Report by

Allan Van Zyl

CHURCHILL FELLOW 2001

Topic

THE CUSTODY OF INDIGENOUS YOUTH AND YOUNG MEN
A RITE OF PASSAGE?

and

DIVERSIONARY PROGRAMS (STRATEGIES) FOR YOUTH AND OTHER OFFENDERS

Northern Territory (Australia), Western Canada and Alaska (USA)
The graphic used in this report is taken from a most humbling gift presented to me – a blessed eagle feather in a carved wooden box made by the First Nations people of the Prairies of Canada.

The eagle feather was given to me by Elder George Isbister and Frank La Rose following discussions with them about the future of our children. George explained how the eagle soars over the land searching for learning and ways to guide the young. This Elder Advisor to the National Parole Board of Canada encouraged me to pursue this path.

The gift is so symbolic and beautiful that I propose to present it to the Northern Territory Museum for safekeeping and public display.

I am grateful to those First Nations and Alaska Native people who took the time and went out of their way to help me.

As well, I am equally grateful to the two hundred or so justice and other professionals who gave their time. I trust that this report acknowledges all of you and accurately reflects what you taught me.

I started this journey in July 2000 interviewing Northern Territory prisoners in Alice Springs and finished it a year later doing the same with prisoners in Nome, Alaska. I am grateful to the Winston Churchill Memorial Trust of Australia for the privilege and opportunity.
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INTRODUCTION

This project has two aims. One is to examine a view that custodial (prison or detention) experience is being used by some young Indigenous people as a ‘rite of passage’ to manhood. Is it in place of traditional initiation processes or are there other manhood or marginalisation issues involved? Why does it seem that some young Indigenous men and youth seek out the custody experience?

The other aim is to identify opportunities for the possible use in the Northern Territory of strategies and programs for young men (and others) to change offending behaviour through the application of diversionary programs.

I have chosen to examine the imprisonment of young Indigenous males in the 18 to 25 year age group, however this report includes comment on younger males aged 12 to 17. This is because for males there is a fine and varying date line between youth and manhood depending on the cultural base, and in many cases a teenager is viewed as a man by his community, especially those that continue traditional ceremony.

The diversion strategies identified are equally applicable to all races and both genders.

In his report on Groote Eylandt prisoners (1983), David Biles, former Deputy Director of the Australian Institute of Criminology, referred to the use of imprisonment as a substitute manhood ceremony as mentioned by former Groote Eylandt - Northern Territory Police Officer Gilroy (1976). The view and insight of David Biles provided the basis for the idea for this project. In the Northern Territory, many others who currently work with traditional Indigenous people continue to make reference to the perception that young Indigenous men make this conscious choice.

The place imprisonment holds for some Indigenous youth could, therefore, be replaced by other options requiring parental, family, community and government support and commitment.

I have also considered some of the likely pinnacles in life when male youth become men; for example, is it when a person buys their first car, leaves home, gets married, has their first sexual encounter, experiences a religious or cultural ritual, graduates from school or university? Or is it for some their first custodial experience or a serious crime encounter with peers?

I also restate some of the social factors affecting imprisonment, in particular those that have been referred to as underlying issues. In Australia, the Royal Commission into Aboriginal Deaths in Custody (1991) identified these as health, housing, employment, education and land tenure.

Social, community and family dysfunction in many remote Indigenous communities in the Northern Territory is also considered a significant factor in the failure to achieve improvements in lifestyle or living conditions, particularly for children and youth.

Much of this dysfunction results from loss of traditional identity and the breakdown of associated social and cultural control mechanisms that are applicable to the Northern Territory, Western Canada and Alaska.

The sections of the report that deal with the background social issues, manhood, First Nations spirituality and Restorative Justice also provide a general overview of these concepts. These can be read independently or as part of the whole report. The report also canvasses some other policing, correctional, social and diversion programs for offenders not directly associated with the project, but which could be of interest to policy makers. A number of these are interspersed throughout the report.
The report then considers programs, practices and diversionary strategies observed in Western Canada and Alaska that encourage and help young men and youth to rethink their offending behaviour and the efforts being made to effect attitudinal change. Canada and Alaska were chosen for the study as there are colonial parallels to Australia, and social dysfunction in many Indigenous communities would appear similar.

Most of these strategies are those included under the heading of Restorative Justice. Government practices in addressing the over-representation of Indigenous people in custody, and partnerships with community organisations, are claimed to be world best practice, particularly in Canada.

I do not say that programs operating overseas could be simply transplanted to Australia, but with modification there should be possibilities that ought to be explored, particularly the drive to reinforce traditional culture as part of the rehabilitation and spiritual learning process for offenders.

The report is primarily a two-month observational study of the practices in some places in Western Canada and Alaska and includes a range of relevant background factors. Although cross-cultural influences and the change process used by governments have seriously affected Indigenous people, this report is not a comment on political or cross-cultural history but tries to identify opportunities for the future.

This project has been carried out with the support of a Winston Churchill Memorial Trust of Australia Fellowship for 2001. The views expressed in this report are mine. This is not a report on behalf of the Northern Territory Government, nor does it necessarily reflect that view.

There are references for further reading if desired.

Allan Van Zyl
September 2001
### Glossary

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>AB</td>
<td>Alberta</td>
</tr>
<tr>
<td>Aboriginal</td>
<td>In the Australian context – a person of Aboriginal descent</td>
</tr>
<tr>
<td>AFN</td>
<td>Alaska Federation of Natives</td>
</tr>
<tr>
<td>AIC</td>
<td>Australian Institute of Criminology</td>
</tr>
<tr>
<td>AST</td>
<td>Alaska State Troopers</td>
</tr>
<tr>
<td>ATSIC</td>
<td>Aboriginal and Torres Strait Islander Commission</td>
</tr>
<tr>
<td>BC</td>
<td>British Columbia</td>
</tr>
<tr>
<td>CCC</td>
<td>Community Corrections Centre</td>
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<tr>
<td>CPS</td>
<td>Calgary Police Service</td>
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<tr>
<td>CRC</td>
<td>Criminology Research Council – Australia</td>
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<tr>
<td>CSC</td>
<td>Correctional Service Canada</td>
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<tr>
<td>Custody</td>
<td>The detention or imprisonment of a person by court order</td>
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<tr>
<td>DDJC</td>
<td>Don Dale Juvenile Detention Centre (Darwin NT)</td>
</tr>
<tr>
<td>Detention</td>
<td>The custody term in the Northern Territory for 10 – 17 yr olds</td>
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<tr>
<td>Diversion</td>
<td>The diverting of a person from a custodial option to another sanction or diversion altogether from the criminal justice system</td>
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<tr>
<td>First Nations</td>
<td>The collective name for Indian first peoples of Canada</td>
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<tr>
<td>FNPP</td>
<td>First Nations Policing Policy</td>
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<tr>
<td>Indigenous</td>
<td>A person of Aboriginal and Torres Strait Islander descent in Australia.</td>
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<tr>
<td>Initiation</td>
<td>The process of physical and spiritual change from boy to man in traditional Aboriginal people. It varies greatly between groups.</td>
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<tr>
<td>JDS</td>
<td>Juvenile Pre-Court Diversion Scheme- Northern Territory</td>
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<tr>
<td>Juvenile</td>
<td>A child in the Northern Territory between 10 and 17 years of age.</td>
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<tr>
<td>MLA</td>
<td>Member of the Legislative Assembly- Northern Territory</td>
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<tr>
<td>NAALAS</td>
<td>North Australian Aboriginal Legal Aid Service</td>
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<td>NT</td>
<td>Northern Territory of Australia</td>
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<tr>
<td>NTCS</td>
<td>Northern Territory Correctional Services</td>
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<tr>
<td>NTLAC</td>
<td>Northern Territory Legal Aid Commission</td>
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<tr>
<td>OAD</td>
<td>Office of Aboriginal Development – NT Government</td>
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<tr>
<td>PFES</td>
<td>Police Fire and Emergency Services (Northern Territory)</td>
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<tr>
<td>QC</td>
<td>Queens Counsel</td>
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<tr>
<td>RCIADIC</td>
<td>Royal Commission into Aboriginal Deaths in Custody- Australia 1991</td>
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<tr>
<td>RCMP</td>
<td>Royal Canadian Mounted Police</td>
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<tr>
<td>RISE</td>
<td>Reintegrative Shaming Experiments is a project of the Law Program, Research School of the Social Sciences, Canberra, Australian National University</td>
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<tr>
<td>RJ</td>
<td>Restorative Justice</td>
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<tr>
<td>UAA</td>
<td>University of Alaska (Anchorage)</td>
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<tr>
<td>UBC</td>
<td>University of British Columbia</td>
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<tr>
<td>UC</td>
<td>University of Calgary</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<tr>
<td>YOA</td>
<td>Young Offenders Act of Canada</td>
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<tr>
<td>Yolgnu</td>
<td>The collective name for Indigenous clans of East Arnhem Land</td>
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For the sake of consistency, the term Indigenous is used throughout this report. It includes Torres Strait Islander and Aboriginal people in Australia and the many First Nations people of Canada, as well as the diverse Alaska Native peoples.
PROJECT SUMMARY

This project is multi-faceted but concentrates on issues related to Indigenous social and community factors related to offending and custody.

In particular, it examines a perception that exists in Northern Australia that some young men make a conscious choice to commit crime to escape a marginalised and changing society lacking any definable future and to experience a kind of lifestyle not available in the home community. Some social commentators have confused this with a substitute initiation ceremony or manhood process.

The conclusion of this report is that the perception is false when it purports to suggest that it is a replacement for the traditional initiation process.

Additionally, the use of diversion from formal custody programs for juveniles and adults operating in Western Canada and Alaska have been examined.

It is not considered that marginalised youth in the Northern Territory experience greater difficulties than their inner city counterparts, except maybe with access to real world knowledge and a lack by their parents of worldly knowledge in a non-Aboriginal sense. For perhaps one of the first times this project includes seeking the advice of juveniles and adults in custody and their Elders. Hopefully, it provides a more holistic examination of the issues.

Working and talking with Police, Correctional authorities, Elders, other community leaders, youth and adults in custody, legal agencies, the judiciary and other government professionals, has resulted in a wide-ranging discussion of the issues observed and the many places visited. Eighteen institutions were visited and more than 300 people interviewed over the term of the project.

Most of the diversion programs observed and discussed are under the banner of Restorative Justice, and some are as a result of already being within the courts or corrections systems. Nonetheless, they are also ‘diversions’ in that they aim to help people rethink their behaviour and offending patterns and therefore their involvement with the criminal justice system.

Being an observer of justice systems in an overseas environment while carrying out a Churchill Fellowship means that access to information directly associated with the project and related programs involving drugs, prostitution and other environmental issues was given freely.

The parallels with Australia’s Northern Territory are clear, however there are also differences between the American, Canadian and Australian justice systems that are significant.

It has become clear to me that desired benefits for societies will only be achieved by long-term relationships and accountable partnerships between the community and Government.

Contacts: PO Box 36633, WINNELLIE, NT, AUSTRALIA, 0820

Email: avanzyl@ozemail.com.au or allan.vanzyl@nt.gov.au

Telephone home +61 8 8988 2681 international, 08 8988 2681 domestic - Australia

Work +61 8 6999 5511 or fax +61 8 8999 7095
PROJECT PLAN

Interviews with prisoners and juvenile detainees in the Northern Territory were undertaken prior to leaving Australia. Group sessions and individual interviews were undertaken with both juvenile detainees and adult prisoners. This provided the base information about reasons behind their custody.

In addition, a visit to the traditional Lajamanu community, 500 kilometres southwest of Katherine, helped to formulate appropriate questions to ask community Elders and others both here and overseas.

The advice of judicial officials, government and Indigenous organisations was sought in Australia prior to travel.

The itinerary overseas, as approved by the Churchill Trust, was to travel to Vancouver in Canada, spend three weeks in the region and then the same period of time in Alberta and in Alaska. The reason for the selection of Western Canada and Alaska is simple. There are historical similarities in terms of colonialisation, and major dysfunction in communities associated with alcohol and family / community relationships exist, as well as serious Indigenous socio-economic disadvantage.

Extensive travel was undertaken to Indigenous communities and government facilities in British Columbia and Alberta, Canada and in Alaska to Anchorage, Seward and Nome. Contacts were made with a similar range of professionals, civic leaders, individuals, organisations, Elders and academics as in Australia. Prisoners and juvenile detainees were interviewed at every opportunity, to develop an understanding of their backgrounds that resulted in custody.

While in Canada, I travelled to Vancouver, Abbotsford, Victoria, Calgary, Edmonton and Lethbridge to observe programs and institutions that the Correctional Service of Canada (CSC) and the Royal Canadian Mounted Police (RCMP) consider to be world class.

I took the opportunity to observe some programs in New Zealand, in particular Family Group Conferencing during the return trip to Australia, although this was not part of the original Fellowship.

In both Canada and Alaska, travel was organised by their Correctional Services, Indigenous organisations and Police, to communities, institutions, individuals and groups. Correctional Services in each place provided a liaison person to assist with itinerary development, for which I am grateful. All contacts are acknowledged with thanks.

The full itinerary of my travel and meetings overseas is attached, as well as a list of contacts in Australia and overseas. A map showing the places visited is included in the report as are references that have been used or are associated with this project.
Fig 1: Map of the Northern Territory of Australia
MANHOOD AND RITES OF PASSAGE ISSUES

As we know, there are some communities where going to prison has become almost a ‘rite of passage’ and a source of pride and achievement. Many Aboriginal parents believe the Don Dale Centre, with its furnishings and fittings, is too opulent. Some youngsters look forward to going there. For such young people, a community-based solution may be a far more effective deterrent. (Denis Burke MLA, Chief Minister of the Northern Territory, August 2000)

Does the experience of imprisonment (or juvenile detention) serve as a rite of passage to manhood for young Indigenous offenders, particularly those from a traditional community? The rites are usually associated with a move from one part of a life or stage to another and reflect the meaning of that transition to the person.

This could be for very different reasons between individuals within a culture or between cultures and for some there may be more than one transition to become an adult or to attain manhood.

For traditional Aboriginal men there is a cultural transition of initiation to manhood, still widely practised across northern and central Australia. Yet, it would appear that many young men and boys seek a different or additional manhood process. Is it acceptance, peer pressure, shame, rebellion, adventure, boredom, anger, ignorance, or another stimulant that results in many seeing a prison experience as a normal adult thing to do? Is it for some youth a form of escape from an isolated or marginalised environment into the world perceived normal as displayed in film and other media?

David Biles, former senior administrator of the Australian Institute of Criminology undertook research on Groote Eylandt in the Northern Territory that was experiencing the highest rate of imprisonment from a single community in the country (National Prison Census 1992 and 1993, Australia Institute of Criminology).

At the time he said:

Michael Gilroy (in Biles, 1983) reports that young Aboriginal offenders:

Boast about their imprisonment and with bravado talk about the ‘free jet trip’. Their only criticism of Fannie Bay appears to be the lack of grog but ‘there is good tucker and easy work’ and many of their mates are there. In letters to their brothers and mates, they exhort them to ‘get to Fannie Bay’ as “it’s a real good place there’. … these days there are no thorough initiation ceremonies that herald manhood. It appears that young people themselves have chosen an alternative initiation – going to gaol. (Gilroy, 1976)

The concept of incarceration as a rite of passage is, however, not without its critics. In response to Gilroy, McGill in 1976 contended that the suggestion that gaol had replaced initiation was:

…not true. Whilst it is correct that a type of hero worship of ex-prisoners does exist amongst the young boys, this does not mean imprisonment in Fannie Bay has replaced tribal initiation. Tribal initiation still exists, although on Groote Eylandt it has always been less vigorous and more informal than on the mainland (McGill, 1976)

Gilroy, at the same time related a story about a young boy ‘Evan’ after he committed a simple street offence. When asked why he committed the crime:

He replied: ‘Because I want to go to Fannie Bay.’ ‘Evan’ had never come under Police notice before, and his teachers spoke highly of him as being well behaved and polite. When I told him that if he went to Court and was sent away, he would probably not go to gaol but to Essington House, he wasn’t pleased. He said: ‘No, that’s for children. I am a man and I want to go to Fannie Bay.’ The community did not want his (sic) punished, so he was warned and his uncle prohibited attendance at the local pictures for a month. One week later, ‘Evan’ lead (sic) a group, which broke into four Staff houses, stole liquor and goods, maliciously damaged property, and illegally used motor vehicles. ‘Evan’ and his gang were charged before a Children’s Court at Groote Eylandt, and given a bond.
Two further Court appearances for similar offences followed, when he was finally sent to Essington House. Each time he was asked to explain his behaviour, he said he wanted to go to Fannie Bay, and that he was a man. It is most likely that he will continue to offend until he realises his ambition. Hopefully, he will then ‘retire’, but there is no guarantee that he will.

Gilroy also relates this episode about the resolution of an offending issue at that time:

After much lengthy talk, it is usually unanimously decided that the offender will leave next morning. The next day, however, the offenders are invariably seen lolling about the village, living up to their ‘camp dog’ image. If you then call a meeting of councillors to ascertain why the offenders are still in the village, the shamefaced response eventually offered is, simply, that ‘they didn’t want to go.’ And that’s it. Nobody would dream of making them go, and, in any event, they are now well-behaved.

Thus, a total impasse is reached, leading to more offences by the same people, and appeals to the police to maintain law and order. The council’s repeated reluctance to act decisively might have several causes: eg. Fear of pay-back, lack of interest, reluctance to see young people punished by their own kin, or general disregard for white man’s law.

Gilroy also said:

Grog rules their existence. All men must have it, and all male youngsters aspire to have it. Children see the enormous importance placed on drinking liquor by the grown-up men. Those under 18 years who have no access to it will get it by other means.

Since it is obviously so very important to the grown-ups, those under 18 without legal access to grog obtain it by the only alternative open to them on Groote Eylandt; they break, enter, and steal it.

While the situation may have altered since McGill rejected the prison as a rite of passage thesis, the argument that incarceration might involve a ‘positive’ element of choice certainly runs counter to the very substantial literature focussing upon Indigenous incarceration. The clear thrust of this literature is that incarceration is particularly and uniformly damaging for Indigenous inmates (Royal Commission into Aboriginal Deaths in Custody, 1991; Beresford and Omaji, 1996; Cunneen, 1994; Lincoln and Wilson, 1994).

Professor Colin Tatz in his PhD thesis, 37 years ago (1964) stated “the drinking of alcohol made some Aborigines think themselves as equals”. Tatz also commented that prison authorities did not differentiate between Aborigines and other prisoners and therefore upon release and during gaol Indigenous prisoners considered themselves ‘equal’ to the other (that is the non-Indigenous prisoners).

Messerschmidt, (1994) believes that “white, middle class, youth manhood is accomplished differently in separate and dissimilar social situations”. In environments such as a school, where the authoritarian structures discourage creativity, independence and autonomy, a manhood feeling is created by a perceived economic power and dominance of peers and authority.

There are a range of factors we have to consider, based on Ogilvie’s study of manhood issues at the Australian Institute of Criminology (2000) with respect to the place imprisonment holds for Indigenous male offenders:

• The first is to consider the role custody holds for Indigenous youth from traditional communities;

• Secondly, imprisonment impacts upon identity for all inmates. Do these places actually create the self esteem of the individual and what is the impact of the peer and the community view;

• Understanding issues of masculinity and race identity involves understanding the social context of the respondents being investigated.

• Issues such as background, employment, power of the family hierarchy, position within the family, community dysfunction, family violence and drug/alcohol use, are all factors we know to be implicated in the decisions of youth; and
• It is especially important, that people who work with Indigenous youth realise that, like other youth no two are the same.

Anthropologists have long emphasised the centrality of rites of passage in pre-industrial societies because of the way in which they allow members of society to progress through transitional life phases through the use of rituals and ceremonies (Ogilvie and Van Zyl, 2001).

The concept of *rite of passage* was first articulated by Van Gennep in 1929 as part of an attempt to clarify the ritualised practices and ceremonies that cultures develop in order to formalise the leaving of one life phase and the entering of another (Van Gennep, 1960).

Van Gennep outlined three criteria that characterise a *rite of passage*:

• the spiritual/symbolic needs of the participants are addressed through engaging in a ritual or ceremony which allows for a ‘new’ construction of self.

• *communitas* is formed through the witnessing of the event by significant others in the community.

• the ritual incorporates conditions which may challenge the participant physically and relate to moral/cultural teachings intellectually. These conditions are presented as a test of character development and ability to pass through to the next life phase (Van Gennep, 1960).

While other studies have identified similar criteria, the recognition of such social practices has not been confined to anthropology. Sociologists have also acknowledged the mechanisms that alleviate the tensions associated with transitional phases and major changes in industrial societies (see Teather, 1999).

There is then a wide range of life-stages that might conceivably be categorised as constituting a form of initiation ceremony, or rite of passage. In first world cultures these are ever fewer *ceremonial* rites of passage, but nevertheless, events such as one’s 18th birthday, first job, first car, first sexual encounter, a religious or cultural ritual or leaving home etc are generally recognised as signalling important milestones in an individual’s movement from childhood to adulthood.

These events serve to reposition individuals relative to others and make clear the changing nature of their status and obligations. Importantly however, not all such milestones are seamlessly consistent with community norms and state laws.

Certain adolescent criminal activities, such as drug-use and gang involvement are also recognised as providing effective rites of passage for at least some children, despite their ostensible incompatibility with the dominant norms of the day particularly the disadvantaged and/or marginalised, see Huff, 1990; Soriano and De La Rosa, 1990 (Ogilvie and Van Zyl, 2001).

Together with becoming an adult, criminality may also be seen as a *tool* for the development and maintenance of a particular expression of masculinity.

For example, Katz argues that when men commit an armed robbery, they are *doing* masculinity.

Criminal acts as stated by Katz are:

a way of elaborating, perhaps celebrating, distinctively male forms of action and ways of being, such as collective drinking and gambling on street corners, interpersonal physical challenges and moral tests, cocky posturing and arrogant claims to back up “tough” fronts (Katz, 1988: 247).

Engaging in criminalbehaviours with like-minded peers can readily incorporate aspects that closely resemble the criteria first identified by Van Gennep and are recently restated.

Given this, it is not altogether surprising that there are those prepared to readily countenance engaging in criminal behaviours with like-minded peers can readily incorporate aspects that closely resemble the criteria first identified by Van Gennep. Some criminal activities may challenge, teach and ultimately result in the construction of
a new sense of self-identity that is the idea that incarceration has come to serve as a replacement for traditional rites of passage. (Ogilvie and Van Zyl, 2001)

The category of youth or adolescent is by no means universal in conception, nor are these labels used in a consistent way in specific societies or cultures.

This also partly explains why there is often confusion among young people about their status since it is not unusual for them to be addressed as a young person and at other times as an adult... It implies that our kids are being used as tools and their space is really being dictated by the political and social culture of their adults (White, 1990).

Boys becoming men, and those who chase the manhood experience (whatever that is for the individual) are well-known experiences for all parents of males in all cultures. The frustration, the arguments, and pinnciles of change, acceptance and eventually adulthood are familiar milestones that are universally experienced.

Johnson-Newell, at the National Men’s Health Conference (1999), commented that the gender roles are changing, and so is patriarchy and the concept of masculinity. Across the world we now find more single parent families headed by women. The ‘12 minutes a day’ that men as fathers across the world were, on average, spending with their children, is now less, especially in Indigenous communities.

As well, he suggests that:

When this lack of a future is coupled with a lack of any sense of masculinity, I am suggesting that many young men become despairing. Added to this, men are not available. At first their fathers are not there for their crucial separation from their mothers... and after that there is no one who cares.

Omaji-Paul and Beresford (1996) about West Australian youth stated:

Cultural dislocation and dispossession have disrupted, and even removed, these traditional rites of passage into adulthood for many Aboriginal youth, and especially those recently urbanised groups.

In terms of the manner in which it is committed, there is evidence that most crime is group-centred and some is organised.

These findings pose a number of questions, namely, is the test of whether custody is a substitute for manhood, in a traditional sense, up to the juveniles involved, or is it the elders who confer manhood upon juveniles?

Do the elders in an Indigenous community believe that a young man who has been to prison or detention attained the same level of knowledge and maturity to achieve traditional manhood as someone who has undergone traditional initiation (business) ceremony?

I do not think the old men (elders) would believe so.

It was this discussion with former Northern Territory Chief Minister, Marshall Perron (and his insight) that has established this test. This is vastly different from the acceptance and views of peers.
RESTORATIVE JUSTICE
PRINCIPLES & OVERVIEW

The purpose of this section of the report is to explain the Restorative Justice philosophy, to briefly describe its use and to précis some current worldview on its application. Restorative Justice underpins much of the Canadian and North American observations that are described later.

Restorative Justice is a commonsense approach to addressing criminal justice offending and the harm or damage caused by most offenders. The philosophy is practiced differently in many countries and it known by many names, however the most recognised banner is Restorative Justice and it will be the one used in this report as it reflects, in my view, the aim of the approach. The philosophical differences in application and terminology appear to be related to religious, social, cultural or academic views associated with the causes of crime and the complexity of human relationships.

Crime and Justice professionals, governments and other interested community groups continue to focus on the bad guys and seek out ways to change them. They cite the social and economic disadvantages faced and family dysfunction, as well as childhood problems and abuse. Restorative Justice provides another avenue for these issues to be recognised by all the parties and also for the victim’s views and feelings to be made known to the offender.

Healing the harm and moving forward and not dwelling on the past are key factors. Focusing on the bad guys creates martyrs among offending peers and forces reflection upon human faults and not on the opportunity for attitudinal change.

The beginnings of modern Restorative Justice are claimed by the Mennonite community of Ontario, Canada when workers Yantzi and Worth “first pushed two shaking offenders towards their victims’ home in Elmira, Ontario in 1974” (Zehr, 2000).

In the decades of the 1970 and 1980s, the Canadians and others experimented with Restorative Justice practices, but it is New Zealand that is credited with reworking a system traditionally used by Maori peoples and terming it ‘Family Group Conferencing’ under legislation in 1989. These conferences aimed at bringing the conflicting and opposing parties together at one place at one time are known by many names including victim/offender conferencing, family conferencing, community justice forums, sentencing or healing circles.

In the early 1990s, Restorative Justice was the new paradigm addressing the perceived inadequacies of adversarial justice systems operating in most western democracies. This new way of doing business is no longer new! Restorative Justice remedies are now commonplace in many countries including Australia, Canada, New Zealand, the United States, and much of Europe including some parts of England.


Australia was quick to take up this new way of thinking and the Wagga Wagga (NSW) project commenced in 1989/90 under the initial direction of former New South Wales Police Senior Sergeant, Terry O’Connell.

During the Wagga Wagga project, Professor John Braithwaite and others (ANU, Canberra) became interested parties and added their input that eventually resulted in the RISE (Reintegrative Shaming Experiment) project in the Australian Capital Territory. Professor Braithwaite has become a world leader in the philosophy. Although the Wagga project was eventually modified and incorporated into a statewide program operated by juvenile authorities, it was the first of what are now a number of conferencing programs operating in most Australian jurisdictions.
It is interesting to note that the Northern Territory opposition spokesperson on Attorney-General’s issues, Syd Stirling, MLA stated in a Parliamentary debate (2000):

The Northern Territory Council of Churches has released a crime and justice public consultation report dated 11-12 August (2000). In his closing remarks, Professor John Braithwaite of the ANU, expert in restorative justice and author of Crime, Shame and Reintegration, had this to say and I quote:

And, indeed, the irony of all ironies – I’m sorry I can’t tell this story properly, but a few years ago I was talking in a meeting with a group of New Zealanders who were responsible for the family group conferencing reforms in New Zealand. New Zealand has been the most important place in the world in terms of this paradigm shift in the criminal justice system towards restorative justice. It’s the place that’s put the conferencing strategy for transforming criminal justice on the agenda that has been now copied in dozens of other countries around the world … when I was talking to this group of New Zealanders who were the people who made this innovation, I said to them: ‘Where did you get the idea from?’ One of them said: ‘Well, it came during our tour to Australia in the mid-’80s’. I said: ‘Oh, really?’ because I couldn’t think of what we were doing that was of any significance of that sort at that time. It was actually a visitor to the Northern Territory. I’m sorry that I can’t actually give the full story of what Aboriginal community it was that they visited, but they were impressed with something they’d seen in the Territory that involved the empowerment of Aboriginal communities to sit in a circle and find their own way of sorting out crime problems in their community. Then they took that back to New Zealand and really made something of it that has created worldwide reform.

