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**FACULTÉ DES ÉTUDES SUPÉRIEURES  
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**FACULTY OF GRADUATE AND  
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**Justice Committees in Aboriginal Communities : A Study of Community Capacities**

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**Justice Committees in Aboriginal Communities: A study of Community  
Capacities**

Nicole A. Wrong

Submitted to the Department of Criminology, University of Ottawa  
in partial fulfillment of requirements  
for the degree of Master of Arts

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*Your file* *Votre référence*  
*ISBN: 978-0-494-49295-6*  
*Our file* *Notre référence*  
*ISBN: 978-0-494-49295-6*

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## **ACKNOWLEDGEMENTS**

I would like to thank my family and friends for their support. Most of all, I would like to thank my father, my mother, my Oma and my partner Jeff for their unwavering faith in me, and for always being proud of my accomplishments.

I would also like to thank Ross Hastings for his supervision and for always simplifying even the most complicated of things. Lastly, I would to thank Lyne St. Louis for facilitating my understanding of a circular perspective and for allowing me to accompany her into the world of Aboriginal community justice. Without her help and support, I would have never been able to give this thesis a voice.

## **ABSTRACT**

In the last twenty years there has been a growing desire to devolve justice interventions to the level of the community. An example of one such initiative is the justice committee program, an extrajudicial program set up in a number of Canadian communities to address minor youth cases, and cases involving Aboriginal people. This thesis is a capacity assessment of justice committees in Aboriginal communities in Quebec. With the help of literature on restorative community justice, crime prevention and building sustainable community programs, this thesis explores the recommended capacities for the implementation of sustainable justice committees, as well as the capacities perceived to be currently available to some justice committees in Aboriginal communities in Quebec. Through personal observations gathered during my work with justice committees in the past and interviews with various individuals working closely with justice committees in Quebec, this thesis found that a number of capacities were either lacking or were sporadically available to the communities studied. It concludes that with a common vision of the program's purpose, careful consideration of a community's ability to effectively intervene, and increased collaboration, resources and training; justice committees will be more likely to be implemented in a sustainable manner.

# I

## INTRODUCTION

The implementation of any sustainable community project requires a careful consideration of community agency, the problems the community faces, the objectives of a given program to address those problems, and the logical and rational consideration of the means to deliver the solution (LaPrairie and Dickson-Gilmour, 2005: 182). Despite their best efforts, many communities take on more than their resources are able to handle. According to LaPrairie and Dickson-Gilmour (2005: 201), the level of human and other resources in communities is essential not only to the success of projects, but also to their very implementation. Failure to properly consider the objectives of a program and whether the community possesses the capacity to deliver the solution will often result in compromised projects.

As such, it is important to evaluate whether communities have the tools (i.e. the capacity) to deliver a given program in a sustainable manner, as well as whether the capacities available to the community are sufficient to help them attain the objectives of their program. Though it seems simple enough to consider the tools available to a community before implementing a program, many communities and justice professionals sometimes fail to do so, resulting in the implementation of ineffective or unsustainable community programs.

The implementation of community justice programs has been of growing interest in the area of both youth and Aboriginal justice. The belief that justice interventions can be devolved to the community is a promising one, but it sometimes fails to call into question the fact that not all communities have the capacities to deliver these programs in a sustainable

manner. An example of this can be found with the implementation of justice committees in Aboriginal communities. In spite of our best intentions to create an alternative system of justice that better addresses the needs and realities of Aboriginal community members, little data have been collected to date on the implementation of justice committees in these communities, as well as the capacity of Aboriginal communities to deliver this alternative (Paiement, 1996: 51). The varied nature of their application and the lack of clearly defined standards of implementation leave us with some interesting questions regarding the capacities of these communities. My work will focus primarily on two key questions;

- (i) What capacities are recommended for Aboriginal communities to implement justice committees in a sustainable manner?
- (ii) What capacities are perceived as actually or potentially present in these communities?

Though it is also interesting to consider the effectiveness of justice committees in dealing with youth and Aboriginal justice matters, the focus of this thesis is on determining the types of capacities needed to implement justice committees in a sustainable manner, and through my own participant observation gathered while working with justice committees in the past as well as interviews with others currently working closely with justice committees; whether the desired capacities are actually or potentially available to Aboriginal communities.

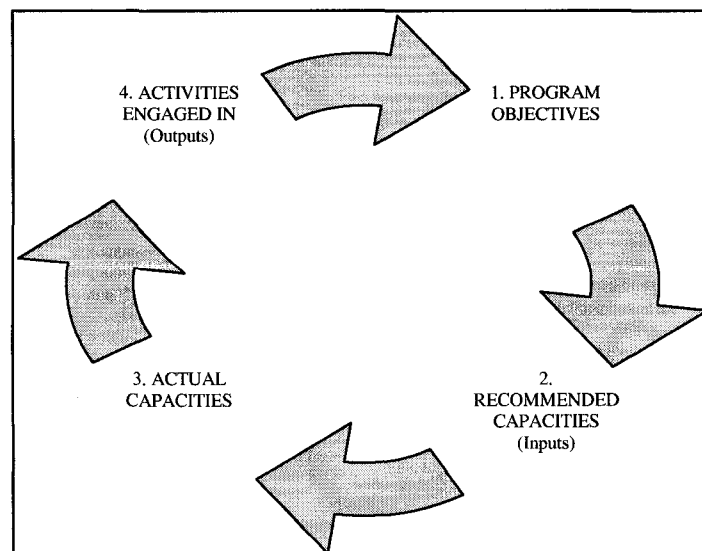
The first chapter of this thesis begins with a discussion of the recent shift to decentralize authority over justice matters to the community level which has resulted in the creation of community projects such as justice committees. Next, I examine the differences between community and restorative justice and their recent convergence into what Bazemore and Schiff (2001) term *restorative community justice*. Finally, I utilize crime prevention and

restorative justice literature on community capacity and implementing sustainable community programs to create a framework to identify the recommended capacities required to implement justice committees in Aboriginal communities.

The second chapter focuses on the specific case of justice committees in Aboriginal communities in Quebec. In order to understand the objectives communities and governments had when deciding to implement justice committees, I consider the developments in the area of both youth and Aboriginal justice which have led to the establishment of community justice committees. This chapter begins by considering youth involvement in the justice system followed by a discussion of the changes in youth law which has resulted in the encouragement from federal authorities to implement justice committees. Second, to understand the context for the use of justice committees in Aboriginal communities, I discuss Aboriginal involvement in the justice system, followed by an overview of the developments in Quebec which have led the provincial and local governments to establish justice committees in Aboriginal communities across the province.

Chapter three of this thesis describes the methodological approach of this study and outlines the purpose behind my selection of research questions. Further, following a discussion on process evaluation research, I describe how the questionnaire for this thesis was compiled, as well as the characteristics of the research participants and the manner in which they were selected, recruited and interviewed. Also, I attempt to create an outline of the capacities required to implement justice committees in Aboriginal communities in a sustainable manner, and describe how my data will be interpreted and how this method of interpretation is relevant to my thesis question. Lastly, I discuss both the limitations and the benefits of my research as it pertains to justice committees in Aboriginal communities in Quebec.

Chapter four presents the findings gathered through the interviews. This chapter is divided into three sections. The first section reviews the objectives of justice committees as set out by the federal, provincial and local governments to determine the expected outcome of the program and whether each level of government shares a similar perspective to this effect. Further, the interviews are analyzed to determine if the objectives outlined by governments are actually reflected in the opinions and experiences of those working closely with justice committees. Next, the program's objectives are used as a frame of reference to assess the inputs (capacities) required for the sustainability of the program. Literature on restorative community justice, crime prevention, and sustainable community programs are used to provide additional recommendations on the types of tools required. Then, results from the interviews are compared against the capacities recommended to show whether or not those capacities are actually present in the communities. Third, based on the previous comparison of capacities, I analyze the types of activities (outputs) actually occurring at the community level to assess whether or not the program in practice is actually meeting the objectives outlined by governments. The following diagram outlines the process through which I have analyzed my data.



Lastly, chapter five provides a brief summary of this thesis. I offer recommendations for policy, practice and research with reference to suggestions made by the participants interviewed. Finally, based on the findings of this thesis I make some general conclusions regarding the implementation of sustainable justice committees.

## II

### RESTORATIVE COMMUNITY JUSTICE AND BUILDING SUSTAINABLE PROGRAMS

#### 2.1 Restorative Community Justice: Moving back to the Community

The de-centralization of authority over the administration of justice has been going on for almost twenty years. In the last part of the twentieth century, a community justice movement emerged in both Canada and United States to encourage more citizen involvement in less formal justice processes. During this time, a number of initiatives emerged which attempted to place the community at the heart of justice interventions. These initiatives have been referred to as community justice, restorative justice, and more recently, community restorative justice (Altshuler, 2001: 2).

According to Iadicola (1985: 104), the interest in utilizing the community as a vehicle to control crime grew out of three factors. First, the government imposed budgetary restraints on police departments resulting in the off-loading of minor cases to community organizations. Second, the police grew increasingly interested in encouraging community residents to be more conscious of their ability to deter crime and to increase the certainty of a response by being more vigilant. Lastly, the presence and growth of community organizations that deal with criminal and social problems provided an environment in which to off-load responsibility and decrease case loads.

The rise of the community justice approach in the 1990's has also been attributed to efforts to expand the practices of community policing in other sectors of the criminal justice system. This can be best summarized with the top-down versus bottom-up argument. Instead of utilizing 'experts' who are often more concerned with cases than people and police who

are often perceived to be removed from the needs and realities of the communities in which they serve, community-based initiatives offers citizens an avenue through which to become a partner in the fight against crime in their own neighborhoods. Further, such initiatives encourage police to be more involved with their communities (Bazemore and Schiff, 2001: 23).

The move towards a community approach has not only been felt within the realm of criminal justice, but also across the public policy landscape. The state is no longer understood as being in the best position to respond to social problems, and more emphasis is being placed on the community's ability to respond to social issues (Karp, 1999: 751). Perhaps this shift is also attributable to the increasing sentiment that communities should "own" their problems because community members are in the best position to take control of developing and implementing solutions that address the needs and difficulties of their community (Hastings and Jamieson, 2001: 4).

More often than not, the criminal justice system intervenes solely on the level of the individual (the offender). Interventions at the community level, on the other hand, are founded on the perception that "the structure and organization of communities affect the crime rate independent of the individual characteristics of residents and offenders" (Reiss, 1986: 24). In other words, justice interventions should focus on the offender, their families and their communities, as each contribute to the environment which helped to produce the offending behaviour.

Community interventions are based on a desire to change or create new environments so as to affect interactions among people. This interaction creates an intersubjectivity, or a common perception which can lead to social change. By sharing a similar understanding and view of the world, community members can more readily deal with issues that they face

(O'Donnell, Tharp, and Wilson, 1993: 509). Without intervening on all levels, initiatives can only be expected to achieve limited effects.

An example of the move towards utilizing the community as a vehicle to control crime can be found in the areas of youth and Aboriginal justice. Since the introduction of the Youth Criminal Justice Act (YCJA) in 2003, the number of admissions to community-based custody and supervision has increased by 12% and admission to deferred custody has increased by 27% (Statistics Canada: The Daily, Mar. 14, 2007). In comparison, while representing 4% of the youth population, Aboriginal youth accounted for 15% of the alternative measures cases in the provinces and territories (Statistics Canada: Aboriginal people in Canada, 2001: 8). This number has most certainly increased following the introduction of the Youth Criminal Justice Act in 2003, as one of its primary focuses is on increasing the use of community-based alternatives.

While much has been said about community justice, it is important to define this term. The term *community justice* is a broadly defined umbrella concept which refers to a variety of crime prevention and justice initiatives. The focus of the initiatives places the involvement of community at the center of their processes (Karp, 1999: 751). The concept of *community justice* also includes community policing, community courts and justice centers, community development, and community capacity building interventions (Altschuler, 2001: 3).

*Community justice* is founded on the notion that community members, organizations and the justice system can take responsibility and control over crime and disorder in a given locale (Karp, 1999: 751-752). The focus of the community justice approach is to improve the “community’s capacity to resolve local problems and to realize common goals, thus leading to greater satisfaction in the quality of community life” (Bazemore and Schiff, 2001: 204).

According to Karp (1999: 752) the following six elements are characteristic of community justice initiatives:

- 1) Coordination at the local level;
- 2) Citizen involvement;
- 3) Information driven;
- 4) Process driven;
- 5) Both long term and short term problem-solving; and
- 6) Decentralization of both authority and accountability to community and local agencies.

While these elements are important to further investigate when engaging in a thorough discussion of the role of community justice<sup>1</sup>, for the purpose of this thesis, I will use the definition of community justice presented by Clear and Karp (1998: 13-14)

Community justice refers to all variants of crime prevention and justice activities that explicitly include the community in their processes and set the enhancement of community quality of life as an explicit goal. Community justice is rooted in the actions that citizens, community organizations, and the criminal justice system can take to control crime and social disorder. Its central focus is community-level outcomes, shifting the emphasis from individual incidents to systematic patterns, from individual conscience to social mores, and from individual goods to common good.

In the past two decades, the restorative justice movement has been influential in Australia, Canada, England and Wales, New Zealand and other countries (Morris and Maxwell, 2001: 4). According to Braithwaite (2000: 293), the following defines the fundamental principles of any restorative justice initiative;

[The] key values of restorative justice are healing rather than hurting, respectful dialogue, making amends, caring and participatory community, taking responsibility, remorse, apology, and bringing together the stakeholders-victims, offenders and their friends and loved ones, representatives from the state and the community - to decide what should be done about a criminal offence.

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<sup>1</sup>See Karp, D. (1999) Community Justice: Six Challenges in the Journal of Community Psychology, vol. 27, no. 5, 751-769 for a thorough discussion of the elements of community justice.

As a result of a growing desire to create alternatives to traditional court processes, the use of restorative justice initiatives such as victim-offender mediation, family-group conferences and circle sentencing began developing over twenty years ago (Bazemore and Schiff, 2001: 25). During the 1980s the use of victim-offender mediation programs emerged in response to a growing desire to institutionalize reparative sanctions through restitution and community service programs for young offenders in both Canada and the United States (Bazemore and Schiff, 2001: 25-26).

The use of circle sentencing became more prevalent in the early 1990's when a number of supportive Canadian judges and justice committee members in the Yukon began advocating for a more holistic and participatory system (Altschuler, 2001: 2). The focus on repairing the harm caused by the offence and on healing those affected by the crime also made restorative sanctions popular among some feminists and faith communities (Bazemore and Schiff, 2001: 25-26).

The call for an alternative system responded to the desire to address the needs of victims, families and communities (Altschuler, 2001: 2). The use of restorative approaches to crime has been said to be founded on the fear of the loss of the community capacity to deal with juvenile offending. Further, there has been a growing concern over the criminal justice system's increasing consumption of resources as well as the system's ability to diminish the community's capacity to handle conflicts (Bazemore and Schiff, 2001: 36).

The focus of restorative justice is to make the traditional observers of the justice system active participants. Victims, offenders, family members and even the community are at the centre of the intervention. In this sense, it brings conflicts back to their rightful owners and it brings community members back into the process. Restorative justice allows victims the opportunity to see the offender as a person, and provides the offender with the

opportunity to gain a better understanding of what their actions have done to others. In a restorative justice setting, offenders are given the opportunity to express their remorse, and to release whatever shame they might feel (Roche, 2003: 10). Further, victims are provided with the opportunity to restore their sense of personal power (Dickson-Gilmore and La Prairie, 2005: 93). Restorative justice means restoring victims, offenders, families and communities. As such, the objective is healing those involved rather than solely punishing the offender.

Though the merits of restorative justice are only beginning to be recognized with the help of evaluation research, restorative justice claims to have many promising attributes. For instance, it has the potential to empower community members to take responsibility over one another's lives and to get involved when a conflict does occur, so as to bring the conflict back to its rightful owners. Also, it could provide an avenue through which to "rebuild and rejuvenate communities and to increase the bond that members share with each other (Dickson-Gilmore and La Prairie, 2005: 93).

Restorative justice initiatives also provide a means for communities and governments to work together to maintain a responsive justice system (Bazemore and Schiff, 2001: 328). In other words, it provides a forum in which community members might exercise greater control, autonomy and responsibility over crimes that affect their lives, and further it can provide for collaboration with government to create a justice system which is more responsive to the needs of citizens.

From the perspective of politics, it has been argued that the move towards restorative and community justice has been influenced by the government's need to cut costs and their reliance on 'get tough policies'. As a result, in Canada there has been a 'devolution' of

justice to local communities accompanied by an increase in spending on communities in the name of community justice and empowerment (Bazemore and Schiff, 2001: 35).

The terms *restorative* and *community* justice have often been used interchangeably to describe many justice interventions at the community level (Dickson-Gilmore and La Prairie, 2005: 95). Depending on who is describing it, community-based interventions commonly labeled as *community justice*, and even *restorative justice* may refer to a variety of programs, practices and initiatives (Altschuler, 2001: 3). Despite the frequent confusion, there nevertheless are some distinct differences between the two approaches.

For instance, Bazemore and Schiff (2001: 129) state that “while restorative justice is about cases, community justice is about places”. Restorative justice is a micro-oriented response that addresses some of the limitations of the criminal justice system by focusing on repairing harm and meeting the needs of those most directly affected by crime. On the other hand, community justice is more macro-oriented with its focus on neighborhoods and communities. It emerged out of the problem-oriented policing movement, and was an avenue within which to strengthen community well-being (Bazemore and Schiff, 2001: 27).

According to Bazemore and Schiff (2001: 21), there are three distinct differences between community justice and restorative justice.

**Table 1: Restorative vs. Community Justice**

<b>Restorative Justice is</b>	<b>Community Justice is</b>
Case-oriented	Community-oriented
Informal	Formal
Reactive	Preventative

Despite the differences of the two approaches, Bazemore and Schiff (2001: 28) suggest that we are moving towards what they term '*restorative community justice*' which is a convergence of the two approaches. For instance, while restorative justice was initially primarily involved with cases, there has been a shift in the last 20 years towards a more community-oriented approach.

Likewise, emerging community justice practices are becoming increasingly focused on micro-level interventions between victims and offenders, while continuing to focus on community building. As such, "citizens and neighborhood groups are now seen as resources in facilitating restorative processes *and* as targets of intervention in capacity-building efforts" (Bazemore and Schiff, 2001: 28).

Further, community justice has formerly been focused on being a system-based reform that worked to modify formal structure and intervention protocols, such as making policing strategies more community-friendly. Today, community justice programs have expanded their formal scope to include more informal and restorative problem-solving techniques such as mediation (Bazemore and Schiff, 2001: 29).

By taking the micro focus of restorative justice, community justice can empower citizens to be more involved in crime and conflict strategies. Such processes allow community justice strategies to "take decision-making out of the adversarial context and share discretion over sanctioning with community members" (Bazemore and Schiff, 2001: 29).

Lastly, while community justice has been primarily focused on prevention, some have argued that due to the reparative focus of restorative justice, it can be best described as being reactive. Despite the timing of the interventions, Bazemore and Schiff (2001: 31) propose that there can be a convergence between the two. For example, the authors suggest

that there is often a community-building emphasis held by reparative justice committees. As a result, any intervention held by such committees would be both an effort to repair harm (*reactive*) as well a method to create sustainability and build community capacities (*preventative*). Furthermore, community justice can also be viewed in a similar light, as while building community capacities, the community is also repairing and strengthening relationships that are normally weakened by crime or conflict.

The convergence between both community and restorative justice has also been recognized by others in the field. According to Dickson-Gilmore and La Prairie (2005), “at the centre of the restorative justice movement is the community...which is the driving force, the defining quality and the primary focus of restorative justice projects” (3). Restorative justice is often seen an important method to promote community justice, because the vehicle for restorative justice is the community and restorative justice initiatives are an attempt to put the community at the core of an intervention strategy. Likewise, when community justice programs aim to heal broken relationships, or to improve the lives of victims, offenders, family and community, community justice can be seen as holding a restorative framework or driving down a road of restoration (Bazemore and Schiff, 2001: 129).

We are then left with two distinct practices that have begun to converge towards a common ground. Some community justice initiatives now incorporate the reparative values of restorative justice, while some recent restorative processes have been aimed at building community capacities and encouraging prevention<sup>2</sup>. As a result of this cross fertilization, it

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<sup>2</sup> The intersection between restorative and community justice can also be understood as “transformative justice” a concept presented by Ruth Morris, in her book *Stories of Transformative Justice* (2000). According to Morris, transformative justice is focused on healing and empowering all parties affected by a crime such as victims, offenders, their families, friends and community. It provides an avenue in which old community wounds are healed and new community ties are built, resulting in the transformation of a formerly divided group. It moves beyond restorative justice in that it attempts not only to address a crime that has occurred, but also to heal the wound underlying the offending behaviour.

has become increasingly difficult to distinguish between the two practices. We are left with what can be best understood as *community restorative justice*, a movement which brings with it a required rethinking of “performance outcomes, priorities for practice, justice processes, and appropriate roles for justice professionals and community-members” (Bazemore and Schiff, 2001: 32).

The historical roots of restorative community justice practices can be traced back to informal forms of dispute resolution processes in many traditional Aboriginal communities. These informal approaches focused on encouraging community cohesion and participation as well as the restoration of relationships following a crime or conflict (Dickson-Gilmore and La Prairie, 2005: 87). Though the presence of informal restorative justice processes emerged long ago, recently there has been a more formal resurgence of alternatives to the traditional criminal justice system.

