

Snuneymuxw Justice as an Alternative to the Canadian Justice System

by

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B.A., Trent University, 1996

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ABSTRACT

This thesis examines the current problematic relationship between the Canadian criminal justice system and the Snuneymuxw (Coast Salish) community. An historical analysis of the Canadian justice system, attempts to indigenize it and alternative indigenous justice processes were examined to determine their cultural relevance for the Snuneymuxw. The research also consisted of a qualitative analysis of twenty-one interviews with Snuneymuxw community members and Canadian criminal justice system officials along with my perspective as a police officer responsible for policing this community. In effect, this has added a deeper analysis of this issue with the goal of making substantive recommendations on how the Snuneymuxw peoples can establish a community-based and culturally relevant justice process, in accordance with their S'nuw'uy'ulh cultural teachings. Furthermore, this analysis will also recommend the relationship and connection of this process with the criminal justice system. This thesis is intended to guide the researcher, the Snuneymuxw community and potentially other indigenous communities with a process of developing and implementing a culturally relevant and appropriate model of justice for their community.

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The Hereditary Chief was the leader and they had their own laws and justice. And when the white man came here they took them laws out. When you see people go wrong, our people had Elders that would heal that person and the white man way is punishing. They put him in jail. How did they come out? They come out a better criminal when they do come out of jail. And our way's different, we heal people that go wrong.
Snuneymuxw Elder Bill Seward

Chapter One

Criminal Justice System and Indigenous Peoples: Historical Background and Overview of Indigenous Political and State Involvement

The “Goddess of Justice,” is held up as the symbol of Canadian justice, represented by a woman wearing a blindfold and holding a set of scales to represent the justice system’s objectives to remain impartial and judge without prejudice, in fairness and equality to all of Canadians regardless of their age, race, religion or socio-economic status. For indigenous peoples in Canada, the realities are the antithesis of the stated Canadian objectives. Incarceration represents the legal hammer by which punishment and deterrence are enforced. In many ways it also represents the failings of a justice system in terms of its inability to heal and rehabilitate an individual. For indigenous peoples, examining incarceration rates is indicative of the failings and inequities of this system with the disproportionate rates in relation to their overall population size in Canada. According to the website “Prison Justice,” during 2004-2005, indigenous peoples statistically made up 3 per cent of the total Canadian adult population. However, during this same time period, indigenous adults in British Columbia made up a staggering 20 per cent of the overall prison population. Furthermore Howard Sapers, the federal government’s ombudsman for inmates, described the Canadian prison system as

practicing “systemic discrimination” against Aboriginal offenders. He referred to statistics describing how, “the total number of people incarcerated in federal institutions went down by 12 per cent between 1996 and 2004. But the number of native inmates increased 21 per cent in the same period. The figures were even more dramatic for native women, whose numbers rose by a startling 74 per cent” (Toronto Star, October, 17, 2006). While these statistics are alarming, it’s also important to compare and contrast them locally with the Snuneymuxw First Nation. This is the community I focused on for this paper because of my experience working with this community as a police officer, understanding the problems inherent with the criminal justice system and an interest in researching and proposing culturally appropriate alternatives. This thesis intends to go beyond abstract findings to make it relatable to the community by identifying shortcomings with the existing criminal justice system and propose a framework for change which is attainable, but also strengthens and empowers the Snuneymuxw community.

During my experience working with the Snuneymuxw community, the following represents some of the common feelings expressed by youth, adults, Elders, political leaders and heads of families about the current form and function of the criminal justice system:

- It lacks their involvement;
- it’s a foreign system imposed on their people;
- lacks cultural relevance to their community;
- it’s a system whose structure and values directly oppose Snuneymuxw beliefs and practices when correcting behaviour and resolving conflict; and
- the courts punish and jail people where Snuneymuxw values trying to heal the individual.

Furthermore, there are inherent problems from the outset with any attempt to impose some of the terms, values and cultural meanings associated with the Canadian criminal justice system onto Snuneymuxw cultural values. Snuneymuxw Elder Ellen White describes the problems with cultural definition with the term “justice.” It doesn’t easily translate into the Hul’qumi’num language but would relate to “aw nuwu tse’ ni’ thuyt kwthu snuw’uyutls kwthun’ syaas xe’ xe’ tu’ i’ ” which translates as “the responsibility you have in making right decisions and also passing on knowledge from sacred teachings” (Ellen White interview, February 17, 2007). Consequently, the type of cultural healing would have to come from different elders and those members providing the healing would have to be “uy’skwuluwun” which means to have a “good mind and good heart.” In order to effectively provide healing to others, this positive energy is dependant upon their “uy’skwuluwun” and through helping others Elder Ellen White explains, you’re also helping “self” (t’sats’awuth).

These observations of the justice system expressed by Snuneymuxw members and the problems with cultural definition along with my own personal journey of cultural reconnection, have led to my interest in how the Snuneymuxw can develop their own justice or healing process which reflects their cultural values and teachings. This would result in a justice and healing process which is more culturally appropriate from the alternative offered by the Canadian criminal justice system. It will be a process which is inclusive, culturally meaningful and reflects Snuneymuxw values of harmony, healing and balance. It would also serve as a viable option and alternative in contrast with the adversarial and linear approach of the Canadian criminal justice system. Case studies,

state-sponsored initiatives and literature relevant to this research will be analyzed along with an examination of current alternative indigenous justice systems. This will serve the purpose of learning from and possibly adopting some of the principles of these models in the development of a Snuneymuxw process.

Interviews with twenty-one Snuneymuxw community members and individuals employed and representing different roles within the Canadian criminal justice system, will form the basis of this research and assist in providing direction on the role and relationship the Canadian judicial system should have with a Snuneymuxw justice process. Substantive recommendations will be proposed to develop a Snuneymuxw justice process and also examine ways to address three main problem areas currently affecting the community: Drug and alcohol abuse, domestic violence, and the incarceration of Snuneymuxw people.

Background Factors

The Nanaimo Correctional Centre (NCC) is a provincially-administered correctional facility for adult men located within the city of Nanaimo and on the traditional territory of the Snuneymuxw First Nation peoples. While this research wasn't able to obtain statistical data on the percentage or total numbers of Snuneymuxw people who have been incarcerated at this centre, Snuneymuxw members both past and present are sentenced to this centre or spend a portion of their time here. This is due to the fact that while this centre is limited to offenders sentenced to terms of two years less a day, it doesn't preclude inmates sentenced to longer terms from being transferred to this facility

once their remaining time meets this criterion.