Although it has a number of guises, the basics are similar. Zehr (1985), with his Mennonite view, created the much-quoted table known as the ‘Paradigm of Justice’ (Figure 2).

**Figure 4: Paradigm of Justice (Zehr 1985)**

<table>
<thead>
<tr>
<th>Retributive</th>
<th>Restorative</th>
</tr>
</thead>
<tbody>
<tr>
<td>Crime defined as violation of the state</td>
<td>Crime defined as violation of one person by another</td>
</tr>
<tr>
<td>Focus on establishing blame, on guilt, on past (did he/she do it?)</td>
<td>Focus on problem solving, on liabilities, and obligations, on future (what should be done?)</td>
</tr>
<tr>
<td>Adversarial relationship and process normative</td>
<td>Dialogue and negotiation normative</td>
</tr>
<tr>
<td>Imposition of pain to punish and deter/prevent</td>
<td>Restitution as a means of restoring both parties; goal of reconciliation/restoration</td>
</tr>
<tr>
<td>Justice defined by intent and process: right rules</td>
<td>Justice defined as right relationship; judged by outcome</td>
</tr>
<tr>
<td>Interpersonal, conflictual nature of crime obscured, repressed; conflict seen as individual versus the state</td>
<td>Crime recognized as interpersonal conflict; value of conflict is recognized</td>
</tr>
<tr>
<td>One social injury replaced by another</td>
<td>Focus on repair of social injury</td>
</tr>
<tr>
<td>Community on sideline, represented abstractly by state</td>
<td>Community as facilitator in restorative process</td>
</tr>
<tr>
<td>Encouragement of competitive, individualistic values</td>
<td>Encouragement of mutuality</td>
</tr>
<tr>
<td>Action directed from state to offender -victim ignored -offender passive</td>
<td>Victim and offenders roles recognized in problem/solution -victim rights/needs recognized -offender encouraged to take responsibility</td>
</tr>
<tr>
<td>Offender accountability defined as taking punishment</td>
<td>Offender accountability defined as understanding impact of action and helping decide how to make things right</td>
</tr>
<tr>
<td>Offence defined in purely legal terms, devoid of moral, social, social, economic, or political dimensions</td>
<td>Offence understood in whole context - moral, economic and political</td>
</tr>
<tr>
<td>&quot;Debt&quot; owed to state and society in the abstract</td>
<td>Debt/liability to victim recognized</td>
</tr>
<tr>
<td>Response focused on offender's past behaviour</td>
<td>Response focused on harmful consequences of offender's behaviour</td>
</tr>
<tr>
<td>Stigma of crime unremovable</td>
<td>Stigma of crime removable through restorative action</td>
</tr>
<tr>
<td>No encouragement for repentance and forgiveness</td>
<td>Possibilities for repentance and forgiveness</td>
</tr>
<tr>
<td>Dependence upon proxy professionals</td>
<td>Direct involvement by participants</td>
</tr>
</tbody>
</table>
Zehr emphasised that the retributive or adversarial systems focus on punishment, whereas the Restorative Justice philosophy emphasises accountability, healing and closure.

The greatest use of Restorative Justice in the criminal justice field is for juvenile and youthful offenders that have special additional needs. The use of these same principles and practices are applicable to whole communities that maybe in crisis and encountering problems.

In summary, the following is an adaptation of the vision and principles of the process when applied to juveniles:

**The Restorative Justice Vision**

- Support from the community, opportunity to define the harm experienced, and participation in decision making about steps for repair result in increased victim recovery from the trauma of crime.
- Community involvement in preventing and controlling juvenile crime, improving neighbourhoods, and strengthening the bonds among community members results in community protection.
- Through understanding the human impact of their behaviour, accepting responsibility, expressing remorse, taking action to repair the damage, and developing their own capacities, juvenile offenders become fully integrated, respected members of the community.
- Juvenile justice professionals, as community justice facilitators, organize and support processes in which individual crime victims, other community members, and juvenile offenders are involved in finding constructive resolutions to delinquency.

**The Principles of Restorative Justice**

- Crime is injury.
- Crime hurts individual victims, communities, and juvenile offenders and creates an obligation to make things right.
- The victim’s perspective is central to deciding how to repair the harm.
- All parties should be a part of the response to the crime, including harm caused by the crime.
- Accountability for the juvenile offender means accepting responsibility and acting to repair the harm done.
- The community is responsible for the well being of all its members, including both victim and offender.
- All human beings have dignity and worth.
- Restoration — repairing the harm and rebuilding relationships in the community — is the primary goal of restorative juvenile justice.
- Results are measured by how much repair was done rather than by how much punishment was inflicted.
- Crime control cannot be achieved without active involvement of the community.
- The juvenile justice process is respectful of age, abilities, sexual orientation, family status and diverse cultures and backgrounds — whether racial, ethnic, geographic, religious, economic or other — and all are given equal protection and due process.


**The Australian and International View**

At the end of 2000, all six states and two mainland territories in Australia were utilising Restorative Justice techniques and practices to differing degrees. Most were regular users of conferencing and diversionary strategies to attempt alternative remedies to the prevailing adversarial processes of the courts. In nearly all cases it had the support of the courts.

This is a demonstration that the political and legal systems recognised that the existing one way of doing justice was not appropriate for those offenders who were not deemed to be evil
and a continuing danger to the wider community. The majority of young people fit this category. It is well known in Australia that a core group of offenders in each jurisdiction commit the vast majority of crime. Our aim should be to convince them and their followers to change their practices.

The Royal Canadian Mounted Police (RCMP) is an extensive user of the Restorative Justice model and believes:

The concept of “restorative justice”, in spite of the wide diversity in its actual implementation methods, can generally be described as a way of dealing with the harm caused by an offence by involving the victim(s), the offender(s), and the community that has been affected. The outcomes that are sought include restoring harmony in the community by repairing, as much as possible, both material and psychological damages to the victim(s), and re-integration of the offender (thereby preventing recidivism) by the use of shame and remorse for committing a wrong action. The offender is expected to ‘pay’ by taking active responsibility for causing the harm and by being accountable to the victim and the community for repairing or minimizing the injuries. The process helps the offender to experience shame for committing the harmful action - but in a reintegrative way, in a caring and supporting context. The proponents of restorative justice believe this approach to be fairer, satisfying, efficient and effective than the conventional, court-based, adversarial approach to justice.

This new (yet ancient) way of dealing with offending behaviours was seen by all key players in Canada (e.g., The Solicitor General, the Director of RCMP Community, Contract and Aboriginal Services Directorate or CCAPS and Judge David Arnot) as a natural extension of the Aboriginal Justice Initiative launched by the Federal Department of Justice in 1991. Consequently, the RCMP adopted the philosophy of restorative justice, and has taken the initiative to implement this approach through one of its tools, the “Community Justice Forum” (CJF), a term of choice for its emphasis on community involvement, instead of the term “Family Group Conferencing” (FGC) as it is known in Australia and New Zealand. (RCMP, 1999)

It would appear that sentencers in Canada agree with the RCMP evidenced by Judge E. Bayda’s comments in 1999 at the Commissioner’s Forum Service of Correctional Service Canada:

So the first step is for the judges to learn to speak to Aboriginal offenders on their wavelength - not the judge’s. Many judges will have a great deal of difficulty getting on that wavelength. The cultural communication divide must be bridged. The second step is, now that the concept of restorative justice is judicially recognized and accepted, how do I, the sentencing judge, implement it? What tools do I have? Before restorative justice, my biggest tool was jail. But now parliament and the Supreme Court of Canada have spoken and said, ‘jail is no longer your biggest tool.’ You must change your focus. You can send offenders to jail, not as a matter of course, but only if absolutely necessary. What are my new tools?

In the spirit of restorative justice, I ask should communities not have community centres, places at which offenders in need of instruction or support would be obliged to attend, wither during the day or evening and during weekends if necessary? These centres would not eliminate jails but could go a long way towards diminishing their size. A corollary question is: should we not be building and staffing community centres instead of jails?

In the same spirit should there not be in place a scheme where certain offenders on probation are required to see and spend time with their probation officer every day instead of once a week, or once a month, or once every three or six months? In other words, instead of providing more correctional officers should we not be providing more probation officials? (Bayda, 1999).

Lord Woolf, the Lord Chief Justice of England and Wales and therefore the most senior practising judge in the jurisdiction said, as quoted in The Times on 29 January 2001, that:

Prison could be a much softer option than ‘restorative justice’ in which offenders had to confront their victims. Offenders should be dealt with in the community where at all possible.

Lord Woolf said at the same time:

To confront those that have been the victims of your conduct can be much more salutary for a young offender than sending them for short period to institutions where nothing constructive can be done ... Sometimes it’s an easy option for a youngster to go into
prison for a short time and sit on his bed in his cell doing nothing for the greater part of the day...

To undertake a ‘vigorous’ programme in the community was much more challenging than anything that happened within prisons and could help offenders to make a fresh start by teaching them basic literacy and numeracy skills…. We have got to realise that nothing can be done in custody, which can’t be done better in the community…

“I do believe there is great value in restorative justice”
Lord Justice Woolf, The Times, 29 January 2001

In Australia, the South Australian Government’s Department of Correctional Services in 1996 promulgated this set of Restorative Justice principles:

There are key principles in applying a restorative justice model.

Essentially, they explain the environment, setting or ethical base in which the Department will conduct its business. These are its beliefs, the standards it sets and the issues it values. These include:

• Empowerment – moving away from power-based structures to relational or relationship based structures and the implementation of participatory decision making models
• Focusing on and attempting to restore the balance that has been damaged by the committing of the offence,
• Acknowledging the victim, and in many instances facilitating a process such as mediation where the offender is confronted by the victim and the injury/pain resulting from the offence,
• Restitution / reparation for the imbalance experience by the community,
• Providing opportunities for the offender to not only stop offending behaviours but also make up for the pain caused by committing the offence,
• Involving the community so that it takes on a role and some degree of responsibility for the reintegration of the offender into the community and acknowledges its part in the development of community values and standards that lead to, tolerate and even promote inequalities, ignorance, inappropriate behaviours etc.,
• Development of a criminal justice system that provides alternatives and opportunities for success,
• Application of REPARATION – the atonement, repair, compensation aspect, RESTITUTION – reimbursement, and settlement and RECONCILIATION – finding a middle course, giving & taking, bargaining, implementing a truce, and developing the skills of compromise – all are implicit in Restorative Justice.

Terry O’Connell, the original architect of the Wagga Wagga project and now a respected international trainer in Restorative Justice, states:

Restorative justice has been described in many different ways, but some consensus appears on two fundamental ideas: It is harm-focused; and it promotes the engagement of an enlarged set of stakeholders. Restorative Justice views crime as harm done to people and communities. It has a strong emphasis on offenders being made to be accountable and accepting responsibility (to those who have been harmed).

That is perhaps better understood when contrasted with our present criminal justice system where crime is seen as an offence against the state, and accountability (and responsibility) is largely about punishments and sanctions. (O’Connell, T, 2000)

O’Connell earlier stated in 1998:

It is important that we recognise the emergence of restorative justice is a clear acknowledgement of the failure of our existing criminal justice systems. It should not be proposed as an alternative (to formal justice systems) but rather a process which can, over time, re-construct justice systems as we know them.

Realistically however, there is little evidence that presently, restorative justice offers a threat to existing adversarial systems.
There is a view by some practitioners and theorists that Restorative Justice is a revisit of traditional ‘healing’ and conflict resolution processes used by many village and native cultures over centuries. In New Zealand, Morris and Maxwell (1998) referred to traditional Maori systems of Restorative Justice:

Historically, Maori justice processes were based on notions that responsibility was collective rather than individual and redress was due not just to the victim but also to the victim’s family. Understanding why and individual had offended was also linked to this notion of collective responsibility. The reasons were felt to lie not in the individual but in a lack of balance in the offender’s social and family environment. The causes of this imbalance, therefore, had to be addressed in a collective way and, in particular, the harmony between the offender and the victim's family had to be restored. For example, the agreed outcome might have involved the transfer of the offender’s goods to the victim or work by the offender for the victim.

The Economic and Social Council of the United Nations Commission on Crime Prevention and Criminal Justice in May 2000 recommended the following definitions for Restorative Justice:

1. ‘Restorative justice programme’ means any programme that uses restorative justice processes or aims to achieve restorative outcomes.
2. ‘Restorative outcome’ means an agreement reached as a result of a restorative process. Examples of restorative outcomes include restitution, community service and any other programme or response designed to accomplish reparation of the victim and community, and reintegration of the victim and/or offender.
3. ‘Restorative process’ means any process in which the victim, the offender and/or any other individuals or community members affected by crime actively participate together in the resolution of matters arising from the crime, often with the help of a fair and impartial third party. Examples of restorative process include mediation, conferencing and sentencing circles.

Restorative Justice has an application outside criminal justice issues; the principles are widely used in a range of conflicts or areas where a resolution of differences is needed. Some examples are schools, the workplace, community or neighbourhood differences, family disputation and any situation where people need to ‘sit down and work through issues or problems’ to arrive at mutually agreed outcomes or a consensus together.

To provide a balanced view, not all writers on Restorative Justice agree about its philosophical base or its advantages over prevailing adversarial systems. Professor Kathleen Daly of Griffith University is a prolific writer, speaker and a driver of the South Australian Juvenile Justice (SAJJ) project. She argues that there are four myths that are perpetuated by the Restorative Justice philosophy.

According to Daly myths are:

1. Restorative justice is the opposite of retributive justice.
2. Restorative justice uses Indigenous justice practices and was the dominant form of pre-modern justice.
3. Restorative justice is a ‘care’ (or feminine) response to crime in comparison to a ‘justice’ (or masculine) response.
4. Restorative justice processes can be expected to produce major changes in people.

Daly believes that the advocates and supporters of Restorative Justice use terminology that is emotive and all embracing. I think Daly is correct about the terminology, but I also consider that the use of new and power terminology helps people embrace and identify a new way of doing business.

Professor Daly also says in her paper “Restorative Justice: The Real Story” (2000):

In order to sell the idea of restorative justice to a wide audience, advocates have painted a dichotomous, oppositional picture of different justice forms, with restorative justice trumping retributive justice as the superior justice form. There is a certain appeal to this
framing of justice: it offers two choices, and it tells us which side is right. With this framing, who could possibly be on the side of retribution and retributive justice? Only the bad guys, of course. When we move from the metaphors and slogans to the hard work of sorting out the philosophical, legal, and organisational bases of this idea, the true story fails us. It lets us down because no justice practice can be this good, or indeed as successful, as the advocates would want us believe.

As well Professor Daly, (2000) has said: Overall, the ‘real story’ of restorative justice has many positives and has much to commend, but the evidence is mixed. Conferencing, or any other new justice practice, is not nirvana and ought not to be sold in those terms.

In the political arena, telling the mythical true story of restorative justice may be an effective way to challenge ‘old’ justice system ideas and practices. It may inspire legislatures to pass new laws and it may provide openings to experiment with alternative justice forms. All of this is a good thing. Perhaps, in fact, politics requires people to tell mythical ‘true stories’. The ‘real story’ attends to the murk of justice organisations and people’s lives, revealing a picture that is less sharp-edged and more equivocal. My reading of the evidence is that face-to-face encounters between victims and offenders and their supporters is a practice worth maintaining, and perhaps enlarging, although we cannot expect it to deliver strong stories of repair and goodwill most of the time. If we want to avoid the cycle of optimism and pessimism (Matthews 1988) that so often attaches to any justice innovation, then we should be courageous and tell the ‘real story’ of restorative justice. But, in telling the ‘real story’, there is some risk that a fledgling idea will meet a premature death.

There are other academics and practitioners in the field who feel that, particularly when working with Indigenous offenders, the use of conferencing and other Restorative Justice techniques is only a re-badging of the existing top-down criminal justice system and particularly when police manage the process.

Working with Indigenous communities requires a real effort not to impose, but to create partnerships where empowerment is real. There is a great need for political imperatives to be tempered by the establishment of the partnerships, but this will take much longer.

Indigenous people must be encouraged and supported to take a direct and real role in addressing crime and social dysfunction in their own communities. No longer can the police and outside government agencies be the only drivers.

Professor Blagg, Western Australia University (2000) believes that, because conferencing has been established “within the shadow” of the criminal justice system, it would suffer from the established legitimacy of the system. I agree that focusing on the crime perpetuates the perception that Aboriginal people are the problem.

It is the people involved in a criminal event; i.e. victims, the offender, the authorities and the community that are the focus of Restorative Justice, not the crime!

Whatever this process is known as, it is more powerful and realistic than the existing system that has very little impact on many young Indigenous offenders. The realisation of harm and what I have done in the offender is significant, particularly when the victim and offender supporters are involved.

I agree, however, that effective evaluation in the longer term and program adaptation is essential and Braithwaite also warns that these are early days. I do not suggest that Restorative Justice systems should replace the existing process, but rather operate in parallel for appropriate offenders as determined by the court and prosecution authorities.
Braithwaite commented at the United Nations Crime Congress in Vienna (2000), on standards and best practice in Restorative Justice claimed by some theorists and practitioners:

I worry about standards that are so prescriptive that they inhibit restorative justice innovation. We are still learning how to do restorative justice well... because evaluation research on restorative justice is at such a rudimentary stage that our claims about what is good practice and what is bad practice can rarely be evidence-based.

Such is the difference of view (both from practitioners and theorists) that this relatively new way of doing justice business is still embryonic and evolving. The central principle is, however, not disputed.

Restorative Justice principles and practice provide a real additional approach for suitable offenders to current adversarial systems of justice applied by courts that are perceived by many to be ineffective in affecting attitudinal change by offenders.

Restorative Justice practices are not a let off, as some have suggested. The power of the realisation of harm affects all participants regardless of culture. The difference is simply that victims, the offender and their respective supporters are all involved in a process that empowers, whereas the adversarial courts process rarely involves those affected by a criminal event, except the offender in a non-personal way. Victims of crime appreciate being granted a real say in the resolution. This is one of the major principles of Restorative Justice.

It is worth considering that a wider use of the principles of Restorative Justice in overcoming Australia’s very high rate of custodial sanctions for its Indigenous people could result in reductions in criminal activity and the use of very costly imprisonment with little reduction in risk associated with public safety.

It is clear that custodial sanctions are not a deterrent to offending in general, with two million American citizens (a three-fold increase in ten years) in prison only having a very marginal affect on street crime and public safety.

In discussions with Marshall Perron, former Chief Minister of the Northern Territory, and Ian Gray, former Chief Magistrate of the NT (and now Chief Magistrate of Victoria), it was considered that when a penalty or sanction was not a deterrent, it did not create any stigma of any kind. Also, if it was not an impediment to any relationship there was little a judicial or executive body could do. This has a major impact on criminal activity and parental / community involvement and the positive shaming aspects.

If there is no deterrent, penalty or stigma of any kind associated with committing a crime then the system under which we currently operate has failed.

The Chief Minister of the Northern Territory, on 12 August 2000, speaking on the creation of the Juvenile Pre-Court Diversion Scheme in the Northern Territory, stated:

I have very high hopes for these new initiatives. It is a chance to have a real impact on the extent of juvenile offending. Just as importantly, I hope it ensures that juveniles are not caught by the formal criminal justice system when they could be more appropriately and more effectively dealt with in the community, with police help and under police supervision.

There are real alternatives associated with the principles of Restorative Justice that should be politically and socially acceptable, resulting in less social dysfunction, better relationships, improved victim participation, greater cost efficiencies and real future partnerships and opportunities to divert many non-violent offenders in the longer term from a potential criminal career.
BACKGROUND INFORMATION – AUSTRALIA

a) INDIGENOUS SOCIAL ISSUES – AUSTRALIA (OVERVIEW)

The blaming and welfare-handout mentality that has developed in many Indigenous organisations and communities since the mid 1970s has now been acknowledged by senior Indigenous spokespersons. Noel Pearson, one of those Indigenous leaders in Australia in 2000, stated:

I think the general community does not understand what kind of social disaster results from an experiment like that where you put human beings into an economy they are 98 percent reliant upon passive welfare. What happens to family bonds? What happens to social values? What happens to community values? What happens to personal self-esteem? What happens to human life when you subject a people to this bizarre experiment of taking them out of the real economy...Of course, as these families begin to reveal symptoms of dysfunction, you devise a whole lot of welfare state social service delivery strategies which compounded the passivity and produced the social disaster...

Pearson was talking about the Cape York region but his comments could be applied to anywhere in Indigenous rural Australia.


Although there are differences by State and Territory, Indigenous children are more likely than non-Indigenous children to be the subjects of substantiated cases of abuse and neglect (with rates about 2-8 times higher in most jurisdictions in 1997-98), under care and protection orders (about 4 times higher in 1998) and on out-of-home placements (almost 6 times higher in 1998). Indigenous children are also over-represented in the juvenile justice system, with about 40% of children in ‘corrective institutions for children’ identified as Indigenous in the 1996 Census.

Indigenous adults are more likely than non-Indigenous adults to have contact with legal and correctional services, with almost 19% of the adult prison population in 1997 being identified as Indigenous. The imprisonment rate for Indigenous adults was over 14 times that for non-Indigenous adults.

Indigenous people are also over-represented among clients of the Supported Accommodation Assistance Program (SAAP), which provides services for people who are homeless or at risk of being homeless.

Indigenous people represented about 12% of adult clients of the SAAP in 1996-97, despite comprising less than 2% of the total adult population.

Some of the differences between the health of Indigenous and non-Indigenous Australians can be attributed to the health risks to which Indigenous people are more likely to be exposed, such as poor living conditions, poor nutrition, smoking, consumption of alcohol at hazardous levels, the use of illicit drugs and other harmful substances, and exposure to violence.

Indigenous people are more likely than other Australians to live in improvised and/or over-crowded dwellings. Almost a third of all households living in improvised dwellings in Australia in 1996 were Indigenous households, and nearly half of all dwellings with 10 or more people living in them were occupied by Indigenous households. Almost 7% of Indigenous people in Australia lived in dwellings with 10 or more residents in 1996, which is more than 50 times greater than the proportion of other Australians living in such conditions.

Indigenous people are more likely than non-Indigenous people to be victims of violence and to suffer intentional injuries (those inflicted on purpose by another person) resulting in hospitalisation. Almost half (46%) of all hospital separations among females for intentional injuries in 1996-97 were of women identified as Indigenous. Indigenous people are also over-represented in intimate partner homicides, with 20% of victims and 22% of offenders in 1989-96 identified as Indigenous.
Based on available data, it is estimated that about 2.2% of total health expenditure in
Australia in 1995-96 was spent on health services to Indigenous people. The estimated
expenditure per person was $2,320 for Indigenous people and $2,163 for non-Indigenous
people. The differential in expenditure is smaller than the differential in various measures
of health status, such as those described in the next section. There were differences in
the pattern of service use between the Indigenous and non-Indigenous populations, with
the Indigenous population having a greater reliance on public hospitals and community
health services, and less on private hospitals, Medicare, the Pharmaceutical Benefits
Scheme (PBS) and nursing homes, than the non-Indigenous population. Medicare and
the PBS accounted for over a third (36%) of government expenditure on non-Indigenous
people, but just 5% of expenditure on Indigenous people.

The Productivity Commission’s Report on Government Services in Australia (2001) states:
In 1999-2000, on average 20,753 people per day were held in Australian prisons during
the year and an additional 1334 people on average were serving periodic detention
orders in NSW and the ACT. Nationally, 15% of the total prisoner population (excluding
periodic detainees) were held in privately operated facilities. The proportion of prisoners
held in private prisons ranged from 8% in NSW and SA to 46% in Victoria.

Nationally, the total imprisonment rate (prisoners per 100,000 adults) was 143, with the
rate ranging from 80 in the ACT to 446 in the NT. The national Indigenous imprisonment
rate (per 100,000 Indigenous adults) was 1738 compared with a rate of 117 for non-
Indigenous prisoners. Tasmania reported the lowest rate of Indigenous imprisonment
(417) and WA reported the highest (2954).

On average, 58,979 offenders per day were serving community corrections orders.
Nationally, the community corrections rate (offenders per 100,000 adults) was 407, and
the rate ranged from 183 in Victoria to 732 in Queensland.

Figure 5: Prison Costs and capacity 1999/2000

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<th></th>
<th>NSW</th>
<th>VIC</th>
<th>QLD</th>
<th>WA</th>
<th>SA</th>
<th>TAS</th>
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<th>AUST</th>
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<td>Prison design capacity use rates, 1999-2000 (per cent)</td>
<td></td>
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<td></td>
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<tr>
<td>Total</td>
<td>102.7</td>
<td>106.0</td>
<td>93.0</td>
<td>118.3</td>
<td>106.7</td>
<td>80.6</td>
<td>95.2</td>
<td>76.8</td>
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<tr>
<td>Secure</td>
<td>101.6</td>
<td>107.8</td>
<td>94.7</td>
<td>109.9</td>
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<td>79.8</td>
<td>95.2</td>
<td>79.1</td>
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Recurrent expenditure, All corrections, 1999-2000)

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<th></th>
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<th>VIC</th>
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<th>WA</th>
<th>SA</th>
<th>TAS</th>
<th>ACT</th>
<th>NT</th>
<th>AUST</th>
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<tbody>
<tr>
<td>Total cost of service (S’ 000)</td>
<td>515 485</td>
<td>201 774</td>
<td>257 264</td>
<td>184 702</td>
<td>110 965</td>
<td>22 293</td>
<td>18 187</td>
<td>34 447</td>
<td>1345 117</td>
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<tr>
<td>Population (’ 000)</td>
<td>6 412</td>
<td>4 712</td>
<td>3 512</td>
<td>1 861</td>
<td>1 493</td>
<td>470</td>
<td>310</td>
<td>193</td>
<td>18 967</td>
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<tr>
<td>Cost per head of population per year ($)</td>
<td>80.40</td>
<td>42.82</td>
<td>73.25</td>
<td>99.25</td>
<td>74.32</td>
<td>47.41</td>
<td>58.64</td>
<td>178.59</td>
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Australia’s prisons are over design capacity already at a cost approaching $1.5 billion AUD
per year. We will soon approach, in relative terms, the USA experience.

The Productivity Commission also produced this compilation of Indigenous outcomes that
are reflective of the current Australian position:

School education: nationally comparable data on year 3 literacy outcomes for Indigenous
students are available. The proportion of year 3 Indigenous students who achieved the
reading benchmark ranged from 29.7% in the NT to 77.8% in NSW. Nationally, the
proportion of Indigenous students achieving the reading benchmark was 66.1% compared
with 86.9% for all students.

Vocational education and training: the proportion of Indigenous students was higher
than the proportion of Indigenous people in the general population. This varied from 0.8
per cent in Victoria (compared with representation in the community of 0.5%) to 37.8% in
the NT (compared to 24.4% representation in the community). Tasmania reported the
highest load pass rate for Indigenous people (79.8%). In addition, 81.2% of Indigenous TAFE institute graduates who enrolled in a VET course to obtain a better job achieved this outcome, compared to 72.8% for all graduates.

