ABORIGINAL VICTIMS AND POST-SENTENCING ENGAGEMENT WITH THE CRIMINAL JUSTICE SYSTEM: PERSPECTIVES AND PARTICIPATION

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LIST OF ABBREVIATIONS

CCRA Corrections and Conditional Release Act 1992 (amended)

CCRSO Corrections and Conditional Release Statistical Overview

CJS Criminal Justice System

CRCVC Canadian Resource Centre for Victims of Crime (also NRCVC)

CSC Correctional Services of Canada

GSS General Social Survey (conducted by Statistics Canada every 5 years)

FASD Fetal Alcohol Spectrum Disorder

MLSN Mi'kmaq Legal Support Network

NBVS New Brunswick Victim Services

NSVS Nova Scotia Victim Services

NOV National Office for Victims, Public Safety Canada

NPB National Parole Board (Canada)

OCI Office of the Correctional Investigator

OFOVC Office of the Federal Ombudsman for Victims of Crime

PMR Performance Monitoring Report (NPB)

PSR Pre-sentence Report

RCAP Royal Commission on Aboriginal Peoples

RJ Restorative Justice

SCC Supreme Court of Canada

VIS Victim Impact Statement

PCVI Policy Centre for Victim Issues, Department of Justice Canada

EXECUTIVE SUMMARY

The central objectives of this research have been to identify and explain shortfalls and inadequacies in the engagement of Aboriginal victims with the National Parole Board's programs and services, and to advance feasible solutions to the problems identified. The research was framed by certain premises (e.g. low levels of involvement on the part of Aboriginal victims may be, in part at least, associated with their limited knowledge of their rights and their limited awareness of services and opportunities available to them through the National Parole Board) and the four major extant explanations for the minimal involvement of Aboriginal victims in the court and post-sentencing phases of criminal case processing (i.e., cultural, structural, offender and victim characteristics, and experience-based adaptation). The research strategies and methods employed were (a) one-on-one interviews with providers of victim services at the federal, provincial and local levels and with a small number of Aboriginal victims and Aboriginal victim service providers; (b) review of literature and documents as well as analysis of a sample of letters written by victims to the National Parole Board; (c) examination and re-analyses of salient secondary data on Aboriginal offenders and victims. While the emphasis was on the place of victims, especially Aboriginal victims, in the post-sentence, case processing phase, the general patterns of Aboriginal offenders' and victims' involvement in the criminal justice system were considered.

The research traced the evolution of governmental response, especially at the federal level, to the concerns of victims, noting the significant developments that spiked in the last decade. While it appears that, for many federal and provincial officials in the field of victim services, these developments have put in place a comprehensive and appropriate governmental response that needs only to be tweaked, not radically altered, advocacy has centered around enacting stalled legislation to enhance the rights and services for victims generally, and for programs and services that respond to the special circumstances of Aboriginal victims.

Review of the academic and policy literature shows that there is significant polarity between those advocating a greater involvement of victims in post-sentence, case processing and those contending that current policy on the victims' role in CSC

programming and NPB deliberations has already gone as far as it should. The polar positions differ profoundly in their views of the legal and heuristic appropriateness of a greater role for victim, of what victims want, and so on. There were, however, areas of accommodation, especially when the focus turns to public legitimation of the CJS and a more nuanced conceptualization of victim needs. Here, for example, there might well be substantial agreement that there has to be some more prominent place for victims within the CJS and that at least victim needs that are of the service (e.g., restitution and financial compensation) and expressive (e.g., an opportunity to express their views) type, rather than the decision-making type impacting on CJS decisions on inmates, should be responded to. As well, proponents of either polar viewpoint frequently suggest restorative justice strategies be more available for victims. In the case of Aboriginal victims of serious interpersonal crime, there is clearly more reference to healing on the part of both offenders and victims and more reference to restorative processes. Many commentators have suggested that in the case of Aboriginals the community has to be engaged in the healing and restorative processes and practices since a prerequisite for individual change there is a revitalized culture which can provide appropriate social constructions of why things have come to pass in Aboriginal communities and how, building on earlier "tradition", positive change can ensue. The revitalized community culture in this thinking is the crucial mechanism for both offender re-integration and victims' closure.

The perspectives of federal and provincial / municipal mainstream victim service providers were examined. Overall, the interviews with national level officials indicated that there was much consensus that there has been significant progress in the federal government's response to victims of serious crimes as reflected both in the political agenda of successive governments and the various initiatives of CSC and the NPB. There was also among all interviewees the view that previously proposed legislation, aborted by political circumstance but likely to be reintroduced, would carry that progress to a more significant level. Also, there was significant consensus that an Aboriginal strategy for victim involvement was required in light of the high levels of serious victimization in Aboriginal communities and low levels of Aboriginal victim engagement in registering for available information from CSC and attending parole hearings. There was a sharp difference between the respondents representing victim advocacy and support, arms-

length from the government, and those involved in the main federal departments dealing with victims of crime, namely Justice and Public Safety, on issues such as automatic registration, direct federal funding of counseling for victims, and either changes in the privacy legislation or whether subcontracts with the provinces were required to deal with the gaps or "disconnects" that may disadvantage victims.

Provincial (and municipal) VS officials were somewhat ambivalent about whether low levels of victim involvement in CSC and NPB represented a major problem. Their view tended to be that victims have not registered and that decision has to be respected. They acknowledged that some victims do want to be involved and could benefit from knowing what the offender-inmate is doing for rehabilitation in prison, attending the parole hearings and so on. They consider that such victims often would need support and their own organizations would collaborate were federal resources made available for counseling and the like. In their view, the post-sentence attention to victims whose convicted offenders are under federal supervision is indeed a federal responsibility. On the whole, the provincial VS officials emphasized counseling and other victim services that would focus on the victims' own well-being, counseling and pursuit of closure. In these areas there was the view that provincial services could better provide those services than CSC and the NPB could since they have the appropriate infrastructure and full mandated commitment to victims. There was consensus among the respondents that privacy legislation at both the federal and provincial levels was a major blockage to dealing well with victims and that overcoming the blockage required considerable collaboration between the two levels of government. The provincial respondents all considered that Aboriginal victims for various reasons merit special attention as reflected in special programs introduced for Aboriginals in some provinces. The Aboriginal strategy suggested would be the encouragement of local, community level collaboration and considering the appropriateness of restorative approaches.

The core of this research focused on the Aboriginal offender and the Aboriginal victim. Concerning the offenders, there was analysis of over-representation at the federal, regional and local levels. The central themes advanced dealt with types of offences, adjustments and programming in prison, and reintegration issues; throughout, the implications for Aboriginal victims of the offenders were drawn. The analyses overall

suggested the possibility that more engagement of Aboriginal victims in the post-sentencing case processes, both individual and "community" victims, as through some form of restorative process, may be crucial in the early release and successful re-integration of the Aboriginal offenders in Atlantic Canada. This would be a challenge given the possible "hardening" of community views as suggested by some Aboriginal leaders, and the complex perspectives characteristic of offender –victim / community relationships in First Nations (i.e., sense of an integrative collective victimization in conjunction with isolation and shaming of the offender).

Concerning Aboriginal victims who were over-represented as victims of federally-supervised offenders, the research found, in interviewing Aboriginal victims and Aboriginal as well as non-Aboriginal victim services providers, and examining the few letters written by Aboriginal victims to the NPB, that, for the most part, their criticisms of the CJS post-sentencing policies and practices and their own wishes at parole were quite similar to those contained in the letters of the non-Aboriginal victims. They did not want parole given to their offenders whom they perceived to be dangerous to themselves and others, not appreciating perhaps how parole may allow for greater supervision and greater public safety than statutory release; but, more than anything, they wanted some assurance, through conditions written into early release, that they and their families would be safe. They, like other victims, considered that CSC and the NPB were more focused on doing what was best for the offender's rehabilitation and successful re-integration (perhaps the big picture in terms of public safety) than on responding to their own continuing concerns and possible re-traumatization. Several Aboriginal informants also told of victims having to leave their Aboriginal community because of threats from the offender's kin or fear of his return. In two instances the researcher observed the considerable intra-familial conflict over a victim bringing serious sexual assault charges against a relative. It is important to add that Aboriginal communities are often themselves, as well as their residents, quite dynamic and there are indications of significant change in the reactions to sexual and intimate partner violence (e.g., more reporting to police). Overall, though, while quite similar in their views to non-Aboriginal victims, the dense kinship ties, the common Aboriginal legacy, the Gladue sentencing policy for Aboriginal offenders, the type and level of victimization

experienced, the common resort by Aboriginal female victims to informal support systems - all combine to require a unique Aboriginal approach to the issues of victim involvement in the post-sentencing phase of case processing, one that includes an active outreach program by CSC and NPB, working closer with Aboriginal local victim services, and, carefully, a greater utilization of restorative processes and practices.

The section on emerging trends is the penultimate section and brings together the main issues and themes considered in the research. Five major issues are highlighted, namely (a) the circumstances of registration which is the key to victim involvement with CSC and the NPB; (b) the salience of the knowledge obtained as a consequence of registration; (c) the issue of what should be the essential character of the victim role in the post-sentencing phase of case processing; (d) considering how victims' needs and concerns can be accommodated apart from, or in addition to, their involvement in the case processing of their offenders; (e) the special case of Aboriginal victims of serious violent crime. In addition to elaborating on these five major issues, there is discussion of registration and proactivity, and of constraints and obstacles to change.

The final section of this work advances five possible trajectories for change with respect to the problems and shortfalls identified. These are (a) enact the legislative changes proposed by the federal government in 2006 and 2009; (b) improve the collaboration among the levels of government to effect greater registration by victims of serious crimes; (c) transcend the jurisdictional divides and structural obstacles identified through mechanisms such as subcontracting by the federal authorities; (d) consider ways to meet the needs of victims of serious violent crime apart from their being more directly involved with CSC and the NPB; (e) priority by the federal government should be given to the needs and circumstances of Aboriginal victims.

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INTRODUCTION: THE PROBLEMATIC

In 2009 there were 2300 custody cases on file with the National Parole Board (NPB) Atlantic and associated with these were some 800 registered victims. As for Aboriginal files, there were 195 cases of custody and some 30 registered victims associated with those files. While there may be multiple registered victims in any specific inmate's case, it is reasonable to assume that the ratio of single to multiple victim registrants would be similar for both sets of data; therefore, one can conclude that victim registration has been more than twice as great for overall custody cases as for the Aboriginal custody cases (roughly one-third to roughly one-sixth). Such a pattern is congruent with the patterns for victims making presentations at parole hearings in Atlantic Canada. Such presentations have been few in number – there were only 16 such victim presentations in 2007-2008 and 14 in 2008-2009 – but have been virtually non-existent for Aboriginal victims (Performance Monitoring Report, 2007-2008 p206 and 2008-2009 p186). According to NPB Atlantic sources, there have been no Aboriginal victim presentations in the past three years and only 2 in the past seven years. It is unknown how many of the registered victims have been Aboriginal since the CSC / NPB data systems do not collect race/ethnicity information on victims, but given the concentration of Aboriginals with status / band membership on reserve, and the scattered, small populations and average socio-economic well-being of Aboriginals off-reserve in Atlantic Canada (Aboriginals with status / band membership or otherwise identifying themselves as primarily Aboriginal), it is unlikely there would be many Aboriginal victims whose offenders were not themselves Aboriginal (Clairmont and McMillan, 2006).

There have been many interesting and valuable initiatives by Corrections Services Canada (CSC) and NPB over that same seven year period to address Aboriginal issues. In the case of CSC, there have been the development of the Pathways programs for Aboriginal inmates at several CSC institutions of minimum and medium security classification (i.e., Westmoreland, Dorchester and a pre-Pathways program planned for Springhill), more Aboriginal programming for inmates, healing lodges and an enhanced

role for elders within the institutions; moreover in the past two years a specialized victim services component has been developed at CSC, with a unit of six staff serving all federal custody victims in Atlantic Canada. In the case of the NPB Atlantic, there have been elder-assisted parole hearings, parole hearings on-site in urban centres and in First Nation communities (some six including section 84–related hearings), and a special program administered through the Department of Justice to cover eligible expenses of eligible victims and / or their representatives entailed by their attendance at parole hearings (this program is open to all victims not just Aboriginal ones). As well, NPB Atlantic has met with provincial victim services' officials (2006) to discuss issues and possible strategies for enhancing the awareness and participation of victims in post-sentencing phase, and most recently it launched an outreach program to First Nation communities in Atlantic Canada which informs local leaders about the parole process and the programs and services available for victims of eligible victims of federal offenders. As will be noted below, these CSC and NPB initiatives in the victim field have made a difference but the essential problematic of their engagement with Aboriginal victims in particular remains.

This modest research project has focused on the apparent minimal involvement of Aboriginal victims with the parole hearings in the broad context of their apparent minimal engagement in the post-sentencing phase of case processing in the criminal justice system (CJS), compared to non-Aboriginal victims. There have been two central objectives, namely

1. To identify and explain shortfalls and inadequacies in the engagement of Aboriginal victims with the National Parole Board programs and services.
2. To advance feasible solutions to the problems identified.

ELEVEN CENTRAL PREMISES

The following premises have guided the research

1. There is a disproportionately low level of engagement on the part of Aboriginal victims with the National Parole Board Atlantic.

2. There is a disproportionately low level of involvement of Aboriginal victims in all phases of the Criminal Justice process subsequent to reporting incidents to the police.
3. Low levels of victim involvement may reflect a problem in the delivery of the National Parole Board process with respect to the registration / identification of victims.
4. Low levels of involvement on the part of Aboriginal victims may be, in part at least, associated with their limited knowledge of their rights and their limited awareness of services and opportunities available to them through the National Parole Board.
5. The low level of engagement among Aboriginal victims may be associated with low satisfaction of Aboriginal victims with the National Parole Board and with the mainstream Criminal Justice System as a whole.
6. The needs and claims of victims, post-sentencing, are complex and require more adequate and generalized governmental response.
7. Greater Aboriginal victim involvement may be a positive factor in effective Aboriginal offender re-integration and fewer revocations.
8. Public safety may be enhanced through greater victim engagement in the post-sentencing phase of case processing in the CJS.
9. The NPB has the status of an administrative tribunal (i.e., a quasi-judicial role, not a court applying the law but hearing evidence and applying policy) with priorities on the rights of offenders and victims, public safety, and the effective re-integration of offenders into society.
10. Fairness and balance may require an acknowledgement of the legacies and traumas of Aboriginal victims along the lines of the SCC's Gladue decision's sentencing recommendations for Aboriginal offenders.
11. A guiding principle of policy change with respect to victims should be 'do no harm" to the innovations in the CSC approach over the past decade or so in responding to its mandate for inmates or to the NPB's demonstrably successful parole program (see below).

INITIAL POSSIBLE EXPLANATIONS OF LOW ABORIGINAL VICTIM ENGAGEMENT

1. Cultural factors somewhat unique to Aboriginal peoples may account for their different levels of victim engagement in the CJS. The cultural explanations can range from approaches or attitudes such as "that's the way we are, don't want to be involved" to having community values such as "forgiveness" or "maintain community solidarity" which de-emphasize involvement in the formal justice process. Another cultural dimension could be an emphasis on the communal / local leadership rather than the individual response, analogous to mainstream society's conception of crime as a violation against the state. Culture is a complex phenomenon which is interlocked with factors such as social and familial relations, socio-economic differentiation, traditions, and communal interests. It is dynamic and continually in flux in the modern world. The Royal Commission on Aboriginal Peoples (RCAP) in its 1996 report emphasized the considerable cultural variation as well as dynamism among Aboriginal peoples in Canada. Conduct is considered by most social scientists to reflect the interaction of values and interests so any examination of cultural factors with respect to Aboriginal engagement in post-sentencing phases of the CJS should presumably identify both the values and the interests that lie behind the Aboriginal patterns.
2. Social structural factors may be more crucial than cultural values or traditions. Here the important considerations for less involvement by victims in the post-sentencing phase of CJS case processing would be determined to be that Aboriginal victims and offenders are usually co-residents of small First Nations where victims are closely related to the offenders and/or have social and kinship ties with the offenders' kin and friends. The small communities wherein contact is almost guaranteed, and the perhaps greater tendency for the Aboriginal offenders to return to the local community upon release from

federal custody, could be crucial factors constraining involvement in post-sentencing case processing, as would perhaps be the fear of retaliation and worry about of fostering continuing conflict among kinship and friendship groupings. Overall, such factors could lead to considerable passivity on the part of Aboriginal victims and possibly suggest the need for community mobilization and representation.

3. The characteristics of the offenders and victims and the type of offence involved would likely be important considerations in victims' involvement in the post-sentencing phase (and at the front-end of the criminal case process as well); in others words, Aboriginal victim involvement may vary by type of offence, characteristics of offenders and victims and incident features. For example, 26 of the 30 NPB Atlantic cases cited above, where in 2009 there was a registered victim for an Aboriginal offender, were categorized as schedule 1, that is, involving serious interpersonal violence. It is also fairly well established that male victims respond differently to their victimization as regards how they seek assistance (Kauklinen, 2002, Gill and Theriault, 2005), with females emphasizing more informal assistance through family, friends and local service providers. In this project it is presumed – but also completely congruent with the data available for federal custody cases - that virtually all incidents involving Aboriginal victims entail serious interpersonal violence, that the offender would be highly likely to be a repeat serious offender, and that the victim would be female. What are the implications of these patterns for any victim participation in the post-sentencing phase? Data available via NPB's Performance Monitoring Reports (2008, 2009) indicate, not unexpectedly, that considering all victims, victim engagement with CSC and NPB is chiefly where serious interpersonal violence has occurred, but there is little in-depth analyses beyond that point.
4. It may well be that a chief explanation for the differential and low involvement of Aboriginal victims is more the negative legacy of past encounters, namely an experienced-based estrangement from the mainstream Criminal Justice System based upon the legacy of Aboriginal-Mainstream

relationships and upon the victims' previous experience with the CJS or that of his / her family and friends. Aboriginal victims' experience may have resulted in little trust in or reliance on the mainstream justice system and if so, the solutions would, at least somewhat, be directed at building up the trust and reliance. Interestingly, a number of studies (Clairmont, 2005) have found that while many Aboriginal adults – usually a majority - report that their own encounters with the CJS were positive, the majority also reports that most Aboriginal experiences have been negative; this incongruence between the personal and the presumed group experience suggests that there is a shared Aboriginal definition-of –the- situation that also would have to be targeted.

RESEARCH STRATEGIES

As indicated in the original proposal, the key research strategies included,

1. Review of the literature on Aboriginal victims and their involvement in the criminal justice system, especially at the post-conviction phases. This scanning also sought literature and other material on initiatives that have targeted the general issues noted above (i.e., premises and explanations) as well as academic literature on how victims in general are engaged in, and should be involved, in post-sentencing CJS processes.
2. Review of salient documents accessible through CSC, NPB and other federal and provincial authorities.
3. Statistical analyses of pertinent National Parole Board data to be undertaken to establish the validity of the premises defined above and to assist in examining the correlates of Aboriginal victim involvement. Such data would include, data availability allowing, the comparative (Aboriginal and Others) frequency of victims' contacts with and requests to the National Parole Board, other post-sentencing services, type of offence involved and so forth.
4. Interviews with National Parole Board officials (staff) and the coordinators of kindred federal and provincial services dealing with victims.

5. Interviews with providers of Victim Services in the First Nations in New Brunswick and Nova Scotia and with similar personnel who deal with Aboriginal victims on a routine basis, namely restorative justice personnel and police officers.
6. If possible, interviews with victims themselves in two First Nations, namely Shubenacadie (Nova Scotia) and Elsipogtog (New Brunswick).