Figure 1: Percentages of Indigenous Prisoners Sentenced to Nanaimo Correctional Centre (NCC) 2006

		Arrivals	Percent of Indigenous People Incarcerated
Age	18-19	21	1.9%
	20-24	54	5.1%
	25-29	37	3.5%
	30-34	47	4.4%
	35-39	24	2.3%
	40-44	19	1.8%
	45-49	12	1.1%
	50-54	8	0.8%
	55-59	1	0.1%
	60 +	2	0.2%
	Total	225	21.2%
		Mean Age = 30.6 Median Age = 29	(British Columbia Adult Indigenous Incarceration Rates for 2004-5=20%)

A review of “Figure 1,” reveals a small difference when comparing NCC with national and provincial incarceration rates for Aboriginal peoples. Examining these statistics for the calendar year 2006, reveals 225 inmates out of a total of 1,059 were Aboriginal for a percentage of 21.2% which is slightly higher than the provincial average. The average age for an Aboriginal person incarcerated at NCC is 30.6 years of age with the highest numbers allotted within the 20-24 and 30-34 age groups. While NCC wasn’t able to provide information on the Aboriginal descent of incarcerated males, these local

statistics are on par with the provincial and national averages. What this means for the Snuneymuxw community, is how the publicized national and provincial incarceration rates for indigenous people directly relate to what's happening here locally. This in effect, should resonate with the Snuneymuxw community into action and wanting change because of the effects incarceration is having on their people. It's these overall alarming figures, which have led to a growing indigenous and non-indigenous public condemnation and disdain over the Canadian criminal justice system and its incarceration of indigenous people. Furthermore, it's the Canadian justice system's obsession with incarceration and a one-size fits all approach to justice which is destroying communities, including the Snuneymuxw. As Snuneymuxw Elder Bill Seward's statement illustrates in the beginning of this chapter, the irreparable damage and division affects not only the individual incarcerated, but their family and the overall Snuneymuxw community as well.

The Snuneymuxw First Nation are a Coast Salish peoples whose language is Hul'qumi'num, however there currently exists only a small number of Elders who fluently speak their language. There are nine prominent families which comprise the Snuneymuxw community consisting of the Manson, Wyse, Good, Seward, White, Wesley, Brown, Johnny and Thomas families. The Snuneymuxw have lived on the eastern shores of south-central Vancouver Island for more than 5,000 years once occupying a wide region of south-central Vancouver Island, however the community is currently separated and divided into four numbered and geographically separate reserves located in and around the city of Nanaimo, British Columbia. Snuneymuxw reserve number one is where the band office and other small business are located which includes

a confectionary and arts store and has a population of approximately 250. Snuneymuxw reserves number two, three and four are located south of Nanaimo near the township of Cedar with populations of 20, 35 and 160 respectively. It's on reserve number four where the Snuneymuxw Bighouse is located. This is a cultural place of healing for community members and other invited indigenous people to attend and take part in S'nuw'uy'ulh cultural teachings and ceremonies. The Bighouse season commences each year in early winter and is normally completed by the spring.

The relationship of the Snuneymuxw with the Canadian criminal justice system is presently strained, problematic and disconnected. In a sense, separated much like that of their four reserves from one another and in their relationship with the Canadian criminal justice system. Snuneymuxw Elder Bill Seward's sentiments accurately captures and reflects this discontent and distrusting relationship many members of his community have with the Canadian criminal justice system. A system which illustrates the divergence of thoughts, beliefs, values and practices between Snuneymuxw peoples and those originating from a European-based system.

Self-location in this Research

It would be important at this point, to describe my personal background and the influence it has on this research. I am Anishinaabeg whose community is the Curve Lake First Nation located near Buckhorn, Ontario. My grandmother's children which included my father, were taken out of the community by social services from an early age and scattered separately into different non-indigenous families throughout Ontario with my

father ending up in Lindsay, Ontario located approximately sixty kilometers from Curve Lake. As a result, the connection with Curve Lake or any indigenous cultural teachings during my father's upbringing was lost and transferred to myself until my formative years. It was during this time, I became interested in learning about my heritage and identity which led to my reconnecting with my indigenous family, community and culture. It's a process which continues to this day. This process of reaffirming my connection to culture has led to my interest in this research, and a core belief that there has to be a better way in dealing with crime and punishment for the Snuneymuxw people. As mentioned, I see myself as an Anishinaabeg person acknowledging my own thoughts and perceptions in relation to "Waa-zhi-gimaakedaadizod bemaadizid." This describes how to lead oneself in life which encompasses all things in everyday life in accordance with the medicine wheel teachings of the connection between the spiritual, physical, mental and emotional state. And while my personal background has an influence on this research, my professional experience as a police officer also plays a role. My "blue lense" bias, molded and framed by my training and experiences as a police officer and interactions with the public, needs to be acknowledged. It's an influence and identity not easily lost during my interactions with Snuneymuxw members who have only in the last couple of years, started seeing myself more as a person first before the uniform. And likewise, I've had to look at the individual first before labeling and associating them with any previous police contact and experiences both good and bad, which may have included incidences of arrest and conflict.

I have worked from July 2001 up until the present date as a First Nations

Community Policing Service (FNCPS) member for the Royal Canadian Mounted Police (RCMP) Nanaimo detachment, assigned to work with the Snuneymuxw First Nation community. The FNCPS program was introduced in 1991 by the federal government in order to provide First Nations with better access to police services. Under this policy, "... the federal, provincial/ territorial governments and the communities, work together to negotiate a community tripartite agreement for police services that meet the particular needs of each community" (RCMP website). The overall goal of the program is to provide, "... compatibility and sensitivity to First Nations culture and beliefs; (and) flexibility to accommodate local variations in policing needs" (RCMP website). My role also includes a liaison status between Snuneymuxw and Nanaimo RCMP detachment leadership.

During my time working with the Snuneymuxw community, I recognize my role as a police constable is to enforce and maintain public (in this case Snuneymuxw) compliance with Canada's codified laws. But I have also sought to explore alternative resolutions to disputes and problems which have been limited in scope to date, and is the impetus for this research. Important, because of my feelings how there must be a better way, an indigenous way in seeking more meaningful alternatives to resolving conflict. While there currently exists court-sanctioned alternatives with the "Restorative Justice Program" administered by the Nanaimo John Howard Society, it's offered with little to no input from indigenous peoples and their communities. What I'm seeking is a meaningful and culturally appropriate alternative, which is created and implemented by the Snuneymuxw community.