**Health:** Mortality rates for Indigenous Australians are reported for the first time this year. Care must be taken in interpreting this data, given the systematic underreporting of both deaths and births. In Queensland, WA, SA and the NT (the only jurisdictions to have sufficiently reliable data), the Indigenous infant mortality rate was approximately two to three times that of the national average for Indigenous and non-Indigenous Australians in 1998. The median age at death for Indigenous people, a measure of life expectancy, was lower than for the total population in those jurisdictions for which reliable Indigenous data are available.

In 1998 in the NT, median age at death for all males was 52.3 years compared with 45.6 years for Indigenous males. For WA and SA, all females’ median age at death was 80.8 years and 82.0 years respectively, whereas for Indigenous females, the relevant ages were 57.5 years and 53.0 years respectively.

**Public hospitals:** Data on Indigenous people are limited by the accuracy with which Indigenous people are identified in hospital records. Indigenous status tends to be underreported, although the extent of underreporting varies across States and Territories. Data can only be considered of acceptable quality in the NT, WA and SA. From the available data, it appears that Indigenous people are almost twice as likely to be admitted for treatment in hospital. The NT reported the highest rate of Indigenous separations (887 separations per 1000 Indigenous people, compared with a corresponding figure for the NT total population of 352 separations per 1000 people). Some data also reported on separation rates for Indigenous people for selected diseases.

**Health management:** Data for Indigenous suicides are reported, although the Australian Bureau of Statistics considered only data for Queensland, WA, SA and the NT to be of publishable standard. In Queensland, the Indigenous suicide rate was 45.8 suicides per 100,000 Indigenous people compared with 16.8 suicides per 100,000 for the total population. In SA, the Indigenous suicide rate was 45.0 suicides per 100,000 Indigenous people compared with a rate of 16.4 for the total SA population. Some data are also available for Indigenous women screened in breast cancer screening programs.

**Police:** For those jurisdictions that reported, the proportion of Indigenous police staff generally reflected the proportion of Indigenous people in the general population. The ACT, SA, and Tasmanian Indigenous police staff accounted for 1.0, 1.2 and 1.3% of total staff respectively. In the NT, Indigenous staff accounted for 6% of total staff compared with Indigenous representation in the population of 24%.

Nationally, of the 26 deaths in police custody and custody related operations, 6 were Indigenous deaths (with 3 in WA, and one each in NSW, Queensland and the NT).

**Correctional services:** Indigenous people were more likely to be subject to containment in prisons. The national imprisonment rate per 100,000 Indigenous adults was 1738 compared with a rate of 117 for non-Indigenous prisoners. Indigenous imprisonment rates ranged from 417 in Tasmania to 2954 in WA. Prisoner death rates, and community corrections offender rates, are also reported.

**Aged care services:** Indigenous people tend to require aged care services at a younger age than the general population. Thus, participation in aged care services was based on Indigenous people aged 50 years and over. Indigenous specific and flexibly funded services allow Indigenous people to stay in their own communities and account for about 20% of Indigenous Australians needing aged care services. At August 2000 there were about 225 Indigenous specific and flexibly funded services in operation across Australia. On average, Indigenous people were underrepresented in aged care facilities (although the rate varied across jurisdictions).

This can be explained to some extent by the different age profiles of Indigenous people when compared with other non-Indigenous residents of aged care facilities.

There are also cultural characteristics that lead to a preference for community care over residential care for Indigenous people.
Across jurisdictions, WA, SA, Tasmania and the NT had the highest proportion of Community Aged Care Packages recipients per Indigenous person aged 50 years and over.

Indigenous people tend to use Home and Community Care (HACC) services more than residential services. Indigenous HACC clients aged 50 years and over received on average 1535 hours of HACC service per month in 1997-98, compared with 956 hour per month for non-Indigenous HACC clients aged 50 years and over.

**Services for people with a disability:** a higher proportion of the Indigenous population used accommodation support services than the general population in all jurisdictions except Victoria, Tasmania and the ACT.

**Children’s services:** the proportion of child care attendees from an Indigenous background ranged from 0.6% in Victoria (where their representation in the population was 0.9%) to 10.4% in the NT (where their representation in the community was 35.9%). Overall, Indigenous representation in childcare was 1.5% nationally compared to representation in the community of 3.7%. The proportion of children attending preschools who were Indigenous children was broadly similar to their community representation. Across jurisdictions it ranged from 0.7% in Victoria (compared to 0.9% community representation) to 34.5% in the NT (compared to 35.9% community representation).

**Housing:** nationally the proportion of Indigenous people receiving Commonwealth Rent Assistance was slightly lower than the representation of Indigenous people in the overall community. The NT had the highest proportion of Indigenous recipients (13.2%, compared to 28.3% community representation) and Victoria the lowest (0.5%, equivalent to representation in the community). Details of the use of public and community housing by Indigenous people are also reported.

The Council of Australian Government’s (COAG) National Commitment to Improved Outcomes (1992) states:

The Government’s of Australia: (in Purpose 2.2) recognise that a National Commitment to improved outcomes in the delivery of programs and services for Aboriginal peoples and Torres Strait Islanders is required to: (a) redress the underlying and fundamental causes of Aboriginal and Torres Strait Islander inequality and disadvantage including those identified by the Royal Commission into Aboriginal Deaths in Custody” and under “4 PRINCIPLES” the Commitment continues “The Governments of Australia, in making this National Commitment, have as guiding principles (inter alia) 4.1 empowerment, self-determination and self management by Aboriginal peoples and Torres Strait Islanders.

In 2000, COAG reaffirmed its commitments with a pointed statement aimed at developing better relationships and outcomes with Indigenous Australians.

The COAG communiqué stated in part:

- Drawing on the lessons of the mixed success of substantial past efforts to address Indigenous disadvantage, the Council committed itself to an approach based on partnerships and shared responsibilities with Indigenous communities, programmes flexibility and coordination between government agencies, with a focus on local communities and outcomes. It agreed priority action in three areas:
  - Investing in community leadership initiatives;
  - Reviewing and re-engineering programs and services to ensure they deliver practical measures that support families, children and young people. In particular, governments agreed to look at measures for tackling family violence, drug and alcohol dependency and other symptoms of community dysfunction; and
  - Forging greater links between the business sector and Indigenous communities to help promote economic independence.

Cunneen, (1998) believes that Indigenous people’s current behaviour stems:

from the intergenerational effects of earlier assimilationist policies, as well as being the direct outcome of dispossession and marginalisation. In addition, failure to understand and respect cultural difference, particularly different familial structures and children rearing practices, can lead to adverse decisions by juvenile justice, welfare and other agencies.
These abuses include the failure to remedy the appalling levels of social and economic disadvantage which prevent the enjoyment of citizenship; they include the failure to ensure that the lives of Indigenous children and young people are free from direct and indirect racial discrimination; and they include the failure to provide the conditions where Indigenous people might enjoy the right of self-determination, particularly in relation to decisions which affect their children and young people.

Not all youth offend, not all Aboriginal people have dysfunctional families or communities. Kids, teenagers and adults in most societies generally follow society’s rules and do the right thing.

The media like to concentrate on the bad guys creating the impression that there are so many bad guys in the community (and many Indigenous men fit the created image), when in reality for most young people of all races, it is merely a stage many go through as part of growing up.

It is of concern that commentators, and particularly the media, focus on the relatively small number of people who do not comply with wider society norms.

Generally Indigenous people are portrayed as bad drunks and alcoholics, yet most Aboriginal women do not drink at all and many men also do not drink alcohol when they reside in their communities. Indigenous youth and young men do, however, commit a significant proportion of crime in the Northern Territory and community leaders must address this within the overall context of community dysfunction.
b) INDIGENOUS SOCIAL ISSUES - NORTHERN TERRITORY


The most important decade, arguably, is the period 1968 to 1978. During that period a number of profound developments occurred:

- Following the 1967 Referendum the Commonwealth was empowered to legislate on behalf of Aboriginal people:-
  - leading eventually to the enactment of the Aboriginal Councils and Associations Act 1975, the Aboriginal Land Rights (Northern Territory) Act 1976, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, and the Native Title Act 1993, amongst others.

- In 1968 the Industrial Relations Commission determined that award wages were payable to Aboriginal people employed in the pastoral industry in the Northern Territory:-
  - leading to unemployment and an exodus of Aboriginal people from their traditional lands.

- In December 1972, the Commonwealth Government created the Department of Aboriginal Affairs, and variously the Aboriginal Loans Commission, the Aboriginal Land Fund Commission, the Aboriginal Development Commission, the Aboriginal and Torres Strait Islander Commission, the Aboriginal and Torres Strait Islander Commercial Development Corporation, and the National Aboriginal and Torres Strait Islander Land Fund:-
  - over this period very significant sums of money have been appropriated ($1.8 billion by the Commonwealth for 1998/99 alone), the bulk of which is spent in grants to incorporated Aboriginal organisations or welfare payments to individuals. A myriad of Government programs have emerged over this period.

- 1973 saw the cessation of a program where all able bodied people in remote communities were “employed” and paid a training allowance:-
  - this led to more unemployment, the extension of welfare benefits, and not surprisingly an interpretation by Aborigines that Government preferred to pay them not to work: hence ‘sit down money’.

- In 1973 (also) the more interventionist approach of Government officers or Mission authorities managing remote communities was abandoned, virtually overnight, in favour of elected councils of community representatives taking on the responsibility:-
  - criticisms have been made about the haste of these moves, the unpreparedness of such councils to take on the responsibility, and the nightmare they inherited in respect of traditional land rights and obligations.

- In 1973 the Government appointed Mr Justice AE Woodward to inquire into and report on ‘the appropriate means to recognise and establish the traditional rights and interests of Aborigines in and in relation to land, and to satisfy in other ways the reasonable aspirations of the Aborigines to rights in or in relation to land’ :-
  - leading to the enactment of the Land Rights Act in 1976.

- Throughout the 1970s Aborigines were encouraged to incorporate as communities, or communes, to be eligible for grants from programs whose guidelines were constructed on the same premise:-
  - notwithstanding evidence from around the world pointing to the failure of the communal approach.

- During 1978 the first inalienable freehold land titles under the Aboriginal Land Rights (Northern Territory) Act 1976 were delivered to Land Trusts leading to the present day situation where about 52% of the Territory is owned or claimed by Aborigines:-
  - the intention to guarantee land for the next generations has been successful, but the downside has been that entrepreneurial clans and individuals have been held back by the communal nature of the land title. An iron curtain has developed around Aboriginal land.
– another effect of the Land Rights Act has been to ensure a flow of royalty monies, from mining activity on land that has become Aboriginal land, to Aboriginal communities and groups in the area affected.

All of these decisions were made with the best of intent, designed to correct the wrongs of the past, to remove the last vestiges of institutional racism. The decisions were right at the time, and I believe that if the same conditions were confronted again today the same decisions would be made. But arguably, the combined effect of the decisions has been devastating on Aborigines.”

Beadman in his OAD annual reports 98/99 and 99/00 continued:

OAD believes it coined the phrase ‘The Recursive Loop’. The concept is intended to give substance to the proposition that negative socio-economic indicators of disadvantage are interconnected. Like poor housing leads to poor health, to poor educational achievement, to poor employment prospects, to low household income, to high representation in the law and justice process and, of course, back to poor housing.

Housing is not necessarily the starting point of the Loop; start anywhere, in any part of the world, and you will see the same relationships between such indicators emerge. They are unambiguous. If you are poorly educated, you are more likely to be unemployed. If you are unemployed, you are more likely to end up in gaol. If you are undernourished, you will not achieve as well at school.

The statistics, or socio-economic indicators are major factors.

Here are just a few examples to reinforce the point from the published OAD reports:

• there are nine times as many Aborigines in prisons than there would be if they were imprisoned at the non Aboriginal rate.
• Aboriginal women are murdered at a rate 33 times greater than for non Aboriginal women.
• Aborigines have a nine times greater chance of being a victim of violence.
• Aboriginal participation rate in the workforce is 38% compared to 65% for others.
• attendance rate at Aboriginal schools is 71% compared to 91% in urban schools.
• remote Aboriginal students achieve Year 3 literacy and numeracy by the time they leave school, which is the attainment of 8 year olds in urban primary schools
• median individual income for Aboriginals is less than half that of the rest of the Territory population.
• Aborigines are 18 times more likely to be a victim of homicide, or 40 times more likely to be a road fatality, than to die in prison [why has there been this preoccupation with Deaths-in-Custody?].
• unemployed Aborigines are 19 times more likely to be imprisoned than if they were employed.
• Aborigines who haven’t completed school are 13 times more likely to be imprisoned than those who have.
• the life expectancy for Aborigines is some 20 years less than for others.

Among traditional Indigenous people in Australia, the considerable pressure by governments for social and economic change to conform has created enormous confusion, mainly for the people it was intended to help.

People of different cultures do not place the same or even similar priorities on issues emanating from within another society. Indigenous people in the Northern Territory put issues in categories depending on their relevance to their traditional notions of importance. Often *white fella* things (and *white fella* crimes) do not rate highly at all.

Some Indigenous community representatives consider that community and family are not responsible for community dysfunction.
There is an enormous and growing knowledge gap in traditional Northern Territory Indigenous communities and a perception that someone else (particularly the government) must fix any problem remotely related to non-traditional issues.

There are other priorities of far greater importance to traditional people or there are simply issues that do not have any relevance, even though mainstream Australia thinks they should. Such is the blaming and welfare-handout mentality that has developed in many Indigenous organisations and communities since the mid 1970s.

The many influences and confused and badly communicated messages/teachings of outsiders have been a major contributing factor. The confusing nature of the English language, the ethnocentric view of many outsiders, the continually changing laws, exploitation, misdirected good intentions and ‘top down’ so-called partnerships have exacerbated this deteriorating situation.

This cannot excuse the criminal behaviour of offenders but should explain the causal reasons associated with community dysfunction and a definite lack of support services and parental control linked to the breakdown of traditional structures in some places.

Former Senator, the Hon. Bob Collins, as head of the NT Review into Indigenous Education (2000) – Learning Lessons stated that:

> What is particularly frustrating is that many of these jobs are available in or near the home communities of the people wanting them. For example, basic literacy and numeracy is a necessity for employment in the mining industry, which has a preferential employment program and is actively seeking to increase the number of Indigenous mining employees by providing cadetships and workplace tuition in numeracy and literacy. It has found that most ‘potential employees from communities could not read occupational health and safety documents, or even signs around the mine-site. They cannot fill in the applications forms, write their date of birth or tally numbers as is required for many jobs’ (Joint Mining Industry Submission to review).

And in discussing the socio-cultural context, the review team also found:

> There is now a far higher level of income available that has provided benefits, but also a growing level of welfare dependency that is sapping the strength of Indigenous communities. Students are more mobile than ever before with consequent disruption to their education. Substance abuse and violence with the resultant family and community disorder are now far greater problems than they were twenty years ago. Alcohol is more easily available and other drugs such as kava and marijuana (gunja) are having significant impact and were unheard of then.

> The age at which Indigenous mothers are having their first baby is falling and many of the mothers are then dropping out of the education system. A related issue is the number of other young children absent from school for “childminding”. Over the past twenty years “lifestyle diseases” related to obesity, alcohol, and cigarette smoking have become the chief contributors to morbidity and early death, highlighting the need for health and education services to work together to promote preventative health measures.

Richard Trudgen in his book “Why Warriors Lie Down and Die” (2000) sums up the issues:

> When any group of people lose control of the basic things in life, the result is disaster.
> Normal things become abnormal and the people concerned start to suffer in all sorts of strange ways. This is the case in present-day Arnhem Land.
> The 1970’s dream of self-determination turned into a nightmare in the 1980’s and 1990’s, and the nightmare is continuing and intensifying.
> Many Yolngu are just giving up. Self-mutilation, attempted suicide and suicides are all on the rise. Domestic violence, alcoholism, drug abuse and homicides are also increasing. Apathy and social disintegration abound. Where Yolngu often enjoyed full employment and where highly interested in contemporary education, chronic unemployment and disillusionment with education are now typical, as high truancy rates in schools indicate. There is no longer a rush to send young people away for training and Balanda (European) education because it has amounted to nothing.
All this impacts on the people’s physical well-being. Where once elderly people with walking sticks were a common sight, now almost no old people exist. Many are dying in their late 30s or early 40s.

Other Australians know little of this reality and of the long and destructive history that the Yolngu have suffered, a history that leaves the once great warriors of Arnhem Land not dreaming of a brighter future, but thinking only of a nightmarish past. It is a history that leaves them in a crisis of living (my bold).

The breakdown of traditional cultural control systems in many Indigenous communities, and the lack of understanding about the replacement systems and how they work, makes for a high level of confusion among leaders in those places. Only when they can put a concept into a traditional context and relate to it does it make sense to them.

Many remote communities in the Northern Territory remain very traditional and the leaders pay simple lip service to those outsiders who try to convince them of a new path. They do, however, understand that their community is in trouble but the links to recovery are very confused and don’t make much sense. Peter Ryan, a Field Officer with the Office of Aboriginal Development in the NT, is very experienced in working with communities to make these decisions and to establish acceptable compromises, partnerships and directions for the future.

He tells one story about how strong the traditional aspects remain. The women of Lajamanu had received some funding to create a women’s centre and safe house for those in crisis and fear from domestic violence. Peter explained how well one was operating at another community that has the same language, i.e. Ali Curung, near Tennant Creek.

He offered to arrange an airplane to take senior women to that community so that they could talk with the women who manage the safe house there to see for themselves. They agreed.

Peter went to Ali Curung to await the arrival of the senior women and when the airplane landed ten senior men disembarked. Apparently, the elder men decided that this concept needed investigating and they told the Lajamanu women that they would go.

The men walked past the Ali Curung safe house and spent the next day in deep discussion with the elder men of that community.

Once they had sorted out this concept, and determined that it did not interfere with their traditional authority over traditional important matters, they returned to Lajamanu. I understand the women now have their safe house.

Outsiders must always be aware of the depth of cultural issues and why some issues are confusing. The men in this circumstance knew the problem that some women were experiencing with violence from drunken husbands but needed to make sure that the cultural structure remained intact. This is especially important when we form the partnerships that are aimed at achieving changed and better futures.

All Australian governments are now devising ways to form real partnerships with Indigenous communities linked to quantifiable outcomes and future opportunities that should have been the priority 20 years ago.

Steven Conn, former Professor of Justice at the University of Alaska (Anchorage), was asked by Justice Michael Kirby of the High Court of Australia and the Australian Law Reform Commission to advise on Northern Territory Indigenous justice and customary law issues in 1980. Professor Conn gave me a copy of his report.

Professor Conn, who is today a leading human rights advocate in the USA, painted a picture in 1980 that has changed very little over the last 21 years – in fact some of the social dysfunction and community capacity has worsened.

Professor Conn’s report must be a lesson to be learnt about the way services are delivered to communities in the criminal justice area. We have not grown and improved our services.
c) ADULT AND JUVENILE CUSTODY PRELIMINARY INFORMATION – NORTHERN TERRITORY

I have often heard it asserted that imprisonment for young Aboriginal men is one of the “rites of passage”, but, would not vouch for it.

Chief Justice of the Northern Territory, Brian Martin, 6 September 2000.

The Northern Territory News of 6 January 2001 featured a two-page article on Wadeye (Port Keats) that described a late 2000 Juvenile Court appearance by a youth from the community. The defence lawyer from the North Australian Aboriginal Legal Aid Service (NAALAS) admitted to the court that the boy said he wanted to go to Don Dale (the Darwin Juvenile Justice Detention Centre).

The magistrate in response said: “Knowing what I do of you from the past I fear that if I do not send you to Don Dale for Christmas you will go out and commit more offences until you get what you want. A number of your friends are going to Don Dale and you obviously want to go there too”. The Northern Territory News continued with: “He would sentence the boy for the shortest time, so that when he got through his time he would have had enough of Don Dale for a while”.

The Chief Magistrate for the Northern Territory, Hugh Bradley, has expressed concern over the behaviour of youth from some communities. He is frustrated that a community-based sanction is not accepted by the juvenile offender, who immediately goes out (sometimes outside the court room), and commits further offences to be breached which results immediately in the desired custodial sanction.

Mr Bradley also expressed his desire to try any sanction that results in a change to peer groups that may break the cycle of offending (personal conversation, 2000).

Former Northern Territory magistrate Bruce McCormack, who had presided over the Groote Eylandt circuit court in the 1990s, told me, in December 2000, that he often would adjourn a juvenile matter in the hope that whatever was attracting the offender to the Don Dale Centre would pass – Sometimes it did!

Bruce McCormack also explained to me that imposing a lengthy good behaviour bond on a youthful Groote Eylandter was tantamount to sentencing the person to prison longer (because of the probability of breaching the bond).

In the Northern Territory, a day in juvenile court does not pass without at least one magistrate calling for greater community and family effort and help to address the offending of Indigenous youth from their community.

Magistrates in the Northern Territory regularly sit down with community elders to try to find solutions, but as I have said elsewhere many of those elders perceive greater problems and the community repercussions for payback for that inter-family interference are too great to become involved with these white fella things in a traditional context.

Discussions, interviews and group sessions with a range of stakeholders were held prior to my overseas travel. This process included talking with juveniles and adults in custody, custodial staff, Indigenous organisations, judicial officials and others.

My preliminary work was aimed at identifying background factors related to the custody of these interviewees.

Indigenous males form the single largest group of detained/imprisoned persons in the Northern Territory (65% and greater if you discount non-Australian born detainees – such as the high number of people traffickers in custody in 2000/1).

Given that Indigenous people make up 28% of the Northern Territory population this is an over-representation ratio of nearly 3 to 1 against places like Western Australia, where the over-representation is as high as 10 to 1.
This is still unacceptable, but given some of the factors described in this report it is understandable. The juvenile custodial rate is even higher. In my discussions, I tried to discover why – in particular their own reasons why – and how manhood or other considerations had influenced their offending behaviour.

Police and other community members have often spoken about how Indigenous boys seek manhood by leaving the community and spending time in detention or custody. There is, I believe, a misunderstanding of what is manhood and the *rites of passage*. Traditional ceremony for the majority of these youth occurs to differing degrees in most remote communities and some observers have misinterpreted the *initiation* ceremony, its timing and purpose.

On Groote Eylandt, for example, it would appear that initiation does not always take place in the 8-13 age group or it could be that offending by some youth from Groote Eylandt (by being in detention or in the majority of occasions with family away from the community) removed the window of opportunity for initiation.

In many places, including Groote Eylandt, traditional initiation ceremonies are not the same or have adapted to take into account a changed lifestyle and many have been re-engineered to adapt them to environmental influences.

It is also believed that in many communities where traditional initiation exists today Elders carefully decide which young boys are deserving of knowledge and the privilege of becoming a man. I cannot be sure yet, but I think that in many communities some boys are bypassed in ceremony because they do not meet the expectations of the Elders in maturity or potential because of behaviour.

This may explain why some of the adult prisoners interviewed in Darwin said they were “too young” for initiation even though they were in their early 20s.

The interviews of juvenile and adults in custody in the Northern Territory were conducted on different occasions and in every case an Aboriginal Liaison Officer or a suitable staff member arranged the interview and in nearly all cases was present. Juvenile detainees, for ethical reasons, were usually interviewed as a group.

There are always problems when interviewing Indigenous people (especially youth) whose first language is not English. It is recognised that Indigenous people often answer questions with a response they think the inquirer wants to hear, particularly when the environment is foreign, such as in custody.

I was very careful with this problem and also made it clear that I needed help to learn. I am reasonably confident that the responses received from adults and juveniles were genuine.

The findings, however, are limited to the numbers interviewed (24 adults and 11 juveniles) and more work is necessary to substantiate the findings. About 25% of the sentenced 18-25 year old traditional Indigenous men in custody (and a larger percentage, more than 30%, of juvenile detainees) were interviewed and the respondents came from more than 14 different communities.

**Juvenile detainees in the Northern Territory**

In terms of juvenile detainees, i.e. those in custody under 18 years of age in the Northern Territory, the offences are predominantly property related and offending is usually as part of a gang. Gangs have set goals, identity (often with its own language and camouflage uniform), camaraderie and mateship. In such groups, peer pressure is high and conformity is essential.

The gang is usually led by the strongest youth, not necessarily the eldest, and can be comprised of both initiated men and non-initiated boys. In some places (such as Wadeye), the gangs are known by names such as ‘Drunken Sailors’, ‘Mad Warriors’, ‘Sodom Boys’ and ‘Judas Priest’. The names suggest that members favour heavy rock or rap music, as are black actor idols of American films.
To steal a car (even an emergency service vehicle such as an ambulance) at a Territory community to make a break from routine is seen as an adventure and a test at beating the authorities (i.e. the police in particular).

The kids know that in a remote community they will be caught. The youth drive a stolen vehicle around the community, for fun, until it runs out of fuel, crashes or breaks down.

Police do not even have to pursue them unless there is a life-threatening reason. The offenders will be identified soon after. Where can they go? It is totally different from city dwellers who consider that capture or identification will not (or probably will not) occur.

Police clear-up rates in Northern Territory remote Indigenous communities are very high, approaching 100%, against urban rates of around 15% for the same property offences (NAALAS, 2000). The offenders are known to everyone in the community and often, with the honesty of children, they admit to the offences immediately after the adventure is over. NAALAS staff informed me that this is changing.

There is no government job at stake, a criminal record is of no relevance and work on the local community is usually available on a Community Development Employment Project (CDEP). It is not an impediment to most relationships. There is no stigma attached to being arrested or having been convicted of a crime.

Dick Wallace, the magistrate holding the circuit court at Wadeye, informed me that he had heard that young women at Wadeye were uninterested ‘to bed’ a youth unless he has been to the Don Dale Centre or prison in Darwin.

The ‘world’ of juvenile and young Indigenous people rarely extends beyond the community boundary and the nearest town. The long-term implications or consequences of offending do not exist in terms understood, or even considered, by the juvenile offender.

There are five points to note:

• Gangs are not always family or clan related – they can include mates who conform from other families or clans;
• Conformity is essential. Expulsion can mean punishment or ostracism;
• Gangs have fun and give you something to do;
• Criminal activity by gangs is a cyclic or even an ad hoc phenomenon and is related to many outside influences, including traditional ones to do with payback, the availability of marijuana and family disputation and boredom;
• Gangs are not related (for these youth) to causing serious personal harm or with criminal intent.

Juveniles in detention also report:

• Detention does not mean you have become a man in Aboriginal ways but you are stronger if you have been to detention (remember the gang leader);
• School in detention is OK because it is more fun (school is not orthodox and also involves sport, movies and trade skills) – is there a lesson to be learnt in the difference between education and learning?
• Mateship is very important;
• The work is hard (as a man) and enjoyed (usually because you learn);
• Organised sport is great; and
• There are things to do that are group centred.

When asked about drinking and other drug taking, juvenile detainees considered that there are three levels: petrol or glue sniffing, marijuana (gunja) use and drinking alcohol. There are overlaps also but generally it would appear that the aspiration is to get to the adult stage, i.e. to consume alcohol.
Petrol sniffers were often referred to as boys and there was, by the older youth, a realisation of the damage petrol sniffing could do.

Smoking (tobacco) was definitely related to being an adult, especially as it is banned for sale or supply to under 18s in the Northern Territory and therefore unavailable in juvenile detention.

When questioned about a typical day at home in the community, detainees reported it often starts after a late night roaming the community or watching movies (particularly those that feature strong black actors). Smoking gunja can commence quite early in the day, progressing to meeting the mates, if school is not involved. The days are filled with boredom, lack any challenges except those determined by the group, and do not involve parents or other adult family or community members.

