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REVIEW OF JUSTICE SYSTEM

ISSUES RELEVANT TO NUNAVUT

PART TWO

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A REVIEW

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PART A: CONTEXTUAL AND ACADEMIC BIBLIOGRAPHY

Aboriginal Corrections Policy Unit. The Four Circles of Hollow Water. Ottawa: Supply and Services, 1997.

This is an exceptional document which places in perspective, from a variety of standpoints, the well-known Hollow Water Healing Circle. The four circles are the Ojibwa circle, the Hollow Water circle, the victim circle and the offender circle. The Ojibwa circle is discussed in relation to a variety of themes, including sexual norms and dealing with deviance, in pre- and post-colonization Ojibwa culture and society. The Offender circle succinctly summarizes the latest professional knowledge about treating sexual abuse offenders, from a non-aboriginal perspective. At the same time the authors show how the cognitive-behavioural treatment orientations which have yielded some success are generally quite consistent with the theory and practice underlying the Hollow Water approach. Some differences are noted, especially the greater emphasis in the latter on holistic treatment involving victims, offenders, and the community at large, an emphasis explained in terms of Objiwa culture and the imperatives of living in small, somewhat isolated communities. The Victim circle explains the pain and processes of victimization, often in the words of the victims, and also convincingly argues for a different type of healing strategy as being required in communities such as Hollow Water, specifically strategy as evidenced in the community holistic healing circle. The Hollow Water circle is discussed in terms of personal histories and descriptions provided by two major participants in that program. They present interesting details on the development of the program since 1983, describe the processes, and comment on the challenges facing this successful indigenous initiative which has revitalized the community, empowered it, and enabled it to deal with a major social problem.

Anaviapik, Simon. "Remembering Old Times", Inuktitut Magazine, #83, 1998. Ottawa: Inuit Tapirisat of Canada, 1998.

Simon Anaviapik, a respected elder who died in 1992, writes of old times on Pond Inlet. He refers to his early hunting in a camp consisting of group of six families and recalls meeting people from Netsilik, 'the people of the place possessing seal' who possessed a distinct dialect and who at the time (1928 or 1929) "were the only ones who were still living by the old ways without southern equipment which we were now almost accustomed to using" (p14). He recalls moving to Pond Inlet in 1966 "because the Government built a big school for our children and a number of houses for the people". Later he summed up the change in the following way "We

are grateful to the Government for all they have for us. We have a much better life than we ever had before".

Auger, Donald et al. Crime and Control in Three Nishnawbe-Aski Communities. Thunder Bay, Ontario: Nishnawbe-Aski Legal Services Corporation, 1991.

This report examines crime and its control in three Nishnawbe-Aski reserves in North-Western Ontario. The methods used included interviews with community members and gathering data from police and court files. The authors compare, by community, perceptions of the frequency and seriousness of different criminal problems, their actual occurrence, the level of charges laid, and the extent to which internal, informal community controls are perceived to exist and are effective supplements or alternatives to the criminal justice system. They conclude that each community is quite different in how it perceives and relates to the criminal justice system but that, overall, residents want both to strengthen community involvement and community controls and, as well, to have the mainstream criminal justice (albeit an improved version) deal with certain criminal problems.

Barger, W.K. "Eskimos on Trial: Adaptation, Interethnic Relations and Social Control in the Canadian North", Human Organization, Vol. 39, #3, 1980.

This is an insightful analysis of an historic moment, the first provincial summary court held in the Inuit region of Quebec, at Great Whale River, in 1970. This community of some 1000 persons, half of who were Inuit and a third of whom were Cree, was permanently settled in conjunction with the DEW line construction of the mid-1950s. Prior to this event all individuals in the region charged with serious offenses were tried in Montreal. This event was of great significance because it illustrated well a strategic and symbolic moment in the formal contact between Inuit and the Canadian (Quebec) Justice system. The government clearly saw this particular court session as of historic relevance. The staging was impressive. Signs were posted in Inuit and Cree as well as in English and French announcing the event. Members of the Cree and Inuit councils, and trade school students were given the day off to attend. All court personnel were formally attired in black robes. About 150 residents attended the court session. The author examined the event as an exemplification of cultural adaptation in the North. He argued that in Inuit customary law the emphasis was on informal consensus and major concerns were for personal autonomy and group needs, with sanctions potentially being quite extreme such as social exclusion and in rare instance, execution. The Canadian justice conventions placed great emphasis on personal property, and the sanctity of the home, with severe sanctions entailing incarceration. The court session represented interplay between these customs and conventions.

Over a two week period there were several trials involving seven Inuit (all but one were male, between 26 and 37 years old) and one white male. Two distinct court teams were involved. All Inuit charged with indictable offenses,(assault, break and enter, larceny), were given stiff sentences of between six months and three years in prison. The dominance of the Canadian (Quebec) justice was evident and residents carried away that message. Barger highlighted one case where an Inuit was given three years in prison for entering another Inuk's house without invitation, staying there for a while when both spouses retired to bed, and taking an electric iron. The stiff sentence was justified by the court insofar as the individual was a repeat offender and ex-inmate who invaded the sanctity of the home and stole. The Inuit community agreed with the sentence according to the author because they considered the person to be a troublesome deviant who repeatedly violated others' autonomy and so should be removed from the community. While both the court and the Inuit were in some agreement on the sentences, it was for different reasons as their norms and perspectives were different. The Inuit interviewed did not particularly think that the sentences would rehabilitate the offenders but felt that they had "asked for it". In other respects the court sessions in the author's view established in Inuit minds the power and dominance of the mainstream system and their own input was very modest, limited to one judge consulting with Inuit leaders on a few cases and one defence lawyer exhibiting some sensitivity to the interethnic situation; interpretation services were provided. It was imposed socialization in a concrete way and Inuit adapted to the new ways for their own reasons.

Barkwell, Lawrence et al. "Devalued People: The Status Of The Metis In The Justice System", Canadian J. of Native Studies, Vol. 1X, 1989.

The authors discuss the concept of devalued people which they claim is the status of aboriginal peoples in Canada. Devaluation they argue leads to low self-esteem, high alienation from authority, high levels of certain types of crime and so forth, unless it is countered by traditions, spirituality, or strong social networks. Corrections data are provided to underscore their claims about aboriginal over-representation as incarcerated offenders and the scant rehabilitative consideration given to aboriginal youth and young adult offenders. The authors emphasize that the best antidote to devaluation is a separate but parallel system of justice based on traditional values and norms. They also called for cultural awareness training for all officials in the Justice system dealing with aboriginal peoples, greater accountability of these officials, and community-based alternative programs.

Bayda, Edward. "The Theory and Practice of Sentencing; Bill C-41 and Beyond", in Dawn

or Dusk in Sentencing. Ottawa: Solicitor General.

Bayda, a chief justice, discusses a hypothetical sentencing of a young male aboriginal who is a repeat offender. He considers in turn each of the six purposes laid out in section 718 of the criminal code under the new sentencing legislation. He finds for the case at hand the most appropriateness in purposes 5 and 6 which refer to reparation for the harm to the victim and the community, and promotion of responsibility on the part of the offender. Both purposes, in his view, reflect a restorative model of justice as opposed to the retributive model "we now essentially have". Taking the reader into the decision-making mode of the judge, he outlines some of the pressures the judge would have to think about in sentencing along those restorative justice lines, pressures such as public opinion, political pandering to public fears, bureaucratic complexities and the like. Bayda argues that if restorative justice is to become the major justice perspective there will need to be a change in statutory laws, jurisprudence and the 'collective psyche'. In his view progress has been made on the statutory front but much effort has to be expended on changing the thinking of judges and prosecutors, and especially changing the public need for punishment (itself the product of a long western tradition). Given Bayda's analyses it is interesting to speculate about the significance of a Nunavut justice system in relation to restorative justice. Research and experts and practitioners suggest that Inuit in Nunavut do not hold the same equation of crime and punishment and that a restorative perspective may be more readily accepted by judges and prosecutors there. This would suggest a responsiveness to restorative justice. On the other hand research and experts and practitioners also indicate that a common pattern among Inuit in Nunavut is not to confront offenders and not to do anything in the face of offenses, behaviours that would have to be overcome if restorative justice practices were to be implemented.

Bazemore, Gordon and Curt Griffiths. "Conferences, Circles, Boards, and Mediations: The New Wave of Community Justice Decision making", Federal Probation, Vol. 61, #2, 1997.

The authors discuss the re-emergence of the community justice movement or restorative justice movement in much of the English-speaking industrial world (plus parts of Europe) in the 1990s. They discuss four basic programs that can be identified with the movement namely circle sentencing, family group conferencing, victim-offender mediation and the reparative board. Several tables compare these four programs on a host of variables such as how the community is involved, who participates, preparatory procedures, the role of victims, and enforcement and monitoring aspects. The programs, apart from the reparative boards perhaps, are well-known if recent and rather area-specific. The reparative probation program, an example of community corrections, is a Vermont innovation which entails small boards of local citizens deciding probation dispositions for

eligible non-violent offenders. While the programs differ in significant ways (e.g., eligibility criteria) they share an underlying restorative justice philosophy and are community-based; a central feature, according to the authors is that community members have major roles in determining what the criminal sanction will be and how it may be carried out. The authors point out that there is very little in-depth evaluation of these programs which have often been 'idealized' and juxtaposed to a less-than-generous depiction of the mainstream justice approaches. In particular the celebration of the local community may neglect power differences there, as well as the rights and needs of crime victims. One limitation of the article is that it does not discuss much the evaluations and assessments of earlier (e.g., 1970s) community or restorative justice programs which generally were quite critical of these alternatives but they do point out that a crucial difference in the current programs is their presumed active involvement of local citizens.

Benson, G.F. Developing Crime Prevention Strategies in Aboriginal Communities. Ottawa: Solicitor General Canada, 1986.

The author discusses problem solving and then outlines the four or five phases that are featured in the usual models, from preliminary problem posing to evaluation and feedback. He observes that Inuit are not considered to be Indians under the meaning of the Indian Act and do not receive benefits under that Act. Despite the lack of federal legislation they receive federally funded services via the Dept of Indian and Northern Affairs (as required by the pre-World War 2 decision of the Supreme Court of Canada). The Yukon Act and the Northwest Territories Act make special provisions for the Inuit allowing them to retain traditional hunting and fishing rights. Benson says “the Inuit reside in small villages which are organized in a manner similar to non-aboriginal communities and the Inuit people are represented at a political level by several large Inuit organizations which assist in community development, land claims and the delivery of services. The report is useful for communities to explore problem solving with the police though it is clearly dated in terms of its political characterizations.

Berzins, Lorraine. “Restorative Justice on the Eve of a New Century”. Vancouver Restorative Justice Conference, 1977. Ottawa: Correctional Services Canada, 1997.

Berzins contends that the current justice system is in dire straits, focused on adversarial legal technicalities, and a punishment-oriented, incarceral strategy that neither satisfies victims nor effectively deals with offenders. In her view judges, lawyers, victims and others have increasingly come to the conclusion that “we need justice”, one that features healing, and that can be decentralized to reflect community distinctiveness and empower non-professionals. This thrust appears to

be increasingly popular and is congruent with sentiments expressed by many professionals and ordinary residents in Nunavut.

Bonta, James. Offender Rehabilitation. Ottawa: Solicitor General, 1997.

This brief report emphasizes that offender rehabilitation can be effectively achieved where the appropriate treatment principles are implemented. The author contends that what is needed is a cognitive-behavioural approach that takes into account the risk of re-offending and targets needs which are both individual and societal (e.g., group cohesion, self-esteem, community improvement). Client-specific planning, whereby a plan is developed for an offending individual and presented to the court as an alternative to incarceration, can be an effective strategy. While not focused on aboriginal society the report can easily be related to, and is consistent with, current developments such as treatment programs by Hollow Water First Nation and the Native Clan Organization in Winnipeg.

Braithwaite, John and S. Mugford. "Conditions of Successful Reintegration Ceremonies", British J. Criminology, 34 (2), 1994.

This paper advances the idea that re-integrative shaming is no small challenge, but that it is possible to effect, and thereby accomplish reduced recidivism, offender reintegration and victim satisfaction. After discussing the family or community conferencing initiatives in Australia and New Zealand, the authors outline fourteen conditions for successful reintegration ceremonies in practice, developing these ideas vis-a-vis the earlier theoretical work of Garfinkle on conditions of successful degradation ceremonies. Several key points here include the significance of getting the victim to participate, the importance of the presence of supporters for both victim and offender, the pivotal importance of the facilitator role in drawing out all parties and maintaining support for all persons, designing a plan of action. and monitoring reintegration agreements. They emphasize story-based training methods that focus on a few core principles namely empower the victim, respect and support the offender while condemning his act, engage the offender's supporters, and focus on the problem and the community not the offender and his pathologies.

Braithwaite, John. "Restorative Justice And A Better Future". Halifax: Dorothy J. Killam Memorial Lecture, Dalhousie University, 1996.

In this talk Braithwaite contends that the criminal justice system has been a large failure, with class bias, ineffectiveness and an over-reliance on imprisonment. Of course his chief argument for this failure is its basis in stigmatization rather than re-integrative shaming as a guiding principle. He advances the model of restorative justice and discusses it in relation to victims, offenders, the community, and control by citizens rather than professionals. He acknowledges that restorative

justice is micro-level (i.e., inter-personal relationships) but contends that at least it should take into account underlying injustices that represent the macro or societal level. In his view there is a universality of restorative traditions and these traditions now constitute a more valuable resource than the equally universal retributive traditions. Since cultures shape their restorative values and traditions differently there will be diverse social movements. Braithwaite outlines a path for culturally diversified justice based on restorative principles and practices in schools, churches and indigenous peoples' communities, and the transformation of state criminal justice in urban neighbourhoods through developments such as family conferencing. He cautions against a romantic notion of simply going from state justice to local justice which might result in even greater abuse of power. He is optimistic about blending the benefits of 'the statist revolution' (i.e., the development of the modern state and its justice systems) and the discovery of 'community-based justice'.

Brantingham, Paul and Stephen T. Easton. "The Crime Bill: Who Pays and How Much?", Fraser Forum Critical Issues Bulletin, 1996.

The authors describe the crime rate of Canada vis-a-vis other countries for the offenses of murder and theft, provide data on the relative distribution of crimes and subtypes of crimes (property crime), and depict the historical trends for violent and property crime. The latter depiction clearly indicates that between 1962 and 1994 the Canadian crime rates for violent crime and drug offenses have remained remarkably stable while property crime has increased appreciably. They profile the victims of crime, relating victimization to age, gender, and life style. The offender profiles presented indicate a strong pattern of conventional crime as an activity of young low status males. Interestingly, trend data reveal that while the murder rate has been falling since 1991 both national television networks exhibit a clear trend of increasing their statements on murder over the same period. The last third of this report deals with the costs of crime where the authors attempt to place a dollar value on the different types of crime taking into account direct costs as well as indirect ones represented in the concept 'shattered lives". They also describe the "large and growing establishment dedicated to the prevention and punishment of [crime]". Here they discuss private security costs, police costs, security devices, court and corrections costs. The authors provide an overall costing of crime, detailing both a conservative and an extensive estimate, with overall costs ranging from 2.3 to 5.2 percent of Canada's gross domestic product. Such an analysis could be done for Nunavut with a view to indicating the amount of resources expended vis-a-vis other areas such as public education, and also comparing Nunavut with other provinces and territories.

Briggs, Jean. "Expecting the Unexpected: Canadian Inuit Training for an Experimental Lifestyle", Ethos, Vol. 19, 1991.

The author, well-known scholar-ethnographer of Inuit life has written much on non-violence, management of uncertainty and value socialization among the Inuit. Here she explores what she claims is a fundamental feature of Inuit ethos namely an "experimental orientation". She locates this orientation in awareness of dangerous uncertainty, physical and social, under traditional conditions. What emerges from that awareness can be summed up in the maxim "teach, learn, care and love while you can for nothing ever stays the same". This perspective is reflected in the classic example of how the carver looked at the stone to be carved, the celebrated traditional technological adaptations, the qualified evaluations Inuit typically advance of individuals and other ethnic groups and a certain playfulness of manner. Associated attitudes presumably include a present orientation, caution about emotional investment and resignation.

Briggs suggests that in the Inuit ethos there is emphasis on observation, self-direction and autonomy. It is considered rude to ask another's motives or directly confront their actions. Even in child rearing much of the initiative for learning skills, she observed to rest with the child. The author does not draw out the implications of this world view for Inuit control of justice and other areas of contemporary life. On the surface one could imagine that such an orientation could well sustain a practice of depending upon police to deal with troublesome behaviour and thus be a challenge for the kinds of direct interaction entailed in some restorative justice and community-based justice strategies. However, as the author observes, Inuit ways of thinking, perceiving and feeling are complex and how traditional perspectives are affected by modern conditions are "interesting questions".

Brody, Hugh. The People's Land: Inuit, Whites and the Eastern Arctic. Toronto: Douglas & McIntyre, 1991 edition.

This book is based on research carried out by the author in the eastern Arctic in the early 1970s and in the author's words is an essay in colonialism. His focus is on post-world war II colonialism and especially the government bureaucrats and service professionals and administrators who replaced the triumvirate of the trader, RCMP and missionary as the hegemonic force in the Arctic. The author argues that the earlier grouping of southerners or whites lived amongst the locals, interacted with them on a more multidimensional basis, and frequently spoke their language; they pursued specific interests understood by the Inuit. The new dominant class of whites presumably is there to help the Inuit but, in the colonialist tradition, "it is they who decide what Inuit need and ... how those

needs are to be met". They tend to be more aloof from Inuit in informal social life, "split off from them", and their roles and interests are more complex to grasp from the Inuit perspective. These whites exemplify a profoundly influential and often subtle middle class consciousness and world view which underlines their role performance and the ends and means of the help they provide. Inuit are dependent upon, and have to respond in terms of, that hegemony.

One of the main contributions of this work, is the author's description of what Eastern Arctic Inuit would consider 'the real Eskimos', the Inummarit who personify the valued Inuit way of living, talking, eating and even walking. Inummarit are committed to a blend of subsistence and trade activities, possess skills in trapping and stone-carving as well as hunting, have deep knowledge of the land and the associated flora and fauna, use a more rich and subtle level of Inuit language, are clearly leaders of their families, and exercise discipline and good temper (i.e., a self-restraint borne of survival adversity but applicable in all sphere of life). Other traits include food preferences, and being deeply Christian, which like trapping and stone carving, is considered 'traditional' now by Inuit. Brody establishes this portrait through observations and informants' stories, and shows that it constitutes a highly valued role model even among those Inuit who have achieved apparent success in the new colonial system. For the author the identity and status of this type of person and way of living -inummarittitut- makes it clear that Inuit fundamental values are to a land-based life and its skills and activities. It also underlines that there is an intensity and complexity to the Inuit sense of being Inuit that resists assimilation and could provide a genuine alternative life style for Inuit in complex modern society.

The second major contribution is Brody's analysis of Inuit family life where he develops six themes. He notes that socialization typically avoids manipulative or authoritarian treatment of children and hence parents often live with great anxiety about the actions of their teenage children in particular. He describes the deep division of gender roles in Inuit society and suggests that there has been profound change, as for a variety of reasons (e.g., education attainment, control over welfare etc) "the wife in many settlement families is now clearly the dominant partner". The changing gender and marital patterns he believes have led to much anxiety and suspicion among males. Brody also explores the sexual tensions in Inuit society, especially on the part of Inuit males who sometimes perceive females' preferring the dominant Whites. Generational differences have grown with the move to the settlements and modernization (schools, fashions etc), and the widening gap is seen by Inuit as a more serious problem than the within-generation tensions. The younger generation, especially the young adults, are increasingly caught up in confusion and pessimism, seeing a valued future for themselves neither in their parents' lives nor in assimilation.

Brody claims that most Inuit view the Whites' coming as a good thing and see their continued presence as essential. They characterize the government as helpful on a wide variety of fronts. At the same time there is a profound sense of dependency, a hostility and resentment at it, and frequently a great frustration with particular officials and policies. This complex Inuit response is seen especially with respect to education. Inuit value the education that their children receive but see that, on the other hand, it tends to remove them from the possibility of being inummarit, and, on the other hand, they tend not to succeed enough in school to secure significant employment; accordingly, they tend to become neither fish nor fowl but even more dependent upon governmental assistance. Brody is quite sceptical that the Eastern Arctic will experience an economic boom in resource development and presents a strong case for that view. He looks to land settlements to provide the basis for Inuit escaping colonialism by securing "a political enclave [and] control of territory". This could make feasible a mixed economy where it would still be possible to be Inummarit.

Brody's insights and arguments continue to be relevant largely because his excellent ethnography appears to have captured important themes in the Inuit perspective. The critique of the educational system is still germane as is the prognosis for economic development. His analyses of family life appear still helpful in understanding contemporary problems, although perhaps more focus might have been directed at the implications for young male adults. Land claim settlements have been attained and it will be interesting to see whether the establishment of Nunavut will erase the legacy of colonialism and effect an Inuit subculture and life style that Inuit can positively identify with and call their own.

Canada. Royal Commission on Aboriginal Peoples, National Roundtable on Aboriginal Justice Issues. Ottawa: Supply and Services Canada, 1993.

This roundtable discussion brought together leading aboriginal political representatives and scholars, governmental leaders, academics and others to frame the justice issues for the Royal Commission. There was extensive consensus on seven points, namely that the Canadian Justice System so far has failed aboriginal people; that the system has been too removed from native people and native communities; that there is an emerging aboriginal system being formulated that is generating different and potentially effective principles for action; that the time for action is now; that there is no fundamental constitutional impediment to change; that local communities should be the bases for change; and that a merging of aboriginal and mainstream justice system thrusts is very possible.

Canadian Arctic Resources Committee. "Future Imperfect: The Irwin Report and Commentaries", Northern Perspectives, Vol. 17, 1989.

This issue presents the summary report by Irwin on modern social and economic change among Inuit especially in the eastern Arctic. Included also are comments by a spokesperson for the Government of the Northwest Territories, and by the Tungavik Federation of Nunavut, followed by a rejoinder from Irwin. The title of Irwin's report, Lords of the Arctic: Wards of the State, clearly conveys his overall assessment that the changes have been negative and that arctic ghettos are being created. Irwin discusses the centralization of settlement in the Arctic and the demise of the traditional camps, the socio-demographic patterns of Inuit life (e.g., rapid population growth), extensive unemployment, and pervasive enculturation.

Irwin argues that the Inuit are increasingly being reduced to wards of the state and that the situation is getting worse with respect to health (e,g. aids), interpersonal violence, and the breakdown of informal community controls, all associated with alienation, meaninglessness, and low self- esteem. He argues that the traditional skills and culture are not being transmitted and the territorial government is not supporting local initiatives by imaginative programs such as a hunter's support program as found in some northern societies. At the same time he contends that the Inuit are not being prepared for the future in a western cultural sense since the educational system is inadequate, education achievement and grading is wildly exaggerated, and no really qualified persons capable of assuming professional and senior administrative roles are being groomed to replace the outsiders who typically manage community life. The GNWT thought his report biased and inadequate, not taking into account recent educational programs and successes. The ITC thought the Irwin warning relevant and used his comments to advance their causes. Irwin responded by attacking the GNWT positions and generally aligned himself with the ITC position. The Irwin report was released in 1988 and preceded the Nunavut agreement which formally has guaranteed Inuit political power and assumption of major administrative positions and has backed that promise with training funds and employment quotas. Whether these developments, in concert with educational and other changes, will create a different future in Nunavut or whether they will simply create a small Inuit elite, is a major question.

Canadian Panel on Violence Against Women. Inuit Women. Ottawa: Supply and Services Canada, 1993.

The theme is that colonization has brought increased violence against Inuit women and "because of our culture, we require different solutions to our problems. Because of our isolation and the smallness of our population, we require local and culturally appropriate remedies. Women need to be recognized as one of the most

important pillars of our communities" (p142). It is contended that traditionally there was mutual respect among spouses and elders would become involved in dealing with social deviance. There is some concession that traditional culture with its arranged marriages, and different and not now acceptable conception of what is abuse (see pg144), could be problematic. Still the claim is that the non-Inuit systems of justice and social services have failed to deal with the challenges facing Inuit communities and thus have fuelled the movement to self-government at all levels.

The report contends that wife abuse is rampant, treatment and other resources scarce, complaints to RCMP increasing, and the Iqaluit women shelter bursting with occupants. Sexual assault and child abuse are similarly said to be widespread with sentencing lenient and sometimes racist, counselling and rehabilitative efforts ineffective, and victim services and advocacy minimal. The small close communities, the lack of trust in transient outsiders, shame and embarrassment etc are powerful reasons for non-disclosure. Also significant are 'myths that violence and sexual abuse is acceptable in traditional Inuit culture'. Elder abuse, suicide among youth, and abuse of trust by professionals are indicated to be serious problems.

The argument is advanced that colonization has put values and relationships out of balance. Also there is a frequent claim of racism and, at the least, cultural insensitivity by the non-Inuit police, social service professionals, police etc. Turning to Justice the Pauktuutit challenge regarding leniency in sentencing in sexual assault cases, is discussed, and, more generally, the justice system is heavily criticized. Offenders are not deterred by sentences or jails or group homes. Broader socio-economic factors are also seen as sustaining the level of violence and its lack of resolution - these include housing scarcity, poverty and unemployment, high incidence of substance and solvent abuse and ill-health. Some community initiatives are discussed, especially those initiated by Pauktuutit, and basically focusing on public education and women solidarity. With increasing self-government it is argued that Inuit women must be involved as active and equal partners in all initiatives. The authors conclude that "we are deeply committed to the preservation and enhancement of the language, culture and traditions of our society and looking for ways of incorporating these into the laws that govern us" (p177). There is an insistence though that many of the values which were the foundation of traditional communities need to be adapted to meet the realities of modern Inuit life and that attitudes that accept, minimize and contribute to violence against Inuit women need to be re-examined and changed.

Cawsey, R.A. Justice on Trial: Task Force on the Criminal Justice System and Its Impact on the Indian and Metis People of Alberta. Edmonton: Province of Alberta, 1991.

The Cawsey task force issued three volumes, the main volume noted here, a summary volume, and a third one which contains working papers and bibliography. The task force received many submissions, made site visits, and collected relevant data. Its sections on policing, courts, corrections, and so forth are well developed with solid supporting evidence. This report shows that the Canadian-wide over-representation of aboriginal peoples in the justice system, as offenders and incarcerates, applies in Alberta. The task force concludes that systemic discrimination exists within the criminal justice system, even when uniform policies are being applied. It advances some 340 recommendations, a third of which pertain to policing. One of the principal recommendations is the re-establishment of community control (as opposed to professional, bureaucratic control) in the criminal justice system. While sympathetic to the possibilities of an aboriginal alternative to the conventional justice system, it focuses upon improving the present system and strengthening local community controls, explicitly leaving the issue of how autonomous aboriginal justice might be to negotiations between aboriginal leaders and the governments. Recommendations are advanced dealing for example with diversion, sentencing panels, native justices of the peace and the location of provincial criminal courts. Interesting presentations were provided the task force by various aboriginal groups (e.g., the Blood Tribe analyzed over-representation from the perspective of colonization and also discussed its traditional concepts of justice).

Clairmont, Don. "Alternative Justice Issues For Aboriginal Justice" in J. Legal Pluralism and Unofficial Law, #36, 1996

This paper discusses the circumstances behind the development of, and the central issues in, recent aboriginal justice alternatives. It then examines one particular kind of justice alternative, namely adult aboriginal diversion projects, in four areas of Canada: metropolitan Toronto, Sandy Lake and Attawapiskat in Northern Ontario, and Indian Brook in Nova Scotia. The projects are compared in terms of social context, objectives, protocols, operations, and impact for divertees, victims and the community. Analytical considerations of equity, effectiveness and efficiency are considered for each project as well as issues of the extent to which the projects have manifested aboriginal cultural themes, advanced the self-government agenda and effected new practices or lessons for restorative justice. The results to date were seen as positive but quite modest in these regards.

Clairmont, Don. Native Justice Issues in Nova Scotia. 3 volumes. Halifax: Queen's Printer, 1992.

These volumes report on extensive research carried out in 1991 and 1992 for the Tripartite Forum on Native Justice in Nova Scotia. The objective was a benchmark needs assessment of justice for the Mi'kmaq people. The volumes are based on surveys of the on and off reserve adult population, focus group discussions, in-depth interviews with offenders, native political and organizational leaders and with Justice officials (police, prosecutors, judges, legal aid and correctional personnel), and analyses of crime and other justice data. The socio-demographics of the Mi'kmaq are detailed and there are analyses of community problems and crime trends. The main sections deal with policing and court-related concerns, detailing preferences, problems and conflicts. Recommendations are advanced with respect to possible initiatives in these two particular justice areas.

Condon, Richard. "The Rise of Adolescence: Social Change and Life Stage Dilemmas in the Central Canadian Arctic", Human Organization, Vol. 49, 1990.

Based on his ethnographic research in Holman Island Condon traces the evolution of a prolonged adolescent life stage in the Central Arctic. He argues that adolescence as such was non-existent in the pre-contact period where there was early marriage and age grade strategies. It is a function of concentrated settlement, ready economic security (i.e., the welfare net) and cultural exposure (via television, radio and other mass media). The result has been that adolescents form a major grouping, interact with other adolescents and no longer look to the parental generation for role models. The author draws especially on the work of Erikson whose theory suggested that adolescence is pivotal for identity formation. In Condon's view much of what adolescents do is rational behaviour enabling them to cope with rapid cultural change and culture conflict in the Central Arctic.

Condon traces the development of Holman Island, its settlement on a permanent basis in the 1950s and 1960s and the situation in the late 1980s which featured high unemployment, high levels of dependence of older teenagers and young adults on social assistance and the virtually complete demise of fur trapping. His description of Holman Island youth activities paints a picture that would be quite consistent with how youth in the South behave and interact. The adolescent group in the Central Arctic is proportionately quite large and their numbers, freedom from responsibilities and comparative idleness, legal and economic rights give them an autonomy and social power that is clearly a significant new social fact. Condon notes too that the lack of employment opportunities and the poor school performance characteristic of the youth in the area make this 'transitional generation' very vulnerable to unrealizable, high expectations concerning

economic well-being and hence social maturity. The result is a situation where parents feel they have little control and youth become frustrated young adults who become involved in extreme forms of violence. It is a situation that has happened earlier in the Western Arctic (see Clairmont, 1963; Finkler, 1975) and one wonders whether it is simply a transitional phase or a permanent feature of some Northern communities. The author looks to land claims settlements and to developments at the economic (e.g., Inuit corporations) and political (e.g., Nunavut) levels to provide local economic opportunities and a sense of control over life.

Cowan, Susan (ed.). We Don't Live in Snow Houses Now: Reflections of Arctic Bay. Ottawa: Canadian Arctic Producers Ltd., 1976.

This book presents a number of interviews of adult Inuit (mostly elders) in the Arctic Bay area, focusing on their recollection of 'things in the past' and the changes that have taken place. The interviewees convey well the powerful role played by the shaman (some of whom were women) in traditional Inuit society and the extent to which eking a living in the harsh environment taxed the great skill that the people exhibited. As the Inuk, Atoat, commented "there were many rules [taboos] and so much work". Several Inuit recounted the tale of the killing of a white independent trader circa 1920 by three Inuit men. The accounts indicate that the man's wild actions caused great fear in the camp and so there was a collective decision to remove the threat; to the apparent surprise of the Inuit, according to Oyukuluk, only one of the three equally involved persons was taken away by the policemen. The incident appears to illustrate both the way organized violence was occasioned (i.e., dealing with a perceived uncontrollable threat) as well as the difference in standards used by Inuit and Justice officials. The interviews also describe the broad role played by the RCMP in relating to the Inuit, carrying out activities far beyond law enforcement (e.g., Attagutsiak's interview). The extensive pattern of adoption in the area is also frequently noted.

The section, "I'll tell you about the changes I have seen" is particularly interesting. It conveys a strong generational gap as seen by the interviewees. Atoat commented that young people no longer respect or listen to their elders: "[they] don't listen ... even make fun of the older people ... I've got no idea about the young people now ... how they should be or how they should lead a better life; I don't know anything about the future and I don't even want to guess". The informants identified the changes as occurring when the school was brought into the community and the camps gave way to larger settlements. Traditional Inuit life was depicted in positive terms by the informants but also as a tough and precarious existence especially in winter. Contemporary settlement life was seen as providing more material benefits (e.g., better housing, pots and pans) and security, but also as entailing more dependency upon the qallunaat and a more complex life. A

profound change in communitarianism was described. For example, Issuqanqituq noted “when I was young, if I was doing something wrong, the older people would tell me that I shouldn't be doing whatever it was, that it would bring unhappiness. They no longer do that, which shows that even they (the elders) have changed since I was young”. Others observed a corresponding change in food distribution; Ahlooloo commented that: “today it is not at all like that [food sharing]. Some have plenty of caribou and other meat and some have absolutely nothing”. While acknowledging that certain violence has always existed (e,g., killing 'over women'), some Inuit highlighted the disorder and violence caused by alcohol and the Inuk, Taqtu, queried why the government placed “limits on the game we can hunt but not on alcohol” which was wreaking havoc in the communities.

Crawford, Adam. “The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda”, J. Law and Society, 23(2), 1996.

This paper is an insightful review of Etzioni's celebrated book, The Spirit of Community (see below). Its chief point is succinctly stated by the author: “rebuilding communities is not now, nor ever has been, always synonymous with the creation of social order, moral superiority, and cohesion. An assertion of community identity at a local level can be beautifully conciliatory and socially constructive but it can also be parochial, intolerant, and punitive”. Crawford points out some of the dangers of community and communitarianism such as having to contend with differential power relations, coercion within communities, and other constraints, moral and otherwise.

Crnkovich, Mary, “ The Role of the Victim in the Criminal Justice System: Circle Sentencing in Inuit Communities”, Canadian Institute for the Administration of Justice Conference. Banff, Alberta, 1995.

Crnkovich, self-described as a non-aboriginal, feminist lawyer working for several years on a justice project with Pauktuutit, has written on circle sentencing in Nunavik. She was sceptical about sentencing circles for Inuit then and remains concerned, especially since elders who might be given responsibility for the circles, sometimes have views that rationalize away violence against women. The author points out that protective, supportive resources and infrastructure, such as police detachments, specialized victims services workers and shelters, are often modest, if existent at all in Inuit communities. This is true even in Nunavut outside Iqaluit where there is a permanently based judge, a legal aid service, an Inuit-women-run victim’s advocacy group, and police detachment. She denies that sentencing circles are a traditional practice of aboriginal peoples but claims they have been initiatives introduced by the serving judiciary. She also queries the type

of community involvement that is entailed in the typically vaguely formulated circle sentencing format. She also finds that sentencing circles are quite congruent with, rather than alternatives to, the existing criminal justice system.

Crnkovich contends that Inuit looking into past traditions to deal with current social disorder would be hard pressed to come up programs like a community justice committee. Traditionally the communities were camps of largely related persons where the emphasis was on harmony and the principles were non-interference and responding to problems in a way that would not create more problems. This latter principle might well mean inequity at the individual level (not necessarily the community level) since a skilled hunter might receive lenient responses. The open forum format confrontation or at least discussion, of current restorative justice programs, in her view, is inconsistent with these traditional principles. She notes too that few Inuit, and fewer female Inuit yet, call for the re-emergence of traditional social control practices such as shaming songs, combat and so forth. Her chief point is that Inuit control of justice is important but that must entail the voluntary participation of all elements of the community, including the marginalized, and there must be the backup resources to support any new justice alternatives. In her view justice officials have neglected to consider power differentials, have assumed homogeneity of interests at the community level and engage in political correctness when they advocate such alternatives without asking for tough evaluations, impact analyses and so on. Inuit women she claims "fear the use of these [sentencing] circles in cases involving violence against women". The author feels that despite the concerns of Inuit women it is likely that these alternatives will be used in such cases. She strongly opposes this practice under present circumstances. The author presents a well-articulated, empirically-rooted analysis. Her argument is very persuasive even though one might challenge some of the specific points (e.g., are the shaming songs not compatible at all with the sentencing circle?; how else could the community become involved in developing alternatives to a system about which virtually all are critical).

Crowe, Keith. "Qallunaat Government & Inuit", <u>Inuktitut Magazine</u>, #82, 1997. Ottawa: Inuit Tapirisat of Canada, 1997.

Crowe contends that the independence and culture of the Inuit began to change circa 1550 AD in Labrador/Newfoundland and 1800 AD in Canada. He sketches these subsequent developments (as well as those in Greenland and in Siberia), noting that the outbreak of World War II and the subsequent implications of the Cold War dramatically accelerated these changes. A major result of the strategic interest in the area was the establishment of the federal Department of Northern Affairs and National Resources in 1953; subsequently large numbers of new qallunaat residents arrived in the North and the Inuit population was significantly

relocated and concentrated. Crowe contends that "for many years very little was done to explain to the Inuit the Qallunaat justice system, or to understand the code of the Inuit" (p.33) but gradually this situation changed. In 1958 well-known Inuit leaders were invited to participate in the federal government's Eskimo Affairs Committee. Throughout the sixties "services, schools, and rental housing were built in all communities" and a bilingual CBC radio service was established in the North. The old camp system of life on the land faded away. Arctic co-operatives multiplied throughout the 1960s. Inuit leaders began to be incorporated into the formal political system and the federal government began to supply core funding to aboriginal associations such as COPE (Committee For Aboriginal People Entitlement), ITC (Inuit Tapirisat of Canada), and Pauktuutit (Inuit Women's Association).

Dacks, Gurston. "Reply to Richard Salisbury's Comment on 'The Case against Dividing the Northwest Territories'", Canadian Public Policy, Vol. XII, 1986.

In this reply to a comment on his earlier article the author restates his argument that Nunavut would be a costly experiment (e.g., it will have to develop its own public service) and that a reasonable alternative would be a recasting of government in the NWT such that legitimate concerns of those in the central and eastern Arctic would be met. The author strongly supports the idea of local service delivery and a public service that places emphasis on locally available skills. He criticizes both the GNWT for not responding to the concerns above, and also the Inuit leadership in these regions which, in his view, declined to participate in ways that might have led to a transformation of GNWT.

Daly, K. "Diversionary Conferences in Australia", paper presented at the American Society of Criminology Annual Meeting, November 20-23, 1996.

Daly refers to the large literature on informal justice and the lively theoretical debates that have emerged. She traces the origins of the family group conferencing models in New Zealand and Australia. The major critiques are identified including the critique of family conferencing advanced as an indigenous invention, being a kind of misappropriation of aboriginal culture or neo-colonial control of same. She discusses these critiques in the light of her observations of a number of conferencing cases. Reporting on conferencing cases she observes that the majority of conference participants were offenders and their supporters, a fact which might explain why victims were the least satisfied! She thinks that community building can emerge from conferencing, and that conferencing has done more good than harm. In an appended table she lays out how the three different models of conferencing in that region differ by initial theory or aim, pipeline, police role in

conferencing, political authority, and offences handled.

Depew, Robert. "Popular Justice and Aboriginal Communities", Journal of Legal Pluralism and Unofficial Law, 36, 1996.

Depew places aboriginal popular justice initiatives in the larger context of community development and crime prevention, both theoretically and globally. In discussing popular justice as a general phenomenon, he emphasizes its assumption of communitarianism (i.e., a strong consensus, cultural homogeneity), its strategic direction of reaching a non-coercive, consensual resolution to disputes and conflicts, and the variety of informal and flexible techniques employed. He raises a number of critical issues concerning popular justice. He highlights, for example, "the rush to embrace 'nostalgic' models which nowadays are usually initiated by the state and could be a form of "net-widening", enhancing governmental control, but doing little to effect desirable change with respect to how social relations are structured. He also argues that often popular justice programs take on the characteristics of professionalism, hierarchy, and bureaucracy, and exclude public participation. They become rather similar to the structures to which they are presumed to be alternatives, thereby becoming more or less appendages, and often second-rate ones at that, to modern justice systems where the emphasis is on legal rights. It is not surprising then that popular justice programs in advanced societies frequently are not selected by eligible accused persons, that the constituency served is often the disadvantaged who cannot command other legal resources, and that there is little actual community development or empowerment. Yet, Depew acknowledges the promise of community-based justice systems that work and provide not only an alternative to the current system but also the possibility of a more comprehensive and effective approach to problems of crime and disorder.