Prior to my experience with the Snuneymuxw, I worked for four years as an RCMP constable for the community of Old Massett in Haida Gwaii performing much of the same responsibilities and duties. It was during my early service to this community where I was impacted by an incident which led to my interest in seeking alternative indigenous justice processes. I arrested an individual one night for being heavily intoxicated by alcohol in a public place and in accordance with our standard practice, placed this young Haida man into the Massett RCMP Detachment cells where he would be released in the morning when he was sober. After he was placed in cells, this young man began to sing very loudly and with much pride in his voice, what I later found out from him to be a traditional Haida song. This incident struck me how under these circumstances this young man was arrested, his freedom taken away and while incarcerated by the foreign (ie. non-Haida) criminal justice system, he still very proudly displayed through song, the strength in his Haida identity and culture. In a sense, it was his song which kept him free during his time in jail. By the morning he was sober and released from cells without any follow-up process for healing what may have caused his excessive drinking that night. Reflecting upon this experience, I became interested in how to develop a healing process more culturally appropriate than what was afforded this young man that night. The Haida community of Old Massett concurred because just prior to my departure from Haida Gwaii, they were in the initial stages of developing an “Alternative Justice Committee” based on the principles of restorative justice. This is a process that will be described in chapter two.

Research Scope and Possible Limitations

The aim of this research is to analyze the current problematic relationship between the Snuneymuxw community and the criminal justice system, and examine how a Snuneymuxw community-based and culturally relevant justice process can be developed in accordance with their S'nuw'uy'ulh cultural teachings. This analysis will consist of researching information relevant to this topic as well as an empirical analysis of twenty-one interviews with both Snuneymuxw community members and individuals employed and representing different roles within the Canadian criminal justice system. The intent of this research is to re-evaluate the process of justice and examine how it can be shifted to become more culturally relevant for the Snuneymuxw community.

Possible limitations include how the intent of this research is to examine procedural aspects of justice as they pertain to the creation of a Snuneymuxw justice/healing process rather than the natural laws and principles that undergird Snuneymuxw notions of justice. Taking this into account, it is the intent of this research for this proposed model to be inclusive and fluid enough to adapt to such natural laws and principles. Another limitation with this research is how Snuneymuxw women are impacted and affected differently by the criminal justice system. The female human experience as victims, witnesses and perpetrators of violence are all roles diversely impacted during their interactions with the various agents and among the different stages of the criminal justice system (ie police, courts, jails). This experience would also extend to include the impact on women from within their own community, amongst other Snuneymuxw members. While the Native Women's Association of Canada was

researched to provide information in this area, interviews with Snuneymuxw women discussed procedural recommendations in creating a justice process rather than covering how they're impacted by the criminal justice system. This would have been beneficial in discussing issues relevant for a matriarchal society such as the Snuneymuxw community. This limitation is also evident in not receiving more input from Snuneymuxw members residing off-reserve. While one off-reserve Snuneymuxw member participated in an interview, further research with this group would have had the advantage of gaining their insights and perspectives on how they may be impacted differently from both the criminal justice system and from the Snuneymuxw community. And lastly, a further limitation dealt with problems inherent with politicizing culture, politics within the community and finding the right people to become involved in this project. Politicizing culture for personal and/or familial gain is a limitation that was apparent while conducting this research. I've witnessed this occur during past Snuneymuxw council member nominations and elections, when families utilize culture and jockey for positions and votes in getting certain band members elected. Therefore, finding the right people to become involved with implementing the recommendations of this research is essential, who are there for the right reasons and not participating for political or monetary gain.

Historical Analysis and a Review of Literature

Linda Robyn from the Ojibwa Nation and associate professor in the Department of Criminal Justice at Northern Arizona University, along with Thom Alcoze from the Cherokee Nation and associate professor of Forestry at Northern Arizona University, describe the following connection between the environment and criminal justice issues

for indigenous peoples: "... before government intrusion, native life, culture, environment, relationship to the land, and justice systems (i.e., peacemaking) functioned as a whole to the social structure and enhanced survival in their environment" (Ross and Gould, 2006: 68). Consequently, when colonialism and Western methods of justice were imposed, disequilibrium occurred and resulted in, "... changes in spiritual, environmental, and other subsystems that reverberate negatively backward through the whole of indigenous culture. When an entire culture and way of life is taken away from a group of people and is replaced with a new system, everything collapses" (Ross and Gould, 2006: 68). It's this disequilibrium and collapse brought about through the imposition of Western justice, which provides an historical and generational basis for why justice currently isn't working for indigenous peoples. This also supports arguments for why indigenous peoples can not just simply conform, adapt and assimilate to the Canadian justice system.

Alvin Hamilton, a retired Associate Chief Justice from the Manitoba Court of Queen's Bench and co-chair of the Aboriginal Justice Inquiry Commission, describes how Indigenous peoples were not always represented in the courts or jails in such large numbers. "Prior to the Second World War, the percentage of Aboriginal people in the courts was no greater than their percentage of the population. The same applies to the numbers in jail" (Hamilton, 2001: 193). Since the Second World War, he describes how the numbers have dramatically increased, largely attributed to the following: "... a major factor, at least as far as reserve residents are concerned, has been the interference of others with their daily lives. The manner of resolving inappropriate conduct changed

from the quiet influence of the community and the family, to the imposition of a rigid charge-prosecute-incarcerate approach” (Hamilton, 2001: 193).

The imposition of Western justice over an indigenous communities inherent right to resolve conflict and restore peace in accordance with their own cultural laws and codes, underpins many of the current problems facing indigenous peoples and the justice system. Furthermore, examining the imposition and implementation of Western justice requires an analysis in the context of current international, state and indigenous political, legal and colonial responses. This will assist in determining their appropriateness, application and relevance for the Snuneymuxw in the creation of their own justice process.

United Nations Draft Declaration on the Rights of Indigenous Peoples

In June 2006, Canada was one of two countries that voted against the adoption of the United Nations’ Declaration on the Rights of Indigenous Peoples, which had been considered for ratification since 1994. According to Indian and Northern Affairs Canada, “The Declaration could be interpreted as being inconsistent with the Canadian Constitution Act of 1982, the Canadian Charter of Rights and Freedoms, ... the Declaration regarding rights to lands, territories and resources could be interpreted so as to support the extension of rights to Aboriginal peoples that are not currently recognized under the Constitution Act” (Indian and Northern Affairs Canada website). Furthermore Jim Prentice, the Minister of Indian Affairs and Northern Development, made the following reference to the Declaration during an address to the Assembly of First Nations

Special Chiefs Assembly in Ottawa on December 7, 2006.

I believe that we must agree to disagree about the United Nations Draft Declaration on the Rights of Indigenous Peoples. As the Assembly of First Nations members know, the Government of Canada is not in favour of the Draft Declaration in its current form. Ratifying the declaration, in my view, would have serious and unintended repercussions in this country, including repercussions for First Nations. As one of the few nations in the world with constitutionally entrenched Aboriginal rights, Canada takes the precise wording of the Draft Declaration very seriously. This is why we have not been able to support the text in its current draft

(Indian and Northern Affairs Canada website).

