

# **Challenge, Choice, & Change: A Report on Evidence-Based Practice in the Provision of Policing Services to Aboriginal Peoples**

**Prepared by**



November 2004

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\* Opinions expressed are those of the author and do not necessarily reflect those of the Ipperwash Inquiry or the Commissioner

## EXECUTIVE SUMMARY

This is paper #12, one of more than 20 research documents commissioned by the Ipperwash Inquiry for the purpose of assisting in the development of the Inquiry's "Part 2" recommendations. Those recommendations will consider both "systemic" and "operational" issues relating to the Inquiry's mandate of assessing evidentiary information and making recommendations regarding the avoidance of violence during confrontations between police and Aboriginal peoples.

In preparing this report, researchers reviewed more than 15,000 pages of material gleaned from inquiries, commissions, studies, reports and evaluations of Aboriginal-police relations in Canada, Australia, and the United States. Unfortunately, the original plan to identify only "evidence-based" initiatives had to be abandoned—there was little *evidence* about what really worked. There was, however, consensus in three significant areas as to what "should" and, in some cases, what "seemed" to be working.

It also became evident that the potential for significantly impacting crime and victimization of Aboriginal peoples simply through adjustments to Aboriginal-police relations was limited. The reality of Aboriginal "overrepresentation" in the Canadian criminal justice system is that the circumstances that give rise to this overrepresentation are principally age, poor education, unemployment, and substance abuse; by and large, conditions that are beyond the criminal justice system's ability to ameliorate. Notwithstanding, there are opportunities to make a difference.

The first area of consensus was the potential for community policing approaches to reduce crime and to improve relationships between police and the people they are to *serve*. Unfortunately there were few examples where the strategy has been applied comprehensively and/or where police have had the resources to witness its full potential—at least in relation to Aboriginal people.

A second area of consensus was with regard to "governance" models. Aboriginal people must be given greater control over police services and in turn, must be more accountable for results. The key dimension of a successful governance model includes the right to self-determination and the full and effective participation of Aboriginal people in overseeing police activity.

The third area of consensus was in relation to recruitment, training, and retention of police officers. The key dimensions of a successful approach include screening for racism, recruitment of more Aboriginal people to police service, employee and family assistance programs, and cross-cultural training that utilizes Aboriginal officers in an experiential model.

This report goes on to identify other innovations in Aboriginal police relations that appear to have great promise. These include:

- Community Justice Groups
- National Indian Youth Academy
- Diversion

- Circle Sentencing
- Gang Resistance Education and Training
- Aboriginal Police Commissions
- Watch House
- Rules for Interrogation

The report concludes with a summary of the various program *choices* that would appear to have the potential to make a difference, a *challenge* that we must finally act on these choices, and a caution that real *change* will occur only if we address the underlying economic and social conditions experienced by Aboriginal people in Canada.

Note:

The appendices detail all of the recommendations from recent significant reports with regard to Aboriginal police service and related matters, along with a detailed bibliography.

## I. WHY A REPORT ON EVIDENCE-BASED PRACTICE?

Established in November 2002, the Ipperwash Inquiry was given a mandate to inquire and report on the events surrounding the death of Mr. Dudley George, who was shot in 1995 during a protest by First Nations people at Ipperwash Provincial Park in Ontario. The inquiry is to make recommendations so as to avoid violence in similar situations. Their mandate is being considered in two parts:

1. To receive and assess evidentiary information surrounding the event, and
2. To make recommendations directed to the avoidance of violence in similar situations.

It is within the context of the “Part 2” mandate that the Inquiry has determined the need to consider both “systemic” and “operational” policy issues; that is, what led Aboriginal people to protest and occupy, and what events came into play once the occupation had begun. The proposed *research* will lead to *policy* papers around more than 20 separate topics, each with an interrelationship. This, paper 12, addresses the issue of “best practice” in Aboriginal–police relations and policing.

Thomas Kuhn has described scientific “paradigms” as a way of defining problems that can be legitimately addressed and examining the range of evidence that may bear on their solution. Science is changing, the paradigm is shifting, and that change calls for using the literature more effectively in guiding practice. This examination of “best” or “evidence-based” practice includes:

- defining the issue precisely,
- determining what information is necessary to resolve the problem,
- conducting an efficient search of the literature,
- selecting the best of the relevant studies, and
- applying the rules of evidence to determine their validity.

Throughout our research we found the science of Aboriginal–police relations quite inexact. There was little evidence of what really worked and it became increasingly apparent that, whereas all communities are different, the results from similar approaches may also be different when they are applied. We must, however, be careful not to accept this uncertainty as a negative finding just because it results from a lack of well-designed evaluation studies. If we are to effect change, we cannot wait until all of the evidence has been conclusively established—we must act within the context of a world that is ever changing and lacks elements of predictability and control; conditions that are often necessary for the establishment of firm scientific truths. So while there was little evidence of proven “best practice” in Aboriginal–police relations, there was considerable consistency in what ought to be done.

In that spirit, the following analysis and suggestions regarding “best practices” are taken from more than 15,000 pages of reports and studies from Australia, the United States, and Canada. Rooted in British colonial tradition, the three countries selected for this study share a common

past with Aboriginal peoples. From early conflict and neglect, attempts at assimilation, and recent recognition of the need for some form of political autonomy, all three countries have also experienced similar outcomes and consequences for past policies. As such, they offer interesting opportunities for the examination of creative solutions. The research analysis is therefore presented in the hope that it will assist with the discussion regarding solutions to our Aboriginal–police relations and, in so doing, help provide a research legacy with respect to this most important public policy matter.

## **II. POLICING ABORIGINAL PEOPLES**

For many, the discussion in regard to policing and Aboriginal peoples implies policing on Canada’s “reserves.” But Aboriginal people live throughout the country. They live on reserves, in towns and cities, and in northern and Métis communities. But increasingly they live in Canadian cities. The 1951 Canadian Census reported that 6.7 percent of the Aboriginal population lived in cities. By 2001, over 245,000 Aboriginal people, or 25 percent of the total Aboriginal population, were living in 10 Canadian cities—Victoria, Vancouver, Edmonton, Calgary, Saskatoon, Regina, Winnipeg, Toronto, Ottawa-Hull, and Montreal.

While Aboriginal people who migrate to cities face some of the same problems as other migrants—obtaining jobs, finding housing, integrating with other diverse people, obtaining education—they also face the loss of community, the loss of culture, and, in many cases, involvement with the police.<sup>1</sup>

It is essential then, that any examination of police–Aboriginal relations consider the diverse and varied needs of Aboriginal people living within both Aboriginal communities and “mainstream” society.

## **III. A CRIMINAL JUSTICE FRAMEWORK FOR ABORIGINAL PEOPLES**

### **EVIDENCE FROM THE RESEARCH**

Influential public inquiries and reports have detailed concerns as to how criminal justice systems have “failed” Aboriginal people.<sup>2</sup> The common assertion is that the overrepresentation of

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<sup>1</sup> Canada CSC, *One Day Snapshot of Aboriginal Offenders* (Ottawa: Research Branch, 2002); D. Heckbert and D. Turkington, *Turning Points: A Study of the Factors Relating to the Successful Reintegration of Aboriginal Offenders*, Research Report (Correctional Services of Canada, 2001).

<sup>2</sup> *Report of the Aboriginal Justice Inquiry of Manitoba*. (Winnipeg: Queen’s Printer, 1991); *The Justice System and Aboriginal People: The Aboriginal Justice Implementation Commission* (Winnipeg: Queen’s Printer 2001); Royal Commission on Aboriginal Peoples, *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* (Ottawa: Ministry of Supply and Services, 1996); J.Y. Henderson, *Changing Punishment for*

Aboriginal people in conflict with police and especially in the prisons (Aboriginal people represent approximately 2 percent of the adult population in Canada and 18 percent of the federal prison inmate population), compels Canadians to look at proposals for radical reform, including advocacy for a separate system of justice.

These proposals would see policing by more culturally sensitive Aboriginal police, separate justice institutions that better reflect both the cultural traditions and current needs of Aboriginal people, and other special provisions where Aboriginal offenders would be treated differently.

These responses reflect a conclusion that Aboriginal over-involvement in the criminal justice system is largely attributable to the cultural differences between Aboriginal and non-Aboriginal people. But is this so? While culture and discrimination may explain some of the overrepresentation, there is growing evidence that the factors that contribute to conflict with the law by Aboriginal people are the same factors that give rise to involvement by non-Aboriginals.

An examination of age, gender, employment, and education for *all* inmates in Canadian adult correctional facilities suggests that there may be five key factors that contribute to involvement with the criminal justice system.<sup>3</sup>

1. Gender: Males comprise 49 percent of the general population as compared with 98 percent of the adult prison population.
2. Age: The mean age of the general population is 41 as compared with the mean age of adult inmates at 33.
3. Employment: The unemployment rate in the general population is 10 percent as compared with 49 percent of adult inmates who were unemployed at the time of incarceration.
4. Education: 19 percent of Canadians have less than a Grade 9 education, as compared with 34 percent in Canadian prisons.
5. Addictions: Alcohol and other drug abuse are considered to be the single greatest factor contributing to overrepresentation of Aboriginal people in the criminal justice system, with up to 80 percent of criminal offences by Aboriginal peoples involving substance abuse.

When Aboriginal demographics are contrasted with the factors most predictive of involvement with the criminal justice system, it is evident that there are significant correlates. (A higher proportion of youth in the high-risk 15 to 24 age group, lower education levels, higher unemployment and a higher rate of substance abuse.) These factors also lead to overrepresentation of Aboriginal people in vulnerable neighbourhoods and subsequently to their overrepresentation in the criminal justice system.

Furthermore, proposals for alternate Aboriginal justice programs assume that many of the current system deficiencies arise from the failure of police and criminal justice officials to respond in a culturally appropriate manner to the needs of Aboriginal communities. While this is certainly a

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*Aboriginal Peoples of Canada*, presented at the Canadian Institute for the Administration of Justice, Saskatoon, Saskatchewan, September 1999.

<sup>3</sup> Department of Justice, Evaluation Unit, *The Over Representation of Aboriginal People in the Justice System* (Ottawa: Statistics Canada, 2000).

factor, in reality much of the Aboriginal overrepresentation in the criminal justice system arises from inner-city communities that are not exclusively Aboriginal.

While the rates of Aboriginal crime are considerably higher than the rates for non-Aboriginals,<sup>4</sup> the research also confirms that Aboriginal crime is predominantly intra-racial; that is, most victims of Aboriginal crime are the Aboriginal people themselves.<sup>5</sup> According to one study,<sup>6</sup> the rate of victimization of Aboriginal people was 206 per 1,000 population over 15 years of age as compared to 81 per 1,000 population for all Canadians.

In summary, it is increasingly evident that the circumstances and conditions that give rise to Aboriginal overrepresentation in the criminal justice system are not qualitatively different from the conditions and circumstances (young, poorly educated, unemployed, substance abuse problems) of other Canadians who are also overrepresented in the criminal justice system.

Since these underlying conditions are largely beyond the capacity of police and other criminal justice officials, it should not be expected that adjustments to the criminal justice system are likely to have a significant impact on crime and victimization associated with Aboriginal peoples. However, although both Aboriginal and non-Aboriginal offenders experience similar life conditions, some studies suggest that Aboriginal spirituality and culture are major factors in successful rehabilitation,<sup>7</sup> while other studies have concluded that programs may be more effective if run by Aboriginal people.<sup>8</sup> It is within this framework of caution and optimism that our research advances the following model of Aboriginal policing.

## **IV. A POLICING MODEL FOR ABORIGINAL PEOPLES**

### **LESSONS FROM EVIDENCE-BASED PRACTICE**

The traditional approach to policing has been one of “reactive enforcement” whereby police are called and they respond and/or react to a problem. For more than a decade, police forces around much of the world have moved from this enforcement model to one generally described as a “community policing” model of police service. While there are many definitions of community policing, all of them reflect the general approach enunciated within the RCMP, where it is described as “a partnership between the community and the police in the delivery of police services.” The model is based on four principles:

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<sup>4</sup> C. LaPrairie, *Corrections in Canada* (Nemaska, Quebec: Cree Regional Authority, 1996); J. Roberts and A. Doob, *Race, Ethnicity and Criminal Justice* (Chicago: Chicago University Press, 1994).

<sup>5</sup> R. Silverman and L. Kennedy, *Canadian Indian Involvement in Murder* (Toronto: Nelson, 1993); Griffiths et al., *Crime, Law & Justice among the Inuit, NWT* (Vancouver: Simon Fraser University, Criminology Research Centre, 1995).

<sup>6</sup> CCJS, *A Profile of Criminal Victimization*, Results of the 1999 General Social Survey (Ottawa: Statistics Canada, 2001).

<sup>7</sup> L. Ellerby and P. MacPherson, *Exploring the Profiles of Aboriginal Sexual Offenders*, Research Report (Ottawa: Correctional Service of Canada, 2002); Heckburt and Turkington, *Turning Points*.

<sup>8</sup> P. Mals et al., “Adapting Violence Rehabilitation Programs for the Australian Aboriginal Offender” (1999) 30(1/2) *Journal of Offender Rehabilitation*.

- Knowing and working with communities,
- Identifying common problems and concerns,
- Resolving problems through partnerships,
- Effective and directed enforcement.

This service delivery model, while not specific to Aboriginal police work, applies equally to Aboriginal and non-Aboriginal citizens. The research, both on and off reserves, has demonstrated the potential of this approach for reducing crime and improving relationships between the police and the people they serve. According to the United States Department of Justice, “the growing body of experience and research on community policing is remarkably congruent with the findings on effective governing institutions in Indian country.”<sup>9</sup>

The Chicago police service, a leader in the promotion and researching of community policing outcomes, developed a comprehensive evaluative strategy whereby they detailed dozens of clear objectives as varied as reducing specific crimes, reducing gang activity, preventing physical decay of buildings, improving police response time, and improving community perception of police. Their evaluations found significant improvement in most outcomes with an overall success rate of 50 percent over the traditional policing model.

While the application of the model to Aboriginal people and Aboriginal communities is less well developed and rarely researched, the literature contained numerous examples of successful applications:

- *McNab Park in Saskatoon, Saskatchewan*, had virtually no youth recreation opportunities and experienced a high rate of poverty and crime. Through a police, community, and corporate partnership, a community centre was opened with activities planned through the McNab Park Youth Project. Within two years, crime was reduced by 78 percent.<sup>10</sup>
- *Circle Project in South Dakota* had a rash of burglaries and increasing violence by Native youth on methamphetamines. The three-year project consulted the community on what they saw were solutions, which led to a comprehensive plan involving the community members and several social service and police agencies. Resources were increased and services were coordinated, all including the active participation of community members. Harvard University is now evaluating outcomes and the initial results suggest a dramatic drop in gang activity, drug use, and domestic violence.

The Royal Canadian Mounted Police reports a number of successful initiatives across Canada. However, few are reported in the literature and efforts to locate leadership and to interview the respondents was not possible during this paper’s time frame.

The research literature is, however, filled with community policing initiatives and an extensive array of resources and links can be found at [www.globalcurrence.com/commopol-books.html](http://www.globalcurrence.com/commopol-books.html).

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<sup>9</sup> U.S. Department of Justice, No. JR000246 (Office of Justice Programs, 2001).

<sup>10</sup> L. Lockwood, “McNab Park Proves Community Policing Works,” *Saskatoon Star Phoenix*, 2003.

Unfortunately, the application of community policing strategies with Aboriginal people has many challenges and remains elusive in most Aboriginal communities throughout North America and Australia. The reasons are, principally:

1. the placement of officers from outside the community, people with little knowledge, little sensitivity and even less interest in knowing the residents,
2. the lack of trust between police and members of the community, and,
3. the high crime rates that force police with limited resources to focus on responding to problems, with virtually no time for prevention.

In many communities, only one or two officers are on duty at any given time and distance is often an additional complicating factor. In terms of police presence, Canada ranks 24th in the world with a rate of 182 police per 100,000 population; however, in parts of rural Canada, the rate does not exceed 20 police per 100,000. These resources are substantially below Italy, the 1st place ranked country, at 559 per 100,000 population. By comparison, Mexico ranked 29th with only 5 officers per 100,000 population, and the United States ranked 14th with 244 officers per 100,000 population.<sup>11</sup>

The challenge for Canada will be to increase the number of local, appropriately trained, and equipped Aboriginals who know their communities, like the people, and have the resources to work within a community policing model, whether they are on reserves or in the inner cities.

## **V. EVIDENCE-BASED POLICING**

### **GOVERNANCE MODELS**

It is impossible to look at Aboriginal–police relations without taking into account the history of Aboriginal relations with the government and its agencies. Aboriginal peoples in Australia, the United States, and Canada are all engaged in political and legal struggles contesting the legitimacy of state sovereignty. The inherent right of self-government arises out of the fact that people live in a democratic society. It is not created by treaties; it is simply affirmed by them, an affirmation that is critical to Aboriginal well-being and indeed critical to the formation of good Aboriginal–police relations.