Turning to popular justice in the aboriginal context, Depew contrasts perspectives which emphasize aboriginal cultural uniqueness (e.g., Ross, Turpel) and those which emphasize structural factors (e.g., LaPrairie), a distinction that could have significant social policy implications. While favouring the structural perspective, he acknowledges that certain cultural factors may especially apply in aboriginal communities which he argues are set apart often by "their ability to reproduce themselves as a "community of relatives and friends" rather than "communities of strangers". Depew appreciates the need for better access to a quality of justice that is more in tune with aboriginal realities and where aboriginal peoples can claim some ownership and exercise more control. Still, he suggests that underlying proffered aboriginal justice interventions (e.g. sentencing circles, healing circles, aboriginal traditions) has been an illness, healing and health metaphor which is insufficient to the complexities of current aboriginal society. Depew highlights the situation of women in aboriginal society in order to illustrate dysfunctional aspects of the "aboriginal culture as healer" paradigm. He also cites the preliminary results of some pilot projects in aboriginal justice which suggest victims are less satisfied, that "traditional culture" may be manipulated to defend

offender behaviour, that power imbalances are neglected, and that there has been little community-building. There has been precious little in-depth evaluation and scant attention to what the disproportionate levels of person offences, and high female victimization, imply for communities' culture and structure.

Depew contends that justice problems in aboriginal communities are more complex than the current "healing paradigm" suggests. He refers to power and opportunity structures there that rarely imply shared interests, values or equality of access. In his view there is a need to reconfigure these structures, and this imperative has somehow to become part of the popular justice movement in aboriginal society. It is a good argument though it does not address the larger political questions or strategies of the self-government movement, nor the priorities for realizing long-term common interests that may be intricately involved with current emphases on holistic myths and cultural uniqueness.

Dickson-Gilmore, Jane. "The Incentive for Separate Justice Systems", in A. Morrison (ed.), Justice for Natives. Montreal: McGill University Press, 1997.

The author briefly discusses the incentives, for aboriginals, for a separate justice system as a combination of push and pull factors. The push factors include the perception that the justice system has not worked well for them and the inadequacies of indigenization, while the pull factors include the desire for self-determination. She acknowledges some variation in the success achieved by some government-introduced justice initiatives (such as local courts and justices of the peace) as well as the considerable diversity among aboriginal peoples concerning how separate their preferred justice system might be from the mainstream. In this paper she refers to justice programmatics being advanced by the Dene in the NWT and the Mohawk in Kahnawake, both of whom in her view are revitalizing their traditions in a modern context. In discussing the former, the Dene Nation, the author stresses that the desire for autonomy and incorporating tradition has not yet crystallized in a specific concrete set of structures and processes but would probably entail levels or tiers of peacekeeping and dispute resolution. She discusses the elaboration of the 'long house justice system' among the Mohawk at Kahnawake. The long house system was part of the highly complex traditional social organization rooted in clans and is based on a pre-contact mode of dispute resolution. The dispute resolution process involved a multi-tiered, hierarchy activated as required and where the resolution, at whatever level it was reached, entailed the mutual satisfaction of parties involved (i.e., victim and offender). She reports that in the 'post-Oka' era at Kahnawake there has been a pronounced enhanced collaboration among conservatives, traditionalists, peacemakers and warriors, such that barriers to the realisation of separate justice has been reduced. The author notes too that there is a widespread movement for reform of the justice

system and the establishment of alternative dispute resolution programs in the larger Canadian society as well and this commonality might be focused upon "before trying to resolve deep-rooted conflicts".

Dorais, Louis-Jacques. "Language, Culture and Identity: Some Inuit Examples", Canadian J. of Native Studies, Vol. XV, 1995.

The author distinguishes between cultural and ethnic identity and supports his analysis with data drawn from both Nunavut and Nunavik. His main point is that language is not essential to ethnic identity but is fundamental to cultural identity. The author notes that in both areas census statistics show that Inuktitut is very much in use and his interviews indicate that it is highly valued by its speakers as the easiest way to express their feelings and inner thoughts. In both areas there is considerable symbolic importance to being able to communicate in Inuktitut. There is a strong pattern among his interviewees to see English, and to a lesser degree French, in terms of practicality and usefulness, and to see Inuktitut in terms of identity and 'who we are". The author wonders whether the cultural identity provided by Inuktitut will rapidly erode without the active and useful presence of the language. This clearly has implications for the justice system from policing to courts and corrections and also bears on effective translation and so forth of the criminal code, regulations and the like.

Durst, Douglas. "The road to poverty is paved with good intentions; social interventions and indigenous peoples", International Social Work, Vol. 35, 1992.

Durst posits the conventional viewpoint that indigenous societies differ from modern mainstream societies in that among them there is a greater awareness of the needs of the community and emphasis is placed on the community good rather than the individual and his or her rights. While presenting no data nor linking the putative differences to social and economic factors such as population size, density of kinship ties, and mode of economic activity, he argues that the differences are manifest in the areas of adoption and unemployment. He makes some seemingly valid points on adoption (it is more fluid in indigenous societies and there is less secrecy), but his position on unemployment is unclear. The main theme of the article can be readily accepted, namely that social welfare programmes should reinforce traditional family and community processes and decision-making should be as localized as possible.

Etzioni, A. The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda. New York: Crown Publishers, 1993.

This book has been heralded around the world as advancing the social movement for communitarian ideals, with the attendant implications of community-based justice and community problem-solving. Etzioni attempts to shift the moral agenda away from individualism and formal legal rights back to the community, away from "market-driven consumerism towards morally-driven, inter-personal relations". He presents a positive vision of communitarian politics more than an attack against liberalism and the all-powerful interventionist state. Arguing for the current need for balance, he emphasizes responsibilities more than rights, the rebuilding of moral communities, and a decentralized pluralism of communities ("pluralism within unity"). Acknowledging that communities may not have resources and may be characterized by power imbalances and local elitism of one sort or another, Etzioni calls for a 'suasive' rather than 'coercive' community power, and for evaluation to monitor the extent to which the vision of the community is "fully responsive to all the authentic needs of all members of the community". Certainly there are real concerns raised by this book, such as the danger of off-loading responsibilities onto resource-limited communities, but the ideas are clearly articulated and quite timely. The arguments developed seem quite congruent with trends within aboriginal society for more autonomy, more community-based solutions, and new strategies of healing and balance.

Feeley, Malcolm. Court Reform on Trial: Why Simple Solutions Fail. New York: Basic Books. 1983.

This is an excellent analysis of why adult diversion programs accomplished very little in practice in the United States during their heyday in the 1970s. Essentially he contends, and the data bear this out, that too few cases were handled largely because eligible arrestees did not select this option for very good reasons. Divertees' rates of re-offending did not differ significantly from those of other comparable offenders. In his view the courts, unlike their image in diversion theory, have already adopted flexible and informal alternatives on their own, with the result that "diversion is no big deal" and offers the defendant little while it may provide more "hassle" and fewer procedural safeguards.

Finkler, H. "Community participation in socio-legal control: The northern context", Canadian Journal of Criminology, July / October, 1992.

This is a brief, eight page article where Finkler discusses modernization and its impact on socio-legal control in the North. Beyond the usual argument about the erosion of traditional social control mechanisms, the author discusses current initiatives and his prognosis for increased Inuit involvement. He holds that there has been some evidence of community controls being reasserted in the areas of

alcohol control and handling spousal assault, pointing here to initiatives which exhibit some local autonomy as having been accomplished via community committees. Finkler also refers to the recent formation of youth justice committees. While calling attention to these developments, the author's main theme is that the future development of community involvement in the North will hinge on macro-level changes, that is changes in the political economy of the region.

Finkler, Harold. "Corrections in the Northwest Territories 1967-81, With A Focus on Inuit Offenders", in Native People and Justice in Canada. Ottawa: National Legal Aid Research Centre, Vol. 5, 1982.

This article deals with corrections patterns applicable to the first Inuit generation following the centralization of settlements in the 1950s and early 1960s. Admissions in NWT correctional institutions (i.e., short terms) are given by offence location, ethnic origin and year. The author reports a pattern of rising numbers of Inuit incarcerates in the eastern Arctic during the 1967-81 period and a changing offender profile which sees more youthful, town-oriented Inuit persons being sentenced for a wider range of crimes than specific alcohol-related offenses. He calls for community-based alternatives which might also encourage community participation and shared responsibility for social control. Existing correctional models are seen as of limited effectiveness for the rehabilitation of indigenous offenders. The author notes that the establishment of the Baffin Correctional Centre in 1974 represented in part an alternative strategy of introducing local role models, traditional skills, community input and the like but its success appears modest at this time. Finkler expresses optimism that the creation of Nunavut will greatly enhance community-based and tradition-respecting initiatives which could be more effective. While the profile of offenders indicates that they are increasingly acculturated, not engaged in traditional pursuits and hence perhaps resistant to rehabilitative programs emphasizing traditional life styles, elders etc, Finkler argues that developing in the offender a positive perspective on his Inuit heritage can yield a strong sense of self-esteem and responsibility, and subsequently reduced recidivism.

Finkler, Harold. Inuit and the Administration of Criminal Justice in the Northwest Territories: The Case of Frobisher Bay. Ottawa: Supply and Services, 1976.

Finkler presents an interesting and in-depth description of the criminal justice system in Frobisher Bay (Iqaluit). He used both qualitative and quantitative methods in carrying out his research and apparently overcame the disadvantages of not speaking Inuktitut (young persons who of course made up the largest part of the criminal case load were usually fluent in English) and working closely with the

local police (RCMP). The report is laced with lots of tables and case illustrations. Finkler presents a short account of Inuit traditional customs of social control where he basically follows Hoebel's analysis. He also presents a brief description of Frobisher Bay from its settlement in 1942 to its rapid growth in the 1950s and 1960s to the early 1970s where its population was composed of some 1500 Inuit and 900 'Whites'. Finkler emphasizes the role of alcohol in precipitating much social disorder in the area but his data indicate that all kinds of crime - personal offenses, property offenses and public order offenses - were increasing considerably. The chief offenders, proportionately, are young adult males. Female offenses are basically all alcohol-defined crime and young females aged 16 and 17, account for the largest amount of such charges and convictions. Finkler contends that crime is largely a function of strain related to status frustrations and that new patterns of deviance, including a criminal subculture, appear to be emerging in the area.

Finkler also discusses socio-legal control in Frobisher Bay. He describes the widespread use of justices of the peace to deal with summary offenses, the magistrate's court which is a circuit court and the Supreme Court of NWT located in Yellowknife. The first Inuit justice of the peace was appointed in 1962 but apparently Inuit have been reluctant to become justices of the peace and stand in judgement over other Inuit. Inuit are also reluctant to become police officers or special constables (though some are specials) and indeed they are reluctant to lay complaints with the police at all or to report incidents. Overall, throughout the entire justice process the Inuit appear rather passive in Finkler's view. Sentencing has been, in Finkler's view, somewhat sympathetic to native offenders, especially where alcohol and sex crimes have been involved. The Inuit express puzzlement over the sentences and many think that the sentences do not provide enough protection for victims and the community. Legal aid field representatives who functions like courtworkers are available but as in other aspects of the socio-legal system the service has yet to win the confidence or understanding of many Inuit and few offenders approach the representative. The level of passivity, misconception and ignorance of the law is great and combined with the fact that virtually all justice officials are non-Inuit, convey readily the idea that the criminal justice system has been simply imposed upon the Inuit. At the same time Finkler sees many positive developments and signs of increasing rapprochement of the Inuit and the justice system. The opening of the Baffin Correctional Centre is emphasized here since the staff is Inuit and the programs of rehabilitation emphasize getting the inmate back in touch with traditional activity and identity. The Centre allows inmates to work outside during the day, earn wages, and is an open structure without bars and fortification. Finkler calls for more use of interpreters, liaison roles, hiring of Inuit in justice roles, and translations of laws, regulations and so forth into Inuktitut.

Finkler's study provides a baseline for examining trends in Nunavut crime and criminal justice system over the past twenty-five years (i.e., a generation removed). It does appear that the problems he discusses - high crime, much violent, unsuccessful rehabilitation, criminal subculture etc - remain very significant as attested to by more recent studies by Irwin and Griffiths, and by statistics released from Correctional Services Canada. New facilities have been built, more lawyers are now available, certainly greater awareness of the justice system now exists among the Inuit but these do not appear to have had much impact on the problems. Perhaps there is a need for a more radical restorative justice approach at all levels; if so, as Finkler attests, there would be some continuity in that many judges and justice officials have tried to dispense a culturally-sensitive justice.

Fitzpatrick, P. "The Impossibility of Popular Justice", J. Social and Legal Studies, 2, Vol.1, 1992.

This article is a critique of popular or informal justice as it is, and has been, implemented in modern society. Essentially the author argues that there is much compatibility between informal justice and formal justice and that the former, in practice, draws upon, is constrained by, and legitimates formal justice. In making his points the author refers to the most famous community mediation program in the United States namely San Francisco's Community Boards. He notes that it has features quite compatible with formal mainstream justice such as decontextualizing cases (avoiding larger issues unearthed by a two-party dispute) and the quasi-professional status of the mediators. Fitzpatrick contends that the popularity of alternative justice rests on its expressing values that deservedly elicit broad allegiance, such as equality not only between those in dispute but also between them and the people charged with resolving the conflict. Yet these values are not realized in informal justice programs and there is little specific information in this article on how to do so. The author raises complex issues and his arguments are complex and theoretical. While not ostensibly positive about the chances for 'true' informal justice (see his title) and offering no clear recipes, he does call attention to factors such as equality among all participants, participation, and community support as generating a more authentic informal or alternative justice.

Frankenstein, Ellen and Sharon Gmelch. A Matter Of Respect. New Day Films. New Jersey. 1992.

This is a short documentary about tradition and change among the Tlingit of Sitka, a south-eastern Alaskan coastal community just south of Juneau. The film explores the attempts, apparently successful, of Tlingit people, young and old, to meaningful integrate their cultural traditions with modern American life styles and

realities. Corporations established through settlement of land claims invest Tlingit income and maintain a corporate Tlingit identity; such corporations are characterized as being 'in the best of both traditions (i.e., Tlingit, American). The Tlingit language is being taught at school and efforts are being made to convey to the youngsters Tlingit music, skills and customs; the latter include providing direct experience of traditional fishing and food preparation techniques. While the emphasis has been on expressive cultural considerations it is clear that there is a conscious strategy to develop a strong secure sense of self, participating fully as Tlingit in modern American society.

Franks, C.E.S. Public Administration Questions Relating to Aboriginal Self-Government: Background Paper # 12. Kingston: Institute of Inter-governmental Relations, Queens University, 1987.

Franks discusses traditional self-government among Canada's aboriginal peoples, distinguishing between migratory tribes (including the Inuit) and those of the plains (also the Pacific coast tribes) which had more elaborate supra-band political organization; concerning the latter (e.g., League of Iroquois) he contends that their political organization became more complex in recent centuries, occasioned in large measure by contact with Europeans. Franks notes that social pressure was the chief means of social control among all types of aboriginal societies. In this regard he mentions the Inuit song contests as an example of traditional conflict resolution and control, as well as entertainment.

Franks traces briefly the evolution of the concept of aboriginal self-government. He cites developments in the late 1950s, the Mackenzie Valley Pipeline Inquiry and the James Bay negotiations. Franks of course mentions the development of federal government departments with a mandate to deal with aboriginal, especially the creation in 1966 of the Department of Indian Affairs and Northern Development (DIAND); by the time of his writing over 60% of DIAND funds were administered by the bands. An important factor in the evolution of ideas concerning aboriginal self-government has been the allocation by the federal government of core funding to aboriginal groups and organizations beginning in 1971; by the time of his writing over 100 million was given annually to about sixty aboriginal associations and in Franks' view, “they have become effective pressure groups”.

Franks discusses some of the key problems in the realization of self-government. He emphasizes for example the problem of small size, arguing that Indian bands for the most part are too small even for efficient service delivery, let alone policy-making, and notes that even the NWT as a self-governing unit has to be considered of small size for self-government purposes. Franks cautions against the danger of

unrealistic expectations about what self-government can and will do. Other potential problems cited by Franks include new divisions within the community between aboriginals in professional / top government positions and others, conflicts with the traditional ways of doing things, and funding commitments of the federal government. All these issues would seem to be relevant for the Nunavut society.

Frideres, J. S. "Native Settlements and Native Rights", Canadian Journal of Ethnic Studies, Vole 1, 1981.

Here the author details and compares three major native-government agreements namely the Alaska Native Settlement, the James Bay Indian/Inuit Settlement and the Western Canadian Inuit Settlement. The basic ingredients of land ownership with restrictions on land alienation, land access, compensation monies placed in a corporation or other legal entities managed by the aboriginal people themselves, mineral rights, and local political authority are found in all three agreements. Comparison with the Nunavut agreement would be interesting. On the surface given the land ceded to Inuit, the monies advanced or committed, mineral (including oil, gas etc) rights, and access rights, the Nunavut agreement compares well. Of course one has to take into account the resources and utility of the lands involved, the population numbers, as well as other factors. One aspect that seems to be special to Nunavut is the transition training funds which presumably will facilitate the Inuit obtaining their full share of the managerial, professional and technical jobs in Nunavut.

Galaway, Burt, and Joe Hudson (eds.). Restorative Justice: International Perspectives. Monsey, NY: Criminal Justice Press, 1996.

This book describes well the recent international experience with restorative justice through this collection of mostly original papers written by scholars from around the globe. The thirty articles, five of which focus on aboriginal initiatives, deal with a wide range of restorative justice issues and depict the considerable diversity of restorative justice thinking and projects.

In a brief introduction the editors identify some common themes. They indicate that at the core of restorative justice, as reflected in this book, is victim-offender reconciliation. Three elements are seen as fundamental, namely that crime is primarily conflict between individuals, that the goals of justice processes should be reconciliation and reparation, and that justice processes should facilitate the active participation of victims, offenders, and other community members. The centre-piece of the restorative justice experience is considered to be "the offender

expressing shame and remorse for his or her actions, and the victim taking at least a first step toward forgiving the offender for the incident". The editors list numerous desired outcomes for victims (e.g., a sense of closure), the offender (e.g., reintegration), and community (e.g., humanizing the justice system). Yet, while advocates, the editors are realistic, noting that "little research is reported in these chapters", and "little rigorous evidence is available to support the extent to which these [purported outcomes] are actually achieved".

Gerber, Linda. "Multiple Jeopardy: A Socio-Economic Comparison of Men and Women Among the Indian, Metis and Inuit Peoples of Canada", Canadian Ethnic Studies, XXII, 1990.

The author uses census data to examine the hypothesis that aboriginal women are doubly disadvantaged because of both these identities or statuses. She finds some support for the hypothesis, especially for Indian women. The data indicate significant Inuit male-female differences for income, labour force participation and employment status but also that Inuit gender differences in income are among the least for all Canadian ethnic groups. The pattern of male-female occupational differences among the Inuit was consistent with, though not identical to, Canadian patterns overall; women were more likely to be found in clerical and service jobs and to have post-secondary certification in fields other than trades.

Giddens, Anthony. The Consequences of Modernity. Stanford, CA: Stanford University Press, 1990.

This is a classic treatise on modernity by one of world's leading sociologists. It discusses how modernity arose, and became a global phenomenon. Particularly significant are the analyses of the kind of processes that it has unleashed, and the risks and promises that modernity holds out for human life. Of especially relevance here are three ideas. First, Giddens argues that modernity has been shaped by Western culture with its particular values and structures. Accordingly, traditional societies and cultures, such as aboriginal systems, experiencing modernity are subject to powerful but subtle pressures to reproduce these values and structures, whether in the field of justice or whatever. Secondly, Giddens discusses processes of modernity such as "distanciation" (i.e., social relations are no longer tied to particular locales), and "disembedding" (i.e., 'lifting out' understanding of social relations from local contexts) which provide the legitimizing basis for the increasing reliance on professional and technical experts. Clearly, to the extent that the local context is deemed to be an essential feature of social relations, and/or there is insufficient trust in professionals, community-based programs in justice (e.g., treatment programs) will be more strongly emphasized. Thirdly, Giddens

notes that modernity brings an increased risk of the growth of totalitarian power at the same time as it holds out the promise of multilayered democratic participation. Greater decentralization of resources and decision-making in fields such as justice provide some prospect for the latter being attained.

Giokas, John. "Accommodating concerns of aboriginal peoples within the existing justice system", in Aboriginal Peoples and the Justice System. Ottawa: Royal Commission on Aboriginal Peoples, 1993.

Giokas makes two principal points in this article. He emphasizes the need for projects dealing with the development of internal community structures for aboriginal criminal justice and he argues that the best way to avoid native alienation is to avoid the court altogether, diverting people to more appropriate forums where there can be a focus on community methods of restoration and healing.

Glancy, Graham and Cheryl Regehr. "The Effect of Sexual Assault on a Small Isolated Community", Can. J. Psychiatry, Vol. 36, 1991.

This very brief article discusses sexual assault in a small Baffin Island community. It highlights the grave consequences associated with the widespread sexual abuse visited upon young male pupils there by a trusted white school principal, by detailing the consequent problems that have plagued a particular family. The inference is made that the family is a microcosm of the community though no evidence is advanced to justify that claim.

Goehring, Brian and John Stager. "The Intrusion of Industrial Time and Space Into Inuit Lifeworld", Environment and Behaviour, November 1991.

The authors briefly summarize traditional Inuit meanings of time and space and discuss the profound and rapid change that has happened to the Inuit 'life world' since "the appearance of kablunaq". They cite with approval a statement which captures the force of modernity, namely "to be modern is to be part of a universe in which, as Marx said, all that is solid melts into air". The authors contrast the different conceptions and meanings of time and space held traditionally by Inuit and in modern industrial society. They posit a tremendous upheaval and disorientation associated with this forced change, a situation or state of identity crisis reflected in high levels of suicide, escapism and substance abuse. The authors point to three main stressors that Inuit will have to contend with, namely rapid social change, dehumanizing forces and environmental stressors such as

overcrowding and pollution. At the same time they note that Inuit have been great adapters and that they have organized and become sophisticated about the sources of social power. They suggest that the coming of Nunavut represents a very positive opportunity to deal with the stressors on their own terms. It is an interesting article though little evidence is offered to support key planks in the argument.

Graburn, N. "Eskimo Law in Light of Self-and Group- interest", Law and Society Review, Volume 4, 1969-70.

Graburn discusses conceptions of traditional Eskimo society, exploring whether it exhibited the paucity of legal structures and processes, as argued by Hoebel and van den Steenhoven, or could be characterized as having more institutional development. He concludes that Hoebel's account is most satisfying given the variety of behaviours illustrated when, in traditional society, conflict, murder and so forth occurred. In fact Graburn himself advances a Hoebel-like specification of postulates governing the considerable flexibility in Inuit response to such behaviours. Graburn posits a set of values which underlie 'traditional' Eskimo reaction to stress, conflict and wrongdoing. After a careful examination of Eskimo value orientations and their correlates, Graburn contends that the characteristic theme in Eskimo reaction is "the highly individualistic, self-seeking ethos". Among his several deductions from case analyses is one contending that in traditional Eskimo society "close-kin and marital relationships may fail to provide a necessary restraint upon violent social interactions". Discussing the variety of traditional reactions to conflict Graburn mentions killing, avoidance, ostracism, and self-detachment; he adds that "by far the most common reaction in post world war 2 Eskimo society is "leave it to the white man". Graburn provides lots of examples and stories to exemplify the flexibility and variety of traditional Eskimo reactions. He also mentions the specific mechanisms of social control which were sometimes employed, such as song contests and "the scolding sessions". In sum, Graburn indicates that the Eskimo response to wrongdoing was highly flexible and that there was a kind of situational pluralism as far as legal actions were concerned. He acknowledges that "we have not yet defined exactly the operative criteria of the situations" and, in effect, his analysis yields a characterization of traditional Eskimo legal action as similar to Hoebel's "primitive anarchy".

Graburn, Nelson. “Television and the Canadian Inuit”, Inuit Studies, Vol. 6, 1982.

The author argues that television, as it was broadcast at the time of his writing, was “a late and powerful form of genocide”. Southern television programmes have been available in the Canadian North by the Anik system since 1972 and the

television is commonplace, and usually on, in Inuit households. Television requires electric power only available in the settlements so it is more radical in effecting cultural change (e.g., locking people in to new time and place restrictions) than the radio. Little television content is either in Inuktitut or tailored to Northern realities and what is, is not popular among the younger generations. Television's impact is particularly noticeable on children and youth. And of course television reinforces painlessly (compared to school) the spread of the English language. The new Anik B satellite will introduce more Inuktitut programming but also more English and French programming. While pessimistic the author does note some positive models such as the Greenland TV service, and a plan for an Inuit Television Service in Canada.

Green, Gordon. "Community Sentencing and Mediation in Aboriginal Communities", Manitoba Law Journal, forthcoming.

This paper is based on interviews and field observation in six aboriginal communities in Saskatchewan and Manitoba; no victims and few offenders were interviewed. Starting from the over-representation, inequity and alienation perspective, the author discusses the new initiatives in six communities serviced by a circuit court and policed by the RCMP. He discusses circle sentencing (extensively utilized in Yukon and to a lesser extent in Manitoba, Quebec, and Saskatchewan), its physical arrangements, emphasis on informality and equality among participants, core attendees, range of styles, legal status of circle recommendations (there is no provision in the Criminal Code for these and they may be likened to pre-sentence reports but judges indicate a strong commitment to the recommendations), public accessibility, emphasis on consensus among participants (though not necessarily unanimity), and resource commitment (they take time!). He notes the criteria for selection of cases that have developed in some areas and mentions, too, protocol negotiations (e.g., Hollow Water) and the possible screening by a local justice committee. Some problems, and other limitations highlighted, concern domestic violence cases where there may be power imbalances between the victim's and the offender's 'sides', long delays required to shore up victim participation, the need for protection especially for victims, and the need for some impartial agent to facilitate the interaction. Also discussed are elder panels and sentence advisory committees (here the sentencing circle committee may meet independently and then submit recommendations to the judge to save court time as well as empowering the community), and community mediation (the Criminal Code was amended in 1996 to recognise adult alternative measures programs). In considering the impact to-date the author notes that it is still premature but the following points can be advanced: the sentencing circle has been viewed by native people as having traditional significance; victim involvement has been inconsistent and the support available for them sometimes

less than that for offenders; a common view is that for offenders "it's an easy way out" especially as treatment options are so limited; concern exists about power imbalances though there has been little direct sign of attempted political interference; usage is still quite limited; statutory reform is unnecessary though there has been little appellate court comment and there may be issues regarding aboriginal rights here that require appellate decisions. Green thinks that the initiatives could well apply to non-aboriginal communities.

Griffiths, Curt, E. Zellerer, D. Woods and G. Saville. Crime, Law and Justice Among Inuit in the Baffin Region, NWT, Canada. Burnaby: Simon Fraser University, Northern Justice Society, 1995.

The monograph reports on research carried out in thirteen communities in the Baffin region over a period of five years. Crime rates were analyzed as were local attitudes and perceptions of justice. The report indicates that the Baffin had a violent crime rate six times higher than the rest of Canada and as high as some of the worst areas of the United States. Property crime is also very high compared to other jurisdictions, including other Aboriginal communities. The main violent offenders are young male adults (average age 28 years) and this same grouping is disproportionately involved in property crimes (though youth are also major offenders here). The report notes that violent offenses typically (66%) occur among close relatives and that spousal assaults make-up some 30% of all violent offenses. Among the 370 residents and former residents interviewed (Inuit, White, Justice officials) there was a widespread view that repeat violent offenders receive too lenient sentences, frequently being put on probation which in effect keeps them in their small villages without proper supervision. Griffiths et al contend that "many women and children are at great risk. Some offenders have been running amok for years". There was also the perception that Inuit receive more lenient sentences than non-Inuit, implying either that they were less responsible for their actions or that justice officials accept, implicitly, some cultural rationalization for the actions. Griffiths notes that the high crime rate and violent crime rate began to develop subsequent to the Inuit being concentrated in permanent settlements.

The authors' comment that "the problem is too big and complex for the police alone to deal with; nonetheless they must become part of the solution". The task will not be easy as Griffiths et al point to a high level of Inuit dependency upon external governments, and the undermining of the spirit of committee involvement by the current government practice of paying residents to be committee members. They also suggest that much reference to an enlarged role for elders is misguided. Elders in their view are often marginalized and, accurately perceiving that they would not be listened to, are reluctant to assume a greater role in community justice initiatives; as the authors say "much discussion about involving the elders is

often more wishful thinking than fact". More generally the authors point to a pervasive reluctance among Inuit to sit in judgement on other Inuit or to criticise them, something the authors attribute to tradition or culture. Two interesting questions follow from this report. First, if Inuit reluctance to become involved in keeping peace and order is more a response to colonial status than a cultural legacy, then perhaps the emergence of Nunavut might herald new possibilities for community initiatives. Secondly, if the major offenders are young adult males, what can be done to alter their life conditions and reduce their frustration and outrage, whether directed inwards or outwards?

Griffiths, Curt (ed). Preventing and Responding To Northern Crime. Burnaby: Simon Fraser University, Northern Justice Society, 1990.

This publication is based on materials presented at workshops during the 4th meeting of the Northern Justice Society. Materials pertinent to the Inuit in Nunavut are found especially in chapters #1 (historical development featuring the clash of Inuit and mainstream law, the circuit courts, justices of the peace etc), #8 (the expanding roles of court workers and paralegals), #14 (open custody in Labrador for adolescents) and #20 and 22 which focus on the issues of family violence and sexual assault.

Guemple, Lee. "Men and Women, Husbands and Wives: The Role of Gender in Traditional Inuit Society", Inuit Studies, vol. 10, 1986.

The author presents an interesting conceptualization of the Inuit world view, weaving together in a meaningful fashion the interplay of work, gender and sexuality. Field experience in Belcher Island is drawn upon but, as the author acknowledges, some of the analyses is more speculative than rooted in 'thick' ethnography. Essentially the argument is that differential work activities, occasioned by the division of labour 'required' (or at least 'selected') in the harsh arctic environment are at the heart of normative gender differences and marriage roles. The argument is well-developed though some strands of interpretation might be controversial. For example the author posits a degree of gender equality (e.g., a norm that a wife must consent to sexual relations with her spouse and cannot be forced) and individual autonomy (e.g., early parental betrothal is not binding on the betrothed pair when they reach maturity) that other Inuit scholars might disagree with. She makes a side-argument that one of the main reasons for the great celebration of the Inuit in Euro-North American culture -apart from admiration for their survival techniques, and generosity of spirit- is the misinterpretation of Inuit sexuality as uninhibited and expressing a primitive eroticism. In her view sexuality is, like gender and marriage roles, essentially part

of the ethos associated with work (i.e., survival) activities. This is a fine bit of anthropological analysis though it is surprising that the author does not explicitly identify survival as the preoccupation of traditional Inuit culture and in that context place the significance of the particular work activities strategy that they developed. Also it is interesting to speculate how the contemporary Inuit situation would be with respect to gender roles, marriage and sexuality given the profoundly different context of work and indeed the vast unemployment that now exists in Nunavut.

Hall, G.R. "The Quest for Native Self-Government: The Challenge of Territorial Sovereignty", University of Toronto Faculty of Law Review, 50, 1992.

The author presents an interesting argument that the principle of territorial sovereignty threatens to make self-government among aboriginal peoples unworkable. Self-government presumably requires the establishment of a separate legal order applying only to native people but the concept of territorial sovereignty, reflected in the usual interpretations of the 'rule of law', has led to judicial judgements that the criminal law of Canada must always be followed where there is conflict between the criminal law and aboriginal traditions and customs. Hall contends that territorial sovereignty is not an absolute in the existing legal order, pointing to how taxation law, admiralty law, military law and diplomatic immunity all provide flexibility in the application of the sovereignty principle. In his view the existing law, imaginatively and generously interpreted, can become a positive force for the recognition of aboriginal self- government and can free natives to design self-government in creative and innovative ways. The author provides detailed case and statute review to support his arguments.

Haysom, Veryan and Jeff Richstone. "Customizing Law in the Territories: Proposal for a Task Force on Customary Law in Nunavut", Inuit Studies, Vol. 11, 1987.

The authors commented on the proposal to integrate customary law within the overall justice system in the future territory of Nunavut. They considered some of the legal and other problems that would confront a proposed task force designed to examine just how that objective could be accomplished. They observed that taking custom into account is a continuing process since the culture and customs of a people change as there are revitalized, rediscovered, reinterpreted and modified to changing circumstances. This perspective raises questions about the desirability of codification of customary laws. The authors presented a proposed terms of reference for the task force and suggested activities it should undertake. They drew on the experience of similar task forces in Australia and Papua New Guinea. They argued that only by according customary law the status of the 'sole underlying law' might customary law receive high salience from the courts and the legal and

administrative system. The authors also stressed the possible reform of the substantive principles of criminal law as it relates to aboriginal people. They called attention to the issue of "internal conflict of laws" which arises when a judge must choose between two systems of law which are not territorially distinct, an issue that might arise in Nunavut which has a non-Inuit population while government is charged with ensuring that Inuit culture be protected. Accommodation might well be more easily accomplished in matters of civil law, as happens in some African societies where customary laws of diverse tribes are acknowledged.

Hazlehurst, Kayleen. "Community Healing and Restorative Justice: Two Models of Recovery in Aboriginal Australia", Ottawa: Correctional Services Canada, 1997.

The author indicates that many small aboriginal communities in Australia "have experienced a devastation of basic human and social relationships"; as an elder told her "it seems as though all the threads that once bound us have broken". The author stresses that what must first happen is community recovery and in order for that to happen there must be collaboration among aboriginal and non-aboriginal peoples. She points to Canadian initiatives such as Native Counselling Services of Alberta and Pound maker's Lodge as inspiration for Australian, embodying the ideas that solutions must come from within the native communities, involve native people as active subjects of the healing process, represent a revitalization of traditional culture, and occur at both the individual and community levels. Videos, handbooks and manuals, conferences and programs focusing upon domestic violence, have been designed by and for aboriginal communities in Australia.

Hazlehurst highlights two models, namely the "We Al-Li Program" and Community Justice Groups. "We Al-Li" has chosen to deal with hard-core problems - the habitually violent, the enraged and the addicted. The program emphasizes understanding the roots of the general problem (e.g., colonialization) in a context of caring and traditional ritual and ceremony. "Telling the stories" and 'deep listening to the victims and perpetrators of violence" are key techniques. Apparently after but a few days individuals leave with a sense of pride and a strategy for their own healing. The program has been acclaimed and its techniques have been packaged into a university certificate in indigenous therapies. The Community Justice Group model developed out of research that indicated aboriginal people were in a survivor mode, fearing the return of prisoners to their community, and feeling powerless in controlling violence and even disciplining their children. Community Justice Committees (CJC), broadly representative of the community in each case, were formed but their roles were not pre-determined. A community corrections liaison officer was appointed to be a catalyst and source of training, legitimacy and protection for the CJCs. Thus far the CJCs have become involved in crime prevention, sentence advisory, diversion (cases are referred to

them by police and courts), and special programs such as wilderness camps. They network with social agencies such as police, courts and family services. The author indicates that there are signs of success not only for individuals but also seen in the growth of community programs. Interestingly, the GNWT has sponsored CJCs throughout the region and has provided both training and financial compensation for the CJC members. The CJCs in the Nunavut area have focused primarily on youth diversion programs but other initiatives have also been taken up. Also, the RCMP is formally committed as an organization to sponsoring CJC in their detachments across Canada.

Head, Robert. Policing for Aboriginal Canadians: The RCMP Role. Ottawa: R.C.M.P. Headquarters, 1989.

Head, an assistant commissioner of the RCMP, reviews policing, especially of course RCMP policing, in Canada's aboriginal communities and advances some 82 recommendations for consideration by the RCMP organization. He constituted, as it were, a one man task force for the RCMP, using a variety of methods (site visits, surveys etc) to assess the situation and suggest needed changes. His report contends that there are some important differences between the Inuit and North American Indians, especially their greater homogeneity and their established pattern of successful co-operatives. At the same time he also notes common patterns such as the problem of recidivism, the high levels of suicide especially among young adult males, and the desire for a community-based policing style with aboriginal (Inuit) officers and respectful of traditions including language. Head observes that the RCMP in the field need to explore alternatives to the current reactive, enforcement emphasis, particular suggesting the need for diversion initiatives for youth. Many of Head's 82 recommendations deal with issues of reorganization and training/recruitment practices. But he strongly emphasizes the importance of elaborating on the RCMP's commitment to community-based policing in the aboriginal communities. In his view the key concepts underlying the RCMP's service to these communities should be “partnership and [shared] ownership”.

Hoebel, E. Adamson. The Law of Primitive Man. Cambridge, Mass: Harvard University Press, 1964.

This is the classic analysis of comparative legal dynamics which highlights the nature of law and justice in 'primitive society'. In discussing the 'Eskimo', in a chapter descriptively titled “rudimentary law in a primitive anarchy”, Hoebel draws on the works of the great ethnologists of the North namely Boas, Jenness, Rasmussen, Freuchen and Birket-Smith. Hoebel observes that Inuit were organized into widely scattered small bands without a superstructure of social organization, though surprisingly there was a high degree of uniformity of culture and language (i.e., the Thule culture). The small groups were clearly an intimate face-to-face aggregation. Hoebel examines the implications of nine postulates of jural significance that he deduced from the ethnographic literature. These include norms such as private property is subject to use claims, individuals must be free to act with a minimum of formal direction from others, women are socially inferior to men and so on. Inuit thinking was oriented to taboos and in some instances there were public confessionals led by the shaman where the 'guilty party' (the taboo breaker) was confronted. Hoebel also comments that Inuit were gently tolerant and compassionate of the sinner in most cases. There clearly were rules then and sanctions administered by culturally 'credentialized' persons; in other words there was law.

Hoebel discusses Inuit perspectives on senilicide, infanticide, invalicide and suicide in relation to postulates such as “those who are no longer capable of action are not worthy of living” which reflect the reality that “life is hard and the margin of safety small”. Certainly, according to Hoebel, Inuit had conceptions of private property objects though excess was criticised. Generosity, freedom to act, and lack of rules combined to make “the arena of sex ... the primary Eskimo breeding ground for trouble and law”. Hoebel discusses dispute resolution strategies such as song duels and regulated combat. Hoebel refers to these latter as “juridical instruments”. He notes that in these contests justice is satisfied by the litigants (contestants) feeling relief rather than by punishment of the guilty or a principle of just deserts. Hoebel's analysis says nothing concerning a role for elders, as opposed to the shaman, in regulating disputes but it does suggest some comparability with restorative justice initiatives such as community justice committees and family group conferencing in so far as traditionally there were public ceremonies and an orientation to relief and participation rather than punishment.

Interestingly, the Hoebel analysis has stood the test of time as indicated in more recent analyses (Vallee, 1971; Mitchell, 1996). Perhaps the only area where his assessments have been questioned concern his views regarding the subordinacy, formal and informal, of Inuit women (Pauktuutit, The Inuit Way, 1989).

Hunt, C. "Aboriginal Decision-Making and Canadian Legal Institutions" in J. Law and Anthropology, 6, 1991.

This paper deals with the question of the extent to which present methods of decision-making in law and justice, in aboriginal communities have been built upon traditional practices, and to what extent have they been influenced by non-aboriginal methods. The article is based on library research, examining statutes, court cases and the like. The author notes that both the Inuvialuit Agreement of 1984 and the Cree-Naskapi Act (a fundamental part of the James Bay land claim agreements of 1975 and 1978) do entail significant aboriginal uniqueness. Inuvialuit procedures clearly allow for a major role to be played by local people (e.g., in assessment of development applications) and the procedures "are very different than would be found in a non-aboriginal setting elsewhere in Canada". The Cree-Naskapi Act is seen as "far beyond the Indian Act in recognizing customs and traditional forms of decision-making" (e.g., community involvement, band distinctiveness). Recent court rulings have also strengthened the power of Indian band by-laws, in the case of conflict of a validly-enacted band by-law with a more general federal fishery regulation. The Constitution Act of 1982 (especially s. 35) has rooted the special status of aboriginal peoples and provided an entry for them to the constitutional amendment process. While constitutional entrenchment of aboriginal rights of self-determination remains unfulfilled the federal government has been pursuing self-government arrangements on a band-to-band basis. Some bands such as the Sechelt of British Columbia have formalized decision-making (e.g., electoral rules, band law authority procedures) that are not very different from those followed in non-native communities. The author also notes that there are some unique aspects (e.g., no party politics as such) in the operations of governments in the NorthWest Territories and some differences in the courts and law enforcement that reflect aboriginal uniqueness. The article is clearly an overview of the amalgam of the old and the new, reflecting the way aboriginal communities are evolving to their changing circumstances and advancing in the adaptation of tradition to Canadian laws and institutions. The article is now somewhat dated, missing of course all the developments in the justice field that have occurred in the 1990s. Still it focuses upon an important question and by example provides a useful methodology for examining the question.