In response to the over-representation of Aboriginal people in both prison and other areas of justice processing, governments and Aboriginal communities have initiated alternative justice projects. The projects created to date have claimed to carry restorative values and a community-based element but have ranged in type, and objectives. For instance, some that have developed are crown-controlled, offence-based programs which focus on addressing the crime by diverting first time or minor offenders from the courts. Other programs are community-controlled and offender-based which focus on addressing the source of the problem which led to the crime by actively involving victims, offenders and community members in the justice process (Proulx, 2003: 30).

One popular community-controlled initiative which has been utilized in a number of Aboriginal communities is justice committees. A justice committee is a group of citizens

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who work with police and other justice officials to provide justice services for citizens in their community. These committees receive referrals and requests to access restorative and community justice services. Even though not all communities have these committees to spearhead restorative community justice programs, they are nevertheless seen as an important aspect in community development with regards to restorative justice (Dickson-Gilmore and La Prairie, 2005: 99).

Some major obstacles should be considered before implementing a restorative community justice program such as defining *community*, mobilizing community members for action, and determining community capacities. Defining *community* is one of the most important aspects of any community-based intervention. Community can mean different things to different people, and can incorporate a number of different interest and strategies. It can be physically or socially defined. According to the NCPC (1997: 20);

There are many definitions of, and interpretations of 'community' in the social development and justice fields. They emphasize various aspects, including; the physical or geographical aspects of community, and the social dimensions of community as a collective entity.

In other words, there are two ways to understand community. One interpretation views community as a group sharing common physical or a geographical attributes, the other views community as being a social entity (20). In the physical interpretation of community, community is best understood as an instrument of government policy whose role is to be a responsible agent in the delivery of services (Hastings and Jamieson, 2001: 4). This top-down definition reflects the critiques of institutionalism and emphasizes the need to mobilize local agents in the delivery of more cost-effective services (NCPC, 1997: 20).

The other interpretation views community as a social dimension of collective activity, a group of people who share common interests, goals and concerns, and who are willing to

work together towards a common end (NCPC, 1997: 20). In this bottom-up interpretation, the community is understood as having the right to control their future (Hastings and Jamieson, 2001: 4).

Whether or not community is defined from the bottom up or the top down, the previous understandings of community place their focus on the inclusive nature of community. Interestingly, in a discussion on the meaning of community with reference to the Youth Criminal Justice Act (YCJA), Hogeveen (2005: 289) argues that communities are often defined by exclusion, as communities “derive their identity through an antagonistic relationship with the ‘other’ ”.

While community appears frequently within the legislation, its meaning is left undefined...Instead of an alternative to state sponsored interventions, community thus conceived is not only exclusionary, but buttresses and expands the state’s mandate of control. While Aboriginal youth [among the most marginalized in Canada] are particularly effected, youth in general have been excluded from community...Heretofore, community-based initiatives have been administered and implemented by adults...for community to be truly meaningful, it must embrace all groups, regardless of age, background, or criminal record (Hogeveen, 2005: 301).

Hogeveen (2005: 292) further argues that the YCJA does not explicitly define community but assumes that a community can be identified, can take responsibility to govern youth behaviour, and will agree on fundamental issues such as defining crime, or harm, as well as what sanctions to apply in a given case. Though the YCJA assumes that community will easily be identified and defined, the reality is that this is often a quite difficult task to accomplish.

This difficulty is apparent within the context of small Aboriginal communities. In such environments it is difficult to determine whether the members are actually part of a community or whether they are solely a group of families or individuals living in the same geographic location with no connection to broader community goals or mores. According to

Dickson-Gilmour and LaPrairie (2005: 204), “a community lacking cohesion may face almost insurmountable impediments to developing, implementing, and sustaining a successful community justice project”.

Due to the confusion that often exists around the definition of community, those trying to mobilize for effective action will often be faced with a blurred vision of their desired outcome. As such, those planning and executing community-based interventions will find it difficult to come to a consensus on exactly how and where to intervene (Hastings and Jamieson, 2001: 4). This blurred vision can hamper the development and implementation of effective programs or projects and it can also prove detrimental when attempting to evaluate both the processes and outcomes of any community-based initiative.

Community action is another key ingredient to the sustainability of community-based interventions. Deciding to ‘own’ a conflict is one thing, having the ability, willingness and collaboration is another. Mobilizing communities for action is “neither straightforward or easy” (La Prairie and Dickson-Gilmour, 2005: 200). Local programs and projects that seek to de-centralize authority to the community often face confusion and even turmoil when facing any transition, and there is no guarantee that efforts made will in fact change things for the better (Moore, 1992: 148-151).

In the realm of community restorative justice, crime is understood as a violation against people and relationships, while in the realm of adversarial justice, crime is considered a violation against the state and state interests (Zerh, 2002: 21 and Umbreit, 2001: xxvi). So when a community attempts to apply an intervention that does not correspond to the vision outlined by the traditional system, there may be individuals who resist. Changing the culture of community crime control in a given locale can often become an obstacle for any restorative community-based justice project (Moore, 1992 148-151).

According to Dickson-Gilmour and LaPrairie (2005: 205), “sustaining justice projects may be as much a matter of community will and interest as of resources”. Even though community members share a common location, they do not necessarily share a common vision. For this reason, it is also important that there is some consensus over the need to mobilize the community for action. For instance, if a common problem, vision or a shared concern is lacking, it will be extremely difficult to develop the capacity to deal with community-based issues. Further, without communication or collaboration, the community will not be able to mobilize for effective problem-solving (NCPC, 1997: 21, and Hastings and Jamieson, 2001: 4).

Another frequently cited difficulty facing a community is that of limited resources. The lack of financial and human resources can be debilitating to any program and can lead to its failure (Moore, 1992: 148-151). The disappearance of programs once funding has ceased is further compounded because the skills and training received through the program are often lost. According to Kelly and Caputo (2003: 8), “individuals who have expanded their skills and knowledge during the course of participating in the project may move to new employment and may be lost in [*sic*] the community”.

Even in cases where communities are provided with financial and human resources, there nevertheless remains the fact that not all communities have the tools or partners they need to deliver community-based initiatives. The discussion over the community’s ability to ‘own’ their conflicts often “downplays the very real differences in visions, interests and capacities of different types of communities” (Hastings and Jamieson, 2001: 4). Furthermore, it fails to take into account the fact that those communities with the least capacities are often those with the most challenging crime and victimization problems and those which rely most heavily on outside agencies for support (Hastings and Jamieson, 2001: 4).

This allows us to look more closely at the limits of localism, as many risk factors associated with high crime and victimization rates cannot be addressed solely by the community. No community is totally secluded. As such, it is important for communities to take the time to develop collaborations with governments, other agencies and organization as a method to increase their capacities to deliver effective and sustainable programming (NCPC, 1997: 21).

Despite the very real obstacles facing any community justice intervention, there are some important benefits to encouraging community action. According to Hastings and Jamieson (2001: 6-7), there are three benefits of community-based interventions.

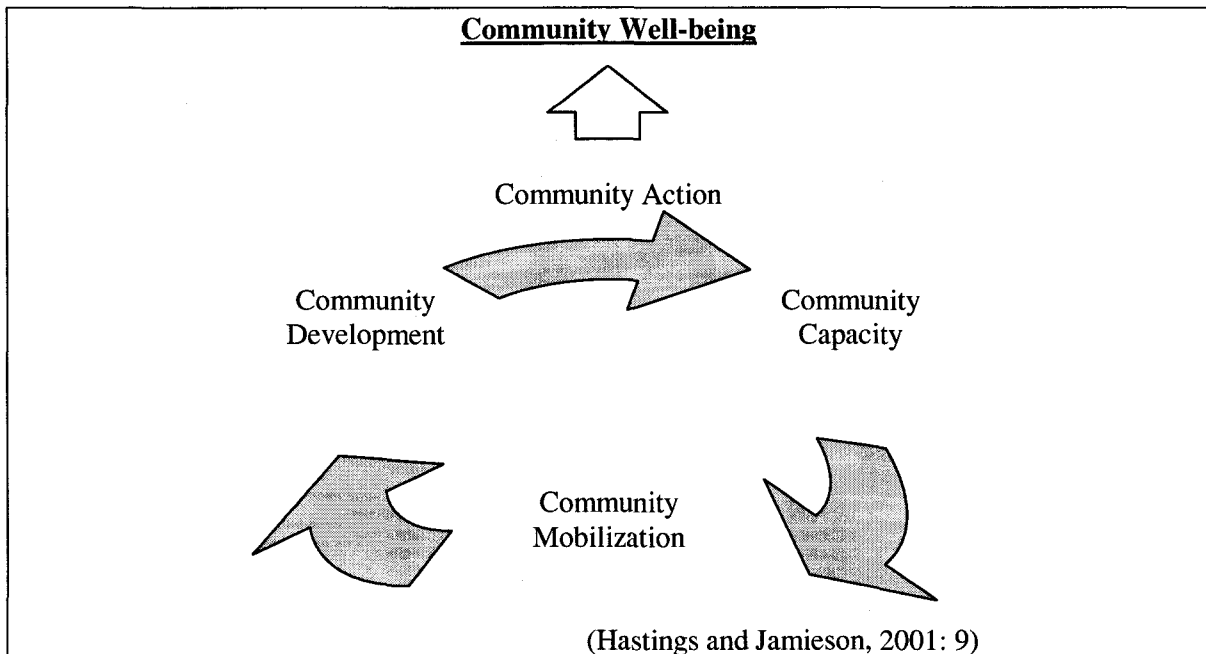
- 1) Community-based interventions may provide for a more convenient and cost-effective method of program delivery. As such, governments have found it cost-effective to devolve the delivery of justice interventions to the community level.
- 2) Because the community is at the centre of the intervention, it is understood that those needing the services of the program will receive a more client-friendly and personalized service. Though there has yet to be a major shift of resources from existing institutions to support community-based programs, there nevertheless remains the sentiment that the community is the best vehicle to serve its own citizens.
- 3) Because authority is de-centralized to the community, community-based intervention strategies can work from the bottom-up to address the root causes of crime and to aid in the creation of social bonds between the community's members. We can see an example of this with justice committees who share control over deciding the appropriate disposition for the offender and reparation to the victim. By addressing the offending behaviour and deciding on a solution within the community, the community is then given the ability to take control over risk factors that affect the lives of its citizens, and can also work together to create stronger connections between its members. By becoming a more cohesive group, the community is in a better position to protect themselves against the effects of further conflict.

Though we have placed much faith in the need for communities to develop and implement programs and initiatives that allow them to “own” their conflicts, we seldom think of what it actually means to do so. By this I mean *what tools are recommended to implement sustainable restorative community justice programs?* To address this question, let us turn to crime prevention literature on mobilizing for action, and building sustainable community programs.

## **2.2 Community Action and Building Sustainable Programs**

For a community to efficiently deal with any problem or to achieve any form of community well-being, there needs to be some form of community action. Community action is described as “the output of a community development, community capacity and community mobilization process” (Hastings and Jamieson, 2001: 9). It begins with a vision of what the community would like to achieve and sets out a strategy of the actions and tools needed to achieve the vision.

**Figure 1: Community Well-being**



Community well-being is the product of community action. There is no linear relationship between capacity, development and mobilization. Each contributes to one another's effectiveness, as "each concept can be both a means to an end (a place to start) and an end in itself (a desired outcome)" (Hastings and Jamieson, 2001: 12).

For community mobilization to be effective, some level of community capacity is required. Community mobilization is the action of converting community capacities (skills, knowledge, and resources) into action. Without the tools to effectively mobilize, the community will not achieve its goals. Community mobilization is not the outcome of community action. On the other hand, it is only a step in the direction of overall community well-being. As such, community mobilization must contribute to the process of achieving well-being in a positive manner (Hastings and Jamieson, 2001: 12).

An important part of private sector management is defining the program or organization's goals and developing the necessary tools to address the demands and

opportunities in a given environment. We often set goals and implement policies without examining their long-term effects (Zerh, 1990: 235). An organization must develop a strategy or a vision of what the organization would like to achieve or become as well as a detailed plan of how they will achieve it. This strategy must explain both the value of the vision and the feasibility of achieving it (Moore, 1992: 104-106).

Before creating a strategic plan it is important that communities take the time to reflect on the issues at hand and on the program's role in addressing them. O'Donnell, Tharp and Wilson (1993) have devised a set of questions that they believe will help communities more thoroughly prepare for a strategic plan;

- 1) What is the historical context behind the situation?
- 2) What concerns have been voiced by those with a stake in the situation?
- 3) What are the decision making processes both present and desired?
- 4) What is the tone of the setting in which the plan is to be developed?
- 5) What are the opinions and views expressed by those involved (508)?

By addressing these questions, communities will have a better understanding of the nature of the problems they seek to address and their ability to deal them. Further, it will provide communities with a more comprehensive idea of the opinions and views of those involved, and their capacities to effectively manage the problem as well as the solution.

Because no community is totally secluded it is important for communities to develop collaborations with outside agencies, organizations and governments<sup>3</sup>. By mobilizing a group of outside supporters, more pressure will be placed on the program or organization to achieve the goals they set out in their strategic plan, making them more likely to work efficiently.

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<sup>3</sup> The Department of Justice Canada has developed a report entitled *Partnership Study-National Strategy on Community Safety and Crime Prevention (phase 111): Factors that Contribute to Successful Partnerships* which can be found at [http://www.justice.gc.ca/en/ps/eval/reports/02/cppartner/c\\_2.html](http://www.justice.gc.ca/en/ps/eval/reports/02/cppartner/c_2.html). This national strategy provides a brief overview of some of the key aspects required for building a successful partnership by identifying the required foundations, principles/ values, structures/ processes, and key ingredients that have been found to build strong partnerships.

Further, by harnessing outside support, the program or organization will have a greater potential for receiving additional outside resources (Moore, 1992: 148-151).

In addition to the development of collaborations with others, diligence must be practiced when selecting members for the program, as the “credibility of the project is linked to the credibility of its workers...clearly then, successful community projects depend heavily on the human and other resources which are present in the community” (Dickson-Gilmour and LaPrairie , 2005: 198-199).

According to Dickson-Gilmour and LaPrairie (2005), Moyer and Axon (1993: vi) suggest that successful program implementation (with specific reference to Aboriginal communities) requires a multi-phased development approach.

The development phase for Aboriginal justice programs should involve three sub-phases; a needs assessment phase, a project development phase, and a pre-implementation phase. They argue that the efficiency and cost-effectiveness of projects is often impaired by inadequate pre-implementation development, and that projects ought to reflect consensus, which can take some time to acquire and properly execute in relation to decision making about cases. In addition, many Aboriginal communities have had little or limited experience in exercising control over justice or other matters, and require sufficient time, resources, and guidance to develop an understanding of and commitment to the project (Dickson-Gilmour and LaPrairie, 2005: 202-203).

One important aspect of implementing effective community projects is problem-solving. A problem-solving approach allows communities and those working with them to develop a strategy to deal with the issues at hand. Problem-solving also helps frame the foundation of any strategic plan and program preparation or implementation strategy. While there are a number of different problem-solving approaches to draw from, for the purpose of this thesis, I will adopt the following approach outlined by crime prevention professionals. According to the NCPC (1997: 5-6), problem-solving involves four stages:

- 1) The community must identify the problem. This means the community must identify that something is wrong, then classify the actual problem, and try to identify the cause of the problem. Though most communities are best at identifying and describing the problem, taking the time to understand the cause of the problem can lead to more effective community action.
- 2) Once a problem is identified in clear and measurable terms, the community must then set goals and objectives for addressing it. This will help lay the foundation for a strategic plan and will also aid in the identification of required capacities and partners for mobilization.
- 3) Communities should then begin designing and implementing a program that most effectively achieves the goals they have set. Then they should identify a delivery system that will be the most affordably and efficiently achieve the objectives.
- 4) Once a program has been designed and implemented, the community should take the time to evaluate the results of the program. This step is an important way to discover if the program was worth the energy and resources in the first place, as well as if the program has actually done what it was implemented to do.

Community development is the result of addressing the community's needs and goals. It can be a process, a tool, or an outcome. It is typically a multi-dimensional approach and can have an effect on the environmental, social, cultural or economic aspects of a given community. In whichever form it may come, it is best understood as some form of improvement from the way things used to be (Hastings and Jamieson, 2001: 11).

Community development is an important aspect of any attempt to mobilize community activity. It requires some level of capacity, whether it is individual, community or social, and it can also be used as a means to increase existing capacities within a

community. As a result, community capacity and community development function to strengthen each other (Hastings and Jamieson, 2001: 11).

When taking a community-based approach to any social issue, it is important to consider the objectives (*the what*) of the approach, the means (*the how*) to achieve them, and the method (*the where*) within which to accomplish them (NCPC, 1997: 2). Despite the common desire to argue that communities are in the best position to deal with their own problems by taking responsibility for the design and delivery of effective solutions, there still remains the very real fact that not all communities are in the position to do so. Even when objectives are effectively set, communities often lack the means or the capacities to achieve them. Further, without the required tools, the community is no shape to deliver sustainable solutions (NCPC, 1997: 5).

With that being said, some level of community capacity is required for effective mobilization and development. Further, community development can result in the increase of community capacity. As such, capacity can be built in many ways, but cannot come exclusively from outside of the community. In other words, some capacities must be inherent to the community. Though outside organizations and agencies can help to strengthen capacities within a given community, they cannot be the sole provider of the tools needed to address social issues. (Hastings and Jamieson, 2001: 12).

Community capacity refers to the level of skills, knowledge and resources a community has for addressing any social issue. They can be individually-based, community-based and socially-based. Community capacity can also exist without being utilized by the community. This is either because community members are unaware of their existence, or are unsure as to how to use them. As such, the degree to which capacities are transformed

into action depends upon how effectively a community can mobilize (Hastings and Jamieson, 2001: 10).

The skills required to address social issues within a community can vary depending upon the nature of the problem, as well as from person to person, and community to community. *Skills* are defined as the ability of a community to collectively accomplish the tasks involved in any mobilization efforts. Not all communities and persons have the skills they require to deal with the issues that they face, and even when a community possesses a skill, there is no assurance that they are actually able to apply it (NCPC, 1997: 6).

*Knowledge* refers to the information a community requires at different stages of any problem-solving process. Knowledge can be simple, or it can be complex. It can mean understanding how to use a computer program to identify a given problem, or it can mean knowing risk-factors associated with a given behaviour and how to deal with them. Either way, knowledge can be an invaluable tool to any community as it can guide mobilization efforts, and it can maximize the effectiveness and efficiency of a community's response (NCPC, 1997: 6).

Lastly, *resources* refer to any financial and human resources a community requires for effective mobilization and problem-solving. Resources can come from the community itself, or from outside organization. Despite the avenue in which they are attained, resources are often the most important component of community action. Without resources, most programs and organizations would not survive (NCPC, 1997: 6).

Some knowledge, skills and resources are present in all communities, but it is the degree to which they are present and the community's ability to access them that matters the most. If a community has the skills and knowledge to address an issue, but does not adequately know how to use them, they will find great difficulty in effectively mobilizing.

Likewise, if there are limited financial resources at hand, then any effort to mobilize may prove fruitless despite the amount of knowledge or skills a community has. In reality, it is often the communities with the most limited skills, knowledge and resources who experience the highest rates of crime and victimization. As such, it is these communities that require the most assistance in spearheading community-based initiatives.

Building community capacity is an integral way of achieving sustainable activity. The challenge for a number of community-based intervention projects is in how to translate existing capacities into a sustainable response to a given issue. This means not relying on a project-to-project orientation (though this will help foster greater capacities), but rather setting up a continuous response which can be preserved within the community (Kelly and Caputo, 2003: 5).

In a report to Public Safety Canada in 2003, Kelly and Caputo provided an overview of the key lessons learned regarding the sustainability of crime prevention programs across Canada. In this report they outline some features found to be similar in all crime prevention programs that have managed to have a sustainable presence in Canadian communities. Though these features come from research in the field of crime prevention, they nevertheless can lend some important insights into the sustainability of restorative community justice initiatives.

First, sustainable programs have been found to have some connection to the community itself. In other words, there was some form of *local meaning, local connection and local ownership*. This means that local groups and organizations who have identified the needs and problems of the community, worked to develop a solution that had meaning to the community members, and helped to make a private trouble a public issue. By taking collective ownership over community problems, no one group or individual was made to

bear the responsibility of the problem on their own, and a shared solution ensured sustainability of the program (Public Safety Canada, 2003).

A *community vision* was also critical when designing sustainable programs. This means that those planning the program kept in mind a broad focus of concern or a vision of where they wanted to be. To do this, communities needed to implement a *coordinated process for action* that met the needs and capacities of the specific community. Also, because all processes require *communication*, it was essential that the presence and actions of program coordinators and community leaders were focused on developing and maintaining links with community partners (Public Safety Canada, 2003).

Within the community, linkages were created which promoted a *non-hierarchical, integrated and diversity-sensitive* approach so as to increase the ability of groups to be flexible to the demands of the community over time. Further, effective *horizontal linkages* were based on trust, mutual respect and a shared commitment to the well-being of the community, and focused on enhancing the capacities of those participating. *Vertical linkages* were also required to provide the community with financial and knowledge-based resources, and were critical in both the development and sustainability of programs (Public Safety Canada, 2003).