Every day seems the same. The attraction of detention, the plane ride, the variety of activities, mates, a wider range of food, the fun and the opportunity to be stronger (and smarter) is therefore very hard to resist. A community-based penalty for offending when your mates are going to have more fun going to detention in Darwin is therefore a disappointment - hence further immediate offending is in order, to join your mates.

Most community Indigenous youth in detention are not evil. They mostly portray, in custody, an image of fun – cheeky, happy, healthy, eager to learn and honest youth. Sometimes these are the very youth a community needs to expel for a period of relief. Magistrates are frequently asked by community leaders to send some youth away to detention or to another place to provide some respite for the community.

Quite often city (or town) youth portray a totally different image. Theirs is one of anger, blame, dishonesty, manipulation and dislocation. Gang membership is still important however, for protection, identity and self-esteem.

Membership of gangs in a detention environment is also important, for identity and power is extended through intimidation and numbers. The experience of detention is always considered temporary, much like a holiday.

The media and the public still do not realise that the numbers of youth in detention are small and do not represent a major public safety risk. Juveniles in detention are more likely to be imprisoned as adults in later life.

In any event, over 85% of juveniles in courts in Australia will not re-offend to such a degree that detention is necessary and be further ordered by Australian courts to a period of custody (Carcach and Leverett, 1999).

The juvenile detainee knows that there is an end point to detention and shifting between open custody (in a camp-type non-fenced environment), the formal detention system and the home community is often sought without any acknowledgement of the system’s needs for security and to comply with a court order.

When the perception of a holiday is over the youth wants to go home. Naturally!

Some further points before a comment regarding the manhood issues:

- These groups of Indigenous traditional youth are no different from other youth from places where there is nothing to do (or what is offering is not considered as worthwhile);
- Ambitions are limited to what is seen as achievable i.e. to drive a local community truck – other options are not even considered (driving a Formula 1 race car is a wish held by many but these youth do not ever perceive such a possibility – it is not relevant);
- There is a total lack of understanding and reality regarding a world outside their community by these kids. Their world only exists to the boundary of the community and the nearest town. The trip to detention itself is akin to ‘a new experience and adventure’. Second timers are regarded by others as ‘old hands’ to be respected. These offenders do tend to show the ‘ropes’ to the others and that gains them additional esteem;
• The American movie characters are only real to the extent that they are challenges to emulate; and

• There are times that the opportunities for fun are just too great, especially if it copies the characters in the movies that are either cops or those who battle the cops.

The Superintendent of the Don Dale Centre in Darwin, Steve Parker, tells a tale of one male detainee who was soon to be released and who had saved his money for clothing to leave with. The staff took him shopping and he bought a bright blue silky shirt, white trousers, a baseball cap and sneakers. The youth begged to wear his new clothes back to the detention centre to show the others. He dressed and when entering the common room proudly announced to all the other detainees words akin to hell dang lookit me – ain’t I a great looking nigger!

The juvenile detainees that I had the opportunity to talk with see their experience as an adventure that brings strength and companionship with their mates in a uniform and equal environment with other similar youth. It is a ‘growing up’ experience of a different kind. It sets the youth apart from others who have not experienced detention but equal to mates who have also done so. The ambition to further the experience with adult imprisonment also exists for most juvenile detainees.

Many detainees see imprisonment as an ambition. Those adults interviewed who had juvenile custodial experience were more inclined to express anger and hopelessness and distance from cultural synergy and connection.

Some youth from Indigenous communities are also concerned or frightened about traditional issues that affect their lives in the home community.

• Escaping initiation appears only relevant for the very young youth from traditional communities who run away;

• Many traditional juveniles from communities are eventually caught by elders and undergo ceremony.

• There are some exceptions and those who commence custodial sanctions at a very young age (under 13 years) and keep returning are, in the main, that group that is the most alienated. These are the Indigenous youth who do not meet their family and community aspirations of cultural connection and linkage in some satisfactory way; and

• Pay back – some offenders consider that they must get away from a potential problem that may involve pain and retribution. It is rare, but if a member of the family has committed an offence against another family it is normal for a member of the other family to seek redress and accept the balancing pay back. Sometimes the youth is not the intended recipient but in the eyes of a child there is that question.

Who can blame them to try the system, when the home reality is so boring, lacking in support and, above all, does not contain the normal fun and challenges that youth need. Aboriginal Australia, and particularly in remote Australia, is very much marginalised. Young people within the already marginalised society are further isolated and exist on the fringes of society’s acceptance. They are often marginalised within the marginalised! Their own communities and families have contributed to this, often without realising it.

The numbers of juveniles in custody, given the social and environmental problems of the Northern Territory, are very small. The daily average of juvenile detainees in total over the last three years in the Northern Territory has been between 15 to 17 (1998-2000).

It surprises me that it creates such emotion in outsiders who presume to understand the realities of the home life of such children. The reality is that manhood would appear to have little to do with the custody of youth in a traditional initiation sense. It would appear that it has more to do with young men wanting to experience another, more exciting, world than the marginalised one they live in.
Adult prisoners and their views

Adult prisoners interviewed have a very different perception than their juvenile (in NT law) counterparts. Unlike juveniles, the adults were interviewed separately and the 24 adult respondents covered 14 different home communities. The adults’ offending was largely committed as individuals, against the juveniles’ gangs and groups.

The questions asked of the adults were more directed to seeking a response regarding manhood issues. The first interviews were carried out in Alice Springs and followed up at the Darwin Correctional Centre. The Alice Springs prisoners who came from the ‘Top End’ greatly disliked the Central Australian environment.

The following table outlines the interview results. Sentenced Indigenous males between 18 and 25 of age were interviewed separately. The interviews (Figure 4) reveal:

![Fig 6: Results of Adult Interviews in the Northern Territory](image)

- **Home communities** were Ngukurr 2, Elliott 2, Mataranka 1, Tiwi Islands 1, Lajamanu 1, Pulumpa 1, Wadeye 7, Groote Eylandt 3, Imanpa 1, Darwin 1, Kintore 1, Oenpelli 1 Daly River 1 and Nhulunbuy 1 (14 different communities);
- **Average age** was 23, mode was 20;
- **Average number of custody terms as an adult** was 3, mode was 2;
- **Average age at first imprisonment** was 18, mode was also 18;
- **Do you have family from your community in gaol now?** Yes 22, No 2;
- **Has your father, elder brothers or uncles been to gaol?** Yes 11, No 13;
- **Did they tell you good things about gaol before you went to gaol?** Only 1;
- **Did you commit your crime to be with family or friends?** Yes 3, No 21;
- **Why did you do you crime?** Family 3, Mates 1, Alcohol 13, Marijuana 2, Hungry 1, Got angry 2, No answer 2;
- **Drugs/alcohol involved?** Nil 3, Alcohol 15, Marijuana 2, Grog and dope 4;
- **Families at the point of imprisonment were mostly sad/worried**;
- **Families after being in gaol for while are sad and waiting**;
- **Are you a man because you went to gaol?** Maybe 5, Yes 3, No 16;
- **What is a man in your home?** Ceremonies man 20, girlfriend 1, look after self 1, don’t care 2;
- **Are you a ceremonies man (finished)?** Yes 20, No 1 (town), and 3 Groote Eylandters who each (and separately) said they were too young;
- **None had any knowledge of diversionary programs nor the term**;
- **Do you like being in gaol?** Yes 3, No 21;
- **Do you want to come back to gaol?** Yes 1, Maybe 1, No 22;
- **Would you tell your friends that this is good place?** Yes 2, No 22;
- **Is there another way apart from ceremony to become strong and a man?** No 16, 3 don’t know, 3 work, 2 having a girlfriend;
- **What do you like about gaol?** Nothing 19, Not much 3, Friends 2;
- **Do you think being here will help you in the future?** Yes 6 (courses), No 18;

Other questions were related to family and personal relationships.

When asked who is the person you most respect? the answer was usually mother, or grandmother, (Groote Eylandters) with some others opting for brothers and in one case the father and another the girlfriend;

When asked (carefully), who do you listen to? the answers were nearly the same. Fathers twice, brothers twice and mothers the balance;
When asked *who do you want to listen to you?* the answers ranged from anyone 1, wife 2, their kids 4 and brothers, cousins, sisters (but all family) for the rest. It appears that mothers already listen!

**Summary of Northern Territory background**

I became aware from these men of a need for family acceptance from their female elders (i.e. mothers and grandmothers). Territorians who work with Indigenous people have long recognised the power and importance of Indigenous women. They are the key to cultural synergy.

The women are the abused, the mothers, the carers and they also aspire and want the most for their children. The evidence so far indicates that their offspring in custody also agree. I recognise that this is a problem in the mostly patriarchal Australian Indigenous cultural society, but in a cross-cultural environment we have to accept reality and support women community members and initiatives developed by them and with them.

The important points to note were that adults and juveniles responded differently and this is related to life experience. The juvenile offenders were adventurous and testing their world and the adult males were engaging in criminal activity, albeit often intoxicated. Drug and alcohol use is universal.

The central theme to emerge in the interviews about life in custody was that detention provided access to resources that were unavailable within the original communities. The importance of this fact is central in terms of addressing adolescent criminality. For example, school in detention was described as more interesting and rewarding than the ‘outside’ alternative because of its broadness, its focus upon basic reading and writing skills, the sporting opportunities and the increased access to outside information such as documentaries and movies. The work within the detention centre was considered hard but rewarding, because it offered a chance to acquire useful new trade skills that the adolescents saw as potentially leading to a ‘better’ future.

There is a crucially important point to be aware of here. Whilst detention may be signalling a new level of maturation, in a manner that is *analogous* to the way entering high school may ‘work’ for middle class adolescents, there is a vital difference that needs to be recognised. The interviews point to detention being seen by the young people as an opportunity for a *different experience* from that available in the remote communities this is a critical point, as whilst there may be issues of status associated with incarceration, the adolescent criminality in the Northern Territory is primarily born out of boredom, with detention providing an opportunity to experience *something new*. The ‘attractions’ of detention such as the plane ride, the variety of activities, the mates, the enhanced range of food, fun and the opportunity to be stronger (and smarter) are therefore seen by some as compelling.

The importance of this in terms of future policies is decisive. If we are content to entertain the idea that detention is a ‘rite of passage’ that young men in Indigenous communities actually ‘want’ as part of ‘becoming a man’, we are making assumptions about decision making by young Indigenous men that excuse us of any responsibility for Indigenous over-representation in our prisons. If on the other hand, we are prepared to consider that detention may be attractive simply because it represents a desperately needed change in routine for marginalised and disadvantaged young people, we are forced to confront policy development issues that we know will prove ‘taxing’ in every sense of the word. (Ogilvie and Van Zyl, 2000)

Groote Eylandt men strongly favoured their grandmothers; it is also known that many children on Groote are raised by their grandmothers. Generally the responses have been such that it confirms, for me, their accuracy as they match other knowledge and cultural nuances.

The correlation between the questions about manhood, ceremonies, imprisonment and family leads me to consider that, in the view of those in custody, it is not related to a traditional initiation process and for adults it is not related to a manhood perception.

Juveniles, on the other hand see *being strong* as deriving from a custodial experience, but again it has little to do with traditional systems.
Policing, Correctional Services and the Parole Systems

It took time to understand the Canadian and Alaska criminal justice systems and the interaction, liaison and links between the different services.

In Canada, the Royal Canadian Mounted Police (RCMP) is the Federal Police Force, carrying out national policing, intelligence, international peacekeeping and policing to Canada outside urban centres and in communities that have contracted their services. The RCMP also trains First Nations Police Services where they have been established. Depending on the size of the urban centre, that place may recruit and operate its own police force and as a consequence most reasonably sized towns and cities have their own police services.

Sometimes the RCMP is contracted to carry out policing but the local municipal authorities do not always agree with the RCMP philosophy underpinned by Restorative Justice. Sometimes the RCMP must abide by other conditions dictated by the contracting municipal authority. Provinces (i.e. states) also have Police Forces.

The RCMP is clearly a most professional police service and their overall philosophy of Restorative Justice is to be commended. Their commitment on a national sense is world’s best practice, and their Restorative Justice training package is the best I have seen and should be adapted with the RCMP’s agreement across the public services that deal with Indigenous people in the Northern Territory.

The Correctional Service of Canada manages prisons for persons convicted of Federal offences and those others serving more than two years. Each province operates a prison system for those serving less than two years. Juvenile Justice systems are operated by the provinces and they manage facilities for juveniles (usually to the age of 17/18).

Sometimes prisoners seek slightly higher sentences to get into the Federal system that has much more in the way of Indigenous and other rehabilitation programs. Waiving juveniles to the adult system for Court dispositions can exist in Canada but is more common for serious offenders in the USA system of Alaska and results in very long terms upon a conviction.

The National Parole Board of Canada handles most parole issues across Canada (provinces also have parole boards) and has expert advice from Elders and other professionals that should be an example for Australian systems.

The Federal Corrections system in Canada supports the parole system, however other community-based corrections alternatives are usually the responsibility of the provinces.

Parole meetings are usually open to victim observers and offenders can appear before the Board. No Federal Correctional Services or National Parole Board system exists in Australia.

Indigenous policing is carried out in rural areas in a number of different ways depending on the location and the size and stability of the community. Up to 16 First Nations Police Services have operated in Western Canada. Many, however, have experienced problems related to family or community pressures and some have folded.

Work is currently underway to unify the different forces under some form of central control, removing the local political and family/community pressures but retaining a First Nation’s identity.

The Alaska State Troopers (AST) is the State Police Force handling all policing outside the urban centres that also, like Canada, have their own policing services. As well, there are 15 city/borough small outlying police prisons that feed into the Alaska prison system, largely due to the isolation and distances involved.
The AST has experienced a significant reduction in its strength while the population base it serves has apparently increased. Juvenile Justice is a function of the juvenile authorities, however parole administration is linked to the correctional system. Correctional Services has been a separate government agency for more than ten years.

In Alaska, Village Safety Police Officers (VSOP) are employed in places where state or municipal police forces cannot be deployed. In Canada, similar positions are available. The mix of services and levels of control make local servicing very difficult. There are times, naturally, in the winter months when policing services to remote communities are nearly impossible.

In Alaska, about 800 of its 3,500 prisoners (yr 2000) are held in Arizona (USA) at a private correctional facility (Corrections Corporation of America). Many are Alaska Native offenders. The Alaska State Government is currently examining the option of building/constructing/managing or privatising a facility in the Kenai Peninsular in southern Alaska to reduce the reliance on the ‘lower 48‘ private prison system.

In terms of court services, the systems are multi-level. There are a number of local, tribal, youth and superior courts that are administered by state, provincial or federal systems. The systems are explained elsewhere.

The Federal Bureau of Investigations (FBI) carries out all major crime investigations and the more serious felony matters in the USA as does the RCMP in Canada.

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**OF SPECIAL NOTE - 1**

**The Judge in Nome and Sentencing**

Superior Court Judge Ben Esh is based in Nome, Alaska. He presides over a central Court and regularly visits about 15 communities in his region. The Judge supports local community involvement in sentencing and seeks local advice frequently. In similar ways, many Judges in Alaska and Canada refer sentencing to Sentencing Circles of Elders or other Peacemaking community organisations, and stamp an agreement on their decision. This removes the family and community from a direct repercussion over the final decision but permits their involvement. The Judge lives in Nome; everyone knows his house and he has the respect of the entire community. He takes justice to the people and listens to them.
BACKGROUND AND OBSERVATIONS
IN CANADA AND ALASKA

A) BACKGROUND

Some of the information in this section is based on the published special Bulletin (2000) of the Canadian Criminal Justice Association (CCJA). Further information from the Correctional Service of Canada, the Royal Canadian Mounted Police and the Native Justice Centre, University of Alaska (Anchorage) is included and the rest is referenced accordingly. I have utilised the CCJA views at length in this section and I appreciate and acknowledge their expertise in these matters.

It is important to note the parallels between Australia and Canada. Caseworkers who deal with Canadian prisoners found:

That Aboriginal offenders’ needs were (across the board), the highest (i.e. the most problematic) and included areas of substance abuse and emotional/personal needs.

As well, over half this population had high employment and education needs identified by their case managers.

From the offenders’ case files, information was collected regarding their childhood backgrounds. It was found that early drug (60.4%) and alcohol abuse (57.9%) were commonplace, as were behavioural problems (57.1%). Other frequently-noted occurrences were both physical (45.2%) and sexual abuse (21.2%) as well as severe poverty (35.3%) and parental abuse or neglect (41.1%). Suicide was attempted by 20.5% of these offenders. (Johnson, 1997)

The Canadian Criminal Justice Association has said:

Aboriginal offenders are disproportionately represented within the current judicial system. There are historical and socio-economic conditions that have altered the Aboriginal way of life, contributing to the high levels of Aboriginal incarceration. The European capitalist system differed greatly from the customs of Aboriginal people and, when imposed upon them, altered their way of life economically, politically, and socially.

Loss of the traditional Aboriginal way of life went beyond simple economic factors.

These historical factors, as well as present socio-economic conditions, have contributed greatly to disproportionate levels of Aboriginal incarceration, poverty, unemployment, alcohol abuse, and domestic violence, and to the absence of stable business infrastructures. Indeed, the behaviour of most Aboriginal offenders frequently reflects social rather than criminal problems. Aboriginal people represent approximately 3% of the Canadian population but they now make up approximately 16% of Canada’s federal offender population.

The number of incarcerated Aboriginal inmates in federal and provincial facilities, particularly in the Prairies, is still increasing though many of the crimes committed are minor offences.

For the majority of people within Canada, research points to an increasing connection between socio-economic disadvantage and involvement in the criminal justice system. Aboriginal communities are faced with numerous social and economic disadvantages, resulting in a correlation with high levels of Aboriginal incarceration. Poverty and reliance on social assistance are prevalent in Aboriginal communities where approximately half of the children live in poverty.

High rates of alcohol abuse are also found in Aboriginal communities, where one in five people are admitted to hospital for an alcohol-related illness on an annual basis. Domestic violence is also common, as 80% of Aboriginal women have stated that they have experienced some form of physical abuse at some point in their lives.

There are different federal, provincial, and territorial approaches aimed at reducing the rate of Aboriginal incarceration, each attempting to make the justice system more responsive and culturally sensitive to their needs.
These include expanded Aboriginal policy and program initiatives within the judicial system, cross-cultural education for those involved in the justice system, and the use of diversion, alternative measures such as sentencing circles and community justice committees and healing lodges.

The implementation of these approaches reflects a growing understanding that Aboriginal offenders have unique needs and require alternative programs.

**Population Demographics**

The Department of Indian and Northern Affairs Canada states that in 1992, the registered Indian population comprised 1.9% of the total Canadian population. The total registered Aboriginal population has risen from 230,902 in 1967 to 533,461 in 1992, a 131% increase. The registered Aboriginal population is expected to reach approximately 755,200 in 2005, a 4% increase from 1992.

The Correctional Service of Canada, in its *Forum on Aboriginal Issues* 2000 stated:

The average age of the Aboriginal population in Canada in 1996 was 25.5 years, 10 years younger than the average age in the general population. Children under 15 accounted for 35% of all Aboriginal peoples, compared with only 20% in the total population. The proportion of young people aged 15-24 (18%) was also greater among the Aboriginal population than in the total population (13%).

Moreover, there were 491 Aboriginal children under age five for every 1,000 Aboriginal women of childbearing age in 1996, which is about 70% higher than the ratio for the general population.

Given the number of young children, and the much higher birthrate, large increases are predicted to occur in the next decade in the Aboriginal population ages 15-24.

In 1996, there were about 144,000 in this age group and this is projected by Statistics Canada to increase to 181,000 by 2006 (an increase of 26%) (*this is similar to the Northern Territory*).

Those aged 35-54 is expected to grow from 173,000 to 244,000, a 41% increase, by 2006. Not only is the Aboriginal population younger, and growing faster, but there appears to be a growing concentration of this population in the core of the larger cities (especially throughout the West).

At the time of the 1996 Census of Canada, Aboriginal peoples were found to represent fewer than 3% of the general population. Therefore, the Aboriginal over-representation in the adult inmate population has been growing faster than the Aboriginal proportion of the general population. By 1996, Aboriginal peoples were about 5 to 6 times more likely to be incarcerated than their distribution in the population would lead us to predict, and this ratio was up from about 3.6 times in 1989.

The Canadian Criminal Justice Association continues:

There is considerable diversity within the First Nations population in terms of history, language, and culture. There are 11 major linguistic groups and more than 50 languages are spoken.

In 1991, the Aboriginal Peoples Survey reported that, for the population aged 15 and over reporting Aboriginal identity in Canada, 139,375 reported speaking an Aboriginal language.

The Aboriginal population does not form a homogeneous group culturally, geographically or by way of status. According to the 1982 Constitution Act, Aboriginal peoples include the Indian, Inuit and Métis peoples. Statistics Canada’s 1996 Census reported that Aboriginal peoples constitute 2.8% of Canada’s population. Of that 69% are self-identified Indians, 26% are Métis and 5% are Inuit.

The Aboriginal population in Canada is growing more rapidly than the non-Aboriginal population. The average number of children born to Canadian women overall is about 1.7; the fertility rate for registered Aboriginal women is approximately 2.9 children. By the year 2005, the registered Aboriginal population is projected to increase to 755,200, a 42% growth from 1992. This represents a projected growth rate almost 50% greater than the non-Aboriginal population during the same time period.
Suicide is two to three times more common among Aboriginal people than non-Aboriginal. It is also five to six times more prevalent among Aboriginal youth than non-Aboriginal youth.

Incarceration

In October 1996, a snapshot survey of all adult correctional facilities in Canada found that Aboriginal inmates represent about 14% of inmates incarcerated in Federal institutions and about 17% of the inmates incarcerated in Provincial / Territorial adult correctional institutions. By January 1999, the proportion had reached 17.5% of all federal inmates. While 31% of non-Aboriginal offenders were on some form of conditional release only 21% of the Aboriginal population were in the community. The traditional First Nations way of life was also weakened by several non-economic factors. Aboriginal communities experienced new health problems with the advent of unfamiliar foods, beverages, and diseases. Furthermore, change was brought on by the imposition of foreign cultural and religious values, eventually dominating First Nations communities. Inevitably, the traditional Aboriginal way of life gradually eroded because of powerful outside influences.

Initially, First Nations communities maintained a degree of self-sufficiency amidst these changes. However, the collapse of the fur trade and the end of the buffalo hunts (another traditional activity eliminated by European settlement) created a situation in which Aboriginal communities were unable to participate in the new economy as they had before. In a few short decades, First Nations people, formerly self-sufficient and autonomous, became dependant on the new economic order.

The subsistence economy of Alaska natives is even more dramatic and continues today.

Education

Aboriginal styles of learning and education were not overwhelming deterrents to economic survival during the era of the fur trade, as First Nations people displayed astute business skills.

With the decline of the fur trade and the gradual movement within Canada from an agriculturally based society to one dominated by an urban industrial foundation, formal European style education became very important. Unfortunately, Aboriginal people did not possess, and were not in a position to readily acquire new technologies and skills required to make the transition to an urbanised, industrialised lifestyle.

This is partly because the worldview and philosophy of the First Nations peoples, and consequently their learning and teaching styles, were so fundamentally different from European traditions. The understanding of the cyclical nature of life, the view that all things work together simultaneously and inter connectedly, with resultant interdependencies, the need for balance, and the connection with the creative and spiritual world are key elements that underpin the Aboriginal world view.

They contrast strongly with the hierarchical, logical, linear and rational viewpoints of most European and many other non-Aboriginal cultures. These factors have significant impact on learning. The challenges and negative impact of such issues on Aboriginal students is compounded by overt and systemic racism within the educational system, poverty and marginalisation, and language and other cultural barriers.

Social and Cultural Issues

The historical problems of many Aboriginal peoples stem directly from assimilation, which fundamentally changed the economic, political and social life - indeed the very culture - of First Nations people.

Assimilation policies were based partly on the European belief that Aboriginal people were uncivilised and incapable of governing themselves. As a result of the devaluation of their language, traditions, and customs after this experience, Aboriginal people began to suffer cultural uncertainties.

This cultural crisis can be linked to specific internal problems that currently plague Aboriginal communities including disproportionate levels of Aboriginal incarceration, poverty, unemployment, alcohol abuse, domestic violence, and an absence of economic self-sufficiency infrastructures.
For the past several decades, Aboriginal offenders have been labelled and identified as a people having special needs. This is a reflection of both the high levels of Aboriginal incarceration within the correctional system, as well as the special status of Aboriginal culture within Canada. As a result, specific Aboriginal programs and policies have been developed at the federal, provincial, and territorial levels.

These initiatives are based on the assumption that disruption and/or loss of culture are at the root of Aboriginal crime. Some policies and programs have and are being developed based on a belief that a renewal in culture is the solution. Present federal government policies and initiatives are premised on consultation with Aboriginal political bodies, provincial and territorial leaders.

Following the First Ministers Conference on Aboriginal Affairs in 1987, the Federal Government began to assume a leadership role in formulating a commitment to establish a new relationship with Aboriginal peoples, a partnership based on respect and trust. It was envisioned that through such a partnership, a practical agenda for reform could be shaped and implemented.

During the nineties, the federal government introduced initiatives designed to break new ground in the provision of justice services to Aboriginal peoples, in order to make the system more responsive to Aboriginal concerns, needs and aspirations. Four innovative strategies introduced sweeping changes in the areas of policing and law enforcement, justice and sentencing, and corrections.

Over the past thirty years, there have been numerous studies, reports and justice inquiries across the country, and a growing body of statistical information, that confirm that Aboriginal peoples experience disproportionately high rates of crime and victimisation, are over-represented in the court and the correctional system, and further, feel a deep alienation from a justice system that is to them foreign and inaccessible, and reflects both overt and systemic racism.

This has been a slow process, with the greatest strides achieved over the past two decades.

**Disproportionate levels of Aboriginal incarceration**

Canada’s criminal justice system places a strong reliance on incarceration and, as a result, Canada is placed among the highest users of imprisonment in the world. Despite declining levels of most forms of crime, the Canadian public still supports incarceration and severe punishment for criminal conduct.

This emphasis on incarceration as punishment has had a detrimental effect on offenders, particularly Aboriginal offenders. A study of Aboriginal admissions to provincial correctional centres revealed that 50% of the offences committed by these offenders were alcohol-related. These issues are discussed in more detail in the next section.

Further, a justice system that is not responsive to the experiences and needs of Aboriginal people also contributes to the high Aboriginal incarceration levels, although many First Nations people today are educated in English or French speaking.

In addition to the conditions that contribute to crime (poverty, poor education, unemployment, marginalisation, substance abuse, sexual abuse and other forms of violence, dysfunctional families etc.) which are particularly prevalent in Aboriginal communities, several other factors contribute to the disproportionate levels of Aboriginal incarceration.

**Aboriginal values and the Justice System**

The divergence between Aboriginal and Euro-Canadian values has also contributed to the high proportion of incarcerated Aboriginal offenders. Many values common to First Nations groups are fundamentally different from those of the non-Aboriginal justice system.

Values common to many Aboriginal communities include:
- desire for community harmony;
- avoidance of confrontation and adversarial positions;
• preservation of relationships;
• reluctance to show emotions;
• generosity and sharing;
• respect for others and individual freedom (non-interference);
• teaching through example (non-interference and conflict avoidance values); and
• respect for life (human and otherwise).

Aboriginal peoples have traditionally used ridicule, avoidance, shaming and teasing to maintain order and community harmony.

Historically, measures such as banishment and the death sentence were resorted to only where the actions of an individual had placed the survival of the community at risk.