Inlet, Paul. "Elders Traditional Laws", Inuktitut Magazine, #82, 1997. Ottawa: Inuit Tapirisat of Canada, 1997.

The writer compiled some traditional laws as conveyed by elders in the Pond Inlet area. The elders emphasized the role that "well-being elders" played in mediating disputes, counselling offenders, and preventing social offenses. The basic method

elders employed was apparently to talk to people with problems, sometimes several elders in concert and sometimes on an one-to-one basis. It was indicated that "before the arrival of white men shamans were common intervenors" (p.47); the elders recalled this interventionist strategy as being quite effective in reducing recidivism. Elders reported mistreating others to be "one of the most vicious acts a person could do" and they reported that stealing another's property was considered improper and having intercourse with close relatives was a major taboo. The elders had some criticism of current practices, for example indicating that the current practice of having women sent to safe shelters without notifying others (e.g., the husband, elders) should be changed.

Ivanitz, Michelle. <u>Traditional Family Law: Inuvialuit and Kitikmeot Region</u>. Ottawa: Family Law Review, Department of Justice, 1990.

This report is the equivalent of Uviluq's report on family law in the Baffin and Keewatin regions of the NWT. The research format was to discuss issues in small, age-homogenous groups. A major focus was the custom adoption and here the author reports similar practises as found by Uviluq, such as that natural parents continue to play a role (sometimes even doing the breast feeding) and that the norms and strategies of adoption were quite situational. The criticism made in the focus groups was that nowadays the whole adoption process is caught up in paper and red tape. The author does show, however, that there are considerable generational differences about custom adoption, especially the role of elders in it. At the same time she suggests that setting up committees which would include elders, and others, to articulate the principles for adoption and then to advise the social worker on specific cases, would go a long way towards dealing with difficulties. She presents no data on some controversial claims such as the claim that "native adoptions are much different in concept than those in the south as the adopted child among native families is even more special than biological children".

There is a brief discussion of common law marriage, of marriage and co-habitation agreements and support payments. The views of the focus groups, as presented, were quite conventional concerning the preferability of marriage, the recognition of common law associations after a certain period of co-habitation, and the fathers' role in custody arrangements, and the division of assets in the case of divorce. In fact the discussions clearly indicate that the major difference in values and perspectives is not between North and South but between elders and young adults (e.g., the young say the elders are out of touch in not realizing the need for explicit support legislation). Surprisingly, no reference is made to the very low participation of Nunavut area women, outside Iqaluit, in the maintenance support programs available. The report ends with a brief reference to the advantage of

utilizing mediation and alternative dispute resolution instead of going through the courts, though once again the author highlights the difference between elders and the younger generation with the latter not supporting the concept of elders forming mediation roles. Generally the paper concludes with a call, emanating from the discussion groups, for more community participation in and control over the justice system.

This report has much the same shortcomings as the Uviluq report in not being analytical, not supporting controversial claims, and showing a limited view of southern norms and practices. Nevertheless, some interesting patterns are noted and insightful distinctions are drawn between the generations in the North.

Jackson, Michael. "In Search of the Pathways to Justice: Alternative Dispute Resolution in Aboriginal Communities", U.B.C. Law Review (Special Edition: Aboriginal Justice), vol. 26, 1992.

In this ninety-two page paper Jackson provides a comprehensive overview of aboriginal justice initiatives as a social movement. He outlines the several theoretical explanations commonly used to explain the over-representation of aboriginal peoples in the criminal justice system and observes that each entails a different package of alternative initiatives. The cultural model (i.e., the clash of aboriginal and western cultures) invites alternatives such as cross-cultural training, native court-workers and, more generally, indigenization. The structural model (i.e., the focus on economic and social marginality) invites alternatives such as greater access, fine options, and anti-poverty strategies. The third model, and the one held by Jackson, stresses the factor of colonization and subjugation. Its entailed alternatives would focus on aboriginal peoples' right to control their own destiny, including control over the justice process in aboriginal communities. Jackson observes that many aboriginal groupings have advanced the latter position (see submissions by the Blood Tribe to the Cawsey Task Force and the report of the Osnaburgh/Windigo Tribal Council, cited in this bibliography).

In discussing, briefly, the nature of aboriginal systems of law and justice, Jackson refers to American and Australian materials as well as Canadian. He identifies some distinctive themes (e.g., the emphasis on community, on restoration and reintegration rather than punishment, the higher priority given to collective rights) but cautions that aboriginal systems are themselves quite diverse. Jackson also places aboriginal justice initiatives vis-a-vis the alternative dispute resolution movement in the Canadian justice system. He notes that there has been a clear trend over the past twenty years in calling for greater focus on restorative justice principles in criminal justice policy and practice. Recently much attention has been given to the many parallels between restorative justice principles and aboriginal

traditions of justice. At the same time he argues that there are sharp differences, such as the greater emphasis in aboriginal systems on collective responsibility, on social and family networks, and on aboriginal spirituality. Consequently, while the shift in the mainstream justice system towards restorative justice may permit greater accommodation between it and emerging aboriginal systems, Jackson contends that the legal pathway to justice for aboriginal people must be found in their own initiatives.

In the last section of the paper Jackson discusses recent alternative dispute resolution initiatives in aboriginal communities. He cites the recommendations of several major inquiries (e.g., Marshall, Cawsey) and specifically details initiatives advanced by the First Nations of South Vancouver Island (Coast Salish), and the Gitksan and Wet'suwet peoples of North-Western British Columbia. Jackson notes that these initiatives focus upon issues of special concern to the communities (e.g., sexual abuse, wife battering) and entail strategies that are unique to aboriginal systems (e.g., the significant role of elders). While acknowledging that such initiatives can be developed within the existing justice system, he makes it clear that enabling legislation would guarantee respect, and perhaps funding, from non-native participants in the criminal justice process, as well as facilitating a sense of ownership and accountability in the aboriginal communities. It can be noted that virtually all aboriginal justice initiatives cited by Jackson were in the preliminary stage and did not have significant secure funding; nor was there any evidence marshalled to assess issues of equity, efficiency and effectiveness with respect to the new aboriginal justice initiatives.

Overall, while the examples provided may be dated, this is an excellent paper which consistently develops a particular viewpoint.

Jensen, Henrik. "Justice In Greenland", Self-Sufficiency In Northern Justice Issues. Burnaby: Northern Justice Society, Simon Fraser University, 1992.

The Greenlandic justice system is well-known for incorporating traditional Inuit ways, for its community-based court system where lay judges and lay-assessors (presumably well-respected local persons) operate the sixteen magistrate courts with general jurisdiction, and for the leniency of its sentencing and the openness of its correctional institutions. The author discusses all these issues. He notes that traditional Inuit there used 'singing fights' to resolve dispute; these 'fights' involved the disputants appearing before a community gathering and served a psychotherapeutic rather than punishment function. A dualistic penal law system arose in Greenland centuries ago and it provided one system for Greenlanders and another for Danes in Greenland. This system was extended in the 1951 Administration of Justice Act. That act elaborated the model of local district lay

justices expressly to avoid the circuit court model. The High Court of Greenland, a court of appeal with a jurisdictionally trained judge (along with lay assessors), was established to hear appeals and in some cases to serve as the initial court; it was also expected to provide direction and guidance for the local courts.

The Greenland criminal code explicitly emphasized rehabilitation of offenders and the protection of society. Treatment of offenders presumably was "substantially unaffected by the gravity of the crime". There was also a rejection of the use of prisons and, in their stead, the concept of night-time correctional institutions. Convicts were expected to work and their wages went for some costs of accommodation, to cover damages and to support their own families. The criminal code defined essentially the same crimes as the Danish Penal Code but the sanctions used were quite different and in general the sentences would be considered quite lenient. In recent years, according to the author, there has been a trend towards more incarceral and punitive sentences for serious offenses but local correctional facilities are sparse and there is some concern that the objective of protecting the public is not being adequately realized. The Greenland model clearly has not made crime, serious violent crime, vanish but its system of lay justices and lay assessors at least provides a strong sense of community ownership.

Jette, Corinne, Waseskun House. "A Survey of the Administration of Justice Respecting The Inuit of Northern Quebec". Ottawa: Aboriginal Peoples Collection, Solicitor General Canada, 1992.

This report dealt with the administration and delivery of justice in two Inuit communities of Northern Quebec. A small number of resource persons were interviewed in each community and a number of court cases presented. The patterns of crime and social problems were rather similar in both communities namely high rates of offenses against persons, widespread alcohol and drug abuse, rampant unemployment, lack of Inuit professionals in the justice system, high levels of suicide, and estrangement and confusion vis-a-vis the criminal justice system (especially the disorienting experience of Southern detention centres). A special point raised was the slowness of the itinerant justice system to deal with problems, either coming on the scene after the incident was forgiven or creating a danger period for victims between the time of the incident and the time the matter reached the court. Interviewees indicated that sentencing was not so much severe or unjust as it was inappropriate. There was a widespread view that 'aboriginal' programming in the justice system was more oriented to native Indians than to the Inuit. It concluded that the cultural, educational and socio-economic realities characterizing these Inuit communities require alternative models for effective administration of justice. It called for extensive research on Inuit justice patterns (crime, incarceration rates etc) and recommended a decentralized network of

community or regional tribunals for dealing with minor criminal code offenses coupled with greater cultural sensitization of the distant courts and detention centres pertinent to more serious offenses.

Jull, Peter. "Nunavut Abroad", Northern Perspectives, Volume 21, #3, 1993.

Jull discusses the great interest and sense of excitement and wonder that the creation of Nunavut and the associated land claims agreement has generated abroad. The scale of Nunavut pact -the lands involved, the governance agreed to, the challenge of a new traditional / modern society mix- has captured international attention. It has been and will be even more in the future, a stimulus for similar renewals in Norway, Sweden, Finland, Greenland, Alaska and in the outback of Australia. He also observes that the Nunavut development seems less known and appreciated than one would expect in Canada. And while hoping for a better appreciation and more excitement among Canadians in the future, he also notes that perhaps the efforts of officials dedicated to Inuit well-being might have been less successful if Nunavut had been a central policy focus; in this latter regard he comments: "lack of accountability was often positive; it permitted spending levels and progressive social policies which would probably not have been countenanced if the Canadian public were paying more attention".

Krawl, Marcia. Understanding the Role of Healing in Aboriginal Communities. Ottawa: Solicitor General, 1994.

What does healing mean in Aboriginal communities? How does the conception of healing take into account the offender, the victim and the community? Do Aboriginal peoples and non-Aboriginal government officials understand healing in similar ways? How can government, especially Solicitor General Canada, facilitate healing in Aboriginal communities? In this brief report Krawl discusses the results of her research into these questions. Using a variety of methods, she explored perspectives and experiences regarding healing in several Aboriginal communities (including interviews with elders, youths and caregivers) and secured the views of and opinions of federal and provincial officials. All told, she contacted some 121 persons across Canada. In presenting her research results Krawl develops a handful of organizing themes and draws out their central points, illustrating them with quotations from the persons interviewed.

The central conclusions Krawl draws from the research are three-fold. First she suggests that there is both a common core and also much variety among Aboriginal peoples with respect to their perspectives and experiences of healing. The common core centres on the idea that healing is a process which has three key aspects, that

healing comes from within individuals and moves outward to encompass the family and the community, that it must reflect a balance among all parts of life, and that, while, initiated in discrete fashion through specific programs (e.g. alcohol and drug counselling), it must become holistic. Secondly, Krawl contends that healing can be seen as a community development in abroad sense. The people interviewed envisaged healing in the context of a healing community. From a justice perspective this entails a recognition that both offender and victim are part of the same community and that the community must support both as part of a healing-based approach. As community development, Krawl reports that the key indicator of healing is that people take responsibility for their community. The community development process usually has been initiated by core community groups and is built upon what is already in place. Thirdly, Krawl observes that Aboriginal peoples and non-Aboriginal peoples (at least, in her sample) understand and feel about healing in quite similar ways. Moreover, they tend to have similar views on the role of government as listener, observer, and facilitator, allowing the community itself to maintain control and develop/acquire the skills and resources needed to carry on more autonomously.

The report has some limitations. The heavy dependence on quotations means that there is little context given either for the communities involved or the individual interviewees. It is unclear as to how much consensus is associated with the themes that the author has derived from the research. Also, the role of government is rather superficially developed and it seems that there are no principles for governmental policy other than to support community actions. Still it is a useful contribution to an important issue in Aboriginal justice.

Kulig, Paula. "Balancing Rights: The Native Justice Debate" in Canadian Lawyer, February, 1993.

In this brief article the author presents, without revealing her own bottom-line position, some pros and cons for the idea of a separate native justice system. The author notes that while commission reports (e.g., the Manitoba Aboriginal Justice Inquiry of 1991) and many experts, academic and political, have strongly supported the concept, governments at both the federal and provincial levels, have emphasized accommodation within the existing justice system, albeit promising significant positive change for aboriginal peoples. In the author's view a central issue in the controversy concerns the status of the Charter of Rights and Freedom. Governments as well as certain native interests have emphasized the need to guarantee the Charter rights and freedoms for all Canadians, while proponents of a separate justice system, in the author's view, either discount the Charter's significance or suggest that aboriginal peoples can develop an adequate alternative to it.

Labrador Native Women's Association. Women's Issues. Labrador: Native Women's Association, 1984.

This position paper lists the various serious problems faced by Labrador's Inuit women, including very high costs of living and of travelling, poverty, poor housing, unemployment, alcohol abuse, limited governmental support for ameliorative programs, discrimination against both women in general and in particular aboriginal women, and the inattention to women's justice concerns as reflected in the lenient sentencing given for assault and the lack of facilities to assist the victimized women. More than anything else what emerges from this position paper is a profound apperception of isolation and a plaintive cry for help in dealing with the multifaceted social problems plaguing modern-day Labrador Inuit communities.

Landau, T. "Policing and security in four remote aboriginal communities", Canadian J. Criminology, January 1996.

Landau examined policing in four remote Northern Ontario communities and finds, as LaPrairie and others have found in other small isolated aboriginal communities, that people perceive themselves (and actually are) at risk because of alcohol-related violence. The residents typically too do not have confidence in other local agencies to resolve their risks for many reasons, such as lack of such agencies, the fact that the agencies themselves often call in the police, the lack of a 'civic culture' such that residents are not confident about the reaction of the officials and so on. In interviews with local residents in the four communities Landau finds that there is much diversity in their response as to who (chief and council?, police?, service providers? etc) should be involved in dealing with the community's serious problems. There also is much diversity in their views as to whether the police should simply jail for the nonce, charge, counsel or do something else. Everyone understands though that the police can use force to restore social order and can at least temporarily put a person in a cell and thereby provide security for others. Moreover the police are typically available on a twenty-four basis. Landau also found that in most instances in responding to incidents and calls the officers do not take a law enforcement action. It would be interesting to determine if use of police services declines as other agencies become more competent and more established.

Lapage, E. and Louee Okalik. "Healing Circles in Nunavik", Inuktitut, #81, 1997.

This article is an account of an Inuit woman in Nunavik who conducts healing

circles in churches throughout the region. It appears that she emphasizes a kind of communal therapy for those distraught by various problems and emotional pains. The therapist notes that she learned of healing circles from Indians but has been told by Inuit elders that something akin to the healing circle was employed in traditional times to confront issues.

LaPrairie, Carol. "Native Women And Crime: A Theoretical Model", Canadian J. Native Studies, Vol. V11, 1987.

LaPrairie describes the phenomenon of high levels of serious native female criminality. In her model this is, primarily, the outcome of role loss and role conflict for Indian males (itself the product of colonization and assimilation) which produces high levels of female victimization which in turn leads to native female criminality. The model is more complex but that is its core. Interestingly, in the case of the Inuit there appears to be modest levels of female criminality although other aspects of the above model would apply, namely male role loss etc as a result of colonization and assimilation, and subsequent high level of violence directed by Inuit males against Inuit women.

LaPrairie, Carol. Exploring The Boundaries Of Justice: Aboriginal Justice In The Yukon. Report to the Department of Justice, Yukon Territorial Government, First Nations, Yukon Territory, Justice Canada, 1992.

Here the author makes a strong case for community justice development which can provide community-based alternatives to formal criminal justice processing described as "not working" and out-of-sync with the disruption and disorder problems with which it is involved. She advances the view that the varied community conditions, small widely-scattered population, aboriginal and non-aboriginal mixing, and political-constitutional context of the Yukon make it an appropriate site for comprehensive justice programming where approaches and programs can be implemented, evaluated and subsequently exported to other jurisdictions. After identifying the major partners, namely First Nations, Yukon Territorial Government and Justice Canada, and discussing the crime and correctional data along with extant Justice programming (e.g., native courtworker program, circle sentencing, police diversion), the author examines the justice activities and interests of First Nations in the Yukon. Virtually all these bands have significant aspirations in the justice field.

LaPrairie notes that the pattern of repeat offenders, problem families, and the ostracized can be found in virtually all the communities. Also, the role of the elder while significant in aboriginal justice discourse is problematic in practice. Community resources required for justice interventions are scant and most previous justice projects have been introduced piece-meal, with little pre-implementation work, little community participation, and minimal monitoring and

evaluation. As a result there has been little sense of any incremental development. She contends that advocates may be seriously underestimating the complexities of introducing viable justice alternatives. LaPrairie spells out a strategy for community justice development stressing information needs/dissemination activities, research and evaluation, and identifying possible projects and specific research questions.

LaPrairie, Carol. "Community Justice or Just Communities? Aboriginal Communities in search of Justice". Folk Law and Legal Pluralism Symposium. Mexico City, 1993.

The theme of the Mexico conference was "the need to move beyond the confines of legal institutions to other bodies and agencies which construct social relations". There was substantial criticism however concerning the legitimacy and the efficacy of popular justice and the extent to which it is really an alternative to state control and more than a tool for the locally powerful elite. As LaPrairie observes, "legal pluralism and community justice have no fixed political content and may serve either progressive or reactionary politics". LaPrairie tries to make a case for the former, arguing that popular justice, especially aboriginal justice initiatives, should be directed at transforming communities into 'just communities', clearly a broader role than the mainstream justice system has.

Turning to justice initiatives in aboriginal communities, LaPrairie discusses a variety of issues in relation to her own justice research among the Cree, in the Yukon, and in the inner cities of Canada. Her argument is that there is an absence of detail in the plans for aboriginal justice, little discussion of community needs and realities, and that the agenda is largely driven by the idea of self-government where jurisdiction is the key issue. The over-representation of natives among offenders and incarcerates also fuels this uncritical discourse in her view. The net result is less attention to structural problems and less discussion of needed resources (both material and educational) for native communities, both of which militate against the creation of 'just communities'.

LaPrairie, Carol. Changing Directions in Criminal Justice. Ottawa: Department of Justice, 1994.

In this paper LaPrairie discusses new initiatives in popular or restorative justice based on the premise that the conventional criminal justice systems ignores the social context of offences and marginalizes the offender, the victim, and the community, whereas restorative justice emphasizes social rather than legal goals and empowers communities and individuals in dealing with problems and influencing the direction of the criminal justice system. She discusses the theory behind the restorative justice movement (e.g., communitarianism, community,

restorative or transformative justice). She goes on to compare family group conferencing and sentencing circles, two of the principal restorative justice interventions and common in Australia / New Zealand and Canada (primarily the Yukon and Saskatchewan) respectively. She compares the two in terms of theory, definitions and objectives, process and principles, and effectiveness. In general, while both share a large common 'domain of sentiments', sentencing circles are judged to be more aboriginally focused (though family conferencing advocates usually link their approach to aboriginal traditions as well), more focused on the offender than the event, more oriented to adult offenders, less clearly formulated in theory and in operational guidelines, and more open to abuse and misunderstanding. For example, in her view, the sentencing circle intervention is often accompanied by unexamined postulates (e.g., cultural consensus) and underestimates power imbalances in the community. LaPrairie appreciates the arguments for flexibility and "the greater good" of political imperatives but argues that critical analyses and assessments should be encouraged.

This paper provides a brief but valuable description of the processes and principles that characterize sentencing circles, clearly pointing to the considerable vagueness that exists on both fronts. LaPrairie lists the chief criticisms of commentators as the need for guidelines in setting up and operating circles, the potential for sentence disparity among similar criminal cases, the role of and impact on victims, the 'representativeness' of participants, how offences and offenders for circle sentencing are selected, the lack of procedural safeguards, the community impact, and the degree to which sentencing circles reflect aboriginal traditions and value. As of the end of 1994 there have been approximately 300 circle sentencing experiences in the Yukon Territories, about 100 in Saskatchewan and a handful in Manitoba and British Columbia.

LaPrairie, Carol. <u>Conferencing In Aboriginal Communities In Canada</u>. Ottawa. Department of Justice, 1995.

Here the author reflects on the family conferencing developments in Australia and on how they might emerge in Canada's aboriginal communities. She reviews the origin of family conferencing in New Zealand and Australia and the associated theoretical underpinnings. The core sequence of conferencing is identified as the giving and acceptance of an apology between offender and victim. The role of the facilitator is especially to see that the key components of re-integrative shaming occur. LaPrairie observes that conferencing presents an opportunity for offenders to make new connections with people. In addressing the implications for aboriginal communities in Canada she notes that family conferences should be expeditious, involve the extended families, and feature trained facilitators. She suggests that such conferencing can bring people together and help develop communitarianism

and community institutions. Conferences also may represent safe places where conflicts can be talked out and resolved. She emphasizes the required presence of an authoritative extended family representative, and a trained facilitator to effect both strong community commitment and protection of rights respectively.

LaPrairie stresses the need for projects and programs to be independently and dispassionately evaluated. Implementation and impact studies need be done. Community and project personnel have to be involved in negotiating the evaluation framework and key criteria (e.g., what do we mean by success?). She concludes by arguing that projects have to be assessed in relation to community issues, project objectives, and government priorities, and she offers very useful guideline questions for the community and project referents.

LaPrairie, Carol. <u>The New Justice: Some Implications For Aboriginal Communities</u>. Ottawa. Department of Justice, 1996.

Here the author discusses the restorative justice movement and its emphasis on community. She has a long section on the concept of community and where its current thrust comes from - an effort to restore "a civic culture" in the larger society, and the self-government thrust among aboriginal peoples. She tackles five aspects of community, namely defining the community (geographical and interest bases), representation (warning against the engulfment of offenders at the expense of victims and others), involvement and participation (warning about the simplicity of myths with respect to the level of communitarianism that exists), competing justice roles (how to transcend dominant local groupings as well as the mainstream styles), and accountability (regular monitoring and accounting). In her final section she bemoans the "almost total lack of evaluation material and findings", and notes that the few evaluations that have been done point to the failure of incorporating victims, and to the lack of community understanding of the initiative. LaPrairie goes on to suggest guidelines or principles to be heeded in developing local justice projects.

LaPrairie, Carol. <u>Examining Aboriginal Corrections In Canada</u>. Ottawa: Aboriginal Peoples Collection, Solicitor General, 1996.

This monograph provides an in-depth assessment of aboriginal corrections in Canada. It is based on a variety of methods (interviews, analyses of corrections data, excellent bibliographical review, etc) and always seeks to place aboriginal corrections in the larger contexts of Canada's corrections policy, aboriginal social and cultural realities, and general criminological theory. The author establishes the point that aboriginal peoples are particularly over-represented in prisons in western

Canada. She contends that this is primarily because Canada, as a society, uses the imprisonment sanction quite heavily in comparison to other societies, and aboriginal peoples, particularly in the prairie provinces, fall disproportionately into the disadvantaged socio-economic category most vulnerable to being caught up in the criminal justice system. She also discusses the programming available for aboriginal inmates, noting that not only is there insufficient information on the value of the mainstream programs for aboriginal offenders, but also that few critical questions or in-depth evaluations have been advanced concerning the cultural and spiritual aboriginal programming that has become so commonplace in prisons in recent years. Surveys of inmates have consistently indicated that education and employment programs were deemed to be the greatest needs, and substance abuse the greatest problem. The lack of support from the home community and the problems of reintegration there have been quite neglected, perhaps because of presumptions made about aboriginal communities as a whole. LaPrairie advances many policy suggestions, primarily calling for alternatives to imprisonment, refocusing community sanctions to facilitate reintegration, and community development strategies to get at the primary causes of the social problems that are at the heart of aboriginal over-representation.

While some of LaPrairie's contentions can be challenged (e.g., the claim of little post-arrest racial discrimination may hold for sentencing and corrections but might overlook areas such as bail and plea-bargaining), she makes many insightful observations (e.g., with respect to aboriginal offenders one especially sees that dealing with the life circumstances and experiences that result in federal sentences is extremely difficult for the criminal justice system to address). Her central thesis is well developed, namely that the cause of aboriginal over-representation lies largely in the social and economic conditions of aboriginal communities (e.g., the legacy of colonialism, discrimination, etc.) and that these same type of factors inhibit current rehabilitative efforts. Consequently there is a need for refocusing community sanctions, and for effecting community involvement and community programs in the context of community development and institutionalization, and emphasizing that the development of local justice interventions must be guided by that larger imperative.

LaPrairie, Carol and Julian Roberts, "Circle Sentencing, Restorative Justice and the Role of the Community", <u>Canadian J. Criminology</u>, 1997.

In this short paper LaPrairie and Roberts make the case for a more scholarly and critical examination of sentencing circles which have become quite extensive in Canada. After describing circle sentencing (the authors refer to the paradigmatic case "R vs Moses") they note that it is part of the restorative justice movement which in aboriginal communities is also taking place in the context of self-

government and empowerment of communities. They raise several important questions regarding restorative justice initiatives: is the practice carried out as theoretically conceived? are all legal guarantees there for both offender and victim? is the overall position of the victim better off under this approach? is it better for the rehabilitation and education of the offenders? for what type of offences and kinds of offenders is it suitable? is it an alternative or just another strategy? how does restorative justice impact on the community with its diversity, conflicts, and power imbalances?

They talk about basic community issues as per earlier LaPrairie papers, namely defining the community, representing the community, community participation and involvement, and also whether the community has the skills, and willingness to deal successfully with chronic offenders, as well as the occasional ones; if not, they argue, might such projects merely divert resources from other more effective community initiatives? They also raise questions concerning community justice roles (what is their transformative potential?), and the many levels of accountability of these projects and initiatives - accountability to the community, the victim etc., accountability of community leaders to the community concerning such projects, and accountability of funding sources to provide technical assistance and support to projects. The authors wonder also whether judges pay attention to a wide enough range of community voices in the sentencing circle format.

Larsen, Finn. "Causes And Remedies Of Interpersonal Violence Among Greenlandic Inuit", Self-Sufficiency In Northern Justice Issues. Burnaby: Northern Justice Society, Simon Fraser University, 1992.

The author argues that there is a very high level of violence, on a per capita basis rivalling notorious cities such as Detroit. The rates of homicide, sexual offenses and related crime are 10 to 20 times greater in Greenland than in Denmark. The perpetrators typically are young adult males under the influence of alcohol. The author offers a theory of interpersonal violence which links traditional Inuit styles of non-confrontation and suppression of feelings with the heavy alcohol consumption and a combination of traditional and modern stresses namely jealousy (brought on by sexual liberality), changing patterns of gender relations (affecting male-female role relationships), and identity crises, for males in particular. The theory is actually quite conventional for accounting for aboriginal violence (see Ross 1992) and fails to link violence against others with violence towards self, a long-standing perspective in criminology which seems applicable to the Inuit situation whether in Greenland or in Canada. Larsen suggests that two key solutions to the problem are (a) the development of new attitudes towards alcohol consumption and (b) changing traditional conflict-avoidance behaviour by developing skills in conflict resolution and intervention. Undoubtedly these recommendations can be valuable but one wonders about the specific linkage to the young adult males who have low socio-economic status; given their precarious sense of self under changing gender roles and economic vulnerability one wonders about the lack of reference to socio-economic measures and other social policy.

Law Reform Commission of Canada, Aboriginal Peoples and Criminal Justice: Equality, Respect and the Search for Justice. Ottawa: Law Reform Commission of Canada, 1991.

This important document called for the establishment of Aboriginal justice systems. The report stressed the merits of aboriginal-controlled justice systems quite apart from the "political considerations" of self-government. While reaffirming its general position on the desirability of the criminal justice system imposing the same requirements on all members of society, the Commission held that Aboriginal persons have a 'different constitutional status' and therefore constitute an acceptable special case.

MacDonald, Roderick. "Recognizing and Legitimating Aboriginal Justice" in Aboriginal Peoples and the Justice System. Ottawa: Royal Commission on Aboriginal Peoples, 1993.

The author deals with the larger question of legal pluralism in contrast with the present system of legal centralism or monism where adversarial adjudication is the

dominant procedural model and the key to justice is "ensuring that everyone has an equal opportunity to set in motion the system which permits the designated 'official' actors to play their defined roles". MacDonald holds that reality is not congruent with the thrust of legal centralism, especially at the ideological level and in the administration of justice. He places aboriginal alternatives in the context of legal pluralism and the development of mechanisms for addressing conflict in the socio-cultural frame from which it arises. In his view the most significant failures of the present system of justice are failures of recognition not failures of access; accordingly, acknowledgement of aboriginal difference (i.e., recognition) can benefit Canadian society as a whole and especially disadvantaged segments within it.

Macklem, Patrick. "Aboriginal Peoples, Criminal Justice Initiatives and the Constitution" in U.B.C. Law Review, vol. 26, 1992.

The author provides an interesting and clearly stated analysis of the constitutional bases for aboriginal justice initiatives. His essential position is that the combined effect of ss. 35(1) of the Constitution Act, 1982 and s. 25 of the Charter of Rights and Freedoms provide a strong basis for enabling "Aboriginal peoples to assume more responsibility for the administration of justice in aboriginal communities across the country". S. 35(1) enshrined in the Constitution aboriginal rights that existed at common law. The crucial issue with respect to s. 35, as seen in Supreme Court decisions such as R v Sparrow, is establishing that a practice, a specific form of social and political organization (such as unique arrangements with respect to criminal justice), that had not been extinguished by law prior to 1982 is indeed integral to the self definition of an aboriginal community, and therefore can be defined as an existing aboriginal right. Macklem gives the example that the role of the clan councils in the mediation of disputes involving wrongdoing in Iroquois society may well be integral to the self-definition of the Iroquois nation. Other sections of the Constitution Act, 1982, such as s.25 of the Charter (which shields aboriginal rights from Charter scrutiny) provide legislative flexibility for initiatives that confer greater control over criminal justice onto aboriginal communities and permit differential rights for aboriginal peoples. In sum, Macklem argues persuasively that the current constitutional framework affords a great deal of scope for the enactment of laws that recognize aboriginal difference in the realm of criminal justice.

McDonnell, Roger. "Prospects for Accountability in Canadian Aboriginal Justice Systems", in P. Stenning (ed) Accountability for Criminal Justice: Selected Essays. Toronto: University of Toronto Press, 1995.

This is an interesting, thoughtful essay on the prospects for accountability in Canada's evolving aboriginal justice systems wherein the author draws primarily upon his own research among the Cree in Quebec. He contends that most aboriginal justice initiatives have represented attempts to graft local institutional creations to mainstream justice procedures. In his view if alternatives are to be developed that are deemed by aboriginal peoples as appropriately reflecting traditional culture for their particular communities, then there has to be more thought directed to questions of accountability, such as what standards to employ in assessing conduct, and what mechanisms should be available for ensuring compliance. The author identifies the two major challenges here as (a) community heterogeneity and diversity (traditionally, interdependent roles provided solidarity in a situation where no common law or set of regulations and constraints bound everyone equally), and (b) that band societies typically do not recognize any enduring authority at the level of the band (self-determination implying authoritative structures seems incongruent with band organization and appears to require conceptualizing bands as quasi-tribes).

Modern bands are administrative, governmental creations that bear little relationship to traditional bands but in the author's view the above challenges remain significant. Moreover he contends that there are radically different views in aboriginal communities on what passes for 'our traditions' and often the populace feels that locals who would establish priorities and implement policies on their behalf are no less alien than the state agencies were. Aboriginal societies, in the author's view, are largely composed of people who simultaneously place value on both a mainstream 'civic tradition' (e.g., individuality, equality, impartiality) and on traditions (e.g., treating people differently by reference to age, gender, and kinship) contradictory to it. McDonnell allows that there may be much in the ethic of impartiality that is meaningless in contemporary aboriginal societies, and much in the idea of the ageless, genderless, status-less abstraction of the individual that could be found objectionable. Still these pillar principles of the civic tradition are nowadays thoroughly enmeshed with aboriginal traditions and it is often difficult to tell where one tradition leaves off and another begins. He sees an internal dialogue as required, and as emerging, in many aboriginal communities, involving people from the many diverse sectors (youth, women, administrators, native spiritualists etc) and notes that these 'community conversations' can lead to aboriginal communities developing their own cultural possibilities within present organizational arrangements.

Malone, S.M. Nunavut: The Division of Power. Halifax: Dalhousie Law, no date.

This is a working paper which deals with political and constitutional issues. There is a section which focuses on the conduct of justice. The author argues that there is

a need for the government of Nunavut to table legislation regarding the administration of justice, specifically in the areas of policing and family law. There must be a transfer of prosecutorial power to the Nunavut government in order that the new legislature can respond to these issues. The author of course observes that there is no reason why the RCMP cannot continue with the policing mandate in Nunavut but there will have to be attention to certain training concerns. Malone contends that norms regarding family relations are different in Nunavut compared to the South, and also that there is a sophisticated family law system in place in the Nunavut area and it should be subsumed under the legislative power of the Nunavut assembly.

McLauchlan, Don. "You Can Go Back", Inuktitut Magazine, #82, 1997. Ottawa: Inuit Tapirisat of Canada, 1997.

This is a story of remembrance by a retired RCMP officer about his experiences in the Baker's Lake area between 1937 and 1949 and his return there in 1996. He recalled the earlier years as ones where the duties of the RCMP officers were quite extensive: "one of the main duties was visiting by dog team all the native camps ... at each camp we checked on general health, [provided] extra rations where it was reported they were hungry, [recorded] any births or deaths, [collected] information on game or any unusual condition, etc" (p.59). He noted that "some years later all the Inuit were brought off the land to live in houses so the children could attend school". McLauchlan allowed that nowadays life is difficult for some Inuit but added that "the elders say life is better for them now - they are warmer, have better clothing and there is food" (p.61).

McNamara, Luke. "Aboriginal justice reform in Canada: Alternatives to state control" in Perceptions of Justice. Winnipeg: Legal Research Institute, University of Manitoba, 1995.

McNamara refers to the 1975 National Conference on Native Peoples sponsored by the Ministry of the Solicitor General Canada as the landmark conference setting the stage for aboriginal justice reforms for the next 15 years. During those years more than 20 reports identified a similar 'top ten' list of recommendations, chiefly greater native access to and participation in the criminal justice system, and more emphasis on cross-cultural training and crime prevention. It was an integrationist orientation though there was often a call for studying how self-determination might be achieved. Since 1990 there have increasingly been calls for a new direction, one where emphasis is given to the establishment of Aboriginal justice systems (e.g., Law Reform Commission of Canada, 1991; Report of the Aboriginal Justice Inquiry of Manitoba, 1991). Indeed in the 1990s the constitutional reform movement which would have provided a constitutional amendment recognizing the

right of aboriginal self-government, and which was backed by the government and the major political parties, was narrowly defeated in national referendum on the Charlottetown Accord. Regional self-government agreements have provided significant formal self-government within the existing constitutional framework. McNamara stresses the need for formal realization of the inherent right of Aboriginal self-government since "meaningful autonomy must include the right to define justice and to adopt and apply laws and processes consistent with this definition".

Merry, Sally Engle. Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans. Chicago: University of Chicago Press, 1990.

This book provides a very interesting analysis of mediation in the United States. Merry discusses the mediation movement and the different system of discourse that characterizes it vis-a-vis the mainstream justice system. Her analysis focuses largely on the court-affiliated mediation system. She describes the complex nature of most incidents (often civil and criminal elements are thoroughly enmeshed) that get directed to mediation. In general, Merry contends that most complainants directed to this channel of redress prefer the mainstream justice route and want to end a relationship not reconstruct it. The bulk of mediation cases involve relatively ordinary if not disadvantaged women as complainants.

Messmer, Heinz and Hans-Uwe Otto (eds). Restorative Justice on Trial. The Netherlands: Kluwer Academic Publishers, 1992.

This is a collection of some 40 revised and edited papers presented at the NATO Advanced Research Workshop: Conflict, Crime and Reconstruction, held in Italy in 1991. The papers are divided into five sections but it is a procrustean bed. Mainly what the papers give is an overview of the reparation and mediation movement in Western nations (including Japan, New Zealand). It would appear that there is substantial support for restorative justice programming especially for youth but considerable problems in implementation and a fundamental ambiguity as to whether the programmes are primarily a sanction for the offenders or a service for victims. Generally there is support for the position that the selection criteria are too rigid, and generally serve mostly first time offenders who are socially acceptable persons committing property crime. The critical thrust however is to improve the programming, extend its scope, better implement its rationales etc. There is some theoretical work especially the concept of forgiveness, and the ethics of restitution.

Mitchell, Marybelle. From Talking Chiefs to a Native Corporate Elite: The Birth of Class and Nationalism among Canadian Inuit. Montreal: McGill-Queen's University Press, 1996.

The author, a well-known authority in the field of Inuit art and the marketing of sculptures, has written an interesting analysis of Inuit absorption into the capitalist economy. Mitchell argues that the pre-contact Inuit society was far from an ideal-type communitarian society; rather, sharing was pragmatic and daily exchanges were quite similar to those in rural societies elsewhere. The collectivity was basically synonymous with the extended family. In her view there were many features of the indigenous mode of production that were compatible with the capitalist mode of production. She briefly reviews the stages of Inuit-capitalist contact up to the era when the cooperative movement developed. Like other scholars she concludes that the early explorers' phase had little lasting impact on Inuit culture and social organization. Whaling, particularly in its intense period circa 1870, did impact but basically it resulted in enhanced trading relations (entered into quite willingly by the Inuit) that did not represent a major alteration of Inuit everyday behaviour; moreover its effects were quite localized, especially as regards the Inuit selling their labour power. In her view the impact, while significant, was not structural in that it did not effect the capacity to resume former practices. Whaling did provide the transition to the more profound commercial and cultural involvement associated with the fur trade, churches and the RCMP in the first half of the twentieth century. This was the era of the 'talking chiefs', strong personalities taken on by whites, especially by the missionaries as catechists and leaders in liaison. The sustained and in-depth contact impacted on prestige and status in the Inuit communities. Mitchell notes that crime was uncommon in this period though some RCMP referred to serious assaults as a problem.

The end of WW2 witnessed the growing presence of the federal government and the beginnings of the welfare state, the building of the DEW line, the Diefenbaker vision of the North, permanent settlements offering a reorganized schooling and health services, and as the fur trade collapsed and underemployment reigned, state-sponsored handicraft business. There was little Inuit resistance as these processes created new embryonic 'classes' and effected the domination by capital of the indigenous mode of production. The author dwells, appropriately, on the development and evolution of the cooperative handicraft/art movement in the Arctic. She traces the ins and outs of how the producers finally wrestled control from DIAND officials and white art specialists/entrepreneurs who controlled the CEAC. As Mitchell observes, “the Inuit came to believe that the source of their power resided in their art ... and was the only thing they produce that has any market value to the outside world”. At the same time the author indicates that the key power in the cooperative movement still rests with white outsiders. Mitchell also discusses the rise of the development corporations which have been spawned by land claims and related agreements. These bodies and their Inuit leaders may

well entail a higher level of involvement with capitalism and the beginnings of a more profound class structure among the Inuit.

The highlight of the book is clearly the analyses of the cooperative movement since the first co-op was incorporated in 1959. Mitchell describes how the cooperatives have remained rooted in art and sculpture production and how, despite the fact that many Inuit participate in it as independent producers, they have not developed a profound loyalty to any cooperative ideology. Employment possibilities directly offered by the cooperatives are substantial but it is basically low wage, dead-end, secondary labour market employment. She notes that the state's strategy was to integrate the Inuit into the modern capitalist state via the cooperatives and basically that objective was accomplished. The co-op is communal in name but capitalist in effect, rewarding differential skill, investing surplus, and controlling individual producers, substantively if not formally. The development corporations in some ways are challenging the cooperatives as dominating Inuit economic possibilities but they are even more caught up with the capitalist system and removed from the control and understanding of their Inuit members.

Mitchell stresses that the Inuit have been willingly absorbed into the modern capitalist state and that only recently, fuelled by the pan-Inuit movement, has there been strong signs of 'resistance'. She depicts the modern Inuit in rather depressing terms as “dispossessed of their land, unemployed and disregarded” ... although she acknowledges that the Inuit appear more optimistic and 'caught up in the Nunavut euphoria”. She is sceptical that the creation of Nunavut will have the impact on the justice system that some Inuit proclaim. Also by stressing the increasing class-type differentiations among the Inuit she alerts the reader to dominant-subordinate relations and class bias that might underlie surface homogeneity.