Lastly, the programs focused on *community capacity-building* as a method to identify further problems and to mobilize for action. Community capacities were enhanced when *early success* of the program occurred which helped to take limited capacities and build on them towards sustainability. *Project funding* was also an essential element for creating both immediate and sustainable success and for building community capacity in specific areas. Knowledge-based resources and even “in-kind” contributions such as volunteer labour and

donations were also important *resources* that were required for sustainability, and also helped to foster a sense of community ownership (Public Safety Canada, 2003).

Most importantly, in all communities where sustainable programs were present, it was the *people* whose efforts created the foundation for sustainability. Without community members who were willing to make a difference, none of the previously mentioned features would have been translated into sustainable programming (Public Safety Canada, 2003).

From the perspective of restorative justice, Van Ness and Strong (2002: 205-217) offer some suggestions when planning for effective restorative justice programs<sup>4</sup>. According to the authors, when planning for restorative justice it is important to;

- 1) Build a multi-layered support system
- 2) Develop a credible coalition
- 3) Pursue strategic goals
- 4) Revisit the vision of restorative justice
- 5) Evaluate the program for impact
- 6) Realign vision with practice

When engaging in the delivery of any restorative community justice project, Van Ness and Strong (2002), have two more pieces of advice. First, they suggest that communities (or agencies using restorative approaches) stay connected to other practitioners or advocates of restorative justice both in other communities and even in other countries. This will provide for strong collaborations which they can learn from and challenge as a way to strengthen the global vision of restorative justice (220).

Further, it is important that practitioners expect some resistance. Even though many people find restorative justice appealing, that does not mean that they are completely

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<sup>4</sup> For a more in depth account of the planning process of restorative justice see Van Ness and Strong (2002) *Restoring Justice 2<sup>nd</sup> ed.* Cincinnati, Anderson Publishing: Chapter 10.

committed to it. The challenge for restorative justice advocates “is to draw from existing public support to establish programs that reflect restorative justice ideals, using those programs to promote deeper public commitment” (Van Ness and Strong, 2002: 220).

### Final Thoughts

The restorative community justice movement is premised on the notion that community members and organizations are in the best position to take control over the development and implementation of programs and initiatives to address crimes within the community. There is a belief that communities should ‘own’ their conflicts, and an example of this can be seen within the realm of both youth and Aboriginal justice initiatives. For example, the use of community-based justice committees for youth in Aboriginal communities signifies the need and desire to increase the involvement of community members in the justice process.

Even though we have placed much faith in the community’s right to deal with its own conflicts and crimes, we have yet to truly understand what is required for them to do so. Literature from both community justice and crime prevention tells us that for communities to achieve well-being there is a significant amount of community development, community mobilization and community capacity that is required to create community action. In reality, not all communities have these elements, and as such, they are in no shape to deliver sustainable solutions.

Literature on sustainable programs informs us that the community itself must make some effort to increase its internal capacities in order to deliver sustainable solutions as well as to create community action. In any case, there is an overwhelming understanding that communities need citizens who are able and willing to take on this feat.

# III

## JUSTICE COMMITTEES IN ABORIGINAL COMMUNITIES

### 3.1 Youth Justice and the Context for the Emergence of Justice Committees

There are more than 2 million individuals between the ages of 15 and 19 in Canada, representing 7% of the nation's population (Service Canada, 2006). Of these youth, approximately 40% will be the victim of a crime in the next year<sup>5</sup>. Canadian youth experience a disproportionate amount of criminal victimization, and they are more likely than adults to become victims of crime (Statistics Canada, 2001: 5).

In addition, youth are less likely to report their victimization to the police. In cases where youth victimizations occurred, the police were less likely to be informed about the crime than any other age category; approximately 77% of all crimes against teenagers aged 15-19 went unreported. The main reasons youth did not report their victimization were that the crime was not important enough to report (35%), or that the crime was dealt with in another way (17%). When victimization was reported, more than half of the reports were made by someone other than the victim (53%) (Statistics Canada, 2001: 6).

Youth aged 12-17 account for 21% of all those charged with a Criminal Code offence<sup>6</sup>. Based on data collected by Statistics Canada in 2001, of those youth charged with Criminal Code offences in a year period, 49% are accused of committing property offences such as theft, 30% are accused of non-property, non-violent offences such as mischief, and

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<sup>5</sup> According to the 1999 General Social Survey (GSS), youth are more likely to become victims of a crime than adults (as when age increases, the risk of victimization decreases). 1999 GSS reports 40% of youth were victims of at least one crime in the previous year (Statistics Canada: Children and youth in Canada, 2001: 5).

<sup>6</sup> Percentages based on youth charged with Criminal Code offences in 1999 (Statistics Canada: Children and Youth in Canada, 2001: 5).

21% are charged with violent offences, predominantly common assault (Statistics Canada: Children and Youth in Canada, 2001: 6).

The fact that youth are highly over-represented as crime victims, and rarely report their victimization to the police suggests that more focus should be placed on creating a justice system that responds to factors that underlie youth offending behaviour and the consequences of their victimization. Further, because youth on average commit minor, non-violent crimes, it only seems appropriate that the pursuit of justice be focused on holding the youth accountable to their victims and on reintegrating them into society.

The desire to make changes to our youth justice system in order to better respond to the needs of the youth population has been a central focus of the federal government for over a decade now. The failure of harsh punishments handed out under the Young Offenders Act (YOA), along with the skyrocketing cost of courts and corrections was “driving a growing number of legislatures and policymakers to reconsider the wisdom of the retributive system of justice” (Umbreit, 2001, xxvii).

On November 30, 1995, the Minister of Justice and Attorney General of Canada, Allan Rock, announced plans to amend the YOA. While the most publicized aspect of the announcement was to discuss the transfer of youth to adult courts for the most serious offences, one of the less publicized but important purposes behind the proposed amendment was to utilize more community-based alternatives for youth who committed less serious offences, as well as to better meet the needs and interests of victims (Bala, 2003: 20, and Department of Justice, 2006: 17).

Keeping in mind that the majority of youth offending falls into the categories of non-violent and property offences, it was becoming a concern for many politicians that Canadian youth were being incarcerated at twice the rate of American youth. In fact, while under the

YOA, more than three-quarters of those incarcerated were charged with non-violent offences (Bala, 2003: 19 and Department of Justice, 2006: 8).

The over reliance on incarceration led many Canadian politicians to employ more community-based approaches to youth offending (Bala, 2003:19-20). According to Allen Rock's announcement in 1995, "the primary concern of the government is public protection which is understood as being best achieved through community-based crime prevention programs for children at high risk and through rehabilitation wherever possible" (Department of Justice: November 30, 1995).

Following Minister Rock's announcement to amend the YOA, in 1997 the House of Commons Standing Committee conducted a year-long review of Canada's approach to youth justice, and consulted with the provinces and territories, and with experts in the field (Department of Justice: February 24, 2000: 1). The results of the inquiry led to the government's proposed strategy for youth justice renewal.

On May 12<sup>th</sup>, 1998, the new Minister of Justice and Attorney General of Canada Anne McLellan (Department of Justice: May 12, 1998), announced the government's proposed strategy for youth justice renewal as follows;

The current system is not working as it should in many significant areas. We need to do more to prevent youth crime in the first place, to develop meaningful responses to youth crime that emphasize responsibility and respect for the victim and the community...Canadians want a youth justice system that protects society and that helps youth avoid crime or turn their lives around if they do become involved in crime. The government's youth justice strategy will accomplish this.

The strategy called for prevention, meaningful consequences for youth crime and intensified rehabilitation. Among the key proposals under the strategy were the following: replacing the YOA with a new youth criminal justice act; developing a full range of community-based and effective alternatives for non-violent offenders; and providing more support to victims

through improved victim notification and participation (Department of Justice: May 12, 1998).

In order to fulfill the commitments made by the release of the Youth Justice Strategy in 1998, Minister McLellan introduced the new Youth Criminal Justice Act (YCJA) in the House of Commons on March 11, 1999. One of the key provisions under the newly proposed YCJA was to “promote a constructive role for victims and communities, including ensuring that they receive the information they need and have opportunities to be involved in the youth justice system” (Department of Justice: May 11, 1999).

In line with previous statements, in February of 2000 Minister McLellan announced to the audience of the Community Partnership Symposium the need for a more holistic approach to youth justice which encouraged the cooperation of governments and was more inclusive of social and health services, the court system, educators, families, victims, communities, youth and others (Department of Justice: February 24, 2000: 1).

In the same speech Minister McLellan went on to say that “in order to have an effective justice system, it is necessary to involve communities...[as] processes, like family-group conferences run by the community itself, are often more meaningful and successful in dealing with youth crime”. In addition, such approaches could also be helpful for offenders returning to the community by providing more support for reintegration (Department of Justice: February 24, 2000: 2).

According to McLellan, restorative processes like family-group conferences can bring closure to those involved, and as a result can produce low recidivism rates. Also, involvement in restorative justice programs can provide victims with a sense of acknowledgement and validation by allowing them to be more involved in the justice

system<sup>7</sup>. While for the offender, such approaches may provide for a second chance (Department of Justice: February 24, 2000: 2).

### The Youth Criminal Justice Act

On April 1, 2003, the Youth Criminal Justice Act (YCJA) came into effect and replaced the Young Offenders Act (Department of Justice, April 1, 2003). The YCJA provided the legislative framework for “a fairer and more effective youth justice system” (Department of Justice, 2006: 1). Additionally, the YCJA could give provinces more flexibility in shaping policies formerly under the YOA, and could also provide more financial support from the federal government for the implementation of community-based programs and alternatives to custody through the extrajudicial measures suggested under the new law (Bala, 2003: 18).

As a way to encourage community-based responses to non-violent youth offending and constructive roles for victims and communities, the YCJA put an emphasis on utilizing extrajudicial measures while “advising that carceral interventions and use of court be reserved for the most serious offenders (Hogeveen, 2005: 291). This decision was also reflective of the Canadian perception on incarceration as according to the GSS conducted in 1999, “on the whole, Canadians favoured alternatives to prison” (The Daily: Dec. 4, 2000).

Extrajudicial measures are measures other than judicial proceedings which are used to deal with a young person alleged to have committed an offence<sup>8</sup>. While many of the

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<sup>7</sup> According to Wemmers and Cyr (2005) in the *Canadian Journal of Criminology and Criminal Justice*, vol. 47, iss. 3, “compared to victims whose cases were dealt with by the youth courts, victims who had participated in conferencing tended to be more satisfied with how their case was handled because it gave victims the opportunity to participate in the criminal justice process and provide the victim with a sense of participation and control over their lives”. Further, “90% of victims who participated in mediation were satisfied with the outcome of the mediation process” (527).

options offered under the extrajudicial measures section of the new youth law were recognized under the YOA's alternative measures, they became "far more formalized in the YCJA" (Bell, 2003: 63).

According to section 5 of the YCJA, extrajudicial measures are designed to provide an effective, timely and proportionate response to minor youth offending which encourages the youth to acknowledge and repair the harm done to their victim and community, encourages families and communities to take part in the design and implementation of the measures, and provides an opportunity for the victim to participate in decisions related to the measures taken (Pocket Criminal Code, 2003: 1080).

In cases where warnings, cautions and referrals are not seen as sufficient in dealing with a young offender, the YCJA encourages the use of extrajudicial sanctions.

**10.** (1) An extrajudicial sanction may be used to deal with a young person alleged to have committed an offence only if the young person cannot be adequately dealt with by a warning, caution or referral mentioned in section 6, 7 or 8 because of the seriousness of the offence, the nature and number of previous offences committed by the young person or any other aggravating circumstances.

Restriction on use:

- (3) An extrajudicial sanction may not be used in respect of a young person who;
- a) denies participation or involvement in the commission of the offence; or
  - b) expresses the wish to have the charge dealt with by the youth justice court

(Pocket Criminal Code, 2003: 1086).

According to the Act, there are three major sanctions which can be applied, the use of conferences, justices of the peace and youth justice committees. Though all three are considered extrajudicial sanctions, the focus of this thesis will be on justice committees, as

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<sup>8</sup> See section 4 and 5 of the YCJA for principles and objectives of extrajudicial measures (<http://laws.justice.gc.ca/en/Y-1.5/index.html>) or (Pocket Criminal Code, 2003: 1080).

this option also incorporates the use of conferencing and mediation, and is inclusive of victims, offender, family and community while limiting (and in some cases restricting) the presence of justice professionals. In this sense, it is truly considered a community-based alternative to retributive justice approaches.

A youth justice committee is a group of citizens who work with police and other justice officials to provide justice services for youth in their community. The following is a description of youth justice committees as stated in section 18 (1) of the YCJA:

**18.** (1) The Attorney General of Canada or a province or any other minister that the lieutenant governor in council of the province may designate, may establish one or more committees of citizens, to be known as youth justice committees, to assist in any aspect of the administration of this Act or in any programs or services for young persons (Pocket Criminal Code, 2003: 1085).

Prior to the implementation of the YCJA, the Standing Committee on Justice and Legal Affairs (1997) made some recommendations to the House of Commons concerning the use of youth justice committees. According to the Standing Committee, if properly developed, youth justice committees could take on various roles. For instance, they could function to coordinate and integrate linkages between the youth justice system and other social systems such as youth protection, mental health and education. Further, they could be responsible for administering extrajudicial sanction programs within the community. “Their members could be drawn upon to participate in possible family group conferencing efforts and in healing circles, community sentencing or sentencing circles, if those options were made available” (Canada, Recommendation 7).

The implementation of youth justice committees in Canadian communities was encouraged by the Standing Committee on Justice and Legal Affairs, as the committee recommended that their existence be “reinforced all across the country in ways sensitive to

community needs” (Canada, 1997: Recommendation 7). As a result, under the YCJA there are currently a number of functions that a youth justice committee could undertake.

Ultimately, as recommended by the Standing Committee, the work of a justice committee typically depends upon the needs and priorities of the community in which it operates.

According to the YCJA the role of youth justice committees can include the following;

Role of committee:

(2) The functions of a youth justice committee may include the following:

- (a) in the case of a young person alleged to have committed an offence,
  - (i) **giving advice** on the appropriate extrajudicial measure to be used in respect of the young person,
  - (ii) **supporting any victim** of the alleged offence by soliciting his or her concerns and **facilitating the reconciliation** of the victim and the young person,
  - (iii) **ensuring that community support is available to the young person** by arranging for the use of services from within the community, and enlisting members of the community to provide **short-term mentoring and supervision**, and
  - (iv) when the young person is also being dealt with by a child protection agency or a community group, **helping to coordinate the interaction of the agency or group with the youth criminal justice system**;
- (b) **advising the federal and provincial governments** on whether the provisions of this Act that grant rights to young persons, or provide for the protection of young persons, are being complied with;
- (c) **advising the federal and provincial governments** on policies and procedures related to the youth criminal justice system;
- (d) **providing information to the public** in respect of this Act and the youth criminal justice system;
- (e) **acting as a conference**; and
- (f) **any other functions** assigned by the person who establishes the committee (Pocket Criminal Code, 2003: 1086).

According to the Standing Committee on Justice and Legal Affairs (1997), strategies such as youth justice committees “have largely grown up on their own, often as a response to local community circumstances” (Canada, Recommendation 7). As such, the implementation of community justice committees is not necessarily a new phenomenon. In fact, the idea to implement justice committees can be attributed to the past success of similar community-

focused alternative justice projects. One example of an alternative project which encouraged the later implementation of community committees was the use of victim-offender mediation programs for young offenders. The mediation programs started as an alternative to probation proposed by judges to make young offenders more aware of the needs of their victim(s). Also they were an attempt to make the victim and offender work together to construct a sentencing proposal in order to “reduce recidivism and increase the likelihood of restitution being completed...What was not expected was that crime victims would also benefit...reporting higher satisfaction levels than with traditional court processes” (Morris and Maxwell, 2001: 4).

Another reason for the use of community justice committees can be attributed to the use of traditional conflict resolution practices in First Nations communities such as the use of circles. Now known as sentencing circles, the focus of this approach is on bringing together anyone with a stake in the offence, for instance family members, supporters and community members, into a non-hierarchical setting to negotiate an appropriate way for the offender to make amends for his or her actions (Van Ness, Morris and Maxwell, 2001: 9). According to Judge Barry Stuart, a retired Canadian Judge and now adjunct professor of Criminology at Simon Fraser University a community circle has many advantages;

The value of a community circle extends beyond its impact on victims and offenders. The most important value...lies in its impact upon the community. In allowing community members to assume ownership for resolving their own issues, a circle restores a sense of collective responsibility - of being a community (Law Commission of Canada, 2003: 26).

The use of community circles assumes that the community is best suited to address its own problems and conflicts. The community is said to benefit from the process because they feel a sense of empowerment from addressing minor crimes in their own jurisdictions and by

reducing the cost of involving the courts. Further, the victim benefits by being included in the decision making process. Also, the offender benefits by being directly responsible to their victim, family and community as well as having the opportunity to see first hand the effects of their actions on others (Paiement, 1996: 1).

Today, community justice committees are composed of a group of volunteers who work in collaboration with criminal justice professionals and other community-based agencies to deal with youth offending in their community (Paiement, 1996: 2). The extent to which justice committees are used and the functions they serve are varied (Department of Justice, October 20). For the most part, the committees offer services such as providing referrals and information, engaging in victim-offender mediation, prevention activities, conferences and sentencing circles.<sup>9</sup>

According to the Standing Committee on Justice and Legal Affairs (1997), “youth justice committees can be found in some provinces and territories. Many Aboriginal communities make use of justice committees...in working with both adult and youth offenders” (Canada: Recommendation 7). The first recognized justice committee in Canada was formed in 1975 by an Aboriginal community in Manitoba<sup>10</sup>. Today, justice committees in some form or another are active in a number of Canadian provinces and territories including Manitoba, Newfoundland, Alberta, the Northwest Territories, British Columbia, Ontario and Quebec (Paiement, 1996: 2). The majority of these justice committees were established under the YOA which was implemented in 1984.

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<sup>9</sup> See Hann and Associates (2003: chapter 3, section 3.2.1 and 3.2.2) for an overview of the common and variable elements of justice committees across Canada.

<sup>10</sup> According to Paiement (1996) in *An Exploratory Study of Youth Justice Committees* the first Canadian justice committee was established in 1975 Manitoba’s Roseau River First Nations in response to violence and gang activity in the area.

The Department of Justice (2003: 5), reported the existence of 262 designated youth justice committees across Canada. Some provinces, “such as Newfoundland and Alberta, have a large number of YJC’s designated...However, the Yukon and Quebec have established committees that perform the same functions but are not officially designated” (Department of Justice, 2003: 5). As such, the number of justice committees across Canada is in fact larger than the 262 reported. The reasons for the difference in designation across Canadian provinces and territories are many and varied<sup>11</sup>. One rationale was that designation would be “contrary to the goal of creating as much flexibility and leeway as possible for local initiatives to flourish, particularly in Aboriginal communities” (Department of Justice, 2003: 6).

### **3.2 Aboriginal Justice and the Context for the Emergence of Justice Committees**

As of 2001, the Aboriginal population represented 3.4% of Canada’s population (The Daily: June 28, 2005). Even though Aboriginal people represent a small fraction of our overall population, they are nevertheless “incarcerated in Canadian prisons out of all proportion to their numbers in the general population” (Zimmerman, 1992: 369). While constituting less than 4 % of our population, Aboriginals represent 21% of the provincial/territorial, and 18% of the federal admissions to custody (The Daily: June 6, 2006).

According to LaPrairie (1996: 32), “Aboriginal people have the highest arrest rates, incarceration and crime rates of any group in Canada”. Explanations behind the over-

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<sup>11</sup> See Department of Justice (2003) A National Survey of Youth Justice Committees in Canada page 6 for a discussion on the reasons why a province/territory would choose to officially designate their committees.

representation of Aboriginal people within the justice system vary<sup>12</sup> (Proulx, 2003: 26). One explanation of such high rates of crime and victimization is said to be “the profound socio-economic problems in Aboriginal communities, problems deeply embedded in historic injustices which continue in some measure to this day” (Zimmerman, 1992: 369).

Though the explanation for the over-representation of Aboriginal people in the justice system is beyond the scope of this thesis, there is nevertheless evidence that Aboriginal offenders and victims have greater needs than the average citizen<sup>13</sup>. The roots of restorative and participatory approaches to justice such as the use of community justice committees and circles are particularly strong in Canadian Aboriginal communities. As a response to an overwhelming need for emotional and spiritual healing and a greater control over justice, Aboriginal community leaders have turned to alternatives such as justice committees to address conflicts in their communities (Law Commission of Canada, 2003: 27). According to Dickson-Gilmour and LaPrairie (2005: 182);

For many Aboriginal groups and communities in Canada, the decision to adopt or identify with restorative justice is closely aligned with self-government. It expresses, in part, the desire of Aboriginal people, and Aboriginal politicians in particular, to build self-governing institutions around something that stands in stark contrast to the system employed by mainstream society.

From the perspective of many Aboriginal people, the Canadian criminal justice system is considered to be a foreign system which has been imposed upon them (Zimmerman, 1992: 369, Justice For and By the Aboriginals, 1995: 2). Furthermore, “it has

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<sup>12</sup> See Dickson-Gilmore and La Prairie (2005) *Will the Circle be Unbroken? Aboriginal Communities, Restorative Justice, and Challenges of Conflict and Change*, University of Toronto Press: 41-56, for a theoretical discussion on the roots of over-representation.