These traditional methods are clearly linked to the principles of Restorative Justice in a contemporary context.

Across the USA reported youth crime rates have declined slightly for a third year in a row. Those same trends are also evident in Alaska. Juvenile Justice has stepped up its work to create lasting, self-sustaining community partnerships to ensure every youth who commits an offence is held accountable for that offence.

At the same time enhancing victim contact and services, involving the community more actively in developing youth alternatives, and developing agency collaborations to ensure youth are provided the most appropriate treatment in the most appropriate setting.

In 1995, 9,107 youth entered the Juvenile Justice system – a historic high. By 1999 that number had fallen to 7,493 – a level nearer that of the early part of the decade.

At the same time, the role of Probation Officers have taken on more responsibilities without increased resources in an effort to hold referrals down and prevent crime from occurring in the first place. (Native Justice Centre, Alaska).

Many Alaska Natives live in the rural areas of Alaska outside the four major cities of Anchorage, Juneau, Fairbanks and Seward. Although many Alaska Native families have income producing jobs most rely on social security as well as the subsistence economy to survive as they have done for centuries, particularly for the long winters.

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**OF SPECIAL NOTE - 2**

### Isolation in Alaska

The AST Sergeant in Nome also explained how the difficulties of distance and isolation affect his operations. In winter occasional requests for assistance come from some of the island or remote communities including those about violent behaviour. If the winds, snowdrift or other weather is too adverse there often is no way that Police can attend, often for days or even weeks. Sometimes, AST get caught with a weather change and are themselves isolated.

As well, it was explained that priorities, particularly sex offending means that daily policing of simple property crimes must be set aside for the more serious issues. This has a major long-term impact on the view by offenders about the acceptance of their less serious offending behaviour.

Alaska is an incredibly cold (in winter) and distant place that makes the isolation of the Northern Territory pale in significance. Many communities in Alaska (including the capital city Juneau) are not accessible by road, at any time of the year and many are not accessible at all for lengthy periods of the winter.

While Alaska Natives represent 16% of the state’s population as a whole, they make up over 35% of Alaska’s prison population and approximately 54% of the cases referred to the Alaska Division of Family and Youth Services. Erosion of traditional values and culture, combined with rapid change in economic and social realms, has proved devastating to Alaska
Natives, particularly those living in rural Alaska. Attempts to adapt to the prevailing non-Native culture have led, all too often, to a pervasive sense of failure, hopelessness and displacement.

This has resulted in a high level of alcohol and substance abuse, domestic violence, child abuse and neglect (including child sexual abuse), high suicide rates, truancy and juvenile delinquency, astronomical rates of teen pregnancy and, finally, a high recidivism rate for those released from prison.

The AFN Report on the Status of Alaska Natives: A Call for Action states that in many Native villages the rates of health and social problems, particularly those engendered by alcohol abuse, are abnormally high, and many are accelerating.

The segments of the Native population least capable of protecting themselves, notably children and young adults, are most at risk.

According to the statewide figures available in the Crime Reported in Alaska 1997 (Alaska Department of Public Safety, Uniform Crime Reporting), Alaska Natives and American Indians accounted for:

- 34% of arrests for aggravated assault;
- 42% of arrests for forcible rape;
- 35% of arrests for murder;
- 20% of arrests for robbery;
- 34% of arrests for burglary;
- 17% of arrests for larceny;
- 23% of arrests for motor vehicle theft;
- 25% of all arrests among persons 18 or older; and
- 21% of all arrests among persons under 18.

At the medium security correctional facility that serves the Anchorage area, 25% of the inmates are Alaska Natives or American Indians.

Nearly 71% are from rural Alaska, although only 41% were living in rural Alaska at the time of their arrest;

Only 42% were employed full-time at the time of their arrest (as opposed to 72% of the non-Native inmates; and

For 66%, substance abuse was involved in the crimes for which they were imprisoned.

Other pertinent data show:

One out of eight Alaska Native males (13%) spend time in juvenile detention, and 27% of Native males aged 14 to 17 are referred to the State’s juvenile intake system; and most Alaska Native crime is alcohol-related, and the percentage of crime that is violent or sexual (53%) is far higher than the national average. According to the 1996 report of the Governor’s
Conference on Youth and Justice, Alaska Native youth account for 52% of all youth referrals on drug and alcohol related charges.

According to the Department of Corrections March 1999 Summary Inmates Report, among all persons over the age of 18, Alaska Natives and American Indians accounted for:

- 49% of all convictions for assault;
- 31% of all convictions for murder;
- 30% of all convictions for arson;
- 28% of all convictions for weapons charges;
- 22% of all convictions for theft; and
- 14% of all convictions for drug charges.

But worst of all:

- 60% of all convictions for disorderly conduct;
- 57% of all convictions for trespassing;
- 44% of all convictions for sexual abuse of minors;
- 58% of all convictions for sexual assault; and
- 92% of all convictions for failing to register as a sex offender as is a requirement in many US states.

According to an Anchorage Police Department report, among all persons under the age of 18, Alaska Natives/ American Indians accounted for 33% of arrests for prostitution and 42% of arrests for alcohol offences.

On the victim’s side of the statistics, Anchorage Police Department records show that Alaska Native women made up 46% of all rape victims in Anchorage 1997-1998, with the average age of the victim being 26 years old.

Nineteen percent (19%) of all domestic violence victims seeking shelter at abused women’s shelters (AWAIC) are Alaska Natives.

Alaska Native children make up 54% of the cases currently in custody of the Division of Family and Youth Services.

It is clear from these data that Alaska Natives fare badly in all aspects of law enforcement, the judicial system, corrections and parole. The statistics convey the importance and urgency of the frequency and urgency of problems for which the Alaska Native Justice Centre was created.
b) INDIGENOUS CUSTODY ISSUES

The Canadian Criminal Justice Association states (2001):

The Correctional Service of Canada (CSC) commenced implementing the recommendations of the 1987 Task Force on Aboriginal Peoples in Federal Corrections. It also initiated the Task Force on Federally Sentenced Women, which recommended the establishment of a Healing Lodge for Aboriginal Women, and entrenched the vision that moved the concept of incarceration beyond punishment.

The CSC has played a leading role in developing and implementing ground breaking initiatives to advance Aboriginal Corrections over the past decade. The CSC Commissioner’s Directive, Aboriginal Programs (1995) contains five policy objectives involving individual rights of Aboriginal offenders and their cultural practices.

It directed that Aboriginal-specific programs be implemented, replacing regular existing initiatives or in addition to existing programs, when the circumstances deemed it necessary. Conditions where a replacement program was regarded as appropriate included situations involving language becoming an interfering factor, and differences in cultural approaches to learning becomes too large a hurdle to overcome.

Other innovations introduced by the CSC include the hiring of native liaison officers, the provision of Elders’ spiritual services in institutions; and the operation of correctional facilities and healing lodges by Aboriginal communities. The Okimaw Ochi Healing Lodge for federal women offenders is a unique correctional facility designed to incorporate Aboriginal approaches to healing, personal growth and safe reintegration. The Pe Sakastew Centre for male federal offenders operates in a similar fashion.

Correctional Service of Canada published, as part of its Forum series in 2000:

The essence of the problem is that the Aboriginal peoples of Canada do not view justice in the same manner as do the Euro-Canadian colonisers. They view the current justice system as an alien system that has been imposed upon them by a dominant society. Aboriginal peoples have long asserted that there is more than one effective system of justice for a community. Traditional Aboriginal justice practices are based on the philosophy that the entire community should address problems through the resolution of disputes, the healing of wounds and the restoration of social harmony. In 1991, the Royal Commission on Aboriginal Peoples was established to address this and other issues facing Aboriginal peoples in Canada.

The Commission concluded that Aboriginal peoples and communities should be given the resources that would provide them with the opportunity for self-fulfillment as individuals and as a First Nation. In response to recommendations of the Royal Commission, the federal government designed and launched the ‘Gathering Strength’ initiative in 1998.

In essence, the Gathering Strength initiative was an action plan designed to renew the relationship between the federal government and the Aboriginal people of Canada. The plan was built on the principles of mutual respect, mutual recognition, mutual responsibility and sharing. The report was to serve as a catalyst and an inspiration for the federal government to set a new course in its policies for Aboriginal people. In compliance with the Royal Commission’s recommendations and the principles set out in the federal government’s ‘Gathering Strength’ initiative, the Correctional Service of Canada (CSC) and its mandate to provide services for Aboriginal offenders.

Over the past 5 years CSC has embarked on a new path in Aboriginal corrections. The creation of two new healing lodges for Aboriginal offenders in the Prairie region is seen as cutting edge in corrections and has brought Canada much international acclaim. The objective of these facilities is to assist in the successful reintegration of Aboriginal offenders through holistic and culturally sensitive programming. The facility is meant to create a less threatening environment than those inmates are used to serving time in.

While these facilities are still run and administered by CSC, they are designated as Aboriginal facilities and focus solely on the reintegration of Aboriginal offenders. To help achieve these ends, the staff of the facilities is mostly Aboriginal. Even more remarkable has been new arrangements reached with Aboriginal communities under section 84 of the CCRA, which allow CSC to transfer Aboriginal offenders to communities for supervision. These progressive arrangements encourage Aboriginal communities to take
direct responsibility for their own peoples. In turn, this will also allow the community to play a greater role in the rehabilitation of Aboriginal offenders.

The Supreme Court has recently joined the Royal Commission on Aboriginal Peoples and the Auditor General in a call to stop filling Canadian prisons with Aboriginal peoples. They have called the over-representation of Aboriginal peoples in federal and provincial prisons a national disgrace. The (former) Commissioner of Correctional Service Canada, Ole Ingstrup, has consistently repeated that there are far too many First Nation, Inuit and Métis offenders in the Canadian federal correctional system.

While Aboriginal people are over-represented in federal corrections nationally, the numbers reach critical levels in Manitoba, Saskatchewan and Alberta, where Aboriginal people make up more than 60% of the inmate population in some penitentiaries. In Saskatchewan, for example, Aboriginal people are incarcerated at a rate of 35 times higher than the mainstream population. What is even more alarming is that estimates forecast that the Aboriginal offender population in Canada and in federal corrections will grow.

The correctional systems of Canada cannot stem the tide of Aboriginal incarceration alone, but must work with other departments, agencies and jurisdictions to develop strategies and alternatives.

Corrections that have the task of trying to find ways to safely and successfully reintegrate the growing numbers of Aboriginal offenders into the community once they have entered the federal correctional system.

For several years now, the Correctional Service of Canada (CSC) has developed strong working relationships with First Nation Elders who provide spirituality, counseling and the connection back to an Aboriginal identity for Aboriginal offenders.

Native Liaison Officers have been providing a bridge for a better understanding of the cultures. Federal institutions are introducing Aboriginal-focused healing programs and curriculum. Many Aboriginal offenders who have encountered the traditional teachings indicate that serving federal time has often been their introduction to culturally appropriate programming and spirituality.

More recently, the CSC (using section 84 of its Act) has worked with First Nation communities to develop Healing Lodges and Aboriginal Corrections Transfer agreements in various parts of the country. The Service has worked with the Samson Cree First Nation in establishing Pe Sakastew Centre, a forty-bed facility for minimum-security Aboriginal offenders and those on conditional release. The Ochimaw Ohci Healing Lodge in the Nikaneet First Nation is a facility designed and programmed to meet the needs of Aboriginal women offenders.

The Elbow Lake Healing Village, near the Chehalis Nation in British Columbia is a minimum-security facility that is in a conversion stage to an all-Aboriginal program.

The Solicitor General, Lawrence MacAuley has recently stated that he is determined to tackle the challenges of the over-representation of Aboriginal peoples in corrections and that a key element of the strategy will be to create new healing lodges that are designed in consultation with and for Aboriginal peoples. The reintegration processes (within and outside the institution boundaries) for all Aboriginal offenders will be administered and operated by Aboriginal communities.

Key initiatives presently underway include the following:

**A National Aboriginal Strategy** to ensure the provision of programs and services to meet the specific correctional needs of Aboriginal offenders and to increase the number of Aboriginal offenders safely and successfully reintegrated into the community. It addresses the development and implementation of Aboriginal programming in institutions, including those delivered under contract by Aboriginal organizations or individuals, and ensures that they are culturally designed and promote holistic healing.

**Framework for the Enhanced Role of Aboriginal Communities:** A framework has been developed to provide the administrative parameters under which some or all of the federal correctional components can be transferred to Aboriginal communities.
An Aboriginal Research Forum: brings together experts presently working in the field of Aboriginal research with a specific focus on correctional programs and practices. These forums are opportunities for the Northern Territory to follow.

CSC and National Parole Board (NPB) Advisory Committees have advisory boards whose duty it is to advise these agencies about Aboriginal issues. Both have mission statements and various policies addressing issues and concerns relating to the social and cultural differences of offenders. Some provinces, such as Ontario, Alberta, and British Columbia have designated justice branches or directorates to deal with Aboriginal issues and develop appropriate policies. The Aboriginal-specific policies found within the provinces and territories follow the same general principles/philosophies found at the federal level. The only significant differences between the policies implemented at the different levels would be the number of programs offered.

Aboriginal specific programs include Native Liaison Services, Traditional Spiritual Practices, Substance Abuse Treatment, Aboriginal Literacy and Educational Programs, Cultural Skill, Community Reintegration, Sweat Lodge Ceremonies, Employment Training, and Anger Management and Family Violence Programs. "cxvi"

First Nations Policing:

The First Nations Policing Policy (FNPP) was introduced by the federal government in June 1991 to provide First Nations communities on Indian reserves, certain Indian communities on Crown land and Inuit communities across Canada with access to police services that were professional, effective, culturally appropriate and accountable to the communities they serve.

The FNPP, administered by the Department of the Solicitor General since April 1992, operates on the principle of partnership. Under the policy, the federal, provincial and territorial governments and First Nations communities negotiate tripartite agreements for police services that meet the particular needs of each community.

An independent review of the first five years of operation of the FNPP found the policy framework to be “relevant, sound and on-track”. The review also found that provincial, territorial and most First Nations partners believe the tripartite process is the most effective way to address First Nations Policing at this time.

The federal government reaffirmed its ongoing commitment to the FNPP in 1996, and approved minor revisions to highlight its public safety dimension, to support First Nations to become self-sufficient and self-governing, and to maintaining partnerships with First Nations based on trust, mutual respect and participation in decision-making. It also assumed responsibility for promoting more effective policing for Aboriginal Peoples residing off-reserve.

The confusion of Status/non-Status Indian peoples makes determining just who are First Nations people difficult and underestimates the numbers significantly, as much as 50 percent.

Policy principles pertaining to the implementation of the First Nations Policing Policy address such issues at the quality and level of service; responsibilities and authorities, responsiveness to First Nations cultures and needs, police service options, selection of police service models, implementation of new arrangements, police accountability and independence, police oversight, legislative framework, and cost shared arrangements.

Aboriginal policing has become an important first step in addressing the need to make the justice system more responsive and culturally sensitive to the requirements of Aboriginal people.

Some of the benefits of these programs include:

• decreased number of arrests;
• decreased tension when an Aboriginal police officer is involved, and
• combination of police training with an officer’s knowledge of and commitment to the community.
In 1991, the federal government also approved the Aboriginal Justice Initiative, and the Department of Justice became responsible for its implementation. During the first five years, it conducted a wide range of consultations with Aboriginal communities, and supported over 600 projects exploring new approaches in the provision of justice services.

In 1996, the initiative was renewed as the Aboriginal Justice Strategy, and the Department of Justice was mandated to:

- Negotiate the justice components of agreements negotiated under the Aboriginal Self-Government Policy;
- Negotiate agreements pertaining to the administration of justice with 25-30 First Nations, Inuit and North of 60 degree latitude Metis communities intending to enter into self-government negotiations within five years;
- Negotiate agreements that would give the Aboriginal community in up to 12 urban and rural communities off reserve a significant role in dealing with the Aboriginal accused;
- Establish an Aboriginal Justice Learning Network to serve as a vehicle of communication between the mainstream justice system and Aboriginal communities; and
- Establish an Aboriginal Justice Learning Network to serve as a vehicle of communication between the mainstream justice system and Aboriginal communities; and
- A range of Aboriginal justice strategies and initiatives are now being implemented across the country.

These include:

- increased appointments of Aboriginal judges, justices of the peace, police officers, corrections officers/workers and court workers;
- establishment of Aboriginal justice of the peace courts under the Indian Act;
- cross-cultural education of non-Aboriginal judges, lawyers, police, corrections officers/workers, and
- incorporation of Aboriginal processes such as diversion programs, elders panels, and sentencing circles into the present criminal justice system.

As a result of having so few First Nations people working within the judiciary, many Aboriginal people accused of a crime appear in court without properly understanding their rights, court procedures or the adversarial nature of the system.

Expanding the Aboriginal representation within the judiciary:

- leads to a greater understanding of Aboriginal values and traditions;
- influences their participation in court in a positive manner;
- improves relations between criminal justice authorities and Aboriginal peoples;
- is of economic and social benefit to individual communities; and
- generates pride among Aboriginal communities.

The employment of Aboriginal court workers has aided Aboriginal offenders in many ways. Aboriginal judicial employees assist offenders with improving their understanding of the justice process, they help the accused find legal counsel and interpret for counsel, assist with preparations for bail hearings, pre-sentence reports, and provide recommendations for probation orders.
Interviews and Group Sessions with Offenders Overseas

Adult prisoners between the ages (usually) of 18 and 25 were interviewed in Canada and Alaska as well as juvenile detainees held in province or state managed facilities. Forty three juveniles and more than one hundred adults were interviewed. About a quarter of the interviews were on a one to one or small group basis. The same questions as asked of Northern Territory offenders were used in order to maximise comparability.

Prisoners in Nome, Alaska (Alvin Mountain Correctional facility) and the Mclauchlan Juvenile facility run by Juvenile authorities in Alaska were particularly valuable. In addition, many offenders resident in half way houses and residential facilities for parolees and pre-release offenders contributed to aiding an understanding of home life and the root causes of offending.

The benefit of Halfway houses and Pre-Release Centres as well as Community Corrections Residential Centres has become clear and is discussed a little later.

Juveniles

Juveniles up to the age of 18 were interviewed in a number of detention centres. The home environment and the level of dysfunction within their communities are similar to their Northern Territory counterparts, however there were also differences in violence levels and sophistication (in worldly terms).

Some of the important factors about youth offending in places visited in North America are:

- Responses about gangs were similar to the NT, however a greater emphasis is placed on gang affiliations rather than simply mateship.
- Detention is frequently used to escape a marginalised environment.
- Most offending is still property related, as it is in the NT but a major difference is the use of firearms or other weapons.
- More offending is carried out as individuals, however most is still in pairs or by groups.
- Drugs play an equally significant role, especially marihuana, however unlike the NT some are frequent users of crack cocaine or heroin.
- Alcohol is often a contributing factor.
• Unlike Territory Indigenous youth in detention, there is clearly anger among detained youth and frustration with their communities and families.

• Alcohol plays a very significant role in the family home, where one exists and domestic violence and abuse as a child is very common.

• Ambition for life is similar to the NT, although the schooling level is higher. Most do not feel able to compete in the wider community.

• Offending does not appear to be the ‘fun’ related activity – more about getting back at the world or ‘proving themselves’ as men.

• There is more racial dislike of non-Indigenous people by Native youth in custody (particularly men – who are seen as abusers of women).

• Juveniles in custody do not perceive a future outside of a system that involves the police and the state.

• In many similar ways to their NT counterparts the youth have no direction, come from very dysfunctional homes with severe alcohol and drug abuse and lack social skills to relate in the normal society.

• Many commented that having a firearm ensures personal safety.

• Juveniles from very remote communities commented that there is more to do in the big towns and that they did not want to go home except to visit their mothers.

The anger, hopelessness and boredom of juvenile detainees that clearly do not believe in their futures is a sobering view, particularly when a quarter admit their offences included possession of a handgun.

In Burnaby, British Columbia, the juvenile facility holds about 160 juveniles in a very strict security regime (well beyond most in Australia). Mostly non-Indigenous youth are in custody and their lives are very regimented with education and some life skills training.

Although I gained the impression that the staff were concerned for the future of these youth the real purpose of the facility is secure custody and that therefore, I consider it is clearly a training ground for custody as an adult.

In Alaska, the extreme (of the places I visited) exists. At the maximum security Spring Creek Correctional Centre at Seward about 50 of the 500 inmates are between 14 and 18. These juveniles are held in an adult facility because of Alaska’s system (USA) of ‘waiving’ youth to the adult courts when their offences are considered serious.

The Young Offenders Unit at the centre is a Correctional Services attempt to teach the young inmates to survive in the American prison system. The laws in the USA regarding penalties for offences results in very long prison terms and nearly a third of these youth will serve sentences of between 25 and 45 years.

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Although such laws do not generally exist in Australia, I do admire how the Alaska Correctional authorities are trying to assist the juveniles to avoid being ‘prey’ on the scale of predator and prey within the prison system. The training has application for Australia for those youth that may spend many years in the system and realistically need to learn survival skills as early as possible.

The environmental background of the juveniles is the key. The Alaskan and Canadian juvenile systems are state not federal based and as such they do not have the high degree of rehabilitation now known to exist (for example) in the Canadian federal prison system.

There is little support from the community or family (children as young as four are often bike riding in the streets in the summer daylight early hours of the morning).

It is easy in Canada and Alaska to obtain weapons, especially in Alaska.

Many youth in custody in Alaska had family members who had been in custody but like Territory detainees they stated none had said good things to them about being in custody.

Detention provides stability, food and shelter and away from the pressures of the home and community and this was seen as a definite attraction, particularly in the more isolated times of the long winter.

Alcohol plays a very large part in the surrounding family and community. The Canadian and Alaska Criminal Justice Systems place a strong emphasis on the problems of young people associated with Foetal Alcohol Syndrome (FAS) that creates a situation where young offenders of alcohol abusing mothers cannot link their offending behaviour with criminal intent. There is even a view in some circles that men who drink to excess and father children contribute to the problem.

FAS is considered to a major problem with youth and is considered by courts and custodial authorities to be one of the most significant factors associated with anti-social behaviour. I think that, if it is not already occurring that the issue warrants examination here urgently.

Firearms are almost universal in Alaska – being bought for less than $100 on the street. Possessing drugs is part of most crime and young detainee’s questions of me were often about girls, drugs and the gun laws of Australia.
Add the dimension of long cold periods with nothing to do – it creates additional family pressures with alcohol in the home and arguments with fathers and mothers easily occurring. As well, it contributes to severe sexual abuse, particularly perpetrated by older male family members against both male and female children and other people.

In Alaska, the rate of reported sexual abuse of women and children is stated as four times the national rate by Police and Correctional authorities. Firearm usage is common in offending across Alaska.

John Walker, former criminologist at the Australian Institute of Criminology once was criticised in the 1990s because he argued that weather was a major contributor to criminal activity.

I believe John Walker was right, Darwin’s warm weather means young people are out enjoying themselves and consuming large amounts of alcohol. The same exists in reverse for the long indoor winter months of the Arctic and sub-Arctic that results in severe domestic and sexual violence and other criminal activity.

**Adult Prisoners**

Adults interviewed in western Canada and Alaska have some very strong views and many are similar to those of NT prisoners interviewed. In some ways, however these peoples views vary considerably, particularly with regard to those they hold in respect.

Aboriginal prisoners in the Northern Territory did not have a lot of respect for their fathers or other male members of the family. Mothers and grandmothers as well as aunties were held in great esteem. Brothers, sisters and offspring were the people they wanted most to listen to them.

The picture of those incarcerated by the state of Alaska is predominantly one of young male inmates, of whom more that one-half are members of racial or ethnic minorities.
Of the 3583 offenders in 2000 under the custodial supervision of the state (including the private facility in Arizona), 3242 were men and 240 women. Seventy percent were less than 40 years old. Note that another 650 prisoners were held in residential facilities at the same time.

Members of two minority groups are incarcerated at levels very disproportionate to their numbers in the general population: Native Americans and African Americans.

The number of Alaska Natives and American Indians incarcerated at the beginning of the year (2000) was 1,232 – 35% of the inmate population. The number of blacks incarcerated was 479.

According to Alaska Department of Labor figures, Native Americans comprise just under 17% of the general Alaska population, and African Americans 4.5%.

The inmate totals for other racial and ethnic groups categorized were less than their representation in the general population. The total number of whites incarcerated were 1,588 or 45.5 per cent of the inmate population; Asians, 65, or 2 per cent; Hispanics, 89, or 3.5 per cent. Whites comprise 74 per cent of the total Alaska population; Asians 4.6 per cent; and Hispanics 4.9 per cent.

Of the total 3,488 inmates, 3,014 were imprisoned for a felony; 469 for misdemeanour; and 5 for violations. In another breakdown of this total: 1,792 were held for a crime of violence; 269 for a crime against property; 399 for a crime of substance abuse; and 1,028 for crimes of other categories – including probation/parole violations not involving a new charge, immigration charges, contempt of court, witness tampering, failure to appear and others. (Alaska Department of Corrections, 1998)

Approximately $243,048,100 in state funds was used in 1997 for direct criminal justice services, about 6.7% of the operating budget.

Of these funds, 29% went to the Department of Public Safety for law enforcement, 6% to the Department of Law for adult prosecutions and juvenile adjudications, 5% to the Public Defender and Office of Public Advocacy for adult and juvenile defence, 9% to the Division of Family & Youth Services for juvenile intake, probation & detention, 46% to the Department of Corrections for adult probation, imprisonment, and parole, and 5% to the Alaska Court system for court hearings and trials.

The state also allocated $10,231,000 for criminal justice capital improvements, mostly for expansion of youth detention facilities and improvement of information systems.

In addition, the monetary cost of crime includes community-based alcohol and drug treatment programs, private defence costs, tribal and youth courts, municipal prosecution and law enforcement, and most losses are borne by crime victims.

In Alaska in particular, adult male prisoners wanted their fathers to understand them and to help them. They were seeking acceptance, particularly in a cultural sense even when their fathers had not lived a lifestyle associated with traditional Eskimo rules. They wanted also to sit and listen to mothers and grandmothers. Men firmly asserted that they got angry when they drank and that there was ‘angry’ in their ‘guts’ and that they felt their future did not hold much promise.

They often felt their women were not faithful.

### OF SPECIAL NOTE - 8

**Hopelessness**

The Sgt in charge of the Nome Detachment of the Alaska State Troopers (AST) tells a story that explains the hopelessness that many 40-year-old native Alaskans feel. He arrested a native man for impaired driving (drink driving) and bailed him, keeping the bottle of scotch he had in the vehicle. The man came back the next day and asked for his bottle back. The AST officer said no explaining the bottle was required as evidence for the Court. The man insisted that he wanted his bottle back. Asked why, the man said that it was important because 'he might be dead tomorrow'. He was serious – such is the hopelessness of many native people.
A native prisoner in Nome told me that he hated men because of what he saw his mother endure. He had a profound impact upon me and the other men in our meeting with his honesty.

A similar statement by a juvenile detainee at the McLauchlan Juvenile Facility in Anchorage barely raised an eyebrow in front of 30 other young detainees.

Police services say that reported rates of sexual offending are much lower than the actual rates.

The plea bargaining system that operates in the USA discriminates against Indigenous people. It was explained to me by legal advocates and Police that native people with the honesty of sober Indigenous people and confronting the power of authority, quickly admit to any offending. In the USA system this negates any form of plea-bargaining and probably contributes to the over-representation rates.

This could also exist in Australia, not in a plea bargaining sense but in the sense of not awaiting legal representation before admitting freely to all offending charges. In the NT the Anunga rules ensure a prisoner’s ‘friend’ is present before a police interview.