Over the past two decades, the United States’ “Harvard Project”<sup>12</sup> has demonstrated that people, both individually and collectively, take responsibility for their actions and for the actions of those around them when they have a measure of control over the decisions that affect their lives. This control has to be provided through the democratic process and through the institutions that deliver services.

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<sup>11</sup> G. Shankarraman, *Police Resources in Canada 2003* (Ottawa: Canadian Centre for Justice Statistics, Ministry of Industry, 2003).

<sup>12</sup> <[www.ksg.harvard.edu/hpaied/overview.htm](http://www.ksg.harvard.edu/hpaied/overview.htm)>.

The issue of police governance is a complex one and numerous models have been debated vigorously in the literature, through studies and commissions and by academics. In a paper prepared for the Ipperwash Inquiry, Kent Roach elaborates on four models of police–government relations, with his model of “democratic policing” demonstrating best practice in Aboriginal–police relations. The model accepts the need for core or quasi-judicial independence with a parallel public responsibility for overseeing policing matters so that the police do not become a law unto themselves. Democratic policing in the context of Aboriginal peoples means a local form of accountability. As stated by John Hylton,<sup>13</sup>

despite its high cost, this “doing for” approach has never worked very well ... in fact this policy has failed, and it has failed miserably. By contrast, efforts at Aboriginal programming are proving successful and include a range of benefits (Aboriginal staffing, economic benefits to communities, greater client satisfaction, reduced need for intervention and even cost savings)—and this despite problems with stable long term funding, insufficient infrastructure and resources, issues of access and even a climate of mistrust.

A variety of Aboriginal policing initiatives have been developed across Canada, usually with the goal of involving more Aboriginal people in police work. In some cases, attempts are made to enlist more Aboriginal officers in existing services, and in other cases the numbers of officers have been increased through the development of new police or auxiliary services. These programs have governance arrangements from shared control with existing police services to complete control over a limited range of police functions. In no communities do Aboriginal people have total control over a complete range of police functions.

There appears to be a clear, although not overt, government policy throughout North America and Australia in favour of using existing police services in order to police Aboriginal communities, rather than empowering and funding Aboriginal people to do the job themselves.

It is essential that the police are accountable to the communities they serve through a local governance structure such as a board or commission. While there were no well-researched governance models that could be presented as “evidence-based,” recommendations from Saskatchewan,<sup>14</sup> Manitoba,<sup>15</sup> and Australia<sup>16</sup> have provided consistent messages around the key dimensions of a successful Aboriginal–police governance model. They include the right to self-determination, and the full and effective participation of Aboriginal people in overseeing police activity. In other words, effective policing will require the devolution of responsibility and accountability to the local level where community-level solutions can be applied to community-level problems.

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<sup>13</sup> J.H. Hylton, *Financing Aboriginal Justice Systems* (Saskatoon: University of Saskatchewan, 1994).

<sup>14</sup> Commission on First Nations and Métis People: Justice Reform (Saskatoon, 2004).

<sup>15</sup> *Report of the Aboriginal Justice Inquiry of Manitoba* (Winnipeg, 1991).

<sup>16</sup> *South Australia Police Act*, Section 6 (1988).

## RECRUITMENT, TRAINING, AND RETENTION STRATEGIES

Slightly over a decade ago, police recruitment strategies began to change, with greater emphasis placed on education and life experience. In a 2003 research study, probably typical of recruitment outcomes across Canada, Ramona Morris of the Ontario Police College reported that 95 percent of all recruits had completed some college or university course, with 33 percent holding a university degree. But demographics and a robust Canadian economy have more recently meant that fewer and fewer qualified recruits are available at a time when baby boom officers are moving into retirement. While the evidence is only anecdotal, western Canadian police services report that the typical recruit of 20 years ago and increasingly today is a young, white male with a high-school education from a “working-class background.”

Studies<sup>17</sup> have shown that individuals from working-class backgrounds with lower incomes and lower educational attainment demonstrate higher levels of racial prejudice. These same studies show police officers are less tolerant of racial minorities than are Canadians generally.

The characteristics of those who work within police service directly reflects the system’s recruitment values and practices, appealing more to some potential recruits than to others. To summarize, the justice system attracts and retains those who most closely match the system’s current culture. Over time, these new recruits rise to positions of authority where they perpetuate the organizations values and influence the next generation of recruitment and promotion decisions.

This racial intolerance then tends to be reinforced by the officers’ experience with minority groups who have repeated contact with the criminal justice system. Indeed, the officers’ only exposure to minority groups may be in the context of their law enforcement roles; in part because there are few minority group members involved in their profession.<sup>18</sup> As a result of this limited exposure to the true diversity that exists among members of minority groups, all members of the minority group are attributed with the negative characteristics of those minority group members with whom officials come into contact through their work. As a result, there are limited opportunities to break down the negative stereotypes that naturally develop.<sup>19</sup>

A further complicating factor is the reality that police officials tend to isolate themselves socially from the larger society. Their work and social activities largely involve other members of their own occupational group (i.e., police tend to fraternize with other police).

<sup>17</sup> D. Forcese, *Policing Canadian Society*, 2nd ed. (Scarborough: Prentice-Hall, 1999).

<sup>18</sup> McMahan, Tom (1992). “Aboriginal People and Discrimination in the Justice System: A Survey of Manitoba Inmates and Related Literature,” Master of Laws thesis, University of Ottawa, 1992; A.C. Hamilton and C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba* (Winnipeg: Aboriginal Justice Inquiry of Manitoba, 1991)

<sup>19</sup> G. Haddock, M.P. Zanna, and V.M. Esses, “The (Limited) Role of Trait-Laden Stereotypes in Predicting Attitudes toward Native Peoples” (1994) 33 *British Journal of Social Psychology*83–106.

In summary, Canadians who are culturally isolated from the experience of diversity show higher levels of intolerance and prejudice.<sup>20</sup>

American, Australian, and Canadian police officers appear to harbour similar attitudes and the commissions, reports, and studies in all three nations have inevitably led to two proposed solutions; solutions similar to those proposed by the Manitoba Aboriginal Justice Inquiry. In that situation, police were (1) called upon to hire more Aboriginal staff, and (2) to implement a more ambitious cross-cultural training program.

In the years following the Inquiry, the Winnipeg Police initiated several projects, and three reviews completed by Prairie Research Associates<sup>21</sup> were undertaken in 1992, 1994, and 1995 in order to assess progress.

The 1992 evaluation involved a survey of police participants and revealed that only half felt the program had enhanced their understanding of Aboriginal people. Only a little over a third felt that their level of tolerance for minority groups had increased as a result of participating in the training.

In the 1994 evaluation, a survey of police participants was completed before and after the training. After the training, 53 percent of the participants indicated that Aboriginal people were hostile to police as compared with 43 percent before the training. Similarly, 44 percent agreed before the training that there should be more Aboriginal professionals involved in the criminal justice system, as compared with 38 percent after the training. In addition, 26 percent agreed before the training that Aboriginal people experienced discrimination from the police while only 19 percent agreed with the statement after the training. Both before and after the survey, only 15 percent of respondents agreed that the police treat Aboriginal suspects “differently,” while 85 percent disagreed with the statement.

In the 1995 evaluation, respondents said that cross-cultural training was leading to worse relations with Aboriginal people and that the involvement of Aboriginal people in providing the training detracted from the value of the program. This report also involved a survey of police officers who had not yet participated in the training. A total of 534 questionnaires were sent out with 237 responses. When asked about the main cause of Aboriginal involvement in the justice system, 49 percent said alcohol, 6 percent said systemic racism, and 3 percent said discrimination. Of those respondents, 17 percent said they thought alcohol problems stemmed from “weak character,” while 19 percent identified “genetic predisposition” as the cause. Some 78 percent of respondents agreed that “Aboriginal people are receiving too many benefits at the expense of others.” Only 25 percent agreed that “alternative measures are needed to decrease the use of incarceration for Aboriginal offenders” and only 44 percent agreed that “there should be

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<sup>20</sup> J. Berry, and M. Wells, “Attitudes Towards Aboriginal People and Aboriginal Self-Government in Canada” in J.H. Hylton, ed., *Aboriginal Self-Government in Canada: Current Trends and Issues* (Saskatoon: Purich, 1994), 215–234.

<sup>21</sup> Prairie Research Associates, *Evaluation of the Aboriginal Awareness Training Program: Phase II* (Winnipeg, 1995); Prairie Research Associates, *Evaluation of the Aboriginal Awareness Training Program* (Winnipeg, 1994); Prairie Research Associates, *Evaluation of the Cross-Cultural Training Program*, final report (Winnipeg, 1992).

more Aboriginal professionals involved in the criminal justice system (police, Crown, Judges).” In addition, only 20 percent agreed that it was important to make mainstream institutions culturally appropriate for Aboriginal people, while 26 percent agreed that Aboriginal people experience discrimination from police officers. Two of every five respondents said they thought Aboriginal people were hostile toward police. However, consistent with an earlier finding, 85 percent denied that police treat Aboriginal suspects “differently.”

In fact, there is some evidence that current recruitment practices, including suitability interviewing and the use of standard psychological tests, may incorporate cultural biases that have the effect of weeding out potential recruits that do not fit the preconceived image of the “ideal” police officer.

Notwithstanding the declared emphasis on community policing, a concept officially endorsed by many Canadian police services, the “ideal officer” still demonstrates male toughness and machismo, the ability and willingness to use force, and a capacity to adapt to a paramilitary work environment and lifestyle. Individuals attracted to this type of career are more likely to see problems in society as stemming from a lack of discipline and authority and therefore more likely to see the use of authority as a solution to problems in the community. As a consequence, they tend to exhibit more authoritarianism and less tolerance for diversity.

The conclusions to be drawn from the Winnipeg police evaluations are consistent with similar studies:<sup>22</sup>

1. Traditional cross-cultural training utilizing academics and advocates are often ineffective in increasing tolerance and understanding.
2. Many police officers harbour racial stereotypes.
3. Many police officers are unsupportive of hiring more Aboriginal staff to work within the system.
4. Many police officers generally disagree with developing special policies and programs to ensure equality of treatment for Aboriginal people.

While the studies and reports articulated numerous recommendations regarding “best practice,” at least in terms of what might or should work, there were very few concrete examples in the literature that could be presented as “evidence-based” results. There was, however, consistency in what might and should be done. That strategy would include four components:

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<sup>22</sup> Commission On Systemic Racism in the Ontario Criminal Justice System, *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System: A Community Summary* (Toronto: Government of Ontario, 1995); Dansys Consultants Inc., *A Report Produced on Behalf of the Manitoba Public Inquiry into the Administration of Justice and Aboriginal People* (Ottawa: Dansys, 1991); A. Doob, *Race, Bail and Imprisonment: A Report to the Commission on Systemic Racism in the Ontario Criminal Justice System* (Toronto: Centre of Criminology, University of Toronto, 1994); M. Feely, *The Process Is the Punishment* (New York: Russell Sage Foundation, 1979); C. Hutton, F. Pommersheim, and S. Feimer, “I Fought the Law and the Law Won,” in M.O. Nielson and R.A. Silverman, eds., *Native Americans, Crime and Justice* (Boulder, Colorado: Westview Press, 1996), 209–221; P. Haverman, *Indigenous Peoples’ Rights in Australia, Canada and New Zealand* (Auckland, New Zealand: Oxford University Press, 1999)

1. Police recruitment training screening designed specifically to eliminate candidates with racist views.
2. A proactive Aboriginal recruitment strategy maintained over time with a goal of police service membership mirroring the community makeup.
3. Employment and family assistance programs for Aboriginal police service members in order to assist with their integration into a historically hostile system.
4. Increased emphasis on cross-cultural training for recruits and experienced police service members, utilizing Aboriginal police officers in an experiential environment (not through academics, advocates, or other Aboriginal leaders).

The need for improved training and preparation for police was raised in almost every report on Aboriginal–police relations in the three reviewed nations. Numerous references were made in the literature to the high-quality training received by Canadian police officers as compared with many American and Australian jurisdictions, including references to an almost universal official commitment to “community policing” strategies.

There was also significant consistency in the references to police limitations, invariably focusing on cross-cultural awareness, with the most effective approaches judged to be experiential in nature. Extended immersion in Aboriginal community life by police officers and the use of Aboriginal police officers in cross-cultural training of recruits were consistently perceived to be the most effective approaches.

In one survey,<sup>23</sup> police officers from rural and urban environments reported that hands-on experience was always more useful than courses and lectures. Police believed that they could learn more from working with Aboriginal people and by living in their communities.

The Royal Canadian Mounted Police are generally viewed as having the best cross-cultural training in Canada and perhaps in North America,<sup>24</sup> yet many Aboriginal people working within the system itself think that it poorly prepares them for work in Aboriginal communities. Police officers from minority groups who are trained and supervised in a traditional manner may act in the same way as “white officers.” Police culture is in itself very powerful and Aboriginal people can be expected to experience the same job socialization as do other recruits. Aboriginal officers report they have to meet “white” police expectations and that they are not given the opportunity and flexibility to adapt RCMP training to their own knowledge of Aboriginal culture.

Notwithstanding these complaints, the Public Safety Cooperation Protocol<sup>25</sup> between the Assembly of First Nations and the RCMP represents a significant effort at establishing trusting

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<sup>23</sup> D. Skoog, *Effects of Contact with Police Among Aboriginals in Canada* (1992).

<sup>24</sup> *Report of the Aboriginal Justice Inquiry of Manitoba* (Winnipeg, 1991).

<sup>25</sup> Public Safety Cooperation Protocol Between the Assembly of First Nations and The Royal Canadian Mounted Police (August 2004).

and reciprocal relationships among the parties and is leading to new innovations within RCMP detachments across the nation.

While it is difficult to find “best practice” activities based on empirical data, the literature contained a number of examples of “sensitive policing services acceptable to Aboriginal peoples,” a conclusion largely based on intuition, anecdotal evidence, and perception. Some examples include:

1. Aboriginal Cadet Development Program (ACDP)  
Aboriginal people who did not meet the RCMP entrance requirements but would otherwise be suitable candidates were enrolled as cadets.
2. Aboriginal Youth Training Program (AYTP)  
Aboriginal youth are given 17 weeks of summer employment including three weeks’ training with the RCMP in Regina, after which they work at a detachment near their home.
3. Community Suicide Intervention Program  
A flexible five-day training program on suicide intervention, a healing and talking circle, Aboriginal spirituality, critical incident stress debriefing, and community development.
4. Community Justice Forums  
Family and friends of the disputant and victim are brought together in the safety of a forum to discuss the incident and “make things right.”

While education and service innovations are important, it is most interesting to note that two Canadian studies<sup>26</sup> conclude that, at the individual level, a primary determinant of the quality of Aboriginal–police relations appears to be the age, experience, and personal style of the individual officer. A second factor was the leadership of experienced officers who were intolerant of racism and who addressed discriminatory practices quickly and firmly. This factor may pose a particular challenge, as almost half of Canadian police officers plan their retirements over the next five years, causing the median age and experience of officers to drop dramatically.

In summary, the weight of evidence suggests that the most effective manner in which satisfactory police performance can be assured is through the selection of officers from within communities and based on the cultural makeup of those communities, with training based on experiential opportunities involving Aboriginal officers and leadership by experienced superiors devoid of racist values.

## **OTHER STRATEGIES**

When this research paper was initially conceptualized, there was an expectation that the research literature would provide for a number of “evidence-based” innovations in areas beyond recruitment, training, and retention. Searches were initiated for “in-service” innovations, “race

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<sup>26</sup> C. Griffiths and Verdun, *Canadian Criminal Justice*, Toronto (June 1989); Alberta Board of Review (1978).

relations” strategies, “mentoring,” and “exchange” programs, to name a few. Unfortunately the documented initiatives in the literature were largely presented within the context of “cross-cultural training” and “affirmative action programs.”

There were, however, other related activities and innovations that seemed to present promise. A few selected innovations are summarized below.

### **COMMUNITY JUSTICE GROUPS**

Sponsored by the Department of Aboriginal and Torres Strait Islander Policy in Australia, Justice Groups are convened on a voluntary basis in more than 30 communities. While each community determines the composition, Aboriginal Elders and respected community delegates are represented. The members address community problems as an alternative to police involvement (e.g., older women do “night patrols to break up fights”), and decide on “restorative justice” action when matters are referred to them by police. The offender is then required to “make good” in order to avoid the “retributive justice” that the criminal courts would impose.

### **NATIONAL INDIAN YOUTH ACADEMY**

The Washington State Criminal Justice Training Academy in Burien, Washington, sponsors an annual 14-day summer police academy for students aged 13 to 16. Classes are designed to provide hands-on experience and a working knowledge of the various facets of police work. The project’s goal is to encourage Aboriginal youth to select a career in police service.