WHAT WAS DONE

The following research activities were completed

1. Literature and documents were reviewed.
2. CSC and NPB statistics on offenders and victims and offenders respectively were analysed.
3. Multiple discussions were held with (four of greater than one hour) with NPB Atlantic officials.
4. Two multiple-hour interviews were held with CSC Victim Services personnel in Moncton.
5. An Aboriginal parole hearing was observed.
6. In-depth interviews were completed with NCRVC, OFOVC, NOV and PCVI coordinators, three by phone, one in Ottawa in-person.
7. In-depth interviews were completed with Nova Scotia and New Brunswick Victim Services authorities (4 persons)
8. Interviews were completed with Mi'kmaq Victim Services co-coordinators in New Brunswick (Elsipogtog) and Nova Scotia (the mainland co-coordinator).
9. Interviews were conducted with four Aboriginal victims in Nova Scotia.
10. A sample of 91 victims' letters to NPB Atlantic was examined.

11. Interview guides were created for interviews with Aboriginal victims and for interviews with provincial victim services coordinators (see appendix).
12. Three interviews were completed with a handful of non-Aboriginal CJS role players working in Aboriginal communities in Atlantic Canada (e.g., police and health officials)

EVOLUTION OF GOVERNMENTAL RESPONSES TO VICTIM ISSUES

A Brief Note on Context

In the decade and a half before the early 1970s some positive momentum had developed with respect to professional beliefs and penal policies about reforming inmates in prison and effecting significant offender re-integration (Hawkins, 2009; Frum, 2010). That momentum came to a dramatic stop in the early 1970s with increasing levels of crime and a changed political climate and especially some evaluation research – both specific studies and meta-analyses of many studies - which suggested that "Nothing Works" as regards prison rehabilitation programming (Lipton, Martinson and Wilks, 1974; Cullen, Fisher and Applegate, 1998; Cullen and Gendreau, 2001). For the next decade and more, penal policy was underwhelming and there was limited program availability for inmates to accept or decline on a semi-contract basis. Over the past decade and a half, it appears that penal policy has resumed its emphasis – and recharged its confidence - on rehabilitation programming. There appears now to be much more effort directed to working with inmates, especially Aboriginal inmates (i.e., the designation of an "internal parole officer" for each inmate, the programs mentioned above such as Pathways for Aboriginal inmates), and a strong push to get them released safely prior to statutory release where there would be less revocation and recidivism (Performance Monitoring Report, 2007-2008, 2008-2009; Cullen and Gendreau, 2001). This has seemingly generated a lot of empathy by CSC / NPB officials with the offender

and his or her situation and a sense of mutual effort (e.g., the comment of one such prison official to this writer in his 2007 research, to wit – "we have failed if we are not able to get the inmate on an early release trajectory". So, in all of this, can we expect such an enhanced offender-oriented CJS system to do much also with engagement of victims in the post-sentencing phase where, additionally, as will be noted below, there are strong legal and therapeutic reasons – recall the 'do no harm' premise above - to look askance at significant victim involvement in post-sentence case processing (Bottoms and Roberts, 2010)?

Of course one thing about the custody and general penal policy may well be that the priorities, at least for political leaders and public opinion (media), have changed over time. Many writers have contended that nowadays the main priority has become public protection and, accordingly, there is much emphasis on risk aversion; since, as Hawkins succinctly commented (Hawkins 2009) "parole boards are known by their failures – and success (routinely expected) is not [visible]", perhaps that change runs counter to the central point above regarding an enhanced focus on working with the inmates for their early release and favours more victim involvement in the post-sentencing process. Perhaps the incongruence reflects more a discordance between government perspectives and the rehabilitative thrusts of CSC and NPB systems.

Another important change in recent years that could have implications for victim involvement in post-sentence case processing for federal prisoners has been the rise of legally recognized human rights ideals. As Hawkins (ibid) observes there is a widespread perception that offenders' rights have been enlarged to the detriment of public protection and victims' rights. It can be noted that certainly a major issue is that any substantial increase in victim involvement in CSC and NPB information-sharing and decision-making runs smack into human rights and privacy laws –both offenders' and victims' privacy rights - as will be discussed below.

Governmental Responses to Victim Issues

The Victims' Movement in Canada and other Western societies took root in the mid-1960s. In 1967 Saskatchewan became the first province to legislate compensation

schemes for victims of crime. By 1972, most provinces, where the primary constitutional responsibility for victim services rested, had established programs for victim compensation (CRCVC website, January 2006). While the federal government began making financial contribution to such victim compensation programs in 1973, the seeds for a greater federal sensitivity and response to issues for victims of crime were sown in the 1980s with federal- provincial task forces and national conferences (e.g., the 1983 report of Federal-Provincial Task Force on Justice for Victims of Crime called for a number of changes in the role of victims in the criminal justice process), changes in guidelines for police and prosecutors in dealing with victims, the establishment of a federal Victim Assistance Fund and the federal-provincial agreement / adoption of the Principles of Justice for Victims of Crime.

Over the past two decades there has been a significant evolution in the federal government's policies and programs with respect to victims of serious crimes. Perhaps, for the post-sentencing focus of this paper, the keystone change was that to the Corrections and Conditional Release Act (CCRA) in 1992 where, for the first time, victims were recognized in federal legislation governing the CCR program (OFOVC, 2010). Under CCRA legislation the rights of victims include receiving information about their offender's incarceration, leaves and release, having input through a victim impact statement, receiving a copy of the NPB decisions, the right not to be contacted by inmates and so forth. Subsequently, there was an especial spike in federal governmental response to victims of crime in the period 2000– 2007 (Let's Talk, 2009; Policy Centre for Victim Services, 2008) subsequent to the 1998 tabling of the Standing Committee on Justice and Human Rights Report, Victims' Rights – A Voice Not A Veto . These changes have been manifested in new policies, new governmental programs and increased funding for victims services' activities (e.g., in 2007 CSC got an extra $3.4 m. to hire approximately 30 persons across Canada for a special Victim Service unit, and the position, Federal Ombudsman for Victims of Crime was established).

The Policy Centre for Victim Issues (PCVI) was established within the Department of Justice in 1999-2000 to coordinate all federal policy and legislation relating to victims of crime and to ensure that the victim's perspective is considered in the development of policy - and subsequently to administer funds to assist victims in

attending parole hearings, a responsibility which allows "NPB to remain apart as a quasi-judicial body (sic) and avoid any appearance of a conflict of interest" (PCVI, 2008.). The National Office for Victims (NOV) was established, within what is now Public Safety Canada, in 2005 to provide accessible information on particular cases, information on how the justice system works, and assistance and "navigational counseling" referring people largely to the other federal bureaucracies such as CSC, NPB and OFOVC etc. NOV also has a limited policy formation and outreach function (especially significant here is its mandate to develop a strategy for responding to Aboriginal victims). Prior to the creation of the OFOVC, NOV handled victims' complaints as well. In 2006, there was the significant expansion of federal Victim Fund assistance to support registered victims' attending parole hearings. In 2007 the Office of the Federal Ombudsman for Victims of Crime (OFOVC) was inaugurated as a government body, arms-length from the Departments of Justice and Public Safety.

Similar changes, giving victims a significant role in court sentencing, Correctional policies and parole hearings and decisions have occurred during the same time periods – typically within but a few years of such legislative change in other countries such as the United States (NJI, 1997, 2004; Morgan, 2005, CRCVC, 2006) and Australia (Black, 2003; Queensland Parliament, 2006) and Britain; indeed the processes of change and the legislative changes occurred within but a few years of other nations within the common-law rooted Western set of societies (Bottoms and Roberts, 2010). For example, in the United States there was the report of Presidential Task Force on Victims of Crime which lead to "the restoration of balance between the rights of offenders and victims", the 1984 Victims of Crime Act authorizing the channeling of monies from levies on federal offenders to the states for victim programs, and the 2004 Crime Victim Rights Act which expanded victims' rights in federal courts to include the right to be present and heard at all public court proceedings, whether at sentencing or parole, and which placed a duty on federal courts to ensure that these victim rights were actually afforded (Davis and Carrie, 2008).

The changes thus far in the 21st century have had an impact. As noted in Towards Respect for Victims in the CCRA (OFOVC, 2010) there has been, for example, a significant increase in victims' oral presentations at parole hearings (see also Juristat,

2002-2003); since the launch of the National Victim Services program in 2007, CSC had registered close to 1,900 new victims by early 2010 and the total number of registered victims at CSC was approximately 6000 (personal communication, 2010). It appears, too, that legislation proposed in 2006 and then again in 2009 would have carried this progress further and, among other things, facilitated victims' accessing information on what the offender was doing in prison and whether he was making a serious effort at rehabilitation. Such a change, desired by some victims in large part to better assess their own future safety, and strongly supported by federal victim-oriented governmental and non-governmental organizations, was not effected because the proposed bills were not acted upon due to an election call and a proroguing of Parliament respectively. Should they be legislated in the near future, they presumably will be an effective response to a major concern of those victims who seek a greater involvement in the post-sentencing processing of their offenders. Indeed, the 13 recommendations advanced in the Federal Ombudsman 2010 report (ibid) – emphasizing a stronger victims' presence in the CSC and NPB systems - would largely be achieved were these earlier proposed bills re-introduced and legislated. However, such legislation would not deal with other crucial issues such the registration issue (see below), the complex issues of the appropriate victims' role and impact in post-sentencing case processing of offenders by CSC and especially by NPB, and the mechanisms through which an enhancement of federal-provincial collaboration in meeting victims' needs might be achieved. Additionally, there would remain the possibility of governmentally-supported alternative venues for assisting victims through counseling and other programs analogous to programs developed for offenders' rehabilitation and healing (OFOVC, 2010).

The diversity of victims' needs, and especially the over-representation of Aboriginal victims of serious crimes, coupled with their estrangement from the CJS and stark lack of involvement in the post-sentencing case processing of their offenders has been a theme throughout the evolutionary process noted above. It can be recalled that NOV has had a mandate to develop a strategy for a fuller federal response to Aboriginal victims. Also, the Federal Ombudsman for Victims of Crime in a 2008 submission to the CSC Review Panel emphasized greater attention to Aboriginal victims as one of its four key recommendations. In the submission, research literature is cited (unfortunately

limited to the Territories) indicating that considerable pressure is exerted on victims of serious crime to bow to "community wishes" and drop charges, remaining silent and making it possible for the offender to remain in the community. The submission cites too the position of the Aboriginal Women's Association that current sentencing practices betray the interests of Aboriginal women – "the racist, 'culturally sensitive' sentencing of Aboriginal offenders puts [Aboriginal women] at risk". This theme will of course be discussed more fully below.

DIVERSE PERSPECTIVES ON VICTIM POLICY, POST-SENTENCING

Certainly the problematic of this research is echoed in the literature and research on the appropriate place of victims in the post-sentencing case phase of processing serious offences. There are strongly-held and well-argued, almost polar views on what should be done to better respond to victim concerns and needs. These perspectives are surprisingly not well-grounded in detailed empirical research on what victims want or on how various victim inputs could impact on the CJS post-sentencing activities or on the viewpoints and case experiences of the pertinent CJS officials (CSC programmers, NPB board members).

The widely-shared view that argues for a quite limited involvement of victims in CSC programming information or activity and in NPB deliberations has been repeatedly articulated by Roberts (2001, 2007, 2009, 2010). Essentially the Roberts' view, shared by many others (Roach, 2000; see Palowek, 2005) has emphasized the harm that may ensue if victims are accorded more power over the fate of the convicted offender in CSC custody or at parole hearings. Roberts contends that a victim's statement at parole does not have the justification of the VIS at sentencing since "victims do not know the information relevant to the parole decision" and "victim's input at corrections is inconsistent with sound correctional policies or principles of fundamental justice" (Roberts, 2009). Some writers of similar bent (Roach, 2000) have suggested that in large measure a punitive model of victims' rights has been advanced to "legitimate a crime control perspective" and that victims would be better served by emphasizing crime prevention and restorative justice.

At the other pole, where the argument is that victims should have enhanced role in post-sentencing case processing of serious offenders, the emphasis is given to the benefits rather than the risks of such an enhanced role. It is typically contended that enhanced victims input could have a positive impact on offender re-integration since often they know the offender quite well and can bring important information "to the table" bearing on the offender's accountability and re-integration (Herman and Wasserman, 2001; Black, 2003, Palowek, 2005) and, thus, that "victims' voices and victims' participation should be welcomed and not feared or discouraged" (ibid). Indeed, these proponents argue that victims have the right to participate, can become involved in programs to rehabilitate the offenders before and after their release and their involvement can improve the effectiveness of community supervision. Typically these writers claim that victims are not focused on more punishment of the offender but rather seek proportionality in sentencing and truly effective rehabilitation. Frequently, they too suggest that restorative justice approaches can be a valuable mechanism for effective victim participation in parole-related activities. In these ways, presumably, the victims can also be reintegrated into healthy, safe and productive lives. Other writers with a similar perspective have contended that at the parole phase victims have little impact (Black, 2003, Palowek, 2005) largely for two reasons, namely (a) the "mistaken" opinion that most victims are basically retributive which leads judges, parole officials and others to consider meaningful victim input not warranted since, if it is appropriate at all, it presumably has been taken into account in the earlier sentencing process; and (b) for technical / practical reasons such as the offenders' rights, the selective involvement of victims raises many "fairness" issues and so forth. The result of these factors, it is argued, has been that victims' engagement has not been encouraged beyond registration, and, if registered, being informed of an inmate's moves while in prison and allowed to make a statement at parole hearings.

A major theme throughout the writings has been focused on what the victims want in cases of serious crime (usually severe interpersonal violence). The Roberts' perspective has emphasized that victims want the state to punish the offender more (e.g., are intent on revenge and opposed to early release) while at the other polar perspective, victims are often seen as retributive largely because that is the only role they can

currently play in CSC and NPB processing of cases; thus, research, showing that in actuality victims focus on keeping the offender in prison and so forth, may be discounted in lieu of other victim options (i.e., the revenge or punishment motif may be rational under the circumstances). Other, more "neutral" researchers (Wemmers, 2000), report that their research indicates that victims want to be informed and consulted but do not seek decision-making power, and especially that they want to be able to avoid contact with the offender upon his or her release (Black, 2003). Another theme that is especially prominent among, though not limited to, those writers advocating much more victim involvement in the post-sentence case processing is that victims require more engagement in order to achieve closure and themselves regain their lives. Overall, though, in-depth descriptions and analyses of what victims want or might prefer are scarce.

The more empirically-oriented studies of victim engagement in post-sentence case processing have established that registration of the victims has been greatest in cases of serious interpersonal violence and where there has been such registration with Correctional / Parole officialdom there may be significant use of victim impact statements at parole hearings (Black, 20030). Research also has established that there is considerable regional variation within countries such as the USA (Morgan and Smith, 2005; Davis and Carrie, 2008; Caplan, 2010) and Australia (Black, 2003) with respect to both the encouragement / heeding of victim input and its impact on correctional and parole decision-making. As well, a few studies have found significant variation in response to victims on the part of parole board decision-makers; Palowek 2005, for example, reported, in her British Columbia study of parole board members, that women were more likely than men to report that they welcomed victims' participation and that the victims' statements were factors in their own parole decision-making.

While the polarization of viewpoints concerning the victim role in post-sentence offender case processing is quite evident, there are points of accommodation especially when the focus turns to public legitimation of the CJS and a more nuanced conceptualization of victim needs. Here for example there might well be substantial agreement that there has to be some more prominent place for victims within the CJS and that at least victim needs that are of the service (e.g., restitution and financial

compensation) and expressive (e.g., an opportunity to express their views) type, rather than the decision-making type impacting on CJS decisions on inmates, should be responded to (Bottoms and Roberts, 2010). Also, there is some sensitivity among all writers to victims' concerns about avoiding contact with inmates whether in prison or upon release but still a sharp difference over any accommodations that "violates the privacy interests of the prisoners or does not promote the objectives of the prison or parole systems" (Bottoms and Roberts, 2010). As well, proponents of either pole of thought frequently suggest restorative justice strategies to be more available for victims. Since restorative justice conferences between offender and victim has been found to be of limited use in prisons and Correctional professionals have found it virtually impossible to recruit victims in research exploring different restorative justice approaches (personal communication, 2010), it would appear that a distinction drawn by RJ practitioners between RJ processes and practices (Van Ness, 2010), where direct or even indirect contacts between victim and offender are avoided, might be of value here.

The diversity issues discussed above also are reflected in writings on Aboriginal victims of serious interpersonal crime but with the Aboriginals there is clearly more reference to healing on the part of both offenders and victims and more reference to restorative processes. In carving out a position of uniqueness in the CJS response for Aboriginals in at least two decades of decisions and policy imperatives, the SCC and other courts have emphasized two themes, namely the overrepresentation of Aboriginal offenders and victims and the cultural heritage and restorative perspective of Aboriginal traditions (Mann, 2009). Commissions and Inquiries such as the Marshall Inquiry (1989) have been making similar arguments for at least as long. CJS professionals such as Ross (1996, 2006, 2008, and 2009) have often emphasized the need for "emotional connections", spirituality, and the approach of traditional elders among Aboriginals to achieve healing among offenders and victims in light of the traumas, extensive emotional suppression and interpersonal disconnections wrought directly or indirectly by colonization. The Aboriginal Women Association of Canada (NWAC, 2008) has also promoted more restorative justice processes and practices, but also suggesting that thus far the RJ benefits have been greater for males and offenders. Scholars such as Dickson-Gilmore and La Prairie (2005) have emphasized that a greater commitment to social

justice and equity is a prerequisite for effective RJ in First Nations. Of course not all Aboriginal communities can be lumped together with respect to culture and preferences and securing Aboriginal victim involvement in Aboriginal justice circles has been quite challenging when serious offenses have occurred (Clairmont and McMillan, 2006) so identifying an effective RJ-type approach for Aboriginal victims is problematic. Many commentators have suggested that in the case of Aboriginals the community has to be engaged in the healing and restorative processes and practices since a prerequisite for individual change there is a revitalized culture which can provide appropriate social constructions of why things have come to pass in Aboriginal communities and how, building on earlier "tradition", positive change can ensue. The revitalized community culture in this thinking is the crucial mechanism for both offender re-integration and victims' closure.

VIEWS OF THE PROVIDERS OF VICTIM SERVICES

FEDERAL / NATIONAL CONTEXT

In order to obtain a broad picture of current victim services programs and issues, interviews were conducted with the key federal officials in the Department of Justice's Policy Centre for Victim Issues (PCVI), the Department of Public Safety's National Office for Victims (NOV), the Office of the Federal Ombudsman for Victims of Crime (OFOVC), and the non-profit, Canadian Resource Centre for Victims of Crime (CRCVC). The interviews with the Ombudsman's office were done in person in Ottawa whereas there was a telephone (taped) interview in the other three instances.

The PCVI official reported that the agency has three functions, namely (a) as a centre of expertise for the government on victim issues (including research on victim issues); (b) coordinating information on victim policies and issues among was the federal bureaucracies such as NPB; (c) administering the funds for assistance to victims to participate in parole hearings. The respondent noted that with respect to parole attendance funding, there were actually two funds; one for the eligible victim's attendance which could include multiple victims (depending on the offence) and also the situation where someone meeting the codified criteria could read victims' statements for the "community"; the other fund targeted a support person or designate (e.g., a CRCVC

person) who would not have standing and not be recognized by the NPB board to speak on behalf of the victim but could attend to support the victim and relay information to the victim if the latter was absent. The official considered the parole attendance program to have worked well as user surveys have indicated a high level of victim satisfaction with the funding program and only roughly half the victim respondents said that they would have attended the hearing without the funding. The research function of the PCVI has largely involved the utilization of Statistics Canada expertise through the GSS and special surveys of Victim Services programs throughout the provinces and territories. The PCVI does receive some calls directly from victims and has regular contacts with different victim lobby groups; reportedly, the focus in these calls and contacts has been on the front-end case processing (e.g., what non-criminally responsible entails, delays in case processing) and, in the respondent's view, "when the court case is through, if they want to be registered and continue involvement they would have already been in touch with provincial services and appreciate the context, so there is no need to phone PCVI".

