community liaison person along with administrative assistance and travel expenses and other modest operational budget items. There is still growth that could be accomplished with respect to the MLSN programs and the AC, the CJsCs and planning for the future even with such limited and precarious funding. The prerequisites for moving along the vision continuum are community engagement and Mi'kmaq accountability and vision – this does not require a new board but does require a clear sign that MLSN is accountable to and led by all Mi'kmaq interests.

**Phase A:** Improving and expanding the current MLSN programs. Crucial here are a variety of considerations, all premised on MLSN continuing its current activities and operating within the same organizational and governance structure. The end of the phase in two or three years could be symbolized by the adoption of governance framework referred to in Model C. Key themes in Phase A include,

1. Expand CLP to adults at least on a project basis and secure more post charge referrals in the case of youth (more than is currently the case). Note the strategies followed in HRM and in Elsipogtog (Big Cove, New Brunswick) to secure post-charge referrals, namely soliciting police advocacy for a wider reaching referral net (i.e., subsequent to laying charges). With the CLP it is possible to build on current successes in getting crown-level referrals.
2. Consider a different service delivery model for both CLP and CWP on the Mainland, one linked perhaps to the development of community justice committees.
3. Develop a strategy to respond to repeat offenders in the CLP.
4. Deal more effectively with the turnover problem especially for CLP staff.
5. Put in place the community justice committees. Formalize the arrangement if possible through band endorsements or band council resolutions.
6. Strengthen the Advisory Committee component of MLSN governance as suggested above.
7. Thicken MLSN operational management (a full-time manager / director, full-time community liaison person, half-time researcher / policy consultant plus volunteer subcommittees for special issues).

8. Define key issues for advocacy within the TWC as noted above (e.g., the feasibility of a wellness court, an examination of the issues that result in so few Mi'kmaq Law graduates practicing in the criminal and family/civil court systems (meeting with Law School. Mi'kmaq graduates and so on to develop a plan of action if deemed necessary) etc.
9. Consider strategies to coordinate / partner with other agencies with respect to victim services and justice areas beyond the criminal.

**Phase B:** Expanding the MLSN mandate and moving along the continuum towards a more Mi'kmaq administrative control and a Mi'kmaq approach to justice in Mi'kmaq communities. Key themes in Phase B include

1. As a collaborator within TWC, proposing solutions with respect to the possibilities of a wellness court for Mi'kmaq in Nova Scotia, visibility and present shortfalls in the mainstream justice system and other initiatives in the mainstream justice systems.
2. Getting engaged in the family/civil justice sphere via a family court worker project at least in Cape Breton if not also in the Truro / Shubenacadie area and pursue collaboration with MCFS regarding family group conferencing.
3. Exploring collaborative relationships in the field of Mi'kmaq regulatory justice.
4. With a strong base in Mi'kmaq communities and a revitalized AC, establish a more independent MLSN (e.g., moving from a co-management model (a CMM program) to a contract relationship with CMM on financial and perhaps personnel relations).
5. Expansion of MLSN capacity with respect to conflict / dispute resolution and also developing a research capacity
6. Other initiatives would depend upon the achievements in Phase A. (for example, MLSN might consider the coordination of offender reintegration rehabilitation project (“coming home in a good way”) or a special project for serious offending and chronic offending among youth.
7. Organize largely volunteer subcommittees of Mi'kmaq local leaders and justice experts to consider strategies for new directions and to distill justice ideas and demands channeled through the AC and the CJs.