Article 33 of this 45-article declaration specifically deals with conceptions of indigenous justice: “Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive juridical customs, traditions, procedures and practices, in accordance with internationally recognized human rights standards” (Mander and Tauli-Corpuz, 2005: 216). While the United Nations Human Rights Council voted to adopt the Declaration on June 29, 2006, many African countries chose to challenge the ratification of the Declaration when it reached the UN General Assembly. “Africa had taken the lead in blocking the adoption of the Declaration – a strategy supported and encouraged by New Zealand, Canada, Australia and the United States, ... the motion – passed by the Third Committee on 28 November (2006) by a vote of 82 to 67 – called for the decision to be deferred until the end of the Assembly’s current session in September 2007” (United Nations website). This motion to delay a vote until further consultations are held, serves to weaken and undermine the importance of this Declaration and is the direct result of unfounded concerns it could jeopardize the rights and interests of other sectors of society. While this Declaration wouldn’t have been

legally binding to states, it would have provided a major statement asserting indigenous rights to strengthen their own institutions, cultures and traditions. In particular, the “juridical customs, traditions, procedures and practices” is of practical relevance in supporting a Snuneymuxw community-based creation of a justice process. Sadly, Canada’s position on the Declaration demonstrates a lack of commitment to indigenous rights and justice and negates progress made between Canada and indigenous peoples during the consultative process. Furthermore, Canada’s position also exposes to indigenous peoples their framework and guiding principles which culminate into policies and procedures that reflect this lack of respect for indigenous rights and justice.

Canadian Government’s Response to the Justice System and Indigenous Peoples

A review of the roundtable discussions held on justice issues of the Royal Commission on Aboriginal Peoples (RCAP), the Report of the National Round Table on Aboriginal Justice Issues and Correctional Services of Canada singles out the Canadian justice system as failing the Aboriginal peoples of Canada. And while RCAP (1993/1996) points out differing European Canadian versus Aboriginal peoples world views and conceptions of justice as causes for its failure with indigenous peoples, other writings point out discrimination against indigenous peoples as the causes (Proulx, 2003, Monture-Angus, 1995). And while major reforms to the justice system (RCAP, 1996) are listed as recommendations, there remains little to no substantive direction on how to implement these changes. The stipulation being that this process involve a consensual reform between governments and Aboriginal communities through further discussion (Chartrand, 2001, RCAP 1993/1996). A consensual reform which strengthens the

paternalistic state control of justice for indigenous communities in order to achieve “advantages” of stability, consistency, compatibility and resource support (RCAP, 1993: 280). This research on the other hand, will seek to initiative a community-based dialogue on creating an indigenous justice process specific to the Snuneymuxw community.

The Department of Indian and Northern Affairs Canada (DIAND) was created by the federal government in 1966 as a federal department responsible to fulfill its constitutional, political, legal and treaty responsibilities to “Indians and Inuit.” The department also administers Indian reserve lands and elections of councils, Indian status entitlement registry and administers funds to First Nation communities. With respect to justice, it’s objective states: “... while DIAND does not have direct responsibility for justice issues, it plays an advisory role, participating in committees and working groups to develop strategies to address First Nations’ justice-related needs, DIAND does not fund justice programs” (DIAND website). Its advisory role is to “strengthen the linkages” between federal and indigenous political organizations, in particular with the Department of Justice’s Aboriginal Justice Strategy. This advisory role offers more of a symbolic gesture of assistance and does little if anything for developing a Snuneymuxw justice process.

Department of Justice Canada (DOJ)

The Department of Justice Canada highlights “The Aboriginal Justice Strategy” (AJS), as a group of community-based justice programs which are cost-shared with provincial and territorial governments, along with self-government negotiations in the

administration of justice. The objectives of AJS are:

- To support Aboriginal communities as they take greater responsibility for the administration of justice;
- to help reduce crime and incarceration rates in the communities that administer justice programs; and
- to improve Canada's justice system to make it more responsive to the justice needs and aspirations of Aboriginal people (DOJ website).

Aboriginal Justice Strategy contribution funding is allocated toward and managed by First Nations and Tribal Councils, community groups, urban Aboriginal coalitions and non-profit organizations. However, it's limited to four types of alternative justice at the community and regional level: "Diversion or alternative measures," "Community sentencing circles and peacemaking," "Mediation and arbitration in family and civil cases," and "Court/community Justice Program" (DOJ website). As an "Aboriginal Community," the Snuneymuxw would be eligible for funding of a justice process through DOJ's "Justice Partnership and Innovation Fund." The following outlines the objectives of this fund and serve as a criterion whereby one of them has to be adopted by the Aboriginal community prior to applying for funding.

- To increase the capacity of departmental partners to develop innovative solutions to emerging justice related issues;
- to develop a more informed and engaged public and legal community with regards to the law and the legal system;
- to contribute to policy development in the Department as it serves a changing society (DOJ website).

While the department's focus is to, "ensure justice for Canada's Aboriginal people," it offers financial support in the form of grants and contributions with stipulations being: "... to individuals and organizations working to improve the justice system and to

produce and distribute material on Canadian law, ... they provide financial support to well-planned, results-orientated projects designed to improve the justice system” (DOJ website). How will a “well-planned, results-orientated” justice program be assessed when funding support is dependant upon meeting this criteria? And what if a Snuneymuxw justice process were to focus on proactive, pre-charge and pre-trial measures aimed at resolving root problems? How would they be measured with the “results-orientated” criteria for funding? The type of projects highlighted by the Department of Justice for funding include short-term demonstration or pilot projects, workshops, consultations, conferences, training sessions, and the development and dissemination of public legal information. The criteria requirements and past projects funded by the “Justice Partnership and Innovation Fund” clearly illustrates a lack of “partnership and innovation” in developing long-term and sustainable alternative indigenous justice processes, which can effectively deal with root causes of problems and disputes. It appears this funding serves more to inform and conform indigenous peoples and their communities to the Canadian criminal justice system rather than to seek meaningful changes or alternatives. Furthermore, the recent budget announcement by the Department of Finance Canada signals the federal government’s commitment to this strategy. “Budget 2007 dedicates \$14.5 million over the next two years, ... will expand the strategy in order to significantly increase the number of Aboriginal communities and people that have access to community justice programs (Department of Finance Canada website). It’ll be interesting to determine if the allocation of this new money remains confined to the stipulations and limitations contained within the current strategy, or whether it can be expanded to support the development of a truly alternative indigenous

community justice process.