Most of the sexual crime is associated with forced coercion, drugs, alcohol or exploitation. I have decided in this report not to state all the comments made to me about native Alaska women by some white men. I will say, however, that they were among the most denigrating I have ever heard.

These things make men in prison angry and similar experiences exist in the Northern Territory among traditional and other male prisoners.

I was told a story about a rape victim (by a perpetrator). Sometimes, because the male perpetrator is so valuable to the survival of the rural or remote community because of his skills, when the time of his release from prison is nearing the woman victim is aided to leave the community or she may even be banished!

**Community Custody**

In Canada and, to a lesser degree Alaska, the use of Half Way Houses and Community Corrections Centres is impressive.

I visited eight Community Corrections Centres, covering pre-release, residential centres, alternatives to secure custody, parole release, furlough and release to a community centres for work, skills training, reintegration, drug treatment and rehabilitation. In fact, most were working in a diversion mode to provide better future opportunity at the minimum security level appropriate and cost.

The Circle of Eagles, the Seventh Step Society, the Elizabeth Fry Society, the John Howard Society, the Salvation Army, Corrections own systems (such as Sumas Community Corrections Centre, outside Matsqui Medium Security Facility in Abbotsford BC), and the Seaside Centre in Nome (and many others) are good examples.

Most prisoners in the Federal Canadian and Alaskan system are not released directly back to the dysfunctional communities they came from. The use of pre-release and Half Way Houses supervising prisoners makes good sense as part of the re-integration process. Very few infractions of rules exist in such places, few walkaways occur from community correction centres and the impressive range of rehabilitation services ensures the best opportunities for success even for those that have served technical ‘life sentences’. Some 650 prisoners in Alaska live in such facilities.

The Sumas Community Corrections Centre outside of the highly secure Matsqui facility works towards the re-integration of prisoners after 15 to 25 plus years of custody.

At Sumas, staff work with inmates in the last year or so before release teaching such skills as working with elderly people that need physical help and with the Society for the Prevention of Cruelty to Animals. Cat programs at the facility has seen the reduction by
over 50% of ‘put downs’ and they are now working with the society to establish programs to assist responsible dog ownership.

Sumas Community Correctional Centre in Abbotsford, BC.

A very good opportunity exists for Territory youth to learn skills that would assist to alleviate community problems of pet health and aid the everyday needs of the elderly or infirm people in the community. Such training could be made culturally appropriate and be of long-term benefit.

Police and Correctional Services work closely with the community across Canada and Alaska involving groups that operate half way, pre-releasee and post release centres to aid prisoners to re-integrate back into the community. Many are managed by Indigenous organisations. Many are used as furlough or community corrections centres holding prisoners that can work or need treatment in a home environment without the need for high security.

The cost savings are dramatic after year one or two establishment costs. As well, many inmates are returned to the community as law abiding people with a higher level of social and work skills.

Recidivism rates from such places is claimed to 12% compared to the normal 35%, that is similar to Australian figures from the Review of Commonwealth State Services by the Productivity Commission.

Travelling through Canada and Alaska, allowed me to visit and observe the use of alternative programs and especially those that government is prepared to support with professional expertise and agencies that operate in lateral and agreed partnerships with the community.
**c) DIVERSIONS, EXAMPLES AND OBSERVATIONS**

**What is a Diversion?**

In this context ‘diversion’ is a term that suggests it is a pre-trial or a shift from any involvement from the courts or the criminal justice system. Others think that it is a term that refers to ‘diversion’ from a custodial sanction. The learning in North America and New Zealand is that diversion can apply before the courts, during the courts process or during the corrections or post release stages.

If the principles of Restorative Justice are used then such processes can be applied at any point that results in an effective realignment of the behaviour of an individual or community into a law abiding future, putting the past offending to rest and addressing the individual problems of the offender.

Specific programs related to options are widely known in Canada as ‘Alternative Measures’.

Options such as these could cost the community to establish them but in the longer term will save millions of dollars in not having to build detention centres and prisons. They, if well organised also have long term benefits for communities in that skills are enhanced and the collective stability and functionality of the community is improved. It is also clear from the Canadian experience that returning and reinforcing the authority of the cultural power of Elders and leaders has a positive influence on marginalised youth.

This takes a major commitment by Government that will probably not be realised and returned within a single term of three or four years – this is at least a ten year commitment that straddles political boundaries. A bi-partisan long-term political approach will be essential.

**Victim/Offender Conferences and Reconciliation with Victims**

In some communities in Canada and Alaska, diversions have been developed to deal with youth who have been charged with summary or minor indictable offences.

A committee of community members meets with the accused, his/her parents, the victim and police authorities to resolve the situation. In many cases the matter has been referred to conferencing by a court and in New Zealand, the conference is advised by a qualified legal practitioner (Family Group Conferencing) who then also advises the Court on sentencing.

This program has been established to reflect concepts prevalent in Indigenous justice including the importance of community participation and reconciling the parties in conflict.

The youth can be required to offer an apology and/or pay restitution to the victim, or perform community service. Both options keep the young offender out of the court system and in the community where he/she can be supported.

The involvement of the victim (and supporters), the family and the authorities in such processes ensures a link to community accountability in much the same way that the Indigenous community resolved its problems in the past.

These types of programs allow for stakeholders to have their voices heard on the issues at hand. In addition, the community is provided the opportunity to play a role in the outcome and in determining the best possible rehabilitation prospects for the offender.

In the Northern Territory, the current process of diversion programs match the ‘Peacemaker’ and Sentencing Circle models in Canada and Alaska but do not go as far as the New Zealand ‘Family Group Conferencing Model’.

The Territory experience is good except that the involvement of Elders in the community and other role models is limited. Every conference should include such people that may have influence over the offender. Such a person could be an Elder, a sporting hero, a person of influence or a person that is prepared to mentor and support the youth.
Bush Camps

The premise of a bush camp is to remove the Indigenous youth (but all youth should be given the opportunity) and place him/her in a remote place to receive training in bush crafts and traditional ways of life, self-esteem, control and survival. The initial step of the program removes the youth from the community affected by the crime. Some observers criticise these programs but usually only for non-Indigenous youth with no firm link to the land.

The offender is then taught to play a useful role within the community and gains a sense of belonging and achievement. Upon completion, the programs allow for a successful re-integration process of the youth into the community. The last 20 years has seen a strong acceptance of bush camps as a means of rehabilitation for both Aboriginal and non-Aboriginal youth in Canada. Due to the strong First Nations cultural connection with the land, it is believed these programs are of greater benefit for Aboriginal than non-Aboriginal people.

Bush camps have a long history in the Northern Territory as both a traditional initiation process and as punishment processes managed by Elders.

There has been an element within the Northern Territory Government for some years who feel that bush camps when endorsed by the government could result in Elders ‘punishing’ youth in a way that cannot be condoned. This is probably because a concern exists that a liability could impact upon authorities if such activities were endorsed or ‘forced’ by the legal system. It is considered that it is time to return authority to Elders in the same way that they have exercised it for thousands of years.

In fact, if we don’t, we as non-Aboriginal criminal justice professionals continue to further break down traditional authority and social control systems.

There have been occasions that Northern Territory courts have required, or accepted traditional ‘pay back’ or ceremony as a component of a sentencing package.

We should reconsider our objection to funding and supporting bush camps and support traditional teachings and social systems for traditional Indigenous offenders within their own cultural base. In the same vein we must permit a greatly increased participatory role for Elders within our prison systems, so that such processes can be carried out in the post court environment as part of the healing process.

Aboriginal Youth Justice Committees

Aboriginal Youth Justice Committees (YJC) have increased in popularity across Canada with provincial and territorial governments. Section 69 of the Young Offenders Act of Canada provides legislative authority for the formation of YJC’s. YJC’s are formed with representative members of the Aboriginal community and a respected Elder. Their objective is to identify the needs of the accused and recommend an appropriate sentence before the courts (not unlike the New Zealand model).

YJC’s are an alternative to formal judicial proceedings and can serve a variety of functions. These responsibilities range from implementing culturally appropriate alternatives to court proceedings, mediation between parties of a crime, encouraging victims to participate in the criminal justice system, and providing an avenue of community empowerment by giving them an active role in the administration of the judicial process.

Criteria eligibility differs from committee to committee, but there are general parameters for deciding if a youth is eligible to have his/her case heard before a YJC, including:

- the youth must be 12-17 years of age at the time of the offence;
- he/she must have no (or limited) prior criminal record;
- the offence must be deemed appropriate for the program (e.g. property offences or theft); and
- the youth must accept responsibility and consent to participate in the program.
A committee considers all the evidence and arguments presented before them and decides upon a disposition. There are a number of possible decisions a YJC can hand down, including:

- a written or verbal apology to the victim;
- community service work;
- a written essay related to the offence; and/or
- abiding by curfew restrictions and/or counselling.

These processes are utilised in many Restorative Justice programs and are reliant on support from the formal criminal justice system. The flexibility of the system is the main key, so that it can respond to the particular needs of an individual in a way the adversarial system of the court cannot. These processes are also linked to the philosophy of *Zero Tolerance* in that they discourage from the outset any offending and any continuance of unacceptable behaviour.

**Some example diversion programs that could be considered for offenders**

These are some suggested programs that could be used in the diversion process from my experience in Canada and Alaska for youth (and adults) that are aimed at skills development, self-esteem and community contribution/reparation. The list does not include the normal community service obligations, apologies and victim reparation schemes that are already widely utilised. The investment up front as part of the diversion process will reduce long-term custodial and social costs.

**First Aid Certificates**

Indigenous youth lack practical skills of life saving and basic first aid. In lieu of small fines, community service and short-term imprisonment, offenders should be required to obtain a St. John First Aid or similar type qualification. Production of the certification should result in the cancellation of the penalty. The government should pay the fee as, in the longer term the savings for the health system will benefit as well as not having to pay for the custody/supervision.

**Rehabilitation – Community Needs**

Every community over 300 people should have a simple needs analysis undertaken to identify a number of local needs. Use these as local diversions. In places in Canada, New Zealand and the State of Alaska the offender can identify his own community project. Insurance issues are irrelevant in such cases as the penalty is given by the legal system. In any event, the community benefits and the youth identifies the important issues to them within the home community and often continues to maintain an interest in the particular project after the diversion.

**Alternative Measures**

In Canada, diversion programs are often known as ‘Alternative Measures’ and are similarly applied to new offenders, both adult and juvenile. The Provincial system in Canada and Alaska permit a range of ‘Alternative Measures’, usually limited to first or second non violent offending, but not always. The systems in British Columbia and Alberta permit juvenile and adult offenders to seek a dispensation away from the courts.

I see value in allowing any offender to put their case to the Crown (or police), to demonstrate how they propose to repair the harm caused for what was done and not to immediately resort to the court’s process.

Any offender other than very serious offenders should have the capacity to make application for a penalty system that repays victims and the society for the crime committed. The penalty then fits the crime. A panel or a Court can decide whether the penalty is realistic and if so who will supervise it. We all know simply spending time in prison does not work – except for violent offenders when it removes them from harming society. In every other case the offender will be released with very little new positive learning.
Alternative Measures is a program that has no boundaries, except for the most serious offending and allows full discretion for the authorities to keep a person out of the courts and custody, if agreed to by all the parties. Often offenders themselves will choose longer and more onerous penalties than just sitting in a prison for a period of time and contributing very little to society or to victims.

**Care for Ageing**

The work by the Correctional Service of Canada in training prisoners due for release to aid elderly or infirm people in their home communities is good.

Training sufficient numbers of people reduces the problem of family and gender problems and allows the health and welfare of older people to be supported. It also improves the standing of those who can help to clean, wash and feed older people and increases the links to those family responsibilities that some have said are lost.

To see so many elderly or petrol-affected people infirmed is clearly an opportunity for diversion schemes that have long-term significant outcomes for the community.

Youth and other offenders can be trained as para – health workers that work with infirm or elderly family or community workers. This is applicable to those offenders that would receive longer term (up to one year sentences). The costs are clearly better for long term health needs and therefore government should facilitate the training – no extensive formal education is necessary.

**Fathering and Mothering Programs**

Elders and professionals (preferably Elders from the wider community) to sit down and discuss sexuality, children, sibling’s issues and mother and father issues. A program that requires minimal effort but simply allows parents to talk with participants and teaches young people about SDI’s and the obligations of parenthood.

Must not be too sophisticated. Can be run as a diversion in prison or before custody.

**Care for Animals – dogs/ cats and diseased animals**

At the Sumas Community Corrections Centre in conjunction with the Society for the Prevention of Cruelty to Animals a cat program at the facility has seen the reduction by over 50% of ‘put downs’ and they are now working with the society to create programs to assist responsible dog ownership within the community.

A very good opportunity exists for Territory youth to learn skills to aid community problems of pet health. Such programs of training could be made culturally appropriate and be of long-term benefit. I am particularly impressed with their work with diseased animals that has parallels to the Northern Territory.

Working with and funding the RSPCA a program could be developed that could alleviate the difficulties currently experienced with diseased dogs in communities.

Because some dogs are important to families no cultural conflict exists.

**Car/ vehicle daily care**

A diversion program that works in the northern parts of Canada relates to vehicle and small engines maintenance. Simple mechanics could say lives. Passing a simple certificate in understanding everyday vehicle maintenance is a valuable asset. This can be applied to all youthful offenders and require them to obtain a certificate from TAFE in a particular skill. All fees should be paid for by government in lieu of custody or run in a custodial setting. Some additional literacy skills will result because of the practical nature of such training.
Vision Quest and the Outward Bound concept

Engaging youth in challenging adventures learning about life and responsibility combined with the understanding of the ‘bush’, helping each other and leadership crosses all cultural boundaries when professionally managed.

Equally, for Indigenous youth and others, preferably together, the life skills and the harmony are enhanced. The youth actually learn about other worlds and given that many do not have the survival skills in their own, they develop whole of life acceptance of the need to work together and transverses cultural boundaries.

Those that seek further enlightenment or reassurance of their standing should be permitted with cultural and other support to seek a thing the First Nation’s people refer to as Vision Quest.

The quest is a chance for youth to experience some things not normal in their lives and this encourages ambition and a wider view of life, beyond the boundaries of the home environment. Care must be used to balance the attractiveness of the program with the penalties for offending.

There must not be a reward for offending but there must be a new future linked to not offending that should involve a penalty before the reward. The experience aids self-esteem and creates vision and opportunity for youth.

Kids Mentoring Kids

There are programs that involve youth who help youth. In some occasions these include the Youth Court process (discussed elsewhere). There are times that youth that have been through the system and who no longer offend that can be of benefit.

It also provides an income stream for those people and further reinforces the learning they gained in custody. It also permits the experiences of custody to be localised to the community and diminishes the attraction of detention centres.

Taking youth that have been through the justice system and giving them teaching skills has proven to a valuable asset in many places in Canada and in southern Alaska.

It has significant potential here, and it also develops teaching skills and responsibility. This could also lead to future long term employment associated with being a ‘teacher’.
Understanding Technology

It is recognised that a need exists to understand technological advances in order to better deal with life’s learning and complications. In order to improve this understanding particularly in remote communities when resources are limited the Internet could be a valuable and cost effective system to teach an understanding of the world. Minor offenders should be taught how the use of information technology can open opportunities. A small project requiring them to write a report on a world topic will be an advance.

Police/ Fire/ Health/ Teachers/Public Servant mentoring

This is a ‘catch-all’ mentoring that will require the commitment of Government.

Youth, that believe they have the least future, are mentored by those whose real obligation is to the future, i.e., those who are paid by the system itself i.e. its own public servants.

Youth are placed with targeted persons in areas of government administration and are required to spend five or so shifts with each person.

The great benefit is that they find out about the real world and opportunities and get to see the ‘other side’. It reduces prejudice and creates many partnerships between individuals and their communities and promotes opportunity.

Many public workers, especially Police, Correctional Officers, Firefighters, Teachers, Health Workers, Nurses, and identified others in the public service that work within the community should be required as a normal part of their job to mentor and train local youth in their profession and to create for them a future opportunity.

Every Department should be directed to allocate at least one or two experienced officers and to take a number of juveniles and youth, both offenders and others every year to create partnerships and to facilitate cross cultural learning and understanding, not as cadetships but simply to help understanding and create opportunity. A small fee could be paid to non-offenders that reinforces the work skills gained and encourages the pursuit of full time work.

Respect and dignity programs

Many youth respond to older people, irrespective of the individual’s specific culture. Why not create a ‘team of our most knowledgeable people’ across the multi-cultural Territory to work with our youth that have problems in dealing with their world.

This could also be a way that Indigenous Elders can share their knowledge and become comfortable in dealing with a cross section of youth. I have become convinced through the First Nations of Canada that they have developed ways of sharing information across community boundaries and I think this also is an opportunity in the equally diverse Australian society. Some of this is explained in the section on Indigenous spirituality.

What are the principal values? Generally, with some very culturally specific exceptions, the values of family, respect, health, caring, relationships, land, and a wish for a better life for their young and learning are the same for Indigenous people.

I repeat the values of First Nations peoples, as they are those I believe are held by most Australians.

These are:

- desire for community harmony;
- avoidance of confrontation and adversarial positions;
- preservation of relationships;
- reluctance to show negative emotions;
- generosity and sharing;
- respect for others and individual freedom (non-interference);
• teaching through example (non-interference and conflict avoidance values), and
• respect for life (human and otherwise).

We should use the expertise of older and experienced Australians. We also know that many youth connect with older Australians that care about them and learn very quickly about life. We also reduce prejudice by connecting different racial backgrounds. They learn that cultural differences are less than they thought.

Older Territorians have a knowledge level that is immense. Create a large team of part-time experienced people that have the time to spare and the skills to impart.

**Leadership / Scouts / Army and Navy**

The military and organised youth activities afford considerable opportunities.

Many Indigenous youth join so-called ‘gangs’ to find an identity and a ‘purpose’ that is linked to uniform, language and a sense of identity. More than 20 years ago, organised activities on communities were very popular with youth, yet were dependent on certain individuals to run them.

One of the important lessons to learn about gangs in Australia and overseas is that they deliver identity, a future and companionship. The other organised services such as the Army, the Scouts, the Duke’s Mob and others offer the same opportunities.

Indigenous people are keen on team sports and activities and every opportunity to replace gang activities with organised activity should be taken.

**Drink Drivers**

This is an important comment in this report about diversions and it affects not only youth, but all offenders. In Alaska and Canada drink drivers are referred to as ‘impaired drivers’ and they experience very significant penalties according to various laws.

These include insurance penalties beyond the normal capacity to pay (that means that they are not paid), confiscating cars and severe prison terms – none of which affect the rate of drink driving.

In the rural areas offenders continue to drive, without licences, however a new program using the principles of Restorative Justice and involving victims could be a way that the system could better influence positive behavioural change.

The adversarial system in the courts results in a drink-driving offender receiving a court-imposed monetary penalty and a period of suspension of licence. Often the family and the community do not know of the offence and the realisation of the damage that drink driving could have caused is not recognised by the offender in the adversarial court experience.

The evidence is quite clear that the court process does not work for many offenders. Why not create a new diversion for youth and any other driver who drinks and drives? I only suggest that it is applied to first offenders and only to those under the .15 limit.

Using the Victim Offender Conferencing process (that also has a mandatory minimum licence suspension) the impact upon drink drivers is believed to be very significant. Compare the anonymous nature of the court to the perpetrator being fronted by ‘a selection of victims’ of drink driving and realisation of the harm and damage that could have resulted to both the victims and the driver (plus family) in shame, reparation and learning.

The principles of Restorative Justice fit neatly with this type of offence that often does not have always have an actual victim but could cause the most devastating of family destruction, loss of life and future.

I also believe that the use of such conferences resulting in outcomes such as hearing the views of victims and spending time in the casualty ward of hospitals and being breath tested every day for the duration of the penalty to remain under .08 (or the legal driving limit) has more affect than the current penalties. Offenders could also be required to carry out work at the nominated projects or at black spots that victims consider appropriate.
Cultural Identity – Urban kids

Urban Indigenous youth often seek their lost identity of Aboriginality. It is important that such youth be given the opportunity to reconnect to culture in a positive way. It also reinforces a meaning in life and can promote positive change.

Many of the family members of these offenders may also wish to be part of the learning experience and this should be permitted as some may feel their own links need reinforcing or have been lost.

This is a very complex issue and should only be managed by Indigenous bodies and the parents of offending youth with the help of professionals. Like so many other long-term programs, this will take a considerable commitment by governments.

Drugs and Lifestyle Learning

Youth can and do make decisions about alternatives for their lives if they know the options. It is important that alternatives to the use of drugs be provided to our youth.

The work of many organisations, especially the Vancouver Police and Native Liaison Society are worth noting.

Alternative measures systems must work to provide youth with an understanding about how drug abuse can destroy opportunity. All agencies involved with the government agencies must devise structured programs for young people that demonstrate to them real alternatives to a life free of alcohol or other substance abuse.
Drug Courts are extensively utilised for non-violent offenders in North America as an acknowledgement of their addiction and not in criminal sense. As long as these are linked to reform and rehabilitation, the evidence is that they can work.

**Leisure Skills**

Kids in crisis, of any race, seek fun and often that involves drugs rather than sports and other healthy fun that also has elements of leadership and long-term health outcomes.

The sporting field has long been known as a cultural balancer and the number of youth, sports and activities officers must be increased as exists in many places overseas, to the extent that every community must have access to a full-time or part-time worker dependent on their size.

How much do we value our youth’s future? The commitment is an investment into the long-term future and should be linked to schools and information technology. Having heroes and good models is also important. A major social agenda of these issues is important across the Territory.

**Volunteer Programs**

Volunteers are some of the most valuable people in our community. Given the scale of the Northern Territory we do not have enough volunteers to meet all our needs and there is especially a problem within Indigenous communities.

One clear benefit Canada has is that Elders and family members are very willing to help and some receive compensation for their time and their skills. Programs with a component of volunteer training often result in offenders achieving some form of paid work.

Canada makes great use of volunteers (even if a small payment is made) and it is important for us to recognise their value. This is an untapped resource and should be made better use of.

A register of retirees should be developed to utilise in schools and in delivering rehabilitation programs. The side benefit is that these people are also made to feel important.

**Mock Courts/ legal learning experiences**

The Law Education Society of British Columbia is an agency that helps youth to understand the legal process.

In itself, as a diversion process, it encourages an understanding of the legal process and reduces the inherent fear of the system.

In a similar way to mentoring systems of the police and other agencies, the practice of running Mock Courts helps kids to understand our legal systems.

All participants are trained in the different roles and are robed appropriately and, under the guidance of a Magistrate or lawyer, the court practices sessions. The program travels from school to school or participants are brought to a central court. Respect for the law and its processes are learnt.

**Living without Violence**

This is an adaptation of the domestic violence and anger management program aimed at juveniles. Youth are brought together to learn from each other that anger can be controlled and Elders are used to sit and diffuse anger in group sessions.

This is a diversion program where volunteer helpers or retirees can be utilised, given their age and life experience. Living without Violence is a way every youth in crisis has the opportunity to meet with others in a similar situation and in the company of Elder compassionate people who then teach coping and spiritual skills.
Education as learning is important, but the normal curriculum is not always applicable in itself for Indigenous youth. Youth often hunger for learning rather than formal curriculum school education.

Traditional Indigenous youth do not do well in a ‘normal’ class situation. Learning in their environment has been associated with trial and error and ‘hands on’ experience. Simply trying to replicate city classroom situations will not be successful for the majority of these young people.

This phenomenon is not unique to remote communities that see little relevance to the formal education system. It is time to take the example of the parallel education systems and to refocus education into the real world of these youth, enhancing their capacity for understanding it within their own context.

I visited three First Nations Schools constructed and supported by their own funds and jointly with the state (Hobbema, in particular).

The focus on education for youth has resulted in better outcomes and in the prairies region of Canada many university students. These youth will lead their people into the future.

The royalties and government funding is spent on teaching First Nations issues, basic knowledge, the normal curriculum and paying for a university education. As a consequence, many young First Nations future leaders today have a tertiary education.

I encourage Indigenous organisations and education professionals to access resources to provide incentives for youth to remain at school and to undertake post-secondary education. Many First Nations Communities in Canada offer free scholarships to their youth.

Education in many areas of Alaska and Canada is delivered in a different way to the ‘normal’ education system.

Times and study periods, the use of Elders, and learning, is more related to being a useful citizen without a high dependence on drugs or alcohol. The normal curriculum is acknowledged but is supplemented by learning how to make ‘good money’ and to join the market economy in the future.

Learning how to negotiate deals and to supply services to tourists is important. As well, in Canada, First Nations people have exploited the taxation rules for investment. There is no reason that economic projects in Australia could not also receive taxation concessions, especially in partnerships with eco-tourism projects run by others.

A commitment to ‘Learning Lessons’, i.e., the NT Collins Review by Government, is necessary.

Language translation

Juveniles and youth learn languages very quickly. A diversion program that will have long-term benefits is that juveniles are required to learn the skills of interpreters in their community. This will aid their knowledge and standing within the community. Translators are valuable and a diversion program could be to train young people to effectively be efficient translators, enabling long-term benefits.

This has the reverse benefit of teaching English as an essential additional language for which an economic benefit might ensue.

English language skills for Indigenous people are important and will offer significant opportunities, but cross-language knowledge is more likely to offer opportunity.
Family Group Conferencing

This New Zealand model is quite different from our version of conferencing. In their situation, youth are referred by a court for conferencing and the community is a contributor to the sentencing decision.

The conferencing is similar to here in that it involves victims and offenders, plus their supporters, police and legal representatives. The impressive power of the conference includes recommending to courts the penalty for the youth that can also include detention as agreed by all the participating parties.

Youth Courts/ Therapeutic and Tribal Courts etc.

One of the most exciting advances are Youth Courts, Tribal Courts and Therapeutic Courts across Canada, the USA and New Zealand, although they operate differently in each place. In Canada in 1990/2000 - 102,000 matters were heard in Youth Courts, a decrease of 11% from 1992/93.

These figures from the Canadian Centre for Justice Statistics (Statistics Canada) demonstrate that there has been a reduction in youth crime since the advent of Youth Courts.

The use of Tribal Courts is a mixed ‘bag’ across Canada and Alaska. Like Australia, a great deal of experimentation occurred over the last 20 years to try to develop real local courts. What does seem to work is evidenced by Judges like Ben Ensh and the work of the Inter-Tribal Council of Alaska.

Tribal Courts are used extensively in Canada and Alaska and operate in many different ways from having full jurisdiction to being an agent for the local Magistrate to advise on conviction and sentencing. The basic principle is that these processes return respect and authority to local communities.

Offending should be adjudicated by Elders and community representatives in a restorative justice context with community representatives when non-violent offending is involved.

If a more serious matter occurs then the local Judge seeks advice as to sentencing. Therapeutic Courts, Drug Courts, Youth and Tribal Courts are all possibilities enshrined in structures designed to reinforce authority for all sectors of the community.

Drug Courts in particular are significant advances in dealing with offenders whose behaviour is directly related to substance abuse.

The capacity to direct an individual in crisis to an alternative program that encourages rehabilitation rather than simply a short period of custody is commendable, but the programs need to be in place.

Special Schools

In New Zealand a system of schools for those youth that experience difficulty in normal learning or who display socially unacceptable behaviour exist. These are worthy of more study.

Healing Circles

These are often organised as part of an offender’s re-integration to the community and to settle any outstanding concerns by the community.

They can also be run in a prison setting. Healing Circles are one way, whatever they are called, to reconcile community and family conflicts prior to or as part of a reintegration. Calgary Corrections does them very well.