## FEASIBILITY CONSIDERATIONS

Throughout this assessment the researchers have paid close attention to questions of feasibility. It is relatively easy to suggest this or that justice initiative given the many issues and great demands concerning justice in Mi'kmaq society. There is little enough that is Mi'kmaq influenced even in the criminal justice system, let alone in the virgin territories of Mi'kmaq family and regulatory justice. There is also the continuing lack of stable core funding which inhibits strategic planning for MLSN and its TWC "de facto" board. Initially, this concern helped focus the assessment on the three ways MSLN can advance the Mi'kmaq justice agenda, going beyond its own programs and highlighting (a) the prerequisites for a greater Mi'kmaq mandate and vision that could ultimately yield sustainable MLSN funding (whether through band budgeting, as a byproduct of the Made in Nova Scotia process or otherwise) and (b) coordinating and partnering with other agencies in responding to Mi'kmaq justice needs and challenges. The funding that could result from the latter activities is not clear but there certainly appear to be opportunities there with respect to MCFS, UINR and so forth. Some initiatives suggested above, such as a family court worker have funding prospects according to the key authorities in those areas. In the text we have endeavored to draw out such implications where appropriate. The advocacy role of MLSN could be substantial without much additional direct funding, provided that MLSN management was "thick" enough in resources to pursue issues and confident enough of its mandate from the larger Mi'kmaq community. Here, too, opportunities may develop in association with the TWC support. Based on our reading of the interviews and other data, we have noted frequently that the requisites for a "minimalist" growth in MLSN's justice reach – building upon what has been characterized as a very significant advance from the doldrums of its predecessor's demise - include a need to at least liaise better with the Mi'kmaq communities and to have more Cape Breton involvement in the AC, feasible developments even if the budgetary constraints remain formidable. In the minimalist option, developments in the substantive MLSN programming would of course have to be within the criminal justice system since that is where the funding is principally available (i.e., criminal court work, justice circles, possibly something in interpreters' service).

## SPECIFIC BIBLIOGRAPHY

Bernard, Darlene, Our Native Women of Lennox Island, Lennox Island Band Council, 1985

Clairmont, Don (with Jane McMillan) After the MJI: Future Directions in Mi'kmaq Justice, Halifax: Tripartite Forum On Native Justice. Queens' Printer, Halifax Nova Scotia, Department of Justice, 2001

Clairmont, Don, Elsipogtog Justice: A Strategic Action Plan. Atlantic Institute of Criminology, Dalhousie University, 2006

Clairmont, Don (with Jane McMillan), The MLSN and Future Directions in Mi'kmaq Justice, Tripartite Forum on Native Justice, Department of Justice, Nova Scotia, 2006

Crossley, John, "Two From The Island: Recent Work Relating To The MicMacs of Prince Edward Island" Review article (google search. John Crossley)

Eastern AJS Steering Team, Draft of Proceedings August 2006. Ottawa, Department of Justice 2006

Eastern AJS Steering Team, Draft of Proceedings September 2006. Ottawa, Department of Justice 2006

Haire, Basil, Creating A Maritime Network To Support Aboriginal Youth, Leadership and Community Development Training Seminar, 2005, Proceedings Report, Charlottetown: PEI Department of Justice, 2006

Haire, Basil, Creating A Maritime Network To Support Aboriginal Youth, Aboriginal Leadership and Networking Pow Wow, 2006, Proceedings Report, Charlottetown: PEI Department of Justice, 2007

Indian and Northern Affairs Canada, Aboriginal Economic Development in Atlantic Canada, Ottawa: Indian Affairs, 2002

Lightwood, Jill, Draft: Development of an Aboriginal Justice Program in Prince Edward Island, 1999-2006. Charlottetown, PEI Department of Justice, 2007

Mikmaq Confederacy of Prince Edward Island, Annual Report, 2006. Summerside PEI, 2007

Mikmaq Confederacy of Prince Edward Island, Quarterly Newsletter, Spring 2007. Summerside PEI, 2007



Native Council of PEI, Organizational Background, Programs and Services, 2007 / 2008 Charlottetown, PEI, 2007

Native Council of PEI, The Mi'kmaq of Epikwitk Charlottetown, PEI, 2007

New Economy Development Group Inc, A Formative Evaluation of Marshall Phase 11: Final Report. Ottawa. New Economy Development Group, 2005

Protocol for a Community Based Initiative for Fisheries Offences: The Mi'kmaq Confederacy of PEI ", The Lennox Island First Nation of PEI and The Abegweit First Nation of PEI, March 2006