<sup>13</sup> Statistics Canada’s Profile Series on *Aboriginal Peoples in Canada* (June 2001) reports that Aboriginal inmates are considered higher risk to re-offend and have higher needs than non-Aboriginal inmates. Aboriginal inmates in provincial and territorial facilities scored higher in all need dimensions, substance abuse and employment in particular. At the federal level, Aboriginal inmates scored higher on four of seven dimensions. These included substance abuse, personal needs, employment and family/marital needs (11).

become commonplace for the people who are familiar with these issues to state that our justice system is generally poorly adapted to the Aboriginal mentality or is not adapted to it at all” (Justice For and By the Aboriginals, 1995: 2).

In view of this fact, over the last quarter century one of the central objectives of Aboriginal groups has been the “recognition and implementation of an Aboriginal right to self-government” (Cairns, 2000: 122). Along with the movement to bring greater autonomy to Canadian Aboriginal communities, there has also been a movement to incorporate traditional Aboriginal approaches to dealing with crime. According to Zimmerman (1992: 369), Aboriginal people “*need* a system over which they have control - one which they shape according to their values, traditions and beliefs”.

The decision to make the current justice system more adaptable to the needs of Aboriginal people has also been recognized by federal judicial authorities. More specifically, the Supreme Court’s decision in *R. v. Gladue* led to the encouragement of sentencing judges to find alternatives to incarceration for Aboriginal offenders under section 718.2 (e) of the Criminal Code. The *Gladue* decision “brought the notion of healing into mainstream as a principle which a judge must weight in every case of an Aboriginal person, in order to build a bridge between their unique personal and community background experiences and criminal justice” (Turpel-Lafound, September 1999).

An example of the attempt to create more culturally appropriate responses to crime in Aboriginal communities can be found in the approach taken by the province of Quebec (Justice For and By the Aboriginals, 1995: 2). As early as 1985, those working in itinerant courts in the northern parts of the province created a document entitled *A Proposal for a More Active Participation of Aboriginal People in the Administration of Justice* which

argued for a diversion model which supported the participation of Aboriginal community members (Justice For and By the Aboriginals, 1995: 2).

The document suggested a list of offences that could be dealt with outside of the traditional court system, and argued for the use of a community-based diversion committee that could have the autonomy to make decisions in these cases. Unfortunately, the project never came to fruition due to the lack of an enabling provision offered under the Criminal Code at the time (Justice For and By the Aboriginals, 1995: 2).

It was not until 1992 that a task force was finally proposed by the Conférence des Juges du Québec to “facilitate the transfer of responsibility for the administration of justice to the Aboriginal communities” (Justice For and By the Aboriginals, 1995: 3). As a response to the proposed task force, the Québec Minister of Justice and Minister of Public Security set up an advisory committee to investigate the administration of justice in Native communities. The findings of the advisory committee were presented in 1995 to the Québec Minister of Justice and Minister of Public Security in a report entitled *Justice For and By the Aboriginals: Report and Recommendations of the Advisory Committee on the Administration of Justice in Aboriginal Communities*.

The Advisory Committee made 54 recommendations to the Québec Minister of Justice and Minister of Public Security concerning the administration of justice in Aboriginal communities. The first recommendation stated that:

The Minister of Justice should adopt this global strategy for the administration of justice in Aboriginal communities and should adapt it to specific needs of each of the communities in accordance with their social and cultural values, the goal being the gradual taking over by Aboriginals of responsibility for justice in their own communities on the basis of the orientations discussed during our consultations, namely: mediation, diversion, appointment of justices of the peace, creation of justice committees and consultation with the community in the choice of sentences (129).

It was also recommended that “the Ministère de la Justice should encourage and support the creation of a group of persons (a justice committee or other type of organization) with responsibility for organizing and maintaining judicial and conflict resolution services” (Justice For and By the Aboriginals, 1995: 129).

In line with the support given by the Ministère de la Justice of Quebec, the use of justice committees in Aboriginal communities was also encouraged under Quebec’s orientation of the YCJA. According to the provincial orientation;

Given the efficiency of the mechanisms currently in place in Quebec, the Comité Interministériel recommends that consideration be given to setting up justice committees only where the attributions of such committees could have a significant impact, in view of historical and cultural characteristics of Native communities. The Comité Interministériel thus recommends that justice committees may, in the future, be established in Native communities in Quebec. (*Comité Interministériel sur la Réforme de la Loi Sur les Jeunes Contrevenants*, 2003: 7).

To date, there are “fourteen active justice committees [in Native communities across Quebec but]...only eight of these actively intervene in youth matters with regards to extrajudicial measures” (Taiga Vision, 2005: 10).

Over the past ten years, the federal government has been invested in creating partnerships with Aboriginal communities by providing funding to support to the communities in developing the capacity to participate in and deliver community-based alternatives proposed under the YOA and YCJA. The focus of this support has been placed on creating or expanding initiatives such as community justice committees (Department of Justice: February 5, 2001). Further, through the Aboriginal Justice Strategy of the Department of Justice Canada, an Aboriginal Justice Learning Network (AJLN) has been created to function as a liaison between the justice system and Aboriginal communities. One of the activities of the AJLN is to “enhance existing programs and to make a strategic federal investment in building capacities of stakeholders involved in Aboriginal justice”. The AJLN

provides training and support in a number of areas, one of which is community justice committees. (Department of Justice, 2005: 2).

### Final Thoughts

Recent developments in the areas of both youth and Aboriginal justice have suggested that both groups could benefit greatly from community-based alternatives to court such as justice committees. Despite this desire to devolve justice to the local level, little attention has been focused on determining whether Aboriginal communities have the tools they need to implement these alternatives in a sustainable manner. The varied nature of their application and the lack of clearly defined standards of implementation leave us questioning the types of capacities needed to implement and maintain a justice committee in an Aboriginal community.

# IV

## METHODOLOGY

### 4.1 Development of Research Questions and Methodological Approach

My interest in investigating the ability of communities to implement and sustain community justice committees developed during the final year of my undergraduate studies when I began working for a consultant who trains Quebec's Aboriginal communities in mediation and alternative justice techniques. After visiting a number of Aboriginal communities and attending various conferences on justice committees, I became concerned with the fact that many communities appeared to lack the necessary tools to implement justice committees in a sustainable manner.

Committee members often spoke about a lack of financial resources which created obstacles when trying to support the functioning of their committee. For example, some committees reported an inability to offer many services which were mandated in their constitutions such as prevention and public education activities. Also, due to limited resources, committees did not always seem able to afford the training they needed to feel comfortable taking on the administrative duties of the committee as well as conducting mediation sessions without the help of consultants from outside of the community. Further, the lack of financial support seemed to make it difficult for a number of committees to afford hiring coordinators with sufficient experience, making it problematic to secure the leadership needed to ensure the sustainability of their program and a strong and effective presence within the community.

Another observation I made while working with justice committees pertained to the state of the collaboration between the communities and the federal and provincial

governments. Though governments seemed to be attempting to provide communities with support, committee members felt as though the government was not doing enough. For instance, because governments were not publicly recognizing the value of the committee by creating protocols for operation between the committees, the community agencies and the criminal justice system, there was little to no communication occurring between these parties. As a result, many committees were finding it difficult to receive and refer cases, and to be recognized by the courts when they decided to intervene. In addition to this, the lack of political recognition appeared to make it difficult to create any government-imposed standard of implementation, resulting in varied and inconsistent implementation of the program across the province. Though I would argue that communities should be in control of designing the program in order to best meet their needs, without some standards or guidelines to help create the foundation of the committee, communities were left guessing about a number of things, including the types of skills, knowledge and resources they needed to ensure the sustainable implementation of their program.

While exploring the effectiveness of justice committees is also an important task that should be carried out in the future, it seems more pressing at this time to investigate what capacities are recommended for Aboriginal communities to implement justice committees in a sustainable manner, and what capacities are perceived as actually or potentially present in these communities? I will utilize the framework of a process evaluation to evaluate the capacities present in 3 Aboriginal community justice committees across Quebec. According to Maxfield and Babbie (2001), “process evaluations monitor program implementation, asking whether programs have been delivered, as intended (366). Further, they monitor and document the goals, inputs, activities and outputs required for a program to do what it was intended to do (Hornick et. al, 2000: 3). According to Rossi et al. (1999: 69),

Process evaluation of some variant is the assessment approach most frequently applied to social programs. It is used both as a free-standing evaluation and in conjunction with an impact evaluation as part of a more comprehensive evaluation. As a freestanding evaluation, it yields quality assurance information.

The method I used to conduct the evaluation of the capacities in Aboriginal justice committees is two-fold. Firstly, to assess what capacities are recommended to implement justice committees in a sustainable manner, I gathered information on the development of justice committees in Aboriginal communities in Quebec as well justice committees implemented under the YCJA with specific focus on the objectives and recommendations suggested by the literature. Also, I consulted literature in the areas of restorative community justice and crime prevention to gather recommendations on community action, community problem-solving and building sustainable community programs. Though this information was not directly associated with the implementation of justice committees, it helped to form a foundation within which to analyze and compare the existing community capacities to those recommended within the literature.

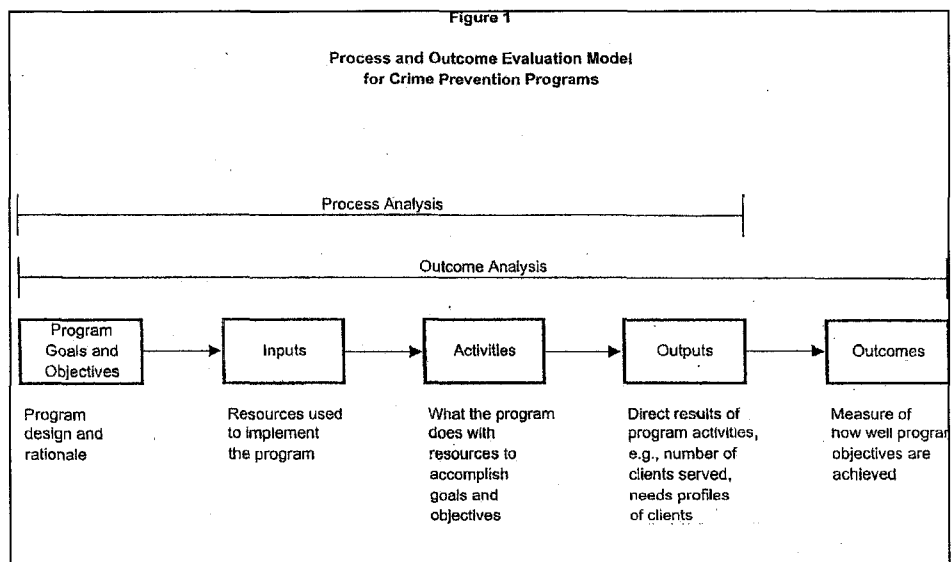
Secondly, to discover whether or not communities had the tools they needed to implement a justice committee, I conducted interviews with justice committee coordinators, members, consultants and government officials to determine the objectives of the committees, as well as their inputs, activities and outputs. Though the majority of my findings were based on the interviews conducted for this thesis, my findings were also influenced by my own personal observations, as well as information and data I collected throughout my time working with justice committees.

## Questionnaire

The questionnaire compiled for this thesis was influenced by literature specific to process evaluations and was utilized to assess the types of capacities available to the justice committees. The questions used in the interview were focused on the following; 1) objectives, 2) inputs, 3) activities and 4) outputs. By focusing on these four elements, I was able to analyze the interviews conducted for this thesis as well as the information provided from other sources to determine whether the committees currently have the tools they need, and whether they are generating the activities required to meet their designated objectives.

The following diagram outlines the difference between process (implementation) and outcome (impact) levels of analysis and briefly describes the components considered at each stage of program implementation and functioning. It provides a framework to investigate the implementation of a program and to determine whether each component of the program corresponds to the originally designated objectives.

**Figure 2: Process and Outcome Evaluation Model**



(Hornick et al., 2000: 4)

A semi-directed interview was conducted with research participants. The following is a list of questions asked of each participant:

1. What is your role/ how are you affiliated with community justice initiatives?
2. In your opinion, what are the objectives of Justice Committees? Or, what are they trying to achieve? (This can be community-specific).
3. To your knowledge, what has been invested in the Justice Committee (in terms of knowledge, skills, human and monetary resources)? (Inputs)
4. What services are offered through the Committee? (Activities) And what objectives are these services meeting? (Outputs)
5. What do you perceive to be the most beneficial aspects/ part/ resource of the Committee in terms of meeting the objectives? And why? (what is working?)
6. What do you perceive to be the most serious difficulty facing the Committee in terms of meeting the objectives? And why? (What is not working?)
7. To your knowledge, who is serviced by the program? Are they actually being reached / are the right people being targeted?
8. Do you have any suggestions, recommendations, or opinions concerning the implementation of Justice Committees?

### Ethics

The original plan for this thesis was to obtain access to three Aboriginal communities in Quebec with active justice committees. These communities would have ranged in size and location in order to provide the most representative account of how justice committees have been implemented in Quebec. In order to gain access to the Aboriginal communities in Quebec, the Research Ethics Committee of the Faculty of Social Sciences at the University of Ottawa required written permission from community leaders and those in charge of the justice committees in these communities. Permission letters were sent out but were never responded to, resulting in the inability to conduct research in the communities I intended to visit. As a result, I had to find an alternative route to collect my research data.

In order to interview committee members, I decided to attend a conference held outside of the communities where permission to recruit and interview participants was obtained through the conference organizer. The conference I chose to attend was a workshop on mediation held in Montreal in February, 2007. This conference was arranged by a consultant hired by both Quebec Aboriginal communities and the Quebec provincial government to provide support and training for mediators and interveners affiliated with community justice committees. A certificate for the ethical approval for this project was obtained from the Research Ethics Committee of the Faculty of Social Sciences at the University of Ottawa in February 2007. A detailed application was completed along with a sample of all material used to communicate with potential participants.

### Participants

Eight individuals associated with community justice committees were interviewed for the purpose of this thesis. Participants were selected based on their involvement with justice committees in Aboriginal communities in Quebec. The following is a brief description of their association with justice committees:

- 1) An **administrator** who undertakes secretarial duties for a justice committee
- 2) A justice committee **coordinator** who also works as a **native court-worker**
- 3) A justice committee **member** who also facilitates circle sentencing
- 4) An **elder** who is a justice committee **member**
- 5) A **regional coordinator** who oversees the functioning of justice committees in Northern Aboriginal communities
- 6) A **consultant** who assists in the development and implementation of justice committees in Aboriginal communities across Quebec
- 7) A **provincial government official** who oversees the implementation of policies taken by the Quebec government in relation to justice in First Nations communities
- 8) A **federal government official** who is a regional coordinator for Aboriginal justice programming in Quebec and the Atlantic regions.

At the workshop on mediation, permission was granted to post recruitment letters and to present a brief description of the research project to the participants at the conference. 11 individuals were present at the conference, 8 of whom had direct affiliation or experience with justice committees. In total, 8 individuals were approached for interviews, 2 of whom declined due to scheduling issues. Fortunately, even though I was not actually able to visit the Aboriginal communities I had intended to, the committee members that I did interview came from three different communities varying in both size and location.

The first community is located on the coast of Ungava Bay, in northern Quebec. Its population is approximately 152. The principle languages spoken are Inuktitut, English and French. Its main industries include fishing and trapping, as well as quarries and sand pits. There are no roads to access the community, but a regional airline does provide flights in and out of the community 5 days a week (Indian and Northern Affairs Canada: 2006).

The second community is located in north-eastern Quebec. Its population is approximately 581 people. The principle languages are Naskapi and English. Its main industries include building, developing and general contracting, industrial and heavy (engineering) construction, plastics production and leather and allied products. The reserve can be reached only by train or airplane (Indian and Northern Affairs Canada: 2006).

The third community is located in southern Quebec. Its population is approximately 13,000 people. The principle languages spoken are English, and Mohawk. There are various industries which employ the citizens of this community including government organizations, a casino and approximately 100 local businesses. The community is accessible by air, water, rail and land (Indian and Northern Affairs Canada: 2006).

Though I have given only a minimal description of these communities, it does help to show that each are in fact very different in size, location, languages spoken, employment

opportunities and accessibility. Such differences will in no doubt affect the individual contexts of these communities and their accessibility to social and judicial services and support. Unfortunately criminal and socio-economic statistical profiles for these communities were not able to be obtained due to lack of data from Statistics Canada as well as Indian and Northern Affairs Canada and Department of Justice Canada. Had I been able to provide such profiles, I could have given a more detailed overview of the context in which each justice committee is operating. Also, such profiles would have helped to give life to the realities faced in these communities and the distinctive experiences of their community members.

Recruitment of participants from the federal and provincial government was obtained by emailing specific departments. Contact information for those targeted was provided by the consultant who organized the conference on mediation where the service deliverers were recruited. An email was sent to selected members of government briefly describing the research project with a consent form as well as an example of the interview questions attached. Those interested in participating were asked to reply via email, and to fax a signed consent form prior to being interviewed.

Those recruited for the purpose of this project had to be affiliated with justice committees in Quebec Aboriginal communities. Non-Aboriginal communities were excluded from this study because justice committees do not currently exist in non-Native communities in Quebec, and because the provincial orientation of the YCJA strictly limits the implementation of justice committees to Native communities. Further, participants had to speak English as I am Anglophone, and can only converse in English. Francophones and Native language speakers were encouraged to participate in the study pending their willingness and ability to be interviewed in English. To this effect, consent forms,

recruitment letters and texts were written in both French and English (as those attending the conference were able to speak either French or English) and indicated that interviews would be conducted in English. No participants declined to be interviewed due to language issues.

Participants were asked to review and sign a consent form, consenting to being interviewed and audio-tape recorded. Each participant was asked to participate in one semi-directive interview at a time and location convenient to them. The interviews were conducted in English by myself and took place in a private setting, lasting approximately 20 minutes. Interviews conducted at the conference took place after hours (i.e. after the conference) in the conference room where the conference on mediation was held, while the interviews with the government employees took place over the phone.

#### **4.2 Interpretation of Data**

The focus of this thesis was to determine the types of tools a community needs to implement a justice committee in a sustainable manner; and to investigate whether justice committee members from Aboriginal communities in Quebec perceived to have these capacities. To answer these questions the objectives of justice committees as set out by all levels of government as well as the interview participants were considered and literature on restorative community justice, crime prevention, and sustainable community programs was consulted for additional information on the types of capacities recommended.

In light of the information previously presented in chapter two and three of this thesis, it is apparent that community justice programs such as justice committees require a certain set of skills, knowledge and resources to be both effective and sustainable. The focus of this section is on developing a 'checklist' of the recommended capacities needed to implement and maintain a community justice committee. In order to gain recommendations

on the types of tools a justice committee needs to meet its objectives, I consulted the following sources:

- 1) Current literature on justice committees under the YCJA and the Aboriginal Justice Strategy (Pocket Criminal Code, 2003; Department of Justice, 2005; Paiement, 1996; and Hann and Associates, 2003).
- 2) Recommendations made to justice committees in Quebec (Comité Interministériel Sur la Réforme de la Loi sur les Jeunes Contrevenants, 2003; Gouvernement du Québec, 2005; Justice For and By the Aboriginals, 1995; and Mobilization Committee on Community Justice, 2006, Taiga Vision, 2005).
- 3) Justice committee constitutions from three Aboriginal communities in Quebec.
- 4) Crime prevention literature with specific attention to community action, and sustainable programming (Hastings and Jamieson, 2001; NCPC, 1997; Kelly and Caputo, 2003; and Public Safety Canada, 2003).
- 5) Restorative community justice literature for suggestions on planning for restorative justice programming (Bazemore and Schiff, 2001; and Van Ness and Strong, 2002).

Based on this literature, I have created the following charts to list the recommended capacities Aboriginal communities should have access to in order to implement a sustainable justice committee. Again, capacities refer the “level of knowledge, skills and resources that a community can bring to bear a problem” (Hastings and Jamieson, 2001: 10). Please note that the tables are not mutually exclusive and there is some overlap between tables. Also, because all communities differ in their level of capacity as well as their intended purpose of justice committees, the following is made to only be a suggested list of capacities, and should not be taken as absolute.