NOV, established in 2005 and rooted in the national consultations on victim issues by the Solicitor General's Office in 2000, basically is a one-stop window for victims to contact on how the justice system works, secure accessible information bearing on particular cases, and obtain advice / navigational help on contacting other sources for pertinent information, typically the federal bureaucracies CSC, NPB, OFOVC and PCVI. NOV does not do counseling –"we have a resource book and we refer people". NOV does have a policy formation function, notably for this research, for developing a strategy for Aboriginal victims. It also provides some funding for the non-profit NCRVC for its work with victims. Reportedly the calls of victims to NOV have steadily increased over the years but no figures were provided (other than the comment "well under a thousand" annually) nor apparently are statistics kept on calls by region. The NOV official indicated that most calls dealt with front-end case processing issues but allowed that requests for post-sentencing information constituted "a not insignificant number but certainly not the largest amount". While non-committal on priority, the official commented that the most serious issues and needs reflected in the calls appear to center on front-end issues such as what the police and courts are doing on the matter, the delay in charges being laid and so

forth. Like the PCVI representative, the NOV official considered that victims are usually satisfied with the information they have received.

Both the PCVI and the NOV spokespersons, when asked specifically about the issue of more involvement by victims in the post-sentence or back-end phase, and the recent efforts of CSC and NPB to extend their efforts in that area, expressed some caution. One official stated, "There will be some victims by the time they've gone through the trial process, life has been turned upside down, they don't want to live it anymore, don't want [further involvement]. It's up to every federal agency to respect that. I can applaud the ambitions of the institutions [i.e., CSC, NPB] but …". The other official stated that both CSC ("they have invested a lot of money in an effort to provide better services to victims") and the NPB are focused on public safety, not just offenders, and "the government of Canada is very clear that they are committed to having a strong voice for victims in the correctional process". At the same time, the respondent cautioned that while NPB authorities have a mandate to relate to victims under the Act (CCRA), they have to be careful to manage that role and keep it at arms-length. Both officials also shared the view that there has been significant progress in serving victims in the post-sentence phase and commented that in 2006 and 2009 changes that would have satisfied the extra informational concerns of some victims (e.g., what the inmate is doing in prison) and direct needs such as restitution would likely have been enacted, save for the election call and Parliament being prorogued; they were unsure where the "almost legislation" now stood on the government's agenda. Neither official appeared to hold the view that major proactivity in the area of victim services by either CSC or the NPB was required; indeed, one official wondered whether these agencies should focus more on providing services to victims, adding "that is their policy question to sort out".

When asked about the issues surrounding low levels of victim registration, there was some acknowledgement that there could be improvements but again some caution as to the scale of the priority; for example, one official stated, "Think about victimization and the number of registered victims – 6 to 9 thousand out of 400, 000 –a very small amount. There have to be reasons for that. For me, it's about victim's psychology, where they are in their life, in the management of [having been] victimized". One respondent noted, in response to a question about the possibility of subcontracting to the provinces

and territories for proactive tasks in order to overcome provincial privacy constraints on the CSC and NPB proactivity, that "some collaboration like that is done informally". The other official, while acknowledging that privacy laws / policies may hinder registration, added that he was unsure he would support much proactivity. It seems fair to say that both officials were reluctant to tinker with what they saw as a pervasive victim inclination not to continue involvement in the case processing subsequent to trial.

Two areas of significance for this research were "thinking outside the box" in relating to victims' needs and an Aboriginal strategy. Both officials were asked whether there might better be a focus on victims' needs such as counseling and financial compensation than on extending a victims' role in post-sentence case processing of the offender inmate. One official suggested that there would be jurisdictional issues to contend with, especially if such services were subcontracted to the provinces. The PCVI official agreed "fully" with such a thrust, adding "We have the broader policy and the government has legislation (the latest Speech from the Throne) to do just that by increasing the victim surcharge to yield more money for counseling to the provinces on top of restitution orders and so on". Both officials noted the special issues with Aboriginal victims (e.g., having a high rate of serious victimization, presumably less likely to use existing federal programs) and reported that their department had an Aboriginal strategy too, working closely with departments that deal with Aboriginal people to better engage Aboriginal victims. NOV reportedly will emphasize putting informational brochures out to the police and courts and service providers and partnering with Aboriginal organizations and communities in the process; the focus thus far has been on Aboriginal communities but [urban Aboriginal victims] are on our radar". The PCVI official reported that PCVI has been very active North of Sixty in funding conferences for local service providers to discuss issues related to victims' needs and concerns, and South of Sixty has worked with the provinces to increase services to Aboriginal people and fund salient projects that come from the bands and NGOs.

OFOVC and NCRVC are more advocacy organizations and, as expected, their spokespersons presented a less sanguine though still positive view of progress with respect to the federal government's response to victims of crime. As noted early, the major governmentally established agency for dealing with crime victims' complaints and

advocating on their behalf, at arms-length from the federal departments, is the OFOVC. Through in-person interviews and email exchanges, several OFOVC staff emphasized that, while both CSC and NPB have done much in the past decade to increase registrations and their sensitivity to victims' concerns, the key bottleneck in improving victim participation post-sentencing is victim registration. Registration around the time of sentencing, they stated, is not the best circumstance for many victims as they are experiencing many problems (e.g., trauma, frustration, inadequate information conveyed by provincial VS etc), but if they do not register then, it is not likely to happen despite the open-endedness of registration. There is very limited proactivity by CSC and NPB, in part because of privacy laws and the associated refusal of provincial VS organizations "to pass along information (i.e., basically the contact coordinates) on the victims instead of leaving that as an option for the victims". As it stands, then, the victim may be shut out of any information salient to their closure since plea bargaining prevents much disclosure in court and by not being registered with CSC and NPB they learn nothing about inmates' leaves of absence or transfers and cannot attend parole hearings where the details of the crime and what the inmate has been doing in prison may be presented. It was noted that OFOVC has met with the privacy commissioner concerning the release to victims of information on the inmate's activities etc in prison but "had no luck persuading that office".

OFOVC officials noted that OFOVC does not organize the complaints and calls they receive by whether they are front-end or post-sentencing though they are engaged in a tracking improvement initiative which will allow for a more analytically valuable classification. The more common post-sentencing complaints they receive center around lack of information about the programs taken, attitudes and behaviour of the offender-inmate, options about their involvement at parole hearings, and last minute re-scheduling of the hearing to the great inconvenience of the victim (one official highlighted a pattern whereby the offender comes to a hearing, sees the victim there and then asks for and receives a re-scheduling). The OFOVC has forwarded thirteen recommendations to the government bodies in its 2010 report so here the officials simply highlighted some they thought particularly apt such as automatic registration, counseling services funded directly by the federal government (one official commented that generally the victims of

serious violent crimes have used up all the counseling time – "just a few hours really" - afforded them by provincial victim services prior to the sentencing of the offender), and broader criteria for eligibility at parole hearings. They reiterated, too, the emphasis on greater attention to Aboriginal victims as advanced in OFOVC's 2008 submission noted above. Generally, they advanced the view that the Aboriginal victim is somewhat unique in that, reportedly, "95% of the Aboriginal victims know their offender well" and knowing about the offender-inmate's programs and behaviour in prison my be more salient for Aboriginal victims since the former typically return to the small Aboriginal community upon release. The officials were also quite positive about the value of considering greater use of exit circles and restorative processes and practices in the case of Aboriginal victims.

The non-profit NCRVC's principal funding (the Canadian Police Association) has ended and it is now surviving on special grants and project funds largely from the Departments of Justice and Public Safety. It was established in Ottawa almost twenty years ago to provide support, especially long-term support, to clients impacted by homicide, Since provincial bodies work more immediately with victims (i.e., the front-end), NCRVC's focus has been virtually entirely at the post-sentence phase where federal responsibility kicks, that is essentially CSC and NPB. NCRVC acts as an agent regarding registration for some 90 victims across Canada, getting information and passing it along to them and attending parole hearings as support persons, but cannot read a statement at a parole hearing since the NCRVC person is not a defined victim according to NPB policy. The organization does not provide counseling though does help victims find counselor if needed but "unfortunately victims do have to be able to afford [the post-sentencing, long-term] counseling"; reportedly, Ontario is almost alone in providing for some free counseling services in some communities for such victims.

In discussing victims' needs and wants, the NCRVC official identified the following as central, namely (a) "updates on where the offender is and going to be" while under federal supervision, including the rationale for unescorted leaves; (b) they are "frustrated by the lack of information until the parole hearing which for their offenders may be 10 years later"; (c) "our clients typically want to get involved with parole"; (d) "I know that academics and others feel that victims only want offenders punished. Heard

that and I can't disagree more. There have been researches .. and I have spoken to hundreds. They [the victims] are focused more on public safety. They don't want other people hurt"; (e) some victims want someone to speak for them but that is not allowed and (e) some victims have traumas rekindled by the parole hearing (the prospect of and the actual hearing) but virtually no counseling is provided.

The NCRVC respondent acknowledged significant progress in the government response to victims, noting especially the CSC recent initiation of a dedicated service for victims, and the considerable value of parole – "people released on parole do better than those released on statutory release … they are monitored, have conditions they have to meet. It helps to reintegrate that person so they don't re-offend". At the same time attention was drawn to several prevailing "disconnects". One was that provincial victim services do not have enough knowledge about the post-sentence phase and are not doing enough for victim registration while the federal departments have insufficient proactivity so the victims of serious crime fall through the cracks: "of course some victims don't want to be involved; we have to respect that but there needs to be a better way to get victims involved such as automatic registration". The NCRVC respondent added that "victims [at the time of sentencing] may not want further [engagement] but they may not be in a state to appreciate the implications of not filling out the form and later they are devastated when they learn they have missed the parole hearing". The "disconnect" between federal and provincial privacy legislation prevents the victims from knowing what the offender inmate is doing rehabilitation-wise in prison and prevents the federal bureaucracies (CSC and NPB) from directly contacting the victims to determine if, with the passage of time. the victim now wants to be involved (i.e., access the limited CSC information that could be available and/or attend a parole hearing). In elaboration the respondent commented "Yeah, going back to the victim after a certain amount of time we would agree with that … trauma can be mitigated a bit by the passage of time. Corrections doesn't have the information to go back to them and ask. The provinces say they won't give the info. That's huge road block". The respondent agreed that perhaps subcontracting such contact to the provinces may be the way to overcome the privacy issue.

NCRVC suggestions for policy changes that would effectively deal with victim needs and concerns include broadening the category of persons eligible to make presentations to the parole board on a victim's behalf, a nationally funded counseling program for victims of federally supervised offenders, perhaps, for symmetry, provided by Public Safety since Justice provides funding for victim participation at parole hearings, automatic registration of victims of federally supervised offenders and subcontracting provincial and others' post-sentence contact with such victims.

Thus far, NCRVC, with a single office in Ottawa and limited funds, has principally operated in Ontario. There has been little contact with Atlantic Canada and NCRVC has not acted as an agent for registration or supported a victim at a parole hearing in the region. There has also been but a handful of cases that have involved Aboriginal victims. The official commented, "There is a need for more outreach … their world view is different. They are more likely to want help for the offender than imprisonment where there was violence within the family. I think that is more common in Aboriginal families although I don't have the statistics to back that up. But that's the sense I get from talking to Aboriginals here". These views concerning Aboriginal victims are congruent with those of the other federal-level interviewees and suggest more outreach, working with Aboriginal organizations, and the possible value of more restorative processes and practices involving Aboriginal victims.

Overall, the interviews with national level officials indicated that there was much consensus that there has been significant progress in the federal government's response to victims of serious crimes as reflected both in the political agenda of successive governments and the various initiatives of CSC and the NPB. There was also among all interviewees the view that previously proposed legislation, aborted by political circumstance but likely to be reintroduced, would carry that progress to a more significant level. Also, there was significant consensus that an Aboriginal strategy for victim involvement was required in light of the high levels of serious victimization in Aboriginal communities and low levels of Aboriginal victim engagement in registering for available information from CSC and attending parole hearings. There was a sharp difference between the respondents representing victim advocacy and support, arms-length from the government, and those involved in the main federal departments dealing

with victims of crime, namely Justice and Public Safety. The former identified major problems in the registration of victims and considered that significant dramatic changes such as automatic registration, direct federal funding of counseling for victims, and either changes in the privacy legislation or mechanisms such as subcontracts with the provinces were required to deal with the gaps or "disconnects" that disadvantage victims. The latter questioned more how significant a problem the low registration of victims really was, whether CSC and NPB should be much more engaged in providing victim services, and emphasized respecting victims' decisions not to be more involved in the post-sentence case processing of their offenders.

PROVINCIAL CONTEXT

Two Victim Services officials were interviewed in each of Nova Scotia and New Brunswick, and the interviews were supplemented with email exchanges. In Nova Scotia, officials with the provincial and municipal VS programs were interviewed.

The provincial VS official in Nova Scotia reported that the Nova Scotian experience has been that in cases involving federal custody VS get as much as 90% referrals from the police or prosecution service. However, more than 50% of all victims contacted (no separate statistics are kept on federal custody cases), once police or crown referrals are obtained (the HRPS provides most of these as the RCMP apparently hold that releasing the victim's "contact coordinates" and the circumstances of the victimization would violate federal privacy laws), indicate that they do not want to be further engaged and that ends the VS pursuit of the matter. Some victims request quite limited services from NSVS. Overall, reportedly, "the victims usually just want to get on with their lives" and perhaps, too, "there is mistrust of the system and fear of getting further involved". Where the victims express interest in a victim impact statement and / or following-up on the post-sentence case processing of the offender, VS will provide assistance in court and send the CSC registration form to them but only to victims they are working with. The respondent had no data on how many victims subsequently did send in the form and become registered and did not consider it appropriate to further inquire about it with the victims.

The NSVS official commented that privacy legislation had complicated obtaining information for victims, throwing many back on their own personal network for knowing what the offender-inmate is doing. It was agreed that CSC and NPB have more of an offender orientation and that further underlines the marginality of the victim. The respondent noted that a major initiative was underway in Nova Scotia to amend legislation concerning what information can be provided to the victim. The initiative was occasioned by the inconsistency between criminal and family court requirements as information on, for example, whether the offender-inmate followed rehabilitative programs in prison is crucial in family court where decisions are made regarding custody, visiting rights and so on. The NSVS respondent allowed that the VS could improve its assistance to victims in the post-sentence phase, suggesting possible orientation or training sessions on post-sentence issues, and accompanying victims to parole hearings "if not taxing on the resources of the VS program". He expressed an openness to further collaboration with federal officials – "We'll go beyond distributing the registration form if they wish".

The NSVS official held that there were significant differences between Aboriginal and non-Aboriginal victimization – here the emphasis was on factors such as a legacy of mistrust of the CJS, the dynamics of small communities inhibiting individual victim response and so forth - that required a different strategy for delivery of victim services. The NSVS experience had been that there was "little uptake on the Aboriginal referrals we received"; accordingly, NSVS obtained special federal funding to employ Aboriginal victim service workers in Cape Breton and on the Mainland; these positions and the funding have now been ceded to the Mi'kmaq MLSN organization. As yet, there has been no formal assessment of the impact of this change. The interviewee commented that exit circle for inmates and victims and in general restorative processes and practices might be helpful for victims in the Aboriginal communities.

An official with the HRPS Victim Services program – the largest municipal VS program in Atlantic Canada - emphasized that her work with victims essentially ends at sentencing and, even more, is concentrated at the very front-end (policing issues) of the case processing. Little contact was reported with either CSC or the NPB, and the respondent acknowledged having very modest and not terribly reliable knowledge about

their policies or programs for victims. Apparently only a very few victims contact the VS office inquiring about temporary release, parole or other movement of the offender or what rehabilitative programs the inmate is engaged in; when they do, they are referred to the provincial Victim Services or directly to CSC / NPB. The respondent considered that both CSC and NPB were more oriented to the offender and that could clash with any victim advocacy. Given the focus of the municipal program on intimate partner victimization, the respondent stated that she could well understand victims wanting information on what the offender was doing in prison in terms of programs and behaviour since such information could be crucial for the victim and her family when the offender is release. At the same time, based on experience with victims, she could appreciate that involvement, post-sentencing, whether registering or attending parole hearings could be quite intimidating for many victims. In any event, the fact is that she could not recall having heard from any victim-client about their post-sentence experiences with CSC or the NPB. Upon reflection, the respondent did favour a more proactive approach by federal agencies and more victim involvement post-sentencing, emphasizing greater public education so victims of serious crimes could assess the benefits to themselves of such engagement. In her view, given the trauma of such victimization, a lot of contact may be required. Certainly, in her view, the idea of providing for some support person to accompany the victim to parole hearings would be very beneficial since, generally, "the seriously abused person has difficulty coping with life and often feels overwhelmed". The respondent also saw the Aboriginal victim as a special case given different cultural traditions, the dense kinship systems in the small First Nations and the fears and opportunities occasioned by the offenders' release to the community.

The NBVS has the distinction of being the oldest VS in Canada and has a staff of 23, including 19 full-time field staff. The NBVS officials here noted that the interview was the fourth such interview they have had within the past year on this same theme, the role of CSC and NPB with respect to victims, so clearly there is much soul-searching going on. Like their Nova Scotian counterparts, they were very proud of their VS program and considered it to be among the very best in Canada. The officials, one slightly more so than the other, reported that there were not convinced that victim involvement in the post-sentence case processing of their offender-inmate was a major

problem, contending that if victims do not wish to pursue registration and involvement at parole hearings then that is their right and it should be respected. In their view the emphasis should be on helping the victims with their own needs for closure, restitution and so on.

They did not know how many of their victim clients sent in the registration card and were on the CSC / NPB list of victims who wish to be kept informed –"we have no idea and our requests in the past went unheeded". NBVS staff members do not, they stated, complete the form or send it off, as that is up to the victim ("it's a matter of victim empowerment"). That same pattern applies to victims where the offender receives provincial custody. The respondents observed that NBVS also does not keep statistics on how many victims were given the registration forms whether for federal or provincial cases but noted that a form is usually provided victims in cases involving murder, impaired driving causing death, sexual assault and intimate partner violence. Concerning these cases of serious personal violence, they agreed that some victims are "turned off, but not at us", by the end of the court case. In the respondents' perspective, victims are likely to be re-traumatized even to hear of parole hearings taking place and need help. It was also noted that NBVS has been contacted by CSC in the past, on the grounds that such counseling was not part of the CSC's mandate, and asked to provide such help on a voluntary basis, but NBCS refused. NBVS does provide counseling for victims at the court phase, funding up to ten sessions of outside psychological counseling for some victims, but, in the post-sentencing phase, where federal supervision is entailed, the respondents held that there is federal responsibility.

Interestingly, the respondents reported that there have been discussions with CSC and NPB about subcontracting certain victim services such as counseling in relation to parole hearings (e.g., a special day-long meeting between federal and New Brunswick officials took place on this and related topics in May 2006) but "nothing came of it". In elaboration, it was noted that privacy laws at both the federal and provincial levels prevent, on the one hand, victims knowing what the offender-inmate is doing in custody, and, on the other hand, NBVS sharing its contact coordinates on victims with CSC / NPB so that they can directly contact the victim. Apparently, federal officials have raised the

possibility of an M.O.U. with the province to circumvent the provincial privacy legislation but NBVS refused to consider this strategy.

In general, NBVS respondents, while acknowledging good objectives and progressive initiatives on the part of both CSC and NPB (e.g., CSC's VS unit, funding for victims to attend parole hearings), held that the federal government officials will have to rethink their approach to victims and collaborate much more with the provincial services (e.g., "road shows [by CSC and / or NPB] to local communities carried out without communication and collaboration with the Provincial Victim Services will not do"). The NBVS respondents suggested that the flaw of CSC's recent initiative in setting up its special unit for victims is that it remains marginal in an organization oriented to offenders / inmates and does not really get involved with victims (e.g., "the staff just use the telephone"). They suggested in its stead a one-stop model, as reportedly preferred by victims in a recent survey of clients (Refresh Consulting, 2008), where the federal departments would fund counseling in the post-sentencing phase for victims of offenders - inmates under federal supervision and would subcontract with the provinces for a range of services, including contacting victims to provide them more information about registration, at more appropriate times; as one respondent stated, "It would make sense too since the administration of justice is a provincial jurisdiction".