### **DIVERSION**

Police diversion is increasingly utilized in the Australian Cape York Aboriginal communities. Police officers are given discretion to provide an informal warning, an “infringement notice” (fine but no record), or “conferencing” (victims and the community deal with the offender rather than through a trial). The objective is to provide alternatives to using the formal justice system.

In Washington State, the Institute for Public Policy looked at 22 youth initiatives such as “Scared Straight,” boot camps, Big Brothers, and so on. The “successful” programs all made a commitment to positively work with youth to solve problems while the “unsuccessful” initiatives all required the youth to go through some form of negative experience.

### **CIRCLE SENTENCING**

While not a specific Aboriginal–police initiative, a number of Saskatchewan Aboriginal communities with “justice committees” have worked with police and the courts to provide opportunities for offenders who have pleaded guilty and express a commitment to remedying the harm they have caused. The circle usually includes the offender, the Crown, defence council, the family of the offender, the victim, and people who support them. A discussion ensues and goals are agreed upon for the offender (curfews, restitution, or drug treatment). The circle is reconvened several months later, progress is evaluated, and changes are made as required. If progress is not being made, the offender is then returned to court.

## **GANG RESISTANCE EDUCATION & TRAINING**

Ten American Boys & Girls Clubs are sponsoring the Gang Resistance & Education Training on American reserves. The program is school-based and instructed by an Aboriginal police officer. The curriculum attempts to “immunize” Aboriginal youth against delinquency, violence, and gang membership.

## **ABORIGINAL POLICE COMMISSIONS**

In response to the 2003 report of the Aboriginal Justice Implementation Committee in Manitoba, consideration is being given to creating a provincial Aboriginal Police Commission with responsibilities for promoting the establishment of Aboriginal police services, establishing a training facility, and overseeing the operations of other Aboriginal police services—including the receiving of complaints, assisting in the recruitment of Aboriginal police officers, and receiving recommendations from the formal Aboriginal leadership and their communities.

## **WATCH-HOUSE**

In Brisbane, Australia, police contact volunteers with the community “watch-house” when an Aboriginal person is arrested. The volunteers counsel and support the individual if they are incarcerated, arrange release where appropriate, and assist the offender in returning to their community.

## **THE ANUNGA RULES**

Australian police officers have adopted a series of guidelines in order to assist them following the arrest of an Aboriginal person. Known as the “Anunga Rules,” the guidelines require an interpreter where necessary, a “friend” with whom the accused has confidence, strategies for questioning, and limits on interrogations.

## **CONCLUSIONS**

Although the research for this report was begun with tempered hope that an important Aboriginal–police “best practice” could be identified, in reality we found very little evidence-based work. What we did find was a significant consensus on what *should be done*. The numerous reports and various initiatives undertaken by governments, Aboriginal peoples, and police revealed several common themes. The following list of initiatives summarizes the areas where Aboriginal people and police have been *challenged*, where they *chose* to do things differently, and where they have realized some apparent positive *change* in Aboriginal–police relations:

1. community policing,
2. cross-cultural training,
3. affirmative action and employment equity,
4. Aboriginal liaison, and,
5. community pilot projects such as the Sentencing Circles in northern Saskatchewan.

These initiatives reflect an incremental approach to change in that they are directed to improving aspects of the existing system while leaving the structure of that system intact. Over the past

decade, the police appear to have initiated most of the change, usually focusing on cross-cultural training initiatives and affirmative action programs designed to increase the number of Aboriginal police officers. These initiatives are positive but do little to address the more fundamental issues that underlie both the Aboriginal reality (poverty, poor education, unemployment, and addictions) and the nature (power disparity) of the relationship between police and Aboriginal peoples.

Although initiatives aimed at improving existing conditions are worthwhile, they form only a small part of the solution. It is evident from the recommendations listed in the appendices of this report that Aboriginal peoples are inevitably critical of moderate reforms, particularly when they result in what is often perceived to be superficial change to existing systems. Progress to date has largely been in the form of increasing the involvement of Aboriginal people as employees and advisers within an unchanged structure. This approach will do little to prevent Aboriginal people from coming into conflict with the justice system at the current disproportionate rate because it does not address the underlying causes. The criminal justice system tends to deal with Aboriginal people and their conflict with the law in isolation from social and economic issues. This approach conflicts with the more holistic view of Aboriginal peoples.

The fact remains that, apart from modest reforms, little progress has really been made toward resolving the historical problems between police and Aboriginal peoples. Numerous inquiries have made similar recommendations and it appears from the literature (or more accurately the absence of evidence-based practice in the literature) that the more substantive reforms remain unaddressed. Any recommendation that requires significant restructuring, and/or the relinquishing of controls becomes bogged down in the deliberations of the various levels of government.

The solution therefore rests in political will. And there are some positive indications of that “will,” as evidenced in the Ontario government’s November 18, 2004, announcement of \$25 million to be invested over five years in an “Aboriginal Healing and Wellness Strategy.” By contrast, there are also less positive signs as evidenced by the November 2004 Study of the Canadian Unity Council. They reported that more than two-thirds of Canadians surveyed in a poll thought that improving life for Aboriginal people should not be a high priority of government.

In summary, successful Aboriginal–police reform will not occur without the political will to address the underlying social and economic conditions, nor can it occur within an unbalanced power relationship where society continues to “do for.”

## **APPENDICES**

### **A–E**

#### **RECOMMENDATIONS FROM RELATED COMMISSIONS, STUDIES, AND REPORTS—A SUMMARY**

*The following recommendations are excerpts from recent significant reports with regard to police service and related matters.*

## **APPENDIX A**

### **Aboriginal Peoples and the Justice System: Report of the National Round Table on Aboriginal Justice Issues**

**(Held November 1992—The Report of the Rapporteur)**

#### **Nova Scotia: The Royal Commission on the Donald Marshall, Jr., Prosecution, 1989**

##### **Findings and recommendations**

- The criminal justice system failed Donald Marshall, Jr. at every point from his arrest and conviction up to and beyond his acquittal by the Supreme Court of Nova Scotia.
- This miscarriage of justice could have been prevented if those involved had displayed professional and/or competent behaviour in discharging their responsibilities.
- The fact that Marshall was Aboriginal contributed to the miscarriage of justice.

The Commission made 82 recommendations, including the following:

##### **Dealing with the wrongfully convicted**

- The federal and provincial governments should establish an independent review mechanism “to facilitate the reinvestigation of alleged cases of wrongful conviction”.

##### **Visible minorities in the criminal justice system**

- The Departments of the Attorney General and Solicitor General should adopt and publicize a Policy on Race Relations committed to employment equity, the elimination of inequalities based on race, and the reduction of racial tensions between these Departments and the communities with which they interact.

##### **Nova Scotia Micmac and the criminal justice system**

- A community-controlled Native Criminal Court, a Native Justice Institute and a tripartite forum should be established to mediate and resolve outstanding issues between the Micmac and the provincial and federal governments.

##### **Administration of criminal justice**

- The Criminal Code should be amended to require the broadest possible disclosure to the accused of the facts of the case against him/her.

##### **Police and policing**

- The Police Commission should “be provided with sufficient resources to enable it to fulfill properly the leadership, training, information and assessment roles that constitute its mandate”.
- The RCMP and municipal police departments should recruit more members of visible minority groups.

- Police departments should develop outreach programs and liaison roles to provide members of visible minorities with greater access to and more positive interaction with the police.

## **Manitoba: Aboriginal Justice Inquiry, 1991**

### **Findings and recommendations**

The Commissioners of the Aboriginal Justice Inquiry found that the justice system was insensitive and inaccessible and had failed the Aboriginal people of Manitoba on a “massive scale”. One of the most important findings of the Inquiry was that incremental changes to the justice system would be insufficient to address the current problems. According to the Commissioners, the establishment of separate Aboriginal justice systems would be the only appropriate response to the systemic problems inherent in the existing system as it relates to Aboriginal communities.

The Inquiry made 293 recommendations in total, including the following:

### **Aboriginal justice systems**

- Federal and provincial governments should recognize the right of Aboriginal people to establish their own justice systems as part of their inherent right of self-government. It was also recommended that these governments assist Aboriginal people to establish Aboriginal justice systems according to the wishes of the communities.
- The establishment of proper court facilities in Aboriginal communities and improvements to circuit court services to ensure that all the matters in the docket are dealt with in one visit.

### **Alternatives to incarceration**

- Increased use of sentencing alternatives for Aboriginal people; and
- amendments to the Criminal Code to provide that cultural factors be taken into account in sentencing.

### **Jails**

- The provision of education, trades training and counselling programs, especially those dealing with alcohol abuse, family violence and anger management, for Aboriginal inmates in all Manitoba correctional institutions; Aboriginal people should also be guaranteed the right to culturally appropriate spiritual services in correctional institutions.

### **Aboriginal women**

- The establishment by Aboriginal leaders of a local government portfolio for women and children, with responsibility for the development of educational and support programs in the areas of spousal and child abuse; and
- shelters and safe homes for abused women and children in Aboriginal communities and urban centres.

### **Child welfare**

- Development by the province of a Métis child and family service agency with jurisdiction over Métis and non-status children throughout Manitoba, in conjunction with the Manitoba Métis Federation.

### **Young offenders**

- Amendments to the Young Offenders Act to allow judges to commit youths to the care of a child and family service agency instead of incarceration or custody; and
- development of crime prevention programs, open custody facilities, and wilderness camps for Aboriginal youths in and near Aboriginal communities throughout the province.

### **Policing**

- An emphasis on a community policing approach in Aboriginal communities;
- establishment of employment equity programs to achieve greater Aboriginal representation; and
- strengthening and review of cross-cultural education programs.

### **Strategy for Action**

- The establishment of an Aboriginal Justice Commission, the mandate of which would include “monitoring and assisting government implementation of the recommendations of this Inquiry”.

**Alberta: The Task Force on the Criminal Justice System and its Impact on the Indian and Métis People of Alberta, 1991**

### **Findings and recommendations**

The Task Force found that the criminal justice system in Alberta had become too centralized, too legalistic, and too removed from the communities it is intended to serve. Furthermore, Aboriginal communities are unable to identify with this kind of system, and the system itself cannot achieve its intended objectives. Another broad but significant finding concerned the absence of communication between Aboriginal peoples and all levels of service providers within the justice system; this lack of communication constitutes one of the most serious flaws in the justice system.

The Task Force made a total of 340 recommendations in the areas of policing, legal aid, the courts, judges, prosecutors and lawyers, corrections, and the Native Counselling Services of Alberta. Among the recurring themes in all these areas were the following:

- the need for increased communication/liaison among and between Aboriginal communities or organizations, police agencies and government departments;
- the need for increased and enhanced cross-cultural training for staff within the criminal justice system;
- the need to increase the number of Aboriginal people employed within the criminal justice system;
- the need to develop custodial alternatives and options for remanded Aboriginal accused and sentenced Aboriginal offenders;
- the need to increase elder involvement in the criminal justice system;
- the need to expand the availability of alcohol and drug treatment programs;
- the need to expand Aboriginal community-based resources and Aboriginal community involvement in criminal justice system problem identification and resolution and program development and delivery; and

- the need to increase public education regarding Aboriginal issues and to increase Aboriginal education regarding the criminal justice system.

<p style="text-align: center;"><b>Saskatchewan: Indian Justice Review Committee and Métis Justice Review Committee, 1992</b></p>
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### **Findings and recommendations**

The recommendations made in the two reports were identical, except for three recommendations specifically concerning Indian people. Recommendations were directed primarily to making the criminal justice system more responsive to Indian and Métis people. They included the following:

#### **Youth justice**

- Increasing the level of Aboriginal access to and participation in the formulation and delivery of young offender programming, especially mediation/diversion programming; and
- encouraging the participation of elders in young offender program delivery, particularly cultural and spiritual teaching and counselling.

#### **Policing**

- That police services implement employment equity programs to achieve Aboriginal participation equivalent to the Aboriginal proportion of the population; and
- the establishment of an Aboriginal liaison/cultural relations officer position within the Saskatchewan Police Commission.

#### **Legal representation**

- The establishment by federal and provincial government departments, in collaboration with Indian and Métis organizations, of a province-wide Aboriginal court worker program.

#### **Sentencing alternatives**

- The establishment of culturally appropriate mediation/diversion/reconciliation programs that embody a holistic approach to offender rehabilitation.

#### **Court services**

- That greater use be made of Aboriginal justices of the peace, especially in the North, to hear matters like bail applications, motor vehicle offences and minor criminal offences.

#### **Corrections**

- Introductory and continuing cross-cultural and race relations sensitivity training for federal and provincial corrections employees; and
- that federally sentenced Aboriginal women no longer serve their sentences at the Prison for Women in Kingston.

### **Federal Inquiries, Task Forces, and Commissions**

**Indian and Northern Affairs Canada:  
Indian Policing Policy Review, 1990**

**Findings**

In the area of programs and needs, the Task Force concluded that consultation and negotiation were required on

- access to general policing services;
- access to culturally sensitive policing services;
- provision of services meeting mutually acceptable regional standards; and
- the jurisdiction of constables, in terms of both location and authority.

In the area of Indian participation, the Task Force found that

- greater participation of Indian communities in the governing structures for on-reserve policing should be ensured; and
- policing and the administration of justice should be included in self-government negotiations;

With respect to government roles and responsibilities, the Task Force concluded that

- federal financial support for on-reserve policing services that meet mutually agreed criteria should continue;
- the federal government should be consistent in its level of financial participation when applying the new policy; and
- the new federal policy should be introduced and implemented in phases.

**Correctional Service Canada: Task Force  
on Federally Sentenced Women, 1991**

**Findings and recommendations**

The Task Force found that the needs of Aboriginal women are not being met by the Prison for Women. Culturally appropriate programs for Aboriginal women are limited; access to elders and shamans is difficult because these individuals are not given the same status as chaplains; existing medical and psychological services are delivered mainly by white males; and for most Aboriginal women, incarceration in the Prison for Women entails long distance separation from home communities.

The Task Force's recommendations included the following:

- the establishment of five regional women's facilities across Canada;
- the creation of an Aboriginal Healing Lodge, in a prairie location, where federally sentenced Aboriginal women would serve all or part of their sentences; and

- a Community Release Strategy, whereby there would be more community release centres for women across Canada.

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

### **Findings and recommendations**

The Commission found that the present system fails Aboriginal people and contributes to their difficulties. The system is seen as remote, both in terms of physical separation and in terms of conceptual and cultural distance. The Commission proposed two parallel paths to reform. The first is short-term and does not address the more fundamental issues; it is directed to reforming the current system. The second is long-term and envisions Aboriginal communities opting for the creation of a variety of justice systems, all of which may be described as Aboriginal justice systems. Specific recommendations included the following:

#### **Aboriginal justice systems**

- Aboriginal communities that are willing and able should have the authority to establish Aboriginal justice systems.

#### **Criminal justice system recruitment and training**

- The establishment of programs intended to bring more Aboriginal persons into all aspects of the criminal justice system, including police, lawyers, judges, probation officers and correctional officials.
- Recognition of the right of Aboriginal people to use their own languages in all court proceedings, as well as supporting legislation to ensure that interpreters are provided to any suspect needing assistance.
- Consideration of the establishment of ‘peacemakers’ as a formal aspect of the justice system to mediate disputes.

#### **Assessing treaty rights in criminal courts**

- The development of “clear and public policies concerning the preferred methods for determining Aboriginal and treaty rights”.

#### **The police**

- The police should be “more involved in and accountable to the communities they serve”; and
- community-based external policing or autonomous Aboriginal police forces should be facilitated wherever they are desired.

#### **Sentencing**

- The use of alternatives to imprisonment whenever possible.

#### **Corrections**

- Equal recognition of Aboriginal spirituality within correctional institutions should be secured by legislation, including granting Aboriginal elders status and freedom equal to that granted to prison chaplains.

**Ensuring progress**

- The establishment of an Aboriginal Justice Institute with “a broad mandate to deal with any matters relating to Aboriginal persons in the criminal justice system”.

# APPENDIX B

## CAPE YORK JUSTICE REPORT

### Chapter 4: Crime and Justice

#### Section 1: Community-based crime prevention and intervention

##### *Justice groups*

*Recommendation:* That Community Justice Groups be supported by Government, with levels and type of agency support negotiated within the framework of Community Justice Agreements.

*Recommendation:* That Community Justice Agreements set out clear objectives and performance measures for Community Justice Groups, as well as the level of support that Government agencies will be able to provide for their activities. If arguments for legislative recognition of justice groups are accepted, appropriate recommendations are:

*Recommendation:* A statutory and regulatory framework for justice groups should be established. This framework needs to define the establishment and composition of groups, their role and powers, their accountability and reporting requirements, and the role and appointment of the justice group facilitator.