Murphy, C. and D. Clairmont. First Nations Police Officers Survey. Ottawa: Solicitor General Canada, 1996.

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

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

Nahanee, Teresa. "Dancing with a Gorilla: Aboriginal Women, Justice and the Charter", in Aboriginal Peoples and the Justice System. Ottawa: Royal Commission on Aboriginal Peoples, 1993.

Nahanee addresses "the basic requirements of a parallel Aboriginal justice system from a female perspective". She argues that the two powerful driving forces which will shape Aboriginal criminal justice administration are first, the almost total victimization of women and children in aboriginal communities, and second, the 30-year struggle by aboriginal women for sexual equality rights in Canada. She stresses that women have to be involved in the consultation process for a parallel aboriginal justice system and points to their success in securing an unanimous ruling by the Federal Court of Appeal to that effect in 1992. This latter decision is reviewed in some depth here. She also cites the outrage aboriginal women have expressed about leniency of sentencing in cases of wife assault, sexual assault and child abuse (here she notes in the appendix that Pauktuutit is taking a court challenge against the northern judiciary for lenient sentencing of Inuit sex offenders and cites materials on file associated with that challenge). Nahanee discusses the many reasons - cultural considerations, fear of losing children, control of service agencies by male leaders - that have resulted in much under-reporting and denial. She thrashes the so-called cultural defences occasionally used in court by aboriginal males to excuse this kind of violence and is sceptical concerning restorative justice practices such as the use of elders' circles unless there is a genuine return to traditional ways and a sharing of power between men and women. In her view the traditional system for some aboriginal peoples was not patriarchal.

Nahanee is very critical of both the federal and provincial governments' failure to clarify jurisdictional issues that could ensure appropriate rights and living conditions. She directs much of the blame for the high level of victimization of aboriginal women and children to colonialism and, more specifically, to the residential school experience, to Christianity and its values, and to racism. Progress will require "clear federal initiatives" and changes among the male leadership in aboriginal communities. She notes that aboriginal women have embraced individual rights found in the Canadian Charter because it aids their struggle for sexual equality and sexual freedom. The dominant aboriginally-sensitive theory has argued that sovereignty would put Indian governments outside the reach of the Charter of Rights and Freedom. Allied with that position has been the male aboriginal leadership's claim that aboriginal governments must be established and recognized first, and sexual equality would follow. But Nahanee contends that the Charter has "turned around our hopeless struggle". Recent federal court decisions as well as the defeat of the Charlottetown Accord have flowed from the Charter and require that women must have a voice in determining whatever kind of criminal justice administration develops in aboriginal

communities.

Nielsen, Marianne. "Criminal Justice and Native Self-Government" in Robert Silverman and Marianne Nielsen (eds), Aboriginal Peoples and Canadian Criminal Justice. Toronto: Butterworths, 1992.

Here Nielsen discusses the characteristics of traditional native justice (e.g., woven into society, flexible, situational, welfare and harmony of the group emphasized, etc.), most of which follows deductively from these traditional societies being small, economically interdependent kinship-based units, rather than from any empirical evidence. Using Black's categories she labels that traditional system's thrust as conciliatory more than penal, therapeutic, or compensatory; further, she argues it was a rational system featuring consensus and mediation rather than one dependent upon prayer, contests, and the like to effect justice. She thinks that much of this traditional justice is very appropriate in current and future society and is optimistic about its contribution to a new and better justice system. Still she does caution that native values may have changed too much with modernization: that the basis of the traditional system, such as shaming, may be ineffective in the socially and geographically mobile, modern native community; that community cohesion and deep value sharing may be problematic; and, finally, that there will undoubtedly be jurisdictional issues and conflicts between native and mainstream justice systems.

Nielsen, Marianne. "Native Canadian Community Sentencing Panels: A Preliminary Report", paper presented at the American Society of Criminology Annual Meeting, Miami, 1994.

Noting that new aboriginal criminal justice initiatives are linked to self-determination and founded on the principles of community-level control and the incorporation of traditional native justice practices, Nielsen focuses on one such initiative namely 'youth justice committees (and their constituent sentencing panels), about 40 of which have been established in Alberta beginning in 1990. She used some participant observation, and both in-person and telephone interviewing of justice committee members, police and Justice officials. Nielsen described the sentencing panels as "a committee of community members who assist a judge by making sentencing recommendations". The goals, according to her interviews, include increased community involvement, healing for all parties concerned, and reducing recidivism. Youth justice committees operating in this fashion are well within the rules and guidelines of the Young Offenders' Act. In 1994 the Alberta Department of Justice issued guidelines for such sentencing panels for both native and non-native communities. A limited number of communities have committees that have been formally sanctioned by the province,

and where that is the case (i.e., formal provincial sanction) the province and police offer some developmental assistance.

Membership and recruitment vary, ranging from exclusively elders (i.e., members of the grandparent generation) to mixed ethnic, age, and gender groupings. All members are expected to be good role models, knowledgeable about community resources, comfortable with a consensus / mediation approach and, where native, informed about traditional ways. Offender eligibility criteria vary but in all cases the offence cannot be serious assault. In the basic model the sentencing panel comes into play after the offender has been found guilty. The sentence panel is held in private, consensus reached, perhaps some reintegration occurs, if only hugs, and then a written recommendation is subsequently sent to the judge. As a variation of this basic model there may a pre-court diversion model (i.e., bypassing the court system), something favoured by many advocates as more efficient and more empowering to the community. Sentencing circles along the lines of those happening in the Yukon (see "R vs Moses" below) were uncommon, if at all extant. The sentences in this Alberta program are non-incarceral and usually similar to community service orders, sometimes with an imaginative angle. The offender and his / her family must agree that the sentence is fair. The judge accepts the recommendations and, in fact, according to Nielsen, in the two cases taken to appeal because the judge did not, the recommendations of the sentencing panel were upheld!

Nielsen contrasts sentencing panels and the 'euro-based' system in the usual way, comparing their objectives, styles, and so forth. She discusses the myriad of factors contributing to or detracting from the legitimacy or acceptance of this new sentencing initiative. She raises the question why such a different process would be grafted upon the conventional mainstream one and even be so accepted by the latter's officials (e.g., police, judges) but she neglects to note here that such sentencing panels are consistent with YOA ideas and also meant to increase respect for the mainstream justice system, considerations which suggest compatibility and symbiosis between these initiatives and that justice system.

Nuffield, Joan. <u>Diversion Programs for Adults</u>. Ottawa: Solicitor General, Canada, 1997. (also available on Solicitor General Canada's Internet Site at http://www.sgc.gc.ca).

This report reviews evaluated programs to divert adult offenders from further involvement with the criminal justice system. The author focuses on those projects where the intention was to address offenders' risks and needs through program intervention. The review is organized in terms of the stage in the criminal process where the diversion occurs: pre-charge diversion, deferred prosecution, diversion at the sentencing stage, and post-incarceral programs. The author neglects

evaluated diversion programs in Canada's aboriginal communities, and makes up for the overall paucity of relevant Canadian material by referring extensively to American sources (as well as a few European program evaluations), and also to programs directed at youths.

In general, she concludes that the evaluations were inadequate in that they were overly descriptive of the process and provided little detail regarding implementation or effects. Control group were seldom part of the evaluation design. In the pre-charge diversion programs (e.g., cautioning) the author found wide and unjustified disparities within and between offences and police forces; the treatments were seldom more than a lecture, and effects often were counter-productive. Deferred prosecution, where proceedings were suspended for a specific time pending the defendant's undertaking some kind of program (e.g., drug therapy, employment, etc.) and subsequently referred back to the prosecution for a decision whether to withdraw charges or proceed, was found to be widespread and sometimes effective. At the same time few cases were subject to deferred prosecution, and these were often cases that would have been dismissed or given a suspended sentence. The program intervention was frequently so short-term and modest that significant positive effects were unlikely. Diversion at the sentencing stage often took the form of alternate sentence planning programs where a client-specific plan was developed and submitted to the court; insofar as the court accepted the plan, the offender usually received probation and of course was expected to follow the plan. Evaluations of the post-conviction diversion programs typically indicated a positive impact (e.g., less recidivism. less serious re-offending). The author refers to few adult post-incarceration programs, none of which received particularly positive evaluations.

The author concludes that if diversion is to be effective the specific program interventions will have to be better developed and more appropriate to offenders' risks and needs, and diversion will have to be utilized in more serious cases which justify more intensive treatment.

Nungak, Zebedee. "Fundamental Values, Norms, and Concepts of Justice", in Aboriginal Peoples and the Justice System. Ottawa: Royal Commission on Aboriginal Peoples, 1993.

Nungak, chairman of the Inuit Justice Task Force and vice-president of Makivik Corporation presented a view of traditional Inuit society where elders and the most able providers were the undisputed leaders and arbiters of conflict. He discussed rich oral traditions where a variety of sanctions including killing and ostracism were noted but where the main theme was reincorporation of the offender. Of course with colonization came a loss of enablement and sense of adequacy as justice became something carried out by outsiders with little Inuit participation or

control. Nungak suggested that there are significantly different Inuit perspectives and values but declined to elaborate pending clarification of the empowerment that Inuit would actually enjoy in a revised system.

In several appendices Nungak provides information from his task force (1991/92) in the communities of Nunavik. One appendix deals with views on the courts and alternative dispute resolution, contrasting residents' assessments of both, and positing three alternative dispute resolution models namely local native judge, council of elders, and council of elders and youth. He presents a more or less consensus-based set of recommendations which include the following: each community should have a native court presided over by a lay Inuit judge who would draw on a panel of elders for recommended sanctions; sanctions should be harsher for offences involving violence or weapons; some problem behaviour such as solvent abuse should be criminalized; local courts should deal with less serious offences; consideration should be given to the long-term goal of having an Inuit Criminal Code. In appendix two Nungak discusses his experience in the Justice Task Force expressing the need for substantial change, for better and more local services provided by officials who speak the language and understand the special circumstances in Nunavik and the high level of problems there (e.g. suicide, family decay, solvent abuse, repeat offenders).

Nungak's Task Force flew to Iqaluit to examine correctional centres, justices of the peace and legal aid there in contrast to Nunavik. He reported himself to be quite impressed. He called attention to three types of correctional centres there. The Baffin Correctional Centre in Iqaluit has a capacity for 48 adult inmates, a staff of 35 which is 70% Inuit, and houses mostly offenders serving sentences of less than 2 years (though some are serving longer sentences but are there because of a special inter-governmental agreement). The BCC has some interesting programs and in regard to its Land program inmates are allowed to use guns for hunting; they also use recreational facilities in town. The Ullivik Youth Centre Open Custody is administered by two Inuit, has a capacity for 6 clients and a staff of 9 full time employees. It uses community facilities for school etc and also has a land program. There is also a secure custody Youth Facility - the capacity is 12 and, the staff is 60% Inuit; the programming seems quite varied but recidivism is still high. Nungak met the two JPs there who handle less serious offences and do not receive salaries; rooted in the criminal code the JPs have secure powers and report considerable flexibility exists to respond to Inuit offenders. He argues their success depends much on their being local and on their ability to involve the community and have innovative sentencing. He also noted that in the smaller communities the JPs are all Inuit. Legal Aid Services are also better organized here than in Nunavik - there are regional bodies in Rankin Inlet and in Iqaluit. Finally Nungak discusses a Quebec training course where Inuit attended and commented - the two key issues were indigenization as to control and indigenization as to character or substance

(e.g. what was the traditional way of dealing with violence?, how appropriate are the traditional customs for modern times?).

Oates, Maurice Jr. <u>Dealing With Sexual Abuse In A Traditional Manner</u>. Prince Rupert, B.C., unpublished manuscript, 1988.

This monograph is written by a native registered psychologist and focuses upon the active intervention of the community. It criticizes the way sexual abuse is now handled - the way it is reported, the procedures followed, the disposition rendered - as reflecting a legalistic approach. He argues for focusing on the harm that has been done and the best way to repair the damage. Emphasized are truth telling, identifying the needs of all concerned, establishing forums for emotional release and as support groups, and developing means for repentance and reparation. The author argues that in native culture no one was considered 'unchangeable', that deviance or 'crime' was deemed a situation where a person was 'out of balance', and that healing was effected in an holistic manner. He emphasizes dealing with sexual abuse within the extended family rather than through police, external agencies, etc. which is now the legally required way to proceed. He recommends what might be called a diversion program where the offender plus some supporter or ally meets with a trained native sexual abuse coordinator and also with extended family members and/or elders. The offender has to accept full responsibility and cooperate or the case is referred to the conventional legal system. The conclusion of the alternative process, in his model, is a reparation feast. In effect what he describes is very similar to what nowadays is called family group conferencing (see his diagram).

The author lists some 17 features of the traditional process - disclosure, confrontation, protection, support groups, the extended family gathering, the ceremonials, the consensus solutions, etc. As he spells out these features, he allows for interaction with the formal justice system at various stages, and, in fact, calls for guidelines to be developed to determine what offences can be handled specifically in this traditional process. Again for the most part what is described is something similar to the Hollow Water model.

It is interesting that the author blames sexual abuse by males on their being stripped of power, and says such abuse came into native society with the outsiders / colonizers. It is not clear whether a position which appears so self-serving and blame-transferring, can ever do the job of causing the guilty person to change behaviours since such change usually involves the concepts of personal responsibility and discipline. At the same time it is clear that the colonization did indeed wreak havoc with the aboriginal family and with aboriginal identity and self-respect.

Paine, Robert (ed.). The White Arctic: Anthropological Essays on Tutelage and Ethnicity. Memorial University of Newfoundland, 1977.

This book of readings consists of twenty chapters, seven written by the editor Paine, focusing upon the modern colonialism in the Arctic, in the NWT and Labrador Coast respectively. Paine elaborates upon the development of welfare colonialism after the second world war wherein bureaucrats and service professionals directed Inuit life and exercised a kind of 'nursery model of control'. There has been little consideration of or sensitivity to "what Inuit aspirations are" but Paine notes that there has been increasing criticism levelled at the system in recent years by Inuit leaders. Paine establishes his theses by reference to copious statistical data and by a thorough review of relevant academic and other literature. In the course of his writing he also presents useful descriptive data; for example capsule descriptions of the Baffin area communities. Interesting case studies are provided elaborating upon Paines themes. These case studies deal with topics such as White cliques, the social circumstances and purveyers of 'White gossip', the divisions among Inuit under conditions of tutelage, and the role of the White settlement manager. The writings of Brody (the new northerners) and Honigmann (Inuit as a people under tutelage) are of course seen as supporting a very similar social construction of modern Arctic colonialism. Somewhat off the main theme of this volume but quite interesting is the chapter by Lange on "Qualities of Inuit Social Interaction". The author discusses social flexibility in Inuit culture and society as pertinent to interaction. Flexibility is related to the widespread pattern of adoption, to Inuit pragmatism and tolerance of diverse actions as long as they are equally effective, and of course to band structure and leadership as well as identity. Lange argue that there are some 'absolutes' guiding Inuit interaction, such as the importance of individual autonomy, and cooperation without meddling or intruding and within a consensual moral framework.

Pauktuutit. Inuit Women and Justice: Progress Report Number One. Ottawa: Department of Justice, 1995.

This report describes several justice initiatives undertaken by the Inuit Women's Association of Canada over the period 1992 to 1994, with funding provided by the Aboriginal Justice Directorate of the Department of Justice. This organization, Pauktuutit, was incorporated in 1984 and has a board consisting of eight regional representatives and three executive members. It has been especially noted for its advocacy work in the field of family violence and sexual assault. The various initiatives reported upon here all focus on women and justice issues, involved input from Inuit women, and make suggestions for policy change. One chapter reports on the discussions on justice issues held by Inuit women at the Pauktuutit annual

general meeting held in Labrador in 1993. Different regional groupings were provided with different scenarios involving family violence and asked to come up with analyses and solutions. Interestingly the analyses and solutions focused on alternatives to the way in which family violence is conventionally treated in the mainstream justice system. Involving elders and emphasizing preventative strategies that encourage early intervention were highlighted though the participants also expressed the need for more examination of who should be recognized as an elder and how women are represented in alternative justice initiatives.

Another chapter deals with the evaluation of a pilot Victim Impact Statement (VIP) project implemented in the NWT between June 1991 and December 1992. The main conclusion here is that the VIPs are crucial in getting the views of Inuit women to prosecutors and judges and challenging myths they tend to have about Inuit traditions and current life practices. Without VIPs, especially given the limited support services available to women and victims, Inuit women's concerns are marginalized and other community voices (e.g., elders who may not reflect the views of the victims) are unchallenged. A somewhat similar theme is elaborated upon in a chapter which describes an actual sentencing circle conducted in 1993 in Nunavik. Here the female victim of a repeat batterer was silent and virtually ignored while the offender was talkative and his concerns were the center-piece of the meeting. The author of this piece suggest caution and examination before circle sentencing and similar restorative justice initiative become commonplace. The marginality and plight of Inuit women is underlined in the chapter which deals with the death of Deidre Michelin. Repeatedly abused and finally shot to death, she could not receive adequate attention from the police and could not fall back on any community support infrastructure. In a separate chapter Labrador women spell out some solutions to this kind of problem, calling for more police presence and a more proactive community-based style of policing, and shelters for the battered and abused; they detail an action plan along these lines (p41) and subsequently note that elsewhere in the North (e.g., Pangnirtung) there have been examples of such effective community-police collaboration.

The authors end their report on a positive note. They note that studies of under-reported crime are currently underway in the North, that protocols are being established with the RCMP and that a dialogue has been established between Inuit women and justice officials. Still it is acknowledged that considerable public legal education is required. In this regard it is noted that translated into Inuktitut the English word 'justice' refers to “people who deal with the court”, clearly a limited characterization of the concept.

Peryouar, B and Sadie Hill. "Baker Lake Elder", Inuktitut, #81, 1997. Ottawa: Inuit Tapirisat of Canada, 1997.

This article is a fascinating interview of a Baker Lake elder, probing the era of dramatic change in the area associated with the concentration of population in the 1960s, and the differences that have developed between the generations since that time. The elder points to sharp generational differences in everything from welfare dependency to food preferences. While emphasizing that the traditional survival-skills are still salient in Nunavut the elder also stresses the need for education so that Inuit might assume some of the professional and technical positions now occupied by the qallunaat. Asked what would happen in traditional times when someone did another an injustice the elder noted that elders in the family would admonish family members that were going astray and that elders did not usually admonish other people's children. The elder expressed concern that in recent years the young people do not respect their parents and their elders in the community, and "are out of control". That situation he felt must be changed and he hoped that would happen in Nunavut.

Petrone, Penny (ed.). Northern Voices: Inuit Writing in English. Toronto: University of Toronto Press, 1988.

This book is a compilation of Inuit writings in English. Included are all forms of writing including letters, speeches, essays, stories of myths and experiences told to early ethnographers such as Rasmussen, songs and poems and so forth. The editor provides a useful brief bibliographical note on each contributor. The writings deal with four era, namely the era of the oral traditions, the early contact period, the transitional era, and the period of modern writings. In the first section there are stories or myths such as "Origin of the Sun and Moon" (murder and incest lead to a brother and sister chasing themselves around in circles forever in the sky), "The revenge of the Orphan Boy" (a boy/man kills people who have mistreated him, including two women he initially kept as wives in order to punish them further), and "Women Become Dangerous When They have No Husband" (murder and sexual abuse lead to revenge killings and incest and retarded growth). The early contact and transitional literature refer to a considerable variety of issues, experiences and themes including cannibalism, shamanism, initial contact with Whites, correspondence with Whites, Inuit response to travel to places such as London, the Chicago World Fair of 1893 and so forth. The section on modern Inuit writings in English include a wide range of formats (speeches, poems, essays) and a wide spectrum of well-known Inuit voices such as John Amagoalik, Mary Simon, Mary Carpenter and Taguk Curley. The central themes of these writings are the celebration of continued Inuit survival in the modern world, the possible new forms that survival will occasion, the

importance of the land and Inuktitut in preventing Inuit disappearance, and the promise of Nunavut in restoring Inuit control over their own destiny.

Prattis, J. Ian & Jean-Philippe Chartrand. "The cultural division of labour in the Canadian North: a statistical study of the Inuit", CRSA, Vol. 27, #1, 1990.

The authors contend that there have been rather separate streams of scholarly research concerning the Inuit in Canada's North. One stream has emphasized the theme of political and economic dependency while the other has focused upon issues of language and cultural continuity. It is noted that the Inuit themselves connect both themes in their social constructions, and the authors hold that social science would profit by better appreciating their linkages. They advance an internal colonialism model which entails a cultural division of labour such that the dominant group (here the whites) hold all the key managerial and administrative positions, and explore the implications for the subordinate group's cultural continuity. The authors observe that government intervention in the North increased profoundly after the second world war and that its policy was to concentrate the Inuit population and to inculcate the mainstream education system, policies that had high assimilation potential vis-a-vis Inuit. The Inuit on the other hand, it is argued, may well have been able to resist these pressures at least somewhat, because of the cultural division of labour which underlined their distinctiveness, and because there was significant economic pluralism in the North, high language retention in some areas, and an insistence by Inuit leaders that, like native Indians, they were not simply another ethnic group in the Canadian mosaic.

The authors provide statistical information which clearly, although surely not surprisingly, indicates the dominance of the whites in the labour force and their control of the managerial and other top, educationally-skilled jobs. There is little doubt that there is a cultural division of labour in the Hechter (1975) sense. They also contend that while internal colonialism has caused much destruction in northern communities (e.g., substance abuse, crime, suicide), cultural retention of values, language, and identity remain quite strong among Inuit especially in the Baffin and Keewatin areas as compared with Labrador and the Western Arctic. The paper brings together different data and in that sense is useful but the data provided are not particularly closely analysed and cultural continuity is not explicitly tied to variations in community destructiveness nor are the internal variations among Inuit peoples clearly linked to interconnections of economic dependency and cultural continuity. The paper does underline the importance of the Inuit perspective that links language and a special orientation to the land with political-economic restructuring.

"R v Moses", 11 Crim Rep (4th) 357 (Yukon Terr Ct); also reprinted in the text Dimensions

of Criminal Law, 1992.

This is the classic case which has defined the circle sentencing principles and procedures in the Yukon. The offender, who had a long history of substance abuse, violent acts, and incarceration, had committed an assault threat with a bat on an officer, thieved, and breached probation. He was found guilty on these charges. The disposition was non-incarceral but multi-stage and involved family support, isolation, counselling, etc. Apparently the resort to the circle sentencing format was rather spontaneous, occasioned by many officials believing that the whole situation from a conventional justice-response perspective was self-defeating and likely to worsen things. A case is made for the circle's physical arrangements and the circle dynamics (e.g., speak while sitting, use personal names not titles, all persons within the circle must be addressed, anyone in the circle may ask a direct question of anyone else there). The advantages of circle sentencing are claimed to include greater lay participation, creative new solutions, involving victims, extending the focus of the criminal justice system to look at the causes of crime, mobilizing community resources and partnership, and merging values between first nations and provincial and federal governments. This is a complex document which deals at depth with the issues raised by the inventive approach used to sentence a native person.

Research Directorate, Royal Commission on Aboriginal Peoples. "Aboriginal Justice Inquiries, Task Forces and Commissions: An Update", Aboriginal Peoples and the Justice System. Ottawa: Royal Commission on Aboriginal Peoples, 1993.

As the title indicates this paper presents an update on eight major task forces, inquiries and commissions dealing with aboriginal justice. The eight are The Royal Commission on the Donald Marshall Jr. Prosecution (1989), The Aboriginal Justice Inquiry of Manitoba (1991), The Alberta Task Force on the Criminal Justice System and Its Impact on the Indian and Metis People of Alberta (1991), the two Saskatchewan Review Committees on Indian Justice and Metis Justice (1992), Indian and Northern Affairs Canada's The Indian Policing Policy Review (1990), Correctional Service Canada's Task Force on Federally Sentenced Women (1991), the Law Reform Commission of Canada's Aboriginal Peoples and Criminal Justice (1991). In each instance there is a brief discussion of impetus and objectives, findings and recommendations, government and aboriginal response. Essentially it is contended that those recommendations implemented were modest and incremental ones and especially entailed cultural sensitivity programs, indigenization of justice personnel, and creating services within the system to better accommodate aboriginal peoples. The claim is advanced that significant change can occur within the exiting constitutional framework but successful implementation requires an appropriate negotiating structure.

Robert, Francois. "A Cree System of Justice: Implementing Change in the Justice System" in A. Morrison (ed.). Justice for Natives. Montreal: McGill University Press, 1997.

The author discusses the research on justice among the James Bay Cree carried by LaPrairie et al in the early 1990s in collaboration with the Grand Council of the Crees (Quebec). Citing the twelve major recommendations advanced by those studies, he notes that implementation process has begun which will translate these recommendations into policies and practices that will provide significant control by the Cree over justice in their area. He also calls attention to the complexity of the involved interests and organizations, and cautions that the transition between the status quo and the proposed future state is critical and must be managed carefully. The emphasis in the needed system, and in the transition to that state, is "to let the communities develop their own solution".

Roberts, Julian and Carol LaPrairie. "Raising Some Questions About Sentencing Circles", Criminal Law Quarterly, 1997.

The authors indicate that their focus is on the utility of sentencing circles to the non-aboriginal culture, indicating that their application in aboriginal culture raises other issues that go beyond the scope of the paper. At the same time, in assessing the utility of sentencing circles, they basically put forth criteria and then assemble evidence drawn almost exclusively from the aboriginal experience since there is no other experience to draw upon. They contend that while extravagant claims have been made about aboriginal sentencing circles in terms of reducing recidivism and crime, supporting evidence is non-existent. Further, they argue that aboriginal sentencing circles have had a negligible impact on the reduction of incarceration, and in fact, aboriginal incarcerations significantly increased in the Yukon Territories and Saskatchewan between 1990 and 1995 despite the large number of circles that took place in these two regions. They argue that sentencing circles run counter to the 'Just Deserts' theory of punishment (where punishment is proportional to the seriousness of the offence) since individual circumstances are emphasized, a fact that raises many questions for equity, a basic principle of Canadian sentencing policy. In their view sentencing circles, by representing a return to highly individualized sentences, could possibly be seen as a retrograde step! They call for rigorous examination of results to replace "anecdotal evidence" and "extravagant claims". Clearly, despite their disclaimers, this paper is a major critique of sentencing circles in aboriginal communities. Perhaps, by their disclaimer, the authors are acknowledging that a complete assessment of sentencing circles in aboriginal communities would also have to take into account their impact on community development and the extent to which they have fostered other goals such as collective responsibility, self-government, and so forth.

Ross, R. Duelling Paradigms: Western Criminal Justice Versus Aboriginal Community Healing. Ottawa: Aboriginal Justice Directorate, Department of Justice, 1993.

Ross contrasts aboriginal traditional justice practices and the mainstream justice system. He argues that insofar as there are to be aboriginal alternatives, then these interventions should be aboriginal-based, involving community control and healing principles, and focusing on serious familial and interpersonal violence which is a major problem in many reserves. He contrasts sharply this type of 'healing' intervention which he sees in the famous Hollow Water program, with initiatives on reserves such as Sandy Lake and Attawapiskat where the offences considered are modest and the program is basically an appendage to the regular court system, a case processing approach in his view. Ross compares these 'healing' and 'case processing' approaches on a variety of practical issues such as the successful involvement of elders. While calling for the former (i.e., the healing approach) as the major “intervention or alternative” strategy in aboriginal society, Ross also refers to the need for (and participation of) trained and independent professionals or para-professionals who can command community support.

Ross, Rupert. Return To The Teachings: Exploring Aboriginal Justice. Toronto: Penguin Press, 1996.

This book continues Ross' insightful exploration of the Aboriginal ethos and perspectives on justice. It aims at filling a void in discussions of how Aboriginal perspectives may indeed be quite different from those underlying the mainstream system, and particularly suited to the chief social and justice problems facing Aboriginal peoples today. Ross contends that for Aboriginal peoples, if not for Canadians in general, the criminal justice system has been a substantial failure and different aboriginal traditions exist which are valuable in their potential to deal with offenders, victims and wrongdoing. He emphasizes that in these traditions problems are dealt with from a 'values' perspective and with a 'teaching' purpose, a style quite different than the formal rationality that characterizes the conventional criminal justice. Consistent with his earlier works, Ross dwells upon the importance of an holistic or family model of sanctioning, and of ceremonies and procedures that facilitate empathy and cognition on the part of the offender (e.g., the offender experiences some portion of the harm he caused) and closure for the victims. Ross sees all these aspects as pivotal to "traditional law" and central to the Aboriginal approach. Virtually all the examples Ross utilizes in this work are drawn from the well-known Hollow Water community justice program. The author details the structure and processes of the Hollow Water program and depicts the latter, with its ethos of healing, as an alternative to the adversarial and punitive criminal justice system and the community courts that it has spawned in many First

Nation communities.

Ross argues that not only is the aboriginal approach valuable in aboriginal communities but also it is relevant for the larger society. He sees the style and ethos as particularly appropriate to pre-trial hearings which can be nonconfrontational and procedurally and structurally flexible. While clearly sympathetic to the adoption of 'traditional law' and the healing, community-based ethos, Ross appears to advocate a dualistic model wherein the conventional criminal justice system and its punitive threat and developed adversarial system is appropriate in some instances in aboriginal communities. Ross also draws many parallels between 'traditional law' and contemporary restorative justice principles.

This is a valuable, interesting book but also quite frustrating. Apart from the Hollow Water there is scarce data provided and one is left with an essentialist view of 'traditional law' and aboriginal ways that hardly captures the diversity of traditional and aboriginal law and justice. There is a strange contrast between the realities of the conventional justice system and the ideals of the traditional system. The Western approach is rather simplistically presented, especially when one realizes the relatively recent vintage of many of its key components (e.g., the total reliance on professional role players) and the current enthusiasm with respect to restorative justice. It would have been valuable to examine how the social factors associated with modernity and political-economic considerations which have shaped the evolution of the criminal justice system, might impact on the potential of a revitalized traditional way of justice.

Saskatchewan Justice, <u>Sentencing Circles: A Discussion Paper</u>. Regina: Policy, Planning and Evaluation, Department of Justice, Saskatchewan, 1993.

This discussion paper addresses the use of sentencing circles in Saskatchewan, noting that there has been some such experience in the northern part of the province and that a major theme in aboriginal justice has been making the sentencing process more relevant and appropriate for aboriginal people. The paper suggests that the idea of a sentencing circle might itself be seen as the imposition of a foreign idea on aboriginal people, as suggested by some scholars and observers who contend that the traditional system emphasized non-interference and avoided confrontation and allocation of responsibility. The paper notes that the idea of having a sentencing circle has, in practice, been deemed relevant only after a finding of guilt has been made, and has been advanced sometimes by judges and sometimes by others such as defence counsel. Review of court experience to date indicates that the purpose of sentencing circles is to shift to sentencing principles other than retribution, and to involve the victim and the community. Other factors affecting the issue of the appropriateness of utilizing sentencing circles include the

seriousness of the offence (e.g., where the conventional sentence would be less than two years in prison), the willingness of offenders and the community to participate, the ability to involve the victim directly or through representations, and the attitude (i.e., contriteness) of the offender. Clearly, each case would have to be decided on its merits and, as the authors note, one impact of this individualized approach may well be increasing disparity in sentencing, thereby raising the issue of equity.

The paper raises issues such as who is responsible for investigating the potential for the Circle, for handling its arrangements (the authors think there should be an objective service provider here), how does one identify 'the community', who should attend and what should their role be, what is the process to be followed in the actual sentencing circle (e.g., sitting arrangements, judge presiding, introductions, prosecution and defence sentencing submissions), whether the judge's final decision is seen as informed by the discussions or as directed by the group consensus, what if any rules apply with respect to perjury, slander, etc. Finally, the paper notes that for evaluation purposes, considerations include the resources required, and the impact on the victim, the community, and the offender. A prior consideration is agreement on the aims of sentencing circles.

Saskatoon Community Mediation Services. <u>Restorative Justice: Four Community Models</u>. Saskatoon, Department of Justice, 1995.

This paper reports on a restorative justice conference held in Saskatoon in 1995. The purposes of the conference were “to listen to aboriginal perspectives on restorative justice”, to find out what interesting developments are occurring in different social contexts (Aboriginal, Australia, New Zealand, Japan), and to examine issues in victim-offender mediation. Several native presenters expressed scepticism about the mainstream society's responsiveness to restorative justice. One aboriginal person argued that healing and an holistic approach are central to the native perspective, while a female presenter contended that native women are pivotal to developments in the aboriginal community - “if you see any aboriginal justice project that doesn't centrally involve the women, then you're not looking at real justice”. Sentencing circles were discussed by several presenters and generally seen as representing a positive step and considerable improvement over existing mainstream justice practices. One judge contended that “if you involve the community ... you open up the possibility of forgiveness and reconciliation so people can get on with their lives. In small communities this is absolutely critical”. The Australian and New Zealand versions of family conferencing were also discussed; successes were noted, as were aboriginal influences and the parallels with Canadian aboriginal sentencing circles. The Japanese system of restorative justice was seen as similar in many ways (e.g., an emphasis on harmony, healing,

and the local community) to aboriginal justice initiatives.

Seagraves and Associates. Evolution of NWT Community Constable Pilot Project (CCPP). Ottawa: Aboriginal Policing Directorate, Solicitor General, 1996.

The CCPP project was undertaken in two communities, Fort Good Hope and Coral Harbour. Residents selected were sent to RCMP depot for three weeks training and subsequently assisted the full-time RCMP officers in policing their own community. The project was funded for a trial three year period (1994-97) by the territorial and federal governments. Its objectives ostensibly were to assist the RCMP in furthering community policing and to indirectly impact on the health and safety of the officers who often worked alone. It was unclear whether the program was to effect more local control over policing. The program was somewhat akin to the former RCMP 3B program but here the community constables were not hired by the RCMP. Certainly there has been a long history (1969, 1971) of band constables being hired under DIAND auspices to deal with band bylaws and to supplement the senior police forces at the local level. In 1973 a DIAND policy statement outlined several policing options for aboriginals and one option, 3B (special constables working with the senior police and trained by them) was adopted by the RCMP and later by the Ontario Provincial Police. By the early 1990s these 3B programs were phased out in favour of more regular aboriginal officers and self-administered aboriginal police services.

The CCPP represented a collaboration at the field level between the RCMP and the receiving communities. In Fort Good Hope (the Inuvik RCMP detachment area) six applicants were selected from a pool of nineteen candidates. The selection was made by the RCMP in consultation with an ad hoc advisory committee from the community. Interviews with key players -the RCMP staff in the field and at regional offices, the community constables, government officials and community members- indicated that as of 1996 the program was regarded as highly successful. It was considered to have accomplished the two objectives, improved the policing service and facilitated a more culturally sensitive community policing. Community members appreciated the job creation aspects (well-paid part-time work became available) of CCPP. Virtually all interviewees considered that the program should be extended to other communities in the North. Among the Inuit in Coral Harbour (in the Keewatin and directed from the Yellowknife RCMP detachment) the program was less successful. There was less interest and all six applicants were selected. Respondents differed in their assessment. RCMP members reported little community support for the program and little need as the police problems were minor there. Only three community constables were on the job one year later. Nevertheless community members strongly supported the initiative and appreciated the fact that the community constables spoke Inuktitut. The general

recommendations called for retention of the CCPP, expanding it to other Arctic communities, and combining it perhaps with other similar programs such as bylaw enforcement officers (CCTP). It is a way to enhance policing in Nunavut particularly in the short-run when regular RCMP officers are not Inuit and do not speak Inuktitut.

Schechter, Elaine. "The Greenland Criminal Code and the limits to legal pluralism", Inuit Studies, vol. 7 #2, 1983.

This short article discusses the difficulty of attempting to graft traditional Inuit concepts of justice, especially rehabilitation, onto the base Danish system of laws and procedures in Greenland. She notes that traditional Inuit mechanisms of social control (e.g., teasing, song duels, regulated combat, exile) have either become extinct or seriously weakened. In her view the thrust of Inuit customary law is not punishment and repression as in the Danish system but rather the so-called 'Arctic Peace Model' (i.e., elimination of conflict and restoration of harmony). The Greenland criminal code of 1954 represented a compromise . Rehabilitation was emphasized and convicted persons rarely incarcerated (and then only at night-time in Greenland). Local district judges were lay Greenlanders and even counsel were typically not lawyers. Sanctions were flexible, tailored to the offender and the emphasis was on integrating the offender in the community. Over time however the distinctiveness of what might be called the Greenland approach has been reduced rather than enhanced. The author notes that Danish philosophy of sentencing, namely just deserts, has become more prevalent and this has shifted the focus to the offence rather than the offender. Legal centralism has been reflected in constant education and training (upgrading) given by Danish professionals, centralized monitoring and processing of cases, and increased professionalism in the Greenland courts (e.g., counsel for defendants provided by lawyers not lay persons). These processes have reduced Greenlandic autonomy, flexibility and pragmatism. The article is descriptive and does not suggest whether these trends are irreversible, the inevitable result of implacable modernism, or whether and how they might be countered. No assessment is given of whether social and cultural conditions in Greenland could facilitate an alternative justice system or philosophy.

Stevens, Sam. Report On The Effectiveness of Circle Sentencing. Ottawa: Solicitor General Canada, 1994.

This article provides an overview of circle sentencing, its origin, structures and processes, effectiveness, and challenges. The author presents well the 'colonialism' model of crime and social disorder in aboriginal communities (see Jackson, 1992) and draws upon written materials (e.g., Barry Stuart, Rupert Ross) to describe

circle sentencing and the rationale for its being adopted in the justice system. He presents a good argument for circle sentencing as advancing community empowerment and effective offender rehabilitation. He presents circle sentencing as beneficial either as an alternative or supplement to the conventional criminal justice system. Circle sentencing is seen as relevant at all stages of justice system processing and not simply as an alternative to that process. Further it is seen as embodying fully the principles of restorative justice. Stevens points to some of the key problems that have to be worked out in circle sentencing such as support and attention to victims, and dealing adequately with family violence. He also discusses some of the pre-conditions for successful circle sentencing such as the disposition of the offender, pre-circle planning, and the level of community support. In general Stevens contends that circle sentencing is something that bridges the gap between mainstream and aboriginal traditions. The author provides little evidence to support his arguments that circle sentencing is effective, basically a few positive interviews (he is not specific as to either the number or the type) conducted over a one week period with diverse people experienced in the innovation. Still it is a well-written and well-argued paper.

Stuart, Barry. Building Community Justice Partnerships: Community Peacemaking Circles. Ottawa: Aboriginal Justice Learning Network, Department of Justice, 1997.

This is an interesting, detailed case for, and outline for initiating, community peacemaking circles, by a judge who has been one of the leading advocates and initiators of this justice system development in the Yukon Territory. Stuart focuses on community court circles which entail much community involvement, as opposed to sentencing circles which he defines as court-initiated courtroom circles. He discusses the principles of the circle process (especially distinctive is the focus on holistic healing), the participants (circles differ from the mainstream system in emphasizing equal opportunity and respect for all participants), and the operating philosophy ("community development is as central to the work of circles as community justice"). In discussing the maintenance of community justice initiatives that spawn circles, Stuart emphasizes the importance of a number of factors including community support, volunteers, and evaluation. In the latter case he stresses the importance of internal evaluations that get at the secondary impacts of community peacemaking circles (e.g., reduced interpersonal conflict).

Stuart makes it clear that community peacemaking circles are more than sporadic, spontaneous events occasioned by a particular judge. He stresses the essential role of a community justice committee which receives applications for circles and which channels cases to a variety of options. Also emphasized are key community roles such as 'keeper of the circle', the occupant of which has significant responsibilities for organizing the circle and guiding its implementation in a

specific case. Pre-circle preparation is deemed to be very important for the success of community court circles as are training courses (for professionals as well as for volunteers) and public meetings. In a long chapter on the circle hearing he informs the reader as to issues of logistics, consensus building, and spirituality, and describes the hearing in terms of seven stages (e.g., opening the circle, legal steps, closing the circle). In an appendix to the text Stuart provides an example of such an initiated program from his Yukon experience.

Stuart contrasts the circle innovation with the mainstream system which he says "doesn't work". He is very positive about the circle initiatives, arguing that they produce reduced recidivism, community development, and improved justice delivery. A number of "myths that act as barriers to community justice" are identified including the myth that only professionals can be effective, and the myth that such justice programming can only work in small, homogeneous communities. Throughout the monograph Stuart exudes humility and openness to alternative processes. He does appear somewhat more combative on the issue of evaluation and especially towards the media and academic researchers who, in his mind, are quick to disparage community justice on the basis of too narrowly conceived performance indicators such as recidivism.