The NBVS respondents were inclined to emphasize common patterns and causes when comparing Aboriginal and non-Aboriginal victims of serious crimes and were unsure about major cultural differences; however, they did comment that Aboriginal victims appeared most alienated from the CJS, were more reluctant to testify, less likely to go to court, and more embedded in dense kinship networks. As for a different strategy for meeting Aboriginal victims' needs, the respondents were uncertain, noting that restorative approaches have not been embraced by most victims but might be effective among Aboriginals.

Overall, then, the provincial (and municipal) VS officials were somewhat ambivalent about whether low levels of victim involvement in CSC and NPB represented a major problem. Their view tended to be that victims have not registered and that decision has to be respected. They acknowledged that some victims do want to be involved and could benefit from knowing what the offender-inmate is doing for

rehabilitation in prison, attending the parole hearings and so on. They consider that such victims often would need support and their own organizations would collaborate were federal resources made available for counseling and the like. In their view the post-sentence attention to victims whose convicted offenders are under federal supervision is indeed a federal responsibility. After distributing the appropriate registration forms to victims of such serious crime, no further action is taken; indeed no statistical data are maintained by the provincial VS on whether victims send in these forms.

On the whole, the provincial VS officials emphasized counseling and other victim services that would focus on the victims' own well-being, counseling and pursuit of closure. In these areas there was the view that provincial services could better provide those services than CSC and the NPB could since they have the appropriate infrastructure and full commitment to victims. There was consensus among the respondents that privacy legislation at both the federal and provincial levels was a major blockage to dealing well with victims and required considerable collaboration between the two levels of government, a collaboration essentially rooted in mechanisms such as subcontracting by the "feds" to the provincial VS bodies to carry out specifics objectives such as better communication about registration, supervising counseling and support at parole hearings. The respondents all considered that Aboriginal victims for various reasons merit special attention as reflected in special programs for Aboriginals in both provinces. The Aboriginal strategy suggested would be the encouragement of local, community level collaboration and considering the appropriateness of restorative approaches.

THE ABORIGINAL OFFENDER IN FEDERAL INCARCERATION

Aboriginal Offenders In Federal Custody: The National Picture

There is a huge literature on Aboriginal offender re-integration issues, ranging from the general "rights" imperative of Aboriginal control over justice issues in their communities to specific concerns such as the factors associated with successful offender re-integration. The Royal Commission on Aboriginal Peoples (RCAP) perspective on the Aboriginal control issue represents a perspective which would strongly support the

general policy objective of effecting much greater administrative decision-making over dealing with offenders and re-integrating them in the context of an Aboriginal approach. At this level of generality there is also a growing literature on the implications of the Supreme Court of Canada's Gladue decision (1999) which emphasized the requirement to take a convicted Aboriginal person's social history into account at bail, sentencing and parole hearings. The intent is to reduce incarceration and to emphasize rehabilitation if a case can be made for special circumstances not normally experienced by a mainstream defendant. There are several special Gladue Courts in Ontario and there have been several Gladue assessments requested by the courts recently in Nova Scotia. Now, too, New Brunswick is slated to launch Canada's first Aboriginal Healing to Wellness Court, rooted in Gladue-type principles, in the fall of 2010 at Elsipogtog. Pervasive implementation of the Gladue ruling's imperatives could well result in more Aboriginal inmates being placed in minimum security facilities and more CSC resources being allocated to special Aboriginal programming, and, of course, the emergent Healing to Wellness court approach could have major implications for reduced incarceration in the first instance.

Aboriginal Inmates Under Federal Supervision

The CSC-produced Corrections and Conditional Release Statistical Overview, Annual Report, 2006 and 2007 and the NPB's Performance Monitoring Reports 2007-2008 and 2008-2009 yield the following information concerning federal and especially Aboriginal offenders under supervision:

1. The total federally supervised offender population has been roughly 22,000+ for the past several years (PMR, 2008-2009, piv). Sentence length has declined much over the past fifteen years, declining from 3.9 years in 1994-95 to 3.1 years in 2008-2009. Schedule 1 offenders, whether for sexual or other violent offences, on average usually serve much more of their sentence than federally supervised persons sentenced for other offences (PMR, 2008-2009, p82, 89).

2. The number of Aboriginal offenders under federal jurisdiction has increased by almost 26% since 1996-97 (CCRSO, 2006). Overall, Aboriginals accounted for roughly 17% of the total federal offender population while Aboriginal adults represent 2.7% of the Canadian adult population (CCRSO, 2007). They constituted almost 19% of federally incarcerated population and roughly 14% of the offenders under community supervision. In 2008-2009 the corresponding figures were 17.2 % of the total federal offender population and 19.7% of the federally incarcerated population.
3. The number of incarcerated Aboriginal women increased steadily from 59 in 1997-98 to 148 in 2006-07, an increase of 151% in the last ten years. For Aboriginal men, the respective numbers were 2,049 and 2,432, an increase for the same period of 19% (CCRSO, 2007)
4. Aboriginal offenders under federal jurisdiction are 9% more likely than non-Aboriginal offenders to be incarcerated (CCRSO, 2006).
5. Aboriginal offenders are younger than their mainstream counterparts. In 2006, 52% were under 30 years of age whereas, among the latter, only 40% (CCRSO, 2006). In 2007 (CCRSO) the corresponding figures at admission were 50% and 38%.
6. Aboriginal offenders are more likely than non-Aboriginal offenders to be incarcerated on schedule 1 offences (sexual and violent offences) and to have higher needs (e.g., employment, education) and a more extensive involvement with the criminal justice system as youths (PMR, 2008-2009).
7. Aboriginal offenders have long been over-represented as a proportion of federal inmates referred for detention and detained. In 2008-2009 the Aboriginal proportions for each action rose to a whopping 40% (PMR, 2008-2009).
8. The grant rate for federal parole for Aboriginals has fluctuated over the past decade reaching a high of 76.4% in 2003-2004 and a low of 67.9% in 2006-07. For non-Aboriginals, over the same period, the grant rank was highest in 1998-09 at 75% and lowest in 2006-07 at 70.5% (CCRSO, 2007).

9. Aboriginal offenders serve a higher proportion of their sentence before being released on full parole - roughly, 42% compared to 39% non-Aboriginals in both 2006 and 2007, (CCRSO). Given that Aboriginal offenders have a higher rate of sentencing for schedule 1 offences, this finding is consistent with point #1 above.
10. Over 80% of federal day paroles are successfully completed (83.5% in 2005-2006) while roughly 70% of the full paroles and approximately 59% of the statutory releases are successfully completed. Since Aboriginal offenders are more likely to receive statutory releases, it is not surprising that they also have a higher rate of re-incarceration.
11. 45.6% of all hearings for Aboriginal offenders were held with an Aboriginal Cultural Advisor, up from 28.9% in 1997-98 (CCRSO, 2007).
12. Compared to Asians, Blacks and Caucasians, Aboriginal offenders over the past five years have been the least likely to get day parole and full parole releases (PMR, 2008-2009). They have received the shortest average sentence lengths but served the most time prior to first federal day and full parole (PMR, 2008-2009).

It is well-known that Aboriginal inmates are less likely to apply for early release and more likely to have their conditional releases or parole releases revoked. The Aboriginal Justice Implementation Commission in 1999 cited data showing that in the Prairie region the approval rate for Aboriginal inmates applying for parole was 15% to 18% lower than for non-Aboriginals. As well, 27% of Aboriginal inmates, as compared to 11% of non-Aboriginals, had their conditional releases revoked and 44% of Aboriginal inmates on full parole had their paroles revoked compared to 25% among non-Aboriginals. Table 1 depicts the outcome rates for all federal "full parole with determinate sentence" cases for the years 2004-2005 to 2008-2009, by race /ethnicity – Aboriginal, Asian, Black, and White. The table shows that Aboriginals have a lower rate of successful completions and that while the differential has been reduced somewhat over the years, the Aboriginal rate of successful completion of parole remains significantly less than for other groupings. The Aboriginal rate of revocation for breach of conditions is significantly higher than among the other groupings as is the Aboriginal rate for

revocation with an offence. There is some modest evidence to be gleaned from the table that the Aboriginal rates for successful parole completions have improved (to an average of roughly 62% in the past two years compared with 56% for the previous two years) and that the rates for revocations with offence have declined (from 13% in 2004-2006 to 10% in 2007-2008 / 2008- 2009). Revocations suggest a major problem of re-integration when the Aboriginal offender is released to half-way houses or returns to the FN communities.

Table 1

OUTCOME RATES for ALL FEDERAL FULL PAROLE with DETERMINATE SENTENCE by ABORIGINAL and RACE

	Successful Completions		Revoked for breach of conditions		Revocations With Offence				Total Revocations with Offence		Total Completions
					Non-violent offences		Violent offences				
	#	%	#	%	#	%	#	%	#	%	#
2004/05											
Aboriginal	89	56.7	52	33.1	13	8.3	3	1.9	16	10.2	157
Asian	68	84.0	9	11.1	4	4.9	0	0.0	4	4.9	81
Black	107	81.1	14	10.6	9	6.8	2	1.5	11	8.3	132
White	701	71.6	173	17.7	89	9.1	16	1.6	105	10.7	979
Other	85	91.4	6	6.5	2	2.2	0	0.0	2	2.2	93
2005/06											
Aboriginal	83	57.6	39	27.1	20	13.9	2	1.4	22	15.3	144
Asian	65	82.3	11	13.9	3	3.8	0	0.0	3	3.8	79
Black	88	73.9	21	17.6	9	7.6	1	0.8	10	8.4	119
White	669	69.7	188	19.6	90	9.4	13	1.4	103	10.7	960
Other	80	88.9	3	3.3	6	6.7	1	1.1	7	7.8	90
2006/07											
Aboriginal	83	53.9	44	28.6	23	14.9	4	2.6	27	17.5	154
Asian	87	94.6	3	3.3	2	2.2	0	0.0	2	2.2	92
Black	71	74.0	15	15.6	9	9.4	1	1.0	10	10.4	96
White	654	69.6	186	19.8	97	10.3	3	0.3	100	10.6	940
Other	77	88.5	7	8.0	2	2.3	1	1.1	3	3.4	87
2007/08											
Aboriginal	84	63.6	36	27.3	12	9.1	0	0.0	12	9.1	132
Asian	92	90.2	6	5.9	4	3.9	0	0.0	4	3.9	102
Black	71	81.6	9	10.3	7	8.0	0	0.0	7	8.0	87
White	681	71.2	196	20.5	68	7.1	12	1.3	80	8.4	957
Other	62	77.5	15	18.8	3	3.8	0	0.0	3	3.8	80
2008/09											
Aboriginal	75	60.5	35	28.2	13	10.5	1	0.8	14	11.3	124
Asian	102	86.4	10	8.5	6	5.1	0	0.0	6	5.1	118
Black	93	77.5	22	18.3	4	3.3	1	0.8	5	4.2	120
White	689	74.0	180	19.3	56	6.0	6	0.6	62	6.7	931
Other	71	86.6	8	9.8	3	3.7	0	0.0	3	3.7	82

Aboriginal offenders have had the lowest full parole successful completion rates over the last five years and Asian offenders have had the highest rates. The full parole successful completion rate decreased for all offender groups, except White offenders, in 2008/09.

Data published by Juristat (2005) indicated that "as compared to their representation in the adult and youth populations, Aboriginal adults and youth were highly over-represented in admissions to all types of correctional services. Furthermore, trends in both adult and youth corrections have shown that the proportional representation of Aboriginal people among females admitted to correctional services has been greater than for males". These unacceptable patterns and trends were highlighted in the 2006 report by CSC's own ombudsman / investigator. For Aboriginal offenders, it was noted that the situation "has not measurably improved in recent years". Taking federal and provincial custody into account, the overall incarceration rate for Aboriginal people in Canada was 1,024 per 100,000 adults whereas the comparable figure for non-Aboriginal Canadians was 117 per 100,000 adults so Aboriginals were 9 times as likely to be incarcerated. While praising the fact that culturally sensitive programs have been established and Aboriginal issues have become a priority for CSC, the CSC investigator observed that Aboriginals are less likely to be granted temporary absences and parole, get parole later in their sentence, are more likely to have their parole suspended or revoked and more likely to be classified as high risk. Among his key recommendations are (1) use a security classification that ends the over-classification of Aboriginal offenders; (2) give them access to programs and services which reduce time in medium and maximum security and significantly increase their numbers in minimum security institutions; (3) give them more temporary unescorted leaves of absence; (4) get more Aboriginal inmates in front of the NPB at earlier eligibility times; (5) build capacity for an increased use of more section 84 and 81 agreements with Aboriginal communities.

Aboriginal Re-integration

Review of literature and documents specific to incarceration, parole and successful re-integration has yielded six major and well-known themes namely, (a) that Aboriginal persons are well-overrepresented in federal and provincial / territorial custodial institutions; (b) that Aboriginal inmates are less likely to be assessed for minimum security placement; (c) that Aboriginal inmates are less likely to access CSC programs and to successfully position themselves for day parole and subsequently full parole; (d) that Aboriginals are more likely to re-incarcerated upon statutory release; (e)

that factors such as having a substance abuse problem and a problematic pre-custody lifestyle are major determinants of recidivism and re-incarceration, and Aboriginal inmates are more likely to be associated with both these factors; (f) that minimal resources are available for post-release rehabilitative programs.

The literature on successful re-integration has strongly underlined the importance of the ex-inmate having dealt with his/her substance issues. The impact of re-awakened cultural identity and spirituality has also been found to be significant, especially in studies that have been based on individual success stories rather than general statistical analyses of secondary data. Heckbert (2001), for example, in a study of 85 Edmonton-based Aboriginal ex-inmates who reportedly have turned their lives around, pointed to the significance of identity (Aboriginal spirituality and cultural activities) in effecting change, but controlling substance abuse was always cited by the participants as a key factor (i.e., the proximate cause of their turn-around). Heckbert cites other literature (quite a few in the 1990s) which establishes the same points and which generally follow the same methodology. Sioui et al (2002) analyzing data on over 500 cases reported that (a) participation in cultural activities was strongly correlated with a decrease in recidivism but had a less clear impact on re-integration since participants generally had lower risks and needs to begin with; (b) the same conclusion was drawn concerning participation in spiritual activities and receiving Elders' advice; (c) given the low number of Aboriginal inmates participating in Aboriginal-specific programs and the positive results that are associated with such participation, they concluded that there should be greater access provided to the Aboriginal inmates.

Several large studies have attempted to determine whether the risk factors for recidivism, parole revocation, etc are different for Aboriginal inmates than for non-Aboriginal inmates. A recent study (Rugge, 2006) found that the best predictors of recidivism were the so-called "Big Four", namely adult criminal history, antisocial personality, type of companions and criminogenic needs (e.g., antisocial cognitions or values), and that they were of equal applicability to Aboriginal offenders.. Still, her main point was that, while risk factors seem similar, perhaps Aboriginal offenders may have additional risk factors or needs. Here she refers to Australian / NewZealand research which points to such risk factors as lack of cultural identity, sense of group membership

(e.g., seek belonging through gang membership) and negative self-image, and the yet untested argument that the inclusion of a cultural identity risk factor could add predictive power to risk assessment instructions. If additional risk factors can be demonstrated then a strong case might be made for appropriate treatment strategies to be developed.

Studies (both statistical and also interviews with community parole officers) have also generally found that in order to succeed (not be re-arrested or revoked) in the first 90 days after release, several factors are especially crucial. These are (a) food, clothing and housing needs being satisfactorily met; (b) life skills including budgeting skills have to have been gained; (c) employment and educational assistance has to be in place; (d) the offenders need to have some insight into their problem areas.

There appears to have been few accessible studies done on how community-based programs might impact on improvements within the prison setting, namely Aboriginal inmates getting involved in prison programs that can effect "cascading" (getting re-classified and reassigned to lower security custody), seeking early release, and being successful at parole hearings. Despite the plethora of Aboriginal initiatives over the past decade, there still seems to be a missing factor as regards changing Aboriginal penal patterns and perhaps that factor could well be projects like the Elsipogtog project referred to above which emphasize pre-release activity as well as community plans along the lines of CSC's section 84. A Nova Scotia position paper (Mi'kmaq Friendship Center, 2008) has contended, for example, that

> "Many Aboriginal inmates would rather serve out their full sentence than take the risk of "messing up" while on parole. Without the reasonable hope of finding supportive programs that they can attach to upon release, they feel at risk to "fall into old habits", and ultimately re-offend … With partnerships … "in-reach" can apprise and educate inmates facing a possible parole date to the opportunity for support that exists within the community; and where the parole officers and associated staff can refer and co-case manage those who elect to avail themselves of those community supports".

Aboriginal Offenders in Atlantic Canada

Reports from federal corrections officials indicate that in Atlantic Canada the overall number of Aboriginal offenders has remained quite stable in recent years but there have been some interesting changes in placement. The officials suggested that there are usually about 140 plus Aboriginal persons under responsibility of Corrections (including community supervision) at any one point in time. The table below for February 5, 2007 indicates that there were 114 incarcerated and 33 under community supervision. As noted elsewhere in this report, in Atlantic Canada, any Aboriginal proportion beyond 2% of the total numbers in a given correctional status category could be considered an overrepresentation. By that measure, the fact that 8% of the correctional institutions' "beds' are occupied by Aboriginal inmates could be interpreted as a significant overrepresentation (i.e., four times the expected level). It is interesting too that, according to table 1, the percentage Aboriginal of inmates under community supervision is only 6% while the corresponding percentage of those inmates in institutional segregation is 14%. These latter patterns suggest that Aboriginal inmates are less likely to obtain early parole and that they are much more likely to request and/or be given 'segregation'.

Other CSC data indicate internal variation of a modest sort has occurred with respect to the placement of Aboriginal inmates. A comparison of the days, February 5 and May 14, shows that, in the latter period, more Aboriginals were housed in maximum security (25 to 18) and fewer Aboriginals in intermediate security (35 to 43). The number in Westmorland (minimum security) increased from 14 to 21. These findings perhaps signal longer trends, namely a polarization among Aboriginal inmates with respect to their prison rehabilitation, and the sharp increase over recent years in the number of Aboriginal inmates in Westmorland and thus more eligible for the Pathways program there; two and a half years earlier there were only 4 Aboriginal inmates at Westmorland. Some Aboriginal activists who used to liaise with the "Brotherhood" in Atlantic federal custody have suggested that the growth of Pathways has been associated with the decline of the salience of the Brotherhood.

The Atlantic regional data for October 21, 2009 (see table 2 below) indicate that there has been a significant increase in Aboriginal offenders under federal supervision since 2007, namely from 147 in 2007 to 173 two and half years later. These data indicate that Aboriginals accounted for 6% of ex-inmates under community supervision and 8.8% of those incarcerated. The data also show that approximately three quarters of the Aboriginal persons incarcerated as of October 21, 2009 had been sentenced for schedule one type offences, that is, for violent interpersonal offences. For Atlantic Canada federal custody population as a whole, the percentage sentenced on schedule 1 offences (violent offences) in 2007-2009 was similar to the rest of Canada (apart from the Prairies) but the percentage sentenced on non-scheduled offences has been significantly higher for the past five years (Performance Monitoring Report, 2007-2008, p58). Interestingly, in the October 21, 2009 report, the proportion of Blacks in each category –under community supervision and incarcerated - is roughly the same as the Aboriginal totals.