**Table 2: Knowledge**

<p>LEGAL</p>	<ul style="list-style-type: none"> <li>○ <b>Criminal Code:</b> Knowledge of the criminal justice process. Specific knowledge of the change in youth law from the YOA to the YCJA. Also, the use of extrajudicial measures and limitations, procedures, principles and objectives for their use. Communities should also have a strong understanding of section 18 of the YCJA on justice committees, as well as 19 on conferences.</li> <li>○ <b>Legal rights of the accused and victims-</b>strong understanding of the needs and rights of the accused and the victim with specific focus on youth.</li> <li>○ <b>Quebec orientation of the YCJA-</b>understanding of the limitation of use of justice committees to Aboriginal communities.</li> <li>○ <b>Aboriginal right to self-government over justice matters-</b> Knowledge of <i>Justice For and By the Aboriginals</i>, and the Department of Justice <i>Aboriginal Justice Strategy</i></li> </ul>
<p>ALTERNATIVE JUSTICE</p>	<ul style="list-style-type: none"> <li>○ <b>Restorative or participatory justice</b> principles and values</li> <li>○ <b>Cultural and social services</b> available in and outside of the community for victims, accused and family members</li> <li>○ <b>Mediation, dispute resolution or group counseling</b></li> <li>○ <b>“What works”</b> in community justice initiatives and crime prevention</li> <li>○ <b>High school diploma and college degree</b> for committee coordinator</li> </ul>

**Table 3: Skills**

LEGAL	<ul style="list-style-type: none"> <li>○ <b>Interpretation:</b> of legal texts</li> <li>○ <b>Advising:</b> governments and community of the administration of the YCJA</li> <li>○ <b>Confidentiality</b></li> </ul>
ALTERNATIVE JUSTICE	<ul style="list-style-type: none"> <li>○ <b>Social:</b> Interpersonal, communication and listening without judgment (impartiality)</li> <li>○ <b>Mediation:</b> circle keeping, facilitation, conferencing and or/ group counseling, dispute resolution</li> <li>○ <b>Prevention:</b> arranging activities and programs for crime and conflict prevention</li> </ul>
ADMINISTRATIVE	<ul style="list-style-type: none"> <li>○ <b>Research</b></li> <li>○ <b>Reading and writing</b></li> <li>○ <b>Filing</b></li> <li>○ <b>Email</b></li> <li>○ <b>Computer</b></li> <li>○ <b>Phone</b></li> <li>○ <b>Fax</b></li> <li>○ <b>Copying</b></li> <li>○ <b>Compiling reports</b></li> <li>○ <b>Planning and organizing</b></li> <li>○ <b>Record keeping</b></li> <li>○ <b>Financial and case management</b></li> <li>○ <b>Evaluation</b> of implementation and outcome (this can measures through activities reports)</li> </ul>
COLLABORATIVE/ PARTNERING	<ul style="list-style-type: none"> <li>○ <b>Information sharing</b></li> <li>○ <b>Referral</b></li> <li>○ <b>Networking</b></li> <li>○ <b>Mobilization</b></li> <li>○ <b>Advising</b></li> <li>○ <b>Social and interpersonal</b></li> <li>○ <b>Bilingual (where required)</b></li> </ul>
LEADERSHIP	<ul style="list-style-type: none"> <li>○ <b>Mentoring and support:</b> advising, supervising, arranging services and transportation when required</li> <li>○ <b>Information sharing</b> with community and local politicians</li> <li>○ <b>Problem-solving and mobilization</b></li> <li>○ <b>Educating and training</b> community members and services</li> </ul>

**Table 4: Resources**

<p>PHYSICAL</p>	<ul style="list-style-type: none"> <li>○ <b>Meeting/ office space:</b> a public facility</li> <li>○ <b>Communication devises:</b> phone and phone number, fax and fax number, postage, envelopes, paper, email account, computer</li> <li>○ <b>Administrative:</b> agreement forms, request to the justice committee, consent to collaborate, implementation of agreement and follow-up, referral, evaluation, financial report spreadsheets etc.</li> <li>○ <b>Security:</b> filing cabinet or secure computer</li> </ul>
<p>FINANCIAL <sup>14</sup></p>	<ul style="list-style-type: none"> <li>○ <b>Salary for coordinator</b></li> <li>○ <b>Secretarial support</b></li> <li>○ <b>Member's honoraria</b></li> <li>○ <b>Rental space and snacks for meetings</b></li> <li>○ <b>Utilities and rent</b></li> <li>○ <b>Office supplies</b></li> <li>○ <b>Travel for coordinator and members</b></li> <li>○ <b>Promotion/ information</b></li> <li>○ <b>Prevention fund</b></li> <li>○ <b>Training</b></li> <li>○ <b>Administration</b></li> <li>○ <b>Evaluation</b></li> </ul>
<p>HUMAN</p>	<ul style="list-style-type: none"> <li>○ <b>1 Coordinator / manager</b> (full- time), or regional coordinator</li> <li>○ <b>1 Secretary</b> or administrator (part- time) for communities with larger case loads</li> <li>○ <b>5+ members- volunteers</b> 18 years and older with a good reputation and no political ties to the community</li> </ul>
<p>COLLABORATIVE</p>	<ul style="list-style-type: none"> <li>○ <b>Police</b></li> <li>○ <b>Social Services</b></li> <li>○ <b>Crown</b></li> <li>○ <b>Court Workers</b></li> <li>○ <b>Band council</b></li> <li>○ <b>Elders or cultural services</b></li> <li>○ <b>Department of Justice Canada/ Attorney General of Canada</b></li> <li>○ <b>Department of Justice Quebec</b></li> <li>○ <b>Consultant, trainers, mediators</b></li> </ul>

In order to compare the recommended capacities with the capacities perceived to be present in the communities, interviews were conducted with individuals who work closely

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<sup>14</sup> For a detailed account of the typical financial expenses see Appendix A.

with justice committees in Aboriginal communities in Quebec. Through these interviews it was possible to gather information on the types of activities occurring at the community level. Further, with this information I was able to determine what the committees are actually doing with the resources they have received (i.e. what capacities are present), as well as what they have not been able to do (i.e. what capacities were lacking). Lastly, in order to gain valuable insight from those with experience working with justice committees, participants were asked to lend their perspective towards the implementation of justice committees in order to make suggestions for the implementation of future committees.

### Limitations of Study

The limitations of this research project are mainly based on generalizability. First, because this thesis is focused solely on the Aboriginal experience, it stands to reason that the findings of this project may not be generalizable to a non-native population. For instance, because many Aboriginal communities are in the process of seeking rights to self-government over the administration of justice within their community, the capacities recommended by the literature consulted for the purpose of this thesis may not necessarily be reflective of the capacities required in all communities. Further, due to the desire of many Aboriginal communities to reintroduce their culture into their justice interventions, the cultural capacities recommended for justice committees in Aboriginal communities may not necessarily reflect those recommended for committees in non-native communities.

Second, because the research gathered in both the interviews and documents analysis is based on the Quebec Anglophone Aboriginal experience, the findings of this study may not be applicable to the experiences of all justice committees in Quebec or in all provinces and territories across Canada. One example of how experiences may differ from province to

province can be attributed to the fact that each province/ territory has their own interpretation of the YCJA which will shape the objectives and procedures for utilizing extrajudicial measures such as justice committees. Differences in experiences based on location could also arise due to the fact that justice committees are a community-based response and the reasons for their implementation will vary from community to community, making it difficult to create a standard of implementation. As for limitations that could arise due to language issues, it is important to consider that Francophone communities or communities speaking only Native languages may require access to even more resources than Anglophone communities in order to facilitate the communication with English speaking organizations, justice officials or government officials.

Also, due to restrictions imposed by the Research Ethics Committee of the Faculty of Social Sciences at the University of Ottawa, it proved very difficult to gain access to Aboriginal communities. As such, only eight people representing different communities and organizations were interviewed for this thesis and due to this limited sample, my findings were somewhat weak in texture. Had I been able to gain access to more participants from other justice committees and organizations as well as from the communities interviewed, I could have provided multiple perspectives which may have yielded more representative results. Further, had I been able to obtain multiple perspectives, I may have been able to provide richer qualitative data such as narratives and critical commentary on behalf of the participants.

Lastly, justice committees are a fairly new option within Canadian communities. Many have only entered the developmental stages, and some are still in the process of trial-and-error operating. As such, it may be too soon to evaluate the implementation of these committees as some have yet to have had the chance to operate to the same extent as others.

## Benefits of Study

To date, little research has been conducted on the use of justice committees, specifically with regards to the capacities required for their implementation. Further, while many politicians and community representatives have expressed their desired to utilize community-based alternatives to the traditional court process in dealing with minor crimes, little consideration has been given to investigating whether or not communities have access to the tools required to implement these options in a sustainable manner.

As such, this particular thesis can help to shed some light on the types of capacities which have been invested in justice committees in Canadian Aboriginal communities. Also, this thesis could provide a basic framework for communities and governments to work from when considering implementing justice committees, or evaluating current committees.

During my time working with justice committees and its members, I have often heard committee members say that justice committees often lack the tools they need to operate. As a result, the main goal of this project is to hopefully make communities and governments more aware of the types of tools communities needs to implement and maintain justice committees.

# V

## FINDINGS

The purpose of this chapter is to determine whether Aboriginal justice committees in Quebec have the capacities recommended to implement their committees in a sustainable manner. To do this I will be using Hornick et al.'s (2000) process evaluation model to describe the objectives, inputs and activities of the justice committee program. Through this model, we can analyze the interviews conducted for this thesis as well as the information provided from other sources to determine whether the committees have the tools they need, and whether they are generating the activities required to meet their designated objectives. This chapter will cover three main areas of interest:

- 1) **Objectives:** The objectives of justice committees as set out by the federal, provincial and local governments will be consulted to determine the expected outcomes of the program, and whether each level of government shares a similar perspective to this effect. These objectives will then be compared with those expressed in the interviews to investigate whether the committee members and government officials also share a similar perspective regarding the purpose of the program.
- 2) **Inputs:** The program's objectives will be used as a frame of reference to access the inputs (tools) needed to operate this program. Literature on restorative community justice, crime prevention, and sustainable community programs will provide additional recommendations for the types of tools needed. The results from interviews conducted for this thesis will then be presented to show what capacities are actually present in the communities.

- 3) **Activities:** The interviews conducted will be utilized to show what the committees are actually doing with the resources they have received, as well as what they are not doing. The actual activities occurring in the communities will then be contrasted with the objectives previously set out to determine if the capacities present are sufficient to meet the objectives of the program.

## **5.1 Program Objectives**

In its simplest form, a community justice committee is a group of citizens who work with the police and other justice professionals to provide justice services in their community. In principle, a justice committee can exist in any community, and can offer any form of program or intervention it is interested in providing to its community members. The decision to implement a justice committee comes from the community itself, and will often be a product of the community's willingness and ability to intervene in justice matters. Communities can become aware of the possibility of implementing a justice committee through various sources, such as from other communities, justice consultants, and the provincial government or from services within the community such as the police or social services.

In order to gain the necessary support and resources for the implementation and sustainability of a justice committee, it is up to the committee to develop collaborations and partnerships with federal and provincial governments as well as the local courts, police and social services. It is through partnerships with other sectors that it can have access to the tools needed to provide community-based alternatives to traditional justice interventions, and can function to its fullest potential.

## Federal Government

There are two federal departments relevant to this thesis which has encouraged the use of community justice committees. First, justice committees have been encouraged by the Aboriginal Justice Strategy (AJS) of the Department of Justice Canada as a method to allow Aboriginal communities to take *greater responsibility for the administration of justice*. They are also encouraged by AJS as a way to *reduce incarceration rates and to respond to the needs of Aboriginal people*. (Department of Justice: Aboriginal Justice Strategy, 2005).

Second, a justice committee is one of three extrajudicial options offered under extrajudicial measures in the Youth Criminal Justice Act (YCJA). Again, under section 18(2) of the YCJA:

### Role of committee:

- (2) The functions of a youth justice committee may include the following:
- (a) in the case of a young person alleged to have committed an offence,
    - (i) *giving advice* on the appropriate extrajudicial measure to be used in respect of the young person,
    - (ii) *supporting any victim* of the alleged offence by soliciting his or her concerns and *facilitating the reconciliation* of the victim and the young person,
    - (iii) *ensuring that community support is available to the young person* by arranging for the use of services from within the community, and enlisting members of the community to provide *short-term mentoring and supervision*, and
    - (iv) when the young person is also being dealt with by a child protection agency or a community group, *helping to coordinate the interaction of the agency or group with the youth criminal justice system*;
  - (b) *advising the federal and provincial governments* on whether the provisions of this Act that grant rights to young persons, or provide for the protection of young persons, are being complied with;
  - (c) *advising the federal and provincial governments* on policies and procedures related to the youth criminal justice system;
  - (d) *providing information to the public* in respect of this Act and the youth criminal justice system;
  - (e) *acting as a conference*; and
  - (f) *any other functions* assigned by the person who establishes the committee (Pocket Criminal Code, 2003: 1086).

The objective at this level is to have a community committee which can help to take the burden off of other justice professionals by providing support, advice, conferencing, and reconciliation to victims and offenders. Also, the committee can help to keep the federal and provincial governments informed on the use and implementation of the YCJA at the community level, as well as educate the public by providing information on the YCJA. Lastly, the YCJA allows the person(s) who established the committee to tailor the committee's activities to the needs of the community by allowing them to assign *any other function(s)* to the committee.

### Quebec Government

Quebec's interpretation of the YCJA limits the use of justice committees to Aboriginal communities. The following is an excerpt from the Application of the Youth Criminal Justice Act in Youth Centers: Reference Manual (2005) published by the government of Quebec, and specifies the province's orientation towards the use of youth justice committees.

Youth justice committees as provided for in the YCJA are committees of citizens that the federal or provincial authorities can set up to assist in the administration of the Act. These committees can intervene directly in the case of young offenders, or they can advise the governments and provide information to the public. The Quebec departments involved with the implementation of the YCJA have deemed that its application does not require such committees.

Native communities, however, can take advantage of this provision by entrusting a community justice committee with an advisory role, in which they may intervene in specific young offender situations, in keeping with their traditions and values (427).....

[It has also been recognized that] given the social and cultural particularities of Native communities, it may be appropriate to develop youth justice committees in the communities that want them. It should only be for the purposes of paragraph 18(2) (a), namely interventions of advice, support and coordination of services in the specific case of the young offenders in their communities.

In addition, the Provincial Directors are concerned by the overrepresentation of certain cultural communities with regards to services administered to young offenders. They intend to reflect on the course of action liable to encourage the involvement of cultural communities in orienting and treating their young offenders (428).

According to the Quebec provincial government, the recommended roles of a justice committee in Aboriginal communities are;

- 1) **Recommending, supporting and coordinating services** for specific situations involving young persons alleged to have committed an offence;
- 2) **Informing and counseling** federal and provincial **governments** on the application of the Act, and
- 3) **Informing the public** on the provisions of the Act (The Application of the Youth Criminal Justice Act in Youth Centres, 2005: 428).

It is apparent that similarities exist between Quebec and the federal government's objectives regarding the use of justice committees. However, where they differ slightly is in regards to interventions. For instance, the province of Quebec does not mention the use of facilitating reconciliation or conferencing to help reconcile the victim(s), offender and community, while the federal government sees this as a possible role for committees.

### Local Governments

To obtain a general overview of the objectives of justice committees outlined by local governments, I consulted committee constitutions and agreements from three Aboriginal justice committees in Quebec. For the most part, the communities shared very similar objectives, indicating a common perception of the purpose of their committees. As such, I blended together the objectives outlined by each community to compile the list below. Clearly, once the committees are implemented at the community level the objectives become more specific.

## Objectives

- To develop a range of **alternative measures** for the offender which will reflect the community's concern for the offender's healing and restitution to the victim such as mediation and conflict resolution services, adjudication and sentencing, pre-charge diversion, referral and post-charge diversion,
- To **provide timely and accurate information** to persons accused on the nature and consequences of their charge, of their rights and responsibility and options, the philosophy and functioning of justice system and alternative justice processes available, the court procedures, judicial procedures,
- To **supervise** accused persons, help the offender lead constructive and responsible lives within the community, and ensure that the offender has access to services needed to enhance rehabilitation, as well as reintegration,
- To act as a **liaison between accused and the community, and justice personnel** (overcoming communication barriers) to diminish aboriginal alienation from the justice system,
- To **help justice officials be aware of aboriginal cultural traditions**, values, language, socio-economic and other concerns, and to work in partnership with other persons participating in the justice system (judges, police, probation, Attorney General's prosecutor, defense counsel, health and social services),
- To **honor the rights and needs of victims and witnesses** of crimes and to provide appropriate referrals, liaisons, and assistance when needed,
- To foster **increased community awareness** of crime and its effects through **public discussion and education**, and to promote and **strengthen traditional intervention and prevention practices** which maximize community support and input,
- To **engage and assist parents** in formulating and carrying out a plan to deal with a young person's behaviour.

While the federal and provincial governments frame the purpose of the committee in law, the community is responsible for further developing a committee that meets the needs and circumstances of its citizens. For instance, the communities added objectives such as achieving social peace and harmony, reestablishing relations, increasing the awareness of Aboriginal culture amongst justice officials, reducing the chances of recidivism and reasserting traditional sovereignty. While these objectives seek to enhance community well-

being, a certain set of tools are required for a community to actually achieve these. In other words, the community must have the skills, knowledge, and resources it requires to do the work involved.

### Objectives Identified During Interviews

Participants were asked to describe their perception of the objectives of their committee. The purpose of this question was to assess whether committee members shared a similar perspective to that of governments on the purpose of the committees, or whether their opinions differed.

During the interviews, committee members identified several objectives. For instance, 3 participants mentioned that implementing a committee was a way to provide their community members with an *alternative to jail*. One of these participants mentioned that the committee was a necessary alternative for dealing with offending in the community due to the lack of accessible detention facilities in their area. Also, because of these circumstances, their committee has even taken on *supervision* duties by having to enforce house arrest. The other two participants stated that it was their committee's duty to provide alternatives for minor offences as a way to *make the offender aware of the damaged caused* by their actions. To do this, they encourage victims, families and police to say their peace so that they can attempt to reconnect the offender with the community. In this case, the objective of the committee is to *reconcile those affected* by the crime, and to try to make the accused understand the impact of their actions on themselves and their community.

Similarly, another participant stated that the objective of the justice committee in their community was to *provide healing between victims, offenders and families*. The focus in this case was on reconciliation and potentially counseling victim(s) and offender(s). Also,

this participant mentioned *providing information, support and referrals* to offenders and victims when needed, signifying that their committee also focuses on supporting, informing and coordinating services for those involved.

Further, another participant mentioned that the objective was to try to *empower Aboriginal people* to reclaim what has been lost in terms of their traditional ways of dealing with social issues, their culture, their language and their sense of responsibility over issues that affect their communities. In this particular case, the focus of the committee seems to be on *reasserting traditional sovereignty and autonomy*, as well as restoring a *greater sense of responsibility* over the conduct of community members. Likewise, another participant mentioned that justice committees are intended as a tool to bring back a traditional way of dealing with crime and conflict that reconnects people with each other.

Interestingly, most participants mentioned how their committee can help to *reinforce a sense of community*. For instance, the participants mentioned reconciliation between parties in conflict, informing, supervising, supporting, coordinating services, reasserting traditional sovereignty and restoring a sense of responsibility over the conduct of community citizens as their perceived objectives.

On the other hand, there was no mention of how the justice committee could *advise and educate the government or the community* by keeping them informed of how the YCJA is being applied, or on the policies and procedures of the YCJA as was mentioned in the objectives set out by the federal and provincial governments. This suggests that communities and governments do not share similar objectives for justice committees. Further, participants did not mention how their committee could employ *crime prevention* techniques as a way to reduce recidivism or the rate of Aboriginals convicted of an offence

as was mentioned by the community constitutions. This can perhaps be explained as a lack of capacities to support the committees' ability to attain some of their goals.

In the interviews with government officials, more long term objectives were expressed. For instance, the federal government official stated that due to the extent of cultural damage suffered by many Aboriginal communities in the past, justice committees have played a role in the healing of communities. More specifically, they are a tool to address Aboriginal overrepresentation in the justice system, a way to increase the presence of Aboriginal culture in the mainstream system, and a way to promote a larger role for Aboriginal communities in the administration of justice.

According to the provincial government official, though objectives for justice committees have been established in the past by the Quebec government, today they are becoming more open to the visions expressed by First Nations communities. This year the government is interested in publishing a new mission statement which focuses more on the goals of the communities rather than that of the government. Some of the goals that emerged during this interview were;

- 1) To help communities regain the power to resolve conflicts.
- 2) To help First Nations communities reclaim a part in the administration of justice.
- 3) To hold people accountable for their actions and to restore balance and harmony in communities.
- 4) To offer the opportunity for people to be heard and to be active in the resolution of their conflicts.
- 5) To bring back the values and traditions of Aboriginal people.
- 6) To promote peace and harmony.

Even though these objectives have yet to be officially implemented into provincial policy, according to this participant, it is nonetheless a central goal of the provincial government of

Quebec to help Aboriginal people regain control over the administration of justice in their communities.

Though government officials and committee members expressed similar long-term objectives for justice committees, we can see from the interviews that the communities place more emphasis on immediate objectives such as supervising offenders, or referring clients to the necessary services. More importantly, though some of the stated objectives were similar, the fact that there were a number of objectives that differed between the community, the provincial government and the federal government suggests that there is a lack of consistency between what each is trying to achieve. As such, this lack of consistency will in no doubt reflect on the outcomes of the program, as the programs objectives define the types of inputs (skills, knowledge, resources) a program needs, as well the activities the program will engage in.

## **5.2 Inputs**

Inputs include the skills, knowledge and resources required for a program to meet its objectives. The charts below are organized into the categories of knowledge, skills and resources, and will be used to compare the *recommended inputs* for justice committees (i.e. those suggested by all levels of government, as well as those suggested by literature on restorative community justice, crime prevention, and building sustainable community programs) with the perceived *actual inputs* identified in the interviews.

## Knowledge

The knowledge required by a justice committee varies based on the type of activities the committee intends to pursue. At a minimum, the committee members should have a strong understanding of the legal and alternative justice aspects that affect their day to day operations. Participants were asked to discuss the types of knowledge that have been invested in their committee. Most participants were unsure of what to answer until they were asked to describe what information they were given in order to do their job.

For the most part, the interviews revealed that some committee coordinators had more training than committee members concerning the overall functioning of their program as well as the types of capacities invested into the committee, as two committee members interviewed stated that “my coordinator would be better able to answer that” (Interview #3, #4). This is most likely attributable to fact that the coordinator is the sole person in charge of the committee, making it important that they have a strong understanding of the functioning of their committee, as well as the capacities invested in it. All committee members interviewed did however note they had received information on what a justice committee is and does, as well as information and training on mediation, circle keeping, facilitation and listening without judgment.