Tavuchis, Nicholas. Mea Culpa: A Sociology of Apology and Reconciliation. Stanford University Press, California, 1991.

Tavuchis provides an interesting and in-depth analysis of apology, a key dimension of restorative justice and often deemed a requisite to an offender's successful rehabilitation. He contends that apology is essential a social exchange. It begins with "the knowing and wilful violation of a mutually binding norm that defines those affected as members of a moral community". In all societies there are socially patterned and objectified definitions of what constitutes an apologizable offense and how one is expected to speak to it. Apology can come in many modes, and the author discusses the "many to one", the "one to many", and the "many to many" modes. In Canadian society examples readily come to mind of all these forms (e.g., the "many to many" form is seen in the government's apology for the abuse of residential schools). Tavuchis describes these modes of apology largely in relation to Western civilization, but he does offer some contrasts with Japanese culture. He argues that there is a three-phase, universal dynamic to apology, First, there is the wrongdoer's responsiveness in terms of sorrow. Secondly, there is explicit acknowledgement by the offender which entails taking responsibility for the action, expressing sorrow, and seeking forgiveness from the offended party. Thirdly, the loop is closed by the forgiveness of the offended, which symbolizes reconciliation and allows the resumption of normal social relations.

Tavuchis stresses the humanizing and civilizing potential of apology for individuals and institutions. At the same time he observes that "there are acts in the

moral spectrum that are beyond forgiveness, individual and collective actors apparently impervious to sorrow, and institutional imperatives that can effectively silence such speech". Apology, he holds, is a learned phenomenon and therefore it is important to ask in any society, "to what extent is an appreciation of the remedial aspects of apology cultivated in different social environments, such as family and peer groups". Clearly, it would be very appropriate to ask to what extent such cultivation of apology is a central dimension of justice processes in modern society.

Tester, Frank J. "Integrating The Inuit: Social Work Practice in the Eastern Arctic, 1955-63", Canadian Social Work Review, Vol. 11, 1994.

The author argues that the decade between 1955 and the mid-60s witnessed profound change among the Inuit in the Eastern Arctic. There was the movement from camps to settlements, the decline of the fur trade and increased dependence on the welfare safety net, a tuberculosis epidemic, and a clear governmental policy of integrating Inuit into the Canadian society in all respects where the chief contribution of the Eskimos would be in the realm of art (chiefly sculpture). Here the author discusses the role of social work in assisting in this assimilation process. The social workers came with their model of the Southern nuclear family, the sanctity of the home, cleanliness and other modern values. Family allowance, given in kind, occasioned control over Inuit diet, child rearing practices and attempts to regulate adoption; the latter was resisted not only by Inuit family practices but also by some judges who ruled that "adoption by Eskimo custom" was to be regarded as legal. Medical rehabilitation whether in Southern sanatoria or in centres established at Rankin Inlet and Iqaluit had an explicit goal of assimilation, i.e., teaching Inuit modern ways such as saving money, good work habits and punctuality.

Social workers had a special responsibility in dealing with alcohol abuse, crime and sexual deviance (by middle class standards). Equal access to alcohol was enshrined in judicial decisions in 1959 and alcohol abuse for a variety of reasons became widespread. Indictable and summary convictions in places such as Iqaluit were comparatively astronomical. In general social work leaders held that such were the costs of rapid change and low socio-economic status so the solutions were deemed to be faster change to get through the transitional phase as rapidly as possible, and better housing and economic opportunities. A few social work administrators held that "guiding Eskimos" meant empowerment through Inuit councils. By the end of the 1960s Inuit voices of resistance were being heard and aboriginal organizations being formed.

Thorslund, Jorgen. "Youth Suicide And Problems Of Modernization In Greenland", Self-

Sufficiency In Northern Justice Issues. Burnaby: Northern Justice Society, Simon Fraser University, 1992.

The author observes that a high rate of suicide is common young Inuit men in Greenland and in Canada. There are many calls for action, for crisis intervention and for 're-introducing' youth to traditional cultural techniques but the author is sceptical about the effectiveness of these remedies in the long-run since they are not based on either solid theory nor a realistic analysis of the non-traditional problems facing youth and young men. Thorslund examined a large number of suicides and notes that suicide was most common in economically disadvantaged regions and that almost everybody was intoxicated by alcohol when they committed suicide; moreover the location of the suicide suggested that the person was sending a message to either close relations or to authority figures (e.g., police). The author argues that suicide as an act has some acceptability in traditional culture and may continue to be seen as a valid response to 'overwhelming' problems. The latter situation, for a variety of reasons, is claimed to be more common to young males. The latter have weak occupational position and perhaps low status prospects. The author advances as a solution holding public conversations about suicide and changing its psychic hold. Interestingly there is no connection drawn between suicide and homicide though the same group leads both categories, and also there is no focus on the conditions of economic marginality and low socio-economic status which appear to characterize the target subgrouping, young Inuit males.

Turpel, Mary Ellen. On The Question Of Adapting The Canadian Criminal Justice System For Aboriginal Peoples: Don't Fence Me In, National Round Table On Aboriginal Justice Issues, Royal Commission on Aboriginal Peoples, Ottawa, 1993.

In this paper prepared for the National Roundtable on Aboriginal Justice Issues (Royal Commission on Aboriginal Peoples) Turpel discusses the general issue of whether the Canadian Criminal Justice System can be adapted for aboriginal people. She emphasizes that there are differences in value-orientations, principles, and strategic directions between aboriginal peoples and their traditional systems on the one hand and the Canadian system on the other. At the same time she considers the impact of the destruction caused by colonialism and oppression, and also the diversity among aboriginal peoples. She stresses differences between aboriginal and mainstream systems that exist on a variety of fundamental Justice principles, and emphasizes the aboriginal focus on harmony, healing, and consensus. She argues that dual respect of differences (and rights) should be the theme of future Justice considerations and collaboration, and holds that a single inclusive model will be problematic, especially outside urban areas.

Uviluq, Marie. Traditional Family Law in the Baffin and Keewatin Regions. Ottawa: Family Law review, Department of Justice, 1990.

This is a rather, rambling, but interesting, account of interviews, stories and thoughts about family law issues such as adoption, marriage, and traditional family norms. The author's work is based on interviewing elders, professional social workers and a small number of other residents in several communities. There is considerable attention paid to the issue of custom adoption. This concept is not defined but refers to situations where the infant for one reason or another is ear-marked to be raised by and be a family member in another household, usually a close relative. The author contends that custom adoption was an everyday occurrence and that even today is commonplace in the area. In fact she claims that there are some 100 custom adoptions a year in Baker Lake, an extremely high rate if true. Uviluq contends that traditionally the biological parent, especially the mother, would still be known as such and would play a role in rearing the child. According to the author, " non-Inuit social workers say that an unusually high proportion of custom adopted people are showing up in courts, in trouble with the law"; however, she is sceptical about that claim, suggesting that the system has worker quite well and has been very extensive. She does note that there is some question about whether the biological parent can take back the child - a fear on the part of the adopting parents, and a concern among the biological parents in the event of any child abuse or neglect. Other stories and interviews indicate that there adoptions other than the custom adoption and when one puts together custom adoptions, other adoptions and foster care, it would seem that the numbers are staggering for such small communities; unfortunately there is little data presented on these patterns.

There is some discussion of general child welfare and the conflict between the concept of children's formal legal rights, bureaucratic rules and procedures (e.g., criteria for good foster homes) and traditional styles and practices (e.g., elders may be offended by 'prying' social workers, fondling of children was not uncommon). The author discusses child welfare policy in the area and is rather critical in several different respects. The social workers, if from the South, require an extensive period of socialization, and those who are Inuit are often burned-out because of the multiplicity of tasks they have to perform such as child apprehender, counsellor, suicide prevention officer and the like. There is a high stress level which is captured in some of the interviews with social workers, so clearly it would be appropriate to provide aid and counselling to the counsellors themselves on a regular basis.

The author observes that the influence of elders on young adults has been considerably weakened in the modern social context. The Charter of Rights, adult

status, and new cultural styles have severed some of the traditional ties that used to guide people over this, often tumultuous period of life (after all, everywhere the persons most likely to commit deviance and crimes are the young adults). An elder suggested that contact between elders and young adults might facilitate these latter persons' getting worries and concerns 'off their chests' and so reduce violence and suicide (an idea advanced recently by the 'grandmothers' in some First Nation communities as to the desirability of an elders-operated drop-in for young adults). There is an extensive account of Inuit naming practises, the development of the disk number system and its subsequent elimination in the 1960's. Many of the traditional practises around the use of names (e.g., uttering the personal names of parents and closely related elders was deemed to be disrespectful) can be seen as somewhat similar to the southern mainstream practise though no linkages are ever drawn with respect to common patterns. There are other references which are interesting, such as the extremely widespread unemployment in the communities, the lack of success of the criminal justice system in counselling and rehabilitating abusers and other offenders, the traditional system of burial practises, the importance of the community radio as a way of communicating in the area, traditional sexual deviance, the fact that most incest occurs outside an alcohol context and so on. In addition, there are some moving stories of spousal love and analyses of contemporary problems by some elders.

The report is not analytical and little data are provided for any of the issues discussed. There are no references to common law interpretations in the North on issues such as custom adoption though that has been an area where interpretations have been rendered. There is little awareness of the extent to which there are cultural similarities, North and South. Rather, there are what amounts to stereotypes about modern social relationships such as the family, no appreciation that modern kinship terminology at one point was referred to by anthropologists as virtually identical to the Inuit system, and no acknowledgement of how some elders' values (e.g., emphasizing personal choice and personal satisfaction) are very congruent with southern values.

Van Ness, Daniel. "Perspectives on Achieving Satisfying Justice", paper presented at Restorative Justice Symposium, Vancouver, 1997.

Van Ness posits that there are three foundational principles of restorative justice. The first, that crime is more than lawbreakers and justice requires healing of victims, offenders and the community. In his view this means that the basic distinction between the remedies of civil and criminal laws is too rigid. The second principle calls for all the above 'players' to be actively involved in the justice process. The third principle he advances calls for a rethinking of the roles and responsibilities of the government and the community. He adds that

restorative justice values encounter (the parties to crime meeting and going through emotion to understanding and agreement), reparation (the focus is on making amends and repairing harm rather than punishing), reintegration of both offenders and victims, and participation (especially voluntary participation). The overall vision in his view is transformation which he sees in somewhat spiritual terms. He presents this analysis with a kind of evangelical fervour. Would this emphasis on encounter and participation be appropriate in all cultural and social settings? There is no discussion of that issue. Certainly some scholars have raised qualifications in urban environments and some writers on Nunavut have suggested that these values and strategies may not fit comfortably with cultural and social patterns there. Van Ness observes that in New Zealand there is a system available in-between engaged encounters and formal passivity. It is the so-called 'talk court' where offenders and victims have a chance to describe in their own words what happened under relaxed rules of evidence and formal procedure; in this format the judge explains in non-technical language what the charges are and what the possible sentence may be. That system may well be recommended in situations where people do not want to meet with or confront others.

Webber, Jeremy. "Individuality, equality and difference: justification for a parallel system of aboriginal justice" in Aboriginal Peoples and the Justice System. Ottawa: Royal Commission on Aboriginal Peoples, 1993.

Webber deals with the moral and everyday rationalization for a parallel aboriginal justice system vis-a-vis Canadian concerns for fairness, equity, commonness and so forth. He sees aboriginal justice as a matter of roots, context, and identity. He deals with several possible objections to an autonomous aboriginal system. In discussing concerns about the protection of individual liberty, Webber observes that undoubtedly there would be the possibility of opting-out, and the Charter of Rights and Freedom would protect certain rights. On another possible objection, namely the legitimacy of authority, Webber contends that concern would be about institution building at the community, band or First Nation level. and the question of whether aboriginal societies lack the safeguards which non-aboriginal Canadians consider important. Here he argues for a reinvention of tradition appropriate to the new societal aboriginal circumstances which may, for example, require inventing checks to prevent abuse which were unnecessary hundreds of years ago. He contends that any aboriginal system will have to pass some standards for effectiveness and lack of corruption. On equality and commonness, Webber notes that since some basic standards are essential to the continued cooperation of aboriginal and non-aboriginal peoples, there would need to be some consistency in minimal standards of conduct upheld by the criminal law or other means. Webber emphasizes that he is not suggesting that a completely separate aboriginal justice system is essential or even desirable.

Welsman, Paul. "Education of Native Peoples in the Northwest Territories", in Nils Orvik and Kirk Patterson (eds.). The North In Transition. Kingston, Ontario: Centre for International Relations, Queens University, 1976.

This article is concerned with the quality and aim of education delivered to native people in the NWT, including Indian, Métis and Eskimo (sic) groupings. The failure of the Canadian government to provide education services to many of the indigenous people in the NWT according to the author is something that cannot be justified in one of the most highly developed countries in the world. The education that is provided promotes assimilation and at its worst is exemplified in the practice of the residential schools of the 1950s and 1960s. Welsman argues that the intent of the imported southern education system to turn native people into educated, employable and assimilated citizens has failed miserably. Instead the result has been unemployed, uneducated and discontented people who are no longer aware of their own cultural strengths and who in many cases cannot get their food from the land but rather must rely on governmental assistance to meet their daily needs. They are neither fish nor fowl but trapped in a stressful 'no-man's' land between traditional and southern systems. In Welsman's view, "the structure of education must reconcile the physical demands of the northern environment with the special cultural and economic conditions", and the schools must "become the bastions of cultural identity for native peoples ... the repository of cultural values ... a vehicle of political expression and an avenue of economic betterment". While this report focused on the early 1970s it can be noted that nearly fifteen years later Colin Irwin stirred controversy with a much similar report in his Lords of the Arctic: Wards of the State. The problems of integrating cultures, and defining and implementing a vision of the formal school system are clearly not easily resolved.

Wenzel, George. Animal Rights, Human Rights: Ecology, Economy and Ideology in the Canadian Arctic. Toronto: University of Toronto Press, 1991.

This is an excellent example of advocacy anthropology where the author, with more than twenty years ethnographic experience in the Nunavut area (largely Clyde River in the Baffin) sets out to convey to the animal rights interests how they have short-changed the Inuit in their assumptions of whaling and trapping, and Inuit assimilation in the modern-day North. Wenzel shows that Inuit adaptation to European influences whether in technology (e.g., guns) or employment opportunities has followed the pattern of adaptation which has characterized their culture back to the Thule-Dorset transition a thousand years earlier. The author points out that the values underpinning hunting are truly cultural not narrowly economic. He notes that visitors to the North usually fail to see the continuity of Inuit culture, the extent to which the seasons still play a major role in Inuit life since Inuit continue to be involved in meaningful hunting of

caribou and whales and associated patterns of subsistence, seasonal movement and extended family interaction. Indeed part of the Inuit current adaptation is taking over from southern professionals and par-professional in the settlements, and nowadays the language of the workplace and school is increasingly Inuktitut. The traditional ways have been supplemented and modified but the careful observer can easily locate their values at the core of Inuit life. The author quickly reviews the major stages of Inuit-European culture contact from explorers in the 17th century to intensive whaling in the late 19th century, the era of 'big three' Hudson Bay Company, the churches and the RCMP in the first half of the twentieth century (when prior to 1940 there were still fewer than 200 Whites living north of the 60th parallel), the era of rapid intensive change between the end of WW2 and the early 1960s, and the current era. He establishes that through it all the Inuit adapted as much or more than they assimilated. Through a combination of misplaced concreteness (seeing culture as objects) and ethnocentricism (assuming their 'simple' ways have been absorbed) outsiders including the anti-sealers have dismissed the cultural significance of Inuit hunting, facilitating a governmental concession and a total abolition policy by the anti-sealing movement.

Among the central arguments advanced by Wenzel is a reconfiguration of what subsistence means. This is important since the European ban is against commercial sealing and its advocates deny any negative effect on the Inuit if sealing is related to traditional life style in so far as Inuit can still hunt seals for their own purposes. He shows that by the time the European Community banned commercial seal imports the Inuit had adapted to the trading possibilities and, without threatening the resource's survival, had improved their quality of life within their own cultural system. Now non-wage supported hunters can scarcely hunt given the modern realities of costs, distances and the like. They are listed as unemployed. The apparent 'wealth' of the communities is often limited to governmental job creation and only a well-positioned minority can afford to hunt. In Wenzel's view there has been a decided loss in the integrity of Inuit culture and increasing dependency instead of the tradition of autonomous living. The author concludes that the northern seal controversy continues and indeed shows signs of some extremism on both sides. It should be noted that Wenzel does devote much effort to examining the positions of the animal rights movement. Here the focus has been on the social impact for Inuit, reflected in social differentiation, unemployment, alienation and the like, matters that usually show up eventually in the business of the justice system.

Whitehead, Paul and Michael Hayes. <u>The Insanity of Alcohol: Social Problems in Canadian First Nation Communities</u>. Toronto: Canadian Scholars' Press Inc., 1998.

This monograph presents a good case for considering alcohol abuse as a

primary problem (i.e., a major cause of social problems) rather than a 'mere' symptom of an underlying mental health problem. It also presents a strong case for the attendant policy imperative of focusing on strategies to deal with the abuse of alcohol per se as a priority vis-a-vis those (such as Royal Commission on Aboriginal Peoples) who have advocated more broadly-based policy priorities such as macro-level, socio-economic change. The authors are aware of the limits of their perspective. They appreciate that factors other than alcohol abuse account for family violence, sexual assault, property crime and the like, and they also appreciate that dealing with the alcohol problem means developing alternatives to its use which, in turn, might entail broad social change. Still, their conclusion from a meta-analysis of the general research literature on alcohol and other social problems, supplemented by interviews with community professionals in six First Nation communities, is that alcoholism is at the nexus of many major social problems and should be the priority for public policy. Essentially they report that research establishes that alcohol abuse is implicated in other serious social harm, that it typically precedes these other behaviours and predisposes people to them, and that it is a disinhibitor that allows underlying aggressive tendencies whether directed inward (suicide) or outward (violence against others). The authors contend that the diminution of alcohol abuse would be as likely as not to be replaced by pro-social coping behaviours. They provide a practical model of prevention, suggesting targets and strategies at all levels (e, g, the person, the community, and marketing). There is a useful discussion of the obstacles to dealing directly with the alcohol problem (e.g., the ethic of non-interference) and an appropriate though muted critique of extant programming in First Nation communities, especially the emphasis on treatment centres and alcohol and drug counselling. The authors conclude that the federal government was right to focus on alcohol and drug abuse rather than their root causes since they see the former as “a necessary first step” to communities' coming to grips with a range of social problems. They stress that there has been some successes in dealing with the alcohol problem in First Nations but that more resources and 'strategizing' are required. In particular they call for more formative evaluation and for more grass-root community participation.

The study draws upon the many years of research carried out by Whitehead and associates on alcohol use and, especially in recent years, alcohol use in aboriginal communities. While six First Nation communities are compared, this feature of the study is rather weakly developed and adds little. The short monograph (116 text pages) is rather dry since it does not establish the significance of its thrusts well - first the theoretical place of the alcohol problem, and secondly, the policy priorities for First Nation communities. There is little reference to the larger literature on aboriginal peoples; for example there is no reference to Rupert Ross' work on the significance of alcohol in contemporary aboriginal society, and perhaps too much reliance on the seven page statistical description published in 1982 by Jarvis and Boldt. The authors very briefly and inadequately discuss the

nature of aboriginal alcohol consumption, referring to a shortage of effective prescriptive norms against excessive drinking but not describing the patterns that exist; for example, some observers refer to a pervasive 'power-drinking style' of drinking much, fast. When explanations are offered they are sometimes simplistic as when 'non-interference' is seen solely as a cultural tradition and no consideration is given to it as a rational response to colonialism. The authors' call for more evaluation and community activism is reasonable enough. The monograph does not however provide a strong analysis of what the policy options are and which should be preferred in the light of what has been tried, largely because the authors do not directly access the relevant aboriginal literature; in that sense an opportunity has been lost. It seems to this reviewer that it is vital to describe the patterns of excessive drinking, to know the underlying social and cultural factors associated with it, to identify the key social categories or groupings where it occurs with the most serious implications for other social harm, and to examine the explosion over the past decade of rehabilitative and preventative programs that have targeted these groupings and causal factors.

Wood, Darryl. Violent Crime and Characteristics of Twelve Inuit Communities in the Baffin Region, NWT. Vancouver: Simon Fraser University, 1997.

This is a doctoral thesis in criminology undertaken at Simon Fraser University. Twelve Inuit communities in the Baffin region were compared in terms of rates of violent crime (dependent variable) and a host of possibly explanatory variables. The communities shared many characteristics such as small size, ethnic homogeneity, isolation and so forth but they did differ according to the level of violent crime found in them. The author found no master variable which could account for the variation. Levels of alcohol consumption were inconsistently related to crime and whether the community was 'dry' or not did not guarantee a lower rate of violent crime. The author reports little connection at the community level between social development and level of crime. Two community-level factors were considered significant for crime level, namely the extent to which the community had experienced major recent uprooting and relocation, and the extent to which outsiders had been “poor models of drunken behaviour”. The small sample and undoubtedly complex interplay among causal factors clearly make it difficult to identify causation at the community level but the modest analysis does point to the importance of effective community-level, informal norms and sanctions. At the individual level factors such as age, income level and employment status, and abuse of alcohol would undoubtedly be important as other studies of crime in the Nunavut area have indicated.

Wood, Darryl and Curt Griffiths. "Strangers in a Strange Land: The Royal Canadian Mounted Police in the Eastern Arctic, NWT, Canada", paper presented at Academy of Criminal Justice Sciences, Albuquerque, 1998.

Based on 157 interviews of RCMP officers, carried out in conjunction with the Baffin Crime and Justice Study 1990-94, this paper describes the views of officers, past and present, who policed the Baffin's thirteen communities. There is a brief account of the officers' motivation for going North (shown to be quite varied but often financial considerations were strong reasons for officers' taking the assignment), their pre-assignment training (apparently there was very little such training), acclimatization and acceptance, and policing strategies. Unfortunately the authors did not elaborate either theoretically or quantitatively (there are no tables or numbers anywhere in the paper) upon the kind of policing strategies that officers may have adopted. Essentially the authors appear to be suggesting that the policing strategy adopted, overall, might be characterized as community-based policing. They do provide some quotations from their interviews to that effect, showing that police do a lot more than just law enforcement and crime fighting, and that some officers referred cases to the local justice committee or to the

community committee on alcohol purchasing. However, there is neither depth in the data presented nor any indication of how widespread the allegedly community-based policing practices are, and one is left with the sense that in these small RCMP detachments there was, and currently is, a lot of room for flexibility and idiosyncrasy.

Wood, Darryl and Lawrence Trostle. "The Non-enforcement Role of Police in Western Alaska and the Eastern Canadian Arctic", Journal of Criminal Justice, volume 25, 1997.

The authors compare the Alaskan Village Public Safety Officers (VPSO) with the Baffin region's RCMP in terms of enforcement and non-enforcement activities. It is a complex task since the authors depend upon an examination of files and there is much underreporting by the VPSOs in addition to the fact that the two services (VPSO and RCMP) utilize different file construction and file input procedures. Moreover, it is clear that the mandate of the two services differs significantly since the VPSO has a broad security mandate even while supervised by an Alaskan trooper. Also, the communities served by the VPSO tend to be smaller in population, ranging from just 33 to 391 residents. Predictably, the tables show that the RCMP spend more time on enforcement and that their files are more crime-related. The tables also show that the VPSOs do more security checks. Interestingly, the tables indicate that the RCMP do more regulatory work (i.e., licenses, dog shots, firearms, customs and immigration, drivers' license examinations), presumably because other agencies are not present. It appears from the data provided by the authors that the RCMP, beyond their strict or conventional police mandate, have expanded their policing activities basically in the direction of more regulatory work. Notably, neither police service, according to these data, does much peace-keeping and problem-solving. It is interesting too that the VPSOs are increasingly recruited from outside the community since local residents have experienced too much stress in handling the security assignment and having sometimes to enforce the law against family members; no RCMP officer in the Baffin was policing in his or her home community.

Zimmerman, Susan. "The Revolving Door of Despair: Aboriginal Involvement in the Criminal Justice System", U.B.C. Law Review, Vol. 26, 1992.

This is a well-written, comprehensive overview of aboriginal involvement in the Canadian Justice System. The author, affiliated with the Law Reform Commission of Canada at the time, carried out the study in conjunction with the Manitoba Inquiry on Justice and Aboriginal Peoples. She provides a brief factual description of aboriginal involvement in the criminal justice system, along with some policy discussion and extensive recommendations, for each stage or level of the justice

system, from policing to parole and aftercare. At each step it is clear that aboriginal people are disadvantaged if not discriminated against. In general, the main thrust of the paper is advancing recommendations for a more equitable Canadian justice system for aboriginal peoples, and the main theme is the call for more governmental funding (i.e., human, material, and program resources) and more aboriginal control over and direction of these resources. The author acknowledges that such recommendations can be characterized as mere “tinkering” and falling far short of “the aspiration of aboriginal peoples to assert control over their lives and destinies”, something she strongly supports as a long-run objective.

The paper represents well the conventional, progressive non-aboriginal perspective on aboriginal peoples and the Canadian justice system. But analyses are limited (e.g., what is the role of socio-economic status?) and few hard choices are made; for example, in referring to the debate over whether in corrections the emphasis should be on cross-cultural training of non-aboriginal staff or the hiring of aboriginal staff, the author's solution is “more of both”. Moreover the article of course does not take into account justice system developments of the 1990s including the development of diversion and of sentencing circles, as well as the indigenization and increasing aboriginal administration of policing across Canada. Still, it is a fine article and two points in particular should be noted. The author observes that the responses of aboriginal participants during the Law Reform Commission consultations emphasized the need for respect for aboriginal values and customs, and for their having ownership of the system of laws which govern them. Additionally, she notes that community involvement (and by implication, community development in all respects) is central to the success of aboriginal justice alternatives.

PART B: GOVERNMENT PAPERS, EVALUATIONS AND MANUALS

Aboriginal Corrections. Community Development. Ottawa: Aboriginal Peoples Collection, Solicitor General, 1995.

This monograph is the result of an intensive two-day session focused on community development and research in relation to justice issues in the broad sense and especially relating to aboriginal corrections. The consultation was held in Ottawa August 25-26 1994 under the auspices of the Aboriginal Corrections Policy Unit of the Solicitor General. The purpose was to assist in the preparation of a community development manual which aboriginal people could find useful in furthering communities' effective and efficient initiation of justice and corrections projects. All phases, from resource mobilization to securing funding to having evaluations carried out, were considered. A number of aboriginal communities were represented as were some of the more well-known aboriginal justice projects (e.g., Hollow Water). There was much discussion of how research fits in, how it can be participatory, entail some community ownership, be a positive force for community development, and what should be in a protocol guiding the evaluative research.

Some basic themes of community development are detailed including developing a capacity to self-direct, integrating past and present customs and practices, and involving all members. The complexity and mutual requirements entailed in the government-community relationship were highlighted. The Community Action Pack (Health Canada) was deemed to be a useful kit for communities wanting to act on problems and refers to all aspects from running a meeting to evaluating results. There was much concern too about the lack of community involvement in developing research projects and new styles of research were called for such that participation and community empowerment results. There was consensus that research funding should include money for the development of proposals in order to respond to the aboriginal view that money is available for research but not programs. A large section of the report is devoted to how a community might undertake a research project - reasons for the project, specific objectives, establishing a committee, informing the community, using consultants and outside resources etc. There is a useful checklist for developing community projects and also a comprehensive list of funding sources (i.e., funding programs that might be accessed).

Aboriginal Justice Directorate. National Inventory of Aboriginal Justice Programs, Projects and Research. Update. Ottawa: Department of Justice, 1992.

This document provides a detailed listing of aboriginal justice programs, projects and research as of 1992. It lists these more than 400 items by federal department (Justice, DIAND, Solicitor General, Other) and also by province and territory. In each instance there is specification of the delivery agency, the purpose of the project, its target groups, funding arrangement, contact person, and starting and completion dates. The projects cover the entire spectrum of justice concerns from family violence, alternative measures for youth, to training for special constables. In addition there is an executive summary and useful updated socio-demographic and crime and corrections data for each province and territory as well as for Canada as a whole.

Aboriginal Justice Directorate. General Guidelines for Negotiators, Parameters for Administration of Justice. Ottawa: Department of Justice, 1996.

Here there is discussion of jurisdictional considerations, the spectrum of options available to aboriginal justice systems (e.g., dispute resolution, mediation, arbitration, diversion) and possible aboriginal involvement in the adjudication process ranging from sentencing circles or councils to aboriginal administered adjudicative processes (justices of the peace, peacemaker courts) to a full-fledged aboriginal court system. The report emphasizes 'negotiating community justice systems', clearly indicating an emphasis on the community as the key site for justice initiatives. It also stresses that provincial and territorial governments have responsibilities for the administration of justice and thus tripartite consultations should be the norm. The shared constitutional jurisdiction makes it difficult to draw a clear line between the rights and responsibilities of provinces or territories and the federal government, but by section 2 of the criminal code, the federal attorney general will be directly involved in the territories in working with communities on diversion programs and other initiatives in the criminal law area. The report details the basic principles that aboriginal community justice systems should take into account – the current constitutional framework, the Charter, procedural fairness, conflict of interest, linkages with the current system, funding arrangements and participation of women. It goes on to note that the experience of the Aboriginal Justice Directorate to date reveals that communities will probably be most interested in developing options under the rubric of 'restorative justice paradigms' and to be interested in establishing community justice committees to develop specific options and obtain greater responsibility for issues such as crime prevention and public legal education. There is a brief discussion of specific models (e.g., diversion) and adjudicative participation; particularly salient is the discussion of the justice of the peace role, where any elaboration would involve issues of conflict of interest, competence, mode of appointment and scope of authority. Clearly, the three major concepts associated with the Aboriginal Justice

Directorate's position are community programming, restorative justice philosophy and tripartite agreements.

Aboriginal Justice Directorate. Aboriginal Justice Programs Handbook. Ottawa: Department of Justice, 1997.

The Aboriginal Justice Strategy replaced the five-year Aboriginal Justice Initiative in 1966. Its focus is on partnerships with communities and provincial and territorial governments to set up aboriginal justice programs. It also establishes the Aboriginal Justice Learning Network to link aboriginal and non-aboriginal experts on justice and Aboriginal cultures to assist in the development of these programs. It expects to negotiate "up to 30 justice program agreements with aboriginal communities north of 60" and has especially identified 4 types of programs that communities may develop, namely diversion, community sentencing, mediation and arbitration in civil cases and justice of the peace courts. A detailed statement is provided specifying federal priorities (especially targeting long-term or permanent programs and those reducing aboriginal incarceration levels), criteria for assessing proposals (e.g., the Charter, community support, 'sustainability'), federal funding levels (50% of the cost incurred before 2001), and the process or steps to be followed in the development of program proposals, beginning with informal discussions among the community representatives, the Aboriginal Justice Directorate and provincial or territorial representatives.

Aboriginal Legal Services of Toronto. Community Council Reports, Quarterly Reports, 1993-1995. Toronto.

Aboriginal Legal Services consists of a courtworker program, a native legal aid clinic, a training program for court workers, an inmate liaison program, and of interest here, a diversion program. This intervention diverts adult aboriginal offenders in Toronto before their case gets processed in court. The protocol established with the federal and provincial governments is quite broad excluding only the most serious offences and incidents of family violence. In most respects the program is quite similar to other major aboriginal adult diversion programs (e.g., Indian Brook, Nova Scotia) in terms of protocol, selection of panel members, post-charge referral, format of the 'hearing', minimum involvement of victims, types of dispositions, budget level, and pivotal status of crown prosecutor. It differs in having a broader eligibility for offences, in its handling of cases where the disposition is not completed, in the pattern of offences dealt with (primarily theft, prostitution, and court offences), and in its aggressive advocacy and pursuits of cases for diversion. Extensive data are systematically compiled on the socio-demographic characteristics of 'clients', type of offences involved, dispositions rendered, completion rate, and recidivism. It has been one of the most successful aboriginal adult diversion programs initiated in Canada.

Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada. Ottawa: Indian and Northern Affairs Canada, 1993.

This document lays out the land claims agreement between the Tungavik Federation of Nunavut and the Government of Canada. Among its objectives was "to encourage self-reliance and the cultural and social well-being of Inuit" (p1). Article 32 establishes the Nunavut Social Development Council whose tasks is to promote the principles and objectives of Inuit participation in the development of social and cultural policies and the design and delivery of such programs and services and to facilitate governmental obligations in those regards. It is to do this via research on social and cultural issues, disseminating such information to government and citizens, consultations etc and each year submit an annual report on the state of Inuit culture and society in the Nunavut Settlement Area to the territorial government and to the government of Canada.

Arnot, David. "Sentencing Circles Permit Community Healing". National: The Canadian Bar Association Magazine, 14, 1994.

This paper presents a strong argument for Justice interventions such as sentencing circles which can both assist community healing (something rarely achieved under conventional sentencing practices) and restore a sense of ownership (and 'tradition') to native peoples. Arnot holds that sentencing circles have fostered a revitalization and self-worth in the individuals who came before the circles and "revitalized a collective pride in Cree communities in the area". The author, a judge, subsequently was seconded to the Department of Justice to help launch its program, the Aboriginal Justice Learning Network whereby aboriginal and non-aboriginal people could collaborate in the development and implementation of Justice initiatives (with a focus on restorative justice interventions) in Canada's aboriginal communities.

B.C. Coalition For Safer Communities. An Elaboration Of Community Needs In Crime Prevention. Vancouver: The B.C. Coalition For Safer Communities, 1997.

This report provides an overview of the concerns and needs, with respect to dealing with crime and related social problems, of a sample of communities across Canada. Focus groups were held (utilizing a common discussion guide) and relevant statistical information gathered for twenty one communities, three of which were first nation communities. Common themes that emerged included a desire for more detailed information on crime and social factors in local communities, the need for more resources to be designated for basic socio-economic development and conflict resolution, and the view that crime prevention

should be seen in a much broader sense than is usually the case.

Bopp, Judie and Michael Bopp. Responding To Sexual Abuse: Developing a Community-Based Sexual Abuse Response Team in Aboriginal Communities. Ottawa: Solicitor General Canada, Aboriginal Peoples Collection - Technical Series, 1997.

As authors note, nowadays almost all Aboriginal communities are struggling with the issue of dealing with sexual abuse. It is an extensive and serious issue in Aboriginal society and one where Aboriginal peoples have been dissatisfied with the response provided by the mainstream justice system and, more importantly, with the approach and conceptualization of the issue in mainstream society. Increasingly, Aboriginal communities and Aboriginal professionals have favoured alternatives rooted more in communitarianism, restorative justice and healing. New strategies such as community response teams and wellness programs are also favoured. This manual has been written "to assist Aboriginal community sexual abuse response teams (CRTs) to develop ... strategies for addressing the issues of sexual abuse ... [introducing] the main issues and problems with which CRTs should be prepared to deal". The authors discuss the understanding of sexual abuse in First Nations communities, the community wellness approach, care for the caregivers, response to abuse at the time of disclosure, the development of a community response team, involvement of the community, and legal and administrative concerns. Resource information is provided on most topics and appendices include a basic workshop program to enable community teams "to engage the material in the manual", as well as an outline for a two-year sexual abuse worker training.

The monograph presents a credible account of why sexual abuse became so prevalent in Aboriginal communities in the post-World War Two era. The authors trace the decline of clear traditional boundaries and rules regarding sexual conduct to the impact of colonization and its associated strategies and policies (e.g. residential schools). There is an interesting discussion of traditional values and traditional teachings on healing. The authors contend that over the past twenty years in particular an Aboriginal healing movement has emerged which has spawned the recent effective community-based approaches to the problem of sexual abuse. The movement has been fuelled by a re-awakening of traditional spirituality, cultural identity, and political action.

Among the highlights of this reference manual, perhaps the most important are the discussions of how to develop community response teams and community wellness programs. The authors also provide a clear and thorough account of dealing with the critical first phases of responding to sexual abuse incident (see At the Time of Disclosure below). Throughout the monograph the authors are continuously differentiating and integrating Aboriginal and mainstream approaches and experiences in relation to sexual abuse and to justice issues in general. They are cautious in their arguments and in their advice to potential community

practitioners. In other words, they appreciate the complexity of the issues and the need to balance the various considerations. They emphasize the importance of establishing protocols with the mainstream justice system and of attention to records and to details in general. A special aspect of the manual is the considerable attention given to caregivers, with tips to recognize and avoid stress and burn-out (a very real threat given the intensity and time-consuming nature of the care-giver role in small, densely networked communities) and guidelines for their activities.

Overall, this is an excellent reference manual for front-line caregivers. Its historical and explanatory models may be somewhat simplistic but the authors are more interested here in facilitating community development than in advancing scholarship - though a careful reading would reward those who have that orientation. This reference manual is well-written, contains a host of interesting resource materials, good tips and useful procedural information, and succeeds in its objective "to inform anyone interested in working on the challenge of sexual abuse from a community-based platform about what is involved in mounting an effective community response".

Bopp, Judie and Michael Bopp. <u>At The Time Of Disclosure: A Manual For Front-Line Community Workers Dealing With Sexual Abuse Disclosures In Aboriginal Communities</u>. Ottawa: Solicitor General Canada, Aboriginal Peoples Collection - Technical Series, 1998.

This manual is a by-product of the above, more broadly-focused manual prepared by the authors. The objective here is to focus upon the time of disclosure of sexual abuses in the community and to assist the front-line community workers in responding effectively to that situation. The authors reiterate their perspective on traditional Aboriginal societies and sexual abuse (e.g. that there were strongly held and widely shared norms against sexual abuse and little actual abuse) and the shattering of these normative systems and the effective community sanctioning as a result of colonization and its associated strategies and policies. They contend that the terrible state of abuse in Aboriginal communities in the post-World War Two era has begun to be dealt with as a result of the movements (i.e. spirituality, identity, healing) which have been impacting on Aboriginal communities since the 1980s. The authors argue that there is now a clear alternative to the approach followed in mainstream society, one that emphasizes restorative rather than retributive justice, and wellness rather than sickness. At the same time the authors acknowledge that both mainstream and Aboriginal approaches have to accommodate one another, and note that spirituality, healing and restorative justice have strong roots in the mainstream society. Accordingly, their manual draws heavily on both sources of literature for definitions, lessons learned, strategies to follow and so forth. Moreover, the authors, while emphasizing the Aboriginal approach and the achievements attained thus far in local communities, consistently show a sensitivity to the demands and requirements of the larger legal system and to the values of impartiality, professionalism and technical competence when

dealing with sexual abuse.

The authors discuss what abuse is, why it is a serious problem, the patterns of abuse, signs of abuse, guidelines for intervention (especially for dealing with children) and the issues and needs of the various parties at the time of disclosure. These are all strikingly similar to what one would describe for mainstream society and indeed the literature cited here is largely non-Aboriginal. They also discuss why and how sexual abuse, and especially the response to sexual abuse, are different in Aboriginal societies. Here they highlight the pervasiveness of the problem, and the special challenges and opportunities presented by Aboriginal community life. The preferred model for response advanced in this reference manual calls for the establishment of a community-based response team and the development of a community wellness program. The community response team includes representation from the legal and child protection agencies and represents an integrated and coordinated response involving agents and perspective from both the local community and larger society. Particular attention is paid to the stress and burn-out that front-line caregivers and members of the community-based response team frequently experience. The authors also utilize Aboriginal materials to highlight examples of community response teams, and prevention and healing programs that appear to have been successfully implemented in Aboriginal communities.

The manual should be seen in appropriate context. While the authors' premise that there is an increasingly pervasive and credible Aboriginal approach or justice movement is valid enough, it is still the case that few communities are actually implementing the extensive alternative systems described in the manual. Fewer still are the quality evaluations which examine the extent to which such intervention strategies as community response teams for sexual assault are equitable (fair to all community members), efficient (justify the considerable costs and community involvement required), and effective (achieve wellness for victims, offenders and the community). It is interesting that the chief source for most of the guidelines, signs of abuse and issues for the various parties and so forth is a non-Aboriginal handbook published in 1982 (i.e. Sgroi). It could be said that the development of a better, more Aboriginally-relevant system for dealing with sexual abuse is just a beginning. This reference manual will certainly assist caregivers and front-line workers in advancing that development.

Burford, Gale and Joan Pennell. <u>Family Group Decision-Making Project: Implementation Report Summary</u>. St. John's, Newfoundland: Institute of Social and Economic Research, Memorial University, 1996.