Correctional Services of Canada (CSC)

The Correctional Services of Canada promotes their “Aboriginal Initiatives Directorate” as their response to address the over-representation of indigenous peoples in Canada. A partnership model is emphasized throughout their policies, creating partnerships and working with other branches, departments and Aboriginal communities to identify Aboriginal-specific programs for both correctional facilities and in the community. These programs also examine strategies and programs for reintegrating released Aboriginal offenders back into their community. Section 81 and 84 of the “Corrections and Conditional Release Act” states:

Section 81

- 1) The Minister, or a person authorized by the Minister, may enter into an agreement with an aboriginal community for the provision of correctional services to aboriginal offenders and for payment by the Minister, or by a person authorized by the Minister, in respect of the provision of those services;
- In accordance with any agreement entered into under subsection (1), the Commissioner may transfer an offender to the care and custody of an aboriginal community, with the consent of the offender and of the aboriginal community

Section 84

- where an inmate who is applying for parole has expressed an interest in being released to an Aboriginal community, the Service shall, if the inmate consents, give the Aboriginal community:
- adequate notice of the inmate’s parole application; and
- b) an opportunity to propose a plan for the inmate’s release to, and integration into, the Aboriginal community (CSC website).

Section 81 permits the early release of indigenous offenders back into their community and for indigenous communities to gain care and custody of indigenous prisoners. Section 84 permits with the inmates consent, adequate notice and a plan for an Aboriginal community to prepare for their reintegration. Both of these sections are highlighted by CSC as being utilized more consistently. Furthermore, CSC describes how it will be, "... providing financial assistance and expertise to strengthen an Aboriginal community's capacity, ... to develop correctional strategies and programs for reintegrating Aboriginal offenders to the community (building healing lodges, home placements etc)" (CSC website). The funding support in the form of release plans, would have to be requested by the Snuneymuxw community by submitting a proposal to CSC outlining community involvement, nature of community support and funding requirements. Examples of funding support highlighted by CSC include: "Transportation expenses for community resource people (community staff, Chief, councilors, Elders) traveling to federal institutions to works with offenders and Parole Officers on the correctional/ release plan; (and) preparations in the community, such as reintegration circles, for the eventual release date" (CSC website).

While the provisions of Sections 81 and 84 of the Corrections and Conditions Release Act mark an opportunity for the Snuneymuxw to create a culturally meaningful process for reintegrating their community members in "partnership" with CSC, during my experience working with the Snuneymuxw community, I have never witnessed these policies in action. This is due to the fact that support and capacity building for the application of both sections haven't been actively promoted or discussed by CSC with the

Snuneymuxw community. While these policies look good on paper to help address the over incarceration of indigenous peoples, the failure to apply these sections displays a lack of determination and commitment to implement these policies and initiatives.

Critically examining state governmental policies intended to address this issue reveals strategies and partnership models lacking any mechanism or commitment to follow through and bridge the gap between policy and implementation. This analysis will be contrasted with national and provincial indigenous political organizations to determine the level of importance, support and assistance they afford this issue.

Indigenous Political Response to the Canadian Justice System

The Assembly of First Nations (AFN) describes itself as the national organization representing First Nations citizens in Canada and is recognized by the Government of Canada as the political body which represents and speaks for the collective rights and interests of indigenous peoples. The AFN describes its responsibility in the administration of justice for indigenous peoples as follows:

The AFN continues to monitor inquiries and investigations into allegations of misconduct in the justice system and violations of human rights. The AFN also continues to gather information on existing justice-related activities, programs and best practices to assist with the development of strategies and options for addressing the overrepresentation of First Nations peoples in the criminal justice system, as well as dealing with other justice issues, ... The AFN continues to work with Correctional Services Canada (CSC) to develop a national strategy and action plan to reduce the rate of incarceration and recidivism among First Nations peoples, ... discussions with CSC to finalize the report and action plan are ongoing

(AFN website).

The AFN's position of monitoring and gathering information to learn "best practices" through ongoing consultations provides no clear path, direction or timeline to address this issue. It clearly illustrates this issue not being a priority for this national Aboriginal political organization, and does little if anything to provide substantive direction and assistance for the Snuneymuxw community in dealing with issues of justice and developing their own process.

The AFN recently completed a "Report Card" on the ten year anniversary of the Royal Commission on Aboriginal Peoples (RCAP) in particular, with the federal government's response in 1998 with their strategy titled: "Gathering Strength: Canada's Aboriginal Action Plan." A strategy whose mandate is to provide: "... a long-term broad-based policy approach designed to increase the quality of life of Aboriginal people and to promote self-sufficiency" (Indian and Northern Affairs Canada website). The AFN pointed out the Canadian Government's own admission of its response to RCAP's recommendations to be "limited in scope to a narrow range of recommendations." Furthermore, AFN highlighted the following under Canada's "Failure to Act:"

- No network of healing centre and lodges under First Nations Control
- A lack of political will and commitment has not enabled Gathering Strength to be sustained or effectively implemented across the Government of Canada
- Gathering Strength is targeted to important issues, but funds are inadequate. These issues include family violence, whole health intervention and support, ... (AFN website).

While highlighting the failures of RCAP through a Report Card brings attention to this issue, it would be more effective for the AFN to balance this criticism

with the promotion of their own proposed “AFN Action Plan” to counter “Canada’s Action Plan.” This could include a justice plan which serves as a template, identifying key initiatives and recommendations along with creative strategies and solutions for indigenous peoples and their communities to consider and work towards implementing.

The British Columbia Assembly of First Nations (BCAFN) is a regional administrative branch of the Assembly of First Nations (AFN) and is a “Political Territorial Organization (PTO) that represents the 203 First Nations in British Columbia” (BCAFN website). The mandate of the currently elected Regional Chief Shawn Atleo, (Ahousaht First Nation), is to ensure regional perspectives have influence and are factored into national political discussions and decision-making. Similarly, Atleo’s stated vision is to seek “strong strategic participation” of British Columbia First Nations, the “lobbying of Federal and Provincial governments” for positive change and continued emphasis and support for “ensuring the voices of our communities are heard and respected.” While the BCAFN may be utilized to provide symbolic support and an avenue by which to lobby this issue on a national stage, it more importantly lacks relevance for a Snuneymuxw community seeking substantive direction and assistance in the development of their own justice process.

The Union of British Columbia Indian Chiefs (UBCIC) is an organization of “information sharing” and “support,” whose priorities are concentrated on defending and protecting Aboriginal Title. Incorporated in 1971, the UBCIC’s goal, “... (is) to support the work of our people, whether at the community, national or international level, in our

common fight for the recognition of our aboriginal rights and respect of our culture and societies” (UBCIC website). However, expanding the concept of Aboriginal Title beyond rights of possession over land to include rights of possession over justice, is an avenue this organization should explore. However, for a Snuneymuxw community seeking direction on justice, we once again witness little substantive recommendations and assistance with respect to this issue.