Other participants mentioned receiving some information on the types of programs available to their clients within the community to help them make referrals for their clients when necessary, and one participant mentioned receiving information on traditional Aboriginal approaches to conflict to help her facilitate a more culturally-appropriate response to offending in their community. Another participant mentioned receiving information on the YCJA and on how minor offences can be dealt with outside of the court system. Similarly,

another participant mentioned receiving information on the legal process of the YCJA, and how a case is diverted to the justice committee.

The federal government official stated that the knowledge given to communities comes in many forms, and typically reflects the types of services the committees offer but that there are no guidelines with regards to the types of knowledge the committees require. Similarly, the provincial official stated that they allow communities to decide on which training they wish to receive in order to allow a community to further develop the services and resources that they already have. This allows communities to freely decide on what types of knowledge they need rather than them being imposed on them by the government. Though this seems like the ideal way for communities to implement a program, as mentioned previously in this thesis, collectively defining a problem or identifying the capacities needed to address the problem is often quite difficult for any typical community, not to mention those experiencing high crime and victimization risk factors such as Aboriginal communities.

Where information seemed lacking was in their knowledge of the YCJA. Similar findings were reported by justice committees in Ontario and in the Northwest Territories (Hann and Associates, 2003: 20, 41), and in the *Application of the YCJA in Native Communities in Quebec* (2005) which revealed that “40% of coordinators or justice committee members said they were aware of what the YCJA is, but only 27% stated that they know it well” (Taiga Vision: 9). Few participants interviewed commented on receiving information on the YCJA and the judicial processes. In fact, not one participant mentioned having knowledge of changes in youth justice laws or the objectives of these changes. Instead, it seemed that the desire to engage in more community-based responses to crime came from the community itself, rather than from knowledge of a change in legislation.

Also, none of the interviews revealed that participants had received sufficient information on the legal *rights* of the accused and of victims. For instance, not one committee member interviewed stated that they were trained on the legal rights of offenders or victims. On the other hand, they seemed to have a strong understanding of the *needs* of victims and offenders, although some mentioned needing more ongoing training to help victims. This was also expressed by committee members in Northwest Territories and Saskatchewan who felt they could have done more for victims if they had received more ongoing training (Hann and Associates, 2003: 20, 35). Further, in the interviews there was no mention of receiving information on community justice or crime prevention techniques. In fact, in one interview it was stated that the committee relies on the police to conduct crime prevention activities within the community. Despite the fact that most committee members interviewed did not have knowledge of crime prevention techniques, most mentioned that it was an activity their committees were interested in engaging in.

Overall, it would seem that there is no consistency concerning the types of information or training the committees receive. Interviews with government officials revealed that there are very few resources available and that there are no set guidelines to follow in terms of training the committee members as it is up to the committees themselves to seek the information necessary for their operation. Further, it was also mentioned by the federal government official that committees who have been successful in the past have been instrumental in directing the implementation of new committees. As such, this reveals that committees must rely on trial and error or on the guidance of already established committees to determine the types of knowledge they need.

**Table 5: Recommended vs. Actual Knowledge**

	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>ALTERNATIVE JUSTICE</b>	<ul style="list-style-type: none"> <li>○ <b>Restorative or participatory justice</b> principles and values</li>   <li>○ <b>Cultural and social services</b> available in and outside of the community for victims, accused and family members</li>   <li>○ <b>Mediation, dispute resolution or group counseling</b></li>   <li>○ <b>“What works”</b> in community justice initiatives and crime prevention</li>   <li>○ <b>High school diploma and college degree</b> for committee coordinator</li> </ul>	<ul style="list-style-type: none"> <li>○ None mentioned learning specifically about the principles and values of restorative and participatory justice.</li>   <li>○ All had knowledge of the cultural and social services available to their clients. The number of services available and the level of collaboration with these services varied by community.</li>   <li>○ All reported receiving training on dispute resolution, mediation, circle keeping or counseling.</li>   <li>○ None mentioned knowledge of what works in either community justice or crime prevention.</li>   <li>○ Two mentioned receiving University degrees; one mentioned receiving a college degree.</li> </ul>

	RECOMMENDED	ACTUAL
LEGAL	<ul style="list-style-type: none"> <li>○ <b>Criminal Code:</b> Knowledge of the criminal justice process. Specific knowledge of the change in youth law from the YOA to the YCJA. Also, the use of extrajudicial measures and limitations, procedures, principles and objectives for their use. Communities should also have a strong understanding of section 18 and 19 of the YCJA on justice committees, and conferences.</li>   <li>○ <b>Legal rights of the accused and victims-</b> understanding of the needs and rights of the accused and the victim with specific focus on youth and Aborigines.</li>   <li>○ <b>Quebec orientation of the YCJA-</b> understanding of the limitation of use of justice committees to Aboriginal communities.</li>   <li>○ <b>Aboriginal right to self-government over justice matters-</b> Knowledge of <i>Justice For and By the Aborigines</i>, and the Department of Justice <i>Aboriginal Justice Strategy</i></li> </ul>	<ul style="list-style-type: none"> <li>○ Knowledge of the changes in youth law from YOA to YCJA. Also, knowledge of the use of justice committees. No mention of procedures or principles for the use of extrajudicial measures.</li> <li>○ Some received training on the justice process as court workers or through other employment position they held.</li> <li>○ One mentioned receiving training on the YCJA and on how the community can deal with minor cases instead of the courts.</li>   <li>○ Most mentioned being trained on the needs of the accused and victim(s). None mentioned knowing the legal rights of the accused and victims. Those who work in the legal field may have this knowledge but did not specify it during the interview.</li>   <li>○ None mentioned knowing that the use of justice committees is limited to Aboriginal communities.</li>   <li>○ Most reported a need to make Aboriginal communities more autonomous in dealing with justice issues. None made mention of their knowledge of provincial and federal initiatives of the like.</li> </ul>

## Skills

On the most basic level, it is recommended by the literature previously consulted in chapters one and two of this thesis, that some justice committee members possess legal, administrative, collaborative and leadership skills. During the interviews, participants were asked to describe the skill sets they believe justice committees have at present. The most frequently stated skill (stated by all participants interviewed) was the ability to mediate or intervene in minor cases. More specifically, all participants working for a justice committee mentioned having to learn the how to listen without judgment, and how to intervene while remaining impartial. This skill is extremely important when trying to meet the needs of the victim(s) and offender, or when trying to mediate a conflict.

Another skill commonly cited by participants was the ability to refer clients to other services within the community. In other words, committee members were provided with information about the services available within the community and encouraged to create partnerships with these services in order to better address the needs of their clients. The number of services available to the committee seemed to vary by the size of the community. In larger communities, committee members had access to more services, while in smaller remote communities, committee members mentioned having difficulty finding services to refer clients to.

In one case it was reported that committee members varied in their skills. This particular participant mentioned that in their committee there are over 20 members bringing different skill sets to the table. For instance, there are people on their committee from child and family services, addictions and preventions counselors, elders, teachers, social workers etc... As a result, they rely on each other for different skills, rather than seeking training for members on all the skills needed. In another case, one participant mentioned that due to the

small size of his community, they are often unable to find individuals willing to work for the committee, making it difficult to find committee members, let alone ones with valuable skills. The lack of qualified volunteers was also a problem identified by justice committees in Saskatchewan and Ontario (Hann and Associates, 2003: 35, 41).

During the interviews one participant mentioned that she was responsible for overseeing the budget of various committees. When asked if she received training for her duties, she replied “no” and stated that it was up to her to learn on her own. In a similar case, another participant who took on some administrative duties for her committee stated that she was never trained to do administration for the committee, but rather had been trained in administration through her job as a Native Court Worker.

The consultant interviewed noted that training was provided to various communities for many different skills such as accounting, administration, budgeting, compiling activities reports and cash flow statements and numerous other duties. The consultant also stated that depending on the available skills of the members themselves, each community requires different types of training. According to the consultant, training members is also often difficult in cases where members or coordinators leave the committee, making someone responsible for training new staff. This finding is quite problematic as the lack of human resources can be debilitating to any community mobilization efforts and can often lead to program failure. Further, the lack of qualified workers is quite common in Aboriginal communities especially in the north, further enhancing the likelihood of improper and unsustainable program implementation.

In general, it would seem that most if not all committee members received training on mediation or dispute resolution. Through this training, they were taught how to listen without judgment and how to address the needs of their clients in a circle setting. Also, it seems that

some committee members were trained in administration either through self-education, by a consultant, or through other employment experiences. The interview with the federal government official revealed that administration has been an obstacle for a number of communities. Teaching committee members to fill out reports has been challenging and has lead to a number of problems operationally and financially. This problem signifies a lack of strategic planning which could have helped to create a standard or procedure for implementation in order to ensure that communities had access to the information and resources they needed before implementing the justice committee program.

Further, many committee members lacked training on leadership skills such as advising the community and governments on the policies and procedures pertaining to the YCJA. Also, there was a lack of training on collaboration and partnering skills such as mobilizing the community for action and problem-solving. More pressing was the fact that most committee members relied on outside agencies to train them suggesting that the skills were either untapped or inexistent within the community. As previously mentioned, sustainability depends on a community's ability to handle a certain issue without relying solely on outside support. As such, we can assume that in those communities where committees are completely reliant on external resources, the program will likely not be sustainable.

**Table 6: Recommended vs. Actual Skills**

	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>LEGAL</b>	<ul style="list-style-type: none"> <li>○ <b>Interpretation:</b> of legal texts</li> <li>○ <b>Advising:</b> governments and community of the administration of the YCJA</li> <li>○ <b>Confidentiality</b></li> </ul>	<ul style="list-style-type: none"> <li>○ Some mentioned receiving and interpreting legal documents.</li> <li>○ Some mentioned making sentence recommendations to the courts. None mentioned advising governments or the community about the YCJA.</li> <li>○ All had to sign confidentiality agreements when appointed to the committee.</li> </ul>

<b>ALTERNATIVE JUSTICE</b>	<ul style="list-style-type: none"> <li>○ <b>Social:</b> Interpersonal, communication and listening without judgment (impartiality)</li> <li>○ <b>Mediation:</b> circle keeping, facilitation, conferencing and or/ group counseling, dispute resolution</li> <li>○ <b>Prevention:</b> arranging activities and programs for crime and conflict prevention</li> </ul>	<ul style="list-style-type: none"> <li>○ All mentioned having received training on listening without judgment and peaceful communication.</li> <li>○ All received training on mediation skills, circle keeping, dispute resolution, facilitation, or counseling.</li> <li>○ Some received training on crime prevention, but none have applied this training to date.</li> </ul>
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	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>ADMINISTRATIVE</b>	<ul style="list-style-type: none"> <li>○ <b>Research</b></li> <li>○ <b>Reading and writing</b></li> <li>○ <b>Filing</b></li> <li>○ <b>Email</b></li> <li>○ <b>Computer</b></li> <li>○ <b>Phone</b></li> <li>○ <b>Fax</b></li> <li>○ <b>Copying</b></li> <li>○ <b>Compiling reports</b></li> <li>○ <b>Planning and organizing</b></li> <li>○ <b>Record keeping</b></li> <li>○ <b>Financial and case management</b></li> <li>○ <b>Evaluation</b> –self evaluation through activities reports.</li> </ul>	<ul style="list-style-type: none"> <li>○ In most cases, the secretary or administrator took on the administrative duties. Some mentioned receiving training for the more complex skills like financial management, others mentioned never receiving training and having to learn on their own.</li> <li>○ The consultant interviewed mentioned training committee members to compile activities reports but did not mention that they were for evaluation purposes- rather it was mentioned that they were requested yearly by the government.</li> </ul>

<b>LEADERSHIP</b>	<ul style="list-style-type: none"> <li>○ <b>Mentoring and support:</b> advising, supervising, arranging services and transportation when required</li> <li>○ <b>Information sharing</b> with community and local politicians</li> <li>○ <b>Problem-solving and mobilization</b></li> <li>○ <b>Educating and training</b> community members and services.</li> </ul>	<ul style="list-style-type: none"> <li>○ Support was said to be provided to clients by all individuals interviewed. Mentoring was mentioned as a task some elders have done with youth.</li> <li>○ Information sharing with the community and local politicians was said to be in its preliminary stages.</li> <li>○ Formal problem-solving and mobilization efforts were not mentioned. Some mentioned wanting to get the community more involved with and accepting of the justice committee.</li> <li>○ All mentioned having made some attempts to educate the community. All mentioned wanting to do more to educate and train the public.</li> </ul>
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	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>COLLABORATIVE/ PARTNERING</b>	<ul style="list-style-type: none"> <li>○ <b>Information sharing</b></li>   <li>○ <b>Referral</b></li>   <li>○ <b>Networking</b></li>   <li>○ <b>Mobilization</b></li>   <li>○ <b>Advising</b></li>   <li>○ <b>Bilingual (where required)</b></li> </ul>	<ul style="list-style-type: none"> <li>○ In most communities, some information sharing with the courts and local social services was reported. Information sharing with the public was said to be in the preliminary stages.</li> <li>○ Referrals were said to be the most frequent activity of the committee in all communities. Rates of referral varied by community and availability of services.</li> <li>○ Networking was said to be strong in most communities. Some reported a need to make more connections <i>within the community</i>.</li> <li>○ Mobilization was never mentioned during the interviews. Committee members mentioned trying to get the community involved, but found it to be a difficult and slow process.</li> <li>○ Some committee members mentioned advising the courts or police. Most people interviewed reported that their committee hoped that the courts and government would take their advice more often.</li> <li>○ One member from an Inuit community spoke about the trouble their clients have when committee members or justice officials cannot understand or speak Inuktitut. In such cases, a translator needs to be hired or must volunteer their time.</li> </ul>

## Resources

Resources are an integral asset to the functioning of a justice committee. Without people, partners, money and place to meet, a justice committee could not function. As a result, it is important that a justice committee have physical, financial, human, and collaborative resources at their disposal. During the interviews participants were asked about the resources that have been invested in their committees. Questions were focused for the most part on financial and human resources, but participants were encouraged to report on any other resources they felt were important.

In terms of physical resources, no participant reported having a lack of access to meeting space, communication devices, or tools for administration. What was gathered from the interviews was that the physical resources needed for the functioning of the committee varied by community and were based on the types of activities the committees engaged in. For example, if a committee only offered referral services, they did not require the same type and size of space as did a committee who offered mediation services.

Financial resources were the most frequently discussed resource throughout the interviews. All participants interviewed stated that some financial support was provided to the committees, but the majority stated that the current funding was lacking. One participant specified that they had money in their budget for training the committee members, the administrator's salary and also for mediators when they could not conduct the mediation themselves. On the other hand, the participant also stated that they had been trying to secure more funding to implement cultural activities, but had been unable to attain it. If cultural activities are part of the community's solution to address a given problem (such as crime or victimization), then the lack of ability to offer such services or activities may in fact hinder the overall efforts of the program.

In terms of government contributions to the committees, a number of participants mentioned that they needed more ongoing financial support from the government because they often faced budgetary restraints which have limited the services they have been able to provide to their clients. Examples that were given where the financial support was lacking was for crime prevention activities, cultural activities and information sharing. The lack of financial support was also mentioned by the federal government official who stated that justice committees are currently under-funded for the types of services they are trying to offer. This fact was also expressed by justice committees in the Northwest Territories, Nunavut, Saskatchewan and Ontario as committees in these provinces mentioned needing more ongoing funding (Hann and Associates, 2003: 20, 25, 35, 25).

The consultant interviewed stated that the lack of sufficient funding provided to the committees often keeps them operating in survival mode making it difficult for them to expand their services. Also, few communities actually see additional financial support from their band councils or other community services making them rely solely on the money provided by the federal and provincial governments, which is insufficient as is. In order to obtain additional funding, it is up to the community to seek assistance from other government initiatives such as crime prevention funds. The participant also mentioned that even the money that has already been invested in each committee is minimal, and from the looks of things, will not be increasing anytime soon. According to the *Mobilization Committee on Community Justice Initiatives* (2006),

Sprinkling dollars on the initiatives will not help them to be what they are meant to be. To some extent, it almost leads some to fail. Having minimal funding still generates the hope and the will to accomplish work, but quickly brings people to realize that they are always limited (11).

The lack of sufficient funding was corroborated by the federal government official. According to this participant, the justice committee program has been chronically underfunded, leaving most committees extremely frustrated and operating in survival mode. This year, the government announced plans to double the funding for Aboriginal justice programs, but as a result, wants to see double the amount of committees being established. This participant continued by stating:

We have doubled the money for the program and what we decide to do is stretch the money out as far as we can to as many communities as we can to try and demonstrate how successful we are because we have 200 communities under the program, when the funding will realistically only support 100 of the them...from senior management's point of view and from the political side they want to see something immediate for their money, but what they don't realize is that it takes sometimes 2-3 years to build the capacity needed to make the committees function properly (Interview # 8).

Inconsistencies in the amount of financial support provided to each committee were also a difficulty mentioned during the interview with the consultant who stated that there was a lack of financial support allocated to justice committees in the northern parts of the province as compared to the south. This was also found by the *Mobilization Committee on Community Justice Initiatives* (2006). According to the committee, funding provided to isolated communities in the north is insufficient, as some isolated communities have “no resources, have a high cost of living, and require enormous amounts of money to travel in and out of their community...They can't be considered the same as the ones that are close to the city and services. Still, they received comparable funding” (6).

Many committee members reported facing budgetary restraints in terms of travel and training expenses for their members, with a number of participants mentioning they lacked the financial support to send more than one or two members for training at a time. In most cases, the committees have had to ask the trainer to travel to the community to save

financially. This is often a sufficient solution, but in cases where there is a large conference or training session and committee members can build partnerships, collaborations or networks of support with members from other communities, only a few individuals are actually able to attend.

In terms of human resources, committees reported having coordinators or managers as well as an administrator. Where this differed was in the Inuit communities where there was one regional coordinator for eight different committees. An interviewee from an Inuit community reported having only five members and stated that they had been struggling to find people who were willing to volunteer for the three years specified in their contract. Similar problems were reported to have occurred in small communities in other provinces and territories such the Northwest Territories and Nunavut (Hann and Associates, 2003: 20, 25). Conversely, a committee member from a larger southern community reported that they had a membership of 15 to 20 people. Due to the large size of their community, they were able to find volunteers from all different professional fields, some even working for the agencies which the committee collaborates with.

The consultant interviewed stated that there is a tendency to look for professionals for committee membership because of the skills and knowledge they can bring to the table. But most professionals are busy with their own jobs making it difficult to encourage their voluntary participation. This participant also mentioned that finding coordinators has been difficult for some committees as they require either a college or university education, and the salary offered to coordinators is not seen as satisfactory by most candidates. This problem was also encountered in both Alberta and Nunavut where a number of justice committees reported requiring higher rates of pay to attract qualified coordinators (Hann and Associates, 2003: 25, 30).

According to the federal official interviewed, the human resources invested in committees to date have lacked any clear guidelines and there has been no consistency between coordinators and the level of knowledge they have and members and their level of skill. In some cases committee members were paid *per diem*, and in others they were all volunteers. From this federal official's perspective, membership in justice committees has been all over the map. Perhaps this can be attributed to the lack of a strategic planning process or government-imposed standards or guidelines for implementation.

In terms of collaborative resources, all participants from the communities and from government mentioned that working with others has been a key ingredient to ensuring the survival of committees, as was also mentioned by the crime prevention literature on building sustainable community programs (i.e. Public Safety Canada, 2003). The interviews revealed that committees had the strongest working relationships with the police and social services within their community. Where collaboration seemed moderate was between the committee, the crown and the judge. One explanation for this was said to be the product of a system where communities rely on a rotational court. As a result, the judge and the crown are frequently changing, forcing the committee to constantly create new partnerships with each judge and crown that works in their jurisdiction. Another reason for the lack of collaboration can perhaps be the nature of the relationship between the criminal justice system and Aboriginal people in which historical injustices have led to the desire to create a separate system of justice.

In another community where there was an established court nearby, one interviewee stated that the Crown and judge were still not completely confident in the restorative methods used by the committees; therefore they were not quite comfortable referring cases to the committees. According to the literature on restorative justice, this is often a common

problem as convincing those working for a retributive justice system of the values of a restorative approach is often one of the biggest challenges for any restorative community justice program.

Where collaboration seemed to be the weakest was between the committees and the federal and provincials government. In fact, every participant mentioned having little if any relationship with governments. Instead, most communities employed the services of a consultant to act as liaison in discussions with provincial and federal governments. Interestingly, when speaking to government officials it seemed that they felt they had a better collaboration with the communities than the communities reported, as the lack of collaboration with communities was never reported as a problem by the government officials interviewed.

In terms of collaboration with governments, committee members mentioned that they felt that little effort has been put forth on the government's behalf to create partnerships with the committee members or to formally recognize the value of the committees. For example, one interviewee reported that the government held a conference on community-based approaches to crime and invited individuals from various community services but failed to invite members of the justice committees. This lack of collaboration was also expressed by committees from the Northwest Territories who claimed that more collaboration and support was needed from justice officials. Committees in Nunavut, Alberta and Ontario reported that the courts needed to refer more cases to their committees (Hann and Associates, 2003: 20, 25, 30, 41).