This report deals with the application of the principles of New Zealand's family conferencing to cases of family violence, including some sexual abuse cases, in Newfoundland. As a pilot project the program was implemented in 1993 at three

sites, Nain (the home of some 1200 Inuit), St. John's, and Port au Port Peninsula. The report answers numerous questions about the purpose, procedures and impact of the initiative. The authors argue that the model is applicable across cultural boundaries providing there is high involvement of local people in adapting it to their use. The report deals with commonly raised questions about objectives and implementation (e.g., typical problems in setting up a family conference, dealing with the possibility of intimidation, costs, and family assessments of the experience). The authors conclude that family group conferencing is an effective way to deal with violence and sexual abuse without discounting the seriousness of these problems.

Campbell, Jane and Associates. Justice Development Workers: Review and Recommendations. Ottawa: Aboriginal Justice Directorate, Justice Canada, 1995.

This paper presents a basic bare-bones review of federal and provincial projects generating justice development workers in aboriginal communities. Using a mailed questionnaire the views of seventeen justice development workers (variously called justice coordinators, facilitators, researchers) were obtained. These data were supplemented by information from a few community managers and a handful of funding officials. The primary role of the justice worker in practice was seen to be serving as a bridge between the community and the external justice system, filling service gaps, more than doing community justice development. Major problems included the implications of short-term funding, and the lack of training for most workers. Still, a number of interesting initiatives were launched by the justice workers and they clearly found lots of useful justice activities to focus upon, usually stretching their initial mandates. Apparently, too, the communities supported and valued the projects as did the external justice officials. The report highlights the factors that have led to successful justice worker programs (e.g., community participation, formation of justice committees, good pre-implementation work, good communications to the community) and, correspondingly, factors that were associated with the least successful programs (e.g., lack of clearly stated objectives, poor communication of the project's mandate and limits). The report also calls attention to the importance of in-service training, networking with the external justice system, and collaboration with other service providers in the community.

Campbell, Jane and Associates. Sentencing Circles - A Review. Ottawa: Aboriginal Justice Directorate, Justice Canada, 1995.

This report provides a summary overview of how sentencing circles have operated in Canada, especially in the Yukon and Saskatchewan where these initiatives have

been concentrated. The sentencing circle's key ingredients are considered to be a prior guilty plea or finding of guilt, and the assembly of justice system officials and community representatives along with the offender and the victim, to discuss and reach a consensus on the disposition of the case. In compiling the information the author depended upon interviews of participating judges and crown prosecutors, and a small number of available case files. After a brief discussion of reasons for the development of sentencing circles in the early 1990s (citing the 1992 case of "R. v. Moses" as path-breaking), there is reference to factors influencing a decision to hold a sentencing circle, factors such as the willingness of all participants, the type of offence, community readiness, and especially a willing judge who is the authoritative decision maker in virtually all aspects. Since the sentencing circles have no specific legislative basis it is not surprising that there is considerable variation in practical aspects (e.g., location of the circle, notification procedures, diversity of participants, pre-circle activities, and seating arrangements). Still a style has been developing which incorporates some cultural traditions, is basically informal in dress and discussion, assembles core participants in a circle, and where consensus decisions are respected by the judge. Although little systematic evidence is presented on the impact of this phenomenon, the reported (by the interviewees) positive outcomes and community benefits are many - chiefly meaningful, direct offender, victim and community involvement, the mobilization of community resources, and the merging of First Nation and Western values. The issues and concerns reported included the obvious diversity as regards selection of cases, community participation, legal considerations (e.g., legal status of statements made in the circle), and resource implications for communities and for the justice system.

Canada. Royal Commission on Aboriginal Peoples, Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada. Ottawa: Supply and Services, 1996.

In the first section dealing with current realities, the essential perspective of the report is given, namely that the criminal justice system has failed the aboriginal people. It is claimed that even the fine option policy, something often credited to aboriginal pressure, has not substantially reduced the difference between aboriginals and non-aboriginals being jailed for fine default! The report discusses the three major conventional 'theories' of why high levels of crime are found among aboriginals, namely the cultural difference approach, the structural approach, and the colonialization approach. It is the latter which they advance most emphatically, and this position leads into their case for aboriginals' control of their own justice systems. The argument is sustained by emphasizing rights (e,g. treaty rights) and by emphasizing cultural differences vis-à-vis the mainstream

society, Additional supporting claims deal with the value of a restorative justice approach which they advance as characteristic of aboriginal justice approaches, and the triple advantages of equity, efficiency and effectiveness that presumably would characterize aboriginally-controlled justice systems. The report also stresses the nation-level vis-à-vis the band when referring to aboriginal systems, partly for juristic, jurisdictional reasons but also for advantages with respect to costs, practicality, enhancing fairness, and reducing undue local political interference.

In referring to current aboriginal initiatives, attention is given to policing, diversion, court structure and corrections. Concerning aboriginal policing the report rightfully contrasts indigenization with the creation of different organizational cultures and practices. The former has become widespread (though the report does not contain data on the dramatic indigenization of policing in the past decade) while the latter is quite limited at present. As virtually all commissions have done in the past, the authors here emphasize the compatibility of community-based policing with putative aboriginal policing. They also deal head-on with the issue of political interference and the limitation of the current federal policy on non-interference in the aboriginal communities which looks askance at chiefs and elected politicians controlling local police boards; here the RCAP claim is that aboriginal traditions are different. However the discussion is limited and does not relate to the usual distinction between policy and day-to-day operational policing. In discussing training the report calls for a dual path, noting that "aboriginal police forces, acting under the authority of Aboriginal governments, will be able to develop a range of techniques that draw upon skills and traditions different from those used by non-aboriginal police forces".

The report also discusses current initiatives in indigenization in terms of having more aboriginal judges (there were about 13 in 1995) and aboriginal justices of the peace (JPs). Apparently there are over 100 JPs, the majority being aboriginal, in the NWT and this has been a positive step for community justice. They also discuss the native courtworker program and cultural awareness training as initiatives aimed at bridging the cultural gap. All the above are considered positive but limited steps. The report also discusses provisions of the Indian Act that allow for band bylaws and section 107 courts - in both instances they stress the limitations basically because these are delegated powers.

Diversion initiatives, and elder panels are seen as useful in the transition to aboriginal justice systems. Again they emphasize the limitation of such initiatives being delegated powers and in an aside to illustrate the implications of such dependency, it is noted that a sentencing circle recommendation, accepted by the trial judge, was overturned on appeal in Saskatchewan. Young offender initiatives

are also discussed and here the report cites the higher rate of custody for native youths in late 1980s, and also praises the recently launched family group conferencing concept. The report spends many pages discussing current reforms in prisons, celebrating aboriginal initiatives there, emphasizing the importance of the aboriginal spirituality experience, and also praising the new initiative of 'healing lodges' custody centres.

Two specific justice initiatives are celebrated namely the ALS adult diversion and legal services program in Toronto and the Hollow Water healing program in Manitoba. The former is seen as the only major urban program for aboriginals in North America, while the latter is celebrated for being an effective community response to a major community problem. There is little evaluation of either program referred to in the report. The section on current initiatives ends with a discussion of five issues, namely community specificity (communities should develop programs suiting their needs); the need for a project development phase which includes a needs assessment; that a healing approach requires more funding and other resources; that the status of the aboriginal person should be irrelevant with respect to eligibility; that there is a need to move from aboriginal initiatives to aboriginal systems but that this will be uneven throughout Canada and could take decades.

In the section 'Creating Space' the report establishes the claim that separate aboriginal justice systems in the Canadian realities are both possible and practical, especially if configured as regional models. American experience in tribal courts and the writing of scholars such as Hoebel on Navaho justice, are drawn upon. There is an effort to define what an aboriginal style of justice might feature - restorative justice, emphasis on reconciliation and healing, community participation, different evidentiary procedure (i.e., a narrative rather than a formal question and answer procedure) and so forth. In a lengthy and complex section on jurisdiction, the authors basically claim that the legitimacy of the goal flows from the inherent right to self-government enshrined in section 35 of constitution act of 1982. Equally important it appears is their emphasis that aboriginal cultural perspectives are different from non-aboriginal and that is the main basis on which aboriginal systems of justice have to be and can be constructed (e.g., different rules and different legal credentials as in the role of elders). Aboriginal justice systems imply the right to make laws in their view. Here the report discusses legal pluralism and argues against the need for a uniform criminal code currently extant in Canada for criminal justice (though note is made of some variation and discretion allowed provinces in making crime on drinking and driving and definitely in administering justice). The report suggests that aboriginals might have a different code of offences, giving more priority to environmental crime, Good

Samaritan laws etc, and might have different sanctions and philosophies of sentencing. The report notes the Greenland situation where the criminal code is essentially Danish but has been adapted to reflect some especial Greenlandic concerns such as alcohol abuse. Certainly this report stresses the right to establish aboriginal criminal justice systems reflecting aboriginal cultural uniqueness but also that the right is not absolute when exercised in the framework of Canada's federal system! A crucial distinction is drawn between core and peripheral matters, where each aboriginal nation has to define its core and peripheral matters. In practice this could fit in with the band bylaw movement but there would there be the restriction of operating formally in an Indian Act context. Behind all this argumentation is the presumption that aboriginals have different worldviews, and values, a theme not strongly established by empirical support.

Other themes discussed in 'Creating Space' include resolving conflicts with the larger society, the applicability of the Charter, and ensuring the safety of women and children. It is stressed that negotiations will always be necessary but tensions can be reduced by two principles, namely the right of non-aboriginals to select the venue or system to be considered under (a right limited where the offence pertains to a core matter [on native territory] as defined above), and the right of the aboriginal nation to determine which offenders and offences they are willing and able to handle. While this report deals only with criminal justice, the authors contend that civil law areas also fall within the inherent right of aboriginal peoples to develop their own justice system. The Charter is clearly a thorny issue since strict adherence would reduce the likelihood of legal pluralism. Since the aboriginal right is inherent not delegated in their view, then how the Charter applies is problematic. In their view the Charter should apply to all governments, including aboriginal ones but section 25 protects or allows culturally appropriate specifications; they call for aboriginal charters to supplement, not replace, the Charter.

In a summary chapter on findings and recommendations the authors reiterate the failure of the criminal justice system as a function of the clash of cultures about justice, and colonialization as causing the high levels of crime and estrangement. They emphasize the idea of self-government, particularly in relation to what they define as core areas where aboriginal cultural ways and identity are at stake. They discuss the Charter issue and call for the aboriginalization of the Charter for aboriginal peoples, and they briefly discuss the urban context where the focus is more on delivery of services than creation of unique systems of justice. Some eighteen recommendations are offered.

In the penultimate section, Reforming The Existing System, the focus is on three

issues namely (a) the implications thus far of inquiries and recommendations (here they essentially argue that the Alberta, Manitoba and LRCC recommendations have scarcely been acted upon and so to forestall that fate here the commissioners call for yearly accountability sessions; interestingly, they do not cite the Marshall Inquiry nor Nova Scotia's tripartite forum); (b) the need to establish the costs of the administration of justice as this affects aboriginal people, positing that the costs are high thereby justifying their recommendation that current funding parsimony should stop and aboriginal initiatives should receive long-term funding; (c) the agencies of change - here the commissioners call for a legislated and well-funded aboriginally-controlled body, the Aboriginal Justice Council, to replace the Aboriginal Justice Directorate, itself created in 1991 as a result of certain pressures (after the release of the LRCC report and the federal government's discussion paper, Aboriginal People and the Administration of Justice);

In conclusion, this is a complex report, but a clear angle informs everything namely the aboriginal inherent right to self-government. The emphasis on a supporting plank, namely major differences in perspective and values between aboriginal and non-aboriginal peoples is not evidenced well here. Another characteristic is the ambivalence concerning the substance of the difference that might be associated with a different justice system - the Danish (Greenlandic) and American aboriginal justice systems are modestly different from that of their larger society but at times this report suggests otherwise. For a variety of reasons, some explicit, no costing is given at all other than to demand more resources when specific initiatives are discussed. The report is ambiguous on other important issues such as aboriginal justice in urban areas. It is clear however in its symbolic message and will set the agenda for further deliberations on aboriginal justice in Canada.

Canada. <u>Royal Commission on Aboriginal Peoples, Cambridge Bay, November 17, 1992.</u>

In this second round of RCAP hearings the commissioners heard from a cross-section of people including elected officials, elders, Inuit and non-Inuit, agency leaders and youth. As in other hearings in the North, elected leaders and elders provided an initial overview of the settlement's evolution. It was noted that, although the Hudson Bay Company had a trading there since the 1930s, there were no permanent Inuit residents at Cambridge Bay until the 1950s when settlement developed (p13). The impetus was the building of the D.E.W. Line and the erection of government buildings which acted as magnets and also provided employment opportunities. The federal government encouraged concentration of the Inuit population from camps in the surrounding area (e.g., provided some

housing, schooling facilities) and between 1961 and 1992 the settlement population rose from 400 to 1200 people (80% aboriginal) and Cambridge Bay became the government administrative centre for the Kitikmeot region. Cambridge Bay has a host of government departments as well as several co-op enterprises (e.g., fish plant, meat plant, hotel), a gold mine, a school (up to grade ten whereupon graduates go to Yellowknife), an Arctic College centre for mature students, and some retail outlets. Politically, Cambridge Bay has evolved from having simply 'advisory body' status to the status of a hamlet council, and its leaders anticipate more governmental responsibilities in the new Nunavut territory.

The settlement has been a mixed blessing, bringing housing, education, social assistance, health services and the like to the people struggling in a tough environment but also bringing significant social problems such as alcohol problems, suicide and family violence. Alcohol cannot be legally purchased in the community (a beer outlet was shut down several years earlier) but is ordered in from Yellowknife. Several presenters emphasized the combination of alcohol abuse and family violence. Housing shortage and overcrowding was frequently noted as was the high level of unemployment (i.e., over 30% of the labour force). Several presenters referred to a growing dependency syndrome among the people. As might be expected the problems of youth were highlighted. One speaker cited the poor recreational facilities and lamented that "kids grow up too fast", dropping out of school, having families, and going on welfare. The youth who participated in the hearings emphasized that "there is nothing to do and nowhere to go", and their suggested recommendations hinted at a value system that might well conflict with those of the older generation. Other spokespersons also raised the issue of intergenerational value conflict and connected it to language issues; for example, several speakers said that English not Inuktitut has become the primary language of youth.

Much emphasis was placed, by presenters, upon better education. One person noted that "it is obvious that education is not working for them (youth)". The solutions were deemed to be an enhancement of local facilities so that students could complete high school in the area and more Inuit teachers (roughly 20% of the teachers are Inuit). There was some diversity of opinion among presenters as to whether traditional culture should be a priority of the school system or largely a parental responsibility. In general it was commonly held that the Inuit are now functioning in a success-oriented milieu that can be quite intimidating with its emphasis on credentials and specialization; accordingly more Inuit role models and more managerial and post-secondary training are required to developing coping skills and self-esteem. In 1992 according to the presenters the educational level of attainment is low, the quality of the education obtained is quite poor, and no one is

going into post-secondary education. A related area of recommendations focused upon dealing with substance abuse and other counselling issues.

Canada. <u>Royal Commission on Aboriginal Peoples. Iqaluit, May 25, 1992.</u>

RCAP had a commissioner for the day format. This session was in the first of four planned phases over a two-year period. One of the commissioners, Mary Sillett, was formerly head of the Inuit Women Association, Pauktuutit. There was a brief history of Iqaluit presented (concentration of people after Second World War). The presenters stressed the importance of language retention in maintaining their cultural perspective and way of life (p20-24). Later in the day the head of the Arctic College in the east spoke of the tremendous effort and costs involved in trying to retain the language and develop it so that it could underscore all aspects of life; during that discussion one commissioner noted that only three aboriginal languages have good survival prospects namely Cree, Inuktitut, and Ojibwa. Another central theme was the need for economic development and the high costs of living in the North. It was apparent from the presentations that there were a number of Inuit organizations including an elders group. The 'elder role' seemed similar to its counterpart in First Nation communities.

Bill Riddell spoke about Tuvvik which supplied drug and alcohol counselling programs in the Baffin but which was closed when funding was withdrawn or not extended. He talked of the need to have an holistic perspective in funding and dealing with organizations rather than forcing the area's qualified persons to be dependent upon the fad of the season which invariably displaces some paraprofessionals and makes all the work contingent. In his remarks it was evident that the structure in the east was not 'the chief and council model' but rather the hamlet structure with their mayors. On issues of justice, he suggested that the traditional Inuit approach to justice was not adversarial, that elders played an important role, and that for Inuit the current response of the qallunaaqs' system was both too severe for some offenses (incarceration where Inuit would not incarcerate) and too lenient for other offences (where Inuit would want more severe punishment). Riddell also noted that there were few if any Inuit professionals in the east, apart from teachers.

There was an informative presentation on the Baffin Regional Council which brings together the mayors of 13 hamlets plus leaders of a few other organizations. It acts largely as a pressure group and has been around for 15 years; there is a similar regional structure in the Keewatin. The presentation on the Arctic College indicated that last year some 500 people were enrolled full-time and 2000 part time

from the Baffin, Keewatin and Kitikmeot regions in this post-secondary institution. Apparently, in recent years the pattern has been for a number of high school grads (about a third) to go down south to university, a third to go to work and a third to do other things such as attend the Arctic College which also has a western branch in Fort Smith.

Canada. Royal Commission on Aboriginal Peoples, Pangnirtung, November 28, 1992.

The mayor of "Pang" talked about the establishment of the community as a result of the centralization of different outpost camps in the early 1960s, and the pivotal significance of the construction of the DEW Line. A Hudson Bay trading post was established in the area as early as 1922. It was noted that "Pang' was the first community in the Eastern Arctic to have a full high school level educational program and that a strong effort has been made to incorporate Inuit language and culture in the educational program. The mayor stressed that the Inuit culture is still essential to "survival in this harsh environment" and must be taught. He and others worried that youths were not learning traditional culture in areas such as hunting and survival. Several presenters emphasized the atrocious cost of living and the major problem that high travel and transportation costs entail for individuals, organizations and governments. Some significant local economic development was reported; two local fish companies, producing for export, involved about 200 persons over a six month period, and between forty and fifty people reportedly made a living from fulltime arts and craft work (p88). Still high unemployment and much idleness was said to exist in the "Pang' area, something which several presenters tied to relatively high levels of crime and substance abuse among youth and young adults. Several presenters emphasized the need for "the same types of services (e.g., treatment centres) that they have in the South" (p.119) and decried the absence of qualified Inuit in any profession apart from teaching.

Boredom and the quest for status among peers in an opportunity-limited society were said to be at the root of most justice problems (p.170). A former elected official and current leader of an Inuit men's group emphasized that the mainstream justice system sometimes conflicts with customary Inuit behaviour; in particular he noted that sexual assault laws are frightening to some Inuit since kissing, touching a child's penis and the like "was just done for fun ...was part of our culture". In general there was a call for the justice system to use elders and to incorporate Inuit laws or customs, especially in relation to summary offences

Canada. Royal Commission on Aboriginal Peoples, Rankin Inlet, November 19, 1992.

The mayor of Rankin Inlet acted as the facilitator for the session. He presented a brief history of Rankin Inlet, citing the establishment of a nickel mine there and the Korean War era as generating growth. Basically the community of roughly 1850 people is a government service-centre for the Keewatin. There are six other communities in the Keewatin region. The second largest is Baker's Lake which has a population of 1200. It was noted that the governmental structure in the region goes from settlement council to hamlet council to village (e.g., Rankin Inlet, Baker's Lake) to town (Iqaluit); taxation powers begin at the village level. Several presenters indicated that beyond government there was little employment; the level of unemployment in Baker's Lake sometimes approaches 80%; in addition the high costs of living, reflected in overcrowding and housing shortage, sky-high travel costs and the like, increase the hardships and generate a deep sense of deprivation. One interesting response has been the development of a purely voluntary food bank in Baker's Lake stimulated by a local woman who undertook a symbolic walk to call attention to the problem (i.e., Susan's Walk).

Presenters emphasized the comparatively high level of suicide especially for the young males aged 15 to 25 whose level of suicide, mostly by firearms or hanging, was reported by the suicide prevention officer (p206) to be at least four times the national average. A high level of hopelessness was deemed pervasive among the relatively low educated young persons. Other justice issues cited were high levels of alcohol and drug abuse, the problem of repeat offenders with respect to child abuse and sexual assault generally, and the long wait for cases to be processed through the criminal justice system. There was much expression of a need for a community-based corrections which could be more involved in dealing with offenders, and the need to empower local leaders and elders in the justice system (p.94). It was observed that elders are beginning to be hived off institutionally (e.g., elders' homes) and that many can and want to contribute more to the community; in fact the elders in the area have formed an elders' association to advance their concerns (p107). Incorporating elders was generally advanced as one major way to have the justice system integrate better with traditional Inuit culture. In general there was a common vision of a justice system that the residents could more fully participate in and influence; as one presenters observed: "we need a justice system that reflects us ... we want more problem-solving and not just punishment". At the same time there was also a consensus that social policy issues such as jobs, housing, medical treatment facilities, and education must be dealt with if a healthy, safe community was to be in place.

Canada. Royal Commission on Aboriginal Peoples, The Path to Healing. Ottawa: Supply

and Services Canada, 1993 .

This report deals with the proceedings of the National Round Table on Aboriginal Health and Social Issues held in 1993. The conference brought together a wide variety of aboriginal and non-aboriginal persons and eleven background papers were also presented. The rapporteur, John O'Neil, reported that nine thematic concerns were featured at the meeting. It was agreed that in Canada's aboriginal community health conditions are poor; infectious and chronic diseases are prevalent and there is a high incidence of social problems such as suicide, family violence and substance abuse. Emphasis should be on health promotion rather than simply on a curative approach. Many participants referred to the need to adopt a more holistic, multi-sectoral approach to improving aboriginal health, including changes in political and economic conditions. It was also deemed desirable to understand more and integrate better aboriginal healing philosophy and remedies. Community healing developments in aboriginal society, such as the Alkali Lake model, were acknowledged. Much frustration was expressed concerning jurisdictional confusion and conflict and the inadequate flow of information on available programs and funding. The community, the grassroots, was seen as an appropriate vehicle for health development (e.g., the midwifery program in Povungnituk, Quebec).

Canada. Royal Commission on Aboriginal Peoples. Towards Reconciliation: Overview of the Fourth Round. Ottawa: Ministry of Supply and Services, 1994.

This report marks the conclusion of the public consultation phase begun by Commission nearly two year earlier in 1992. In the NWT one hundred individuals and one hundred and five organizations participated as 'intervenors' in the public consultations. Over the four rounds of consultations the Commission spent a total of five hearing days in a total of four communities in the Nunavut area. Round four was especially marked by the presentation of more substantial policy briefs by the leading aboriginal organizations. The Inuit Tapirisat of Canada (ITC) emphasized the unique concerns of the Inuit and expressed some discomfort with Inuit being lumped together with others under the broad label 'aboriginal'. ITC stressed "our inherent right to self-government' and the need for a generous sharing in Canadian well-being. It also emphasized its preference for a public, non-ethnic form of government covering an entire territory rather than ethnic governments with limited jurisdiction and limited lands. The ITC submission also linked poverty and unemployment to social problems in Inuit communities. The Inuit Women's Association, Pauktuutit, emphasized the concern of family violence and sexual abuse, the problem of gender inequality, and the need to have control over services exercised by Inuit communities. The Pauktuutit submission raised too the issue of

how best the justice system can deal with problems of family violence and sexual abuse. Its spokespersons were in favour of treatment and counselling and decried the lack of culturally relevant services available for Inuit inmates; at the same time they challenged too the 'lenient sentences', the misappropriation of culture to justify such sentences, and the relevance for Inuit of Indian remedies such as sweat lodges and healing circles.

In the subsection on Justice the report notes that the problem of family violence and sexual abuse is not adequately dealt with, from an aboriginal perspective, by the mainstream justice system. Aboriginal submissions to the Commission stressed "the need for solutions that are healing, not just punitive". The Assembly of First Nations emphasized that aboriginal societies have different perspectives, values and objectives than the mainstream society and must have justice systems which reflect their difference both as a matter of right and of effectiveness. The report reiterated its previous concern that aboriginal women be fully involved in new aboriginal justice initiatives and emphasized the need to deal with family and sexual violence.

Church Council on Justice and Corrections. Satisfying Justice. Ottawa: Church Council On Justice and Corrections, 1996.

This book is a story-based compendium of some 100 justice initiatives that, for the authors, represent credible alternatives to prison and convey the spirit of restorative justice. Throughout, the emphasis is on successful initiatives that have promoted to varying degrees, the goals of reparation, victim and community involvement, reduced recourse to incarceration, and the de-professionalization of justice. Especially highlighted are recent developments, and successful alternatives to mainstream justice, in the aboriginal community (e.g., circle sentencing, community healing programs, creative sentencing). In particular there is a good, brief discussion of the Hollow Water project and of the emergence of circle sentencing 'north of sixty'. Also considered (via discussion and brief stories / examples) are 'family conferencing' models, diversion programs, mediation programs and other programs that effect reparation and/or reduce incarceration. Contact persons are given for virtually all projects discussed. Relevant initiatives from other societies are also presented. This is a well-written book that conveys effectively the possibilities of the restorative justice movement as well as the demands it makes on community resources. Justice initiatives are grouped by theme (e.g., native people, youth, sexual offences) in the appendix.

Clairmont, Don. Shubenacadie Band Diversion Program: Final Report and Overall Assessment. Halifax: Tripartite Forum on Native Justice, 1996.

This monograph provides an assessment of the last year of the Shubenacadie Band diversion project and then provides an overall assessment of the four year project. The last year was one of stress and uncertainty as the project limped to its end. The penetration rate of the project was disappointingly low and the return of cases to the provincial criminal court because of non-attendance or non-compliance was disappointingly high. While offenders, victims and the community in general still supported the diversion concept, its implementation left much to be desired as there was little community involvement, an aura of secrecy, little networking with Justice officials and a lack of morale associated with the organization's passivity (the style was to wait for cases to be referred by the Crown and not to pursue cases nor exhibit high visibility). In the second part of the monograph this project is discussed in the more general context of restorative justice and diversion strategies which were initiated throughout North America in the 1970s and 1980s (pre-family conferencing) and its similar "administrative justice" thrust (i.e., cases are handled by program staff rather than at open court or with much community participation) is highlighted.

Clairmont, Don. The Civilian Native Community Worker Project. Halifax: Tripartite Forum on Native Justice, 1996.

This report deals with a quite successful police-based urban justice intervention wherein a native person was hired as a civilian coordinator for aboriginal cultural sensitivity training, liaison and other activities designed to improve police-aboriginal relations in the city. A two-way path model was developed wherein aboriginal people learned about the police culture and organization from police officers while officers were being exposed to native life and justice concerns by native presenters. The project was popular with police and native persons, and subsequent to project termination the native civilian worker was hired full-time by the Halifax Police Service to carry on and elaborate these activities.

Correctional Services Canada. Backgrounder To The Nunavut Implementation Commission: CSC Responsibilities For Custody And Control Of Federally Sentenced Inuit Offenders. Saskatoon: Correctional Services Canada, 1996.

This backgrounder notes that CSC has responsibility for the care and custody of offenders from the Eastern Arctic sentenced for a federal term of incarceration

(two years or more). It notes that virtually all such offenders are Inuit and that their care and custody generates a number of special challenges. Currently the Prairie Region of CSC administers the federal responsibility and works closely with NWT Corrections in areas such as exchange of service agreements which allow each department to house offenders in the other's jurisdiction. It applies also to parole supervision services. Inuit offenders make up more than 60% of the NWT offenders either in custody or on conditional release under CSC responsibility and 90% of these are from the Nunavut area. Apparently the number of such Inuit offenders is growing faster than the overall federal population is. And CSC officials point to existing sentencing practices and Northern demographics in suggesting that the rate of growth will probably not slow down. It is noted too that the crime rate is significantly higher in the NWT than in Canada as a whole and that the difference is greater for violent crimes (5 times as great) and especially for disturbing the peace (fourteen times as high). Typically the federal offender has committed domestic violence or sexual assault, is a young adult male, a substance abuser and has less than grade 9 education.

The memorandum notes that one current strategy is to house federal offenders in the North and to emphasize a rehabilitation program of sex offender programming, cognitive skills programming, and Inuit life skills. Nine Inuit are incarcerated under this arrangement in the Yellowknife Correctional Centre. The exchange and funding agreements which underlie the strategy are up for review in 1999, timing deliberately set so that the Nunavut government will be able to have input. Most of the Inuit offenders housed in the South are at one facility in order to facilitate program and service delivery. CSC officials note that while they do their best (e.g. an Inuit liaison officer has been hired and an Inuit elder provides counselling services) "the services do not compare with those which could be available in the Eastern Arctic itself". Expansion of the strategy of housing Inuit offenders in the North would necessitate more resources and facilities there and thus far proposals to expand the Baffin Correctional Centre at Iqaluit has not been approved by Treasury Board. The future issues CSC has to resolve with the government of Nunavut are the following: establishing a community based presence in Nunavut (since community supervision is at presence via a federal parole office in Yellowknife), resource needs as the population of Inuit offenders grows, discussion of the kind of justice system the people of Nunavut want to develop, and how Nunavut will deal with offenders sentenced to less than two years. It is interesting that the 2 year criterion is seen implicitly as fundamental and not itself a possible item for negotiation among the governments of Canada.

Crynkovich, Mary. "A Sentencing Circle", J. Legal Pluralism and Unofficial Law, 36, 1996.

This paper represents its author's observation of the first sentencing circle held in the Nunavik region of Quebec in the spring of 1993 (see also her Report On A Sentencing Circle in Nunavik. Ottawa: Department of Justice, 1994). The specific case dealt with wife battering and was the accused's fourth conviction for the same crime. The initiation of the circle was described as pragmatic with the judge asking the group assembled, "what are we going to do with this man." There was no explanation given about the idea of sentencing circles nor was anything said about their connection to Inuit customs, but the judge did mention that this practice (i.e., sentencing circles) was in use in the Yukon and was being employed in keeping with the recommendations of Inuit Justice Task Force. The organization of the sentencing circle appeared to have been "left to the day of the event" (e.g., sitting arrangements, participants). The judge indicated that everyone in the circle was equal but also stated that he was not obliged to follow the advice rendered by the circle members. The author observed that the circle discussions were low-keyed and focused on the accused with "virtually no discussion about the harm suffered by his wife, children and family relations because of his actions". Crynkovich recommended caution in the use of circle sentencing for cases of spousal assault, expressing concern for the victims and referring to the discriminatory nature of some Inuit traditions (e.g., elders might excuse wife abuse on the grounds that the woman has not been obedient to her husband, but Inuit women would not share this view). Further she argued that more discussion should be required concerning what cases go through the circle, and that the community - which knows best what its resources are etc. - should have a say in that matter.

Department of Justice. Inuit Visions of Justice: An Analysis of Inuit Testimony given to the Royal Commission on Aboriginal Peoples. Ottawa: Department of Justice, 1997.

This analysis of Inuit testimony given to the Royal Commission on Aboriginal Peoples (1991-93) found that in justice matters the emphasis of presenters was focused mostly on the broad issues of incorporating Inuit customary practices and empowering the local communities. This report identified five justice issues as most frequently discussed, namely the problem of harmonizing Inuit and Euro-Canadian justice, the need to provide alternatives to youth, the need for alternative approaches to corrections and rehabilitation, the need to consider methods of adoption alternative to mainstream rules and congruent with Inuit customs, and the need to educate for change (i.e., improving education at all levels in order to develop Inuk professionals in the justice sector).

Many presenters were noted to have expressed confusion and frustration as a result of culture conflict on justice issues, a conflict which in their view rendered the justice system unable to respond effectively to local issues. A related problem was seen to be the different styles of dealing with crimes and resolving disputes; the presumption here was that Inuit customary response would be more preventive and restorative than punitive and adversarial, the perceived character of the mainstream system. From the Inuit point of view it has often been difficult to see the fit between the crime and the punishment, and to understand why the administrative processes (e.g., police, courts) operate as they do. The consensus recommendation emerging from the presentations called for community control, especially over the less serious crimes. It was held by presenters that such empowerment (usually seen as involving elders in particular) would not only effect some balance in power and control between Inuit and Qallunaaks but would also result in a more effective justice system. The problems of youth were seen to require preventative social policies such as employment and education, more recreational facilities, and cultural appreciation and pride instilled via interaction with elders. Finally it was reported that presenters identified the problem of repeat offenders as a function of shortcomings in corrections and rehabilitation, suggesting that the mainstream practices are not working and therefore alternative Inuit-sensitive programs should be initiated.

Although this report is valuable the conflict among the Inuit presenters in how to deal with criminal offences (e.g., sexual assault) was not articulated. Nor was there any explicit reference to the extent to which the proposed role of elders would be accepted by other community interests (e.g., youth). And the stubbornness of the repeat offender problem was not underlined.

Department of Justice. Nova Scotia. Restorative Justice: A Proposal For Nova Scotia. Halifax: Department of Justice, 1998.

This paper lays out a proposed restorative justice initiative for Nova Scotia. It represents the culmination of several months of deliberations by a steering committee and four subcommittees namely policing, prosecution, judiciary, and corrections. The paper includes a short but informative discussion of restorative justice which juxtaposes it to "the existing court-driven adversarial system" and emphasizes its potential benefits for the victim, the offender, and the community. A particularly interesting feature of the proposed Nova Scotia initiative is its strategy of implementing restorative justice at once throughout the justice system by having four entry points at which cases may be referred to restorative justice. These four entry points would be referrals by police officers, by Crown attorneys, by judges, and by correctional services. The range of restorative justice formats would go from informal cautions to sentencing circles and victim-offender conferences. The paper lays out guidelines for implementation which include minimum requirements for any referral to restorative justice, discretionary factors to take into consideration, and offences eligible at the each entry point. It calls for referrals to be made to a community agency such as alternative measures societies and recommends that initially the restorative justice initiative be directed at young offenders in three regions of the province. The paper does not deal with past experiences in restorative justice nor the shortfalls and pitfalls that sometimes accompany these types of initiatives. And one might quibble with some of their concepts (e,g., their use of the term ‘mediation’ to describe the victim-offender interaction) and the lack of specificity concerning the purposes of restorative justice at the different entry points. Nevertheless the paper presents a coherent, well-articulated and bold restorative justice program.

Department of Justice. Options For Court Structures In Nunavut. Ottawa: Department of Justice, 1997.

This is a discussion paper on the possibility of Nunavut’s adopting a single-level trial court model. At present the NWT model, which would apply to Nunavut unless there is a formal change, is two-tiered with a Territorial (Provincial) Court, and a Supreme Court. Appointments to the former are made by the Territorial Government and one of the five judges is resident in Iqaluit. Supreme Court judges are appointed by the federal government and the court has plenary jurisdiction. The complete judicial structure also includes the Court of Appeal, a court of general appellate jurisdiction whose judges are appointed by the federal government, and Justices of the Peace (JPs). The 89 JPs, depending on their level of appointment by

the Chief Judge of the Territorial Court, may exercise wide functions such as conducting interim release hearings, and conducting trials of any by-law offence, territorial offence or federal summary offence (excluding trials involving young offenders). A single level model would collapse the Territorial and Supreme Court and all judges would be superior court judges appointed by the federal government with jurisdiction covering all matters now heard by the Territorial and Supreme Courts. The paper discusses the advantages and disadvantages of such a trial model against criteria such as costs, Charter rights, appeal procedures, and specific implications for the preliminary inquiry, prerogative writs and the role of the JPs.

The paper lays out a set of goals that the new territory needs in a court system, prominent of which are goals dealing with accessibility, community involvement and discouraging the removal of offenders from their communities. It notes that Nunavut with its small population of 25,000 people (84% Inuit and half under 18 years of age), will occupy about one-fifth of Canada's land mass, spread into many small communities where in total some 20% of the people report speaking neither English nor French. These challenges exist in a situation where lawyers are few, legal aid difficult to secure and the courts are presently under-utilized for civil and family disputes. It is clear that the JP system would be a candidate for expansion whatever court model is selected but that would especially be the case in a single level trial court model. It could be expected that JPs would handle some matters currently dealt with by the Territorial Court and this, in turn, might require more training of these lay officials and perhaps the use of lawyers in that capacity. It is noted that currently every community in the Baffin region has a youth justice committee to which cases are referred by the RCMP without Crown involvement; accordingly, "very few young offender cases go to court". The JPs could presumably be given a role in resolving criminal offences where youth justice committees are used less frequently. Similarly the JPs could play a larger role in family-related cases (localizing some family cases might assist persons who are either unaware of legal redress or intimidated by the present court system - only 10 women in Nunavut, outside Iqaluit, were registered with the Maintenance Enforcement Program in recent years). It seems that costs and caseload factors also favour a unified court, having jurisdiction in criminal and family matters.

The paper lays out the goals and issues pertinent to the discussion that has to take place. Clearly it is possible to put in place a system that is more oriented to 'community justice' featuring extensive diversion, alternative dispute resolution, and more community participation and local sensitivity. One plank of this appears to be an expanded JP system but it is only one of the planks as this discussion paper indicates. While the current and alternative one-level court systems might equally support a more 'community justice approach', it does seem that a move to

the single level system would symbolically, if not operationally, be more compelling with respect to that objective. The paper, it should be noted, deals with many concerns and not simply the issue of community justice.

Department of Justice. Your Community Justice Committee: A Guide To Starting And Operating A Community Justice Committee. Yellowknife: Community Justice Division, Department of Justice, Government of the Northwest Territories, 1997.

The concept of 'community justice committee' has become very popular in Canada and especially with reference to aboriginals' taking control of justice in their communities. There are many roots, old and recent, to this concept but most prominent have been family group conferencing in Australia and New Zealand, restorative justice movements more generally, and developments in native communities exemplified in initiatives such as circle sentencing and healing circles. Here the GNWT has produced a manual to assist communities interested in generating this type of initiative. It is quite straight-forward and while following rather closely the family group conferencing format it is more flexible and takes into consideration objectives other than diversion.

Editors. "Arctic Policy - Blueprint for an Inuit Homeland", Inuit Studies, Vol. 9, 1985.

This volume reports a number of addresses given at Arctic Policy Conference of 1985 which was held in conjunction with the Inuit Circumpolar Conference. Eben Hopson was hailed as the first Inuit leader to recognize the need for an Arctic Policy, sustained by a renewal of traditional Inuit ties across the Arctic, in order to secure the Inuit's hope for the continuance of their way of life and the protection of their property. He invited delegates from all circumpolar Inuit regions to discuss their common concerns and out of these discussions emerged the Inuit Circumpolar Conference (ICC) in 1977. The emphasis was to be not on a new country but on a new consciousness with common goals and objectives and speaking with a common voice. It was noted that since that time the ICC has become a recognized international non-government organization (NGO) and has status in that role at the United Nations. In the 1985 conference there were a number of workshops including one on social issues which dealt with the role of elders, Inuit rights, women, and self-government. A formal ICC Arctic Policy statement of General Principles was drafted. There was an impassioned statement on Inuit traditions (particularly hunting practices) and the need to fight for them in the face of "cultural imperialism" from outsiders. The speaker, Finn Lynge, emphasized that "the Inuk is the hunter-man par excellence" and Inuit culture must be respected and must survive. The conference presentations clearly established

the gains of effective Inuit organization and communicated a sense of what the leaders saw as Inuit culture in the concrete.

Edwards, Bob. "A Risky Experiment: Lawyers Criticize Circle Sentencing", British Columbia Report, August 31, 1992.

This is an interesting, brief account of a court case where the presiding judge decided to utilize a circle sentencing format subsequent to a non-native, physically and mentally disabled teenager pleading guilty to 'assault with a weapon' against another non-native at school. The judge contended that the justice system too often had failed offenders and he did not want to incarcerate the youth so, despite the objections of the defence attorney, he was going to borrow from native practice and use a sentencing circle. Circle sentencing procedures were followed and several native persons experienced in the procedures were involved as advisors. While the sentence rendered was not controversial, both crown prosecutor and defence attorney were critical of the judge's initiative, arguing chiefly that procedural safeguards were lacking in that no record was kept of the circle discussions, no cross-examination was allowed, and the bases for opinions offered there were unexamined.

Evans, John, Robert Hann and Joan Nuffield. Crime and Corrections in the Northwest Territories. Vancouver: Management and Policy International, 1998.

This monograph constitutes a comprehensive examination of corrections policy in the NWT, describing the environment of Corrections, prison population, Correctional programming, and the possibilities for Community Corrections. In addition to providing and analyzing valuable Corrections data, the authors obtained community views on current correctional programming and the potential of community corrections. The authors conclude their report with a small number of policy recommendations.