*Recommendation.* A fair basis of representation for justice groups needs to be established that takes account of the main social groupings of any community in which a group is established. Such representation needs to be stipulated in law. The basis of representation set down for the Aurukun Alcohol Law Council is a good model to follow.

*Recommendation:* Minimum standards should be established to ensure that members of justice groups are of good standing and have respect and authority within an Indigenous community. Such qualifications as “elder” may be appropriate, although if a person has recently been convicted of a serious criminal offence, this may be a basis for disqualification.

*Recommendation:* The appointment of a justice group facilitator/coordinator is necessary for the successful operation of groups. Facilitators should be employees of the Department of Justice and have clearly defined roles.

*Recommendation:* Justice groups should be required to report every six months to the Department.

*Recommendation:* In relation to the powers of justice groups, it is recommended that:

##### 12: Recommendations

- (a) Justice groups be given statutory powers to impose punishments within a circumscribed range (say, for example, offences under local council by-laws);
- (b) Courts be able to impose penalties recommended by justice groups that are socially effective and culturally appropriate, and which may include principles of fining, public shaming, social exclusion and social accountability. If the arguments against legislative recognition are accepted, the appropriate recommendations are these:

*Recommendation:* That a key issue for negotiation in devising Community Justice Agreements is the precise role of the Community Justice Group, its authority to deal with breaches of the law, and the nature of the sanctions which it could implement.

*Recommendation:* That the Government should consider formalising the role of community Justice Groups in legislation where appropriate.

*Recommendation:* That the Government should consider a legislative basis for Community Justice Agreements, and indemnity for the activities of community Justice Groups and other community bodies acting under these Agreements.

*Recommendation:* That Government provide additional training for members of Community Justice Groups in Cape York Indigenous communities.

### ***Youth Crime Prevention:***

*Recommendation:* That, in negotiating crime prevention strategies for inclusion in Community Justice Agreements, Government agencies consider the scope for strategies that are based on the philosophies of developmental health and crime prevention. In particular, that consideration be given to strategies that target the risk factors underpinning community members' involvement in the justice system and strategies are community and family-based, and empower and mobilize communities and families to implement measures that take advantage of strong cultural and family imperatives.

*Recommendation.* That as part of the process of negotiating Community Justice Agreements in each community, a review of current youth crime prevention activities in the community be undertaken with a view to identifying ways of improving coordination of the initiatives.

*Recommendation:* That community-based crime prevention projects such as the Cape York Youth Network and Youth Action Groups and the *Boys from the Bush* project be supported. The approach to youth crime prevention should emphasize such community-based social development projects in addition to local solutions to youth offending which take the form of short term projects focusing on specific behaviours, groups of young people, or specific local issues.

*Recommendation,*' That the model of funding for youth crime prevention initiatives, especially initiatives of young people themselves, must be flexible and responsive to reward community initiative before it is lost. The *Which Way* youth project provides one good model for delivery of youth crime prevention funding.

### ***Sport and Recreation:***

*Recommendation:* That the Government's commitment to funding sport and recreation initiatives in each community be negotiated and specified within Community Justice Agreements.

*Recommendation:* That within this process, the option of funding recurrent Local Indigenous Sports and Recreation Officers (LISRO) positions within communities be considered, along with the appropriate means for integrating such positions with other community justice initiatives.

*Recommendation:* That remote Indigenous communities throughout Cape York appoint an accredited Local Indigenous Sports and Recreation Officer (LISRO) to organize sports and recreation activities and events.

*Recommendation:* That these positions are funded and centrally controlled by Sports recreation Queensland (SRQ), Cairns.

*Recommendation:* That these positions be gazetted as full time positions and receive annual recurrent funding rather than one off funding grants, instead of the traditional two or three year grants.

*Recommendation:* That all LISROs hold appropriate qualifications in Sports and Recreation such as a Certificate IV (TAFE) and possess the ability to implement and manage annual budgets.

*Recommendation:* That the Queensland Police Service continue to fund the "Youth Drug and Alcohol Diversion Project" and receive assistance from SRQ.

*Recommendation:* That the Queensland Police Service develop PCYC centres throughout remote Indigenous communities with the assistance of other agencies.

### ***Transport:***

*Recommendation:* That the following strategy be considered to address the high numbers of offences of unlicensed driving and driving unregistered vehicles in Cape York communities:

- The Queensland Transport Internal Audit Office identifies the actual funds expended in the current delivery of licensing and registration and related services (eg training, travel) to Cape York residents, including any costs incurred by Queensland Police Service and QGAP officers, and any revenue from these services.
- The Deputy Director General, Queensland Transport, in his role as Sponsor of the Queensland Transport Aboriginal and Torres Strait Islander Strategic Group, expedite an inventory of all initiatives on the Cape related to driver licensing, vehicle registration and driver behaviour, including those of individuals and communities as well as government.
- This inventory can be the basis for discussions between the Queensland Transport Aboriginal and Torres Strait Islander Strategic Group, the Aboriginal Coordinating Council and the Cape York partnerships office, aimed at identifying and prioritizing actions to address the accessibility issues. These discussions to consider the funds identified as potential resources, on the understanding that no loss of service results.
- These draft proposals can then be submitted to the Executive Director, Cape York Coordination, within the Department of the Premier and Cabinet, for assessment in consultation with the Chief Executive Officer Committees for Economic Development and Infrastructure and Law and Justice.
  - The Premier to receive the final proposals by May 2002 for consideration.

### ***By-Laws***

*Recommendation:* The process of promulgation of by laws in communities needs to be made much simpler and more prompt, so that communities can utilize their law making capacities. Communities require access to legal advice and drafting to promulgate by laws, whether by Government agencies or by the proposed Cape York Justice Commission.

*Recommendation:* The process of promulgating and approving by laws should be extended beyond the Aboriginal Council in the following instances:

- Local Justice Groups should be able to propose by laws independently of the Aboriginal Council in relation to justice issues
- Land Trusts that own and manage the lands of the community should be able to propose by laws independently of the Aboriginal Council in relation to land issues

*Recommendation:* Coen, Laura, Cooktown, and Mossman Gorge communities should be given concurrent by-law making powers with the local authority in which they are situated to deal with community justice issues. They should be empowered to make by-laws either pursuant to their constitution as part of any new community governance framework proposed by the regional governance review recommended below (see Governance chapter), or by legislation. Such bylaws could be limited to apply to members of their community, and/or Aboriginal owned premises or land (eg, outstations such as Port Stewart that are on inalienable freehold land owned by a Land Trust but are within the local authority jurisdiction of Cook Shire.) In each case the relevant community organization and/or Justice Group should be able to promulgate bylaws

*Recommendation.* That the potential use of council by-laws as a local response to issues of concern be explored in the process of negotiating Community Justice Agreements.

*Recommendation:* That Queensland Police Service assist in the provision of training to Community Police regarding enforcement of by-laws, and in providing direct enforcement of by-laws in line with a community's wishes.

*Recommendation:* That Queensland Police Service and the Department of Justice and Attorney General assist Cape York Community Councils, particularly with respect to training and administration, in implementing an infringement notice system for by-laws.

## **Section 2: Diversion**

### ***Police Diversion to Community Justice Groups***

*Recommendation:* That Queensland Police, Community Justice Groups and other relevant community bodies in each community negotiate protocols on the circumstances in which adult and young offenders will be diverted to Community Justice Groups or other community justice processes, including through the appropriate use of formal and unofficial cautions, and that these protocols be formalized within Community Justice Agreements.

*Recommendation:* That the *Police Powers and Responsibilities Act 2000* be amended to provide a clear basis and criteria for State Police to exercise discretion to divert persons to community Justice Groups without charging.

*Recommendation:* That police be educated in relation to implementing diversionary strategies.

### ***Community Conferencing***

*Recommendation:* That community conferencing be made available to all Cape York communities who wish to take advantage of the scheme.

*Recommendation:* That the implementation of community conferencing in a particular community be worked out as part of the negotiation of a Community Justice Agreement in that community.

*Recommendation:* That the model of community conferencing to be used in Cape York communities be adapted to take account of local dispute resolution methods and other cultural factors.

*Recommendation:* That, in the implementation of community conferencing in Cape York, strategies be put in place to provide assistance and advice to offenders in appreciating and engaging in community conferencing.

*Recommendation:* That after community conferencing has been operating for 12 months in Cape York communities, the Department of Families review the operation of the scheme to identify any legislative amendments or implementation issues that are necessary to better facilitate the use of community conferencing in Indigenous communities.

### ***Bail and Remand***

*Recommendation:* That the potential for programs and rehabilitation courses to be required as bail conditions be considered in the negotiation of Community Justice Agreements.

*Recommendation:* That the Department of Families undertake intensive efforts be undertaken to recruit and train a pool of casual youth workers and develop fee for service options to provide better utilization of the Conditional Bail Program and Bail Support Service and to provide more effective community based sentence options. This should occur as a priority and as a lead into any negotiations on these issues in a Community Justice Agreement.

*Recommendation:* That, in order to ensure more appropriate bail decisions in relation to Indigenous offenders, consideration be given to amendment to the Bail Act or efforts to raise awareness of police officers and Magistrates in relation to section 11(2) of the Act.

#### ***Issues regarding diversionary strategies***

*Recommendation:* That guidelines and performance measures regarding the appropriate exercise of discretion to divert by police be clearly spelt out in written protocols negotiated between Indigenous communities and local police, and included in Community Justice Agreements.

*Recommendation:* That police be educated in relation to the rationale and benefits of diversion.

#### **Sentencing**

##### ***Community input into sentencing***

*Recommendation:* That training to Community Justice Groups on court processes and provision of sentencing advice be provided as a matter of urgency.

*Recommendation:* That the process for community input into sentencing in a Cape York community be a matter for negotiation for inclusion in Community Justice Agreements.

##### ***Circle sentencing***

*Recommendation:* That the potential for circle sentencing be explored in negotiations between Cape York communities and Government for the development of Community Justice Agreements.

*Recommendation:* That where circle sentencing is identified as a viable option for implementation in a community, Government should provide the necessary support to the courts and other agencies involved in the court process (such as additional resources) and to Community Justice Groups and other community members (such as the provision of training).

##### ***The impact of new sentencing practices on the courts***

*Recommendation:* That additional resources be provided to the Magistrates Court and District Court to conduct additional circuits to Cape York Indigenous communities.

*Recommendation:* That an additional Magistrate be appointed in Cairns.

*Recommendation:* That additional resources for these court circuits include an adequate allocation for community corrections officers to accompany the court and provide advice on community based sentencing options.

##### ***Justices of the Peace Magistrates Courts***

*Recommendation:* That the Justices of the Peace (Magistrates Court) scheme be expanded to those communities in Cape York that wish to establish such a court.

*Recommendation:* That the provisions for community courts in the *Community Services (Aborigines) Act 1984* be repealed, subject to sufficient resources being available to establish Justices of the Peace Magistrates Courts in those communities that wish to establish one.

*Recommendation:* That the Justices of the Peace (Magistrates Court) program in partnership with Indigenous Community Councils adapt the program to include cultural issues.

*Recommendation:* That the Department of Justice and Attorney General consider introducing a sitting fee for Justices of the Peace (Magistrates Court) who constitute a Magistrates Court on remote Indigenous Communities.

*Recommendation:* That the Queensland Police Service create a Competency Acquisition Program that will educate their officers about various community justice programs in Cape York communities, and in particular the Justices of the Peace (Magistrates Court) program.

*Recommendation:* That the Attorney General consider amendments to the *Justices of the Peace & Commissioner for Declarations Act 1991* to allow persons with minor criminal convictions committed ten years previously or longer, be considered subject to appropriate assessment, for appointment as a Justice of the Peace (Magistrates Courts) on a remote Indigenous Community.

### ***Sentencing Options:***

*Recommendation:* That Government provide additional resources to Community Corrections to expand the availability of community-based sentencing options in Cape York communities, and that particular attention be directed to the following areas:

- Resources to expand the number of Community Development Officers (with the option of co-funding these positions with other Departments to be explored);
- Greater use of the option of employing community members on a casual basis to provide supervision;
- Greater use of Intensive Corrections Orders.
- Resources to enable Community Corrections to use video-conferencing technology;
- Resources to enable Community Corrections Officers to attend all Magistrates and District Court circuits and to attend sittings of Justices of the Peace Magistrates Courts wherever possible.

*Recommendation:* That the *Penalties and Sentences Act 1992* be amended to allow conditions to be attached to a suspended sentence, such as a requirement to attend a rehabilitation program.

*Recommendation:* That Community Justice Agreements formalize the role of community Justice Groups in preventing breaches of community-based orders, where community Justice Groups are willing to perform this role.

*Recommendation:* That the Department of Families undertake intensive efforts to be undertaken to recruit and train a pool of casual youth workers and develop fee for service options to provide better utilization of the Conditional Bail Program and Bail Support Service and to provide more effective community based sentence options. This should occur as a priority and as a lead into any negotiations on these issues in a Community Justice Agreement.

*Recommendation:* That the Department of families develops a human resource strategy in line with the intent of this report to recruit, train and retain appropriately qualified staff delivering services to cape communities. The department should also implement a professional development strategy for remote area workers and articulate models of good practice and community work.

*Recommendation:* That the Department of Families undertake a review and restructure its services to Cape York communities upholding the following principles:

- Field staff to be located in or in close proximity to communities with options explored to share roles with other government departments.
- Work from a team in Cairns and visit communities more often or
- Live in an identified 'nodal' community, work in a team and visit neighbouring smaller communities in the 'hub'.
- Consideration be given to integrate juvenile justice statutory functions with justice group development in consultation with justice groups and Department of Community Corrections.

- Consideration be given to integrate statutory child protection role with Health and possibly locate child protection workers in community health centres.
- Field staff to have greater flexibility in their roles through the creation of a new position type.
- Integrate Family Services Officer, Resource Officer and Community Resource Officer roles to provide holistic, yet more focused interventions to issues and particular cases.
- Budget management at Regional level to allow flexible delivery of program and human resource services.
- Cape and Torres Regional Office to have the ability to manage and transfer funds between community grants and its own operating budget to allow flexibility in the delivery of an effective mix of statutory services, program human resources in each community.

*Recommendation:* That this review be undertaken in time to allow the Department to more effectively enter into negotiating Community Justice Agreements.

*Recommendation:* The department should also implement a professional development strategy for remote area workers and articulate models of good practice and community work.

### ***Rehabilitation programs***

*Recommendation:* That additional resources be allocated to Community Corrections for the delivery of rehabilitation programs such as Ending Offending, Substance Abuse and Anger Management.

*Recommendation:* That rehabilitation programs be available to members of offenders' families.

*Recommendation:* That, in the negotiation of Community Justice Agreements, Government consider the potential for rehabilitation programs currently offered by Department of Corrective Services to be delivered by community organizations to expand their availability to people within the community at risk of offending.

*Recommendation:* That Government provide resources for the establishment of an alcohol rehabilitation facility in Cape York, to provide a residential program for offenders with alcohol addictions.

### ***Outstations***

*Recommendation:* That the *Penalties and Sentences Act 1992* be amended to allow direct sentencing to outstations.

*Recommendation:* That DCS devise a community level assessment process to enable direct sentencing to outstations.

*Recommendation:* That the legislative and policy obstacles to the use of ICOs to sentence offenders to outstations be removed, or a new sentencing option be created to allow residency at outstations to be a condition of the order.

*Recommendation:* That DCS upgrade the level of resources and standard of facilities at Watha-Nhiin and Baa's Yard.

*Recommendation:* That, pending an evaluation of correctional outstations, consideration be given to the construction of new outstations in Cape York.

*Recommendation:* In the process of negotiating community justice agreements the Department of Corrective Services and Department of Families conjointly negotiate the utilization of 'clan estate' outstations as diversionary options while respecting the ownership and control of families over their homelands.

### ***State Penalties Enforcement Register (SPER)***

*Recommendation:* That the State Penalties Enforcement Registry review the collection of fine payments by Community Councils to ensure that all fines are accountable and levied against Magistrates Courts Registries records. Prompt action is required to ensure that warrants are not executed against people who have already paid fines.

*Recommendation:* That procedures be put in place to ensure that all money collected from fines arising from by-laws accrues to Community Councils.

### **Section 3: Improving the criminal justice system and legal service delivery Police.**

#### ***Enforcement of the law***

*Recommendation:* That police negotiate with representatives of Cape York Indigenous communities in relation to agreed expectations about police enforcement of the law, particularly offences arising from family violence, and that written protocols be included within Community Justice Agreements. This could occur through police Community Consultative Committees (which have members drawn from Traditional Owners, Council, Community Justice Group and Women's Group) meeting with police on a monthly basis.

*Recommendation:* That, subject to negotiation within a Community Justice Agreement, police in Cape York communities adopt a zero tolerance or targeted approach to family violence and that this approach be complemented by appropriate victim support measures, such as men's and women's support groups.