Healing Circles are further discussed in the section on First Nations Spirituality.
Hate Crime in Alaska

Alaska has experienced many hate crimes perpetrated against its Native population. The latest, early in 2001, explains why so many Alaska Natives feel hopelessness in their lives and do not have faith in the justice system. This quote is part of a Report to the United States Commission on Civil Rights (April 26, 2001) prepared by the Alaska Federation of Natives, an organisation that has the support of the US and Alaska governments. The federation is the umbrella organisation for more than 200 Alaska Native organisations and tribal groups.

"The incident that has given rise to the current focus on discrimination against Alaska Natives occurred in late January, when three teenagers drove around downtown Anchorage with the express purpose of shooting frozen paint balls at Alaska Natives. The incident was videotaped by the teenagers, and shown on the nightly news in late February. It sent shock waves through the non-natives across the state and gained national media attention.

But for the Native community, it was only the latest indication of racial intolerance that permeates modern Alaska and also underlies discriminatory public policies.

The eldest of the three young men involved in the paint ball incident was set free on bail after being charged with seven counts of misdemeanor assault in the fourth degree, the lowest charge that can be brought against a defendant for an assault. Two juveniles, the driver of the car and the shooter, were suspended from school for the remainder of the year. At the same time, one of the Native victims was arrested for disorderly conduct when he tried to tell an Anchorage Police Officer that he had been shot by the occupants of the car leaving the scene of the crime. He was given a 60-day sentence and a $1,000 fine. He served 10 days in jail; the fine was later dismissed. This is an example of 'blame the victim syndrome' and the sentencing of the Native victim in this instance may also help explain the over representation of Alaska Natives in the correctional system.

Since this incident so vividly exposed racist attitudes, it prompted the Mayor of Anchorage and the media to hold forums and town meetings to explore the issue of racism. Sadly, following one such meeting in late March, participants returned to their cars only to find racist flyers under their windshield wipers, proclaiming 'No multi-racial society is a healthy society'. The paint ball incident also prompted the Governor of Alaska to form a Cabinet level Task Force to look at racial intolerance in Alaska and just last week the Governor announced an action plan that called for an end to intolerance and the introduction of Hate Crime legislation."
d) ABORIGINALITY (FIRST NATIONS) SPIRITUALITY

Spirituality in Corrections

The core values of the Correctional Service of Canada (CSC) emphasise the importance of spirituality and learning from Elder Aboriginal First Nations people within the correctional setting, both in custody and within the community. The CSC employs carefully selected Elders and Liaison Officers in all its facilities and makes a wide use of First Nations operated residential pre-release facilities or HalfWay houses.

Canada has decided to allow considerable freedom for cultural learning and re-learning within its prison structures. I consider that there are very important lessons for the Northern Territory about the utilisation of Elders, women and significant male community members. I also see a need to reinforce the connections with non-Indigenous Elders and retirees with those other offenders so that a connection of trust may occur.

Some of the special events/artifacts that are helping to bind and help Indigenous prisoners find and reconnect with their communities/families include Talking Sticks, Sentencing Circles, Healing Circles, Sweat Lodges, Healing Lodges, Medicine Wheels, the Pipe Carrier and Bundles.

From my own experience, I believe that this aspect of Indigenous culture and the influence of Elders and women in Aboriginal society to be keys in reducing the over-representation and recidivism of young Indigenous offenders. The importance about allowing Indigenous people to operate and maintain culture within the prison setting is vital, as this is the one place where they may re-establish culture and connection with Aboriginal society.

At their basic level, correctional custodial systems comprise a social structure and a culture. The social structure relates to the rules, positions, duties and expectations to which the system requires conformity in order to meet its goals and objectives.

As well there are formal and informal rules that govern the cultural relationships between individuals within the system.

These rules assist individuals to understand their social environment and to know what expectations exist between the players.

Within this culture and its formal rules, the CSC has permitted Elders to enter and work at length with all inmates, including those non-Aboriginal prisoners who are prepared to accept the spiritual aspects of the First Nation’s learning.

Alaska Corrections have similar programs for native prisoners but not to the extent where the Canadians have encouraged and utilised Elders. Alaska makes extensive use of Elders, Tribal Courts, Youth Courts and community leaders in its courts and Community Corrections processes.

I was able to speak with eight Elders who work in Canadian prisons and one who is an Elder advisor to the National Parole Board of Canada. In my discussions with them and correctional administrators it became clear that they have developed trusting and effective partnerships.

Symbolism plays a significant part in First Nations relationships, where nearly every human contact can be retold in a story linked to a symbolic event of the past or one for the future. It helps to fix relationships in more than a two-person context. Although some of the lines have been blurred between clan groups because of the Status/non-Status Indian issues affecting tax and land, the Western Canadian clans extensively practice Sweat Ceremonies and use Healing Lodge Ceremonies.

A major recommendation of this report is to return authority to Elders of all cultures in whatever way they consider appropriate in partnership with government for their youth within the prison setting and in the community.
The Elder in the Correctional system in Canada:
The First Nations Aboriginal people of Canada have different ways of identifying Elders. It is not simply a matter of age.

In many clans the Elder is seen as the ‘teacher’. This teacher can be a newborn or as old as the mountains of the Rockies. Most generally, Elders are older people, past 60 or 65, who have community acceptance and a level of knowledge beyond the age point or person that has spirit.

Much of this naturally comes with age, but not always – think of an Elder as a University Dean or that older person in your family who is always revered.

An Elder is like an old Aunty Daisy or a trusted Uncle Roy. There are differences in Canada related to Inuit, Indian and Metis peoples and their First Nations Status, but the principle of reconnecting and re-integrating offenders with their community and culture are the same.

**Elders are Aboriginal People’s History Books**

Elders of most First Nations groups visit their people in prisons and many are employed by the CSC. In accordance with their rank, they are respected and compensated. Elders visiting prisons, whether routinely or for special purposes, are afforded great respect and courtesy by the prison authorities in the same way a visiting dignitary or Head Office Director would expect.

Sometimes a non-Correctional Services appointed Elder seeks to visit an inmate. This is always permitted and their costs can be reimbursed.

The same courtesy should exist for all cultural teachers of prisoners. We are, after all, trying to stop inmates from returning by aiding and strengthening their rehabilitation and positive connections with the community.

There are strong similarities in dealing with Northern Territory Elders and their Canadian and Alaskan counterparts.

Elders are akin to symbolic priests and very powerful people who in past generations have made life and death decisions and decided long term plans for the lives of their people.

Articles that an Elder wants to bring into the correctional facility must be allowed, although an inspection may be necessary to ensure security. As in Canada, the need exists to discover just what is important and/or contraband and to put aside prejudices when there are no security problems.

The Canadian experience is:

**Do not assume that it is ok to inspect any goods that an Elder wants to introduce as part of his/her task. This further breaks the cultural respect and the long term purpose. Check X rays- but do not allow a female officer to touch any item held by a male Elder. The same goes for female Elders and male staff.**

An important consideration in spirituality for First Nations people is their view of men and women’s relationship to their concept of the Creator.

I consider that there is a similarity to Australian Aboriginal spiritual connection. Elders involved in our prison and criminal justice systems must have their cultural basis absolutely respected in similar ways.

These examples relate to the First Nations people of Canada and are provided to demonstrate how important such processes are.
The Canadian Creator legend is similar to many Australian Aboriginal ones. It helps to aid the understanding why women, particularly those with the Moon (menstruation), cannot enter or be near any male ceremony, search any male Elder’s Bundle or touch an Elder. The western Canada First Nation’s people talk about the Creator in this way (according to the CSC):

When the Creator placed Man upon his Mother the Earth, man was given a companion to walk with as he went about naming the items upon the land. As the Man and Wolf walked they one day came to a road that went in two different directions. The Man took one and the Wolf took the other.

Soon the Man became lonely for companionship and asked the Creator

“As I have travelled this land I have seen all that is has one of their own as a companion, yet I do not have a companion”. The Creator then made Woman to walk beside of Man. The Creator did not know what gift he could give Woman as Man had already named all that was upon their Mother the Earth. The Creator said to Woman, “I will make you like me, the Creator upon your Mother the Earth. Like Her, You will bring forth new life”.

As Man and Woman travelled through life Man knew that if he was to cut himself and bleed for a few hours he would die, yet Woman could bleed for four days and return stronger than ever.

Man knew that he could have joy with a Woman and in a few Moons she would bring forth a New Life. Because of this Woman was seen to have more power than Man and could cause harm to a Man or any of his sacred items if she was to be near either during her time of the Moon. To this day this respect is followed by both Men and Women to honour the Gift given to Women by the Creator.

Originally, Sweat Ceremonies were a Prairies event and Healing Lodges operated on the Pacific coast. Both are now used extensively, and in particular Sweat Lodges in Tee Pees or specially constructed lodges exist in every prison and most residential facilities. Sacred Circles are also extensively used for group sessions and smudging (the burning of special grasses and herbs) for purification is universal.

Elders play a vital role within prisons, reducing tensions, improving harmony, advising staff of conflicts and resolving them. Elders spend many hours managing ceremonies, group counselling and in one on one counselling and teaching. Elders’ reports to the National Parole Board of Canada about an offender’s remorse, rehabilitation and learning are always respected.

Some of the ways Elders influence attitudinal changes are listed here.

Sacred Circles

It is believed by First Nations Indigenous people that there are four circles within the sacred circle. They travel from the Spirit Circle to the Birth Circle. In this Birth Circle, travel is until they come of age. This is not a number such as 18 years, but comes at a time when the body is no longer that of a child.

When this event occurs the child moves into the Adult Circle. This is the most difficult of all. This is the time of marriage, children and many temptations. Indigenous people leave this circle when one or all of their children have grown and parental responsibility has finished.

From the Adult Circle they move to the Elder Circle. Again, this Circle is easier, much like the Birth Circle. As the time in this physical life grows short, they find themselves moving closer to the Spirit Circle from where they were born into a sacred Circle of Life.

Inside most correctional facilities across the world everything is ‘square’. All areas are set up for an easy flow or box system. Many First Nation’s people try to ‘round off’ the system to make it fit their own arrangements. This is not done to cause a problem but to improve personal safety and security.
Aboriginal people of the West Coast see the Sacred Circle as being the pivot of life. Within their Big Houses or Long Houses in prisons their areas are broken into squares.

All that is life for the Indigenous people of Canada is seen through Circles. The Circle of Life is therefore very difficult in such a square setting.

**Sweat Lodge Ceremony**

The First Nations people of the west coast know this ceremony to be that of the Plains or Prairies people (predominately the Blackfoot and Cree).

Like most Aboriginal cultural process, the Sweat Ceremony is a part of history. Only today is the Sweat resurfacing and a particular feature is within the custodial setting under the control of Elders.

The power of the Sweat is impressive for Indigenous and other peoples. Having experienced some ceremonies within and outside correctional centres, I can attest to their spiritual power and healing and a real impact on participants.

Parallels can be drawn with Aboriginal ceremony in traditional Australian Aboriginal communities, albeit the actual event is different.

The Sweat Ceremony is a time of purification for the First Nations people of western Canada. The ceremony can be compared to confession as used in Christian religions. Just as with what is said inside the confessional, everything said in the Sweat is sacred and never to be repeated to outsiders.

When the blessed ‘feather’ is passed to you, a choice is made to open up and seek help, confidence, respect, forgiveness or some other personal experience.

A Sweat Lodge is a circular structure made of beech and typically today is covered with canvas or tarpaulins. In the ‘old world’ it was covered by buffalo skin hides. It is about 3 to 4 metres in diameter and about 2 metres in height at its central point.

When a person enters the enclosure, it is said that he/she is returning to the mother’s womb, i.e. the earth (note the creator section). Inside the lodge the ceremony is sacred and the Elder sits as a priest, with volcanic rocks being heated and made to create humidity through the pouring of blessed water.

What is said in the enclosure is never to be repeated outside for any reason. The purpose includes the capacity for someone to unburden himself or herself. It is not a time to point the finger or pass information to others. It is a time for purification and rebirth. If used for another purpose the ceremony is lost forever.

A special point is that the lodge, however temporary it may appear, must never be disturbed, nor must its ceremony be interrupted for any reason.

Correctional authorities in Canada respect its power and its importance. There are lessons for Australia, particularly with respect to traditional Elders within the custodial setting utilising their own ceremony.

**Smudging**

I had fun bringing sweet grass back into Australia. Every Customs officer in Canada, the USA, New Zealand and Australia figured it must be some kind of drug. It is not.

It is simply the sweet grass of the prairies and sometimes includes sage or other commonly found herbs. The smudging ceremony is a very private event for many individuals but can be done within groups. It is a process of burning small amounts of grass or herbs to rid (purify) the body of impurities.

It is always done with all artificial possessions removed, except clothing, and is a process of wafting the scents over the body to achieve purification while seeking connection with the creator.
The process can confuse the casual observer, making it appear that the person is not under control because of the arm waving, dancing and moving around.

Canadian Correctional Services have recognised, as we should, that ceremonies are an integral part of Indigenous culture and within the security constraints of a prison they must be permitted.

We continue to break down Indigenous culture and the chances of rehabilitation if we do not accept this reality.

**Potlach**

Potlach is a Chinook word meaning ‘to give’ or ‘giving’. It is a ceremony practised in Canada and Alaska. In prisons, it is widely accepted as a time when families visit and spend quality time with their community members.

It is a time of happiness and reconnection.

The ceremonies include feasts to name newborns and new chiefs. As well, the ceremonies mark the passing of people, titles and acceptance into societies and experience in dance and culture. The Potlach for observers is an opportunity to experience love, respect and humility. To give means many things, particularly that the more important the gift is, the more prized it is.

Potlach in Alaska Correctional Centres are happy times for all involved including the staff. At this time money, gifts and other possessions should be allowed to be given freely. Without the maintenance of such obligations, long-term problems may be created and the traditional cultural base destroyed even further, promoting further social dysfunction.

Research must be undertaken to see how such processes can be applied within the Northern Territory setting and allowed in a prison setting alongside other special ceremony within acceptable security regimes.

**Sentencing Circles**

Sentencing Circles are a good example of a culturally sensitive approach to justice. Many Aboriginal offenders, after their initial contact with the criminal justice system, complain of the judicial system’s inability to offer culturally appropriate rehabilitation. ‘PeaceMaking’, as practised by the Tsuu T’ina First Nations people of Calgary, is a form of Sentencing Circle. Its primary aim is similar to the highest and holistic interventions of the Juvenile Pre-Court Diversion Program in the Northern Territory.

There are a number of ‘Alternative Measures’ that have the support of the Government, Indigenous people and the community to utilise community-based resolutions and interventions early in the offending cycle to effect attitudinal behavioural change.

Sentencing Circles first gained the attention of the Canadian criminal justice system in the early 1900s within the Yukon Territorial Court. The initial case involved a repeat offender for whom the conventional judiciary offered little to no option for rehabilitation, but with whom a community circle process proved effective.

Sentencing Circles involve the accused, his or her family, judiciary representatives, members of the accused First Nations community, and if the offence involved a victim, he or she may also participate.

The circle does the following:

- approaches the conflict in a culturally appropriate manner;
- contributes to a wide ranging examination and exploration of ways to change the future circumstances of the offender;
- brings together the resources of family, community (victims and other interested parties), and institutions to find a solution; and
makes recommendations to promote law-abiding behaviour rather than punishment for the criminal act.

**Healing Circles**

The process, as part of release to parole or conditional release, is that an offender must take part in a ‘healing ceremony’. It re-establishes the community connections and the authority of the Elders in the re-integration of the offender. A similar process as part of the release process could be used in the Northern Territory.

Although this report primarily addresses Indigenous offenders, it is clear that there are parallels for non-Indigenous community and that the same resolutions and interventions are possible including the involvement of senior representatives of other communities.

Although the process and ceremonies are different for Australian Aboriginal people, the lessons are the same. Supporting traditional cultural authority will have the effect of creating identity and purpose for Indigenous youth and restoring the systems of responsibility.

The Healing Circle process is not unlike pre-release systems that purport to operate in some of Australia’s prisons. I think they should be strengthened and involve, to a much greater extent, the community to which the offender is returning.

All of the above programs that relate to Canada or Alaska (and New Zealand) have a comparable Australian context or a traditional alternative that makes equal sense. The same principles apply equally to the wider community and I believe they are generally acceptable to the majority of Australians.

I have chosen to demonstrate how it is achieved in Canada and, with commitment, that it can be adapted to the Northern Territory.
CONCLUSIONS and RECOMMENDATIONS

This project was originally about ‘rites of passage’ of Indigenous youth and a perception that many young people choose to commit offences in order to experience something new, akin to ‘initiation’ into adulthood. The project has grown to include an examination of diversion strategies for youth and other non-violent or recidivist offenders.

It is important, therefore, to settle the first issue. This has also been discussed in the Australian context as published by the Australian Institute of Criminology, during the course of the project (Trends and Issues 204 of 2001):

The issue of whether or not imprisonment or detention is positive or negative, equivalent or different to traditional rites of passage is in the final analysis nonsensical. Indigenous rites of passage are phenomena in and of themselves, which may grow, change or remain constant according to their historical, social and cultural context. We do ourselves a disservice if we shy away from acknowledging that these rites are not readily transferable to alternative institutions that have been developed for quite different purposes.

The fact that diverse social processes have some characteristics in common does not mean they are the same or equivalent. Whilst it has to be conceded that it is not altogether unreasonable to suggest that incarceration serves some functions, roles and rationales similar to those of a rite of passage, it is essential that we position this observation within the appropriate social context. (Ogilvie and Van Zyl 2001)

Given my own experience and with the benefit of travelling to Canada and Alaska and finding the experience of youth there no different to Australia in terms of the ‘rites of passage’, it is my firm belief that the perception that Indigenous youth make this choice for traditional cultural reasons is quite incorrect.

From my observations it appears that marginalisation of youth is the same (with differing degrees of disadvantage) across all environments irrespective of a remote community or urban setting in the places visited. The are significant issues relating to socio-economic disadvantage, boredom, marginalisation and confusion about the future. There is also concern that options for the future are not even understood or accepted as attainable.

The Northern Territory is similar in many ways to western Canada and Alaska regarding Indigenous social dysfunction, but there are also some significant differences.

The way authorities develop programs is different and partnerships are much more lateral and not ‘top down’ imposed systems. These have a much greater chance of long-term success. Such long term processes transcend party-political boundaries and must include two, five and ten year targets at least.

Programs in North America that concentrate on spirituality, women/children relationships, education and the involvement of Elders, could be of major benefit to the Northern Territory in the diversion of offending youth and giving them attainable futures.

One option is to return to community Elders and leaders an authority system that the law and justice systems can recognise. This includes acknowledging and supporting traditional authority for everyday problem solving.

Returning authority to Elders can work within the existing legal system, in particular the diversion and correctional systems. This could allow a narrowing of the gap between youth and their families and culture. The harder task is encouraging youth to listen.

In terms of conclusions there are real lessons to be considered:
• Women are one of the major keys in providing stability and learning;
• Government should consider a commitment to Restorative Justice
• Partnerships must be lateral, not ‘top down’;
• Root causes of offending in terms of marginalisation, boredom, education and community dysfunction must be addressed;
• Give authority back to Elders in all our communities;
• Improve accountability for taxpayer funding and government services;
• Ask people to be involved, and pay them reasonable salaries to do that – not simply say they should do it because they caused some of the problem. For at least 20 years or so observers have told Indigenous Elders it is the government that has done this (that they now believe);
• Undertake education differently, creating learning through experience;
• Introduce taxation concessions for business development and train people to work in the industries related to tourism and economic sustainability;
• Every process of diversion from anti-social behaviour in this report should be considered;
• Consider the impact of Foetal Alcohol Syndrome and associated medical issues by a professional study learning from international experience; and
• In prisons and other areas of the criminal justice system, establish simple ways to involve victims, Elders and community members inside prisons to rebuild cultural connections and the acceptance of responsibility.

The more I think through some issues in this project, the more I believe that we focus too much on negative aspects and do not seek to replicate and improve on positive assets and the behaviour of most people.

Teaching what works in the first place could alleviate the need to try to turn around offenders at a later point, whether it is by Restorative Justice or the adversarial system.

Supporting Aboriginal traditional systems of justice, which are generally based on modern day Restorative Justice principles, can create alternatives to the custody of offenders in a way that satisfies all parties involved.

Extending, adapting and rethinking current Restorative Justice programs to allow the real involvement of Indigenous youth in making decisions and choosing alternatives should be a priority.

Manhood and adult responsibility could then be what is attained when the individual and the community have synergy, meaning and a positive future.

If incarceration has become a sort of rite of passage providing for ‘new’ constructions of self-identity through communitas, we need to seriously grapple with how we can meet the need for more than boredom, marginalisation and barren futures. For this reason we must consider and challenge what works in a positive sense and not always be fixed on what does not work or has failed. We must be positive in our approaches.

Repeating the view of former Chief Minister, Marshall Perron the only way custody could be an substitute initiation is if the old men that convey such an honour upon youth in a traditional initiation sense thought so. Of course they do not.

This is a quite different phenomenon to that of a rite of passage into manhood in a traditional sense.

The Criminal Justice System Recommendations:

GOVERNMENT SHOULD CONSIDER a commitment to the principles of Restorative Justice across the criminal justice and education areas of Government and acknowledge a possible application to other service delivery.

RECOGNISE THAT THERE ARE OPPORTUNITIES for diversion of youth and other offenders and commit to ensuring they are available in line with Restorative Justice principles and provide for community involvement. CREATE an Alternative Measures process for non-violent and less serious repeat offenders.
ESTABLISH A STRATEGY that includes a Community Crime Prevention and Public Safety organisation that advises government on world’s best practice in developing public confidence in crime prevention, achieving outcomes that engender real community confidence. Such a body should generate reliable system-wide statistics and advise government about offending, environmental safety and long term strategies.

- It is universally recognised that offending is related to dysfunction and this will not be overcome quickly. Decisions must not be driven only by the statistics as these may be manipulated and confusing to the public and decision makers. Credibility and honesty are the keys to public acceptance.

- APPOINT AN EXPERIENCED current or past Magistrate or Judge, or respected academic, as an independent person to liaise with communities, the judiciary and Criminal Justice agencies, to be an advocate for improved service delivery and to link current systems in a workable way. This person could also be the head of the independent authority dealing with criminal justice issues to reinforce independence and credibility.

- APPOINT Elders to every prison or future community correction centre in the Northern Territory. Each should be allowed to operate ceremonies and to conduct learning experiences for their people. They should be paid appropriately for their effort.

- EMPOWER COMMUNITIES in a long-term sense (5 to 10 years) to run Correctional programs, in line with returning responsibility for community supervision. This will involve returning empowerment to the community.

- WORK ON A MATRIX that links penalties in a traditional sense with Court imposed sentences that allows Indigenous people to see the links. This will need an explanation and acceptance of some aspects of customary law and how it can relate to the overall legal system.

- Staff who work in the health, education, housing, Indigenous affairs, business agencies and the criminal justice system, especially CEOs and senior managers, should commit themselves to reduce numbers of prisoners and to contribute to a reduction of community dysfunction, with targeted performance indicators.

- CONSIDER the range of diversion programs for youth and adults as outlined in the report.

- ESTABLISH A PROCESS whereby no prisoner is released without some support mechanism including Community Corrections Centres, Half Way Houses or a ‘healing’ mechanism that is supported by individual communities.

- ESTABLISH A COMMUNITY POLICE OFFICERS SCHEME, that is more specific in training than Aboriginal Community Police Officers at present to include empowerment and authority. Authority should extend to normal police powers and be specifically addressed to working with youth in remote communities.

- TARGET SUITABLE AND WILLING MEN AND WOMEN through the education system and set real performance targets associated with affirmative programs and higher income levels. Policing in remote areas and traditional communities should be linked to Elder responsibilities including these officers enforcing and reinforcing the authority of Elders.

- SET UP A SYSTEM OF YOUTH COURTS that are aimed at involving and teaching youth, in particular those from remote communities with the agreement of Elders.

- ESTABLISH DRUG AND THERAPEUTIC COURTS to divert offenders away from normal courts into systems that better recognise their non-criminal behaviour and the options that are available for rehabilitation for drug users and people that need close personal support (such as those with mental health problems or drug dependence). This will require a firm commitment by government to have the programs in place.
DEVISE A SYSTEM OF TRIBAL COURTS and an urban counterpart of local community Elders to sit and determine non-violent youth offending, monitored and supported by the current Magistrates system.

EMPLOY A NUMBER OF RETIREES AND VOLUNTEERS of all cultures to be regular visitors to prisons and workers with youth. They must be paid and have the authority to engage in spirituality and learning with people from their culture in a Correctional Centre.

ADAPT the New Zealand Family Group Conferencing process as a sentencing option where a court can refer an offender with a finding of guilt to a conference to recommend an appropriate sentence with the views of victims, the family, the offender and police taken into account.

The Community:

SUPPORT Indigenous women in their communities by ensuring that they are involved and consulted on all youth issues.

DEVELOP MECHANISMS TO INVOLVE VICTIMS in the reparation and sentencing process, particularly in community conferencing processes where it is used in association with a court referral. Community involvement with sentencing will need to be carefully managed and include a protection from severe personal views.

TABLE IN PARLIAMENT two, five and ten years plans, clearly setting out the aims and target performance indicators for all Agencies working with Indigenous people.

DEVELOP AND OPERATE EDUCATION AS ‘LEARNING’, not simply curriculum education-to make education more relevant and meaningful programs may require a full re-engineering of the way services are delivered, especially as part of action learning and experience learning that is more associated with the way Indigenous people learn ‘education’.

OFFER TAXATION CONCESSIONS or other incentives to remote communities that agree to train Indigenous youth in tourism and related future business enterprises with government and the private sector.

IMPLEMENT A HEALTH PROGRAM to investigate the impact of Foetal Alcohol Syndrome on Indigenous and other youth.

CONCENTRATE ON DEVELOPING ways to improve background issues of health and housing for marginalised youth so that they can make some use of the education system. This is a most difficult issue for Government.

INTRODUCE PROGRAMS that require identified public servants in some Agencies to mentor youth in a structured, accountable and responsible manner with the participation of Elders.

CREATE SPECIAL SCHOOLS to help youth who cannot meet conventional standards for schooling in urban areas similar to the New Zealand or Indigenous models in Canada.

CREATE A RESTORATIVE JUSTICE MANUAL for use across the public sector.

SUPPORT FURTHER RESEARCH into what works for non-violent offenders and why most do not continue to offend. Use the results to shift the direction into positive long-term improvements.

CREATE positions within the judicial system that enable the mentoring and training of Indigenous people to work within the criminal justice system.
ACKNOWLEDGEMENTS

I extend my appreciation to the Winston Churchill Memorial Trust of Australia. The honour bestowed by the Fellowship is one I will always cherish. I encourage any Australian who is challenged to learn overseas and to apply the knowledge in this country to seek to be a Fellow.

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Some of the work at the Australian Institute of Criminology (AIC) through the Criminology Research Council (CRC) must be acknowledged. In March 1999, I was requested by Northern Territory Correctional Services to suggest topics for possible future CRC grants. The NT made the suggestion that the topic of the Rites of Passage to Manhood be a possible research study. I was unaware until October 2000 that Dr. Emma Ogilvie was preparing a scoping brief for the topic. This is now the subject of a Trends and Issues publication (Number 204 of April 2001) by the AIC co-authored by Dr Ogilvie and myself.

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Although I cannot name the youth and adults in custody that I spoke with, I am grateful for their honesty and assistance in helping me to understand their home lives and their communities.