The CSC data are for Atlantic Canada and, in the available format, make it difficult to confirm the patterns of overrepresentation for First Nations people in specific areas such as New Brunswick. CSC data indicate that generally in 2007, roughly 60% of the Aboriginal inmates were band members while 20% were Inuit and the remaining 20% were recorded as "non-status or self-declared". In the 2009 regional count the breakdown was depicted (see table 2) differently, that is in terms of North American Indian, Inuit and Metis so comparability is limited. It is unknown what were the home communities and provinces of the inmates, whether Aboriginal or otherwise, so at this point one can only speculate that given the high level of overrepresentation among Inuit offenders vis-à-vis the Newfoundland and Labrador federal inmate population, and given the 20% "non-status or self-declared", the overrepresentation of New Brunswick native inmates would be between two and three times as much as could be expected based solely on the demographic factor – still a significant overrepresentation.

The data concerning recidivism and repeat offenders are quite limited at present but initial estimates point to a significant amount of recidivism. One report from CSC Atlantic indicated that 64 Aboriginal inmates had been released in 2006 and, as of March 2007, 16 had been revoked for breaching a condition and another 6 revoked due to a non-violent offence for a total of 34%. The positive side is that 42 Aboriginal inmates (i.e.,

66%) completed their release without incident. Inuit inmates accounted for 10% of the successful releases and 18% of the revocations. Comparable data for all inmates released from CSC Atlantic Canada institutions in 2006 are unavailable but CSC officials have suggested that the rate of such revocations could well be higher for Aboriginals than for non-Aboriginal inmates. This statement is reinforced somewhat by the 2008-2009 data presented above showing that, over the period 2008-2009, Aboriginal inmates throughout Canada have higher rate of revocation and lower rates of successful completion of parolees granted full parole.

Reducing the likelihood of revocation, and of recidivism more generally, are, along with public safety, major concerns of CSC and the NPB. Interestingly, the Pathways program at Westmorland, an Aboriginal-oriented program, seems to have had such an effect. It was reported in 2008 that only 1 of the 14 inmates who have gone through Pathways at Westmorland during its three year history had thus far been incarcerated anew for whatever reason. CSC / NPB officials also noted that reducing parole violation by enhancing community and familial integration is a key strategy as "The more community and family involvement, the better the chances are for the offender to succeed"**. T**hese points – getting Aboriginal inmates into the Pathways program and facilitating community and familial integration – were at the heart of short-lived Elsipogtog's offender re-integration project, namely Oelielmiemgeoei or "going home in a good way" (Clairmont, 2008). A related CJS strategy is facilitating section 84 parole releases which can combine the objectives of early parole release with public safety and community / family involvement. CSC statistics in May 2007 showed that of the total of 116 Aboriginal offenders incarcerated in the five institutions in the Atlantic Provinces that house federal offenders, there were eight inmates actively seeking release to the community via section 84 plans. Another six Aboriginal inmates had requested a section 84 plan but had yet to complete the application process. While at first glance it would thus appear that only 10% or less of the Aboriginal inmates may be interested in the section 84 option, it could well be argued that if the recent section 84 initiatives are successful and a protocol and satisfactory process is established from the perspectives of both the inmates and the communities, then many more inmates would exercise the section 84 option. These patterns also suggest the possibility that more engagement of

Aboriginal victims in the post-sentencing case processes, both individual and "community" victims, as through some form of restorative process, may be crucial in the early release and successful re-integration of the Aboriginal offenders in Atlantic Canada. This would be a challenge given the possible "hardening" of community views as suggested by some Aboriginal elders cited above, and the complex perspectives characteristic of offender –victim / community relationships in FNs (i.e., sense of an integrative collective victimization in conjunction with isolation and shaming).

Table 1

Regional Count Report by Site/Aboriginal and Aboriginal Percentages.
Extraction date: February 5, 2007

Site/Aboriginal and Abor. Percentages	#7 – Community Supervision		#27 – Inst – Total Occupied Beds		#33 – Inst - Segregation	
	Site	Abor.	Site	Abori.	Site	Abori.
Atlantic (Renous) Institution (23100)	0	0	200	18	75	10
	Abor. – 0 %		Abor. – 9 %		Abor. – 13 %	
Dorchester Penitentiary (22000)	0	0	431	43	43	7
	Abor. – 0 %		Abor. – 10 %		Abor. – 16 %	
Springhill Institution (21000)	0	0	423	32	23	2
	Abor. – 0 %		Abor. – 8 %		Abor. – 9 %	
Westmorland Institution (22100)	0	0	216	14	0	0
	Abor. – 0 %		Abor. – 6 %		Abor. – 0 %	
Bathurst Area Office (28700)	59	5	0	0	0	0
	Abor. – 8%		Abor. – 0 %		Abor. – 0 %	
Carlton Centre – CCC (28700)	8	1	0	0	0	0
	Abor. – 13 %		Abor. – 0 %		Abor. – 0 %	
Carlton Centre – Annex (28600)	12	1	0	0	0	0
	Abor. – 8 %		Abor. – 0 %		Abor. – 0 %	
Dartmouth Parole Office (28600)	71	1	0	0	0	0
	Abor. – 1 %		Abor. – 0 %		Abor. – 0 %	
Fredericton Area Office (28700)	48	2	0	0	0	0
	Abor. – 4 %		Abor. – 0 %		Abor. – 0 %	
Halifax Area Parole Office (28600)	71	3	0	0	0	0
	Abor. – 4 %		Abor. – 0 %		Abor. – 0 %	
Kentville Area Office (28600)	48	3	0	0	0	0
	Abor. – 6 %		Abor. – 0 %		Abor. – 0 %	
Labrador R.P.O (28300)	7	4	0	0	0	0
	Abor. – 57 %		Abor. – 0 %		Abor. – 0 %	
Moncton Area Office (28700)	101	1	0	0	0	0
	Abor. – 1 %		Abor. – 0 %		Abor. – 0 %	
Newfoundland – CCC (28700)	17	2	0	0	0	0
	Abor. – 12 %		Abor. – 0 %		Abor. – 0 %	
Nova Institution for Women (25000)	0	0	54	6	5	1
	Abor. – 0 %		Abor. – 11 %		Abor. – 20 %	
Shepody Healing Centre (22500)	0	0	30	1	0	0
	Abor. – 0 %		Abor. – 3 %		Abor. – 0 %	
Sydney Area Office (28600)	44	6	0	0	0	0
	Abor. – 14 %		Abor. – 0 %		Abor. – 0 %	
Truro Area Office (28600)	57	4	0	0	0	0
	Abor. – 7 %		Abor. – 0 %		Abor. – 0 %	
TOTAL:	543	33	1354	114	146	20
	Abor. – 6 %		Abor. – 8 %		Abor. – 14 %	

Table 2

Atlantic Regional Count Report: Federal Custody Classification by Race / Ethnicity. Extraction Date: October 21, 2009.

	Community Supervision		**Incarcerated**	
Race/Ethnicity	#	%	#	%
Black	54	**5.8 %**	111	**8.4 %**
Caucasian	782	**83.9 %**	1051	**79.1 %**
North American Indian	47	**5.0%**	87	**6.6%**
Inuit	7	**0.8%**	19	**1.4%**
Aboriginal*	56	**6.0 %**	117	**8.8 %**
Other **	40	**4.3 %**	50	**3.7 %**
Total	932	100 %	1329	100 %

* Aboriginal includes North American Indian, Inuit and Metis. 'Metis' accounted for 1 case of community supervision and 11 cases of incarceration.

** Other visible minorities accounted for 6 cases of community supervision and 9 cases of incarceration. The unknown or 'others' constituted the remainder in each category.

Aboriginal Offenders in Atlantic Canada: Correctional Perspectives

In 2008, ten persons were interviewed who were knowledgeable about the federal incarceration of Aboriginal offenders in Atlantic Canada, all but one of whom was a CSC / NPB employee**.** Four of the ten were Aboriginal persons**.** Several of the respondents were frequently contacted as well by e-mail. Contact was also established and more limited interviewing carried out with several other officials and several elders engaged by CSC / NPB. The key themes that emerged from these interviews were

1. The interviewees typically considered that the number of Aboriginal inmates, as a total of the inmates in the five Atlantic-area federal institutions, has been fairly stable for many years. Generally the number has fluctuated between 100 and 150 under sentence either in the institutions or in the community.

2. There appeared to be a consensus, too, that at least until quite recent years there was little change with respect to the adaptation of Aboriginal inmates in the prisons, their experience with early parole and their recidivism. In all three respects it was acknowledged that Aboriginal inmates, compared with mainstream inmates, appeared to fare poorly in prison, participated less in conventional prison programs that impact on parole and early release opportunities, and were more likely to recidivate. Most non-native respondents however expressed ambivalence on whether the situation was as negative in these respects for Aboriginals in the Atlantic region institutions compared with the overall patterns in Canada.

3. Generally the respondents were quick to point out that significant, recent changes had been initiated with promising potential for changing these patterns. On a general institutional level, there have been regular Aboriginal cultural orientation sessions for CSC and NPB staff and the refinement of the "Aboriginal parole hearing" where an elder and native culture specialist (i.e., cultural advisor) join the regular grouping and the meeting is conducted in a circle format. The first Aboriginal assisted hearing (AAH) for parole in Atlantic Canada took place at Westmoreland in 2000. The Pathways program at Westmoreland, now just over three years in existence, was seen by its staff and by the other respondents as impacting on all three critical dimensions (i.e., inmates faring better, involved in effective programs, less recidivism). The Unit 58 "small feeding group" experiment in a more collaborative residential living arrangement at Springhill, now approximately two and a half years in existence, was hailed by the associated staff and other respondents as having a positive impact on

inmates' life skills, social skills and ability to cope outside prison; reportedly, the violence level in Unit 58 has been well below expectations. There are also several "drug free" pods in the 12 pod Unit 58 where inmates wishing a drug-free milieu can go (regular urine tests monitor the drug-free rule). According to officials, "there have been many Aboriginals living in Unit 58". Other recent initiatives were generally cited as well, such as the implementation of an Aboriginal, substance abuse program and the more extensive involvement of elders, and to a lesser extent, the native liaison, in most aspects of the correctional system including Reception (assessment and specification of the correctional plan for each inmate) and Parole. The recentness of these initiatives and the lack of available data on specifics such as re-incarceration limit any assessment.

4. Inmates sentenced to the federal correctional system initially go to Springhill Reception for assessment and determination of their security level. This process can take several months (the target for sentences under four years is less than 70 days and for other sentences less than 90 days) during which time the inmates are housed apart from the general inmate population but may participate in some activities (there is also a system of incentives that come into play here, allowing the inmate more access to general services). Access to elders and the native liaison – the native liaison role is important in informing the inmate about prison roles and procedures and running interference for him with the prison administration - is reportedly almost immediate upon entering Reception. The tasks of assessment and determination of risk level are given to an institutional parole officer and a program manager. They use a 161 page operating procedures manual - and consult with elders in the case of Aboriginal inmates - to determine security level (minimum, medium and maximum) and the correctional plan (what problem areas the inmate should work on and take programs in to facilitate early release) for the inmate. In interviewing and giving tests to Aboriginal inmates, the team is obliged to consider a broader social history than used with mainstream inmates. The scores from standard procedures can be over-ridden, and reportedly have been on a few occasions by the team or by the warden, to effect a more appropriate placement – usually an assignment to a medium or minimum security institution. The staff respondents involved in this process held that the assessment is fair to the Aboriginal inmates and that they especially benefit from the over-ride.

5. Once the Reception phase is completed, the inmate is placed and assigned an institutional parole officer and a correctional officer. Their role is, among other things, to encourage the implementation of the correctional plan and to assist in the inmate's securing early release opportunities. Their caseload typically includes inmates of diverse

racial and ethnic identity. The correctional officer prepares monthly reports on the inmates' progress vis-à-vis the correctional plan and the institutional parole officer (the average caseload is 25 inmates at Springhill) works on the issues of readiness for day parole (eligibility for most inmates is after 1/6 of the sentenced time), unescorted temporary absences (UTAs) for educational or employment purposes, and full parole (eligibility for most inmates is upon 1/3 of the sentenced time). Statutory (formerly called "mandatory") release generally occurs when the inmate has served 2/3 of the sentenced time. There are many elaborations of this basic format such as accelerated parole review (APR) which actually is the 1/6 time served standard while regular day parole is considered six months prior to full parole. Inmates released on UTAs, and on day parole in general, are assigned to half-way houses (risk level is taken into account in the specific placement). Inmates released on full parole are much less commonly placed in half-way houses and those released on statute even less so; the decision is made by the NPB. It is the general rule that successful completion of day parole (reportedly 1/4 of Springhill inmates get day parole) qualifies one for full parole and according to Springhill officials it is rare for a person to get full parole without first obtaining day parole; indeed, one veteran institutional parole officer could recall only one such case in the last five years.

6. While the figures were unavailable, the respondents indicated that a good many inmates express little interest in their received correctional plan and basically just mind their business and wait for statutory release. The few respondents interviewed said that they were unaware of any Aboriginal – mainstream inmate differences in this regard. They also noted that most programs are standard for all inmates but that there was a special Aboriginal substance abuse program. There was a general sense among the Springhill staff that the programs were appropriate for both inmate groupings though one supervisor suggested a need to better accommodate to language differences and to incorporate a "spirituality focus" into the programs for Aboriginals. The Springhill non-native officials did not acknowledge or specify any unique challenges for Aboriginal as opposed to mainstream inmates, suggesting that the key factors were the type of offences committed, the substance abuse issues and so on. All the Springhill respondents interviewed, at some point remarked that inmates leaving on statutory release, rather than earlier through UTAs, day parole and ultimately full parole, could usually well be seen as cases where "we've failed". Once an inmate is released on full parole, supervision is provided by the community parole officer who monitors the conditions of release and attempts to channel the ex-inmates into appropriate rehabilitative and social programs.

7. A few respondents echoed the views of their provincial correctional counterparts in noting that the Aboriginal inmates appear to quite alienated from their communities and rarely get visitors. One native respondent for example recalled "a social day recently at Springhill where there were twenty inmates but not one family member came". Other respondents did not emphasize this characterization. The comments cited earlier concerning the provincial inmates by an Elsipogtog justice system practitioner – "people just go after them [ex-inmates] when they return" – applied to federal as well as provincial ex-inmates. It is not clear how much solidarity occurs among Aboriginal inmates in prison nor whether Aboriginal, Black or Caucasian inmates etc are more likely to share living space with members of their own grouping.

8. All respondents acknowledged the potentially significant initiatives of the section 84 community-based release plan and of the Pathways program at Westmoreland. With respect to the latter, the non-native interviewees echoed the views of one respondent who noted, "[Pathways] is especially good for those who want to go back to their community and get involved in their culture".

9. Pathways has been a major new initiative for CSC. There are two Pathways programs, one at Dorchester and the other at Westmoreland Institution. The former has been a very limited initiative until 2008 but, over the past three years, the latter has grown steadily and now involves some twenty Aboriginal inmates, a handful of whom are on the waiting list at Westmoreland. Pathways is basically for Aboriginal inmates but mainstream inmates could theoretically (none were there in 2007) go there if they were married to an Aboriginal person or lived on reserve or had some significant cultural affinity. Here the inmates live in several houses, take special workshops, do sweats, smudge and may eat special food (e.g., moose meat). They can also be escorted out of the institution for pow wows and other cultural activities. All the while, the inmate is expected to live in accordance with his correctional plan and failure to do so could result in expulsion. Not all Aboriginal inmates at Westmoreland are involved in Pathways. There is a waiting list to get in (usually the issue is the availability of a single bed cell, a CSC requirement for this program). Other Aboriginal inmates at Westmoreland simply express no interest in the program. Aboriginal inmates not involved in Pathways may nevertheless participate in some of the Pathways' sponsored activities such as sweats.

10. To get into Pathways an inmate has to be classified as minimum security risk and then make an application. There are six admission criteria to which the person must agree to adhere (i.e., positive

motivation, willingness to learn techniques to help his healing, taking personal responsibility for his actions, being respectful to all, willingness to be evaluated by the Pathways team and being "fully compliant with your correctional plan"). The inmate signs an agreement to comply with all the Pathways rules and procedures including abiding by traditional / faith-based protocols. Both the case management team and the Pathways unit team have to approve the application. Once in the program the Pathway team provides strong support and has "gone to bat " for participants caught in violations of CSC rules (e.g., requesting administration officials give them a chance to work with a Pathways inmate caught with illicit drugs rather than expel the person). At the same time, the Pathways unit management team has suspended some participants in the past. According to the Pathways CSC staff and elders, it has been a great success and only one of the fourteen inmates who have gone through Pathways has been re-incarcerated, a statistic acclaimed by other respondents and by Aboriginal leaders with whom the program was discussed. In addition, the initiative reportedly has had a positive impact for parole prior to statutory release where the lower rates of parole for Aboriginal inmates has been a continuing challenge for CSC; asked "does becoming involved with Pathways make for earlier parole releases for the participant", a senior Pathways official replied, "Yes, it does help to be a participant in Pathways for early release for parole if the individual wants to help himself to a healing path".

11. At Springhill Reception an inmate can apply for Pathways at Westmoreland but some preliminary programming may be required. According to Pathways staff, many Aboriginals do not get into programs that could effect assessment as minimum risk while others do not follow their correctional plan or show up for programs thereby forfeiting possible, favorable re-assessment. The transition of inmates, via behaviour and taking programs, to lower security status and on to conditional release is sometimes referred to in CSC as "cascading". Several Aboriginal inmates transferred from provincial jurisdiction have been accepted into the program and reportedly have been successful 'graduates" of Pathways.

12. The Pathways staff and other respondents interviewed highlighted several ways to improve the Pathways success. These included having restorative justice programming within the institution to deal with certain violations, more after-care resources in the community, more culturally salient half-way houses, and replacement of the very limited Dorchester Pathways initiative by a transition-type program at Springhill (another native CSC role player not connected with Pathways recommended that a similar program be established at Reception in Springhill prior to the inmates being absorbed in and

influenced by the prison subculture). They championed the idea of a CSC "healing lodge" for minimum security Aboriginal inmates; at present the closest healing lodge is in Quebec. While of course an inmate in the federal correctional system could request a section 84 release plan without being in Pathways, community members might well be more confident of the inmate's change ("i.e., "that they were no longer assholes" as one respondent put it) if the inmate was in the Pathways program. The Pathways respondents also stressed that the approval of chief and council is crucial for the section 84 plans "community acceptance reasons, for political reasons and for practical reasons such as housing".

13. Section 84 correctional policy is a partnership of the National Parole Board with CSC and the community whereby the terms of release and the engagement of the community are detailed. The section 84 plan option is available to all inmates in theory but in practice it is limited to Aboriginal persons, presumably because of the significance of the community in Aboriginal society. It is offender-driven but requires significant commitment – but no legal responsibility - from the community participants. There is no explicit incentive with respect to release time and this, as well as fear of rejection by the community, not wanting to return to the community, and other factors, may account for the fact that few Aboriginal inmates have thus far applied for section 84 release. The first regional section 84 plan occurred just five years ago in Elsipogtog (CSC officials in 2007 declared it to be a success) and the first section 84 plan involving a female inmate took place in Halifax in 2006. Several other section 84 releases have been negotiated (e.g., Papineau and Eskasoni) and, reportedly, another ten or so section 84 requests are currently being processed. The section 84 plan is an attractive option since, as one respondent observed, "It may facilitate the successful re-integration of the inmate into the community, a particularly significant issue since virtually 100% of the federal inmates do return to the community". One assumption behind the section 84 plan is that the community may be more accepting of the ex-inmate than in the past when the community participation was much less and thus community leaders had a minimal role in setting conditions that could help protect the residents.

14. While section 84 may not, as some respondents said, inherently imply earlier release, other CSC officials held that a section 84 plan would indeed have that effect. One such respondent held that "If the community were receptive and had a plan it would count in the inmate's securing parole", while another – a senior official in Reception - noted, "If the community is positive it would add credibility to the parole application. It may be the crucial card if the

inmate is going for full parole but did not get, nor applied for, day parole".