Weir, Warren, Mahemigew Inc, 1997

## GENERAL BIBLIOGRAPHY

- Acorn, Annalise. 2004. *Compulsory Compassion: A Critique of Restorative Justice*. Vancouver: UBC Press.
- Agrawal, Arun. 1995. Dismantling the Divide Between Indigenous and Scientific Knowledge. *Development and Change*. 26:413.
- AJLN, LINK, Vol. 1 (8). Ottawa: Department of Justice, Summer 2000
- Alfred, Taiaiake. 1999. *Peace, Power, Righteousness: An Indigenous Manifesto*. Oxford: University Press.
- Alfred, Taiaiake. 2005. *Wasase: Indigenous Pathway of Action and Freedom*. Peterborough: Broadview Press.
- Atlantic Policy Congress of First National Chiefs, MI'KMAQ AND MALISEET YOUTH SPEAK OUT, Moncton: 1999
- Atlantic Policy Congress of First National Chiefs, MI'KMAQ AND MALISEET ELDERS SPEAK OUT, Dartmouth: 1999
- Atlantic Policy Congress of First Nations Chiefs, MI'KMAQ AND MALISEET RESPONSE TO THE ROYAL COMMISSION OF ABORIGINAL PEOPLES FINAL REPORT, 1998
- Asch, Michael (ed). 1997. *Aboriginal and Treaty Rights in Canada*. Vancouver: UBC Press.
- Barsh, R. and J. S. Henderson. 1997. Marshalling the Rule of Law in Canada: Of Eels and Honour, *Canadian Native Law Reporter*. 1 C.N.L.R.: 1-50.
- Battiste, Marie. 2000. *Reclaiming Indigenous Voice and Vision*. Vancouver: UBC Press.
- Battiste, M. and J. Henderson. 2000. *Protecting Indigenous Knowledge and Heritage: A Global Challenge*. Saskatoon: Purich.
- Bell, Catherine and David Kahane (eds.). 2004. *Intercultural Dispute Resolution in Aboriginal Contexts*. Vancouver: UBC Press.
- Berkes, F., J. Colding, and C. Folke. 2000. Rediscovery of Traditional Ecological Knowledge as Adaptive Management. *Ecological Applications*. 10(5):1251-62.

- Blaser, M., H. Feit, G. McRae. 2004. *In the Way of Development: Indigenous Peoples, Life Projects and Globalization*. London: Zed Books.
- Bohannon, Paul (ed.). 1967. *Law and Warfare: Studies in the Anthropology of Conflict*. Austin: University of Texas Press.
- Borrows, John. 2002. *Recovering Canada: The Resurgence of Indigenous Law*. Toronto: University of Toronto Press.
- Bourdieu, Pierre. 1991. *Language and Symbolic Power*. Cambridge: Harvard University Press.
- Boxberger, Daniel. 1989. *To Fish in Common: The Ethnohistory of Lummi Indian Salmon Fishing*. Lincoln: University of Nebraska Press.
- Braithwaite, John, CRIME, SHAME AND INTEGRATION. New York: Cambridge University Press, 1989
- Braithwaite, John and Heather Strang (eds.). 2001. *Restorative Justice and Civil Society*. Cambridge: University Press.
- Canada, Royal Commission on Aboriginal Peoples, BRIDGING THE CULTURAL DIVIDE: A REPORT ON ABORIGINAL PEOPLE AND CRIMINAL JUSTICE IN CANADA. Ottawa: Supply and Services, 1996
- Chan, Janet, "Governing Police Practice: Limits of the New Accountability", BRITISH JOURNAL OF SOCIOLOGY, Vol. 50 (2), June 1999
- Chartrand, Paul (ed.). 2002. *Who Are Canada's Aboriginal Peoples?* Saskatoon: Purich Press
- Clairmont, Don, COMMUNITY ASSESSMENTS OF CRIME, JUSTICE AND DIVERSION: VIEWS OF INDIAN BROOK ADULTS AND YOUTHS. Halifax: Tripartite Forum on Native Justice, 1994
- Clairmont, Don, CRIME, POLICE AND JUSTICE IN INDIAN BROOK: 1991-92. Halifax: Atlantic Institute of Criminology, 1993
- Clairmont, Don, NATIVE JUSTICE IN NOVA SCOTIA. 3 Volumes Halifax: Queen's Printer, 1992
- Clairmont, Don, THE INDIAN BROOK DIVERSION PROGRAM. Halifax: The Tripartite Forum on Native Justice, 1995