*Recommendation:* That the Queensland Police Service investigate the data regarding the prosecution of serious assault charges to ascertain whether it indicates the inappropriate use of police discretion in enforcing the law in Cape York Indigenous communities.

#### ***The problem of resourcing***

*Recommendation:* That accelerated funding be made available to create a permanent police presence where warranted (eg Hope Vale).

#### ***Human resource issues***

*Recommendation:* That the Queensland Police Service identify means for providing experiential training based on the Kowanyama trial for all officers intending to serve in remote Indigenous communities.

*Recommendation:* That the Queensland Police Service ensure that the policy regarding selection of police for remote communities is followed in practice and that police are selected on the basis of the attributes listed above.

*Recommendation:* That the Queensland Police Service introduce revised selection, skilling and preparation processes for police officers expressing interest in and or assigned to Cape York communities. These initiatives should include other relevant agencies where this is practical, and input from relevant community representatives.

*Recommendation:* That accelerated funding be made available to quickly bring all Cape York police facilities and accommodation (eg Kowanyama and Aurukun) up to an acceptable standard, realizing that special detention or diversionary facilities for young offenders may also be necessary on a Community.

*Recommendation:* That recreational resources be made available to Police on communities together with funding for short travel breaks to regional centres to ensure greater continuity of policing on a particular community, and subject to this being done, to extend the six-month rotation period.

*Recommendation:* That married officers serving 2-3 years on communities be also given greater access to short breaks from communities for themselves and their families, with the availability of travel being linked to the continuity of time that officers and their families are prepared to spend with a particular community.

*Recommendation:* That these range of initiatives be implemented as a priority in preference to assigning additional Police to existing communities which already have a permanent police establishment.

### ***Community Police***

*Recommendation:* Pending the transfer of Community Police to the Queensland Police Service under the QATSIP scheme, that QPS give greater attention to the training needs of Community Police.

*Recommendation:* That the role and level of support for Community Police be negotiated as part of Community Justice Agreements.

### ***QATSIP***

*Recommendation:* That the Queensland Aboriginal and Torres Strait Islander Police (QATSIP) program be expanded to other Cape York Indigenous Communities with a permanent Queensland Police Service presence.

*Recommendation:* That Community Police should be phased out and replaced by QATSIP Officers in these communities.

*Recommendation:* That in extending the QATSIP program, funding be made available to institute a scheme to progressively accredit suitable QATSIP personnel to become progressively qualified and experienced in Police support roles, with a number eventually qualifying to be trained as Police Constables.

### ***A partnership approach to policing***

*Recommendation:* That the Queensland Police Service provides support to local Police to engage in the negotiation of Community Justice Agreements and actively consider the potential for police to work in a collaborative and integrated manner with other Government agencies and community organizations.

### ***Courts***

*Recommendation:* That the Government review the standard of court facilities in Cape York communities and upgrade these facilities where necessary.

*Recommendation:* That Department of Justice and Attorney General provide training for community Justice Groups and other individuals to provide interpreter services to courts operating in Cape York Indigenous communities.

*Recommendation:* That the Government make more regular cross-cultural awareness training available to judges and magistrates.

*Recommendation:* That judges and magistrates working in Cape York Indigenous communities take the time to participate in informal discussions with community members and Community Justice Groups wherever possible.

### ***Prosecutions***

*Recommendation:* That the DPP revisit the recommendations of the report on *Indigenous Women within the Criminal Justice System* and consider the appropriate means of implementing the outstanding recommendations.

### **Legal services in Cape York**

*Recommendation:* That all relevant legal service providers and the communities in Cape York collaborate to develop a model of service delivery. Services to be provided must include criminal law, criminal compensation, family law and civil law services and community legal education.

*Recommendation:* That legal staff receive region-specific cross-cultural awareness training.

*Recommendation:* That consideration be given to the establishment of an Indigenous Women's Legal Service, or expansion of the Indigenous Women's Unit of the North Queensland Women's Legal Service (Cairns), to provide services to Indigenous women in Cape York communities.

### **Victims' compensation**

*Recommendation:* That the Department of Justice and Attorney-General conduct a review of victims' compensation in Cape York Indigenous communities, involving extensive consultation with the members of those communities, to:

- Determine the effect and impact of victims' compensation on communities;
- Explore issues such as whether victims compensation money should be held in a regional trust, the mechanisms for doing so and whether financial counselling should be provided to claimants/victims.

*Recommendation:* That Government provide adequate funds and staffing to Legal Aid Queensland to meet the needs of Indigenous victims of crime in the Cape York region.

*Recommendation:* That providers of victims' compensation services should work collaboratively in the provision of these services.

### **Corrections**

*Recommendation:* That the Department of Corrective Services consult with Indigenous communities to identify and develop appropriate programs that are needed to address the specific needs of Indigenous prisoners.

*Recommendation:* That Government provide appropriate support to visits by community Justice Groups to prisons and detention centres.

### **Section 4: The urgent need for a negotiated approach to crime and justice**

*Recommendation:* That the development of crime and justice issues within Cape York Indigenous communities should occur through a negotiated partnership approach. The mechanism for this to occur should be a formal Community Justice Agreement negotiated between Government and each particular community. Community Justice Agreements:

- should take an inclusive approach to dealing with law and justice, family violence, alcohol abuse and other issues of concern. Alcohol and violence strategies will form a significant component of Community Justice Agreements;
- should be very specific about which diversionary strategies will be used and in what circumstances, including who will do what;

- should address the issue of coordination between the various government agencies servicing a community; should encourage pooling of funds between Government agencies (and community organizations) working towards common objectives;
- should consider the scope for the creation of a Community Justice Worker position within the community, co-funded by Government agencies and performing a range of justice-related roles (such as corrections, court, and crime prevention work);
- should be signed off by Government agencies at a Chief Executive Officer level;
- should involve and be signed off by all relevant community organizations, such as the community council, the Community Justice Group, women’s groups etc.

*Recommendation:* That Community Justice Agreements include specific and measurable goals and objectives and practicable timelines.

*Recommendation:* That any new community justice-related initiatives of Government agencies must be developed within the framework and support the intent of Community Justice Agreements.

### **Structures to facilitate Community Justice Agreements**

#### ***Cape York Justice Commission***

*Recommendation:* It is recommended that an independent commission be established under State legislation (a “Cape York Justice Commission”) to be supported by the Department of Justice and Attorney-General or the Department of Premier and Cabinet. The Justice Commission should be comprised of:

- a. a Magistrate or District Court judge or retired Supreme Court judge who would chair the Commission; and
- b. a Justice of the Peace or a member of a Community Justice Group from each Cape York community, appointed by the Attorney General.

The role of the Justice Commission would be:

- a. To support the work of the Justice Groups and other authorities (Community Councils, Police, Courts) in delivering community justice services and strategies.
- b. To coordinate training, including cross-cultural training for police and Magistrates, and training for Justice Groups and ensure information including best practices are shared among communities.
- c. To ensure that information regarding crime and justice services and strategies, including best practices are shared among communities.
- d. To oversee each community’s systems of law and justice to ensure that they are operating effectively including the provision of police services, court services, correctional services and alternative dispute resolution services.
- e. To assess whether there are proper resources available to the community to effectively administer community justice — funding, facilities, employment and to report to the State on these issues.
- f. To assist Community Councils in the development and gazettal of community by-laws and regulations, including assistance with drafting.
- g. To conduct the Annual Review of the Action Plan of the Queensland Aboriginal and Torres Strait Islander Justice Agreement

h. To otherwise monitor key indicators relevant to substance abuse, crime and violence — arrest records, court convictions, injuries reported at clinics and to ensure that indicators are being addressed appropriately

i. To collect data and monitor and evaluate Community Justice Agreements and the strategies that underpin them.

j. To act as a regional interface with the Liquor Licensing Commission. This would include monitoring liquor licenses and taking an advisory role in the process of granting licenses. The ongoing validity of liquor licenses should be contingent upon progress and performance with convictions/injuries targets. The Cape York Justice Commission should have authority to act independently, in an advisory capacity, or at the request of Justice Groups to amend license conditions or to suspend licenses.

k. To report regularly to the Attorney General and relevant Minister/s or Ministerial Council

l. To advise the State Government on matters of law reform relevant to community justice in Cape York including regulations enabling departures from or amendments to the Criminal Code.

m. To act as a regional point of contact for DATSIP in connection with the Justice Agreement and with other agencies in connection with matters of crime and justice.

The Justice Commission would visit communities regularly and would receive reports on progress with community justice service delivery in the communities.

The Cape York Justice Commission would be supported by a small secretariat. This secretariat would perform the functions of the proposed Community Justice Support Unit in DATSIP or JAG.

#### ***A Community Justice Support Unit***

*Recommendation:* That a Community Justice support unit be created in Cairns. This support unit:

- should contain four or five skilled planners or facilitators, and be managed by DATSIP;
- should work with Cape York Indigenous communities and Government agencies in developing Community Justice Agreements and initiating the responses and strategies contained in these Agreements;
- should have the role of building capacity within Cape York communities with respect to justice issues, including the delivery of training to Community Justice Groups and other community members;
- should be responsible for following up any legislative and policy issues that arise out of the negotiation and implementation of Community Justice Agreements;
- should report regularly to the Justice Negotiation Group established to oversee implementation of the Aboriginal and Torres Strait Islander Justice Agreement;

A Cape York justice forum comprising community representatives would complement a community Justice Support Unit containing Government officers.

#### ***Community Justice Agreements under the Ten Year Partnership Framework***

*Recommendation:* That the Aboriginal and Torres Strait Islander Justice Agreement provide the focal point for coordination of Government activities regarding the process of negotiating Community Justice Agreements.

*Recommendation:* That the Justice Negotiation Group constitute the central Government coordination mechanism for facilitating the negotiation of Community Justice Agreements and following up the implementation of strategies identified in these agreements.

*Recommendation:* That the composition of the Justice Negotiation Group be broadened to include non-justice related agencies with a role in supporting Community Justice Agreements. At a minimum, this should include Queensland Health, Education Queensland, Department of Employment and Training, Sport and Recreation Queensland, Liquor Licensing and Queensland Transport. As at presently, other agencies should be involved in the process where necessary.

*Recommendation:* That the focus and the annual action plan of the Justice Negotiation Group be reoriented towards facilitating the process of negotiating Community Justice Agreements and implementing the strategies identified in these agreements.

*Recommendation:* That the Justice Negotiation Group provide quarterly reports to the CEOs' Committee on Law and Justice regarding the progress of negotiating and implementing Community Justice Agreements.

## **APPENDIX C**

### **REPORT OF THE ABORIGINAL JUSTICE INQUIRY OF MANITOBA**

#### **POLICING**

##### **The Role of Police in Society**

Police forces adopt a community policing approach, particularly in Aboriginal communities.

##### **Employment Equity Programs**

Police forces immediately institute employment equity programs to achieve Aboriginal representation equivalent to the Aboriginal proportion of the Manitoba population

##### **Cross-Cultural Training**

Cross-cultural education components of all police training courses be reviewed and strengthened, and this process actively involve members of the Aboriginal community, resource persons and recognized experts.

All police officers be rotated through cross-cultural education programs, and periodic refresher programs be provided as part of the regular professional development programs of all police departments.

Any police recruits displaying racist attitudes be screened out of training, and police officers who display such conduct after joining the force be required to take further training or, if necessary, be formally disciplined or dismissed.

The courts adopt the Anunga Rules of Australia, as rules of the court governing the reception into evidence of statements to police made by Aboriginal persons.

All statements taken by police officers be either audio- or video-recorded. If the contents of a transcribed statement are challenged, or some tribunal wishes to hear how certain words were expressed, the tape or video can be played.

Video equipment be used to record the statements of all suspects in cases involving deaths and other serious cases. We suggest that the taping record the totality of each interview, including all introductory comments and explanations and warnings given by the police, and including any formal statement or other comments that result.

The videotape will be of great value. The impact would be reduced if accused persons could allege that promises or inducements were offered or pressure was applied to them before the taping began.

Where video equipment is not available, all statements be audio-recorded. The RCMP has tape-recorded some statements for years. We recommend that all police make that practice mandatory in all cases, with the use of video where statements are taken in an office with that equipment.

##### **Police Forces in Manitoba**

As soon as possible, Aboriginal police forces take over from the RCMP the responsibility for providing all police services in Aboriginal communities.

The RCMP support the establishment of Aboriginal police forces and develop a policy of cooperation with such forces.

While they continue to police Aboriginal communities, the RCMP and all other Manitoba police forces develop and make public an integrated strategy to strengthen their capacity to provide culturally appropriate policing services, and the strategy include the development of a process of regular communication with Aboriginal organizations and communities, and the annual publication of reports which indicate progress in meeting the goals of the strategy.

The Dakota Ojibway Tribal Council Police Force be provided with sufficient resources so that it can increase staff training and development in modern police methods, and gradually assume full responsibility for all law enforcement duties within its geographic jurisdiction.

Aboriginal communities be encouraged to form regional police forces and regional police commissions following the model of the Dakota Ojibway Tribal Council Police Force. These should be established under Aboriginal control and management.

Métis and non-status communities consider the development of a regional police force, with a police commission.

The Liquor Control Act be amended to place limits on the amount of alcohol an individual can purchase at any one time without a permit.

The transport of large quantities of alcohol without a permit be made illegal. Transporters of illegal shipments should not only be subject to fines, but should also face the loss of their licenses and vehicles.

Police forces, in conjunction with local Aboriginal governments that have prohibited the importation of alcohol to their reserves, undertake special enforcement programs designed to halt any illegal importation.

New targets be set by the RCMP to bring appropriate numbers of Aboriginal men and women into the force as full officers more quickly than is currently contemplated.

The RCMP employ Aboriginal police and civilian staff in their detachments in proportion to at least the Aboriginal population of the province and preferably in proportion to the Aboriginal population being served.

The Winnipeg Police Department prepare and table with the city council and the Minister of Justice, no later than December 31, 1991, an employment equity plan which has clear targets, target dates and remedies should targets not be achieved.

The City of Winnipeg Police Department set an initial target of 133 Aboriginal police officers. The first step in reaching that goal should be to designate the next recruiting class as entirely Aboriginal. Thereafter, 50% of each recruit class be dedicated to Aboriginal recruits until the target has been met.

The Winnipeg Police Department be required to report publicly the progress of its employment equity program to the Minister of Justice.

A portion of the funding provided by the Province to the City of Winnipeg for police salaries be conditional on the Winnipeg Police Department's using that funding only for the hiring of Aboriginal police officers.

The assignment of Aboriginal police officers not be restricted to the core area or other Aboriginal areas of the city of Winnipeg

The Winnipeg Police Department no longer rely on the grade 12 educational criterion for police recruitment and develop approaches which more appropriately test recruits' ability to perform the functions required of police officers.

The City of Brandon Police Department prepare and table with Brandon City Council and the Minister of Justice an employment equity plan no later than December 31, 1991, which will increase the numbers of Aboriginal people on the City of Brandon Police Department to a level equal to their proportion of the Manitoba population. The plan should include target dates by which to achieve that proportion and remedies should those targets not be met.

The Brandon Police Department set an initial target of nine Aboriginal police officers and that the City of Brandon Police Department dedicate that number of positions for Aboriginal recruits in its next recruit class.

Both the City of Winnipeg Police Department and the City of Brandon Police Department consider hiring Aboriginal police officers who already have policing experience with an Aboriginal force or with the RCMP.

Aboriginal people be represented among the civilian members of both the City of Winnipeg Police Department and the City of Brandon Police Department in the same proportion as their presence in the province's population.

The City of Brandon Police Department, in cooperation with the Brandon Friendship Centre, develop a program to reach out to and inform Aboriginal people living in Brandon about policing issues.

#### **The Provincial Police Act and the Manitoba Police Commission**

The Provincial Police Act make explicit provision for the recognition of any police commission or committee which is established to provide police services in any municipality, unorganized territory, or Aboriginal community in Manitoba.

The Manitoba Police Commission prepare and enforce a wide range of regulations covering recruitment, training, equipment, procedures, supervision of, and support for, police forces in Manitoba.

#### **Aboriginal Systems of Policing**

The Provincial Police Act be amended to provide for the establishment of a provincial Aboriginal Police Commission with authority to prepare and enforce a wide range of regulations covering recruitment, training, equipment, procedures, supervision of, and support for, Aboriginal police forces in Manitoba.

Final decisions concerning the size, composition and manner of appointment to the Aboriginal Police Commission be made by Aboriginal people.

The Provincial Police Act be amended to provide for the appointment of an Aboriginal Police Commissioner, to serve the Aboriginal Police Commission, with any such person being selected by Aboriginal organizations responsible for Aboriginal police forces.