I am grateful to Northern Territory Correctional Services and the Police and Correctional Services agencies of Canada and Alaska for their agreement in allowing me to discuss issues with their staff and to interview people in custody.
REFERENCES

Alaska Commission on Rural Governance and Empowerment (1999), A Report to the Governor of Alaska. Government of Alaska USA


Alaska Federation of Natives (2000) National Briefing on Subsistence and other Native Issues: AFN Anchorage Alaska USA


Alaska Federation of Natives (2001) Briefing on Recent Hate Crimes Against Alaska Natives – Report to the Alaska Advisory Committee United States Commission on Civil Rights, AFN Anchorage Alaska USA


Alaska Justice Forum (1999) Growth in Corrections, Vol 15 No 4, University of Alaska Anchorage USA


Alaska Justice Forum (2000) Officer Turnover in the Village Public Safety Officer Program, Vol 17 No 2, University of Alaska Anchorage USA


Arnot, J (Judge) (2000) Treaties as a Bridge to the Future – The Saskatchewan Model, University of North Brunswick Canada

Anwar, S (2001) in private conversation about Pakistani politicians

Australian Bureau of Statistics (1999) The Health and Welfare of Australia’s Aboriginal and Torres Strait Islander Peoples, 4704.0

Australian Bureau of Statistics: Corrective Services stats


Beresford, Q and Omaji- P. (1996) “Nothing is happening for Aboriginal Kids”, Life on the Margins”, Fremantle, Fremantle arts Centre press


Blagg, H (2000) Aboriginal Youth and Restorative Justice; critical notes from the Australian frontier, Perth, University of Western Australia


Burke, D (2000), Sydney, November 11 “Mandatory Sentencing – A Catalyst for Debate, Chief Minister’s Speech to the Samuel Griffith Society

Canadian Criminal Justice Association (2000), A special Bulletin, Aboriginal Peoples and the Criminal Justice System, Ottawa, Canada


Circles of Eagles Lodge Society (2001), Programs and Services 2001, Vancouver BC Canada
Chief Justice of the Northern Territory (2000), Brian Martin quoted from personal correspondence

Conn, S (Prof) (1980), *Report to the Law Reform Commission of Australia*, University of Alaska Anchorage USA

Correctional Service of Canada Forum (2000), *Aboriginal People in Corrections*, January 2000, Volume 12, Number 1

Correctional Service of Canada (1997) *Aboriginal Offender Survey, CSC Case Files and Interviews*, Ottawa Canada


Correctional Service of Canada (2001), *Mission of Correctional Services*, Ottawa Canada

Correctional Service of Canada (2000), *Enhancing the Role of Aboriginal Communities in Federal Corrections*, Ottawa Canada


Council of Australian Governments (1992) *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islander*, Canberra, AussiePrint


Cunneen, C. and McDonald, D. (1997) *Keeping Aboriginal and Torres Strait Islander People out of custody: An evaluation of the implementation of the recommendations of the Royal Commission in Aboriginal Deaths in Custody Office of Public Affairs: Canberra*


Daly, K and Hayes, H *Restorative Justice and Conferencing in Australia*: Trends and Issues (No 186), Australian Institute of Criminology, Canberra, Australia


Gilroy, M (1976) “Youthful offenders at Groote Eylandt” *Legal Service Bulletin*


Ministry of Aboriginal Affairs (2001), Aboriginal Organisations and Services, British Columbia Government Canada


National Committee on Violence (1990) Directions for Australia, Australian Institute of Criminology, Canberra, Australia

Native Court worker and Counselling Association of British Columbia (2000): A Safer Place, Vancouver BC Canada

North Australia Aboriginal Legal Aid Service (2000) evidence to Senate Standing Committee on Legal and Constitutional Affairs


Ogilvie, E. and Van Zyl, A. (2001) Indigenous Youth, Custody and the Rights of Passage. Australian Institute of Criminology Trends and Issues (No 204)


Perron, M (2001) former Chief Minister in conversation


Royal Commission on Aboriginal People (1996), People to People- Nation to Nation, Government of Canada Publishing Canada

School of Criminology, Simon Fraser University (2000), The Incarceration of Female Young Offenders, British Columbia Canada

Seventh (7th) Step Society (2000), Think Realistically, Canada

Society of Aboriginal Addictions (2000) Treatment Readiness Program, Canada


Zehr, H. (1985) *Retributive Justice, Restorative Justice*, Akron, PA, Mennonite Central Committee

Appendix A: CONTACTS MADE, COMMENT AND INTERVIEWS

NB: Persons in custody are not named, nor will there ever be any records of their names kept for ethical reasons, however details of our discussions and interviews have been invaluable and I thank them all for their honesty and their help in assisting me to understand.

AUSTRALIA

Anonymous interviewees – adult prisoners, Darwin and Alice Springs Correctional Centres (n=25)
Anonymous interviewees – juvenile detainees, Don Dale and Wildman River Detention Centres (n=11)
Adepoyibi, Chris (Dr) – Senior Programs Officer – NT Correctional Services
Anwar, Sajid (Dr) – Associate Dean, Graduate Business School, NT University
Beadman, Bob – Secretary Dept. Local Government and CEO NT Office of Aboriginal Development
Biles, David – Professor, Charles Sturt University (former Deputy Director AIC)
Bradley, Hugh – Chief Magistrate, Northern Territory
Coates, Richard – Director NT Legal Aid Commission
Edgington, Steven – Snr Sergeant Juvenile Diversion, NT Police
Fergusson, David – Deputy Superintendent Don Dale Juvenile Detention Centre
Gee, Jenny – North Australian Aboriginal Legal Aid Service
Gray, Ian – Former Northern Territory Chief Magistrate
Hempel, Ray – Assistant Director, NT Office of Aboriginal Development
Hill, Kim – ATSIC Northern Zone Commissioner (NT)
Jipp, Sue – Senior Case Worker, Don Dale Juvenile Detention Centre
Lajamanu Law and Order Committee and Community Council
MacGregor, Alistair, Northern Territory Magistrate
Martin, Brian AO – Chief Justice Northern Territory
McCormack, Bruce – Former Northern Territory Magistrate
Moore, David APM – Commissioner NT Correctional Services
Monck, Brendan – Aboriginal Liaison Officer, Darwin Correctional Centre
O’Connell, Terry – Real Justice Australia
Ogilvie, Emma (Dr) – Post Doctoral Fellow - Australian Institute of Criminology
Parker, Steve – Superintendent Don Dale Juvenile Detention Centre
Perron, Marshall – Former Chief Minister Northern Territory Government
Read, Ian – Solicitor NT Legal Aid Commission
Renouf, Gordon – Former Director North Australian Aboriginal Legal Aid Service
Ryan, Peter – Field Officer (Law and Order), NT Office of Aboriginal Development
Stuchbery, Bill – Assistant Director, NT Office of Aboriginal Development
Waite, Graham – Superintendent Juvenile Diversion, NT Police
Wallace, Dick – Northern Territory Magistrate
Walker, John – Criminologist – now Director of Policy Victorian Justice
CANADA
Anonymous Interviewees in custody – juveniles n=10, adults n=20
Anderson, Bruce – Manager Restorative Justice, Alberta, Edmonton
Baergen, Marvin – Asst Chief Probation Officer, Alberta Justice, Calgary
Bates, Morris – Youth Outreach Officer – Vancouver Police & Native Liaison Society
Belgard, William – Aboriginal Liaison Officer, William Head Federal Penitentiary
Berg, Irwin – Transition Officer Elbow Lake Federal Penitentiary CSC Vancouver
Best, Lyle – President of Community Conferencing Edmonton
Blais, Suzanne – International Relations, Correctional Service of Canada, Ottawa
Bowlby, Rick – Chief Superintendent – K Division RCMP, HQ Edmonton, Alberta
Brown, Ray – Community Liaison CSC Parole Calgary
Butler, Richard – Senior Policy Advisor – Alberta Justice Edmonton
Chaput, Andre – First Nations Elder – CSC Matsqui Federal Penitentiary
Cheliak, Marty – Inspector Aboriginal Policing, RCMP Edmonton HQ for Alberta
Clowston, David – Deputy Warden, William Head Federal Penitentiary, BC
Costello, John – Warden Matsqui Federal Penitentiary, Abbotsford
Craig, Rick – Executive Director, Law Courts Education Society of British Columbia
Croft, Judy – Director, Elbow Lake Federal Penitentiary, BC Corrections
Crowshoe, Reg (Community Change Driver and Educator) – Old Man River Cultural Centre - Blackfoot Brocket Alberta
Dann, Robin QC – Chief Crown Prosector, Lethbridge, Alberta
Davis, Glynn – Consultant Remesa Consulting to First Nations communities
Desjarlais, Ferlin – RCMP Community Policing Co-ordinator, Hobbema, Alberta
De Vink, Pieter – Deputy Commissioner, Pacific, Correctional Service of Canada
Dewar, Gerry – Deputy Warden Matsqui Federal Penitentiary
Dickson, David – Community Police Officer Vancouver Police Service
Eagletail, Hal (CHIEF) – Tsuu T’ina First Nations Community - Calgary
English, David – Programs Director Calgary Correctional Centre
Ens, Rosa Freida – Executive Director, Vancouver Police and Native Liaison Society
Findlay, Dennis – Correctional Service of Canada, Abbotsford BC
Forsth, Heather – Solicitor- General of Alberta, Canada
Gelinas, Colin _ Snr Caseworker Willingdon Detention Centre, BC Corrections
Gustafson, Dave – Director Fraser Region Community Justice
Hartner, Karin – Senior Probation Officer, Secure Youth Custody Centre BC
Harvey, Blair- Director Vancouver Aboriginal Council
Hayman, Jim – Supervisor Parole and Reintegration CSC Calgary
Hickman, Lloyd – Supt RCMP Lethbridge – Inst of Restorative Justice
Hilton, Spence – Manager Aboriginal Policing, Alberta Solicitor General’s
Hobson, Richard – RCMP Edmonton
Hopgood, Sue – Administrator Conferencing Edmonton Police Service
Horsman, Ken – Unit Manager Matsqui Federal Penitentiary, BC
Hutman, Gary – Director of Policing Services, Solicitor Generals, Alberta
Isbister, George – Elder Advisor and Member National Parole Board Canada
Jack, Vernon (CHIEF) – Tseycum Community, Victoria, Vancouver Island BC
Jensen, Craig – Parole and Programs, CSC Calgary
Johnson, Bart – Alberta Justice Communications Centre
LaRose, Frank – Advisor Aboriginal Programs, CSC BC
Lawson, George – Community Police Officer Vancouver Police Service
Kube, Alvin – Regional Native Liaison Officer – BC CSC
Marchenski, Marcia – Director Willingdon Road Juvenile Facility BC
Marshall, Karen – Consultant Restorative Justice RCMP Vancouver BC
McLeod, David – Native Liaison Coordinator Calgary Correctional Centre
McDonald, Mike – Head of Indigenous Affairs, Vancouver Police
McKay, Doug (Inspector) – Vancouver Police Service
Middleton-Hope, John - Staff Sgt Calgary Police Service
Nichols, Aaron – Edmonton Police Service, Restorative Justice Programs
Parent, Carmen – Manager Aboriginal Programs, Alberta Justice
Parsons, Ron – Acting Director Sumas CCC Abbotsford
Paul, Arthur – Regional Manager, Native Courts of Vancouver
Pilon, Guy – Detective Edmonton Vice Squad, Alberta
Ponting, Rick – (Professor) Dean Faculty of Sociology, University of Calgary
Rosvebrugh, Kimmie – House Director Calgary Seven Steps –Residential
Simpson, Brian (Inspector) – RCMP Hobbema, Alberta
Shimko, Rick (Chief Supt) – (RCMP) Edmonton, Alberta
Shoush, Bromwyn – Alberta Justice Aboriginal Initiatives Unit, Solicitor Generals
Sloan, Randy – Executive Director Pe Sakastew Centre, Alberta
Starlight, Ellery – Peacemaker Tsuu T’ina First Nations Community Alberta
Stephenson, David – Community Development Officer
Stewart, Jack – Senior Parole Officer Sumas CCC
Swann, Tom (Sgt) – OIC Aboriginal Policing BC - RCMP
Trebilcock, Romola – Consultant Police, Corrections Canada
Thomas, Merv – Community Development Officer, CSC Canada
Thunderchild, Ray – Elder Circle of Eagles, BC
Vancouver Aboriginal Friendship Society
Voyageur, Cora (Dr), Criminologist University of Calgary
Ward, John (Sgt) Community Policing / Restorative Justice RCMP Vancouver
White, Marjorie, Director Circle of Eagles, Vancouver
Whitelaw, Brian (Staff Sgt) – Calgary Police Service
Whitewolf, Sharron Jack – Elder Kent Maximum Security Penitentiary BC
Williams, Gary – Acting Director Calgary Correctional Centre, Alberta Justice
Young, John – Regional Manager, Aboriginal Policing Directorate, Solicitor General of Canada, Alberta
ALASKA

Anonymous juvenile detention interviewees n= 33
Anonymous adult prisoners (groups n = 80, individuals n = 15)
Anderson, Rita – Dep. Superintendent Alvin Mountain Correction Centre, Nome
Barnes, Allan – (Dr) Director Statistics and lecturer Crime/Justice UAA
Begich, Thomas – Program Coordinator Alaska Native Justice Centre
Brew, Kevin – Superintendent Alvin Mountain Correction Centre, Nome
Conn, Steven – Prof. Executive Director – Alaska Public Interest Group
Cooper, Allen – Director Institutions Alaska Dept of Corrections
Dorough, Sambo Dalee – Political Advocate – Intertribal Council of Alaska
Ensh, Ben – Superior Court Judge, Nome Alaska
Foster, Jodie – Deputy Superintendent Hiland Correctional Centre
Garoute, Joseph – Legal Advocate Alaska Native Justice Centre
Henry, Melbourne – Director Health, Alaska Correctional Services
Johnson, Steve – Unit Manager, McLauchlan Detention Centre Anchorage
Krupa, Claudia - Youth worker, McLauchlan Detention Centre Anchorage
Martus, Kimberly – Director Tribal Justice Institute Anchorage
Miller, Kristin – Lieutenant Commander – Anchorage Police Service
Moras, Antonia – Research Analyst – Alaska Justice Centre, University of Alaska
Muller, Jim – Professor Political Science – University of Alaska Anchorage
Neagle, Karen – Cultural Affairs Coordinator Alaska Correctional Services
Nelson, Robert – Youth worker, Nome Detention Facility, Alaska
Parker, Bill – Dept Commissioner Correctional Services of Alaska
Pugh, Margaret – Commissioner Correctional Services of Alaska
Richards, Bruce – Special Assist to Governor of Alaska on Corrections
Richter, Bruce – Captain Anchorage Police Service, Alaska USA
Rieger, Lisa (Dr) Senior Research Analyst - Alaska Justice Centre UAA
Robson, Betsy – Director Programs Alaska Correctional Services
Schafer, Nancy – (Dr) Acting Director, Alaska Justice Centre UAA
Timberwolf, Kenny – Spiritual Leader and Director Alaska Federation of Natives
Williams, Dean – Director Nome Youth Detention Facility, Alaska
Williams, Nicky – Methadone Maintenance Program, Fairbanks Alaska USA
White-Carns, Teresa – Senior Associate Alaska Judicial Council
Wing, Deborah – Director Alaska Native Justice Centre, Anchorage USA
Judge Martin – Tribal Courts of Alaska, Anchorage USA
Zagg, Linda – Director Community Corrections Alaska Corrections

NEW ZEALAND

Pakura, Shannon - Children’s and Youth Affairs Dept.
Reedy, Turei – NZ Correctional Services, Maori Policy Division
Cleaver, Neil – NZ Coordinator NZ Dept of Child Youth and Family
Peak, Malcolm – Social Worker Youth and Children’s Services
Norris, Scott (Const) – NZ Police Youth Aid Services
Komene, Denise – NZ Family Group Conferencing Child and Youth Services
Appendix B: ALLAN VAN ZYL


Master of Business Administration (International Management) - Northern Territory University (2000).


Winston Churchill Memorial Trust of Australia Fellow (2001)

Associate Fellow, Australian Institute of Management.

EMPLOYMENT BACKGROUND

• Community Advisor - Papunya, Docker River (NT remote communities) 1975 and 1976, Department of Aboriginal Affairs.
• Projects Officer, Aboriginal Affairs - Alice Springs, 1977.
• Senior Community Advisor - Aboriginal Affairs, Inverell NSW 1977-1978
• Area Officer - Alice Springs August 1978 to August 1979 - Aboriginal Affairs
• Northern Territory Government - Regional Officer - Tennant Creek August 1979 to March 1981. Head of Welfare, Local Government, Consumer Affairs and agency functions on behalf of the Northern Territory Development Corporation and Head of Co-ordination Committee - Barkly Region.
• Director Urban Lands Unit – Darwin (Department of Community Development) established to negotiate living areas in urban areas for Aboriginal people.
• Northern Territory Correctional Services (Darwin) 1982-1999
  - Project Officer - Legislation
  - Information Systems Manager - Client Records
  - Office Manager - Central Office
  - Home Detention Co-ordinator – Parole/Probation
  - Assistant Director - Corporate Services
  - Director - Corporate Services
  - Director Administration
  - Acting Deputy Secretary
  - Director Planning and Research
  - Senior Director Strategic Services
• Attorney-General’s Department – criminal justice policy and Correctional Services issues (1999-2001). Latest position assisting Northern Territory Police with the establishment of Pre - Court Juvenile Diversion Scheme.

Contacts: PO Box 36633, WINNELLIE, NT, AUSTRALIA, 0820
Email : avanzyl@ozemail.com.au or allan.vanzyl@nt.gov.au
Telephone home +61 8 8988 2681 international, 08 8988 2681 domestic - Australia
Work +61 8 6999 5511 or fax +61 8 8999 7095
### MEMBERSHIP OF SIGNIFICANT BODIES

<table>
<thead>
<tr>
<th>Year</th>
<th>Role</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995/2001</td>
<td>American Corrections Association - member of International Relations Committee.</td>
</tr>
<tr>
<td>2000</td>
<td>Darwin Lord Mayor’s Safer Community Committee.</td>
</tr>
<tr>
<td>2000/2001</td>
<td>Member of (Policy Advisor) NT Police Task Force- established to create Juvenile Pre-Court Diversion Scheme.</td>
</tr>
</tbody>
</table>
### Appendix C: DETAILED ITINERARY

<table>
<thead>
<tr>
<th>Date</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 May</td>
<td>Leave Darwin</td>
</tr>
<tr>
<td>1 May</td>
<td>Arrive Vancouver</td>
</tr>
<tr>
<td>2 May</td>
<td>Circle of Eagles – RJ and post Release Native peoples, Vancouver Aboriginal Legal Counsel. Meetings with “Circle of Eagles” and visits to three residential centres for juveniles and adults. Vancouver Aboriginal Council that organise the co-ordination of over 40 Indigenous groups in BC. Meet with Vancouver Aboriginal Coordination Council Meet with Native Court Worker and Counselling service of BC</td>
</tr>
<tr>
<td>3 May</td>
<td>Matsqui Medium Security Federal Penitentiary at Abbotsford, BC. Sumas Community Corrections Centre (Abbotsford) BC</td>
</tr>
<tr>
<td>4 May</td>
<td>University of British Columbia - Vancouver</td>
</tr>
<tr>
<td>5 May</td>
<td>Saturday</td>
</tr>
<tr>
<td>6 May</td>
<td>Victoria (Vancouver Island) to prepare for meetings on Monday</td>
</tr>
<tr>
<td>7 May</td>
<td>William Head Medium Security Federal Penitentiary, Victoria BC Tseycum (Seacum) Aboriginal Community, Victoria, BC</td>
</tr>
<tr>
<td>8 May</td>
<td>Willingdon Young Offenders Institution – Burnaby (AG’s BC Can)</td>
</tr>
<tr>
<td>9 May</td>
<td>Vancouver Police and Vancouver Police &amp; Native Liaison Society</td>
</tr>
<tr>
<td>10 May</td>
<td>Elders Meeting at Correctional Service Canada, Abbotsford BC</td>
</tr>
<tr>
<td>11 May</td>
<td>Elbow Lake Federal Penitentiary BC</td>
</tr>
<tr>
<td>12 May</td>
<td>Saturday</td>
</tr>
<tr>
<td>13 May</td>
<td>School Workers</td>
</tr>
<tr>
<td>14 May</td>
<td>British Columbia Native Law Education Society</td>
</tr>
<tr>
<td>15 May</td>
<td>RCMP – Restorative Justice and Aboriginal Offenders Team BC</td>
</tr>
<tr>
<td>16 May</td>
<td>Travel to Calgary – University of Calgary Science Faculty</td>
</tr>
<tr>
<td>17 May</td>
<td>Calgary Parole &amp; Reintegration – Correctional Service of Canada</td>
</tr>
<tr>
<td>18 May</td>
<td>Calgary Correctional Centre – Alberta Justice Dept</td>
</tr>
<tr>
<td>19 May</td>
<td>Alberta Seventh Step Society – Residential Facility – Pre Release</td>
</tr>
<tr>
<td>20 May</td>
<td>Jim Hayman – Parole CSC Supervisor Alberta</td>
</tr>
<tr>
<td>21 May</td>
<td>Public Holiday – Victoria Day</td>
</tr>
<tr>
<td>22 May</td>
<td>Solicitor-General Canada – Aboriginal Policing Alberta and NWT</td>
</tr>
<tr>
<td>22 May</td>
<td>University of Calgary - Sociology and Criminology Departments</td>
</tr>
<tr>
<td>23 May</td>
<td>Tsuu T’ina First Nations Community leaders – Calgary Alberta</td>
</tr>
<tr>
<td>25 May</td>
<td>Return to Calgary - arrange next week’s travel</td>
</tr>
<tr>
<td>26 May</td>
<td>Weekend</td>
</tr>
<tr>
<td>27 May</td>
<td>Weekend</td>
</tr>
<tr>
<td>28 May</td>
<td>Blackfoot Nation leaders (Brocket) and Criminology Dept U Calgary</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
</tr>
<tr>
<td>-------</td>
<td>-------------------</td>
</tr>
<tr>
<td>29 May</td>
<td>Calgary Probation Service (am), Calgary Police Service (pm)</td>
</tr>
<tr>
<td>30 May</td>
<td>Travel to Edmonton – RCMP and Edmonton Police Service</td>
</tr>
<tr>
<td>31 May</td>
<td>Staff of Solicitor-General of Canada – Policing, Restorative Justice, Aboriginal Programs, Aboriginal Policing and Partnerships Community Issues</td>
</tr>
<tr>
<td>1 June</td>
<td>RCMP Headquarters for Alberta and Edmonton Police Service</td>
</tr>
<tr>
<td>1 June</td>
<td>Weekend prepare for Ministerial Meeting and presentation</td>
</tr>
<tr>
<td>2 June</td>
<td>Observe community service work in Edmonton</td>
</tr>
<tr>
<td>3 June</td>
<td>Hobbema RCMP and Ministerial Meeting (Sol General of Alberta)</td>
</tr>
<tr>
<td>4 June</td>
<td>Vice Squad Edmonton (prostitution issues) and travel to Calgary</td>
</tr>
<tr>
<td>5 June</td>
<td>Travel to Anchorage, Alaska via Seattle USA</td>
</tr>
<tr>
<td>6 June</td>
<td>Alaska Native Justice Centre, Anchorage Police Department and Alaska Federation of Natives</td>
</tr>
<tr>
<td>7 June</td>
<td>Alaska Inter-Tribal Council and McLachlan Youth Detention Centre</td>
</tr>
<tr>
<td>8 June</td>
<td>Weekend</td>
</tr>
<tr>
<td>9 June</td>
<td>Weekend</td>
</tr>
<tr>
<td>10 June</td>
<td>Native Alaska issues (remote communities)</td>
</tr>
<tr>
<td>11 June</td>
<td>Drug Courts Issues</td>
</tr>
<tr>
<td>12 June</td>
<td>Management Board Alaska Department of Corrections, Alaska Justice Centre (University of Alaska)</td>
</tr>
<tr>
<td>13 June</td>
<td>Hiland Mountain Correctional Centre, Anchorage Alaska</td>
</tr>
<tr>
<td>14 June</td>
<td>University of Alaska – Justice Centre and Alaska Judicial Council</td>
</tr>
<tr>
<td>15 June</td>
<td>International Churchill Society - Presentation</td>
</tr>
<tr>
<td>16 June</td>
<td>Weekend</td>
</tr>
<tr>
<td>17 June</td>
<td>Silver Mountain Maximum Security Prison with Youth Annex</td>
</tr>
<tr>
<td>18 June</td>
<td>Nome</td>
</tr>
<tr>
<td>19 June</td>
<td>Nome Police, Alaska State Troopers, Seaside Residential Centre</td>
</tr>
<tr>
<td>20 June</td>
<td>Alvin Mountain Corrections Centre, Judge Ben Esch - Superior Court</td>
</tr>
<tr>
<td>21 June</td>
<td>Juvenile Facility Nome, Alvin Mountain Correctional Centre</td>
</tr>
<tr>
<td>22 June</td>
<td>Alvin Mountain Corrections Centre and fly back to Anchorage</td>
</tr>
<tr>
<td>23 June</td>
<td>Arrive Los Angeles</td>
</tr>
<tr>
<td>25 June</td>
<td>Leave Los Angeles</td>
</tr>
<tr>
<td>27 June</td>
<td>Arrive Auckland – New Zealand</td>
</tr>
<tr>
<td>28 June</td>
<td>Youth Aid Services</td>
</tr>
<tr>
<td>29 June</td>
<td>Understand cultural issues talks with Elders</td>
</tr>
<tr>
<td>30 June</td>
<td>Rotorua Cultural Issues</td>
</tr>
<tr>
<td>1 July</td>
<td>Weekend</td>
</tr>
<tr>
<td>2 July</td>
<td>NZ Justice system and youth issues</td>
</tr>
<tr>
<td>3 July</td>
<td>Family Group Conferencing – Youth and Children’s Services</td>
</tr>
<tr>
<td>4 July</td>
<td>Leave NZ - Arrive Darwin – end of travel for Fellowship</td>
</tr>
</tbody>
</table>
To Whom it May Concern

This is to introduce Mr Allan Van Zyl, a senior Public Servant of Australia's Northern Territory, who is the recipient of a Winston Churchill Memorial Trust Fellowship for 2001.

Mr Van Zyl is employed as a Policy Officer in the NT Attorney-General's Department. He has worked in the area of Aboriginal Affairs since joining the Public Service in 1974, including time as a field officer and 17 years in the Correctional Services Department.

His award of the Churchill Fellowship reflects Mr Van Zyl's long-standing interest in Australia's Aboriginal people, particularly their over-representation in the prison system. Mr Van Zyl has chosen to research Indigenous youth imprisonment trends in Canada and Alaska during his time as a Churchill Fellow, with particular emphasis on social and cultural factors, following similar research in the Northern Territory.

Any help given to Mr Van Zyl is greatly appreciated by my Government, and results of this research may be of use to all of our jurisdictions in time to come.

Yours sincerely,

DENIS BURKE

31 AUG 2000
Appendix E: Letter re First Nations Gift from Canadian Solicitor General

Aboriginal Policing Directorate
#654 – 220 – 4 Avenue, S.E.,
Calgary, Alberta
T2P 3K3

June 5, 2001

To Whom It May Concern,

In appreciation for his dedication and pursuit of understanding Aboriginal peoples in Canada, Mr. Van Zyl was presented with a ceremonial gift considered of great spiritual value. This ceremonial gift consists of a blessed feather in a wooden case.

To be the recipient of such a gift is a great honour bestowed upon Mr. Van Zyl by the First Nations people.

Should you have any further questions please feel free to contact me at anytime via telephone at area code (403) 292-8858 or via e-mail at young.j@sgc.gc.ca

Sincerely yours,

John Young
Regional Manager