Clairmont, Don, THE SHUBENACADIE BAND DIVERSION PROGRAMME: AN EVALUATION OF THE FINAL YEAR AND AN OVERALL ASSESSMENT. Halifax: Atlantic Institute of Criminology, 1996

Clairmont, Don and Rick Linden, DEVELOPING AND EVALUATING JUSTICE PROJECTS IN ABORIGINAL COMMUNITIES: A REVIEW OF THE LITERATURE. Ottawa: Solicitor General of Canada, 1998

Clairmont, Don and Chris Murphy, SELF-ADMINISTERED FIRST NATIONS' POLICING: AN OVERVIEW OF ORGANIZATIONAL AND MANAGERIAL ISSUES. Ottawa: Solicitor General Canada, 2000

Clairmont, Don and Jane McMillan, Future Directions in Mi'kmaq Justice, Halifax: The Tripartite Forum, 2001

Clairmont, Don, The Evolution Of Policing in Aboriginal Communities in Canada. Toronto: The Ipperwash Inquiry, 2006

Coflin, Jim, REVIEW: MI'KMAQ JUSTICE WORKER'S PROGRAM. March 1998 Coates, Ken. 2000. *The Marshall Decision and Native Rights*. Montreal: McGill-Queen's University Press.

Comack, Elizabeth (ed). 1999. *Locating Law: Race, Class, Gender Connections*. Halifax: Fernwood Press.

Conley, John and William O'Barr. 1998. *Just Words: Law, Language and Power*. Chicago: University of Chicago Press.

Conley and O'Barr, 1990. *Rules Versus Relationships: The Ethnography of Legal Discourse*. Chicago: University of Chicago Press.

Cruikshank, Julie. 1998. *The Social Life of Stories: Narrative and Knowledge in the Yukon Territory*. Lincoln: University of Nebraska Press.

Culhane, Dara. 1998. *The Pleasure of the Crown: Anthropology, Law and First Nations*. Vancouver: Talon Books.

Darnell, Regna. 2001. *Invisible Genealogies: A History of Americanist Anthropology*. Lincoln: University of Nebraska Press.

Davis, A and J. Wagner. 2003. Who Knows? On the Importance of Identifying 'Experts' When Researching Local Ecological Knowledge. *Human Ecology*. 31:463-489.

Dickson-Gilmore, Jane and Carol LaPrairie. 2005. *Will the Circle Be Unbroken? Aboriginal Communities, Restorative Justice, and the Challenges of Conflict and Change*. Toronto: Toronto University Press.

Dombrowsik, Kirk. 2001. *Against Culture: Development, Politics and Religion in Indian Alaska*. Lincoln: Nebraska University Press.

Feit, Harvey. 2001. Voices from a Disappearing Forest: Government, Corporate and Cree Participatory Forestry Management Practices. In *Aboriginal Autonomy and Development in Northern Quebec and Labrador*. Colin Scott (ed.). Vancouver: UBC Press (119-148).

Fienup-Riordan, ESKIMO ESSAYS: YUP-IK LIVES AND HOW WE SEE THEM. New Brunswick: Reutgers University Press, 1990

Fiske, Jo-Anne and Betty Patrick. 2000. *Cis Dideen Kat: When the Plumes Rise*. Vancouver: UBC Press.

Fowler, Loretta. 1987. *Shared Symbols, Contested Meanings*. Ithaca: Cornell University Press

Frideres, James, NATIVE PEOPLES IN CANADA. Scarborough: Prentice-Hall, 1993

Furniss, Elizabeth. 1999. *The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community*. Vancouver: UBC Press.