Agreements be developed between the provincial Aboriginal Police Commission, local police commissions, the RCMP and the provincial Justice department for Aboriginal police forces to provide full police services to Aboriginal communities, with a firm timetable for achieving this goal, including training, equipping and supporting the local forces with appropriate back-up services as required.

#### **Public Complaints and Policing in Manitoba**

The Minister of Justice establish a plan of action to deal with any incident where possible criminal acts are alleged against the police, or where a person dies or suffers serious injury in an incident involving a police officer.

This plan of action include either the creation of a standing special investigations unit, or a plan to quickly assemble a special investigations team for a particular incident, able to take control of the investigation immediately following report of the incident. The unit or team should not include officers from the police department under investigation. The plan should include independent counsel to give advice concerning the laying of criminal charges. This counsel should not be a Crown attorney. The unit or team should report directly to the Minister of Justice.

The police forces in the province be required to provide all available assistance and cooperation to the special investigations team.

The Law Enforcement Review Board be reconstituted and the Law Enforcement Review Act be amended to approximate the Ontario model.

The board appoint independent counsel to have conduct of each case and be responsible for presenting the evidence.

Where the complaint is from an Aboriginal person, one member of a panel be Aboriginal.

The test to be applied by the board be proof by clear and convincing evidence, rather than beyond a reasonable doubt.

If the board decides that the complaint is proven, it have full power to impose whatever penalties it deems appropriate.

In addition to what is now in the Law Enforcement Review Agency reports, the agency report annually on the nature of complaints, how many were found to have merit, how many were dismissed and the type of penalty applied.

Police officers, including the officer against whom the complaint is made, be compellable witnesses.

Aboriginal justice systems establish and maintain an agency to receive, investigate and resolve complaints against Aboriginal police officers similar to what we recommend for provincial police forces.

Complaints against the RCMP in Manitoba, when acting as a provincial police force, be investigated and heard by the Law Enforcement Review Board.

## **A Strategy For Action**

### **Aboriginal Justice Commission**

An Aboriginal Justice Commission of Manitoba be established by legislation and by appropriate processes of the Aboriginal people of Manitoba, with a board of directors made up of equal numbers of Aboriginal and government representatives, and an independent chairperson. The commission should be provided with all necessary staff and resources.

The position of Aboriginal Justice Commissioner be established as the chief executive officer of the Aboriginal Justice Commission. The commissioner's tasks will include monitoring and assisting government implementation of the recommendations of this Inquiry.

### **Aboriginal Justice College**

The Aboriginal Justice Commission establish an Aboriginal Justice College with its own Aboriginal board of directors, and staffed by Aboriginal people, to provide training and continuing education for Aboriginal people who wish to assume positions of employment within both the existing justice system and Aboriginal justice systems.

Training provided by the Aboriginal Justice College include preparation for such positions as judges, attorneys, police officers, correctional officers, court clerks, administrators, interpreters, court workers,

peacemakers, youth justice committee directors, social workers, probation and parole officers, and others, as exist within the present justice system and as are needed to establish and maintain Aboriginal justice systems.

The Aboriginal Justice College organize courses in cross-cultural understanding for non-Aboriginal personnel.

### **Cross-Cultural Issues**

Federal, provincial and municipal governments, individually or in concert, with the assistance and involvement of Aboriginal people, establish formal cross-cultural educational programs for all those working in any part of the justice system who have even occasional contact with Aboriginal people.

### **Affirmative Action**

The Province of Manitoba legislate the establishment of an Employment Equity Commission with appropriate Aboriginal representation on its governing body.

The Employment Equity Commission have two arms: an investigative arm responsible for examining any matter covered by the legislation, and an adjudicative arm responsible for hearing any complaint made under the legislation. Those on the adjudicative side who sit as hearing panels to determine a complaint should include an Aboriginal person if the complaint involves an Aboriginal issue or complainant.

The mandate of the commission be:

- To develop employment equity targets for employers within the legislative jurisdiction of the Province of Manitoba, including any department of the government of Manitoba and any municipality, town or city within the province.
- To ensure that employers set policies and programs for the advancement and promotion of Aboriginal people.
- To monitor compliance with established employment equity targets.
- To require employers in receipt of government grants or contracts to establish an acceptable employment equity plan with appropriate time frames, within which Aboriginal people will be hired.
- To hear and determine complaints against any person or employer who fails to comply with an established employment equity plan.
- Hearing panels called upon to determine complaints be entitled to make orders requiring compliance with an employment equity plan acceptable to the commission, or make such other order as may appear appropriate to it, such as financial compensation either to an individual or to a group of individuals.
- The federal government strengthen its employment equity legislation to establish an Employment Equity Commission similar to that which we recommend for the Province of Manitoba.
- Federal and provincial government positions which require or will inevitably result in high contact with Aboriginal people be designated as "Aboriginal bilingual positions."
- The University of Manitoba Faculty of Law establish a recruitment program whereby Aboriginal students (including those in high schools) throughout Manitoba and Northwestern Ontario are encouraged to attend law school.

- The Faculty of Law review the manner in which it makes use of the Law School Admission Test scores and grade point averages of law school applicants to ensure that Aboriginal students capable of successfully completing law school are not thereby unfairly eliminated.
- The Faculty of Law increase the number of Aboriginal law students it accepts into first-year law. The minimum number of students it should be accepting would be 12% of each class, the same proportion as the proportion of Aboriginal people in the general population. Entrance levels should also include an additional number to overcome historical imbalances.
- The Faculty of Law engage an Aboriginal person as a member of its faculty with the primary responsibility of providing support services to Aboriginal students and with the secondary role of developing materials on, and teaching, Aboriginal law.
- The Faculty of Law undertake the development of a full credit course or courses in Aboriginal legal issues, and ensure that Aboriginal issues are included as part of the core courses taught to each law student.
- The Faculty of Law organize and sponsor a conference of law schools from across Canada, to be held for the purpose of addressing the issue of increasing the numbers of Aboriginal law graduates in Canada so as to accomplish two objectives:
  - To overcome historical imbalances in Aboriginal under-representation in the legal profession.
  - To establish entry levels of Aboriginal law students that will ensure that the Aboriginal presence in the legal profession reflects the Aboriginal presence in the population generally.
- The Faculty of Law and the Aboriginal Justice College establish a pre-law program for Aboriginal students wishing to enter law school.

### **Information Gathering and Statistics**

Governments consult with Aboriginal groups to design and implement a data collection system that will provide detailed information to compare the impact on, and treatment of, Aboriginal and non-Aboriginal persons by the justice system, to evaluate the success of programs dealing with Aboriginal offenders and to provide information to help identify needed reforms.

#### Resources

As a matter of urgent importance, governments and Aboriginal people, with the assistance of the Aboriginal Justice Commission, negotiate an acceptable process to provide ongoing funding for Aboriginal governments to undertake the initiatives we suggest, in a manner consistent with:

- The need of Aboriginal people for an ongoing, consistent revenue base.
- The right of Aboriginal people, as original owners of the land, to a fair share of revenue resources from both levels of government.
- The greater access to the revenue-generating powers and sources available to federal and provincial governments.

## **APPENDIX D**

### **THE COMMISSION ON FIRST NATIONS AND MÉTIS PEOPLES AND JUSTICE REFORM**

#### SUMMARY OF FINAL REPORT RECOMMENDATIONS

##### CHAPTER 1 EMPOWERING FIRST NATIONS AND MÉTIS LEADERSHIP

###### Recommendation 1.1

This Commission recommends that the Office of the Treaty Commissioner's mandate be continued beyond 2005 and that the Government of Canada, the Federation of Saskatchewan Indian Nations, and Office of the Treaty Commissioner, with an expanded mandate, accelerate their discussions concerning Treaty-based governance and take into account recommendations of this Commission in concluding agreements as quickly as possible.

###### Recommendation 1.2

This Commission recommends that the Government of Canada and the Métis Nation - Saskatchewan establish a Nation-to-Nation dialogue aimed at establishing appropriate governance structures for the Métis people that will address justice issues, as well as other aspirations and needs of the Métis people.

###### Recommendation 1.3

This Commission recommends that the Government of Saskatchewan also participate in these discussions as an observer.

###### Recommendation 1.4

This Commission recommends that:

- 1.4.1 The governments of Canada and Saskatchewan establish First Nations and Métis Leadership Development Funds to promote leadership training for First Nations and Métis people.
- 1.4.2 That an Institute on Traditional Law and Governance be established by 2007, to provide training to First Nations and Métis professionals and leaders in Saskatchewan.

###### Recommendation 1.5

This Commission recommends that post-secondary institutions and professional associations work together to develop plans that will ensure that professionals already in the field have access to programs of continuing professional education that emphasize cultural issues associated with the provision of justice services.

###### Recommendation 1.6

This Commission recommends that the governments of Canada and Saskatchewan, justice and health authorities, and traditional practitioners cooperate to protect and extend traditional justice and healing practices, and explore their application to contemporary First Nations and Métis community concerns.

##### CHAPTER 2 CREATING HEALTHY, JUST, PROSPEROUS AND SAFE COMMUNITIES IN SASKATCHEWAN

###### Recommendation 2.1

This Commission recommends:

- 2.1.1 That the Government of Saskatchewan finance a long-term targeted fetal alcohol spectrum disorders (FASD) strategy that includes prevention, intervention and follow up to address the lifelong disabilities caused by alcohol use and abuse.
- 2.1.2 That the governments of Canada and Saskatchewan, Federation of Saskatchewan Indian Nations and Métis Nation - Saskatchewan collaborate on a fetal alcohol spectrum disorders awareness-training program that will be delivered to all people who work with children and youth and their families, including the police, to create a level of awareness.
- 2.1.3 That the Saskatchewan Police College deliver a fetal alcohol spectrum disorders training module to all new recruits to provide an understanding of fetal alcohol spectrum disorders.
- 2.1.4 That the Government of Saskatchewan, primarily child welfare and health authorities, review the legislation and policy as it relates to the provision of services to people with fetal alcohol spectrum disorders to ensure that they are not excluded by virtue of their IQ and to ensure that support services are provided to families, in the absence of protection concerns.

#### Recommendation 2.2

This Commission recommends that the governments of Canada and Saskatchewan streamline the funding process for crime prevention interventions in consultation with communities and provide core-funding arrangements to programs that have proven successful.

#### Recommendation 2.3

This Commission recommends that the Government of Canada, in consultation with the other orders of government, develop Saskatchewan First Nations and Métis Peoples Social and Economic Policy Plans focused on improving quality of life for First Nations and Métis people. Further, that the Implementation Office be responsible for monitoring and reporting on progress.

The plans must develop policy, through taking into consideration the practices and customs of First Nations and Métis people including, but not limited to, the following goals:

- eliminate poverty;
- Improve educational attainment;
- increase employment;
- provide appropriate housing;
- promote health especially in the areas of addictions, including fetal alcohol spectrum disorders;
- transfer of resources to the community; and
- respond to the realities of urbanization.

#### Recommendation 2.4

This Commission recommends that the Government of Saskatchewan, in partnership with First Nations and Métis communities, design a proactive targeted Saskatchewan Crime Prevention Strategy by April 1, 2005.

#### Recommendation 2.5

This Commission recommends that the Government of Saskatchewan divert funds currently spent on reacting to crime in the criminal justice system, to proactive targeted community based prevention projects.

#### Recommendation 2.6

This Commission recommends that the Department of Indian and Northern Affairs Canada review the funding arrangement with First Nations Child and Family Services agencies to ensure that services to prevent children from coming into care are funded.

#### Recommendation 2.7

This Commission recommends that all governments increase supports to single parents, including providing adequate social assistance, respite, parenting knowledge and skill development.

#### Recommendation 2.8

This Commission recommends that the Government of Saskatchewan facilitates a discussion with youthful parents regarding the concept of parenting centers/cooperatives to provide youthful parents respite, parenting knowledge and skill development.

#### Recommendation 2.9

This Commission recommends that the Department of Community Resources and Employment engage community and the various government departments and agencies providing services to children and their families, and together develop local community plans to strengthen family through provision of culturally relevant, parenting skill training.

#### Recommendation 2.10

This Commission recommends that the governments of Canada and Saskatchewan, Federation of Saskatchewan Indian Nations and Métis Nation — Saskatchewan build strategies to respond to gangs that include: education, prevention and intervention, and that information about gangs be provided to parents, schools and communities.

### CHAPTER 3 VIOLENCE AND VICTIMIZATION

#### Recommendation 3.1

This Commission recommends that the Government of Saskatchewan, specifically the Minister of Community Resources and Employment review this regulation with a view to increasing the amount of exemption for those on social assistance who receive a settlement from the Government of Canada for abuse suffered during their residential school experience and that the Government of Canada also reconsiders their position to a cap on their settlement.

#### Recommendation 3.2

This Commission recommends that education systems, Federation of Saskatchewan Indian Nations and Métis Nation - Saskatchewan, and others, support the introduction in kindergarten and Grade 1 of: non-violence alternatives, information about violence in its many forms, the effects of such violence and solutions thereto, including the responsibility shared by all to eliminate violence, and that it be reinforced in subsequent grades.

#### Recommendation 3.3

This Commission recommends that all schools, with a high number of children who are living in poverty, implement a school nutrition program.

#### Recommendation 3.4

This Commission recommends that all governments promote the use of nonviolent alternatives to child correction. Steps must be taken to ensure laws, policy and practice comply with the direction provided by the Convention on the Rights of the Child.

#### Recommendation 3.5

This Commission recommends that there be greater consideration given to delivering domestic violence programs that focus on dealing with partners and families.

#### Recommendation 3.6

This Commission recommends that all levels of government ensure that family violence programming for men and women is supported and more available.

Recommendation 3.7

This Commission recommends that the Government of Saskatchewan develop public awareness materials related to violence specifically suited for the needs of northern residents. To ensure that material is suited for needs in the North, there must be consultation from northern residents, including young people.

Recommendation 3.8

This Commission recommends all levels of government immediately resolve the jurisdiction dispute around the Victims of Domestic Violence Act on Indian reserves.

Recommendation 3.9

This Commission recommends that the Government of Saskatchewan or First Nation Councils or Métis Nation — Saskatchewan, whichever is appropriate, ensure that transportation is provided to women seeking shelter from violent situations and that adequate funding be provided for their stay.

Recommendation 3.10

This Commission recommends that:

- 3.10.1. There be funding from all governments to increase the number of beds available for women seeking safety from domestic violence situations;
- 3.10.2. Funders providing resources to shelters ensure sufficient funds for the agencies to provide more training to their staff and more outreach to communities.

Recommendation 3.11

This Commission recommends that agencies providing shelter services to women and police services meet to find a solution to the issue of sharing information within the parameters of the privacy legislation.

Recommendation 3.12

This Commission recommends that the governments of Canada and Saskatchewan expand Victim Services in the province.

Recommendation 3.13

This Commission recommends that the Government of Saskatchewan provide funding to study the effectiveness of domestic violence programming.

Recommendation 3.14

This Commission recommends to all governments that there be further study on the concept and impact of hope, with a view to including hope in programming and assessment.

## CHAPTER 4 RESTORATIVE JUSTICE: RESTORING JUSTICE IN SASKATCHEWAN

Recommendation 4.1

This Commission recommends that every level of government support the education of police, lawyers and judges to recognize mental disorders and disabilities, in order to divert persons with mental disorders and disabilities to appropriate resources.

Recommendation 4.2

This Commission recommends the following immediate steps:

- 4.2.1 Funding be allocated by all levels of governments to therapeutic resources with a First Nations and Métis focus, including: drug addiction, follow up care, and healing initiatives.

- 4.2.2 That meaningful sentencing alternatives be developed by Saskatchewan Justice in cooperation with communities and Courts, to allow for intensive therapy involving Elders, healers, and supports for family, and that these sentencing alternatives have a First Nations and Métis focus.

#### Recommendation 4.3

This Commission recommends that the Aboriginal Courtworker Program be adequately resourced by the Government of Saskatchewan to meet their current mandate and consideration be given to an expanded mandate that will enable courtworkers to incorporate restorative support for those appearing before the Courts.

#### Recommendation 4.4

This Commission recommends that system generated charges be dealt with administratively as follows:

- 4.4.1 Youth who are subject to system generated charges and lower level offences be referred to Elder led community based teams to discern and consider ways to meet the needs of the youth outside of the Courts.
- 4.4.2 Adults who are subject to system generated charges and lower level offences be referred to community teams to discern and consider ways to meet the needs of the individual restoratively, outside of the Courts.