The lack of political recognition and commitment on behalf of the government was also an obstacle expressed during the interviews as well as by the *Mobilization Committee on Community Justice Initiatives* (2006). According to the committee;

Real recognition of the importance of community justice initiatives by governments would mean that they have a strong belief that these initiatives are making a difference for communities, that they are important and deserve to be supported adequately, both financially and politically. Strong commitment would also mean that these government bodies would have long lasting funding available for these initiatives, would promote and support their existence to the traditional justice system and to the general public (12).

In fact, to be officially recognized as an extrajudicial sanction under the YCJA, a justice committee must be designated by the Attorney General. According to the provincial official, the paperwork for such designation was only recently created, meaning that prior to this there was no mechanism in place for a justice committee to be appointed under the YCJA in Quebec. Instead justice committees in Aboriginal communities in Quebec were established strictly because of alternative measures programs offered through federal and provincial initiatives in Aboriginal communities. Currently, there has yet to be a committee in Quebec who has requested official designation under the YCJA by the Attorney General, and according to the provincial official, it is unlikely that a committee would seek this designation because it would not give them any more control than they currently have. If anything, designation would be more for political purposes than for practical ones.

Though official designation would not greatly affect the functioning of a committee or their ability to intervene in youth cases, the fact that the paperwork was not created for it until recently speaks to the fact that little effort was made on the part of the Attorney General to recognize the existence of justice committees currently in place across Quebec. This leads us to wonder whether or not governments are truly committed to developing and supporting justice committees in these communities.

The need for more political recognition was also identified by the provincial government official interviewed who stated that:

We need to corroborate what they [the committees] are saying to their people, we need to say that we have confidence in that structure. We need to maintain our objective which is to recognize that they are an essential part of the solution. We have to maintain our support and our recognition of the communities interested in implementing them (Interview # 7).

**Table 7: Recommended vs. Actual Resources**

	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>PHYSICAL</b>	<ul style="list-style-type: none"> <li>○ <b>Meeting space:</b> a public facility for meeting</li> <li>○ <b>Communication devises:</b> phone and phone number, fax and fax number, postage, envelopes, paper, email account, computer</li> <li>○ <b>Administrative:</b> agreement forms, request to the justice committee, consent to collaborate, implementation of agreement and follow-up, referral, evaluation, financial report spreadsheets etc.</li> <li>○ <b>Security:</b> filing cabinet or secure computer</li> </ul>	<ul style="list-style-type: none"> <li>○ All had access to the physical resources they needed. The tools required varied by community and the activities of the committee.</li> </ul>

<b>HUMAN</b>	<ul style="list-style-type: none"> <li>○ <b>1 Coordinator</b> / manager (full- time), or regional coordinator</li> <li>○ <b>1 Secretary</b> or administrator (part-time) for communities with larger case loads</li> <li>○ <b>5+ members- volunteers</b> 18 years and older with a good reputation and no political ties to the community</li> </ul>	<ul style="list-style-type: none"> <li>○ Most committees had a coordinator; some had an administrator or a regional coordinator who oversaw a number of committees.</li> <li>○ All had a part-time administrator or secretary.</li> <li>○ Between 5 and 20 members where reported. Members were mostly citizens and elders who felt comfortable participating. One community reported having difficulty recruiting skilled individuals so they hire any community members willing to participate.</li> </ul>
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	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>FINANCIAL</b>	<ul style="list-style-type: none"> <li>○ <b>Salary for coordinator</b></li>   <li>○ <b>Secretarial support</b></li>   <li>○ <b>Members' honoraria</b></li>   <li>○ <b>Meeting space and snacks for meetings</b></li>   <li>○ <b>Utilities and rent</b></li> <li>○ <b>Office supplies</b></li> <li>○ <b>Travel for coordinator and members</b></li>   <li>○ <b>Promotion/ information</b></li>   <li>○ <b>Prevention fund</b></li>   <li>○ <b>Training</b></li>   <li>○ <b>Administration</b></li>   <li>○ <b>Evaluation</b></li> </ul>	<ul style="list-style-type: none"> <li>○ The salary reported for coordinators ranged from \$32 to \$40 thousand/ year (depending on the location of the community).</li> <li>○ Financial support was provided to all committees to cover the cost of a part-time secretary.</li> <li>○ Financial support was provided for some members' honoraria for attending meetings and training sessions but was said to be lacking.</li> <li>○ All reported having meeting space but most reported sharing it with other organizations.</li> <li>○ Mostly in-kind.</li>   <li>○ Office supplies were provided.</li> <li>○ Travel costs were provided; most reported needing more financial support for travel.</li> <li>○ No financial support was reported for promotion or information sharing.</li> <li>○ No financial support was reported for crime prevention.</li> <li>○ Financial support was provided for training on mediation and circle keeping.</li> <li>○ Some financial support was provided for administration.</li> <li>○ No financial support was provided for evaluation.</li> </ul>

	<b>RECOMMENDED</b>	<b>ACTUAL</b>
<b>COLLABORATIVE</b>	<ul style="list-style-type: none"> <li>○ <b>Police</b></li>   <li>○ <b>Social Services</b></li>   <li>○ <b>Crown</b></li>   <li>○ <b>Judges</b></li>   <li>○ <b>Court Workers</b></li>   <li>○ <b>Band Council</b></li>   <li>○ <b>Elders or cultural services</b></li>   <li>○ <b>Department of Justice Canada/ Attorney General of Canada</b></li> <li>○ <b>Department of Justice Quebec</b></li>   <li>○ <b>Consultant, trainers, mediators</b></li> </ul>	<ul style="list-style-type: none"> <li>○ Most reported working with police, but never stated the nature of the collaboration.</li> <li>○ Most reported having to rely on social services for referrals. Some reported having a lack of services in their communities.</li> <li>○ Most reported having worked with the Crown. Some reported having trouble with itinerant courts where the Crown changed every few months.</li> <li>○ Most reported needing the support of the judge to handle cases. Some reported difficulties receiving support from the judge.</li> <li>○ Most reported a good relationship with Native Court Workers for referrals.</li> <li>○ Some mentioned receiving support from their Band Council.</li> <li>○ Most reported that help from Elders was crucial. Few reported having access to cultural services.</li> <li>○ Most reported having little or no collaboration with Justice Canada, and Justice Quebec.</li>   <li>○ All reported hiring a consultant to assist with training and implementation of the justice committee.</li> </ul>

### **5.3 Activities**

Activities refer to what a program does (outputs). Activities engaged in by a committee are typically based on the objectives set out in an annual agreement made between the committee and the provincial and federal governments. Annual activities reports are compiled by the committee and submitted to the government as a form of evaluation. In a perfect world, it would be favorable to find that the committees were able to meet their annual objectives by engaging in all activities outlined by each level of government. In reality a lack of capacities will in fact diminish the activities that a committee can offer its community. As such, it is important to consider what is being done and what is not being done and how this is related to the kinds of capacities available. The following section is based on the activities discussed by the committee members during the interviews.

#### What is happening?

In the interviews participants reported that committees were engaging in the following activities; referrals, giving advice, mediation, information sharing, supervising, mentoring, and diversion. During the interviews with committee members, the most frequently mentioned service was referrals. More specifically, the committee helps to coordinate services such as addictions counseling, child and family services, community service orders, anger management programs, or victim services. This was also found by Hann and Associates (2003) in their National Survey of Youth Justice Committees in Canada, as well over 60% of committees of the 113 consulted reported referrals as being a service they frequently offer (15). Throughout the interviews it was found that in two communities, referrals through the committee were ordered by the court and in one community, by the committee itself. With a closer look at the characteristics of each

committee it would seem that the rate of referral was dependent upon the types of services available within the community and the nature of the collaboration with these services. For example, the participant from the committee who reported making their own referrals stated that having a large number of services to refer their clients to, as well as a strong collaboration with community services made it easier for their committee to refer their clients without the help of the courts.

On the other hand, another participant reported a lack of services due to small the size of their community. In such cases, clients were either unable to receive the services they needed, or had to leave to receive services in neighboring communities. Another participant mentioned having difficulty coordinating services for their clients due to the lack of collaboration between their committee and their community services. Justice committees in their implementation stage or those without strong links with the police or social services, reported that it is often difficult to receive recognition and support within the community. This is extremely problematic for a justice committee because it relies on the relationships it has with the community and the courts to receive its clientele, and to maintain its presence within the community.

Another popular activity is giving advice to both victim(s) and offender(s). More specifically, committee members advise their clients on the criminal justice process, what to expect, what their rights are and so on. This service can be provided to anyone involved in the justice system, and is not strictly limited to minor youth cases. One participant mentioned that their committee is the only organization within the community that will attend a court date to support their community members, or invite a victim and offender to sit down and help them understand what is happening to them. Attending court dates with offenders was said to be an extremely important task as the federal official interviewed

mentioned that one of the largest issues for the courts is that Aboriginal offenders often fail to attend their court dates. Having a person who is willing to attend with the offender increases the chances that the offender will appear.

Also, some participants reported giving sentence recommendations to the crown or judge in cases involving their community members. Such situations have only begun to occur as most committees are only beginning to create relationships with justice professionals. Further, the consultant interviewed mentioned that it is more common for committees to help follow-up on measures imposed by courts. This suggests that committees are currently taking direction from the courts (rather than the other way around) which signifies that the criminal justice system is simply expanding its mandate of control rather than giving communities the autonomy to address crime and victimization within their jurisdiction.

All participants mentioned that their committee offered mediation. Similarly, Hann and Associates (2003) reported that over 40% of 113 committees consulted across Canada offer mediation services such as victim-offender mediation and family group conferencing to their clients (15). During the interviews, all mediation services were reported to be in their preliminary stages, meaning that either committee members were still receiving training on mediation or that committee members were trained in mediation but had only engaged in it a few times on their own. Instead, mediations were reported to be conducted by outside mediators hired to come in and provide conflict resolution sessions to the committee's clients.

The consultant interviewed stated that a number of committees had yet to do mediations on their own due to their lack of comfort in conducting sessions without qualified facilitators or because of conflicts of interest between committee members and clients. As

such, committees have often asked her to travel to the community to conduct their mediations.

Though mediation was not used extensively by the members interviewed, many participants reported providing some counseling to their clients or giving them guidance when required. Also, most mentioned that it was a goal of their committee to collectively decide on a solution when a crime occurs, but many have yet to use tools like mediation to address the underlying factors which lead to the conflict in the first place.

Most participants also reported engaging in information sharing and stated that it was their responsibility to share information with the courts, and relevant community services. For example, when offenders supervised by the committee comply or do not comply with the measures assigned to them it is the committee's role to inform the police, social services or courts.

Further, the committee is also supposed to provide information to the public concerning their role within the community, as well as on policies and procedures related to the YCJA. All committee members interviewed stated that their committees have only begun this process and hope to expand on it in the future. More specifically, committees have attempted to hold some public information sessions, but not many citizens have attended. Also, none of the committee members interviewed reported knowing enough about the YCJA to be comfortable enough informing others. This lack of confidence and public support will in no doubt affect any efforts the committee makes to mobilize the community for action.

In most interviews participants also mentioned having to supervise and mentor young offenders within the community. Similarly, Hann and Associates (2003) found that between 30-35% of justice committees consulted across Canada offer some form of mentoring to their

clients, while approximately 70% supervise the completion of measures (15). During the interviews, one participant mentioned also having to supervise offenders due to the lack of detention facilities in his area. For the most part, supervision of offenders was reported to be a duty assigned by the courts, while mentoring was an activity that elders have tried to engage in for the benefit of the youth.

Though diversion from the court system was also mentioned during the interviews as one of the principle objectives of youth justice committees, it would seem that the word diversion has become synonymous with the word referral. In most cases it was reported that committees had diverted offenders from the system by coordinating with other services within the community such as addictions counselors, or anger management programs. During two interviews the participants mentioned wanting to utilize cultural activities for diversion such as bush camps or elder-guided activities, but mentioned requiring more financial support to do so.

**Table 8: Objectives desired vs. actual achievements**

<b>Objectives desired by the communities</b>	<b>Actual achievements</b>
Develop a range of alternatives to custody	-
Provide timely and accurate information	+
Supervise and help offenders and ensure access to services needed	+
Act as a liaison between the accused, the community and justice personnel	+
Help justice officials be more aware of aboriginal traditions, cultures and values	-
Honor the rights and needs of victims and witnesses	+
Increase community awareness of crime and its effects through public education	-
Strengthen traditional intervention and prevention practices	-
Engage and assist parents	-

### What is not happening?

In terms of the objectives of justice committees set by the federal, provincial and local governments, there were a number that were not yet achieved at the community level due to a lack of capacities. For example, to date the majority of committees have yet to do the following: advise governments; provide reconciliation and healing; conduct conferences; educate the public; apply solutions which encourage accountability; take measures intended to decrease recidivism and the rate of aboriginal people convicted of an offence; or conduct initiatives to increase awareness of aboriginal culture within the justice system.

According to Hann and Associates (2003), less than 30% of justice committees consulted across Canada provides advice on youth justice matters (16). During the interviews, it was found that all Aboriginal justice committees in Quebec interviewed have yet to begin advising governments on whether YCJA provisions are being complied with, or on the policies and procedures related to the YCJA. In fact, not one participant mentioned advising governments as an activity that their committee engaged in. This is perhaps due to the lack of knowledge committee members have about the YCJA, making it difficult for them to feel comfortable enough to advise others. Further, it would seem that governments have yet to seek advice or recommendations from the committees which can perhaps be attributed to the fact that none have been officially designated. Until justice committees are officially recognized and more time and money is invested in creating a partnership between community and governments, this activity will not likely occur.

To date, the majority of interventions engaged in by the committees have been focused on addressing crime problems rather than their underlying conditions. As a result, committees have yet to truly create reconciliation and healing among affected parties. Until the committee members become more comfortable with offering restorative processes such

as mediation services or circles, they will not be bringing affected parties together to attempt reconciliation or healing. In order to offer reconciliation to their clients, the committee members require more training in mediation and conflict resolution. Also, committees require more support from court and corrections professionals so that reconciliation and healing becomes both a recognized and encouraged activity of the committee.

Conferencing under the YCJA was also not reported by any participants. Because it is up to the judge, justice of the peace or crown attorney to call a conference under the YCJA, this perhaps signifies either a lack of knowledge on the part of justice officials concerning the committee's ability to offer conferencing, a lack of interest in working with them, or a result of the fact that none of the justice committees in Aboriginal communities in Quebec have been officially designated under the YCJA.

In terms of educating the public, Hann and Associates (2003) reported that more than half (53%) of the justice committees consulted across Canada offer public education (16). In the interviews, most participants reported that community members were only beginning to learn about the committee, their purpose and their role. Also, committee members reported having insufficient knowledge on the YCJA, prevention and intervention techniques to feel comfortable enough to share information with the community, or to be in a position to educate others. Some participants mentioned wanting to conduct public education sessions, but were still trying to organize it with the support of other services within the community. Further, some noted that little financial or political support from the government has been provided to help the committees educate the public.

With regards to social reactions which encourage accountability, there has been no significant increase in this area beyond what has already been encouraged through the traditional justice system. For instance, referral to an anger management program will not

provide the offender with the opportunity to be held accountable to their victim(s). Until committees are sufficiently trained in mediation and conflict resolution, they will not be able to ensure that the offender is held directly accountable to their community or those they harmed.

Though committees are also supposed to be utilized as a way to decrease recidivism and the rate of Aboriginal people convicted of an offence, they have yet to achieve this goal on their own. Until committees offer services which can deal with the underlying causes of offending behaviour, they will not be reducing recidivism any quicker than the traditional system is doing currently. Also, until the committees get the support they need to practice crime prevention activities, the number of people convicted will not decrease, especially since most committees only offer their services to offenders who have admitted guilt. According to Hann and Associates (2003), less than 35% of justice committees across Canada currently engage in crime prevention activities (16).

Lastly, according to Hann and Associates (2003), fewer than 25% of justice committees across Canada inform others about Aboriginal culture (15). Interviewees stated that judges and crown attorneys are more aware of the needs of Aboriginal people than they were in the past, but much more needs to happen. For instance, justice officials must become more open to taking direction and recommendations from the justice committee. In practice, it is often the committee that takes direction from the crown or judge. For justice officials to become more aware of Aboriginal culture there needs to be recognition on their part that the committee is a necessary and desired resource. Currently, this lack of recognition and collaboration between the committees and the criminal justice system has led to little if any information sharing.

#### **5.4 Other Comments from those Interviewed**

After discussing the activities engaged in by the committees, participants were asked to identify both the beneficial resources as well as the barriers to success for the committees in terms of meeting their objectives. In general, participants stated that the most beneficial resource to them was the committee members. One participant stated that their clients know that the members care about them and that they are there to provide support and guidance. When clients go to court, it is the committee members who come to support them. Further, because the committee is located within the community it is easily accessible to the clients and it can respond promptly when they are needed. In cases involving youth, Elders were said to be a crucial resource because they are able to reach the youth in a way that reconnects them to their heritage and culture.

Another beneficial resource mentioned was collaborations within the community. Forging partnerships with other community services was said to be an important ingredient for all committees. Without these connections, the justice committee would not be able to provide the services or support their client's need.

When interviewing government officials, they were asked to comment on what they felt had been achieved so far by implementing justice committees in Aboriginal communities. Both the provincial and federal official stated that the communities are beginning to recognize that they can have more control over the social issues that affect their community. Further, this sense of control has made communities feel more confident in their ability to intervene in social issues and to contribute to a more peaceful society.

In terms of obstacles to success, one participant mentioned that a problem for their committee was the unwillingness of the courts to work with the committee. Due to the current lack of collaboration and recognition, some participants from northern communities

reported feeling as though they constantly have to convince justice officials that their committee can effectively intervene, even though using community-based programming in Aboriginal communities has been encouraged by both the federal and provincial governments. In response to this challenge, the federal government official suggested that communities negotiate a protocol for operation between the committee, the police and the courts. Regardless of who is working, referral to a committee would be considered a necessary procedure that must be considered by all justice officials working with a given community. Though this was an excellent suggestion, it would seem that only individuals working for the provincial and federal governments, or the justice officials themselves could actually order the establishment of such a protocol as currently the justice committees lack the power and authority to do so.

Also, because of the obstacles many committees face trying to receive recognition for their work; they are often forced to work for the system rather than for the community. As a result, there is sometimes a lack of attention paid towards the victim(s) and/or family members affected by the crime which contributes to the inability to obtain reconciliation between affected parties.

Another participant stated that they thought an obstacle was educating the public in regards to the role of the committee. According to this participant, there is still a lot of confusion around what a justice committee is and the services they offer. Without the support of the community or the courts, most committees could not operate the way they are intended to. This also ties into an obstacle related to the current *culture of crime control* in which society is believed to hold more punitive social values in regards to crime<sup>15</sup>. According to

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<sup>15</sup> In his book *The Culture of Control: Crime and Social Order in Contemporary Society* (2001: 150-152), David Garland discusses a shift from the 1960's to the present day in which the voices of the public and

one respondent, it is difficult to make the community see the benefit of a more restorative approach to crime. Instead, many community members and even justice officials are concerned with blaming and punishing, rather than healing and reintegrating. Until there is a recognition and belief that the justice committee can effectively deal with crimes and conflicts affecting the community, there will always be a lack of consensus on the values of a restorative approach.

Lastly, one obstacle mentioned by the federal government representative was the fact that it takes a number of different people to make a program like a justice committee work. Where we have seen successful and sustainable committees in operation there has typically been a combination of support from the federal and provincial government, the community, the police, judges, prosecutors, and other federal department like public security and corrections. Without all these groups buying into it, a justice committee just will not work. Further, according to the provincial official, committees need recognition from all its partners in order to succeed. Communities need to be conscious of the fact that they cannot develop justice initiatives on their own; they need to build lasting partnerships with a variety of agencies and departments in order to make it work. And this takes a lot of time, work and perseverance.

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lawmakers have become increasingly dominant. The professional middle class who were once in control of guiding social policy have not only lost their influence on penal policy, but have also failed to oppose the punitive nature of current social policies. Garland argues that this lack of dissent occurred not only as a result of pressures from outside forces but also because they themselves have become increasingly attached to more punitive social values. Because of a failure to counteract this view of crime or to offer any alternatives, there has been a rise of an increasingly punitive crime control policies.

# VI

## CONCLUSION

### Summary of Research

In the last twenty years there has been a growing desire to devolve justice interventions to the level of the community. These interventions have commonly been packaged as restorative community justice programming and have been utilized in a number of Aboriginal communities across Canada. Though these programs seek to empower communities to take ownership over the crimes that affect their citizens, little research has been conducted to date on the ability of communities to deliver these interventions in an effective and sustainable manner. An example of one such initiative is the justice committee program, an extrajudicial program which has been implemented in a number of Canadian communities to address minor youth cases and cases involving Aboriginal people.

Over the last three years I have had the opportunity to work with a number of justice committees in Aboriginal communities across Quebec. Throughout this time I found that a number of these committees were struggling to function due to limited capacities. Though I also wondered about the effectiveness of these committees, I found it more pressing to investigate the types of capacities recommended for Aboriginal communities to implement justice committees in a sustainable manner, as well as what capacities were perceived to be currently present in these communities.

In order to answer my research questions I conducted a process evaluation of the justice committee program. Through careful consideration of the objectives of the program at all levels of government as well a literature on building sustainable programs, I was able to

describe the types of capacities recommended to meet these objectives. Also, in order to assess the capacities currently available to the committees, I conducted interviews with individuals working closely with justice committees in Quebec.