This monograph shows that there is a serious overcrowding of territorial correctional institutions (i.e., some 43% over capacity) and that this situation is not likely to change in the near future. The NWT has the highest rate of incarceration of all provinces and territories in Canada, and that is the case despite the extensive use of non-custodial sentencing strategies and a pattern of lenient sentences such that offenders receiving a prison term constitute, in their words, "a rather serious group". Fully 72% of the sentenced population of NWT prisons were imprisoned for violent offences which is a much higher proportion than in the rest of Canada. Moreover, compared to inmates in the rest of Canada, among those in the NWT, a higher proportion have had a large number of previous adult convictions, and more have committed serious violent crimes; also more NWT inmates are married. The authors observe that there is an unusually high level of serious crime in the NWT -

the assault rate is 560% and the sexual assault rate is 730% of the respective rates for Canada as a whole - and serious crime is decreasing much slower there than in the rest of the country. Most prison admissions, according to the authors, involve males in their 20s and 30s, and "they suffer from a wide range of problems including substance abuse, unresolved anger and chronic unemployment".

The authors evaluate Correctional programs and their overall conclusion is that the system is overwhelmed and unable to provide innovative and effective rehabilitative programming (e.g., even physical space for programs is unavailable). They call for a variety of standard programs (e.g., anger management, cognitive skill development, living skills, alcohol and drug treatment) and also aboriginally-sensitive programs for the inmates, over 90% of whom are aboriginal. No particular evidence is given for the effectiveness of any specific program. The authors suggest that the fetal alcohol syndrome (i.e., FAS or FAE) is commonplace in the area and may affect half the youths in secondary schools in the NWT. Young offenders are shown to account for only a small number of inmates (less than fifty persons) in the three NWT correctional institutions. No data were provided on the number or ages of female inmates. The authors note that outpost camps have been largely used for young offenders where the stay is only from one to three weeks. The bush camps get mixed reviews and no adequate information is available on their effectiveness but it is clear that there are few associated rehabilitative programs and critics refer to such camps as "wilderness warehousing".

While Inuit and older persons, comparably, are more open to community corrections and less incarceration, the majority of NWT community members do not think that their community is ready to assume the challenge of a profound restorative justice alternative. They worry very much about government off-loading correctional programs without providing the communities with the human and other resources deemed necessary. They do not think that the majority of inmates could have been dealt with in the community and, indeed, contend that currently "imprisonment is already being used with a great deal of restraint", and that imprisonment happens only when the residents and their communities have reached the limits of their tolerance. Accordingly, despite the residents' negative assessment of incarceral institutions, there is a sense of frustration and anguish about what can be done. One informant commented "if the justice system carried no consequences, there would be a return to 'ice floe days', meaning communities taking a rather harsh justice solution into their own hands". The authors note that many community justice committees are inactive and in any event their mandate is focused upon pre-charge diversion of youth. According to Evans and associates, there has to be considerably more community development. There remains, too,

the dilemma of providing quality programs to such small, scattered populations, a dilemma that is reflected in huge operational costs and inadequately trained personnel (there is a strong desire for many reasons, but especially for employment reasons, to hire local). Evans et al also observe that for some people in the NWT the key is making offenders accountable and responsible for their actions, while in the present circumstances little accountability actually exists, and service orders, probation and other 'intermediate sentencing sanctions' are often farcical. In sum, the authors contend that the present correctional system is simply overwhelmed!

Despite some serious shortfalls in data and program evaluation, Evans and his associates present an informed and useful overview of Corrections issues and programs in the NWT. Their analyses and recommendations are reasonable if not especially innovative. Typically they call for more of everything (standard programming, aboriginally-sensitive programming, community development and so on), and for a major increase in resources for an effective Corrections response to NWT crime. Their report suggests considerable anxiety exists at the community level about 'off-loading without adequate resource allocation', as well as deep uncertainty concerning what to do about a serious problem. While the contemporary Corrections system, and indeed the whole criminal justice system, is seen as quite faulty, community residents are very aware that the social problems are considerable and do not invite quick fix. This report details some of the dilemmas facing the communities though it does not contribute much to their resolution apart from calling for much more resources.

Federal-Provincial-Territorial Working Group. Step by Step: Evaluating Your Community Crime Prevention Efforts. Ottawa: the National Crime Prevention Council of Canada, 1997. (also available on Internet homepage at http://www.crime-prevention.org./ncpc/strategy/s-by-s)

This manual builds upon the work produced by Prairie Research Associates, Building A Safer Canada, which provides a model for problem-solving, crime prevention efforts at the community level (see below). Here there is a short review of the four phases of the model and the major steps to follow in carrying out each phase. This manual then proceeds to elaborate upon the phase, "Monitoring and Evaluating Your Program", providing nine steps to follow, from "getting started" to "implementing the evaluation plan". This is a useful complement to Building A Safer Canada, in that it is directed at probably the most significant shortcomings in community justice initiatives, namely ensuring that the initiative is implemented as planned, and assessing whether it has achieved the desirable objectives. Appendices provide information on funding sources, sample instruments, and

where to obtain further help.

Fort Good Hope Community Council. Community and Aboriginal Self-Government in the Northwest Territories. Yellowknife: Legislative Assembly of the Northwest Territories, 1989.

This is a position paper presented to the NWT Legislative Assembly by delegates from the Fort Good Hope Community Council. The presenters were making a case for significant devolution of authority and even legislative powers to the community level. They discussed community self-government in relation to the general context of aboriginal self-government, stressing that aboriginal people should share in decision-making concerning land projects in their area and also have a direct say in justice institutional change and practice at the community level. The presenters emphasized their support for the earlier Ikaluit agreement which had made a strong case for community authority.

Goundry, Sandra. "Restorative Justice and Criminal Justice Reform in B.C.: Identifying Some Preliminary Questions and Issues". Legal Consulting and Research Services, Vancouver, B.C., 1997.

The author prepared this paper on the occasion of the Ministry of the Attorney General of B.C. announcing a proposed restorative justice initiative to go along with an expanded diversion policy associated with the passage of Bill C-41 passed by the federal government in 1966. She notes, with respect to the latter, that the Criminal Code has been amended to provide for 'alternative measures' for adults and an enforcement mechanism to ensure compliance in these "other than judicial proceedings". Her particular concern is the role that victims services associations and women's equality – seeking groups have had and should have in the develop of specific initiatives, and what the impact of the proposed reforms might be for women, children and other social groupings. The author identifies the usual 'push and pull factors' associated with the restorative justice social movement, and discusses briefly the well known programs (e.g., family group conferencing, victim-offender reconciliation and circle sentencing).

While acknowledging possible benefits of these developments for her constituencies of concern, the author discusses possible flaws such as 'net-widening' (drawing offenders in to the system who otherwise would not even be charged), ill-defined or biased specification of community justice committees, and down-loading of responsibilities by government without providing resources or

training for community groups who are expected to become heavily involved in justice delivery. Most importantly, she is critical of the lack of consultation thus far with victims' and women's organizations. The Ministry's response to this criticism has been that diversion/alternative measures are not being considered for serious violent offenses and that, therefore, the interests of women and children are protected. But, as the author observes, the proposed policy does allow for exceptional circumstances and it is well known that many advocates of restorative justice have argued for its use in cases involving violence such as spousal and sexual assault. Accordingly, the author calls for more consultation and delaying the implementation of new policies until the specifics have been worked out, the known shortfalls from other jurisdictions identified (e.g., there is a propensity for victims to be marginalized in many of these programs) and factored into the new policies, and accountability and evaluation built into the program delivery.

Virtually all Canadian provinces and territories are in the process of mounting major restorative justice initiatives of the sort to which the author is responding. Her concerns and recommendations would apply to all these initiatives. As the author concludes "despite all its shortcomings the present criminal justice system offers accused persons and victims a public process". There are other statutory rights and of course the protection of the Charter of Rights and Freedoms. The key issue is to ensure that proposed alternatives benefit victims and member of marginalized groups.

GPI Atlantic. <u>Measuring Sustainable Development: Application of The Genuine Progress Index To Nova Scotia</u>. Halifax: Statistics Canada, Government of Nova Scotia, A.C.O.A. and GPI Atlantic, 1998.

This report discusses the shortcomings of conventional indexes of progress, such as gross domestic product, and advances an alternative, more complex measure of progress which draws heavily on the perspectives of sustainable development and social indicators. It describes the initial phases of developing such an index as a pilot project in Nova Scotia. The project is co-sponsored by departments at both the federal and provincial levels. One of the sectors examined deals with the costs of crime and litigation. Here the report identifies relevant cost factors (e.g., police and courts costs, government justice expenditures), and direct and indirect costs of victimization using proxy valuations where Nova Scotia data are lacking. Civil justice and litigation costs are also considered. It is proposed to develop time series data in order to determine trends, and also to correlate factors such as crime costs and crime rates in order to estimate the savings produced by a drop in crime. A major objective is to try to monetize the costs of 'Justice' as an aid to effective social policy programming. This interesting project is exploring measures and

valuations that could be of value to any province or territory wanting to develop a sophisticated, multifaceted system of social accounts. It can be especially helpful in social policy analysis and strategic planning. It is interesting that in large measure the Justice sector is seen here as a 'negative' vector and little attention is given to Justice as a positive vector, generating community empowerment, providing employment, or, as some aboriginal leaders might say, being a leading edge in aboriginal self-government. A different perspective on Justice could have profound implications for measuring it in relation to an overall genuine progress index.

Health Canada. Directory Substance Abuse Prevention Programs Serving Métis, Inuit and Off Reserve Aboriginal Peoples. Ottawa: Health Canada, 1995.

This directory covers the whole country. In the eastern NWT there are centres identified at Baker Lake (local service staffed by professionals, with an all purpose mandate), Cambridge Bay (local service staffed by paraprofessionals with an all purpose mandate), Igloolik (as per Baker Lake), Pangnirtung (local service staffed by paraprofessionals, providing only information and public education), Pond Inlet (local service staffed by professionals and paraprofessionals, providing just information and public education), Rankin Inlet (paraprofessionally staffed, focused on intervention only), Repulse Bay (as per Pond Inlet), Taloyoak (as per Baker Lake) and Coppermine (as per Cambridge Bay). No centre was identified at Iqaluit apparently because Tuvvik which served the Baffin area and was centred in Iqaluit lost its funding in the early part of the 1992.

Indian Affairs and Northern Development. The Inuit. Ottawa: Supply and Services Canada, 1986.

This short booklet on the Inuit published by the federal government has many useful facts and interesting interpretations. The section on 'The People of Old' is quite conventional in its discussion of traditional society and Inuit evolution. It notes that circa 1800 Inuit groups were, from west to east, the Mackenzie Inuit, Copper Inuit, Netsilik Inuit, Caribou Inuit, Igloolik Inuit (northern Baffin), South Baffin Inuit, Sadliq, and Ungava and Labrador Inuit. As regards traditional life the orientations emphasized were patience, and fear of criticism and of rejection. The considerable impact of the arctic fur trade, beginning in late 1800s, is noted, especially the reorganization of living patterns and changed geography of settlements, and the de-emphasis of sharing (since trappers worked more alone or in small groups and did not as overtly share profits). Christianity also changed life

styles and values as missionaries waged war vs some traditional practices such as wife-sharing, shamanism, and child betrothals. Government presence increased significantly in the 1950s when it began to act on a 1939 Supreme Court ruling that Inuit could be considered Indians under the Constitution Act of 1867. In the 1950s and 1960s there was an encouraged concentration of population - some 700 groups relocated to about 40 permanent settlements. In 1985 there were 28,000 Inuit in Canada (in 1996 it's 40,000 so clearly that is significant growth).

One important development since 1959 has been the growth of the cooperative movement, something which is said to exist in almost every Inuit community; while the cooperative clearly links Inuit to the modern capitalist economy it is also reported that "the co-op philosophy ... parallels the traditional sharing ethic of pooling labour, skills and rewards for the betterment of the whole" (p54). Still, too, adoption serves important functions, and the idea of decisions by consensus remains strong as does the special relationship to the land. But new concentrated settlements and the changed economy have reduced the threat of ostracism. Inuit children were placed in government-run schools in the late 1940s - marking "the first time in Inuit history that children were segregated". Nowadays there is an effort to strengthen the language in schools and through the mass media. In the latter regard two important developments were the launching of satellite Anik A in 1972 and then Anik B in 1978. The report refers to the ITC as the national Inuit association. Inuit got the vote federally in 1962 and now are politically active at all levels. Most Inuit communities are incorporated hamlets, each governed by an elected council. Inuit are also represented in the NWT legislature, and Parliament by an M.P. and senators. The first political organization involving the Inuit was COPE (Committee for Original Peoples Entitlement) in the western arctic in 1960 which is now an affiliate of ITC born in 1971. While COPE is an affiliate in the western arctic, other regional affiliates include the Baffin Region Inuit Association, the Keewatin Inuit Association, the Kitikmeot Inuit Association, Makivik Corporation (northern Quebec Inuit), and Labrador Inuit.

There is a discussion of land claims. The first land claim involving some Inuit and Cree was the James Bay and Northern Quebec Agreement signed in 1975 where the aboriginals relinquished further claims in the designated area in return for exclusive hunting and fishing rights, outright ownership of 8500 square kilometres of land, political, educational and language rights and a cash settlement (amounting for the Inuit to $90 million). The compensation money is administered by the Makivik Corporation and used for regional business enterprises. The Corporation also represents Inuit of Northern Quebec on constitutional and other matters. Apparently a second land claim involving the Inuvialuit of the western arctic was signed in 1984. Still other land claims unresolved at the time of this

publication were one pertaining to the Labrador Inuit and one advanced by the Tungavik Federation of Nunavut. This claim initially also called for the creation of a new territory called Nunavut but the government said that would entail a different process akin to creating a new province.

Ingstrup, Ole. "Speech to National Elder and Native Liaison Conference". Ottawa: Corrections Canada, 1998.

The Commissioner of Corrections Canada emphasized that a priority of his department and a personal pledge was to improve corrections for aboriginals. He noted that in three pages of statistics he had at hand, aboriginals were generally slightly or severely worse off than their non-aboriginal counterparts but never better off (e.g., incarceration rates, serving more of their time, recidivism etc). The Commissioner pointed to new initiatives underway, supplementing earlier changes regarding the use of elders, facilitating aboriginal spirituality and the like; the new initiatives included the establishment of Okimaw Ohci, the women's healing lodge, in Saskatchewan, and the new Pe Sakastew facility for aboriginal inmates in Alberta. Both facilities emphasized rehabilitation, holistic healing and new staff-inmate relations and both were architecturally and operationally designed in a far different way than the traditional prison. A Director General of Aboriginal Issues has been appointed to plan a comprehensive and strengthened aboriginal correctional strategy. Sentencing circles and 'releasing circles' have been adopted in Corrections Canada for aboriginal inmates. There has been an effort to involve aboriginal communities more in planning and managing the release of offenders under supervision. The Commissioner stated his department's commitment to restorative justice philosophy and programs to facilitate safe reintegration into society for inmates and to reduce recidivism. He reiterated what Corrections Canada is required to do for aboriginal people by the CCRA, sections 80 through 84, and invited the participation of the aboriginal community in those tasks.

Inuit Justice Task Force Final Report. <u>Blazing the Trail to a Better Future</u>. Lachine, Quebec: Makivik Corporation, 1993.

The task force spent a year and a half gathering materials, and consulting with Nunavik communities and residents. It is argued that 'just about everything' is wrong with the justice system in Nunavik (p7) - overrepresentation of Inuit, high levels of crime, substance abuse, alienating justice system and so on. The 1975 James Bay agreement contemplated changes that have not been well implemented (e.g. more native participation in the lower levels of justice etc) but they fall short

in principle too. The task force was set up to focus on the entire justice system including crime prevention, role of traditional culture, and specific problems of youth. It was the first time the Nunavik population was consulted in a comprehensive manner on justice issues. Private and public sessions were held in communities; the format was first to check with municipal council then do local radio shows, then in the evening meet with different groups and interests. Policy papers and a video were prepared and distributed back to the communities. The task force also went outside Nunavik to see what was happening in the eastern NWT and to participate in conferences and in the RCAP.

The task force identified a number of research questions or issues including crime patterns, offender profiles, traditional dispute resolution patterns and forms of punishment, the appropriateness for today's problems of customary practices of social control, peoples' perceptions of crime and the aboriginalization of the justice system, the potential for the development of alternative community-based justice systems, and comparative contemporary models of aboriginal justice initiatives. It found widespread criticism of the mainstream justice system, especially emphasizing the fact the criminal code was not well-understood, that the itinerant court model with its 'delayed justice' created many problems, that regional detention facilities were unavailable, that probation and parole supervision were poor, and that there was little community involvement. In its view these shortfalls plus the significant youth and substance abuse problems required an alternative justice system. While little information was conveyed about customary practices it was noted that depending upon the situation punishment could be both more severe and more lenient than currently meted out, and that elders used to have a significant role in dealing with disputes and norm violations. It was confidently asserted that an Inuit-controlled justice system would be both efficient and effective: "justice like education should become a major component of our future self-government structure".

The task force examined aboriginal justice initiatives in Greenland and Alaska, noting that in these places there were more localized and indigenized practices. It asked why similar initiatives recommended in several Quebec policy papers between 1989 and 1992 were not implemented. These latter papers laid out recommendations for local facilities and Inuit staffing, community involvement and control whether, for example, in relation to treatment centres for substance abuse, or group homes for youths in trouble. The task force stressed that these recommendations should be implemented and that initiatives in other Inuit jurisdictions such as local courts (Greenland) and legal aid (NWT) should be seriously considered for implementation.

Inuit Justice Task Force. Profile of Crime in Nunavik. Montreal: Makivik Corporation, 1994.

One of the chief recommendations of the Makivik Corporation's Blazing the Trail to a Better Future, 1993, called for the development of a profile on crime in Nunavik. This report draws such a profile for the years 1989, 1990 and 1991. It is a descriptive, 'here are the facts' portrait but clearly the task force contends that the major underlying cause of the high levels of crime, especially violent crime among acquaintances and family members, is the disruption of Inuit life caused by colonialism and 'culture shock', and that the solution is the meaningful incorporation of Inuit traditions and control into the justice system of Nunavik.

The profile of crime indicates that the crime rate for both property and person offenses has increased over the 1989-91 period and the rate is significantly greater than for either Canada or Quebec as a whole. These patterns are especially clear for violent person offenses. The main offenders are young adult males between the ages of 18 and 29, and among these there is a large group of serious repeat offenders. Youth crime has increased and, as in the larger society, it is largely centred on property offenses. Nunavik females account for little crime but are the chief victims of either sexual assault or assault in general. There is some variation among the 14 remote and isolated communities spread across the top third of the Quebec land mass but overall there is a consistent pattern of increasing crime and social problems.

The report presents interesting data on all parts of the justice system in relation to identifying and dealing with crime. The S.Q. replaced the R.C.M.P. in 1961 in policing Nunavik and since 1978 have utilized Inuit special constables in the fourteen communities. The latter are trained and supervised by S.Q. liaison officers. They are clearly assistants and do not themselves carry weapons. There is a very high turnover rate among the special constables, especially in communities where there is only one authorized position. The task force suggests that these 'specials' find it hard to work alone and in communities where they have thick kinship ties with most other residents. The court system in Nunavik has featured a circuit court model since 1974. There is some irony in that none of the participants in these sessions, neither the Inuit (accused or victims) nor the Quebec officials-work in their mother tongue! A common offence, for which incarceration is a frequent court response, is 'failure to comply' or 'failure to appear', an offence against the court. There is no detention facility in Nunavik so all incarceral sentences are served "in the South" which makes for harsh punishment and little effective rehabilitation. There are few specialized resources (in the area of spousal

abuse, substance abuse etc) in Nunavik.

The high crime rates are even more alarming when the authors observe that there is significant under-reporting. In a recent Statistics Canada national survey Nunavik persons aged 15 or more identified a host of serious problems in their communities including drug abuse (68%), family violence (58%) and sexual abuse (48%). The level of serious assault is particularly alarming. Interestingly it is caused by physical force and quite infrequently by firearms which are readily available in most households. Community and family controls are clearly problematic. The authors, among other things, point to a growing generational gap and bemoan the fact that parents routinely now go hunting and fishing without their children who stay behind in the villages with nothing to do and without supervision. It is expected that many of these patterns would be found in Nunavut though the justice system is quite different (e,g, RCMP policing, more regional facilities etc). In this report it is indicated that the Nunavik crime rate for many offences is lower than in the NWT.

Inuit Tapirisat of Canada. <u>The Inuit of Canada</u>. Ottawa: DIAND, 1995.

This publication by the ITC, a national organization representing Canadian Inuit, provides basic demographic and organizational information and also conveys a clear social construction of the modern Inuit. Concerning the former, the publication describes the spatial distribution of the 41,000 Inuit living in 53 communities in northern Canada. It also discusses the larger circumpolar Inuit community of 125,000 found in the four nation states of Canada, United States (Alaska), Russia (Chukotkea) and Denmark (Greenland) and its organization as a non-governmental organization since 1977. An interesting chronology of the Inuit experience is provided and regional organizations and communities are listed. The publication notes the considerable transformation of Inuit life associated with the whaling, and subsequently fur trade industries, and the acceleration of contact processes after the second world war as the federal government's presence was intensively established; in particular it is noted that the movement of Inuit families to larger, central settlements profoundly impacted on all aspects of Inuit life and culture. At the same time the authors emphasize the continuity of values and essential life-orientations. Particularly noted here is a basic communitarianism reflected in sharing of food and the like, and cooperation when the need arises. And even in the new life conditions the Inuit, it is argued, recognize the importance of retaining and developing the Inuktitut language, and maintaining a commitment to traditional activities such as hunting. The report exudes a confidence that such continuity can persist as Inuit adapt further to ever-changing

modern society. Inuit communities are governed by structures and processes identical to conventional municipal government elsewhere in Canada and in 1999 the new territorial government of Nunavut comes into existence.

Inuit Tapirisat of Canada. Justice Needs Assessment Final Report To the Ministry of Justice. Ottawa: Inuit Tapirisat of Canada, 1994.

This report, prepared in collaboration with Aboriginal Justice Initiatives, Department of Justice, essentially argues that until now the justice system under which Inuit have lived in Canada has not taken into account the pre-existing values, norms and concepts of Inuit justice. Now, with the land claims resolved and Nunavut on the horizon, the time is ripe, indeed overdue, for exploring how traditional law can be incorporated. Accordingly, the ITC call for a national justice study and the establishment of a national committee (Inuit and justice specialists) on Inuit justice to examine community justice needs and possibilities, the appropriateness of and possible re-specification of traditional customary practices, and funding requirements. In particular the ITC holds that the incorporation of traditional problem resolution in the modern justice system of the North is possible and desired by the Inuit peoples.

The report is based on a project where interviews were conducted with elders, justice system officials(police, justices of the peace, and courtworkers), offenders, victims and Inuit organizational leaders across the North. In general respondents were asked about the current justice system, their own justice priorities, the applicability of traditional justice practices, the areas of conflict between the mainstream justice philosophy and practice and the traditional one, what their suggestions were for change and how accommodating the justice system and Canadians in general might be to the establishment of a somewhat different Inuit justice system. While it is unclear how many interviews were carried out and how representative they were of the Inuit population, the report also drew upon other reports and conference discussions.

The report indicates that there is a strong consensus among Inuit peoples in their criticisms, priorities and suggestions with respect to justice. Returning justice as much as possible to the community level, involving elders, and training Inuit to take on key roles in the justice system, were seen by virtually all respondents as vital in order to reduce the “remote-control” feature of the current justice system in the North, and to incorporate more Inuit customary law and justice strategies. There was also a widespread call for a community-based style of policing, correctional centres and aftercare facilities to be established in the region and

staffed by Inuit who could relate to offenders and victims in their own language. Also stressed was the need to treat young offenders more effectively building on "youth justice committees currently working quite effectively in some Inuit regions". These viewpoints were common in all four Inuit regions (Labrador, Nunavik, Nunavut and Inuvialuit) though respondents from the different regions had specific concerns as well (e.g., the Kitikmeot respondents wanted facilities comparable to regions such as the Baffin). Overall the consensus was that the present justice system needed major adjustments for Inuit people but that it did not have to be completely replaced.

Ittinuar, Peter. "The Inuit Perspective on Aboriginal Rights", in Boldt Menno, and J. Anthony Long (eds.), Aboriginal Peoples and Aboriginal Rights. Toronto: University of Toronto Press, 1985.

Ittinuar notes that the Inuit culture and language has survived for thousands of year and that the essence of Inuit life has been "the relationship to the land". He contends that while other aboriginal peoples in Canada may have a similar orientation to the land, the Inuit have been more isolated from non-aboriginal culture and society so their thrust is more to protect, rather than to regain, "our historical rights". The author discusses the Inuit use of the courts to effect that protection, citing the Baker Lake case of 1979 which underscored that political and economic control are essential "if our ties to the land are to continue". He emphasizes that Inuit demands have been modest, directed basically to having a meaningful say in the decision-making process as it relates to Inuit fundamental needs (e.g., wildlife agreements). Ittinuar expresses optimism for the future, citing the impact of court decisions, the respect for aboriginal rights enshrined in section 35 of the Constitution Act of 1982, and the prospects for the establishment of Nunavut, an Inuit-controlled territorial government in the eastern Arctic.

Kemuksigak, Patricia. Needs Assessment of Family Violence Services and Programs for the Inuit of Labrador. Labrador: Inuit Health Commission, 1992.

This paper discusses the results of a survey of service agencies organizations dealing with family violence in Labrador, especially for Inuit persons. Organizational-level information was collected and, additionally, over seventy personal interviews were conducted. The report lists the services provided and provides some data on the extent of family violence and sexual assault; these latter data are considered with some scepticism as the author contends that official statistics significantly underestimate the extent of these problems. The interviews

revealed that spousal abuse was a problem in all Labrador Inuit communities and that child sexual abuse was also extensive though more 'hidden'. Interview participants indicated that alcohol and drug abuse and other social policy factors (e.g., unemployment) were associated with these abuses. The respondents also reported little support existed either for women or for children; in particular they called attention to the plight of young abused girls who developed low self-esteem and got into further trouble as they aged. It was also noted that the service agencies and groups did not network enough with the result that what help was available was often dissipated. The respondents were also concerned that there was little rehabilitation for offenders, whether at correctional centres or in the communities, with the result that recidivism was a serious problem. The lack of services for the victims, the perceived lenient sentencing and poor supervision of offenders and the dearth of either counselling or rehabilitation have led to a crisis in the eyes of many respondents. The author called for better crisis intervention, more transition safe shelters for victims, more effective and visible policing, and, to get the ball rolling, the hiring of a family violence coordinator for Labrador's Inuit communities.

It was noted in the report that these findings and recommendations were presented at the 1992 Pauktuutit AGM where they were supported with a formal resolution. At the same conference Nunavut representatives raised additional points concerning the problem of family violence, something that all participants deemed a serious problem in their communities. Baffin representatives stressed the problem of slow court processing of assault cases and also called for more severe sentences. Keewatin representatives supported the idea of having a special family violence coordinator and reiterated that incest has never been part of Inuit culture. Delegates from Kitikmeot called for more counselling and therapy at the family level to supplement that directed at individual persons.

La Jeunesse, Therese. <u>Administration of Justice in Northern and Isolated Communities: A Position Paper</u>. Winnipeg: Manitoba Attorney General, 1986.

This paper deals with the administration of justice in communities in northern Manitoba. The author identifies a number of problems such as court backlog, lenient sentences, high levels of recidivism, and low public awareness of the legal system. She notes the additional need to the enhance participation of the aboriginal peoples in the administration of justice given the policy of aboriginal self-government. The subsystems of justice administration from policing to corrections are briefly assessed and the author advances recommendations to deal with the central problems identified. With respect to the circuit court and court backlog

(e.g., problems such as little time for legal counsel) the author calls for court communicators (courtworkers?) to do preparatory legal work for the courts, more court sittings, more aboriginal professionals and paraprofessionals, and a more expansive role for justices of the peace. She calls for a review of sentencing, more effective supervision of parolees and probationers, and the introduction of alternative sentencing which might include a major role of the counsel of elders. A major recommendation is for the establishment of justice committees at the community level to effect more aboriginal participation and input in all aspects of the justice system. In an appendix to this paper there is a statement of policy from the office of the Attorney General Manitoba. It reiterates the need to implement recommendations similar to the above but advanced years earlier in a Federal-Provincial Conference for Native People and the Criminal Justice System in 1975. A plan of action is set forth calling for the establishment of a high-level working group of government and aboriginal leaders. workshops, several pilot projects, and the encouragement of community justice committees.

LaPrairie, Carol. <u>Evaluating Aboriginal Justice Projects</u>. Ottawa: Department of Justice, 1994.

LaPrairie discusses the context for evaluation, including what she perceives as the overemphasis on aboriginal culture at the expense of socio-economic status and heterogeneity, the dominance of funding definitions in communities' redefinition of their problems, the type of justice problems typically extant (e.g., interpersonal violence, a small group of chronic offenders), and the lack of a knowledge basis to properly guide funding decisions. In particular she stresses the under-funding of off-reserve justice strategies and the limitation of isolating an aboriginal strategy in a multicultural urban context. She dwells on the relation between justice structures and community development, and while aware that the former could be part of the latter's emergence, she cautions against an emphasis on new complex justice structures. In her view emphasis should be on whether new justice approaches stimulate institution-building or an environment conducive to community development and, correlatively, whether there is a building of bridges with mainstream institutions and regional aboriginal structures. She recognizes that many initiatives have an important symbolic function but holds that that value must be transcended if aboriginal justice concerns are to be met.

Turning to substantive areas, LaPrairie found, based on interviews with representatives from those largely governmental bodies with aboriginal justice functions, that these officials could articulate the most serious criminal justice system problems facing aboriginal people and communities and could indicate

their policy priorities and how these are reflected in programs and projects. At the same time, they had little systematic information on the actual programs and projects, depending basically upon informal "lessons learned". As regards these lessons, LaPrairie listed the following: the need to consult with a representative sample of community members and not just a select elite (i.e., Community Consultation); the need for community justice structures such as sentencing circles, diversion, and community courts, and evaluating whether they achieved their objectives, the type of offenders and offences they are suited for, and their impact on recidivism and rehabilitation, on victims, cost effectiveness, political independence, and equity (i.e., Community Justice Structures); the need to evaluate treatments in terms of cultural sensitivity, effectiveness, and efficiency (i.e., Community Treatments); the need to assess access to justice, and the role of culture in Corrections (e.g., does getting in touch with aboriginal traditions make a difference, and, if so, how?); the need to evaluate first nations policing arrangements; the need to determine community readiness for projects, including how people are selected and trained to deliver new services (i.e., Community Capacity).

Linden, Rick and Don Clairmont. Making It Work: Planning and Evaluating Community Corrections & Healing Projects In Aboriginal Communities. Ottawa: Aboriginal Corrections, 1998.

The authors discuss the restorative justice approach to community corrections, indicating what restorative justice is, the issues it raises, its appropriateness in aboriginal communities, and how to activate restorative justice initiatives at the community level. A 'four phase' model is advanced along the lines of similar models developed for community action but basically drawing as much as possible upon aboriginal (largely First Nations) experiences. The objective of the manual is to assist community members in successfully planning, implementing and assessing a community-based justice initiative.

Moyer, Sharon and Lee Axon. An Implementation Evaluation of the Native Community Council Project of the Aboriginal Legal Services of Toronto. Toronto: Ontario Ministry of the Attorney General, 1993.

This is a comprehensive evaluation of the adult diversion project implemented by Aboriginal Legal Services of Toronto in 1991. Evaluators reviewed documentation, conducted interviews with a wide range of appropriate role players (including outside officials), and sat in on hearings for four different clients. The

objectives of the project are specified. The process of selection and hearing procedures are described. Interestingly, the members of the diversion hearing councils, while aboriginal, are not elders as initially planned for, but rather, as in such programs in the larger society, are primarily active and economically successful people between the ages of 35 and 55. The evaluators suggest that the project has been well implemented, is efficient, and has maintained good relations with outside Justice officials. Project clients viewed their diversion experience in a very favourable light. Other role players were also positive. Overall the project is deemed quite successful in relation to its objectives but evaluators note that it has been somewhat under-utilized, that there is too little monitoring of non-compliance, and that there has been little formal client needs assessment. They also suggest that there be a developmental phase for all future native justice projects, especially perhaps for projects in urban contexts.

Native Women's Association of Canada. Policing and Aboriginal Women. Ottawa: Solicitor General Canada, 1996.

This publication is a report on a workshop held in Winnipeg in 1996 on the theme, policing and aboriginal women. A consensus was that more had to be done to secure adequate protection for aboriginal women and children, and, in that connection, accountability mechanisms for services such as policing should be developed so that who provides what service can be clearly established. The conference delegates were concerned that the policing service do more to ensure fairness and equity in delivery, and that politicians do not interfere with police matters. The conference participants noted that alternative justice systems, as exemplified in healing circles and family group conferencing, may have significant applicability in aboriginal communities but that "relying on these processes as a remedy to conflicts is relatively new and requires additional research".

Nechi Institute and KAS Corporation Ltd. Healing, Spirit and Recovery - Factors Associated With Successful Integration. Ottawa: Solicitor General Canada, Aboriginal Peoples Collection, 1995.

This report looks at "successes ... Aboriginal people who have made a better life for themselves and their families after being incarcerated". It provides brief case-studies of twenty Aboriginal persons who have made the transition from incarcerate (often a multiple incarcerate) to employed law-abiding citizen. For all the participants, getting into trouble was associated with extensive use of alcohol or drugs or both. "Getting in touch with one's own spirituality was identified as a

key to recovery by all the participants." The desire to change their criminal lifestyle was juxtaposed with a developing awareness of their Aboriginal culture and spirituality. They found a new way of life which empowered them with a sense of direction, valued their culture and provided a way of relating positively to others. This new way of life took time to be realized and was the culmination of an holistic approach to healing. All participants were known to the staff at an Aboriginal healing institute so more research is required to establish how pervasive their experience is among successful ex-inmates. The report calls for a more holistic approach to correctional programming and the continuing availability of Aboriginal spiritual programs and representatives in correctional settings.

Northern Justice Society. "Community Self-Reliance and Responsibility for Justice Programs", in <u>The Community and Northern Justice</u>. Burnaby: Simon Fraser University, 1989.

This report discusses how to effectively launch community justice programs. The emphasis is placed on careful and detailed definition of the problem situation and the solutions being advanced. It is noted that dependence upon external funding invariably causes problems of continuance and the best use of external grants is for feasibility studies. The rapporteur stressed the need to adapt ideas and projects to the small, local community and notes that sometimes this entails significant imagination in for example how a facility might be used. Marketing is noted as an undervalued dimension of initiating community projects.

Northern Justice Society. <u>Preventing And Responding To Northern Crime</u>. Burnaby: Simon Fraser University, 1990.

This monograph published presentations made at the fourth Northern Justice conference held in Thompson Manitoba in 1989 where the participants from Greenland, Alaska and Canada shared their experiences and thoughts on crime prevention. A wide variety of topics were discussed, ranging from crime stoppers programmes to proposed major reorganization of the justice system. The first chapter presented a succinct overview of the discussions. Four session write-ups are especially salient for Nunavut justice issues. There was an interesting presentation of the Nisga'a First Nation's response to drug and alcohol abuse where the presenter reported much success in dealing with alcohol abuse using a framework that emphasized not a medical model of illness or a genetic model of vulnerability but rather a activist social learning approach. Under this latter approach community members were encouraged to present themselves as role models and the emphasis was placed on social interaction rather than 'talking at

people'. It was noted that drinking is just a small part of people's lives and the goal was to get these other parts in balance; to that extent the approach was holistic. Involving youth and community members in developing videos and radio programming on the problem was also seen as a creative way to come to grips with a widespread community problem. The approach appears promising but no data were presented on its results.

An interesting program for dealing with wife battering and interpersonal assault in general, called BASH, was examined. This Iqaluit-based program, an initiative co-sponsored by the women's shelter, Anglican church and social work professionals, aimed at working with batterers and did develop a modest program specifically focused on the male batterer. However the quasi group that met once a week under its auspices gravitated to a more general focus on curbing violence and anger. No particular evidence was presented on its accomplishments but the program was clearly targeting a major problem in the Nunavut area. A very interesting presentation was made on the success of the Grassy Narrows First Nation in overcoming its well-publicized problems of economic depression, environmental disaster and widespread social problems. There was considerable achievement with respect to community development, spurred by widespread community voluntarism and funding associated with the environmental disasters. The presenter emphasized that the key to this significant economic development was getting the community calm enough so that leaders could focus on these larger issues, and that meant dealing more effectively than in the past with alcohol and drug abuse, and social disorder. Apparently those goals were realized and the community 'took off'. Finally, a useful presentation was given by Greenlandic judges on home rule in Greenland. A system of courts, criminal code, and policing was developed for Greenland which emphasized local control and Greenlandic traditions. The decision was made to de-emphasize a circuit court and remote control model so that meant developing a locally-driven system. At the same time the objectives of the system were rooted more in rehabilitation and restorative justice so punishment and incarceration, for example, were de-emphasized and individualized dispositions were encouraged. There was some muted reference to the Greenlandic system moving towards the Danish model in recent years. There was no discussion of the effectiveness of this Greenland home rule and way of incorporating traditions for preventing crime.

Northern Justice Society. "The Role of Native Courtworkers in Isolated Northern Communities", in <u>The Community and Northern Justice</u>. Burnaby: Simon Fraser University, 1989.

The coordinator of Community Legal Education serving the thirteen Baffin communities and centred in Iqaluit, noted that there is a fulltime courtworker in Iqaluit and six courtworkers (presumably part-time, on contract) but the goal is to have a presence in all the communities. The courtworker's role in the Baffin is seen as quite important given the heavy reliance on the justices of the peace to deal with summary offenses. There has been a problem of clarifying the role of courtworkers and training them properly; in one dramatic recent instance a courtworker committed suicide, in part it seems because he felt he could not manage the 'lawyer role'. It was noted that other jurisdictions such as Quebec have scarcely utilized the "J.P. model" in the North but everywhere it seems that there have been problems concerning the role of courtworkers and agreeing on what is their core mandate. Moreover, many interests such as crown counsel, band, and community often demand that the courtworker be responsible to them, compounding the stress that seems to characterize this work. The courtworker mandate at the federal level is limited to court-related activity in criminal and youth cases but in practice, in many jurisdictions, the courtworker acts as a justice worker, engaging in court activities and significant public legal education. It may be noted that the Northern Justice Society also heard that there was a legal aid service for the Baffin, centred in Iqaluit but that this service carried a high case load creating a wide perception that such defence lawyers spent too little time with accused persons; moreover, the service was largely limited to criminal cases.

Northern Justice Society. "The Sentencing Process in Small Communities" in <u>The Community and Northern Justice</u>. Burnaby: Simon Fraser University 1989.

A number of interesting points are advanced in this report on sentencing. The sentencing process in Greenland is offered as an alternative. Here the emphasis reportedly has been on avoiding incarceration, reintegrating the offender and using lay magistrates to hear both minor and major offenses. Appeals from these cases can be made to the High Court of Greenland which is made up of a Danish judge and two lay Greenlanders. Another participant spoke of local justice committees in the Keewatin which intervene sometimes to assist impoverished offenders in paying their fines. The bulk of the report deals with the assessments provided by judges serving the North. The judges emphasized that in order to have sound sentencing they consult with community leaders and typically do try to determine what resources are available in the local community, whether community-based alternatives to incarceration are available; unfortunately most small communities do not have such resources or infrastructure. Judges also indicated that they do attempt to explain the sentence and try to emphasize the criterion of restoring community peace. It does appear that a move to basing the Nunavut criminal justice system on a restorative justice philosophy would be able to draw on some

recent and longstanding (e,g, judges Sissons and Morrow) sensitive juridical approaches.

Northern Justice Society. "The Changing Role of Native Courtworkers", Self-Sufficiency In Northern Justice Issues. Burnaby: Simon Fraser University, 1992.

It was noted that courtworkers in the Mackenzie area in additions to assisting native persons in court, do name changes, customary adoptions and detention orders. There is a move among GNWT officials to have courtworkers do trials at the justice of the peace level and also to provide various civil services. Change would require modifying current courtworker program cost-sharing policies with the federal government. There was some diversity of opinion as to whether the courtworkers should become more lawyer-like (i.e., more training, credentials etc) or whether the justice of the peace court might have a different style than the 'rule of law', adversarial territorial court. No reference was made to models such as tribal courts or even to the model of the Greenlandic courts.

Northern Justice Society. "The Relevance Of Community Legal Service Centres", Self-Sufficiency In Northern Justice Issues. Burnaby: Simon Fraser University, 1992.