15. Parole officers are employees of CSC and, apparently, funding for community parole programming and monitoring, extra the parole officer, is unavailable from CSC on a sustained basis. Reportedly, there is some funding from CSC available for treatment in the case of day parole but in the case of full parole there is virtually nothing. In the case of a section 84 plan there could be funding possibly for private placement (comparable to a half-way house) but nothing for treatment and monitoring. Also, there are no half-way houses on reserve in Atlantic Canada and the five or so half-way houses that exist in New Brunswick are not seen by CSC staff as especially culturally sensitive (though there has been sporadic cultural awareness sessions).

16. Respondents associated with promising initiatives inside the correctional institutions, such as the Unit 58 living model at Springhill or the Pathways program at Westmoreland, usually emphasized that post-release resources were very limited. One CSC official attached to the innovative Unit 58 initiative at Springhill, where small groups or "pods" of inmates (of diverse racial and ethnic backgrounds) share responsibility for their everyday maintenance, including pooling their daily food allotment and collectively cooking their own meals, commented that resources are needed to sustain "the valuable living lessons" upon release. One CSC elder observed that post-release is a problem and quipped that "they [inmates] go from everything here to nothing on reserve". An CSC official attached to the Pathways program at Westmoreland enthused about the initiative but noted that "the main shortfall is that there is no after-care".

17. The recentness of section 84 policy has raised some issues from the perspective of the community parole officers concerning implementation and responsibilities, release of information and so forth. Mandated legal responsibilities of the community parole officer have to be reconciled (negotiated?) with the new possibilities for the community's representatives to take on a more active role in dealing with eligible inmates as well as with the ex-inmate and possibly his family / her family. Perhaps a formal protocol will be necessary (e.g., should the community parole officer deal with the family through the intermediary of the community representatives?). Certainly, as the Pathways staff commented above, the authority of chief and council has to underlay and authorize the community engagement in the eyes of the external officials.

The Local FN Level: Offending in Elsipogtog and Its Implications for Crime Victims

The five tables included here deal with actual (not reported) incidents of offending in New Brunswick's largest First Nation. Comparable patterns are found in the two largest First Nations in Nova Scotia, namely Eskasoni and Indian Brook (Clairmont and McMillan, 2006). An examination of tables 4 and 5 below which detail actual offences for the period 2003 to 2009 makes it very evident that the violence and public safety patterns cry out for more effective solutions. Interpersonal assaults, domestic violence, and property offences are indeed at very high levels, far greater than in surrounding mainstream communities with larger populations (see tables 1, 2 and 3), and unfortunately they show no sign of lessening. Sexual assaults and assaults causing bodily harm are especially high vis-à-vis more populous surrounding mainstream communities. Moreover, according to RCMP officers, while property crimes are primarily carried out by a small number either of adults or youths, violent offences are well distributed among Elsipogtog adults (personal communication, 2010). Also, according to the RCMP, fully 60% of all cases going to the Richibucto court come from Elsipogtog, and "no shows" and delays in court processing – something which particularly frustrates Aboriginal victims - are especially characteristic of the Elsipogtog cases (for several reasons, including the type of offences as cases of interpersonal violence are especially subject to delays in court processing).

Indications of the legacy of mainstream domination and social malaise permeate the police records and suggest a pervasive collective victimization. Police interventions under the mental health act (typically involving a person threatening self-harm) are very high, as is community expert assessments of the number of children and youth impacted at fetus by FASD (i.e., a rate of 20% according to experts associated with Elsipogtog's Eastern Door). The drug abuse situation among adults (escapism?) is epidemic in scale, methadone use alone being at least 50 times the per capita rate of Halifax Regional Municipality, the major urban centre for drug abuse and drug dealing in Atlantic Canada (Clairmont and Augustine, 2009). The police to population ratio is far higher than in most

areas (i.e., 14 RCMP officers police the community of roughly 2500 persons) but policing is, understandably, basically reactive given the heavy caseload

There appears little doubt that the community as a whole has to be more fully engaged and take ownership in getting at the roots of these problems. Given the level of interpersonal violence and alcohol and drug abuse, victimization is rampant and the historic legacy of domination has indeed victimized the whole community. At the same time, the aspect of the colonialist legacy that caused people to protect or shield their own versus the outside justice system, and to adopt the view that non-natives are the problem, is increasingly incongruent with the current realities based on greatly enhanced band council authority and administrative responsibility, and the significant economic and political developments especially over the past decade. The combination of these factors – a sense of community victimization which blurs offender / victim roles, political economic and socio-economic variation within FNs which sharpens the offender-victim role differences, and increasing expectations for community engagement - appears to spawn diverse implications for responding to Aboriginal victimization in the CJS. On the one hand, there is some momentum for launching restorative approaches and, on the other, there may be increasing similarity with mainstream society with respect to the needs and concerns of crime victims.

TABLE 1
A COMPARISON OF RCMP STATISTICS FOR ELSIPOGTOG AND NEIGHBOURING COMMUNITIES, 2003-2004

Year	Elsipogtog (pop. 2200)		Richibucto (pop. 1400)		St. Louis (pop. 1000)	
	2003	2004	2003	2004	2003	2004
Sexual Assault	18	14	2	3	2	2
Assault Level I	265	159	46	22	13	12
Assault Level II	60	42	6	2	3	0
Damage to Property	162	173	31	45	32	31
Suicides	0	1	0	1	0	0
Attempted Suicides	5	27	2	0	0	1
Spousal Assault (Male offender)	10	22	0	1	1	0
Spousal Assault (Female offender)	2	0	0	1	0	0
Mental Health Act	152	112	19	29	9	9

TABLE 2
ELSIPOGTOG AND NEIGHBOURING COMMUNITIES: A COMPARISON OF POLICE STATISTICS 2005

VIOLATION (2005)	Elsipogtog (pop 2400)	Bouctouche MUN (pop 2500)	Richibucto MUN (pop 1400)
Intoxicated Persons Detention Act - Offences Only	3	0	1
Intoxicated Persons Detention Act - Other Activities	26	1	9
Mental Health Act - Offences Only	0	0	0
Mental Health Act - Other Activities	30	1	8
Fail to comply w/ condition of undertaking or recog…	1	0	1
Disturbing the peace	36	4	6
Resists/obstructs peace officer	3	0	0
Fail to comply probation order	3	1	2
Harassing phone calls	5	1	0
Uttering Threats Against Property or an	3	0	0

Animal			
Breach of Peace	34	4	3
Public Mischief	2	0	0
Drug Offences – Trafficking	0	0	1
Total Sexual Offences	5	0	1
Robbery/Extortion/Harassment/Threats	19	3	6
Assault on Police Officer	1	0	1
Aggravated Assault/Assault with Weapon or Causing Bodily Harm	18	0	1
Total Assaults (Excl. sexual assaults, Incl. Aggravated Assault, Assault with Weapon, Assault Police)	66	2	1
Total theft under $5000.00	27	9	10
Break and Enter	32	3	5
False Alarms	31	0	9
Crime against property - Mischief (exclu. Offences related to death)	52	2	21

TABLE 3

ELSIPOGTOG AND NEIGHBOURING COMMUNITIES: A COMPARISON OF POLICE STATISTICS 2006

VIOLATION (2006)	Elsipogtog (pop 2400)	Bouctouche MUN (pop 2500)	Richibucto MUN (pop 1400)
Intoxicated Persons Detention Act - Offences Only	2	1	2
Intoxicated Persons Detention Act - Other Activities	45	1	13
Mental Health Act - Offences Only	1	1	1
Mental Health Act - Other Activities	75	6	7
Fail to comply w/ condition of undertaking or recog…	8	1	1
Disturbing the peace	56	3	24
Resists/obstructs peace officer	12	1	3
Fail to comply probation order (3520)	8	3	0
Harassing phone calls	12	2	4
Uttering Threats Against Property or an Animal	9	1	0
Breach of Peace	111	6	13
Public Mischief	6	0	2
Drug Offences – Trafficking	8	1	0
Total Sexual Offences	6	1	0
Robbery/Extortion/Harassment/Threats	52	8	15
Assault on Police Officer	6	1	2
Aggravated Assault/Assault with Weapon or Causing Bodily Harm	21	0	4
Total Assaults (Excl. sexual assaults, Incl. Aggravated Assault, Assault with Weapon, Assault Police)	147	11	21
Total theft under $5000.00	52	40	15
Break and Enter	71	6	5
False Alarms	51	38	14
Crime against property - Mischief (exclu. Offences related to death)	102	14	32

TABLE 4

ELSIPOGTOG OFFENDING PATTERNS, POLICE STATISTICS 2005 - 2008

VIOLATION	Elsipogtog 2005	Elsipogtog 2006	Elsipogtog 2007	Elsipogtog 2008
Intoxicated Persons Detention Act - Offences Only	3	2	2	2
Intoxicated Persons Detention Act - Other Activities	26	45	44	31
Mental Health Act - Offences Only	0	1	3	0
Mental Health Act - Other Activities	30	75	125	111
Fail to comply w/ condition of undertaking or recog…	1	8	22	21
Disturbing the peace	36	56	131	152
Resists/obstructs peace officer	3	12	7	17
Fail to comply probation order	3	8	17	30
Harassing phone calls	5	12	15	13
Uttering Threats Against Property or an Animal	3	9	4	6
Breach of Peace	34	111	158	55
Public Mischief	2	6	9	2
Drug Offences – Trafficking	0	8	13	18
Total Sexual Offences	5	6	33	22
Robbery/Extortion/Harassment/Threats	19	52	64	56
Assault on Police Officer	1	6	12	7
Aggravated Assault/Assault with Weapon or Causing Bodily Harm	18	21	55	65
Total Assaults (Excl. sexual assaults, Incl. Aggravated Assault, Assault with Weapon, Assault Police)	66	147	225	246
Total theft under $5000.00	27	52	73	74
Break and Enter	32	71	68	81
False Alarms	31	51	89	103
Crime against property - Mischief (exclu. Offences related to death)	52	102	136	172

TABLE 5
ELSIPOGTOG FIRST NATIONS RCMP
POLICE ACTIVITY REPORT 2008 AND 2009

OFFENCES REPORTED	2008	2009
ASSAULT	189	189
SEXUAL ASSAULT	28	22
ASSAULT CAUSING	68	69
ASSAULT POLICE	7	4
UTTERING THREATS	66	65
BREAK & ENTER	91	118
THEFT	110	113
DAMAGE TO PROPERTY	184	160
FAIL TO COMPLY	82	80
IMPAIRED DRIVING	78	60
DRUG TRAF / POSS	34	25
INCARCERATED PERSONS	286	306
OTHER CRIMINAL CODE	418	360
MENTAL HEALTH ACT	113	96
911 ACT OFFENCES	381	704
# OF CASES SENT TO CROWN	549	497
RESTORATIVE JUSTICE CIRCLES	43	55

Elsipogtog RCMP First Nations Detachment, 2010

THE ABORIGINAL VICTIM

Over-representation and the Unanticipated Consequences of Court and Federal Policy

Statistics Canada's Juristat reports have highlighted the over-representation of Aboriginals as victims over the past decade. In volume 24 # 11 (2002-2003), it was noted that Aboriginals were three times as likely in 2001 to have been subjected to violent crime than non-Aboriginals (i.e., 307 vs 110 incidents per 1,000 people). In volume 26 #3 (2006), it was reported that the 2004 General Social Survey (GSS) found a similar differential rate based on self-reported incidents. The same Juristat issue, in describing the GSS findings, reported that the violent victimization among Aboriginals was more likely to have been perpetrated by someone known to them than was the case among non-Aboriginals (56% to 41%) and that physical or sexual violence by spouses was 3.5 times as great as among non-Aboriginals (21% to 6%). The Juristat issue also reported violent crime rates on reserve were a whopping 8 times as great as the violent crime rate for Canada as a whole. Similar findings were also reported by Department of Justice's Policy Centre for Victim Issues (Chartrand and McKay, 2006). The high level of victimization, especially serious violence directed at women, has been consistent for decades as was evidenced in presentations across Canada in the mid-1990s to the Royal Commission on Aboriginal Peoples (RCAP, 1996). Academic researchers have frequently called attention to these high levels of interpersonal violence, seemingly reproduced from generation to generation (e.g., Comasky and McGillvray, Black Eyes All of the Time, 1999 and Dickson-Gilmore and La Prairie, Will the Circle Be Unbroken?, 2005).

As noted above (OFOVC, 2008), studies have shown that there is considerable social pressure on Aboriginal women and other victims of crime in Aboriginal communities to avoid reporting their victimization to authorities, typically considered "outside" authorities. In addition, Aboriginal victims, again primarily women, have been characterized by bodies such as The Aboriginal Women's Association (NWAC, 2008) as the unintended major cost-bearers of judicial and associated government policies to

rectify the over-representation of Aboriginal offenders in federal custody by facilitating their bail, and emphasizing non-incarceration sanctions and parole (e.g. court policy following the sentencing guidelines of 1996 and the Supreme Court of Canada's Gladue decision in 1999). Presumably such policies have placed Aboriginal women and children at greater risk without corresponding appreciation, in policies and programs, of their own needs and issues, themselves a consequence of traumatic legacy effects similar to Aboriginal offenders, as well as their criminal victimization suffered at the hands of primarily Aboriginal offenders; thus, what some Aboriginal victim advocates could see as a positive, culturally sensitive development for dealing with Aboriginal offenders runs the danger of being a zero-sum type policy aggravating the Aboriginal victim's plight.

The level of violent victimization in First Nations in Atlantic Canada has also been consistently very high in comparison with mainstream society. The tables in the section on Aboriginal offenders above (and appendix E) highlight those patterns in Elsipogtog, New Brunswick's largest First Nation, where rates of serious assault, domestic violence and sexual assault have been much greater than among a set of neighbouring non-Aboriginal communities with a combined larger population, and where there has been no significant change in these huge differential rates between Aboriginals and non-Aboriginals over the past decade. Similar patterns have been found among the larger First Nations in Nova Scotia (Clairmont and McMillan, 2001 and 2006) and also describe the situation in Labrador (Clairmont, 2004) though not in PEI (Clairmont, 2007).

Tables in appendix F provide results from surveys of Aboriginal adults conducted in Nova Scotia and New Brunswick (Elsipogtog) in recent years. It can be seen (Table One below) that in 2001 Mi'kmaq adults living in either Cape Breton or Mainland Nova Scotia considered that their greatest problem with the mainstream justice system was that victims' need were neglected; 56% of the former and 69% of the latter held that such neglect was a major problem, higher percentages in each area than identified, as a major problem, issues such as prejudiced court officials, language and cultural differences, lack of familiarity with the court system, and inappropriate sentencing practices.

A large set of tables drawn from a 2005 representative survey of over 200 adults in Elsipogtog shows a similar pattern. The tables are reproduced in the appendix and the complete report with more elaborate analyses of the survey results (e.g., taking into

account several variables such as age, gender, engagement in traditional cultural activities and socio-economic status and their interactional impact on attitudes and reported experiences) as well as data from interviews and focus groups are available on-line at www.atlanticinstitutecriminology.ca, The tables discussed here focus only on gender differences since females tend to be the primary victims of serious personal violence. Table Two shows that a majority of women in the sample were worried "very much" about the likelihood of serious personal violence victimizing themselves or their loved ones, and considered that they lived in a high crime area where crime was increasing. In these regards there was a major gender difference with, for example, 61% of the women having the above worries while only 33% of the men did. There was much less gender difference for worrying "very much" about property crime victimization (68% of the women and 57% of the men). Table Three indicates that women were also more likely than men to consider wife battering (40% to 29%) and child abuse (62% to 45%) to be a "big problem" in their community; indeed, women were more likely than men to regard all the issues identified in that table as "big problems".

Other tables from the appendix highlighting gender differences are not reproduced in the text but can be briefly summarized. Table C indicates that almost half the female survey respondents reported that they had been a crime victim within the past two years, about twice the proportion of male respondents reporting personal victimization (i.e., 46% to 26%). Table D shows that 57% of both female and male adult respondents held that wife battering and child abuse are usually unreported to officials, and only 6% to 7% of each gender group thought that the unreported crimes / wrongdoings are dealt with satisfactorily in any other manner (e.g., informally, by band leaders etc). Table E shows that females were more likely than males to contend that the reasons for such crimes being unreported were (a) people are too scared to report – 77% females to 67% males; (b) there is much community pressure not to report – 66% females to 55% males; (c) there is too much denial – 78% females to 69% males; (d) the justice response is not helpful anyways and the offenders carry on – 79% females to 75% males. Clearly the large majority of both male and female adults share these opinions. Table F indicates that in Elsipogtog the majority of adults, both females (68%) and males (63%) held that a major problem in the justice system is that it has neglected victims' needs and concerns.

Finally, Table G indicates that, a high priority for the justice system should be more services for victims of crime - 81% of the females and 71% of the males.

Overall, then, extrapolating from these tables it is clear that at least in the larger First Nations in Atlantic Canada there is a very high level of personal violent victimization, especially directed against vulnerable women. The adults in these communities, most notably the females who are the primary victims of personal violent crime, report that the violent crime is very high compared to mainstream society and not declining. In these regards their perceptions correspond closely to the actual data on criminal victimization available from police reports as found in recent research carried out by this researcher. The respondents – especially of course the female respondents but also the males – consider that much violent crime is unreported and not acted upon either through informal sources. The reasons for the under-reporting include the usually cited factors such as community pressure not to report, the expected ineffective response of the justice system and so forth. Respondents in these surveys have indicated clearly that the justice system has a major shortfall in its response to victims' needs and concerns and rectifying that shortfall should be its high priority.

TABLE ONE

PERCEPTION OF PROBLEMS IN THE MAINSTREAM JUSTICE SYTEM* (%)

Item:	Cape Breton (N=102)	'Other Mainland' (N=45)
Prejudiced Court Officials		
Major Problem	29%	46%
Minor Problem	32	25
No Problem	35	19
Unsure	4	9
Language/Cultural Differences		
Major Problem	53%	60%
Minor Problem	33	23
No Problem	12	15
Unsure	1	2
Talking with Lawyers		
Major Problem	39%	46%
Minor Problem	41	24
No Problem	16	20
Unsure	3	10
Lack of Familiarity with Court System		
Major Problem	36%	48%
Minor Problem	42	20
No Problem	19	25
Unsure	2	7
Inappropriate Sentencing		
Major Problem	52%	55%
Minor Problem	35	32
No Problem	11	7
Unsure	2	7
Victim's Needs Neglected		
Major Problem	56%	69%
Minor Problem	34	16
No Problem	7	12
Unsure	2	2

*** Clairmont and McMillan, The Future of Mi'kmaq Justice in Nova Scotia, Tripartite Forum on Native Justice, 2001**

Community Survey Results: The Future of Justice Programming in Elsipogtog 2005

TABLE TWO

PERCEPTION OF COMMUNITY PROBLEMS BY GENDER

	Male		Female	
	Number	% of Total Male Responses	Number	% of Total Female Responses
Elsipogtog is a High Crime Area	30	59%	105	70%
Crime is Increasing Here	26	51%	105	70%
Worry Very Much About Being Attacked or Molested*	17	33%	92	61%
Worry Very Much About Having Home/Property Broken Into*	29	57%	113	74%
Worry Very Much About Having Car/Other Property Vandalized*	29	57%	103	68%
Worry Very Much about Being Bullied*	12	24%	69	46%
Worry Very Much About Social Issues , Fighting, Loose Dogs, Etc.*	20	39%	102	68%

* "Worry" refers to the respondent worrying about the said event happening to himself or herself personally or to his or her loved ones in the community.

