THE JUSTICE SYSTEM AND SOCIAL INCLUSION IN CANADA

Don Clairmont, Director, Atlantic Institute of Criminology
PRESENTATION OVERVIEW

• T.H. Marshall and T. Parsons on Citizenship
• Processing Crime, Aboriginals and Blacks
• Trends in Justice: The Third Wave and Access to Justice
• Youth, Restorative Justice, Problem-Solving Courts, and Aboriginal Initiatives
MARSHALL AND PARSONS ON CITIZENSHIP

• Marshall and Phases of Citizenship
  – Phases: Civil (Legal) / Political / Social Rights
  – Progressive Evolutionary Process

• Talcott Parsons and Citizenship for the Negro American
  – American Sociologist building on Marshall’s Work
  – Why the Process Delayed for the Negro American
  – Liberal Citizenship as Key Integrative Mechanism
THE PROBLEMATIC CONTEXT

THE CRIMINALIZATION PROCESS

ABORIGINAL ISSUES

AFRICAN NOVA SCOTIAN ISSUES
# Divergence in Crime Process by Social Class

<table>
<thead>
<tr>
<th>Stage One</th>
<th>Stage Two</th>
<th>Stage Three</th>
<th>Stage Four</th>
<th>Stage Five</th>
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<tbody>
<tr>
<td>Self Reported</td>
<td>Police Reported</td>
<td>Charges Laid</td>
<td>Convicted</td>
<td>Incarcerated</td>
</tr>
</tbody>
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## Lower Class

## Higher Class

### Gap
TRENDS IN JUSTICE OVERVIEW

• The Third Wave of Access to Justice: “Expansive Justice Mechanisms to Respond to Interrelated Problems and Others’ Perspectives”
• Responding to Social Rights (Conditions)
• Kindred Social Movements (Problem-Solving Courts, Aboriginal Justice)
THIRD WAVE OF ACCESS TO JUSTICE

Wave Concept Applied to Post-WW2 Welfare State Period

Discussed in Context of Legal Aid

First Wave: Individual Case Advocacy
Second Wave: Systemic Advocacy (the 1982 Charter of Rights and Freedoms)
Third Wave: Holistic / Justice System Advocacy

Implications for Role players and the Justice System
DEALING WITH YOUNG OFFENDERS

Juvenile Delinquency Act (Limited Rights)
Young Offenders’ Act 1984 (The Charter Impact)
Youth Criminal Justice Act (2003)

Premise: Adult Plus (Youths 12-17 Not in Maturity)
Strict Specifications for Custody Sentences
Emphasis on Rehabilitation & Reintegration
How has it Worked Out
ABORIGINAL JUSTICE

Colonialism, Racism, Assimilation
“Fairness and Integration” Agenda in the Period 1970 to 1995
Constitution Act / SCC / Social Movements
Autonomy and Difference Agenda 1996 and the Royal Commission (RCAP)
Current Situation and Future Prospects By Justice Sector
PROBLEM-SOLVING COURTS

Drug Treatment, Mental Health Courts

Therapeutic Jurisprudence (Justice and Treatment)

Emergence: The 1990s in the USA
HEALING TO WELLNESS COURTS
THE DRUG TREATMENT COURT
ITS ROOTS
KEY FEATURES
EVOLUTION ONE
FUNDING ARRANGEMENT
CENTRAL ISSUES
THE RECORD
EVOLUTION TWO
PSC’s KEY FEATURES

• Considerable Variety in Implementation
• Eligibility Criteria (Addiction)
• Team approach (justice/treatment, court roles)
• Centrality of the judge
• Processes and Court Dynamics
• Rehab and Monitoring (Intensive, Extended)