Geertz, Clifford. 1983. *Local Knowledge*. Princeton: Basic Books.

Gledhill, John. 1994. *Power and Its Disguises: Anthropological Perspectives on Politics*. London: Pluto Press

Green, Ross Gordon, JUSTICE IN ABORIGINAL COMMUNITIES: SENTENCING ALTERNATIVES. Saskatoon: Purich Press, 1998

Grenier, Louise. 1998. *Working with Indigenous Knowledge: A Guide for Researchers*. Ottawa: International Development Research Centre ( IDRC).

Havemann, Paul, THE INDIGENIZATION OF SOCIAL CONTROL IN CANADA. In *Indigenous Law and the State*. Morse, Bradfor and Gordon Woodman (eds). Holland: Foris Press, 1988

Head, Robert, POLICING FOR ABORIGINAL CANADIANS: THE RCMP ROLE. Ottawa: Royal Canadian Mounted Police. 1989

Henderson, James (Sakej). 1997. *The Mi'kmaw Concordant*. Halifax: Fernwood.

Hickman, A., REPORT OF THE ROYAL COMMISSION ON THE DONALD MARSHALL Jr PROSECUTION. Halifax: Province of Nova Scotia, Queen's Printer, 1989

Hocking, Barbara (ed). 2005. *Unfinished Constitutional Business? Rethinking Indigenous Self-determination*. Canberra: Aboriginal Studies Press.

Hoffman, Bernard. 1955. *Historical Ethnography of the Micmac of the Sixteenth and Seventeenth Centuries*. Unpublished Ph.D. Dissertation, Department of Anthropology, University of California, Berkeley.

Isaac, Thomas. 2004. *Aboriginal Law*. Saskatoon: Purich Press

Johnson, Darlene. 1989. *The Taking of Indian Lands in Canada: Consent or Coercion*. Saskatoon: Native Law Centre Publishing.

Keating, Colin, "Judicial Functions On Marae", Address by the Secretary for Justice to the Conference on Indigenous Peoples and Justice, Wellington New Zealand, June 1999

La Prairie, Carol, SEEN BUT NOT HEARD: NATIVE PEOPLE IN THE INNER CITY. Ottawa: Department of Justice, 1994

Law Reform Commission of Canada, ABORIGINAL PEOPLES AND CRIMINAL JUSTICE: MINISTER'S REFERENCE. Ottawa: Law Reform Commission of Canada, 1991

Lawrence, Bonita. 2004. *"Real" Indians and Others: Mixed-Blood Urban Native People and Indigenous Nationhood*. Vancouver: UBC Press.

Lazarus-Black, Mindie and Susan Hirsch (eds.). 1994. *Contested States: Law, Hegemony and Resistance*. New York: Routledge.

Llewellyn, Karl and E. A. Hoebel. 1941. *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*. Norman: University of Oklahoma.

Mainville, Robert. 2001. *An Overview of Aboriginal and Treaty Rights and Compensation for their Breach*. Saskatoon: Purich.

Mannette, Joy (ed.) 1992. *Elusive Justice: Beyond the Marshall Inquiry*. Halifax: Fernwood.

Mastrofski, Stephen, "Policing for People", IDEAS IN AMERICAN POLICING. Washington: Police Foundation, 1999