TABLE THREE

PERCEIVED MAJOR PROBLEMS IN JUSTICE SYSTEM BY GENDER, ELSIPOGTOG ADULTS

	Male		Female	
	Number	% of Total Responses	Number	% of Total Responses
Prejudiced court officials	24	47%	72	47%
Language and cultural issues	30	59%	113	75%
Court does not understand us	33	65%	100	66%
Lawyers too difficult to talk with	26	51%	81	54%
Knowing what to do and how to act	27	53%	89	59%
Sentences too light or too hard	34	67%	105	69%
Victims' needs neglected,	32	63%	102	68%

A Sample of Victim Letters to the National Parole Board Atlantic

A sample of roughly 95 victims' letters to the NPB Atlantic was examined in 2010. Some of the on-file letters dated back more than ten years. It was not directly possible to identify Aboriginal victims but the Aboriginal offenders associated with the files were identifiable by the file caption. There were only six files where there were Aboriginal offenders; in four of these instances the victims were also Aboriginals and in two cases, non-Aboriginal (based on the references in the letters and the prior knowledge of the researcher). An examination of a large sample of this 95 sub-sample found no additional Aboriginal victims. It appears reasonable to assume, from this sample of between 1/3 and 1/4 of all, on-file, victim letters to NPB Atlantic, that over a ten year period the number of Aboriginal victims who wrote to the parole board would be between 10 and 15, roughly one a year (in the Fall of 2009 in Atlantic Canada there were roughly 15 cases of victim notification where the offender was listed as a status Aboriginal).. All but one of the 95 victim letters – and all the Aboriginal victims' letters - dealt with offences involving severe interpersonal violence. The key offences were intimate partner violence, sexual assault, incest, other serious assault and drunk driving- related deaths. Some researchers have noted that women are more likely to seek help from family and friends and use social services whereas men, proportionately, seek less help and, when they do, go through formal CJS channels (Kaukinen, 2002). This pattern does not appear to apply to contacting the CJS / NPB as, with few exceptions, the victims penning the letters were women even when the primary victim was a male.

Essentially there were three themes in the letters, namely (a) keep 'em [the offenders] in prison (e.g., letters stressing the alleged incorrigible nature of the offender), (b) keep 'em away from me and my loved ones (attach conditions to any parole or temporary release such as "no return to community or to neighbourhood" or "no contact with me and my family" (access to children was an issue in some cases) and a few but not many letters called for requiring the inmate to abstain from alcohol and drugs), or (c) letters critical of NPB policies and practices regarding for allegedly not heeding the best interests of the victims (i.e., criticism of the NPB for previous decisions and / or a sense of futility about their having any impact on the NPB decision-making). A few letters

expressed requests for funeral expenses occasioned by the death of the primary victim or emphasized the need for compensation given the economic hardship wrought upon them by the offence.

The few Aboriginal victims gave essentially similar responses, emphasizing the three themes noted above but adding an Aboriginal nuance; for example, in criticizing NPB policies ("imposed stringent restrictions on "what I could say or present at the hearing"), one such victim went on to criticize the Aboriginal policies of the CJS more generally; in her view, "the court was too lenient. I believe it is because we are Mi'kmaq and he is Mi'kmaq". While few in number, the letters indicated that significant trauma was experienced by the Aboriginal victims (and also by their close family families) because of their violent victimization and that they were scared about their offender's return to their community.

Interviews with Victims and Victim Service Providers in First Nation Communities

The few Aboriginal victims directly interviewed for this modest research (see Appendix X for the interview guide) were all female and had been victimized either by homicides or severe aggravated assaults inflicted by Aboriginal offenders (and in two instances non-Aboriginal co-offenders) now under federal custody. They were all mature adults, articulate, well-connected in their community, and ostensibly well-informed about the justice system. The interviewees' responses followed closely the themes found in the analyses of victim letters on file with the NPB Atlantic. All reported themselves as basically re-victimized by the court process, contending that "the whole process is offender-focused and there is little for the victim". Three specifically cited the SCC's Gladue imperatives and entailed policy as creating an imbalance whereby sympathy and generosity was evidenced for the offender but little was displayed on their behalf. Another victim (her mother was murdered) complained that victims were not allowed to speak to the offender who entered a guilty plea, see the video of his confession, get answers in a safe environment, or even to be heard. Two other victims cited the long-drawn court process as frustrating and indicative of the "offender focus" of the system.

The dissatisfaction generated by the court process was, in their mind, reinforced by their post-sentencing experience. All four were aware of the need to register in order

to access information from CSC and NPB but none were happy with their experience in this regard. Only limited information was deemed available to them – as one person commented, "I wanted to know what programs were being offered to him to make him healthy but they couldn't tell me that. I couldn't get questions answered by CSC officials … victims are not heard". Another respondent, an aunt whose close nephew was murdered, claimed she could establish no contact with officials "because they don't take into account all of us, the close family [members]". A third interviewee claimed that she had written several letter to either or both CSC and NPB (she could not recall the details) but had received no reply. The fourth respondent reported that initially she was not registered because she had been hospitalized as a result of the attack but she initiated contact with CSC and NPB by telephone and subsequently did attend one parole hearing involving her offenders. She commented that "I had no access to what programs [the principal offender] did in prison". As for parole, "I could make it to only one hearing" (her offender was later transferred out of province and she was funded to attend only the first, in-province hearing). She explained that she attended because she wanted to have her say but was limited in what she could say, and, under the circumstances, "I could have but wouldn't sit in a circle with [the inmate]". In her view, "attending the hearing was not good" and she would not recommend it to other victims of similar crimes since "victims are hurt more".

The perceived Gladue-generated "imbalance" referred to above at the sentencing stage was seen as operative at post-sentencing phases as well. All the other victims shared the sentiments of the fourth victim who stated

> "In Corrections' [and NPB's] eyes they are doing things right but they are not and are way off. For violent crimes like what happened to me, Aboriginal status of the offender should be considered but not be a free pass. They need to make sure they [the offenders] are totally rehabilitated before they give early parole".

In addition to emphasizing the need for balance in the CSC / NPB response, the interviewees generally claimed that they were not opposed to some form of restorative processes or practices – indeed, one respondent, whose offender refused a sentencing circle, argued that Aboriginal offenders should usually be required to participate in sentencing circles. They were of the view too that the Aboriginal offenders will typically

return to the small community, especially if they were born and have band membership there, so some restorative / reintegrative approaches may be helpful as would obtaining knowledge of the rehabilitative programs taken by the offender-inmate and his / her attitudes and actions in prison. The victims recommended a broadened eligibility criterion be used by CSC and NPB so that family members and the larger Aboriginal community can access information and funding for greater participation. The respondents also suggested an Aboriginal victim services worker was needed to inform other victims, and perhaps help them with forms and at parole hearings.

Aboriginal victim service providers in New Brunswick and Nova Scotia are in the vanguard organizationally for Aboriginal victim services in Atlantic Canada. In Nova Scotia, MLSN has two full-time victim coordinators, one for Cape Breton and one for the Mainland while Elsipogtog has the only full-time victim services worker among the First Nations in New Brunswick (she follows provincial guidelines and is supervised by the province). Both the Elsipogtog and MLSN Mainland service providers, interviewed on several occasions, reported quite minimal contact with CSC or NPB, either on their own part or by the victims they serve. They reported that there was scant information available or community awareness on the advantages of being registered and acknowledged that that situation applied to themselves as well; one had distributed registration forms to clients subsequent to court sentencing of the offender but did not track whether the form was completed and sent to CSC / NPB or other developments if any, while the other, to date, would refer victims' questions about the post-sentencing phases (CSC and NPB) to the provincial VS agency, again without routine follow-up. Between them, they knew of only one Aboriginal victim in the last two years (the length of their employment as VS providers) who had registered with CSC / NPB. Both respondents reported that they do not provide counseling but get information, advocate some and navigate services for the victims, and, of course, attend court sessions in support. They are focused on the front-end of the case processing up to sentencing and in these regards they follow the general pattern of provincial VS workers.

Both respondents considered that Aboriginal victims typically found the front-end phases of court case processing to be quite alienating (e.g., delays, the way victims are

treated) and in the past rarely contacted or reacted positively to provincial VS offer of help, presumably why in both provinces there was a willingness to fund these Aboriginal VS providers. As one put it, "they [the victims] are generally pissed off with court processing and not inclined to get further involved after sentencing" and no one communicates the benefits of such involvement to them. As illustration of the "dragged out, not-victim friendly" process, she commented that her files are so many because she cannot close them since the cases have yet to be resolved. The two respondents also noted that the victims in the small, kinship-dense Aboriginal communities face difficulties following through on incidents of serious assault, sexual or otherwise, either because of threats and ill-will from the accused's family or from the pressures of community solidarity. One respondent observed that there are common stories of the offenders' family members following the victim into the court and several examples of a victim deciding that for safety reasons it would be wise to leave the community. She added that, - as the RCMP in her area confirm - more people are nowadays reporting sexual assault and intimate partner violence that occurred more than a decade earlier, something that also seems to generate community conflict. In all, then, the lack of knowledge, the non-supportive community atmosphere, and the bureaucratic format of the CSC and NPB and the sentencing practices of the courts for Aboriginals were deemed to be such that "victims cannot help but be intimidated".

The Aboriginal victim services providers did not have much experience to draw upon in offering suggestions for a more appropriate response from CSC or the NPB to victims' concerns and needs in the post-sentencing phase. They shared the view that victims find the court process intimidating and frustrating so handing out registration forms around the time of court sentencing would not be successful whereas a few months later, and with some discussions with the VS worker, the victims might well be in a better position to carefully consider potential involvement. They both were enthused about the possibility of more restorative processes and practices involving the victim, including the possibility of well-conceived pre-release, exit circles. Not surprisingly, they held that Aboriginal victims want Aboriginal VS contact persons such as themselves, and they both indicated that, if were resources available, they would be quite willing to become

more engaged with victims, post-sentencing, including accompanying them to parole hearings.

One of the Aboriginal VS workers wisely observed that in the absence of a meaningful role in post-sentence case processing and the virtual non-existence of restorative processes and practices, the victims' alienation and lack of closure means "they always go for the jugular"(i.e., emphasize punishment and keeping the inmates incarcerated). This view was underlined by an Aboriginal prison elder at a Moncton conference in 2010 when he observed that increasingly he finds band councils insisting "we don't want them back", in part because limited information on the offenders' prison experiences is available and there are no avenues for healing available, involving the offender and the victim/community. The two VS respondents considered that both the offenders (e.g., re-integration) and the victims (e.g., closure) might benefit from a different, supplemental approach to the current post-sentencing system that is congruent with revitalized Aboriginal cultural traditions. At the same time, neither respondent was naïve about the challenge of a different approach, noting that CSC and NPB are offender-focused and that restorative circles may not be victim-friendly; indeed, one respondent noted that at the one community parole hearing she attended there were a number of the inmates' supporters and service providers from the Health Centre but no specific victim presence.

Personal interviews with a handful of other local service providers in the Mi'kmaq community, and reviews of available documents conveying Mi'kmaq views on the issue at meetings / conferences, indicated much congruence with the views of the victims and VS workers noted above. Several persons cited rather vague cultural reasons (e.g., the community as priority and where the solution is) for the low level of involvement of Mi'kmaq victims in registration and attending parole hearing. They usually elaborated only with respect to positing a need for more outreach by CSC and NPB to the local communities and wondering whether a more restorative approach might better fit the evolving Mi'kmaq culture. It was common for respondents to share the views expressed at a NPB Consultative Meeting in Nova Scotia in 2009, namely that more information about what the offender is doing in prison (e.g., taking programs to change his behaviour, showing remorse, becoming more engaged in traditional activities)

would be helpful for the victims and community as a whole so, perhaps, with the offender-inmate's permission there could be regular updates conveyed by officials. Enhancing the role of the community in the process was highlighted by some interviewees and in some documents as the key to both support for victims and re-integration of offenders; however, other respondents were skeptical, pointing to significant community factionalism and suggesting the priority need, for victims at least, should be a stronger, more effective VS program. Several RCMP officers in First Nations mentioned that severe victimization usually has deep roots and there is still reluctance on the part of victims to communicate with authorities subsequent to a 911 call to bring a temporary end to abuse. In addition, they too spoke of the victims being frightened by fear of more violence from the offenders' family and supporters should they cooperate with authorities and seek court resolution. Under the circumstances, it was suggested that the VS person with outreach strategies and well-linked to CSC and NPB would be the key to more victim involvement with Corrections and Parole.

A Brief Note on Urban Aboriginal Victims

There was little attention given in this research effort to urban Aboriginal victims for two reasons. First, it was a quite modest assessment, resource-wise, and, secondly, unlike in the provinces and territories to the West and the North, there is no significant concentration of Aboriginal band members, or others stating their primary identity to be Aboriginal (see Aboriginal Peoples Survey, Statistics Canada), in the large cities of Atlantic Canada. The pattern in this region has been for most Aboriginals to reside on reserve or apparently migrate beyond the region. The Halifax area has the largest number of people in the region identifying themselves as least partly Aboriginal (i.e., some 5000 according to the Nova Scotia Office of Aboriginal Affairs, 2009)but that number shrinks immensely when the less inclusive criteria of status or band membership or primary identity are taken into account; moreover, the socio-economic well-being of Halifax area Aboriginals is average to the municipality and the residences are not concentrated so the visibility is low (Clairmont, 2008; Clairmont and McMillan, 2001).

Discussions with Halifax area Aboriginal service providers (e.g., Friendship Centre, MLSN) indicated that the ex-federal inmate population is small and that there is

no Aboriginal half-way house available (there was a small, designated facility of this type at the Friendship Centre itself in the mid-1990s). It appears that there has been but a trickle of Aboriginal inmates going to Halifax rather than back to their home reserves, or sometimes, temporarily, to closer half-way houses, upon release. The Friendship Centre has significant, multi-year funding from Aboriginal Corrections to work with the federal inmates who are going to be or have been released to the Halifax area. In some of their programs, such as sweats, victims may well be involved but that has not been a priority thus far. The Centre's staff would however be willing to work more with victims of federal offenders in relation to their post-sentence experiences; though such victims would be few and also difficult to locate and serve in the Halifax area, it was suggested that victim-oriented programs such as counseling and restorative practices using proxies could be mounted with benefit to the victims. The Mi'kmaq MLSN program, as noted above, serves both offenders and victims province-wide in Nova Scotia and now that it has its own VS program, perhaps could well take on more of a role with respect to these types of victims (victims of serious assaults where the offender is in federal prison), though again, the vast majority of such victims would reside on reserve.

Overall Patterns

This research has found, in interviewing Aboriginal victims and victim services providers and examining the few letters by Aboriginal victims to the NPB, that, for the most part, their criticisms of the CJS post-sentencing policies and practices and their own wishes were quite similar to those contained in the letters of the non-Aboriginal victims. They did not want parole given to their offenders whom they perceived to be dangerous to themselves and others, not appreciating perhaps how parole may allow for greater supervision and greater public safety than statutory release; but, more than anything, they wanted some assurance, through conditions written into early release, that they and their families would be safe. They, like other victims, considered that CSC and the NPB were more focused on doing what was best for the offender's rehabilitation and successful re-integration (perhaps the big picture in terms of public safety) than on responding to their own continuing concerns and possible re-traumatization. Several Aboriginal informants also told of victims having to leave their Aboriginal community because of threats from

the offender's kin or fear of his return. In two instances the researcher observed the considerable intra-familial conflict over a victim bringing serious sexual assault charges against a relative. It is important to add that Aboriginal communities are often themselves, as well as their residents, quite dynamic and there are indications of significant change in the reactions to sexual and intimate partner violence; for example, in one of largest Mi'kmaq communities in Atlantic Canada, the level of sexual assault charges has been rising noticeably in recent years while informed Aboriginal sources there contend that there may be less actual sexual assault nowadays, thereby suggesting that there is less tolerance for such violence and reporting it more acceptable regardless of the kinship ties. Overall, though, while quite similar in their views to non-Aboriginal victims, the dense kinship ties, the common Aboriginal legacy, the Gladue sentencing policy for Aboriginal offenders, the type and level of victimization experienced, the common resort by Aboriginal female victims to informal support systems - all combine to require a unique Aboriginal approach to the issues of victim involvement in the post-sentencing phase of case processing, one that includes an active outreach program by CSC and NPB, working closer with Aboriginal local victim services, and, carefully, a greater utilization of restorative processes and practices.

EMERGING CENTRAL THEMES

Five Major Issues

The major starting point regarding victims' involvement with the CJS, post-sentencing, is whether or not he / she is registered (i.e., sends into the NPB the completed form "Information Request for Victims"). Subsequent forms have to be completed to be involved in Parole-related activities (i.e., "Request To Present A Victim Statement At A Hearing", "Request For Registry Of Decisions"", and "Request To Observe A Hearing"). While it is possible to inquire about and send in registration forms at a later date, the officials interviewed at the provincial and federal levels indicated that the crucial time period for registration was around sentencing in the case when the provincial Victim Services officials (or their agents) made the forms available to their client victims. If the victims do not send in the form at that time, then they are apparently unlikely ever to do so. Aside of course from NPB and CSC who have records only of the registered persons, both provincial authorities, and their federal counterparts in assisting victims of crime, do not collect data on which victims have completed registration and which have not. Also, they do not proactively contact victims at a later date to see if, at that time, when perhaps the stress or trauma of the court case processing has ebbed, they would want to obtain information, appear at a parole hearing etc… They indicated, too, that their organizations or departments have had very few of these subsequent requests. Indeed, several Victim Services informants noted that they have come across the odd case where a victim's request for involvement (basically information about the offender's release) came after the offender had been paroled. One key issue then centers on the circumstances, dynamics and evaluative importance of registration. For example, provincial privacy legislation apparently prevents officials of the provincial victim services – who are notified by police or crowns generally of all serious interpersonal violent cases, including the victims' names and "contact co-ordinates" – from sharing that information directly with NPB or CSC (the latter share a common data bank on registrants).

Another key issue focuses on the salience of the knowledge obtained as a consequence of registration. At the CSC level, the information details for the victims, via telephone calls (now centralized so that the registered victim has a single CSC Victim Services' contact person), the offender's / inmate's movements to other federal penal institutions or back to the community on various temporary releases (escorted or unescorted). This information, according to the respondents in this modest project, is somewhat limited even with respect to the specifics of the inmate's movements. The chief shortfall however, according to Victim Services advocates at the provincial and federal levels, and mentioned by the victims themselves, is that no information is available at all on how the offender is conducting himself in prison (e.g., the programs he is taking, his general behaviour in prison, signs of remorse and so on), matters of considerable concern for some victims of serious interpersonal violence, especially when they know the offender and may expect his return to their area. Current federal privacy acts preclude releasing such information to the victim. At the NPB level, some information on the person's behaviour in prison is provided at the hearing by the institutional parole officer. As noted below, this matter of the quality of information provided to the victim has to be considered in the context of an evolving governmental response to victims' rights and concerns.

A third issue focuses on the essential character of the victim's role in the post-sentencing phase of criminal case processing. The literature is quite divided on this matter. Some researchers have emphasized the possible significance for public safety, for victim, and even for offender "restoration", of a more active victim involvement both in the development of CSC programs (in general and for the specific offender-inmate) and policies and in NPB hearings (e.g., not being limited to presenting a statement orally or by video). Such viewpoints usually emphasize the special knowledge that victims (who may know the offender very well) may "bring to the table", as it were, which would be valuable input to the parole board and also emphasize that often effective offender re-integration may require victim involvement (Herman, 2001). Such a position was not highlighted in the interviews with officials or victims carried out in this project but it was advanced by some restorative justice proponents, especially in the Aboriginal communities. Other writers / researchers have emphasized the more limited victim role of

securing sufficient information and having sufficient opportunity to be aware of what is transpiring in the case at the parole board level in order to properly protect themselves and satisfy their concerns for justice. In this latter characterization, the victim's role is not seen as particularly salient for how CSC and NPB take into account what they should in order to balance punishment and rehabilitation and achieve both public safety and offender re-integration into society (Paciocco, 1999). Overall, researchers / writers of all persuasions, and virtually all officials and victims interviewed here, shared the view that currently victims of serious crimes have a marginal role in the CJS post-sentencing phase of case processing. They see the latter phase as one where the key institutions federally – the NPB and CSC – are focused on dealing with the offender-inmate and carefully strategizing about how best to achieve a cost effective balance of public safety coupled with rehabilitation and less revocation.