The findings of this thesis revealed that various capacities were either lacking or only sporadic among the communities studied. For instance, knowledge of legislative changes in the YCJA, the legal rights of the accused and victims, restorative and participatory justice principles, and what works in crime prevention and community justice were inconsistent among communities. Also skills such as administration, crime prevention, information sharing, and community mobilization, community-problem solving, educating, training and advising others were either lacking or inconsistent. Lastly, in many cases, the financial, human and collaborative resources were deemed to be insufficient.

Of all capacities assessed, the biggest challenge for communities was found to be the lack of financial and collaborative resources. Financial support was said to be lacking by all communities and even members of government. As a result of the lack of financial support provided to the committees, a number were not able to meet their objectives. For instance, because of budgetary restraints, committees had difficulty attending training sessions offered in other communities, engaging in cultural activities, educating the public, and engaging in crime prevention activities. I also found that that most justice committees operated in survival mode, stretching resources as thin as possible in order to offer their services to their community. Lastly I found that collaboration between justice committees and justice officials was either minimal or completely lacking, making it difficult for committees to receive cases and recognition both publicly and politically. My view is that with sufficient political and financial support through the development of protocols for operations between justice officials and committees, as well as increased public recognition and support from provincial

and federal governments, the committees could have more access to the skills, knowledge and resources this thesis found to be lacking.

Despite the fact that my research is limited to the experience of Aboriginal communities in Quebec, investigating the capacities recommended to implement justice committees could potentially lend some insight into the sustainable implementation of future justice committees in both Aboriginal or non-Aboriginal communities. Currently, these committees are not only being relied upon to handle minor youth offences and Aboriginal groups, but are also beginning to be utilized for non-Aboriginal offenders, adult cases and serious offences in some provinces. As such, the implications of implementing a committee in a community that lacks the capacities to support its operations could prove to be even more damaging.

### Recommendations for Policy, Practice and Research

Objectives are fundamental in determining the types of capacities needed for a committee to exercise their desired activities. When the objectives of a program are inconsistent, then it is likely that identifying the required capacities will be as well. Without a common vision of a program's purpose, the capacity requirements and activities will in no doubt be all over the map. As a result, policies and standards for operation should be created so that each level of government is starting from the same foundation. We should be focusing on building the same structure rather than three different versions of it.

The capacities, resources, and support required to implement a sustainable committee will likely differ from community to community. As result, we must always consider the time it takes to develop a response that best meets the needs and abilities of the community. We cannot enforce an intervention at the federal or provincial level without providing

communities with the tools they need. According to the provincial government official interviewed, “it is fine to have an objective at a political level, but we have to help the communities develop the tools they need to build it”. Also, if we want the communities to take over in the delivery of justice, we cannot assume that they will approach justice with the same manner as the government or the criminal justice system. Justice committees should not be viewed as small extensions of the criminal justice system, but rather as a system on its own. We must allow communities to define what justice means to them so as to create a response that has meaning to the community itself.

In order to encourage the implementation of sustainable committees, more collaboration on all levels is also suggested. For instance, communities need to be able to meet with other communities in order to develop a network of support and information sharing. Also, governments need to become more available to communities in order to forge partnerships, and to create public and political recognition of, and commitment to the justice committee program. Further, the courts need to develop protocols for operations which openly recognize and reinforce the value of justice committees and encourage justice officials to collaborate with communities. Furthermore, integration at the federal and provincial level is required if we truly want a community approach to work for both minor youth cases and Aboriginal victims and offenders as there are numerous departments that could function to deliver services to the communities in a more efficient manner, but are currently not communicating effectively with each other.

In terms of practice, communities need to approach the implementation of any program with a strategic plan which outlines what the community would like to achieve as well as a detailed plan of how they are going to achieve it. Communities need to carefully identify their problem, the objectives in addressing it, design and implement a program that

addresses those objectives, and evaluate the results to assess whether the program has effectively dealt with the problem. Also, communities need champions (committed individuals to begin the process), and hard working and dedicated people to sustain it. This is perhaps something to consider when thinking about the financial capacities required to support the committee's human resources. Volunteers will likely be your champions, but paid workers will bring sustainability, and compensation will indeed create a sense of recognition for their time and hard work.

In terms of future research, I recommend further evaluations of both process and impact. Unfortunately, the restrictions imposed by the ethics board at my University made it quite difficult for me to gain access to the communities I intended to visit. Had I been able to conduct interviews with more committee members from Aboriginal communities, I could have provided a less limited and perhaps more critical account of the current state of justice committees in these communities. I feel hopeful that further evaluation of the implementation of justice committees could provide communities and governments with the information they require to implement justice committees in a sustainable manner and could also perhaps provide social science research with a practical account of how justice interventions have been decentralized to the level of the community.

Impact evaluations of the justice committee program could perhaps demonstrate that justice committees are not only effective in reducing crime and victimization, but also more effective than the mainstream justice system in reinforcing accountability, and encouraging the reconciliation of conflicts. This could be likely attributable to the people-orientated nature of the intervention rather than the process-oriented intervention offered by the criminal justice system. But in order to see this success come to life, we must invest the necessary capacities in these committees to give them a real chance to show what they can

accomplish. Currently, due to lack of capacities and information regarding the required capacities, they are only offering a fraction of the services they could be, and the services they are able to offer for the most part reflect the vision of the current system rather than the needs and abilities of the communities.

### Conclusions

The focus of the community approach is to improve a community's ability to deal with local problems, realize common goals and to promote community well-being. Programs like justice committees are a response to improve a community's ability to handle conflict internally instead of being completely dependent on outside systems. With this in mind, a community's capacity to deliver justice programs can be built in many ways, but cannot come exclusively from the outside. As such, we must always consider a community's ability to address given issues before handing over responsibility. Responsibilization is an avenue of empowerment itself, but without the resources and the control to handle that responsibility, confidence and capacities can be further eroded.

Communities with the highest risk factors are typically those most likely to lack the capacity to handle the underlying issues that lead to offending and victimization. Aboriginal communities are one such example, as high rates of crime and victimization in these communities signify a lack of capacity to effectively handle conflict on their own. This is not to say that these communities will never have access to the capacities they need to deliver sustainable justice interventions; rather it is important to assure the capacities identified as necessary for the sustainability of restorative community justice programs are in place or at least accessible before asking such communities to deliver justice interventions.

The perception that communities should own their problems assumes that communities are able to deliver justice on their own. In reality, they require the collaboration of outside agencies such as governments to ensure the sustainability of the program. It takes a number of willing parties to make these interventions work. Programs like justice committees theoretically provide an avenue in which communities and government can work together to create a more responsive justice system. In practice, what we are seeing is a devolution of justice interventions to the community level which claims to bring community empowerment, but really is likely attributable to the government's desire to cut court costs and case loads. If governments truly want to empower communities through programs like justice committees, then they need to invest in them, commit to them, acknowledge and recognize them. Only when communities can effectively deliver sustainable projects by relying solely on local capacities, can we assume that communities can take full ownership of their problems. Thus ownership must extend beyond the confines of the community. Like the vision of any restorative community justice initiative, it must be a participatory response.

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#### Interviews

- 1) Justice Committee Administrator. February 12, 2007. Montreal.
- 2) Justice Committee Coordinator. February 12, 2007. Montreal.
- 3) Justice Committee Member. February 13, 2007. Montreal.
- 4) Justice Committee Member. February 13, 2007. Montreal.
- 5) Justice Committee Regional Coordinator. February 13, 2007. Montreal.
- 6) Justice Committee Consultant. February 16, 2007. Montreal.
- 7) Quebec Provincial Government Official. June 15, 2007. Quebec. Telephone interview.
- 8) Federal Government Official. June 15, 2007. Ottawa. Telephone interview.

## APPENDIX A

### Break-down of Recommended Financial Expenses

<b>Financial expenses<sup>16</sup></b>	<b>Cost</b>
Salary for coordinator	\$50, 000
Isolated communities (where cost of living is higher)	\$60, 000
Secretarial support (part time)	\$14,000
Isolated communities	\$20,000
Members honorariums	\$10,000
Rental space and snacks	\$2,500
Utilities and rent	\$9,500
Office supplies (1 year)	\$5,000
Following years	\$1,500
Travel for coordinator and members	\$10,000
Isolated communities	\$15,000
Promotion/ Information	\$4,000
Prevention youth fund	\$11,000
Training	\$10,000
Isolated communities	\$15,000
Administration	\$4,850- 6,200
<b>Total cost of functioning</b>	<b>\$58,350</b>
<b>Isolated communities</b>	<b>\$69, 700</b>

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<sup>16</sup> The financial expenses for the functioning of justice committees were taken from recommendation given by the Mobilization Committee on Community Justice Initiatives in Canadian Aboriginal communities which convened in March of 2006. The committee was formed by members of six different justice committees from Quebec and the Maritimes. The projected expenses were based on three factors, 1) the recognition of the position of the coordinator as a management and intervention position, 2) comparison studies for an equitable salary for a similar position in an institution, 3) appropriate base funding required for the functioning of community justice initiatives.

## APPENDIX B

### Consent Form

#### Justice Committees in Aboriginal Communities: A Study of Community Capacities

**Conducted By:**

Nicole Wrong (BA, Master's candidate)  
Department of Criminology, Faculty of Social Sciences  
University of Ottawa

**Supervisor:**

Dr. Ross Hastings (PhD)  
Department of Criminology, Faculty of Social Sciences  
University of Ottawa  
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**Invitation to Participate:** I am invited to participate in the abovementioned research study conducted by Nicole Wrong and Dr. Ross Hastings for the completion of a Master's research thesis project.

**Purpose of the Study:** The purpose of this study is to explore how Justice Committees have been implemented in Native communities across Quebec. Questions will focus on my role with Justice Committees as either a service planner or deliverer. I will be asked questions regarding Justice Committee goals and objective, as well as my understanding of the program's inputs, activities and outputs. The aim of this study is to contribute to a better understanding of Justice Committees and their implementation.

**Participation:** My participation will consist of ONE interview lasting approximately 30 minutes. During this interview I will be asked to answer questions concerning my experience with Justice Committees so long as I feel comfortable to do so. The interview will be audio- tape recorded if and **only** if I consent to it. If I do not wish for the interview to be audio-tape recorded, I can ask the researcher to take hand-written notes instead. I am allowed to stop the interview at anytime, choose not to participate at any time and ask as many questions as I want.

**Risks:** My participation in this study will entail that I discuss my own experiences, thoughts and perceptions which may cause me to feel exposed or uncomfortable. I have received assurance from the researcher (Nicole Wrong) that every effort will be made to minimize this risk including: not using my name in any subsequent publications; not discussing the content of my interview with anyone other than her Master's supervisor, Dr. Ross Hastings; keeping the tapes and records of my interview locked-up in a secure office at the University of Ottawa, and destroying all records of my interview after 5 years.

**Benefits:** My participation in this study will contribute to a greater understanding of the implementation of Justice Committees. More specifically, I will provide insight into the implementation of Justice Committees in Aboriginal Communities across Quebec. I will not be compensated financially or otherwise for my participation.

**Confidentiality and anonymity:** I have received assurance from the researcher that the information I share will remain strictly confidential. I understand that the contents of this study will be used only

for a Master's thesis. My confidentiality will be protected as no one will know that I participated, and only the researcher will attend the interview and have access to the data. The audio-tape recording from my interview will be number coded and my name will not appear on the interview. Also, this consent form will be kept separate from my interview. My anonymity will be protected, as my name will not be published.

**Conservation of Data:** The data collected from this interview (audio-tape recordings and written notes) will be kept in Dr. Ross Hastings' locked office at the University of Ottawa. Any electronic copies of the data will be stored on the researchers laptop protected by a password. The data gathered during this study will be kept for five years at which point it will be destroyed (deleted and shredded). Only the researcher, Nicole Wrong, and her supervisor, Dr. Ross Hastings, will have access to the data.

**Voluntary Participation:** I am under no obligation to participate and if I choose to participate, I can withdraw from the study at any time and/or refuse to answer any questions, without suffering any negative consequences. If I choose to withdraw, all data gathered until the time of withdrawal will be destroyed.

**Acceptance:** I, \_\_\_\_\_, agree to participate in the above research study conducted by Nicole Wrong of the Department of Criminology at the University of Ottawa, under the supervision of Dr. Ross Hastings.

If I have any questions about the study, I may contact the researcher or her supervisor.

If I have any questions regarding the ethical conduct of this study, I may contact the Protocol Officer for Ethics in Research, University of Ottawa, Tabaret Hall, 550 Cumberland Street, Room 159, (613) 562-5841 or [ethics@uottawa.ca](mailto:ethics@uottawa.ca).

There are two copies of the consent form, one of which is mine to keep.

- Yes, I consent to my interview being audio- tape recorded.
- No, I do not want my interview to be audio-tape recorded.

Participant's signature: \_\_\_\_\_ Date: \_\_\_\_\_

Researcher's signature: \_\_\_\_\_ Date: \_\_\_\_\_

## APPENDIX C

### Formulaire de Consentement

#### Justice Committees in Aboriginal Communities: A Study of Community Capacities

**Accompli Par :**

Nicole Wrong (BA, candidate de maîtrise)

Le Département de Criminologie, la Faculté des Sciences Sociales

Université d'Ottawa

**Superviseur:**

Dr. Ross Hastings

Le Département de Criminologie, la Faculté de Sciences Sociales

Université d'Ottawa

(613) 562-5302, ross.hastings@uottawa.ca

**Invitation à Participer :** Je suis invité à participer à la recherche nommée ci haut qui est menée par Nicole Wrong et son superviseur Dr. Ross Hastings pour l'accomplissement d'une thèse de maîtrise.

**But de l'Étude :** Le but de cette étude est d'explorer comment les comités de justice sont mis en application dans les communautés Autochtones à travers le Québec. Les questions se concentreront sur mon rôle comme un planificateur ou un travailleur impliqué dans des comités de justice. On me posera des questions sur les buts et les objectifs des comités de justice, aussi bien que ma compréhension des contributions, des activités, et des résultats du programme.

**Participation :** Ma participation consistera essentiellement d'une entrevue durant environ 30 minutes. Pendant cette entrevue je serai invité à répondre à des questions au sujet de mon expérience avec des comités de justice à condition que je sois à l'aise avec la procédure. L'entrevue sera enregistrée sur une bande audio si et seulement si je veux qu'elle soit. Si je ne veux pas que l'entrevue soit enregistrée je peux demander une alternative, soit des notes écrites à la main. À tout moment je peux demander d'arrêter ou de remettre l'entrevue, et je peux poser des questions si je veux.

**Risques :** Ma participation impliquera que je discute mes propres expériences, pensées et perceptions qui peuvent me faire sentir exposée ou inconfortable. J'ai reçu l'assurance du chercheur (Nicole Wrong) que tout effort sera fait pour réduire au minimum ces risques par exemple; mon nom ne sera pas publié, et le contenu de mon entrevue sera seulement discuté avec son superviseur Dr. Ross Hastings. Je serai également assuré que les enregistrements sur la bande audio ou les notes écrites à la main de mon entrevue seront sauvegardés dans le bureau de Dr. Ross Hastings à l'Université d'Ottawa, et détruit 5 ans après mon entrevue.

**Bienfaits :** Ma participation à cette recherche contribuera à une plus grande compréhension de l'exécution des comités de la justice dans les communautés Autochtones à travers le Québec. Je ne serai donné aucune compensation pour ma participation.

**Confidentialité et anonymat :** J'ai l'assurance du chercheur que l'information que je partagerai avec elle restera strictement confidentielle. Je comprends que les réponses que je donne seront utilisées seulement pour la thèse d'une maîtrise. Ma confidentialité et mon anonymat seront protégés parce que ma

participation et mon entrevue seront maintenues privées. Mon entrevue sera numérotée, et mon identité n'y figurera là-dessus. En outre, mon nom n'apparaîtra pas dans la publication finale de la thèse. Ce formulaire de consentement sera sauvegardée et séparé de la bande audio de mon entrevue.

**Conservation de Données :** Les données recueillies seront sauvegardée dans le bureau de Dr. Ross Hasting à l'Université d'Ottawa. Toutes les copies électroniques des données seront préservées sur l'ordinateur du chercheur et protégées par un mot de passe. Toutes les données recueillies pendant cette étude seront gardées pour un maximum de cinq ans et puis détruites (effacées et déchiquetées). Seulement la chercheur, Nicole Wrong et son superviseur, Dr. Ross Hastings, auront accès aux données.

**Participation Volontaire :** Ma participation à la recherche est volontaire et je suis libre de me retirer en tout temps, et/ou refuser de répondre à certaines questions, sans subir de conséquences. Si je choisis de me retirer de l'étude, les données recueillies jusqu'à ce moment seront détruites immédiatement.

**Acceptation :** Je, \_\_\_\_\_, accepte de participer à cette recherche menée par Nicole Wrong du Département de Criminologie à l'Université d'Ottawa, est supervisée par Dr. Ross Hastings.

Pour tout renseignement additionnel concernant cette étude, je peux communiquer avec la chercheur ou son superviseur.

Pour tout renseignement sur les aspects éthiques de cette recherche, je peux m'adresser au Responsable de l'éthique en recherche, Université d'Ottawa, Pavillon Tabaret, 550, rue Cumberland, salle 159, Ottawa, ON K1N 6N5, Tél.: (613) 562-5841, Courriel : ethics@uottawa.ca.

**Il y a deux copies du formulaire de consentement, dont une copie que je peux garder.**

- Oui, je suis bien avec mon entrevue étant enregistrée sur une bande audio.
- Non, je ne veux pas que mon entrevue soit enregistrée sur une bande audio.

Le signature: de participant \_\_\_\_\_ Date: \_\_\_\_\_

Le signature: de la chercheur \_\_\_\_\_ Date : \_\_\_\_\_

## APPENDIX D

### Letter of Recruitment to Participating Organizations and Communities

I am a Graduate student at the University of Ottawa in the Department of Criminology and looking for participants from your community and/ or organization for my Masters thesis entitled:

#### **Justice Committees in Aboriginal Communities: A Study of Community Capacities**

**Purpose:** to contribute to a better understanding of Justice Committees and their implementation.

**Objective:** to explore how Justice Committees have been implemented in Aboriginal communities across Quebec, and whether they have been implemented as they were intended.

**Method:** to interview both service planners and delivers who work closely with Justice Committees in Aboriginal Communities across Quebec.

**Participation:** Questions will focus on your role with Justice Committees as either a service planner or deliverer. You will be asked questions regarding Justice Committee goals and objectives, as well as your understanding of the program's inputs, activities and outputs.

- Your participation will consist of ONE interview lasting approximately 30 minutes. The interview will be audio- tape recorded if and **only** if you consent to it. You will be allowed to stop the interview at anytime, choose not to participate at any time and ask as many questions as you want.
- Please note that the interview will be conducted in **English**.

Participation is voluntary and consent can be withdrawn at any time during the interview.  
Confidentiality and anonymity will be maintained.

For more information and to confirm your participation, please contact:

**Nicole Wrong**

**Supervisor: Dr. Ross Hastings**

[ross.hastings@uottawa.ca](mailto:ross.hastings@uottawa.ca)

(613) 562-5302

## APPENDIX E

### Lettre de Recrutement

Je suis une étudiante dans le programme de maîtrise en criminologie à l'Université d'Ottawa et je cherche des participants pour ma thèse:

#### **Justice Committees in Aboriginal Communities: A Study of Community Capacities**

**But de l'étude:** Pour contribuer à une meilleure compréhension de l'exécution des comités de justice.

**Objectif :** Explorer comment les comités de justice sont mis en applications dans des communautés Autochtones à travers le Québec, et s'ils ont été exécutés comme ils ont été prévus.

**Méthode :** Parler avec des planificateurs et des travailleurs impliqués dans des comités de justice.

**Participation :** Répondre a des questions qui concentreront sur votre rôle avec des comités de justice. Les questions viseront des sujets comme les buts, les objectifs, les contributions, les activités et les résultats des comités de justice.

- Votre participation impliquera une entrevue d'environ 30 minutes. L'entrevue sera enregistrée sur une bande audio si et seulement si vous consentez. Votre participation à la recherche est volontaire et vous êtes libre de vous retirer de l'entrevue en tout temps, et/ou refuser de répondre à certaines questions, sans subir de conséquences. **N.B.** que l'entrevue sera accomplie en **anglais**. La confidentialité et l'anonymat seront maintenus.

Pour plus de renseignements et confirmer votre participation, contactez s'il vous plaît:

Nicole Wrong:

Superviseur: Dr. Ross Hastings [ross.hastings@uottawa.ca](mailto:ross.hastings@uottawa.ca)

## APPENDIX F

### Interview Questions

*This interview will last approximately 30 minutes. Participants are encouraged to elaborate on the following questions. The interview will be conducted in **English**.*

1. What is your role/ how are you affiliated with community justice initiatives?
2. In your opinion, what are the objectives of Justice Committees? Or, what are they trying to achieve? (This can be community-specific).
3. To your knowledge, what has been invested in the Justice Committee (in terms of knowledge, skills, human and monetary resources)? (Inputs)
4. What services are offered through the Committee? (Activities) And what objectives are these services meeting? (Outputs)
5. What do you perceive to be the most beneficial aspects/ part/ resource of the Committee in terms of meeting the objectives? And why? (what is working?)
6. What do you perceive to be the most serious difficulty facing the Committee in terms of meeting the objectives? And why? (What is not working?)
7. To your knowledge, who is serviced by the program? Are they actually being reached / are the right people being targeted?
8. Do you have any suggestions, recommendations, or opinions concerning the implementation of Justice Committees?