The Native Women’s Association of Canada (NWAC) was incorporated as a non-profit organization in 1974 and is a collection of thirteen Native women’s organizations from across Canada. The goal of NWAC, “(is) to enhance, promote, and foster the social, economic, cultural and political well-being of First Nations and Metis women within First Nation, Metis and Canadian societies” (NWAC website). An issue paper by NWAC titled: “Aboriginal Women and the Legal Justice System in Canada,” is relevant to this research and provides guidance on alternative practices to the Canadian court system. This article gives a good background discussion of the over representation of Aboriginal women in the criminal justice system both as offenders and as victims of crimes. A lack of appropriate facilities near their home communities, have resulted in incarcerated Aboriginal women being faced with long-term geographic separation from their children, families and communities. While Section 81 and 84 of the Corrections and Conditional Release Act are discussed as possible alternatives to incarceration for Aboriginal women and their communities, it isn’t being utilized and implemented. According to NWAC, “... currently there are no Aboriginal women under section 84 and section 81 community release” (NWAC website). This article addresses attempts to

transform the Canadian criminal justice system from within by informing indigenous people about the Canadian justice system and their rights through training sessions both at the community level and a proposed high school curriculum. And while training is also discussed for court system workers to address attitudinal and systemic barriers for those who come in contact with the law and those working within the criminal justice system, there is little discussion on how to achieve these goals.

This article touches on expanding “Restorative Justice” to build upon indigenous healing principles and provides examples of “Alternative Practices” with the “Tsuu T’ina Nation Peacemaking” and the “Gladue (Aboriginal Persons) Court” which are discussed in more detail in chapter two. However, the concluding recommendations of this issue paper provides real direction and guidance for the Snuneymuxw to consider in positioning justice to be more culturally and politically relevant for their community and the criminal justice system. These recommendations are as follows:

- National Aboriginal Organizations (NAO) must play a primary role when it comes to the discussion of Aboriginal peoples in the justice system;
- Alternative practices such as restorative justice need to be brought into the justice system and used on a regular basis;
- Police officers, judges and lawyers must learn about the legislative and policy related history that impacted only Aboriginal peoples in Canada, especially Aboriginal women and the key factors which lead Aboriginal women into the justice system;

- Developing programming, in consultation with Aboriginal communities, Elders and NAO's that meets the specific needs of Aboriginal women is essential.

Snuneymuxw Community Justice Program

The Snuneymuxw community instituted a "Community Justice Program" committee when I started working with the community as a police officer in July 2001. This committee was originally known as the "RCMP Ad-hoc Committee" to reflect the direction and leadership of this committee by the RCMP. The initial meeting at the Snuneymuxw Band office brought together a few council members where we discussed interest in reviving the committee. However over the years, we sporadically met and a complete overhaul in committee members occurred due to changes both in band office personnel and in elected council members. The committee recently changed its name to the "Snuneymuxw Community Justice Program" which more accurately reflects their desire to make it more community-based. While the mission statement of this program is: "to enhance the cultural beliefs of the Snuneymuxw Community while bringing about peaceful solutions and meaningful consequences to unlawful activity within the Snuneymuxw Community," very little substantive recommendations have been reached on how to meet these objectives. Part of the reason for this is due to the fact it's a band office employee driven process, with very little input and engagement by community members. Not surprisingly, current criticism of the Snuneymuxw Community Justice Program has been a lack of communication and input from the community and more talk than action with respect to achieving objectives and goals. The recent development of the "Community Helpers Crisis Response Team" administered by the Snuneymuxw

health department, represents a possible solution to this impasse.

Snuneymuxw Community Helpers Crisis Response Team

On June 2nd 2006, the Snuneymuxw health department with the financial support from the Provincial Government's Ministry of Public Safety and Solicitor General through the UBCM Community Response Grants Program in connection with the Vancouver Island Health Authority (VIHA), developed a "Snuneymuxw Community Helpers Crisis Response Team." This team was formed in response to community concerns over suicide attempts and other crisis situations. This team started out with twenty-two trained community members from each of the four reserves and from community members living off reserve. They're a first responders' team to high risk, crisis situations involving band members living on and off reserve. All team members carry an ID card identifying them as a Snuneymuxw First Nation Community Crisis Response Team Volunteer. They range in age from sixteen years of age to Elders who work closely with health professionals and agencies to prevent, intervene and follow-up on crisis situations. Members of the team carry a cell phone and are committed to being on the team for a one year period and are required to be available a few times a month, primarily on evenings and weekends. Training for team members consisted of: Applied Suicide Intervention Skills Training, Crisis Intervention Model, Community Resources and Partners, Protocols and Simulations, Self Care and Boundaries and Team Operations. Team members also meet and train regularly to update their skills and discuss concerns.

Team members have been asked to sign a volunteer agreement which specifies confidentiality protocols and outlines their commitment to the team. Team members receive a \$25 monthly honorarium to help cover their costs provided they sign up for a minimum of three to four shifts per month. This honorarium has been built into the budget for the next two years through funding promised by VIHA. This program has been slow in raising awareness and acceptance within the community and from being utilized by Snuneymuxw members which can be expected with any new program, however it's also due to a number of other factors. Concerns expressed by community members include the reluctance in "airing out a family's dirty laundry" by exposing sensitive, private and sometimes embarrassing family information with members of a crisis response team whom are related. This has resulted in the added concern over people being judgmental, pointing a finger and not keeping matters private and confidential. This could be addressed in part by developing a stronger relationship and referral link with outside (non-community) health professionals (ie. addictions, counseling services) as an option for community members. The method of holding Crisis Response Team meetings and updates with Snuneymuxw Chief and Council and the Snuneymuxw Health Department, has resulted in a lack of outreach and involvement by the community. While this initiative serves a purpose of healing, what's lacking is the required community input and buy-in to take ownership in the creation and development of this process. It was more of the Snuneymuxw health department obtaining funding first and developing a program second, rather than this process initially being community developed and driven. Nonetheless, it's a process which could still take root within the

community and provides a template for a Snuneymuxw justice system to learn from in the development of their own process.

Conclusion

The purpose of researching the United Nations along with national, provincial, and regional indigenous and state governmental/ political organizations in relation to indigenous justice processes serves two purposes. First, it illustrates the lack of support which was mainly symbolic, these organizations can provide to the Snuneymuxw community in the creation and development of their own justice process. It also demonstrates the political and colonial context in which the Canadian justice system operates. Second, this analysis may influence the initial steps taken by the Snuneymuxw when developing their own justice process. Due to the lack of any real substantive external support, the best course of action may be for the Snuneymuxw community to focus internally from within their community when creating and implementing a justice process, before looking externally or outside the community for help.