A fourth major theme directs attention to ways that victims' needs and concerns could be dealt with, either apart from or in addition to their involvement in the post-sentence case processing of the offenders. For example, for victims of federally supervised offenders there apparently is little funding for counseling and for restorative processes that could facilitate closure and their own reintegration into society where necessary. While, as has been discussed above, the policy literature is significantly polarized on the proper role of the victim in post-sentencing case processing, there is much commonality in their views on a greater role for restorative justice processes and practices.

A fifth major issue concerns a theme crucial to this project, namely the special case of Aboriginal victims of serious violent crime. It has been noted already that, proportionately, these victims are much more frequent than would be expected based on population. A more elaborate factual basis for such an assertion can be found in the analyses which highlight the comparatively high levels of Aboriginal victims, especially female victims, in Atlantic Canada. Despite inadequate data at the formal CJS level (governments, federally and provincially, do not routinely collect race-ethnicity information for victims), there are many indications from the study of specific Aboriginal communities that rates of violent victimization among Aboriginal women are very high indeed (e.g., McGillivray & Cormasker, 1999; Clairmont, 2005, 2006). The evidence, as

noted earlier, also is that Aboriginal victims have been minimally involved in the CJS's post-sentencing programs and processes. Moreover, most researchers and officials, as well as Aboriginal leaders in the CJS field, refer to long-standing Aboriginal estrangement from mainstream Justice systems, not to speak of language and cultural differences. Research here has established that all provincial and federal victim services officials also articulate the above assertions and accept that conventional modes of contacting and involving victims at all levels of case processing have to be supplemented for Aboriginal victims, that new, different mechanisms for 'reaching" Aboriginal victims have to be developed.

The Supreme Court of Canada determined that the legacy of colonialism and racism had contributed substantially to the overrepresentation of Aboriginals, both male and female, in federal and provincial custody, and, in its Gladue judgment, ruled that the special policies aimed at reducing this overrepresentation and incorporating Aboriginal cultural traditions are uniquely warranted when the Aboriginal offenders' loss of freedom is being judged upon (NPB, 2008; Mann, 2009). One could well argue that some analogous policy should be developed for Aboriginal victims of violent crime. They share the common Aboriginal legacy that the SCC emphasized, are overrepresented as victims of victims, and issues of low self-esteem among them – effects multiplied by the interaction of legacy and the type of violent victimization endured (Kauklinen, 2001; Gill, 2005) - have been well known for a long time (NWAC, 2008). Indeed, as some Aboriginal women have noted to this writer in the course of this research, Aboriginal victims, especially women, may bear the brunt of the Gladue policy in practice since not only are there few if any special services available to them but they have to listen in court to an empathetic account of the offenders' circumstances while little appreciation is extended to their own life circumstances and to the violence they suffered at the offender's hands; small wonder then that the National Association of Aboriginal Women has complained that "the racist, "cultural sensitive" (italics theirs) sentencing of Aboriginal offenders puts them at risk" (OFOVC, 2008). A further factor to be considered in responding to Aboriginal victimization, a crucial one, is the official federal government policy encouraging as much Aboriginal self-government as possible, a promise constitutionally-based and much taken to heart by Aboriginal leaders and

communities. Such a factor adds to the requirement that there be special mechanisms for reaching out to Aboriginal victims and communities and that these be as much as possible administered by Aboriginal organizations in First Nations as well as in the urban centres where, increasingly, the majority of Aboriginal people in Canada live.

This research has found, in interviewing Aboriginal victims and victim services providers and examining the few letters by Aboriginal victims to the NPB, that, for the most part, their criticisms of the CJS post-sentencing policies and practices and their own wishes were quite similar to those contained in the letters of the non-Aboriginal victims. They did not want parole given to their offenders whom they perceived to be dangerous to themselves and others, not appreciating perhaps how parole may allow for greater supervision and greater public safety than statutory release; but, more than anything, they wanted some assurance, through conditions written into early release, that they and their families would be safe. They, like other victims, considered that CSC and the NPB were more focused on doing what was best for the offender's rehabilitation and successful re-integration (perhaps the big picture in terms of public safety) than on responding to their own continuing concerns and possible re-traumatization. Several Aboriginal informants also told of victims having to leave their Aboriginal community because of threats from the offender's kin or fear of his return. In two instances the researcher observed the considerable intra-familial conflict over a victim bringing serious sexual assault charges against a relative. It is important to add that Aboriginal communities are often themselves, as well as their residents, quite dynamic and there are indications of significant change in the reactions to sexual and intimate partner violence; for example, in one of largest Mi'kmaq communities in Atlantic Canada, the level of sexual assault charges has been rising noticeably in recent years while informed Aboriginal sources there contend that there may be less actual sexual assault nowadays, suggesting that there is less tolerance for such violence and reporting it more acceptable regardless of the kinship ties. Overall, though, in sum, dense kinship ties, the common Aboriginal legacy, the type of victimization experienced, the common resort by Aboriginal female victims to informal support systems - all combine to require a unique Aboriginal approach, as is encouraged by high court rulings and official government policy.

Registration and Proactivity

As noted, a central pivot for any significant post-sentencing involvement in CJS case processing by victims of serious crimes is getting registered. It seems clear that much more could be done to facilitate victims' registration, whether at the time of their offender's sentencing or later. There are obstacles at both the federal and provincial levels to such proactivity. One the one hand, the federal bodies, CSC and NPB, cannot unilaterally contact the victims because they do not have the necessary information to do so and because they apparently do not have a mandate to do so unless the victim takes the initiative. On the other hand, the provincial victim services officials state that they are bound by their own privacy legislation not to release the names and "contact co-ordinates" of victims; rather they apprise victims of the registration process, presumably the benefits to them of registering, give them the required form and that is all. Among both federal and provincial authorities interviewed here, it was common for them to stress that consideration for the victims and their right not to be further engaged in the case if that is their wish are central in their hesitation to advocate a more proactive approach to registration. At the same time, they all appreciated that victims may not be in the best state of mind to make a decision on whether or not to register at the time of sentencing and / or that their views could change over time and especially as the offender's release nears. There are ways of overcoming privacy limitations even with respect to young offender (i.e., the YCJA) where privacy rules are formidable. Certainly, the apparent lack of federal and provincial collaboration in their outreach activity to victims and in sharing information seems to be resolvable. Victim officials at the provincial level suggested more collaboration of these sorts and also raised the issue of their possibly being sub-contracted by the federal government coordinators for victim services (i.e., the Departments of Justice and Public Safety) to follow up with victims on registration and determine, without pressure of course, whether at later times they would want to register, explaining the benefits as well as the disadvantages if any (e.g., any impact on their closure). New mechanisms for dealing with victims' concerns may well require as well thinking outside the box of direct victim involvement in the CSC or NPB activities.

This issue of proactivity in registration raises the question of how important a priority, registration and subsequent victim participation in CSC and NPB activities is considered by victims, victim advocates and government officials. This research thus far has found a diversity of views but a fair level of consensus that perhaps victims do not register because for one reason or another they simply do not want to, so why pester them about it. To be sure, some respondents, especially in relation to Aboriginal victims, anticipated that with more knowledge, usable knowledge, affected by more and different outreach strategies, more victims might indeed register but the researcher was somewhat surprised at how many people did not consider registration and victim involvement in the post-sentencing CJS case processing phase to be a major problem. There was much more emphasis on the importance of victim issues at the front-end (i.e., police, crown case handling by the crowns and the trial process) and indeed, even at the federal advocacy level, much more time apparently spent on victims' calls and complaints dealing with the front-end of case processing. It was common for victim services officials at both the federal and provincial levels to express a keen wariness about intrusion, contending, to paraphrase their words, "It is important to give victims the opportunity to be more engaged through registration but after that, why intrude". In the relevant literature one encounters some strong views advocating the enhancement of the victim's role, post-sentencing, usually by persons who envision a bigger role for victims at both the correctional and parole levels especially in "restorative" practices but also with regard to programming and parole decisions. There may be more consensuses among the different type of role players involved in the victims-of-crime field that more should be done, focusing on helping the victims directly rather than enhancing any role for the victims in the determination, post-sentencing, of the offender-inmate's fate.

Constraints and Obstacles

There are three major constraints or obstacles that will be examined further in the final report, These are (a) the diversity of views about the appropriate role for victims in the post-sentencing phase and for governments in responding to the needs and concerns of victims; (b) the structural and departmental mandate issues about how best to pursue victims' interests in the CJS; (c) dealing with the issues of privacy as have been noted

above. Among researchers / academics, for example, there is significant polarization between those advocating a much more enhanced victim engagement post-sentencing, usually though not always featuring "restorative" practices, and those arguing for a very limited role for victims in the post-sentencing phase, usually featuring matters of legal rights and concerns for verification of victim- inputted information. Among victim services officials and advocates there is significant diversity on how best to meet the needs of victims subsequent to case resolution in the courts, whether through enhancement of their role in post-sentencing via CSC and NPB or in activities such as counseling (currently provincial funding for counseling specific victims has been pretty much exhausted by the time of sentencing and federal funds for counseling seem to be non-existent). There is significant diversity reported too among federal officials and others (e.g., judges, parole board members) about the appropriateness of a more enhanced victim's participation in the post-sentencing phase (Palowek, 2005), something not directly examined in this modest project save through close reading of research reports.

Structural and mandate issues concern where best to locate a more enhanced involvement with and by victims of crimes. A number of respondents have raised this issue, contending usually that, given the current structures and mandates, victims are fated to marginality with respect to CSC and NPB, despite the obviously good intentions of both organizations and their increasingly significant outreach activity. One indeed has to wonder whether victims will ever be satisfied with the CSC and NPB approaches to offenders and whether at least under current conditions it is quite rational for victims not to be more engaged post-sentencing. These issues need to be examined more closely, concerning as they do what is deemed appropriate for the victim role post-sentencing in the CJS and whether victims' needs ought best be met outside that context.

Certainly there seems to be much skepticism among CSC, NPB and even Victim Services advocates that there should be or can be an effective role for victims post-sentencing. It was frequently pointed out to this researcher that very few victims want to be bothered about the case processing post-sentencing, whether by sending in registration forms or participating in national studies carried out by the federal agencies that attempt to explore such a victim role. Given the small numbers, it is understandable too that some authorities would question the equity, for offenders and for the system as a whole, of a

few victims having an enhanced role. In the case of Aboriginal victims, for the several reasons delineated above, the skeptics withdraw somewhat, acknowledging the need for more balance in responding to victims and offenders and more encouragement of integrative strategies. The impact of colonialism and the residential school experience, the traumas and substance abuse that have shaped reserve culture, the emotional constraints identified by Ross that may be obstacles to connectedness among people with a strong interest (and right) in maintaining their identity and communities, the impact of serious violence on the vulnerable who often have a questionable sense of self – these phenomena do cry out for a different approach than the current offering of bureaucratic registration forms to the victims.

FUTURE DIRECTIONS

The five future directions advanced in this draft final report are given for discussion purposes. Here they are stated in point form to provide a sense of where the researcher has identified possibilities for enhancement in government policy concerning victims:

1. The changes called for in the 2006 and 2009 federal government bills pertaining to victims rights and access to knowledge of their offender's rehabilitation (programs taken, behaviour exhibited and so on) should be re-introduced and enacted. Whatever invasion of the offender's privacy rights would be entailed appears acceptable given the victims' rights to safety for themselves and family members and given that similar information is already available, by dint of the institutional parole officer's report and the discussions at the parole hearings.
2. There should be more collaboration among federal and provincial authorities to allow for the possibility of more registrants. Throughout the research two major facts emerged, namely that many victims are presumed not to have known much about registration nor to have seriously considered any pros and cons in their decision at sentencing time to register or not. There appears to be very limited information provided to them when they receive the registration

form. Secondly, many victim services officials, and the few victims interviewed, indicated that when the registration form was offered was a time of much tension and grief for them and not the best time for them to reason about any further involvement in the post-sentencing case process.

3. Jurisdictional and structural issues might be transcended through collaboration whereby the federal government subcontracts provincial victim services to provide victim follow up (including counseling and later registration) for victims of crime where the offender is in federal custody.
4. It is important to consider other ways for the federal government to meet the needs of victims of serious crime apart from their being involved directly with CSC and the NPB. Obviously, funding their counseling needs might be one such initiative. In the 1980s the federal government made a substantial contribution to the community –based policing movement in Canada by funding special projects and encouraging imaginative initiatives among both the RCMP and municipal / provincial police services. Something along those lines, which achieves success while respecting jurisdictional lines, might now be appropriate in the areas of policies, programs and services for victims of serious interpersonal crime by offenders in federal custody.
5. Clearly a priority focus has to be on the response to the needs of Aboriginal victims of violent crime. The Aboriginal situation as noted is unique and there is really no alternative but to fund and work through Aboriginal organizations, both urban and FN communities, in partnering new initiatives. There are many new possible initiatives to consider, given the particular set of factors that come into play in Aboriginal violent crimes. Some of these, such as a Gladue-like policy for Aboriginal victims and exit circles prior to the Aboriginal offender be released from prison, need further elaboration.

APPENDIX A

Interview Guide for Aboriginal Victims of Serious Crimes

Our focus is on the post-conviction and sentencing stage – what happens from a victim's point of view **after an offender is sentenced,** as far as the victim's relationship with Corrections and the Parole Board is concerned. We need though to have some sense of whether the victim is burned out or alienated from the Criminal Justice System as a result of the experiences leading up to and including sentencing, so we need to ask about these earlier experiences too.

Background:

Were you **upset** by the court process in the case? Why?

What offence was the Offender sentenced for (person violence, robbery / home invasion, fraud/break and enter, drug dealing)?

How well did you know the offender?

Do (did) you expect that he / she will return to your community upon release?

Contact with Corrections Canada in the post-sentencing phase

Was **any contact with Corrections initiated by yourself,** the victim – what were your **objectives?** the specific **requests**? what was the **response** of Corrections Canada officials?

If not self-initiated, **did anyone link you** (the victim) up with Corrections Canada services (**who**: provincial or community victim services? a friend? etc); if so, how were you linked up (letter? phone? etc), **when** (how soon after sentencing of the offender)?

Were you interested in accessing any Corrections Canada services for victims? Why or why not?

Was getting on the Corrections Canada **registration list** explained well to you (what did you think it involved and how would you be affected)?

Did you pursue the linkage to Corrections Canada services for victims (how? **get registered**? asked for limited information such as what programs the offender was taking in prison?)

What contact, if any, did you have over time with Corrections Canada Victim Services? If some contact, how would you rate its **value** for you – what **benefits** did it produce for you?

How could the involvement of victims with the Corrections Canada Victim Services program be improved?

[Then ask] what about the value for you of the following possibilities- what if the Corrections' services for victims included

1. Paying for travel to the institution?
2. Arranging meetings with the offender?
3. Providing more information re what the offender is doing in prison (programs taken, his / her attitude there?)

Contact with National Parole Board (NPB)

What contact did you have with the National Parole Board (NPB) in this case?

If any contact, was it **initiated by you or NPB**? How?

Were you **familiar with the NPB / Department of Justice policy** of paying for travel, accommodations etc of victims who attend parole hearings? If so, **how did you find out about it?**

Did you **attend a parole hearing** on the case? Why or Why Not?

If yes, why?

If no, why not?

Were any of the following, also reasons for your not attending?

1. Practical reasons (money, time, etc)
2. Fear of the offender or his supporters in the community
3. Wanted nothing to do with offender
4. Did not think it would make a difference.
5. Wanted to forget the whole thing

Did anyone else attend on your behalf?

Did you **prepare anything** – a video, an impact statement etc, for the parole board hearing? If so, what were **your hopes or objectives**?

If you attended a hearing, **how did it go** from your point of view? Was it **helpful** for you in dealing with your victimization?

Would you recommend to other victims of similar crimes that they attend parole hearings? Why or Why not?

Have you had contact with the NPB after the hearing was held? What was it?

How could the involvement of Victims in the parole process be improved?

(Then ask) what about the possible value of the following

1. Do more to encourage victim attendance? Any suggestions?
2. Send more information on the parole process, re why the specific parole decision was reached and the conditions attached to the offender's parole (e.g.,, no contact with victim, no alcohol or drugs)?

3. Other?

Interviewer's Observations:

Appendix B

The Questions for Provincial Victim Services re Greater Engagement of Victims Post-sentencing with the federal Criminal Justice System (CSC and NPB)

CORRECTIONS

1. Currently**,** what information and services are provided by (New Brunswick / Nova Scotia / PEI) Victim Services, to **victims of serious crime,** subsequent to the completion of their court case, with respect to

    a. The services and information provided to victims by CSC
    b. How to register with CSC
    c. Other contact information re CSC?
    d. Are CSC registration forms or brochures distributed by NBVS?
    e. **Roughly** what percentage of New BrunswickVS clients, **where offenders receive federal sentences**, are provided such information, forms or brochures?
    f. Is it known what percentage of the NBVS clients (**whose offenders get federal custody**) follow up and contact CSC? Is a guesstimate possible?

2. Is there significant variation in the above information and services provided by NBVS depending upon the geographical area where the client victim resides? (rural, small town, large urban centre?) Please elaborate

3. Based on feedback from victim clients, what have been the major "positives" about their interaction with CSC?

4. Based on feedback from victim clients, what have been the major complaints or shortfalls identified about their interaction with CSC?

5. Are there some common "positives" and some common shortfalls that NBVS staff members themselves have identified in the victims-CSC interaction or relationship?

    a. common perceived positives
    b. commonly perceived shortcomings

6. How can CSC Victim Services engage more victims and effectively provide information and services to them?

7. Would the following possibilities assist that objective too?
    a. a closer relationship with NBVS? More meetings, better information flow?

b. an MOU between CSC and NBVS where the latter provides the former, perhaps only with the victim's approval, the contact information about the victim, thereby facilitating a more proactive CSC approach?

PAROLE

8. Currently**,** what information and services are provided by New Brunswick Victim Services, **to victims of serious crime**, subsequent to the completion of their court case, with respect to

    a. The information, services, and cost-recovery for attending parole hearings provided to victims by the Parole Board (NPB)
    b. How to make a presentation, in person or otherwise, at parole hearings.
    c. Other contact information provided by the NPB
    d. Are any NPB forms or brochures distributed by NBVS?
    e. **Roughly** what percentage of NBVS clients, **where their offenders receive federal custody**, are provided any information, forms or brochures concerning possible links to the parole board?
    f. Is it known what percentage of NBVS clients (**whose offenders are in federal custody**) subsequently has any contact with the NPB? Attend or make presentations at parole hearings? Is a guesstimate possible?

9. Is there significant variation in the above information and services provided by NBVS depending upon the geographical area where the client victim resides? (rural, small town, large urban centre?) Please elaborate

10. Based on feedback from victim clients, what have been the major "positives" about their interaction with NPB?

11. Based on feedback from victim clients, what have been the major complaints or shortfalls identified about their interaction with NPB?

12. Are there some common positives and some common shortfalls that NBVS staff members themselves have identified in the victims-NPB interaction or relationship?

    a. common perceived positives
    b. commonly perceived shortcomings

13. How can the NPB engage more victims and effectively provide information and services to them?

14. What about the following possibilities too?

a. a closer relationship with NBVS? More meetings, better information flow?
b. an MOU between NPB and NBVS where the latter provides the former, perhaps only with the victim's approval, the contact information about the victim thereby facilitating a more proactive NPB approach?

15. How strongly would most NBVS staff agree with the following statements:

a. By the time most victims of serious crime get pass the sentencing stage, they are so alienated from the Justice system that they want nothing to do with CSC or NPB.
b. Most victims of serious crimes have either such deep fears and / or serious personal issues that considerable outreach effort would have to be expended to have them engaged with CSC Victim Services or the NPB.
c. Both CSC and NPB have to date done very little to encourage and facilitate the engagement of victims whose offenders received federal custody.

COMMENTS

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