Lawyers active in the regional legal service centres at Rankin Inlet and Tuktoyuktuk, along with other GNWT officials, discussed their work in providing legal aid. A central issue was whether there might be a possible return to traditional justice and how that would fit in with the legal services centres. In general it was noted that while communities are discovering traditional methods of resolving disputes, thus far there is almost total dependence on the Canadian legal system and little evidence of dispute resolution outside the mainstream justice system (i.e., charges, adjudication). Several other issues were identified namely the difficulty of getting local community residents actively involved in these centres, the high level of violent crime in some of these small communities (e.g. Tuktoyuktuk) which generates a large caseload, and whether the courtworker role should be developed into a properly trained paralegal "who can take on cases that don't require a lawyer".

Northern Justice Society. "Policing in Greenland", Self-Sufficiency In Northern Justice Issues. Burnaby: Simon Fraser University, 1992.

This report details the interesting system of policing that exists in Greenland. Its

55,000 inhabitants, spread around the coast of this large island, are policed by some 105 officers, plus another hundred or so auxiliary (assisting in communities with only one or two officers) and special constables (the latter, called municipal executive officers, are part-time, trained officers who are found in the more remote, sparsely populated settlements). The full-time police officers are 80% Greenlanders and these latter exhibit significant turnover. The police have a large variety of functions including search and rescue and prosecution in Greenlandic local courts where all justices are lay persons without any significant formal legal background. The main police task remains "to combat crime" and serious violent crime is considered a major problem. The police are also responsible for the administration of institutions for convicts who typically (after one month and even if convicted of murder) work outside the institution to which they return in the evening. The police discussants blamed the high crime on alcohol abuse and family disintegration related to rapid cultural change and economic decline. They also noted that they were trying to become more involved in crime prevention. While there does not appear to be much to learn from Greenland policing as regards community-based policing or community justice committees, their model of utilizing auxiliaries and specials may be useful to consider.

Nunavut Bar Association. "The Administration of Justice in Nunavut", Nunavut Implementation Commission, 1996.

The ten or so lawyers resident in Nunavut have formed a Nunavut Bar Association and in this memorandum they stress the need for a Nunavut Justice Conference which would bring together all the appropriate 'players' in the justice system to discuss the institutional structures required for Nunavut. An important theme would be how the Nunavut Justice System might be different from the mainstream and what infrastructural and legislative base would be required to effect that distinctiveness. The note suggests that the Nunavut system might differ in emphasizing less custodial and more community-based sanctions, diversion and community justice committees.

Nunavut Tunngavik Incorporated. Response to the Recommendations of the Nunavut Implementation Commission on the Establishment of the Nunavut Government Presented in 'Footprints 2' and in 'Nunavut's Legislature, Premier and First Election'. Ottawa: Nunavut Tunngavik, 1997.

In a positive introduction the report goes through the NIC's recommendations one by one. It endorses the NIC's proposed decentralized model of government which

entails spreading governmental offices, resources and functions across eleven communities. With respect to NIC's recommendations on justice issues the NTI agreed with all though sometimes qualifiedly 'in principle' and sometimes with further recommendations of its own. It suggests that justice issues and social issues are inter-related and that a more holistic approach (than in the criminal justice system) to the treatment of victims and offenders is required. It also calls for more communities' control over the administration of justice, for diversion in less serious offences, alternatives to jail such as rehabilitation camps, and use of traditional Inuit systems. As to NIC's recommendations, NTI agreed on having a special Nunavut Justice Conference, and regarding an adequately sized resident judiciary. It agreed in principle with the call for a unified court system and involvement of Pauktuutit (Inuit Women's Association) and also said that any working group dealing with court and prosecution transfers of responsibility should include representation from the Nunavut Social Development Council. Recommendations of NIC on policing were also agreed to with the further proviso that measures for increasing the number and seniority of Inuit RCMP members in Nunavut and throughout Canada be implemented as soon as possible. It agreed too to NIC's recommendations about looking at new custodial arrangements, funding local initiatives such as the pilot project in Rankin Inlet proposed by Pauktuutit, and new Bar arrangements. As for NIC's recommendations on social policy (improve socio-economic well-being, distribute benefits throughout the region, and job creation) it generally agreed and in an aside noted that "there is a pressing need in Nunavut to close the gap between elders and youth".

Obonsawin-Irwin Consulting Inc. <u>An Evaluation of the Sandy Lake First Nation Justice Pilot Project</u>. Ottawa: Department of Justice, 1992.

The Sandy Lake adult diversion project began in 1990 with the swearing in of an elders' justice council which would sit with the judge and the justice of peace to assist in the adjudicating and sentencing process. This evaluation was based solely on interviews with a wide range of role players but neither files nor data were accessed. Project documentation identified the objectives as increasing self-determination and community involvement while reducing offences and incarcerations. By far the most frequent offence involved the misuse of intoxicants. Both the elders and the project coordinator were paid. The elders apparently received little training. Accused persons, community leaders, and outside officials were generally satisfied that the intervention represented an improvement over the extant justice system. While it is argued that objectives were being met a number of recommendations were made including greater development of the healing and the preventive / educative approaches, and of conflict of interest guidelines.

Clearly this project dealt only with minor offences and while there was community involvement through the elders it was not clear whether an alternative philosophy was in operation. Transition problems occasioned by new band elections and conflict over the role of elders have seriously limited this project.

Obonsawin-Irwin Consulting Inc. An Evaluation of the Attawapiskat First Nation Justice Pilot. Ottawa: Department of Justice, 1992.

The Attawapiskat adult diversion project was similar to that of Sandy Lake in many respects (e.g., objectives, elders sit with judges, pay and budget, post-charge diversion, clients were mostly young men, participation of offender was voluntary, misuse of intoxicants was the chief offence, similar dispositions were rendered, the coordinator acted like a court clerk) but was different in that elders handled some minor offences (i.e., band bylaws) on their own. There was significant satisfaction with the project on the part of the offenders but victims and community leaders were often ambivalent, especially arguing that some serious sexual assault cases were inappropriately diverted to not sufficiently well-trained elders. Friction developed between Council and the project. The project coordinator had to act as probation monitor since Correctional Services had no jurisdiction in diverted cases. The evaluators recommended that the project be scaled back in scope pending a review of the project's mission, operational philosophy and objectives, something they said should be done with significant community involvement. They also recommended criteria and guidelines for the selection of members to, and the operation of, the elders' council. This project was in a state of limbo after two years of operations.

Office of the Interim Commissioner, Nunavut. Report On The Consultation Meeting On Justice In Nunavut. Iqaluit, 1997.

This report deals with a special meeting held in Iqaluit, primarily to decide the kind of court structure that Nunavut should adopt, whether one-tier or two-tier, and whether there should be a unified court or different criminal and family courts. More than fifty persons – justices of the peace, judges, lawyers, justice administration officials from Nunavut, NWT and Ottawa, and others – attended. Presentations were given by key officials in each major sector of the justice system, namely the courts, prosecutions, legal services (legal aid lawyers and courtworkers), corrections, and police. Subsequently, the large gathering split into smaller working groups with the mandate to provide recommendations to the plenary session at which an overall summary of recommendations was advanced.

The presentations on the current court system in Nunavut territory indicated that cases were handled very quickly, compared to the South, both at the level of territorial courts and at the appeal court level, and that there were very few civil cases (e.g.,, maintenance enforcement orders, child welfare and small claims) filed. But while the court system might be deemed efficient, virtually all participants, including the judges, were struck by the high levels of crime and incarceration and saw the solution of these justice issues to be in the community not in the courts. It was commonly held that a single level, unified court structure would be preferable, among other things because of its symbolic value in focusing attention on finding solutions in the communities to the extensive problems identified. The consensus view was that this would entail strengthening the role of the justices of the peace (whom some participants suggested be renamed 'community judges'). A larger role for the JPs would in turn require more training and more sensitivity to potential conflicts of interests.

The presentations of corrections were particularly sobering. Charts indicated extremely the levels of property crime and especially violent crime and public order offenses, levels much higher than the Canadian averages. It was also clear that underlying criminogenic conditions such as the proportion of young single males, under employment, low education and substance abuse were very extensive. The jails were overflowing and increasingly occupied, at the Baffin Correctional Centre (BCC), and elsewhere, by persons serving sentences for serious violent offenses. The BCC no longer is a minimum security institution and has had to be redesigned! Prognoses were for the situation to worsen. In the discussion that followed, correctional officials referred to the promising option of healing lodges which had been designed for native inmates, and also called attention to the healing circle concept. It was noted too that the GNWT has encouraged the growth of outpost camps and that youth cases and territorial courts have fallen off sharply as they have been diverted to such alternatives. While not representing an especial cost savings, these new developments offer some hope in reducing recidivism.

Prosecution in the Nunavut area is provided by the Federal Department of Justice Prosecution Services but some options are being entertained for Nunavut, including the adoption of the Nova Scotian model of an independent Office of Public Prosecutions. Officials with legal services noted that there are legal aid clinics in each Nunavut region and courtworkers and staff lawyers have been directed to support community justice initiatives in whatever they can. An RCMP spokesperson indicated that the RCMP is under similar directions. He indicated that the RCMP has accepted the philosophy of "keeping people out of jail" and has

committed to a pre-charge diversion program which has spawned a number of community justice committees which are diverting several hundred cases per year. To effect a more sensitive community-based policing, the RCMP has collaborated in the development of the Community Constable Program and has set up an Inuit Development Program to facilitate the recruitment of Inuit officers.

The discussion groups generated a large number of recommendations, essentially opting for a unified one-level court model and supplementing that recommendation with others calling for more training of the JPs, more Nunavut influence in all aspects of the justice system and, without explicitly referring to it, a Greenland-like system of lay assessors to sit with JPs and judges. Overall, there seem to be significant consensus among this rather elite group of Justice personnel, and a sense that while the current system has been reasonably well-administered by committed role players, the problems call for a new strategy and a new orientation to justice. At the same time, the report on occasion captured a certain ambivalence among Inuit, declaiming the system for not punishing criminals while calling for a healing approach.

Osnaburgh-Windigo Tribal Council Justice Review Committee. Tay Bwa Win: Truth, Justice and First Nations. Report prepared for the Ontario Attorney General and Solicitor General. Toronto, 1990.

This report discusses the administration of justice in the context of larger issues of economic development, language, education, health, and so forth. The Committee advances many specific recommendations, some forty-three in total, covering topics from housing to the conducting of inquests, but its report is most noteworthy for locating justice issues facing native people in the wider context of colonialism; "any attempt to reform the justice system must address this central fact: the continuing subjugation of First Nations people". Consistent with that emphasis, the Committee stresses that justice reforms have to be placed in the context of a wider agenda of re-establishing aboriginal communities as healthy, strong, and vibrant. Economically viable land bases and powers of self-government, including the power to develop aboriginal justice systems, are deemed to be required. The authors "feel that our Report confirms [that First Nations must have recognition of their right to control important aspects of their lives which must include control of the criminal justice system on their reserves and in their communities]".

Pauktuutit. A Community Perspective On Health Promotion And Substance Abuse. Ottawa: Inuit Women's Association, 1993.

This report is based on a survey dealing with alcohol, drug and solvent abuse where respondents were individuals and organizations involved in the Inuit health field. The report presents an overview of the findings and then profiles different communities. Interestingly, 90% or better of all respondents identified each of unemployment, inadequate housing, drug abuse and family violence as a problem (mostly as a serious problem) in their communities. Other frequently cited social problems were alcohol abuse, solvent abuse, suicide, lack of recreation, and child sexual abuse; these were each cited by at least 70% of the 55 respondents. Inuit participants in the NWT, like Inuit elsewhere in Northern Canada, most frequently identified substance abuse (whether alcohol, drugs or solvents) as the most serious problem in their communities. The report emphasizes the need for holistic solutions given the plenitude and inter-relatedness of the serious problems. It calls for a national Inuit substance abuse coordination project which would especially mobilize local community resources.

The community profiles indicate that throughout the Nunavut region there is in place extensive community controls with respect to alcohol. Apparently in the late 1970s and early 1980s many communities held plebiscites to determine the extent of intervention. Most communities, according to this report, now are either ‘dry’ or have established committees through which alcohol has to be ordered in and which may utilize a quota system per individual and/or household. With the exception of Iqaluit (population 3550) where 40% of the residents are non-Inuit, all Baffin district communities reportedly are either ‘dry’ or have community committees which regulate the ordering of alcohol from the outside. Respondents in most communities reported a serious drug and/or solvent abuse problem. Housing shortages, unemployment and suicide were also usually identified as serious problems. In the Keewatin district all the communities listed are either ‘dry’ or dependent on ordering in alcohol from the outside. In two of the largest communities, Rankin Inlet (population 1706) and Baker’s Lake (population 1186), respondents emphasized alcohol and other substance abuse as the most serious community problem. Chesterfield Inlet (population 316), Whale Cove (population 235) and Arviat (population 1323) respondents emphasized other problems such as gambling, teenage pregnancies or inadequate housing. Unemployment was cited as a serious problem throughout the Keewatin. Alcohol presumably is not available locally in the Kitikmeot district but it can be ordered in without restriction except in a few areas such as Coppermine. Still, in Kitikmeot communities such as Spence Bay (population 580), Gjoa Haven (population 783), Coppermine (population 1059) and Cambridge Bay (population 1116) alcohol abuse was identified by respondents as the most serious problem, either alone or in conjunction with family violence. In all these communities unemployment was considered a serious social

problem.

Pauktuutit. Annual Report 1990-91. Ottawa: Inuit Women's Association of Canada, 1991.

This report focused very much on justice issues. Concern was reiterated over the lenient sentencing practices in cases of assault which do not protect the interests of women and children, the victims of such assaults. It was noted that the organization had obtained funds to prepare legal arguments for a Charter-based challenge of sentencing practices, and also that it has successfully pressed for the GNWT to undertake an examination of gender bias in the justice system. The organization in the past year produced a study on child sexual abuse, identifying it as a significant social problem and issuing a set of recommendations to deal with it. The organization was also active planning for a video on suicide prevention, for a study of substance abuse, and in publishing a document on what to do in the case of abuse by one's mate. It was reported that in response to the announcement of a major research project on all areas of the justice system in the Baffin region, delegates to the Pauktuutit AGM discussed the problems caused by long delays in processing cases, the absence of shelters for victims of abuse, and the perceived excessive powers wielded by social workers in dealing with children. In discussions of child sexual abuse occasioned by presentation of findings in the Pauktuutit-sponsored research on the topic (i.e., the document, No More Secrets), participants from the Keewatin, Baffin and Kitikmeot districts stressed the need for more support services at the community level, for community confrontation of abusers, and for more community involvement in all aspects of justice and treatment. In regional reports at the AGM Kitikmeot participants emphasized the need for workshops on family violence and substance abuse and referred to the development of facilities for safe shelters and treatment programs. Keewatin participants emphasized the need for support services for victims of sexual abuse and sought solutions to the problem of repeat offenders who repeat their sexual abuse even after a spell in prison. Participants from the Baffin complained about the lenient sentences given to sex offenders, the prolonged waits for court cases which cause great stress to families of both victims and abusers, and the need to deal with the flow of illegal drugs into the North.

Pauktuutit. Does Your Husband or Boyfriend Beat You? Ottawa: Inuit Women's Association of Canada, 1990.

This document is based on an earlier publication of the same name by the Native Women's Association of the Northwest Territories. It discusses the various types

of abuse (physical, sexual, verbal, economic) and lays out for the reader what to do, who to contact and what to expect as the matter is processed through the justice system. There is discussion of peace bonds, restraining orders, separation and custody agreements, and divorce. Attached are resolutions passed to-date by Pauktuutit calling for action against abuse, the availability of shelters, and treatment facilities for both abusers and victims. The document conveys a fairly conventional mainstream depiction of the problem and how to deal with it.

Prairie Research Associates. Building A Safer Canada: A Community-based Crime Prevention Manual. Ottawa: Department of Justice, 1996.

This manual, produced for Justice Canada, provides a model for community-based crime prevention which adopts a problem-solving perspective. It outlines four phases, namely identifying and describing problems, developing an action plan, implementing the action plan, and monitoring and evaluating the program. For each phase the authors specify steps to follow and suggest strategies and possible solutions for advancing the objective of 'a safer community'. This 'bare bones' manual could be adapted for aboriginal communities by contextualizing the model with reference to the special aboriginal circumstances, experiences to date, sources of expertise and support, and funding possibilities.

Praxis. Review of the Efficacy of Police Crime Prevention Programs in First Nations Communities. Ottawa: Aboriginal Policing Directorate, 1995.

This report, accessed in draft form, deals with crime prevention initiatives in aboriginal communities largely from the perspective of what police services, especially native self-administered police services, might do. The report established a very high crime rate, both property and violent crime, that characterizes some many modern aboriginal communities. Both types of offenses are shown to be the highest in the Baffin region. The violence is very much a matter of violence among close family members. The authors observe that "the problem is too big and complex for the police alone to deal with; nonetheless, they must become part of the solution". It is noted that involving the community is no simple task. Even in small aboriginal communities there are often divergent views on the causes and extent of problems, what should be done about them and who should do it; moreover, there are power imbalances that have to be taken into account.

Drawing upon Griffiths' 1995 study of crime in the Baffin region, the report notes

that the high levels of dependency among Inuit on external governments have inhibited their ability to develop community based justice and crime prevention initiatives. It notes that "the formal committee structure is foreign and undermined by the government practise of paying residents to be community members". In the Baffin, as in some other aboriginal communities, the authors suggest that targeting the elders as the cornerstone of crime prevention is very problematic. The elders are often marginalized and perceive themselves as such, therefore being reluctant to assume a large role in addressing local crime and trouble. The authors comments that "much of the discussion about involving the elders is more wishful thinking than fact". More generally, among the Inuit in the Baffin, the report contends that people are reluctant to pass judgement on one another or criticise one another's behaviour; this is identified as a cultural trait that is an obstacle to the development of community based justice programs and services.

The report concludes with a description of crime prevention programs in aboriginal communities. The authors mostly find programs for youth such as school talks, police trading cards, mentoring, and rarely, sophisticated programs, such as the well-known DARE. Some success criteria are specified, such as relevance to community need, co-ordinated effort, and community involvement and input. Strategies such as regular open meetings and call-in radio programming are highlighted as the authors stress that the initiatives be local and be intrinsic to community organization and institutional structure. They call for demonstration projects, networking among native self-administered police services and a focus on the problem of violence. The recommendations fit in well with the descriptions and analyses advanced. Still, given the fact that young male adults, not youths, clearly cause most of the violence, on wonders why more attention is not paid to this grouping in designing crime prevention in modern aboriginal communities. Also, the authors' emphasis on non-interference as a cultural trait, while perhaps congruent with tradition, might underestimate the significance of 'colonial status' (i.e. solidarity in the face of being dominated by outsiders); if so, then perhaps the political control featured in the emergence of Nunavut could have important implications for communities' exercizing initiative.

Qitsualik Consulting Group. <u>RCMP NWT / Nunavut Project: Final Report</u>. Ottawa: Qitsualik Group, 1995.

In 1995 the RCMP hired the Qitsualik Consulting Group (QCG) to assist it in consulting with a variety of Nunavut communities concerning their assessment of current RCMP policing, and their suggestions for improved partnership in the future. The format was for the consultants, accompanied by an RCMP officer, to meet separately with elders, youth, women and the public in general assembly in six communities. There was advance notice to secure the voluntary collaboration of the community, public radio phone-ins and some feedback of draft results. Essentially it was found that Inuit people wanted to establish a new relationship with the RCMP, to lay the basis for a new process of interaction where policing policy would not be developed and implemented unilaterally by the RCMP. There was significant criticism of the RCMP policing that is currently in place. It was deemed to exhibit little cultural sensitivity, to be delivered by mostly non-aboriginal officers who had no language facility in Inuktitut and who were seen as looking down upon the Inuit residents. Exceptions were noted and celebrated, but the overall consensus was that the RCMP had not been implementing their formal policy of community-based policing. Inuit participants called for a more family-oriented policing policy whereby for example family leaders were contacted and consulted when young adults as well as youth got into trouble. It was hoped that policing policy and practice could support the other institutions of society such as the family. They wanted the officers to be more involved in the community and especially in a positive way with youth. There was criticism of the RCMP's emphasis on reactive policing and arrests but at the same time there was criticism for slowness of response and inadequate investigation. Clearly their expectations of police were quite high. At the same time most of the QCG recommendations (e.g., training, hiring. cultural sensitivity, working with youth etc) were conventional and quite in line with those advanced by the many inquiries and royal commissions that have examined policing in aboriginal societies.

QCG authors indicated that RCMP officers in the field indicate that they do not have the resources to meet all these diverse, high expectations, expectations that may exceed those 'in the South'. The report raises a number of questions especially perhaps why the RCMP are apparently not implementing the policies of community-based policing and community justice committees that are formal RCMP policy, and, if costs are critical, what strategies might be developed to compensate for scarce resources. An example of such alternatives could be hiring part-time community residents as in the special constable project launched in some NWT communities

Saskatchewan Justice. Sentencing Circles: A Discussion Paper. Regina: Policy, Planning and Evaluation, Department of Justice, Saskatchewan, 1993.

This discussion paper addresses the use of sentencing circles in Saskatchewan, noting that there has been some such experience in the northern part of the province and that a major theme in aboriginal justice has been making the sentencing process more relevant and appropriate for aboriginal people. The paper suggests that the idea of a sentencing circle might itself be seen as the imposition of a foreign idea on aboriginal people, as suggested by some scholars and observers who contend that the traditional system emphasized non-interference and avoided confrontation and allocation of responsibility. The paper notes that the idea of having a sentencing circle has, in practice, been deemed relevant only after a finding of guilt has been made, and has been advanced sometimes by judges and sometimes by others such as defence counsel. Review of court experience to date indicates that the purpose of sentencing circles is to shift to sentencing principles other than retribution, and to involve the victim and the community. Other factors affecting the issue of the appropriateness of utilizing sentencing circles include the seriousness of the offence (e.g., where the conventional sentence would be less than two years in prison), the willingness of offenders and the community to participate, the ability to involve the victim directly or through representations, and the attitude (i.e., contriteness) of the offender. Clearly, each case would have to be decided on its merits and, as the authors note, one impact of this individualized approach may well be increasing disparity in sentencing, thereby raising the issue of equity.

The paper raises issues such as who is responsible for investigating the potential for the Circle, for handling its arrangements (the authors think there should be an objective service provider here), how does one identify 'the community', who should attend and what should their role be, what is the process to be followed in the actual sentencing circle (e.g., sitting arrangements, judge presiding, introductions, prosecution and defence sentencing submissions), whether the judge's final decision is seen as informed by the discussions or as directed by the group consensus, what if any rules apply with respect to perjury, slander, etc. Finally, the paper notes that for evaluation purposes, considerations include the resources required, and the impact on the victim, the community, and the offender. A prior consideration is agreement on the aims of sentencing circles.

Saunders, Lauren. First Nations Police Governing Authorities: A 'How To' Manual. Ottawa: Solicitor General, 1995.

The author discusses four areas, namely structure, roles and responsibilities, operating procedures and identifying and meeting community needs. Concerning structure, the author refers to issues such as the size of the board, the selection of its members, the establishment of specific subcommittees, and the role and term of the chairperson and other appointees. Regarding policies and procedures, the author talks of clarifying goals and objectives with the aid of a mission statement, a strategic plan, developing policies, and doing periodic reviews. Spelling out procedures for the hiring, training and accountability of personnel is also stressed. Operating procedures are, of course, very crucial to detail and, in this regard, the author deals with issues of frequency of meetings, conflict of interest guidelines, and achievement of non-politicization. The final section deals with identifying and meeting community needs; here, both formal (council meetings, interagency meetings, media reports) and informal (open door policy) methods are discussed.

Schrimi, Ron. Community Development Project: Final Report. Prince Albert Saskatchewan: Prairie Justice Research, 1992.

This report evaluates recent community initiatives undertaken by Correctional Services of Canada (CSC), primarily the utilization of a community development officer to develop community linkages and resources for offenders either released or on day parole. It is interesting for two major reasons: one, that the Community Development Officer was found to spend far too much time and energy on administrative rather than community development matters, and, two, that the author emphasizes that there is a need for CSC to have an orientation to local communities which invites a larger role for them, one that is empowering and has input into correctional policies and practices.

Seagraves Associates. Evaluation of NWT Community Constable Pilot Project. Ottawa: Aboriginal Directorate, Solicitor General, 1996.

SEE PART A.

Sentencing Team, Crime and Public Policy Sector, Justice Canada. Intermediate Sanctions. Ottawa: Department of Justice, 1992.

Here it is noted that Bill C-90 articulates the principle that “all available alternatives to imprisonment that are reasonable in the circumstances should be considered, particularly in relation to aboriginal offenders”. In reporting on the last

round of consultation for this document the authors note that "there was general support
to find ways to involve Aboriginal communities in the sentencing process. There was concern that the current system has too many legal obstacles. It is important to bring criminal justice closer to Aboriginal communities".

Statistics Canada. Criminal Justice Indicators. Ottawa: Canadian Centre for Justice Statistics, Solicitor General, 1997.

Here indicators are set forth in order to monitor the state of the criminal justice system in Canada. Three types of indicators are specified, namely workload (measures of activity), performance (measures of efficiency and effectiveness), and environment (e.g., poverty levels, availability of shelters for battered women etc). Regarding performance measures, the report situates these in the context of five commonly cited goals of the criminal justice; these goals are to actively promote the safety and well-being of individuals and communities; to promote offender accountability, responsibility and rehabilitation; to promote equality and address the diverse needs of Canadians; to promote public trust and confidence in the justice system; and to respond to the needs of victims. The authors provide data sources for the indicators suggested. They do not recommend the use of a composite criminal justice index since, in their view, the identified problems in its construction outweigh the advantages of such an index's use. The report does recommend the use of a smaller subset of the indicators discussed. This subset consists of six prime workload indicators, thirteen prime performance indicators, and ten prime environmental factors. Clearly the summary measures identified in this report can be used to gauge the state of crime and justice in provinces and territories, perhaps with the addition of inter-provincial/territories comparisons in order to highlight opportunities and challenges.

Status of Women Council of the NWT. Annual Report 1996-97. Yellowknife: Government of the Northwest Territories, 1997.

This report underlines the Council's focus on "Regaining a Caring Community". The Council, consisting of six members appointed by the territorial government, has the broad mandate of working towards the political, social and economic quality of women in the NWT. Major activities in the 1996-97 included working to heal and prevent with respect to child sexual abuse, advising on matters of family law, encouraging women's political participation, and conducting regional training sessions with respect to the Council's manual dealing with 'regaining the caring community'. While in many respects the Council's thrusts are quite similar to

those of similar organizations throughout Canada, in the NWT there is more emphasis on strengthening communitarianism and the community.

Task Force on Legal Aid in the Northwest Territories. Report to the Legal Services Board. Yellowknife: Government of the Northwest Territories, 1991.

This report dealt with the organization and delivery of legal aid services. It was noted that while legal aid is available for civil cases it has, in practice, been almost exclusively used to defend individuals charged with criminal offenses. The report provided some highlights of the history of the service in the North. It was noted that in 1975 Maliganik Tukisinikvik (M.T.) was established in Frobisher Bay as a legal services centre to serve the Baffin region and to supplement the legal aid plan there. Initially the M.T. was just to supervise and train court workers and to engage in public legal education. The report highlights three recommendations made by the Cowie Task Force in 1977. Cowie recommended that in the Baffin the M.T. become part of the main legal aid program and that the Legal Services Board hire a private lawyer, and relocate the person to Iqaluit, to handle all but the unusual cases in the region. In the Katikmeot and Keewatin regions, legal services were to be established and a paralegal hired to be located in the largest community. It was noted that a legal aid clinic was established in Rankin Inlet since 1987, that a second lawyer was employed by the M.T. on Pond Inlet since 1988, and that a legal services centre was planned for Kitikmeot (located in Cambridge Bay) which would consist of a lawyer and the courtworkers in the region. The report also noted that there are now three resident judges of the Supreme Court of NWT (all located in Yellowknife) and five judges of the territorial court (three in Yellowknife, one in Inuvik and one in Iqaluit).

This report made sixty-five recommendations. The first and perhaps the most important was that the Legal Services Board be community/regional based with one person nominated by the federal Department of Justice, one from the public service of GNWT, one from the Law Society of NWT, and six regional representatives (one from each of the three Nunavut regions). Another especially significant recommendation was that the Legal Services Board assume responsibility for public legal education in the NWT.

Task Force on Spousal Assault. Final Report To The Government of the Northwest Territories. Yellowknife, 1985.

The task force met with hundred of people in the NWT, held many public and private meetings in more than thirty communities, and collected much printed materials. It made a large number of recommendations dealing with aids to victims, RCMP response to victims, treatment and assistance for batterers, training and assistance for social workers, educators, all role players in the justice system,

and the media. It was emphasized that spousal assault is a serious, somewhat hidden, crime and social problem and that it is a community problem and has to be addressed in a frank and open way. It was suggested that spousal violence is associated with the changes in traditional family structures, the changing roles of men and women (e.g., income provider, unemployment) and the introduction of new values.

Williams-Louttit, Pennie. BIIDAABAN; The Mnjikaning Community Healing Model. Second Edition. Mnjikaning, Ontario, 1996.

This document describes the model developed by this First Nation to deal with the problems of sexual abuse. Basically, it adheres to the principles and procedures developed in the Hollow Water Circle Healing model. The Biidaaban Circle has been accepting families for healing since the summer of 1996 although the program has yet to be fully implemented. The program was a response to concern about "the degree of child sexual abuse in the community and the hidden nature of this problem". A core group of sixteen persons who constituted the circle received training (some 13 full days) and also prepared the manual. The model described aims at "healing the person who has abused, the person who has been abused, the spouse of the abuser, the family and the entire community". In the model there is a Biidaaban coordinator, a disclosure team (including the coordinator, the police, crown attorney, and a representative from family services), and a validation team (including the disclosure team plus a justice of the peace and all Circle members); specific Circle members provide support for the various parties. According to the proposed model, when all parties have been "prepared" there is a Special Gathering where a Healing Contract is generated, and the completion of the latter (anticipated to be usually at least two years after the Special Gathering) is to result in a Cleansing Ceremony.

Wiseman, Marie. Smart Policing: Faust Detachment 'K' Division. Ottawa. Aboriginal Policing Services, 1996.

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

PART C: OTHER MATERIALS AND SOURCES

There are three major areas of information, relevant for the Nunavut justice issues considered in this monograph that have not been examined in-depth here but should be noted. First there is the regular exchange of information among the federal and provincial/territorial governments. Since 1965 the Yukon and NWT territorial governments have participated in formal federal-provincial conferences. Nunavut will soon be a regular member in its own right at such forums. This will mean access on a systematic and intensive basis to what other provinces are planning in the justice field and to information on funding and fiscal matters relating to justice. Currently inter-provincial/territorial meetings have been highlighting issues of restorative justice, young offenders and family violence, all of which are major concerns in Nunavut. In the text above reference has been made to the Nova Scotian model of restorative justice at all entry/exit points in the justice system; this approach reportedly was discussed at length at a 1998 meeting of inter-provincial / territorial justice officials and a strategy was articulated for securing federal funding from a consortium of appropriate federal departments. Participation at these meetings (annual meetings, subcommittee meetings etc) is an efficient way to share information and for a smaller, less economically advantaged government to share in the overall research, policy development and evaluation that is happening at the governmental level.

A second major area of information, funding and other materials, is represented in the federal departments that maintain aboriginal justice programming, especially the Department of Justice and the Solicitor General Canada. While in the recent past some Inuit leaders have expressed ambivalence concerning the appropriateness of the 'aboriginal' label to describe the Inuit, the federal programs are applicable to them. It seems that there could be much greater Inuit utilization of programs and funding available through these departments. Changes in the styles of governmental approach to aboriginal people and the justice system, especially the criminal justice system, have been documented elsewhere (Clairmont and Linden, 1998). In the current policy era there is an emphasis on the establishment of aboriginal justice systems where aboriginal peoples would exercise significant control over the administration of their governing justice system and also over how justice would be defined in those systems. During the nineties the federal government re-organized its administrative structures and delivery systems for aboriginal justice. Responsibilities for aboriginal policing were transferred to the Solicitor General Canada, the Aboriginal Corrections Policy Unit was formed, and in Justice Canada the Aboriginal Justice Directorate came into being. These changes have spearheaded the general federal policy defined above, a policy which has been nudged further toward the agenda of autonomy and legal pluralism by the report of the Royal Commission on Aboriginal Peoples.

Until the 1990s Justice Canada basically had only two modest regularly funded programs relating specifically to aboriginal people, namely a Native Legal Studies Program and the Native

Court Worker Program. In 1992 the Government of Canada established the Aboriginal Justice Initiative in the departments of Justice and the Solicitor General. For its part, Justice Canada formed the Aboriginal Justice Directorate (AJD) whose role was to examine community-based strategies through the funding of aboriginal justice initiatives on a pilot project basis. Renewed in 1996 as the Aboriginal Justice Strategy, Justice Canada expanded its role to support the creation of long-term, viable justice programs and institutions that are cost-shared with provinces and territories. The major themes underlying the strategy have been community justice systems, restorative justice philosophy and tripartite agreements. A 1997 AJD handbook details the criteria for and process of applying for program funding. Justice initiatives with respect to Nunavut and the Inuit, apart from a few significant exceptions (chiefly funding for Pauktuutit, the Inuit Women Association), have been carried on through the GNWT. Officials in the Aboriginal Justice Directorate indicated that until the last year there was virtually no funding given to the Nunavut area; at the present time the AJD is funding four community projects at Cambridge Bay, Rankin Inlet, Coral Harbour and Cape Dorset.

A new element of Justice's strategy has been the Aboriginal Justice Learning Network (AJLN), an initiative designed to mobilize key players in the justice system and aboriginal people to work together toward a more aboriginally-sensitive and directed justice system. A major emphasis of the AJLN has been to support aboriginal communities to explore culturally appropriate justice processes and assist them in training for the implementation of projects, and in the mobilization of human and financial resources. In 1997 the AJLN funded some thirty projects including conferences, training workshops, resource development projects (e.g., training tools, videos on exceptional aboriginal justice initiatives), and strategic planning projects. In 1998 it published an impressive listing of resource materials that it has available for distribution; especially notable here is the information on youth, sentencing/peacemaking circles, violence/abuse, healing and culture, where each item is briefly described and a contact source is indicated; additionally, there is a compilation of aboriginal women's voices on justice and healing where copies of the annotated items are available upon request. Thus far the Inuit presence and participation in the AJLN has been quite modest, either in attendance at AJLN meetings or in terms of funded initiatives.

The Department of Justice has recently established the National Crime Prevention Centre which has announced the “National Strategy on Community Safety and Crime Prevention: Building Safer Communities” initiative. This program, to which the Government of Canada has allocated $32 million annually, aims at developing community-based responses to crime with an emphasis on women, children and youth, aboriginal people and women. Its major components are three-fold, namely a safer community initiative, a public crime and justice education promotion, and private sector/non-profit responses to crime prevention; under these rubrics funding is available. The initiative would appear to be quite relevant to Nunavut justice concerns and its emphasis on community empowerment.

Under the sponsorship of the Solicitor General Canada, important developments have been occurring in the area of aboriginal corrections. New aboriginal-based penitentiaries have been constructed for female and male inmates in Western Canada, supplementing extant policies

and programs of penitentiary liaison, and aboriginal counseling and spirituality. The Department's Aboriginal Corrections Policy Unit, established in 1992, has focused on greater empowerment and involvement at the community level and recently has emphasized offender treatment in selected aboriginal communities returning to a restorative, healing approach in dealing with criminal activity. The Correctional Service of Canada (CSC) has expanded its activities for aboriginal offenders. It has introduced new aboriginal-specific programs such as aboriginal substance abuse programs, augmented existing core aboriginal programs (e.g., inmate liaison, spirituality) with initiatives such as 'releasing circles', constructed a new mode of penitentiary, namely the 'healing lodge' for aboriginals, and created new senior administrative positions to monitor and advocate for aboriginal programming. More generally within CSC, there has been the development of the Restorative Justice and Dispute Resolution Unit which has gathered together copious material -articles, videos, conference papers, books, and web sites- on restorative justice and conflict resolution. In its 1997 publication, Events and Initiatives Related to Restorative Justice, the considerable activity on-going in these fields in Canada is described. All provinces and territories are seen to be active and launching initiatives such as family group conferences, adult diversion and community justice committees. At the federal level the Department of Justice, RCMP, CSC and the National Parole Board have undertaken major initiatives. The publication describes the various projects and lists contact persons. It can be noted that the level of First Nations aboriginal involvement is quite significant in all jurisdictions. It may also be noted that very few programs, acclaimed successes or anticipated initiatives deal with the Inuit. Indeed it appears that for a variety of reasons (e.g., small numbers, concentration of Inuit in one territorial jurisdiction) there has been minimal involvement of Inuit in the programming of the Aboriginal Corrections Policy Unit or CSC. Officials of the latter's Restorative Justice and Dispute Resolution Unit indicated that they would consider funding proposals from Nunavut under sections 81-84 of the CCRA.

There has been a considerable elaboration of restorative justice materials throughout advanced industrial societies in the past ten years. Information is now readily accessible on general restorative justice issues such as underlying philosophy, benefits and risks, and evaluation, as well as on specific programs such as victim-offender conferences, family or community group conferencing, circle sentencing, community panels, alternative dispute resolution in civil and business matters and so forth. In Canada the major non-governmental informational sources include the Mennonite Central Committee of Canada (134 Plaza Drive, Winnipeg, R3T 5K9) and the Church Council on Justice and Corrections (507 Bank St. Ottawa, K2P 1Z5). In addition to the latter's major publication on restorative justice, noted in the annotated bibliography, which provides descriptive stories on initiatives and lists contact persons for each project, the Council regularly publishes 'Update' which highlights interesting developments in restorative justice.

In the United States a body similar to the Canadian Church Council has been collating materials and developing new sources. An example of the latter would be the video, Restoring Justice, produced by the Presbyterian Church in Louisville Kentucky. See also the materials provided by The Working Party on Restorative Justice, Alliance of Non-Governmental Organizations (NGOs) on Crime Prevention and Criminal Justice, especially their following

publication, Paul McCold, Restorative Justice: An Annotated Bibliography. Criminal Justice Press, Monsey, New York, 1997. At the federal level in the United States, a rich body of restorative justice information is available through the Office of Justice Programs, Department of Justice, Washington DC. Perhaps the state in the USA most well-known for its activities in restorative justice (and other avant-garde innovations in justice such as presumptive and determinate sentencing) is Minnesota. Excellent documents dealing with all facets of restorative justice - from basic principles to program implementation and from how offenders are held accountable to the involvement of victims and the community - are available through the Center for Restorative Justice and Mediation, University of Minnesota or from its collaborator, the Minnesota Department of Corrections. Other American states such as California and Hawaii have accessible materials. Use of the Internet is an increasingly valuable tool (see for example the Center for Peacekeeping and Conflict Studies at Fresno Pacific College via http://www.fresno.edu/pacs/jscale.htm). The resurgence of interest in restorative justice in the 1990s has been led, in part, by developments in family or community group conferencing in Australia and New Zealand. Appendix B in this monograph discusses an on-going major evaluation of the Australian initiative. For detailed information about the New Zealand initiative, see http://www.govt.nz/justice/restorative.

There are some good videos available of relevance to Nunavut justice concerns. There is the classic series on the Netsilik (Pelly Bay in the eastern Arctic) done by the National Film Board (NFB) and with the collaboration of Asen Balicki. While not focused on justice issues they provide insight and appreciation into traditions of getting a living and socialization, and make it easier for one to understand oral traditions on other matters. The Netsilik series includes People of the Seal, Part 1: Eskimo Summer, and Part 2: Eskimo Winter, 1971; Yesterday and Today: The Netsilik Eskimo, 1971; and for an overview of life before and after the arrival of Southern culture, see The Eskimo: Fight for Life and The Netsilik Today. Apart from that series there are many other NFB films on hunting, territorial rights, land claims, Inuit children, Inuit culture, legends, life styles, art, and the ICC. Especially good are the short Nunatsiaq: The Good Land, which focuses on the Frobisher Bay area, and the film, Magic in the Sky, which deals with the promise of the Inukshuk television network which began broadcasting in 1980 using the Anik B communications satellite. There is a short video on the court in the Nunavut area, Arctic Bay: A Community and The Court, produced in 1985 by Magic Lantern Productions of Richmond B.C. Other videos may be found in the resource material collated by the Aboriginal Justice Learning Network and the Restorative and Dispute Resolution Unit of CSC. Many more films and videos, from a First Nations' perspective, are available directly on justice issues such as inmates' experiences, healing circles, community response to sexual abuse and family violence, and post-incarceration rehabilitation (see Clairmont and Linden, 1998).