The lack of importance and priority afforded this issue may help explain in part why this issue is currently less of a priority for the Snuneymuxw community in comparison with issues of treaty, land claims and economic development. However, all of these issues I argue can't be compartmentalized and separated from these other higher priority issues. Rather, these issues are interrelated holistically with justice being influenced by and having an influence upon these other issues. Therefore, taking into account these overlapping interests may attribute a better understanding of justice and also make it more relevant and relatable to the Snuneymuxw community. I've witnessed first hand as a police officer the effects both positive and negative incidents can have on families, their relatives and the greater community. But I've also witnessed the capacity

for change by Snuneymuxw members and a willingness I hope to come together, discuss justice and other problems affecting their community and turn negative situations into experiences which can bring individuals and families closer together. Justice will take time to develop and connect from within the community, to where it can begin to get away from its negative connotations and become an opportunity and capacity for change.

While this chapter provided more of a macro analysis of state and political efforts to accommodate and make the criminal justice system more relevant for indigenous peoples, the next chapter will provide a micro analysis of attempts to “indigenize” the criminal justice system for the Snuneymuxw community.

Healing is an Aboriginal justice principle which is slowly being merged into Canadian criminal law through the practice of circle sentencing and community-based diversion programs, ... The Supreme Court of Canada has stated that the excessive imprisonment of Aboriginal people is only the tip of the iceberg insofar as the estrangement of the Aboriginal people from Canadian justice is concerned. According to the Supreme Court, a sentencing court ought to consider other sentencing options, even if a term of incarceration would normally be appropriate.

Law Commission of Canada
(Colas, et al, 2003: 32)

Chapter Two

Analysis of Current Initiatives to Indigenize the Canadian Criminal Justice System

Ted Palys (1993), a Criminology professor at Simon Fraser University, provides a systematic description of the “insider versus outsider approach” to justice for indigenous peoples to explore. Beginning with the current justice system and attempts to indigenize it, toward a “hybrid” justice system where indigenous peoples have greater influence and control (i.e. sentencing circles) however the consent and final-decision making authority remains with Crown lawyers and judges. And lastly, with a system of justice described as a “Tribal Council,” which handles all cases involving indigenous peoples without the blessing or intervention of the Canadian government. The “Tribal Council” process relates to DeLoria Jr. and Lytle (1983) description of a “Traditional Indian Court System.” This is a system where religious and warrior leaders, elders and chiefs play an important role in mediation and making decisions to the satisfaction of everyone. The overall objective is to reach restitution and compensation rather than retribution. Participant decision making and problem solving are often times sought by

the leader mediating this court system. This relates to “Modern Tribal Courts” as described by Eileen Luna-Firebaugh, who is a Choctaw and Cherokee attorney and associate professor of American Indian Law and Policy at the University of Arizona.

Most tribal judges are Indians and members of their tribes. Many are not attorneys but instead are trained by the National American Indian Courts Judges Association or the National Indian Justice Centre. Tribal courts are often more informal than state or federal courts. While justice is the prime focus, tribal courts often also serve as forums for arbitration and conciliation. In this sense, many modern tribal courts have retained the essence of traditional tribal courts. In these courts the emphasis continues to be on reestablishing social harmony, not on punishment
(Luna-Firebaugh, 2007: 29).

A brief description of alternative indigenous justice approaches provides a good background analysis of different justice models for the Snuneymuxw to take into consideration when creating a community-based justice process and the relationship if any, it should have with the Canadian criminal justice system.

Gladue Decision

The Gladue decision is an important court case to discuss and is relevant to this research because it clarifies the duty of sentencing judges to consider background and systemic factors when sentencing Aboriginal offenders and to also consider sentencing alternatives. This case occurred in Nanaimo, British Columbia involving Jamie Gladue who is a Cree indigenous woman. Jamie Gladue fatally stabbed her common-law husband after accusing him of infidelity during her nineteenth birthday party, for which she pled guilty to manslaughter and received three years imprisonment. This case was appealed to the Supreme Court of Canada (SCC) in 1999 and while the court upheld the

sentence, it focused on the application of the sentencing provision found under section 718.2(e) of the Criminal Code. This section describes how a sentencing judge has to take into account the following: “All available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders” (Martins, 2006: 1342). The Supreme Court took exception with the sentencing judge whose decision limited the application and consideration of section 718.2(e) of the Canadian Criminal Code. “There were no special circumstances arising from the aboriginal status of the accused and the victim that he should take into consideration. Both were living in an urban area off-reserve and not within the aboriginal community as such” (SCC website).

The Supreme Court of Canada found section 718.2(e) applies to all aboriginal persons wherever they reside, whether on or off-reserve, in a large city or a rural area. Furthermore, the principles and application of section 718.2(e) of the Criminal Code were clarified by the Supreme Court concerning how a sentencing judge must consider the following when sentencing an Aboriginal offender.

... the unique systemic or background factors which may have played a part in bringing the particular aboriginal offender before the courts; and the types of sentencing procedures and sanctions which may be appropriate in the circumstances for the offender because of his or her particular aboriginal heritage or connection (SCC website).

According to the Supreme Court of Canada, it’s now “incumbent” upon the sentencing judge to acquire information concerning the circumstances of the offender as an Aboriginal person, taking into account systemic and background factors and to explore

“reasonable alternatives” to incarceration. This case-specific information should come from counsel in the form of a pre-sentence report which takes into account the systemic and background factors and the appropriate sentencing procedures and sanctions. Report and sentencing recommendations are to be completed in consultation with representatives of an Aboriginal community. In this case, the Supreme Court defines an Aboriginal community as:

... broadly so as to include any network of support and interaction that might be available, including in an urban centre. At the same time, the residence of the aboriginal offender in an urban centre that lacks any network of support does not relieve the sentencing judge of the obligation to try and find an alternative to imprisonment (SCC website).

With sentencing alternatives, a sentencing judge is to take into consideration: “if an aboriginal community has a program or tradition of alternative sanctions, and support and supervision are available to the offenders, it may be easier to find and impose an alternative sentence” (SCC website). Currently, there are no Snuneymuxw alternative programs or sanctions for a judge to consider, thereby limiting the application of this section. Given this situation, the Supreme Court offers the following advice: “The absence of alternative sentencing programs specific to an aboriginal community does not eliminate the ability of a sentencing judge to impose a sanction that takes into account principles of restorative justice and the needs of the parties involved (SCC website). But what if the restorative justice sanction conflicts with an indigenous person’s cultural values and traditions? Does the judge still impose this sanction thereby superseding the needs of the court ahead of those of the individual?”