- Mauze, Marie, PRESENT IS PAST: SOME USES OF TRADITIONAL NATIVE SOCIETIES. New York: University Press of America, 1997
- McNeil, Kent. 2001. *Emerging Justice? Essays on Indigenous Rights in Canada and Australia*. Saskatoon: Native Law Publishing Centre.
- Menzies, Charles. 2004. Putting Words into Action: Negotiating Collaborative Research in Gitxaala. *Canadian Journal of Native Education*. Vol. 28 (1 & 2).
- Menzies, Charles (ed.). 2006. *Traditional Ecological Knowledge and Natural Resource Management*. Lincoln: University of Nebraska Press.
- Merry, Sally. 2000. *Colonizing Hawai'i: The Cultural Power of Law*. Princeton: Princeton University Press.
- Merry, 1990. *Getting Justice and Getting Even: Legal Consciousness among Working Class Americans*. Chicago: University of Chicago Press.
- Merry, Sally Engle, CULTURE, POWER, AND THE DISCOURSE OF LAW. In *New York Law Review*, 1992 (37) 209-225
- Miller, Bruce G. 2001. *The Problem of Justice: Tradition and Law in the Coast Salish World*. Lincoln: Nebraska University Press.
- Miller, Bruce, THE INDIVIDUAL, THE COLLECTIVE, AND TRIBAL CODE. In *American Indian Culture and Research Journal*, 1997 21(1) 107-129.
- Monture, Patricia. 1999. *Journeying Forward: Dreaming First Nation's Independence*. Halifax: Fernwood.
- Moore, Sally Falk (ed.). 2005. *Law and Anthropology*. Malden: Blackwell Publishing.
- Morrison, Andrea (ed.). 1997. *Justice for Natives: Searching for Common Ground*. Montreal: McGill-Queen's University Press.
- Murbach, Ruth (ed.), Cross-Cultural Jurisprudence, *Canadian Journal of Law and Society*, Volume 20, No. 1, 2005
- Murphy, Chris and Don Clairmont, FIRST NATIONS POLICE: A SURVEY OF POLICE OFFICERS IN FIRST NATIONS COMMUNITIES. Ottawa: Solicitor General Canada, 1996
- Nader, Laura. 2002. *The Life of the Law*. Berkeley: University of California Press.

- Nader, 1990. *Harmony Ideology: Justice and Control in a Zapotec Mountain Village*. Stanford: Stanford University Press.
- Native Council of Nova Scotia. 1993. *Mi'kmaq Fisheries: Netukulimk-Towards a Better Understanding*. Truro: Native Council of Nova Scotia.
- Niezen, Ronald. 1998. *Defending the Land: Sovereignty and Forest Life in James Bay Cree Society*. Boston: Allyn and Bacon.
- Niezen, Ronald. 2003. *The Origins of Indigenism: Human Rights and the Politics of Identity*. Berkeley: University of California Press.
- Nova Scotia Working Committee On The Constitution, CANADA: A COUNTRY FOR ALL. Halifax: Province of Nova Scotia, 1991
- Palys, Ted, PROSPECTS FOR ABORIGINAL JUSTICE IN CANADA. Vancouver: Simon Fraser University, 1993
- Paul, Daniel, We Were Not The Savages. Halifax, Nimbus Press, 1993
- Pommersheim, Frank, BRAID OF FEATHERS: AMERICAN INDIAN LAW AND CONTEMPORARY TRIBAL LIFE. Berkeley: University of California, 1995 Prins, Harold. 1996. *The Mi'kmaq: Resistance, Accommodation and Cultural Survival*. Fort Worth: Harcourt Brace.
- Proulx, Craig. 2003. *Reclaiming Aboriginal Justice, Identity, and Community*. Saskatoon: Purich.
- Razack, Sherene (ed). 2002. *Race, Space, and the Law: Unmapping a White Settler Society*. Toronto: Between the Lines.
- Rendell, Brian, HISTORICAL AND CONSTITUTIONAL FOUNDATIONS OF ABORIGINAL JUSTICE: AN OVERVIEW OF THE UNIQUE STATUS OF ABORIGINAL PEOPLES IN CANADA. In *Aboriginal Justice Handbook: A Resource for Crown Counsel*. British Columbia: Criminal Justice Branch Ministry of Attorney General, 2000
- Ross, Rupert, RETURNING TO THE TEACHINGS: EXPLORING ABORIGINAL JUSTICE. Toronto: Penguin Press, 1996
- Royal Canadian Mounted Police, COMMISSIONER'S DIRECTIONAL STATEMENT. Ottawa: Royal Canadian Mounted Police, 1990
- Royal Canadian Mounted Police, NOVA SCOTIA "H" DIVISION RCMP RESPONDS TO THE ROYAL COMMISSION ON THE DONALD MARSHALL Jr PROSECUTION. Halifax: RCMP News Release, 1990.