### CHAPTER 5 POLICING

#### Recommendation 5.1

This Commission recommends the implementation of a strategy to eliminate racism in policing by the Saskatchewan Police Commission. This strategy shall contain:

- 5.1.1 Police recruitment screening strategies specifically to prevent candidates with racist views on ethnic or religious groups from being offered employment.
- 5.1.2 A complaints process that requires allegations of racist language or behaviour against individual officers to be reported to the officers' immediate supervisor and the chief of police.
- 5.1.3 An intensive remedial training program for police officers who exhibit racist attitudes. This program must be successfully completed to the satisfaction of the officer's supervising officer and the program facilitator.
- 5.1.4 The tools which would allow the immediate supervisor or chiefs of police to respond immediately to allegations of racism.
- 5.1.5 A pro-active First Nation and Métis candidate recruitment strategy.
- 5.1.6 Employment assistance counselling for First Nations and Métis candidates that will assist them with the pressures of working within a police service that has traditionally been dominated by non-Aboriginal people.

#### Recommendation 5.2

This Commission recommends that all police services invite members of the First Nations and Métis communities to evaluate the effectiveness of existing cultural awareness programs and implement changes as required.

#### Recommendation 5.3

- 5.3.1 This Commission recommends that urban police services have a First Nations and Métis staffing component that is equal in percentage to the respective populations.
- 5.3.2 This Commission recommends to the RCMP that Community Police Boards and Police Management Boards participate in the selection, posting and orientation of RCMP members to detachments that serve their community.

#### Recommendation 5.4

This Commission recommends that the Government of Saskatchewan, in view of the fact that it invests in community policing initiatives, conduct province- wide surveys every two years to monitor the degree of public satisfaction regarding community policing within all communities.

#### Recommendation 5.5

5.5.1 This Commission recommends that Saskatchewan Justice and the Aboriginal Policing Directorate in the federal Solicitor General's office ensure that Community Police Boards and Police Management Boards receive adequate resourcing and training to ensure that community based policing is supported and successful in all communities.

5.5.2 This Commission recommends that Police Management Boards and Community Police Boards that share one police service be amalgamated and ensure equal representation.

5.5.3 This Commission recommends that police officers working in First Nations and Métis communities, including urban neighbourhoods with high First Nations and Métis populations, be required to meet regularly with Elders and other community leaders in order to learn more about the culture of the people they are working with.

#### Recommendation 5.6

This Commission recommends that all police services be required to prepare reports to justify any decisions that do not divert matters extra-judicially.

#### Recommendation 5.7

This Commission recommends that the Government of Saskatchewan establish emergency detoxification facilities in cooperation with municipalities immediately in La Ronge, Prince Albert, Saskatoon and Regina. In remote areas, the Commission recommends that these facilities are incorporated into the local hospital, or in these remote communities, provision be made for sobering up houses as an alternative to drunk tanks.

#### Recommendation 5.8

This Commission recommends that the Government of Saskatchewan, in cooperation with municipalities, establish detoxification facilities for youth in Saskatchewan.

#### Recommendation 5.9

5.9.1 This Commission recommends the increased use of video recording equipment by RCMP and municipal police services.

5.9.2 This Commission recommends that an Aboriginal liaison worker or volunteer individual be available for First Nations and Métis people upon their arrival at a police station or detachment office.

#### Recommendation 5.10

This Commission recommends that representatives of the Federation of Saskatchewan Indian Nations, Métis Nation — Saskatchewan, governments of Canada and Saskatchewan work together to develop an independent complaints investigation agency that will meet the needs of First Nations, Métis and non-Aboriginal people with the objective of having such an agency in place by April 1, 2005.

#### Recommendation 5.11

This Commission recommends that the Implementation Commissioner monitor and oversee the establishment of a complaints agency that will reflect and respect the spirit and intent of the existing Special Investigations Unit.

## CHAPTER 6 JUSTICE INSTITUTIONS

#### Recommendation 6.1

This Commission recommends that the Government of Saskatchewan encourage and support the participation of potential First Nations and Métis jurors with the provision of resources for childcare and transportation where necessary.

#### Recommendation 6.2

This Commission recommends that the Cree Court concept expand both geographically and linguistically so that a First Nations or Métis person may attend court proceedings conducted in their own language.

#### Recommendation 6.3

This Commission recommends that all levels of court in Saskatchewan inform First Nations and Métis people appearing in court that they have the right to receive translation services, so that they fully understand the proceedings.

#### Recommendation 6.4

This Commission recommends that the Government of Saskatchewan gather representatives from the Court of Queen's Bench and the Provincial Court, together with at least one Métis and one First Nations northern representative along with representatives from the Government of Canada to explore ways to address a more satisfying and economically affordable solution to bringing family law matters to the North.

#### Recommendation 6.5

This Commission recommends that all courts be fully resourced by the governments of Canada and Saskatchewan to include the critical component of community involvement.

#### Recommendation 6.6

This Commission recommends that the governments of Canada and Saskatchewan, to ensure equitable and fair representation in the courts, appoint First Nations and Métis persons to sit as judges at every level of Court within Saskatchewan.

#### Recommendation 6.7

This Commission recommends that all levels of government encourage and promote Court points in First Nations and Métis communities where suitable facilities can be provided and maintained by these governments; in the alternative, these governments should begin to provide suitable video and audio links between inaccessible First Nations and Métis communities and the courts.

#### Recommendation 6.8

This Commission recommends that all levels of court be encouraged to use community based sentences for all offences (unless specifically prohibited by law) and that every level of government redirect resources to fund community based projects and help to facilitate community participation in sentencing.

#### Recommendation 6.9

This Commission recommends that a Therapeutic Court, preferably mobile, with the capacity to address issues such as alcohol and other addictions, fetal alcohol spectrum disorders, families in crisis and family violence, be immediately established and implemented in Saskatchewan and that new funding be provided specifically by all departments and levels of government, including First Nations and Métis governments, to facilitate an integrated response to the root causes of criminal behaviour.

#### Recommendation 6.10

This Commission recommends that the Government of Saskatchewan continue to work with communities, in collaboration with the Government of Canada and First Nations and Métis Governments, to establish community justice programs which will qualify as Alternative Measures programs under S.717 of the Criminal Code of Canada.

#### Recommendation 6.11

This Commission recommends that:

- 6.11.1 An Aboriginal Liaison person (or other approved community designate) participate in the decision as to whether to refer any alleged criminal behaviour to the community Alternative Measures program.

6.11.2 The Aboriginal Liaison person (or community designate) have the ability to apply to the Implementation Commissioner's Office to review a decision whether to refer alleged criminal behaviour to Alternative Measures. The Implementation Commissioner's Office must have the authority to access all material relating to this decision, to review it, and to advocate for the reversal of the decision where appropriate.

Recommendation 6.12

This Commission recommends that the Government of Canada amend s.717(1)(e) of the Criminal Code of Canada and S. 10.2(e) of the Youth Criminal Justice Act to read as follows:

(e) the person accepts responsibility for their actions or does not contest the act or omission that forms the basis of the offence that the person is alleged to have committed.

Recommendation 6.13

This Commission recommends to the Government of Saskatchewan that all offences, whether Provincial Regulatory offences or Criminal Code of Canada, including spousal assaults and excepting homicide, be eligible for Alternate Measures.

Recommendation 6.14

This Commission recommends that all levels of government work towards the closure of incarceration spaces and divert resources thus saved to community-based alternatives.

Recommendation 6.15

This Commission recommends that adult correctional centres, youth custody facilities, and the Correctional Service of Canada work cooperatively with community justice programs, Probation Services and the offender in the design and implementation of reintegration plans.

Recommendation 6.16

This Commission recommends that:

6.16.1 Where requested by the community, all levels of Government should assist in the establishment and funding of Community Justice Committees.

6.16.2 Members and employees of Community Justice Committees be appropriately remunerated.

Recommendation 6.17

This Commission recommends that a comprehensive list be created, and regularly maintained, of all community based justice services available by the Government of Saskatchewan. This list should be provided to all prosecutors, legal aid lawyers and private defense counsel.

Recommendation 6.18

This Commission recommends that a pre-charge screening process with community involvement be immediately implemented throughout Saskatchewan by the Government of Saskatchewan. As part of pre-charge screening, Crown prosecutors should be instructed specifically to consider whether the matter in question could be referred to a community-based justice initiative as an alternative to Court.

Recommendation 6.19

This Commission recommends that the Saskatchewan Legal Aid Commission create First Nations and Métis articling positions and actively recruit First Nations and Métis lawyers.

Recommendation 6.20

This Commission recommends that the Government of Saskatchewan provide a toll free telephone line where people can get reliable, up-to-date information on family law matters.

Recommendation 6.21

This Commission recommends additional funding be provided to Saskatchewan Legal Aid Commission to hire more lawyers and provide broader legal services.

Recommendation 6.22

This Commission recommends that a public education campaign be designed and implemented by all levels of Government directed at providing accurate information on the benefits of non-custodial alternatives to imprisonment and reintegration into the community.

Recommendation 6.23

This Commission recommends to Correctional Service of Canada, Saskatchewan Justice and Corrections and Public Safety, that access to cultural and spiritual programming, whether traditional or religious, be made more available to First Nations and Métis people who are incarcerated in Saskatchewan.

Recommendation 6.24

This Commission recommends to the governments of Canada and Saskatchewan that more resources be provided to community service providers to develop and operate programs designed that aid offenders with their transition into the community when they are released from prison institutions.

Recommendation 6.25

This Commission recommends to Correctional Service of Canada that, prior to a change in legislation, and given the healing nature of ceremonies, medical leave be granted to detained offenders to attend spiritual ceremonies outside the institution grounds for the purpose of healing if an offender has been involved in cultural programming in the institution, has the support of the Elders and Correctional Service of Canada, will be strictly supervised during the absence and has the support of the National Parole Board.

Recommendation 6.26

This Commission recommends that Pine Grove Correctional Centre continue and expand its work with community agencies to provide programming which addresses the distinct needs of women in prison institutions and that resources be available for them to do so.

Recommendation 6.27

This Commission recommends that consideration be given by the Federation of Saskatchewan Indian Nations and Métis Nation - Saskatchewan to develop and deliver programs dealing with the effect of parental incarceration on children and the corresponding stresses of separation and reunification of families.

Recommendation 6.28

This Commission recommends to Corrections and Public Safety that plans for reintegration into the community be created as soon as youth are admitted to youth facilities.

Recommendation 6.29

This Commission recommends that all levels of government immediately design and implement a funding strategy to fully resource the provisions of the Youth Criminal Justice Act, particularly those provisions that address community supervision of youth.

Recommendation 6.30

This Commission recommends that the Government of Canada appoint additional First Nations and Métis persons as members of the National Parole Board.

Recommendation 6.31

This Commission recommends that an evaluation of probation and community justice services be undertaken to ensure such services are meeting the needs of individuals and communities.

Recommendation 6.32

This Commission recommends that the options of alternative measures, bail, probation and conditional sentences be employed instead of the use of remand and incarceration wherever possible.

#### Recommendation 6.33

This Commission recommends that Bail officers, Probation officers and Conditional Sentence Supervisors be scheduled so that their services are available on a 24-hour basis.

### CHAPTER 7 ELIMINATING RACISM: CREATING HEALTHY RELATIONSHIPS IN SASKATCHEWAN

#### Recommendation 7.1

This Commission endorses the report *Multiculturalism in Saskatchewan: Report to Ministers' Committee on Multiculturalism*. This Commission recommends that the Executive Director of Saskatchewan Culture and Heritage, report in writing to the Implementation Commissioner and shall clearly indicate progress made in carrying through the recommendations put forward in this *Multiculturalism* report.

#### Recommendation 7.2

This Commission recommends that the governments of Canada and Saskatchewan, specifically Indian and Northern Affairs Canada and Saskatchewan Government Relations and Aboriginal Affairs, in consultation with representatives from the Federation of Saskatchewan Indian Nations and Métis Nation — Saskatchewan:

- a) create a directory for Saskatchewan of First Nations and Métis people who are recognized and respected as trainers/facilitators on cultural awareness and the promotion of healthy relationships between the First Nations and Métis cultures and the non-Aboriginal population;
- b) that the directory be made available to organizations, government departments, and members of the justice system wishing to provide culture awareness training to their employees; and,
- c) that the list be reviewed and updated on an annual basis.

#### Recommendation 7.3

This Commission recommends that media outlets in Saskatchewan create an external community editorial board, including First Nations and Métis representatives, to review stories in the media and provide feedback to the producers and editors of stories on the portrayal of First Nations and Métis people.

#### Recommendation 7.4

This Commission recommends that the Department of Culture, Youth and Recreation take a lead role and work with other relevant government departments, agencies, and non-governmental organizations, along with representation from the First Nations and Métis communities, to coordinate and host an anti-racism conference to coincide with March 21, 2005, the annual day on which Saskatchewan supports the Elimination of Racism and the centenary of Saskatchewan. This conference should be offered by videoconference, wherever possible, to ensure northern communities can participate.

#### Recommendation 7.5

This Commission recommends that the Saskatchewan Association of Rural Municipalities and Saskatchewan Urban Municipalities Association, along with representatives from the Government of Saskatchewan, Federation of Saskatchewan Indian Nations, and Métis Nation - Saskatchewan establish a committee to coordinate anti-racism activities in the year 2005.

#### Recommendation 7.6

This Commission recommends that the Government of Saskatchewan design and implement a media campaign which includes the use of public service announcements, as much as possible, September 2005, with the assistance of First Nations and Métis people, to achieve the objectives below:

- provide all citizens of Saskatchewan an opportunity to reflect on the contributions of First Nations and Métis peoples over the last 100 years of this provinces' development;

- establish a broad-based understanding of how to build and maintain constructive and positive relationships among First Nations, Métis and non-Aboriginal people; and
- assist individuals and communities to identify and eliminate inequities and barriers based on racial and cultural differences. This public education strategy must go beyond 2005 and must include an evaluation component.

#### Recommendation 7.7

This Commission recommends that every person, and especially those in leadership positions, make a commitment to eliminate racism where it is present in day-to-day life.

### CHAPTER 8 CHILDREN AND YOUTH: REALIZING POTENTIAL

#### Recommendation 8.1

This Commission recommends that the Government of Saskatchewan initiate a study to determine the reasons for the high number of First Nations and Métis youth remanded to custody followed by a strategy to reduce these numbers by March 31, 2005.

#### Recommendation 8.2

This Commission recommends that the Government of Saskatchewan develop a mental health services plan to prevent and treat mental disorders among children and youth not involved in the youth justice system.

#### Recommendation 8.3

This Commission recommends that the Government of Canada meet its legal, fiscal and historical obligations to the education of First Nations people. This includes ensuring adequate funding for post secondary education and a commitment to engaging First Nations children and youth in achieving educational attainment both on and off-reserve.

#### Recommendation 8.4

This Commission recommends that the partners in the Policy Framework for Saskatchewan's Education System develop and deliver education outside the traditional school system to those not presently attending school between the ages of 6 and 16. This will require identification of these children and youth and subsequently finding creative means of ensuring their right to an education is respected.

#### Recommendation 8.5

This Commission endorses the direction of School Plus but is concerned that without resources and a collaborative approach, School Plus will not succeed. Therefore, it is recommended that the Government of Saskatchewan ensure that School Plus is a priority and fully resourced.

#### Recommendation 8.6

This Commission recommends that all urban municipalities consider the need for transitional or orientation programs for First Nations and Métis youth who move from reserve or rural areas to the urban centres.

#### Recommendation 8.7

This Commission recommends that the Government of Canada consult with First Nations and Métis people to establish indicators of quality of life for 2004 for First Nations and Métis children in Saskatchewan's urban environments and that in 2009, these indicators be re-evaluated by investigating actions and initiatives undertaken to improve the quality of life of these children.

#### Recommendation 8.8

This Commission recommends that by April 1, 2005 the Government of Canada establish a Children's Advocate for Canada's First Nations and Métis children, reporting to Parliament, and accountable to First Nations and Métis people, with legislative authority to monitor and evaluate the impact of Canada's National Action Plan for Children, and be responsible to promote and protect the rights of First Nations and Métis children.

#### Recommendation 8.9

This Commission recommends that the governments of Canada and Saskatchewan, the Federation of Saskatchewan Indian Nations and the Métis Nation - Saskatchewan, in consultation with Saskatchewan's Children's Advocate, collectively review options to ensure that First Nations and Métis children, their families and their communities are afforded services and that advocacy services are provided in an accessible and culturally sensitive manner that respects their full human dignity.

#### Recommendation 8.10

This Commission recommends that all governments transcend jurisdictions in the best interest of our children and our collective futures by creating a Declaration that addresses relationships between jurisdictions and create long- term Saskatchewan First Nations and Métis Children and Youth Action Plan.

#### Recommendation 8.11

This Commission recommends that all governments collaborate to sign a Declaration and create long-term Saskatchewan First Nations and Métis Children and Youth Action Plans that transcend all jurisdictions in the best interests of our children and our collective future.

And that the Declaration be signed addressing the relationships between jurisdictions. The Saskatchewan First Nations and Métis Children and Youth Action Plans must involve First Nations and Métis youth, and all levels of government to create holistic Action Plans that must include social and capital infrastructure projects.

These Action Plans are based on the principles of inclusion of First Nations and Métis children and youth, integrated services, involved communities and future focused.

#### Recommendation 8.12

This Commission recommends that the Implementation Commissioner be vested with the power and authority to monitor the development and implementation of the Saskatchewan First Nations and Métis Children and Youth Action Plans.

(Note: Chapter 9 was eliminated as part of this appendix, as the chapter is dedicated to tables, figures, lists, and statistical data.)

### CHAPTER 10 IMPLEMENTATION

#### Recommendation 10.1

This Commission recommends that the governments of Canada and Saskatchewan, the Federation of Saskatchewan Indian Nations and the Métis Nation — Saskatchewan be required to report to their respective legislatures within six months of the release of this report on what action it has taken relating to the recommendations contained in this report.

#### Recommendation 10.2

This Commission recommends that the governments of Canada and Saskatchewan, the Federation of Saskatchewan Indians and the Métis Nation - Saskatchewan, through discussions at a working group initiated by this Commission, jointly support and establish an Office of the Implementation Commissioner.

#### Recommendation 10.3

This Commission recommends that the Working Group consisting of the governments of Canada and Saskatchewan, the Federation of Saskatchewan Indian Nations and Métis Nation — Saskatchewan continue to meet regularly following the release of this final report. Their objective should be to lead the way in the creation of an Office of the Implementation Commissioner by October 1, 2005.

#### Recommendation 10.4

This Commission recommends that the Implementation Commissioner be an independent officer who has inter-jurisdictional authority and will annually report to the respective Legislative Assemblies through an identified mechanism (a standing committee, a council, regional body or commission).

**Recommendation 10.5**

This Commission recommends that the Implementation Commissioner is appointed, by agreement of the governments of Canada and Saskatchewan, the Federation of Saskatchewan Indian Nations and Métis Nation — Saskatchewan by April 1, 2005.

**Recommendation 10.6**

This Commission recommends that the governments of Canada and Saskatchewan share the cost of establishing and operating this office with the percentage to be negotiated by these two levels of government.

**Recommendation 10.7**

This Commission recommends that in addition to the authority to execute a defined mandate, that adequate resources be provided by the governments of Canada and Saskatchewan, to the Implementation Commissioner to establish an office and a process to receive advice from others to ensure that the work of the Implementation Commissioner remains future focused and accountable to the community.

## **APPENDIX E**

### **RECOMMENDATIONS FROM THE STONECHILD INQUIRY**

1. That the Minister of Justice undertake a thorough review of The Coroner's Act, mindful of suggestions made by Drs. Lew, Matshes, Dowling, and Emson.
2. That the Province of Saskatchewan establish an introductory program for Aboriginal candidates and candidates from minority communities for Municipal Police Services in Saskatchewan. The program could be established at the Saskatchewan Police College and be patterned after that established at the Native Law Centre. The Native Law Centre is an introductory legal studies program offered at the University of Saskatchewan since 1973 to Aboriginal students. The Centre has contributed to a significant increase in the number of Aboriginal professionals in the legal community.
3. That the Minister of Justice establish an advisory board composed of Police Service members charged with recruitment, representatives of the Aboriginal and non- Aboriginal communities and representatives from the private and public sectors who are knowledgeable about employee recruitment. The purpose of the board will be to recommend programs to encourage First Nations persons to enter Municipal Police Service.
4. That the Minister of Justice review and improve procedures established to deal with complaints from members of the public about inappropriate police conduct. Informational pamphlets should be provided in the waiting and interview rooms of all police stations in Saskatchewan explaining the complaint process. The forms should contain a section that can be removed from the pamphlet and used as a complaint form. It should contain directions as to where the form may be sent, either to a particular office in the Police Service, the Board of Police Commissioners, the Saskatchewan Police Commission, or to the Provincial Complaints Investigator charged with dealing with complaints against police.
5. That Municipal Police Services in larger centres should designate an Aboriginal peace officer with the rank of Sergeant, where possible, to act as a liaison person for First Nation persons and as an informal ombudsman to deal with complaints and concerns from Aboriginal persons from minority communities.
6. That each Municipal Police Force provide to the Minister of Justice an annual report as to complaints about police officers in its service and the disposition of the complaints.
7. That municipal peace officers receive in-depth training in race relations. The training should include information about Aboriginal culture, history, societal and family structures. A refresher course should be provided every three years. It is important that course leaders include Aboriginal peace officers, including members of the RCMP.
8. That a review be undertaken of the courses that police candidates take in anger management and dispute resolution. Given the sometimes highly emotional and stressful conditions officers face in their work, it is important that the first responders be specially trained to react professionally and appropriately.

## APPENDIX F

### RECOMMENDATIONS FROM THE IACP 2001 SUMMIT

#### Improving Safety in Indian Country

##### Executive Summary

Concerns about safety and justice are a defining characteristic of life in Indian country, and recent studies highlight the extent of the problem. Findings show, for example, that American Indians experience violent victimization at a rate that is twice the national average.

These problems stand in stark contrast to two important trends, one outside Indian country and one within. Outside Indian country, the 1990s were characterized by decreasing crime and victimization rates. Problems that have been effectively addressed across the rest of the US are not being addressed successfully in tribal communities. Inside Indian country, increased powers of self-governance gained over the last 30 years have brought many Indian tribes substantial economic success, spurred population growth and return migration, and resulted in innovative solutions to a variety of social concerns. At the outset of the 21st century, Indian tribes are, in many respects, stronger than they have been since contact and colonization. Crime and safety issues are a noteworthy exception to these positive trends.

It is both critical and timely for policymakers at all levels of government (tribal, federal, state and local) to respond to Indian country's crime and safety concerns. In responding, however, it is important to remember that the problems are multi-faceted, and that the responses must be multi-faceted as well. Improving safety in the day-to-day lives of the residents of Indian country is the responsibility of a broad range of justice institutions both within and outside of Indian country—not just law enforcement officials. Improving safety necessitates the involvement of social service and public health providers, tribal and non-Indian politicians, federal and state officials, youth workers and the residents of tribal communities, among others.

The International Association of Chiefs of Police (IACP) joined with tribal communities and their justice systems in addressing this challenge through the summit *Improving Safety in Indian Country*. Summit organizers embraced the complexity of the problem and its solutions by including the broadest possible range of participants. Using a well tested format, participants were able, over two days, to produce a comprehensive agenda for improving safety in Indian country. The IACP's facilitation will help ensure that action follows.

The summit recommendations—drafted in breakout groups and then affirmed by all participants—address six issue areas in which change is necessary in order to improve safety in Indian country:

- Jurisdictional Issues in Indian Country
- Resources for Indian Country Law Enforcement, Justice and Program Agencies
- Training and Education for Indian Country Law Enforcement, Justice and Program Agencies
- Coordination and Cooperation among Indian Country Law Enforcement, Justice and Program Agencies
- Response to Victims of Crime in Indian Country
- Prevention Strategies to Reduce Crime

The recommendations are summarized below, and are discussed in more detail in Section IV.

##### *Recommendations on Jurisdictional Issues in Indian Country*

Law enforcement officers working in Indian country operate in a complex jurisdictional environment. All too often, limits on, or overlaps in jurisdictional authority prevent Indian country's justice system from protecting the safety of Indian country residents. Thus, summit participants focused on this objective:

*To identify jurisdictional authority issues that impede the ability of tribal law enforcement, justice and program agencies to provide safety in Indian country, and to recommend short and long term strategies to eliminate these problems, thereby increasing safety in Indian country.*

Summit recommendations are:

1. Policymakers should address the problems generated by *Oliphant v. Suquamish Indian Tribe*, preferably through legislative action that revisits case law.
2. Policymakers should address the problems generated by other limitations on tribal jurisdiction (for example, those contained in Public Law 280, the Indian Civil Rights Act, the Major Crimes Act and various Indian land claims settlement acts).
3. Tribal, federal, state and local law enforcement agencies should pursue cross-jurisdictional cooperation whenever and however it is possible.

Recommendations 4-6 are subsidiary and even more specific:

4. Tribal, federal, state and local agencies should convene regularly scheduled meetings to discuss problems, share information and focus on collaborative cross-jurisdictional solutions.
5. Tribes and states should recognize each other's properly trained officers wherever there is concurrent jurisdiction between a tribe and a state.
6. The federal government and the IACP should encourage tribal and local governments and agencies to develop plans for mutual cooperation.
7. All law enforcement officers working in Indian country should receive specialized training about Indian country.
8. Tribal, federal, state and local governments, as well as professional law enforcement organizations should work to inform the public about the expertise and authority of tribal law enforcement officers.
9. The U.S. Department of Justice and U.S. Department of the Interior should improve their cooperation and coordination between their respective Departments.

#### ***Recommendations on Resources for Indian Country Law Enforcement, Justice and Program Agencies***

Recent studies suggest that tribal law enforcement, tribal detention facilities, tribal justice systems, tribal prosecutors, members of the defense bar and important justice related health and social service providers all operate with limited resources compared to their non-Indian counterparts. Increased monetary resources—and the translation of these resources into manpower, training, facilities, equipment, program development, research and evaluation, and community outreach—are critical to improved safety in Indian country. Summit participants focused on this objective:

*To identify sources and shortfalls in resources to tribal justice systems and to develop resource acquisition strategies for these agencies that will improve safety in Indian country.*

Summit recommendations are:

10. The federal government should immediately and permanently increase the funding it provides for tribal justice systems and the federal agencies that complement their work.

Recommendations 11-16 extend the point:

11. The federal government should strengthen tribal justice systems by providing permanent formula funding to tribal governments for their justice agencies.
12. Congress should maintain and improve the Community Oriented Policing Services (COPS) Tribal Resources Grant Program.
13. Congress should legislate changes in programs so that more programs provide direct funding to tribal governments, (which honors the government-to-government relationship and limits the problems with pass through funding from states).
14. The federal government should increase the flow of existing resources to Indian country by improving information dissemination, consolidating funding and simplifying funding application processes.
15. Congress should require federal agencies to provide maximum flexibility to tribal governments in program administration.
16. The federal government should revisit the proposal to move the funding and oversight of Indian country law enforcement from the U.S. Department of the Interior's Bureau of Indian Affairs to the U.S. Department of Justice.
17. Tribal governments should position themselves to receive greater financial and institutional support from other governments.

Recommendations 18-23 provide further detail:

18. Tribal governments should develop strategic plans for their tribal law enforcement organizations (including mission statements and quantifiable goals and objectives), so that tribal law enforcement is better able to define critical issues and craft appropriate solutions.
19. Tribal governments should develop and utilize evaluation procedures to identify and fix poor programs and to justify support for good programs(those that meet community needs and *work*).
20. Tribal governments should establish and improve data collection systems, and use them to manage tribal justice resources.
21. Tribal governments should become more entrepreneurial in seeking funding for tribal justice systems.
22. Tribal governments should seek out and take advantage of technical assistance programs that facilitate and enhance grant writing.
23. Tribal governments should request that Congress and the U.S. Department of Justice maintain the Office of Tribal Justice.
24. To improve safety in Indian country, tribal governments and the other governments with which they work must collaborate to share resources and information.

Recommendations 25 and 26 extend this point:

25. To avoid overlapping and contradictory policymaking, the federal government should invest in and improve information sharing between federal agencies, and those agencies should document and disseminate information about their programs to tribal law enforcement and justice agencies.
26. To save time and money, all governments should share information about promising approaches to improving safety in Indian country.

***Recommendations on Training and Education for Indian Country Law Enforcement, Justice and Program Agencies***

A majority of Indian country's public safety officers have received high quality baseline training. However, law enforcement personnel and the employees of collaborating agencies have continuing in-service training

needs. As long as these training gaps exist, Indian country's justice personnel are less equipped to respond to their communities' most pressing crime and safety concerns. Summit participants addressed this objective:

*To develop a strategy to respond to the deficiencies in the quality and quantity of education and training available to tribal and non-tribal law enforcement, justice and program agencies, and to develop a set of education and training strategies that will improve safety in Indian country.*

Summit recommendations are:

27. A means must be found to provide easy access to information about the many training programs available to Indian country law enforcement and justice agency personnel.
28. All agencies and organizations involved in training Indian country law enforcement and criminal justice practitioners must help ensure that those who need the training have access to it.
29. Tribes, in partnership with other governments that hire Indian country law enforcement personnel, must adopt policies that help them recruit and train to retain.
30. Tribal law enforcement departments and related justice and program agencies should develop budget policies and procedures that both acknowledge the importance of training and make it easier to secure adequate funding for training.
31. Tribal law enforcement departments and related justice and program agencies should communicate the importance of training to tribal leaders, and tribal leaders should both support and participate in training efforts.
32. The federal government should increase its support for Indian country law enforcement training.

***Recommendations on Coordination and Cooperation Among Indian Country Law Enforcement, Justice and Program Agencies***

By making the application of justice more consistent, coordination and cooperation improve the response of the justice system to a wide variety of safety concerns. For this reason, the summit participants focused on this objective:

*To identify areas where coordination and cooperation among tribal justice agencies among state, county, local and federal agencies which serve Indian Country are lacking and to design collaborative strategies to increase safety in Indian country.*

Summit recommendations are:

33. The federal government and tribal governments should form additional multi-jurisdictional investigative units to work across tribal/state/federal jurisdictional boundaries.
34. Tribal governments, with the support of the IACP, should collaborate with the National Sheriffs Association (NSA) as a means of improving relations between county sheriffs and tribal chiefs of police.
35. The federal government and other non-Indian governments should recognize and support the work of traditional tribal service providers, such as traditional tribal sheriffs.
36. DOJ should host a tribal law enforcement and promising practices summit that focuses on collaboration and cooperation between governments and agencies serving Indian country.
37. Tribal governments and the federal government should support the development of comprehensive tribal justice systems.
38. Tribes, with the assistance of the IACP, should pursue tribe-to-tribe information sharing and department-to-department mentoring.

Recommendations 39 and 40 provide more detail on this point:

39. Tribal governments should seek to improve the technological capacity of their justice systems; ultimately working toward integrated systems for information sharing between tribes; the federal government and other sources of funding should support such efforts.
40. Tribal law enforcement departments should work to standardize their crime reporting systems; compatibility with federal crime reporting systems may be the preferred standard.

### ***Recommendations on the Response to Victims of Crime in Indian Country***

Providing services to victims of crime is a critical means of improving safety in Indian country, since many services help remove victims from harm's way and prevent re-victimization. The high rates of violent crime that typify tribal communities further justify investments in victim services. When individuals are victimized, there is a much higher probability that they will subsequently suffer a harsher form of victimization and, hence, require more extensive support in the wake of the crime. Based on these considerations, the summit participants focused on this objective:

*To identify the nature and extent of crime victimization in Indian country and the specific needs of those victimized, and to recommend strategies to help tribal law enforcement, justice and program agencies meet these needs effectively.*

Summit recommendations are:

41. The US Attorney's Office should enhance its relationships with tribes, work to better understand tribes' needs and be proactive in providing resources to help victims of crime.
42. Federal agencies (including the US Attorney's Office, BIA, FBI, etc.) should support data collection regarding gaps and delays in criminal justice proceedings, in an effort to better understand and remedy the effect of such gaps on victims of crime.
43. Congress should review federal sentencing guidelines to ensure that they reflect contemporary values and sentencing trends in Indian country.
44. The federal government should establish and strengthen follow-up victim assistance programs at all levels of government.
45. The federal government should provide funding for tribes to hire, equip and train first responders.
46. Law enforcement, justice and related program agencies at all levels of government (tribal, state, county, local and federal) should provide their employees with training on victim issues.
47. Tribal leaders should support the work of tribal victim service providers and afford them respect as part of the tribal justice system.
48. Tribes should be encouraged to meet together on a regular basis to coordinate their responses to victims and to share information.

### ***Recommendations on Prevention Strategies to Reduce Crime***

While much of the most visible work of law enforcement and justice providers in Indian country occurs in response to crime, less visible crime prevention efforts may be even more effective at combating and reducing crime in Indian country. This has been the finding in many non-Indian urban areas that once suffered from entrenched crime and violence. Given the great potential of strategic prevention efforts, summit participants addressed this objective:

*To identify types of crimes that are frequent in occurrence and to develop strategies for tribal law enforcement, justice and program agencies to prevent those crimes, and to educate and inform potential victims and to decrease the overall level of victimization in Indian country.*

Summit recommendations are:

49. The federal government and tribal governments should increase their support of prevention programs and create abundant opportunities for intervention in the cycle of crime and violence.
50. To combat racial intolerance and violence, state governments should develop curricula to educate policymakers, non-Indian law enforcement officials and citizens at large about accurate US history, Indian tribes' unique political and legal relationship with the US government and the basics of tribal government, including the Indian country justice system.
51. Tribal governments should determine which crime prevention programs have the greatest potential in their communities and commit to the development and expansion of these programs.
52. Indian families must re-engage in the process of crime prevention.

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