- Ryan, Joan, DOING THINGS THE RIGHT WAY: DENE TRADITIONAL JUSTICE IN LAC LA MARTRE, NWT. Calgary: University of Calgary Press, 1995
- Salisbury, Richard. 1986. *A Homeland for the Cree: Regional Development in James Bay, 1971-1981*. Montreal: McGill-Queen's Press.
- Sarat, Austin (ed.). 2004. *The Blackwell Companion to Law and Society*. Malden: Blackwell Publishing.
- Sider, Gerald. 1993. *Lumbee Indian Histories: Race, Ethnicity, and Indian Identity in the Southern United States*. Cambridge: Cambridge University Press.
- Six Nations Geo Systems, FIRST NATIONS POLICING SECTOR STUDY: CURRENT AND FUTURE DIRECTION AND CURRENT RESOURCES. Ottawa: First Nations Chiefs of Police Association, 1999
- Smith, Gavin. 1999. *Confronting the Present: Towards A Politically Engaged Anthropology*. Oxford: Berg Publishing.
- Smith, Linda Tuhiwai. 1999. *Decolonizing Methodologies: Research and Indigenous Peoples*. London: Zed Book.
- Solicitor General Canada, FIRST NATIONS POLICING POLICY. Ottawa: Supply and Services, 1992
- Starr, June and Jane Collier (eds.). 1989. *History and Power in the Study of Law: New Directions in Legal Anthropology*. Ithaca: Cornell University Press.
- Starr, June and Mark Goodale (eds.). 2002. *Practicing Ethnography in Law*. New York: Palgrave MacMillan.
- Strang, Heather and John Braithwaite (eds.). 2001. *Restorative Justice and Civil Society*. Cambridge: Cambridge University Press.
- Strathern, Marilyn. 2005. *Kinship, Law and the Unexpected*. Cambridge: Cambridge University Press.
- Trigger, Bruce. 1985. *Natives and Newcomers: Canada's Heroic Age Reconsidered*. Montreal: McGill-Queen's Press.
- Union of Nova Scotia Indians. 1987. *The Mi'kmaq Treaty Handbook*. Sydney: Native Communications Society of Nova Scotia.

- Valentine, Lisa Philips and Regan Darnell. 1999. *Theorizing the Americanist Tradition*. Toronto: University of Toronto Press.
- Waldram, James. 1997. *The Way of the Pipe: Aboriginal Spirituality and Symbolic Healing in Canadian Prisons*. Peterborough: Broadview Press.
- Warry, Wayne. 1998. *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government*. Toronto: University Press.
- Wachtel, Ted, SAFERSANERSCHOOLS: RESTORING COMMUNITY IN A DISCONNECTED WORLD. In *Restorative Justice in Everyday Life: Beyond the Formal Ritual*. Canberra: Australian National University, 1999
- Wicken, William. 2002. *Mi'kmaq Treaties on Trial: History, Land and Donald Marshall Jr.* Toronto: University Press.
- Wildsmith, Bruce. 1988. *Aboriginal Peoples and Section 25 of the Canadian Charter of Rights and Freedoms*. Saskatoon: Native Law Centre Publishing.
- Wolf, Eric. 1982. *Europe and the People without History*. Berkeley: University of California Press.
- Wolf, Eric. 1999. *Envisioning Power: Ideologies of Dominance and Crisis*. Berkeley: University of California Press.
- Woolford, Andrew. 2005. *Between Justice and Certainty: Treaty Making in British Columbia*. Vancouver: UBC Press.
- Wotherspoon, T. and V. Satzewich. 1993. *First Nations: Race, Class and Gender Relations*. Scarborough: Nelson Press.
- Wright, Mr. Justice David. 2004. *Report of the Commission of Inquiry into Matters Relating to the Death of Neil Stonechild*. Province of Saskatchewan.