The result of this decision presents a short-term, band-aid solution of attempting to accommodate indigenous peoples within the justice system. While sentencing recommendations can come from representatives of an Aboriginal community, the final sentencing decision remains with the judge. And if this judge has little or no knowledge of indigenous peoples and their communities and makes a sentencing decision “in their best interests,” such a decision is hypocritical. An analysis of the application of this decision will be discussed next.

Gladue (Aboriginal Persons) Court - Toronto

Jonathan Rudin, Program Director for the Aboriginal Legal Services of Toronto (ALST) describes the existence of three Gladue (Aboriginal Persons) Courts in Toronto. It takes place two days each week in the Old City Hall Courts in Toronto, and hears all matters including bail hearings, bail variations, remands, trials and sentencing. The urban Toronto Aboriginal population serves as its “community” which is available to status, non-status, Metis and Inuit peoples for any criminal court matter in the Toronto, Hamilton and Brantford area. The establishment of Gladue Courts is Toronto’s response to the Supreme Court’s decision in “R. v. Gladue” and also the Criminal Code’s sentencing provisions under section 218.2(e) which was discussed earlier. Features of the Gladue court include how all persons assigned (ie. Judges, Crown Prosecutor, Defence Counsel, Duty Counsel and Probation) with the assistance of ALST Gladue Caseworkers, have an understanding of the range of Aboriginal-specific programs and services available to them within the city of Toronto. ALST has three staff specifically assigned as Gladue Caseworkers, who assist in identifying Aboriginal people who want to be

identified. Furthermore, "... (they) write reports at the request of defence counsel, the Crown Attorney or the judge on the life circumstances of an Aboriginal offender. The reports also contain recommendations that the court can consider in sentencing in light of the circumstances of the offender" (ALST website). The intention of this section is to direct judges to look at alternatives to jail, taking into consideration the offender's life experiences. While this process makes inroads in trying to connect offenders with Aboriginal specific programs and services, it's still left up to the discretion of the judge who has the final decision making authority and is acting within the colonial structure of the Canadian justice system.

Relating the practical application of the Gladue decision in Toronto to the Snuneymuxw community, it represents an opportunity for the Snuneymuxw community to begin implementing a process of providing "Aboriginal specific programs and services" to the Nanaimo courts for a sentencing judge to consider. And building upon the Gladue sentencing provisions, this can open up space for the Snuneymuxw to create and implement their own justice process. Given the current absence of a Snuneymuxw sentencing alternative and the requirement of a sentencing judge to "impose a sanction that takes into account principles of restorative justice," the next step would be to examine the origins and application of the Nanaimo Restorative Justice program and its relevance for the Snuneymuxw community.

Restorative Justice

Restorative justice refers to a process for resolving crime and conflicts that focuses on redressing the harm to victims, while holding offenders accountable for their actions and engaging the community in a conflict resolution process. It's a consensus-based and participatory process which has three distinct restorative justice models: victim offender conferences, family group conferences, and circle approaches. All of these models include a victim and offender and are led by facilitators who help guide but don't impose resolutions to this process.

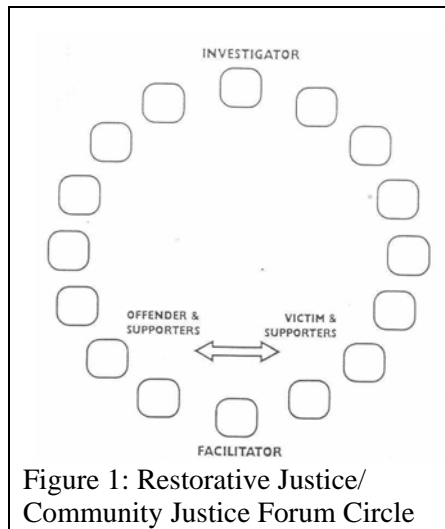
Victim offender conferences (VOC) outline how victims and offenders work to develop common solutions: "Upon referral, victims and offenders are worked with individually. Then, upon their agreement to proceed, they are brought together in a meeting or conference. The meeting is put together and led by a trained facilitator who guides the process in a balanced manner" (Zehr, 2002: 47). Family group conferences (FGC) include the victim and offender and are also inclusive of their family and support members. Because the aim of this process is for the offender to take responsibility and make amends, community members affected may also form part of this circle. "This model, that has received considerable attention in North America was initially developed by police in Australia, based in part on ideas from New Zealand. Often this approach has used a standardized, scripted model of facilitation. Facilitators may be authority figures such as specially trained police officers" (Zehr, 2002: 47-8). And lastly, circle approaches or "peacemaking circles" emerged as a culturally-appropriate process for indigenous communities in Canada. This process is structured in a circle led by a

facilitator or “circle keeper,” with a “talking piece” passed around with only the person holding it permitted to talk at the time. Often times, Elders are vital to this process in offering guidance and cultural insight. With community involvement, “discussions within the circle are often more wide-ranging than in other restorative justice models. Participants may address situations in the community that are giving rise to the offense, the support needs of victims and offenders, the obligations that the community might have, community norms, or other related community issues” (Zehr, 2002: 51).

Furthermore, Borrows et al (2005) recommends restorative justice processes examine the following: “Micro level cause of the conduct (anger, violence, addictions). The processes must (also) address the macro issues that underlie criminal activity” (Borrows, et al, 2005: 144). This would result in a shift from “criminal justice” to “social justice” which would result in healthier and stronger communities. With “Aboriginal Dispute Resolution” being the forum for this shift, Borrows, et al (2005) describes how this process could support community challenges on three levels: the cultural level, the structural level and the colonizing level.

On the cultural level, they could address the loss of knowledge of traditional cultures and practices especially among youth. On the structural level, issues to be addressed include: high unemployment, inadequate housing, ill health, systemic violence, racism and discrimination, ... Restorative justice could assist Aboriginal communities in becoming more socially, politically and economically viable. Social, political and economic strength is important to resisting colonialism and overcoming subjugation (Borrows, et al, 2005: 145).

Restorative Justice Program for the Snuneymuxw



In 1997, the RCMP nationally adopted the restorative justice model from Australia's "Transformative Justice" which is based on the Maori model of restoring harmony and balance to a community. "Figure 1" outlines a standard model of how this approach brings together in a circle all people touched by crime, including police, Elders as

well as family members and friends of the victim and offender. During the forum, this process looks at repairing the harm done by the incident and restoring and reintegrating the offender and their family back into the community. It also gives a chance for all participants to discuss how they've been impacted by an incident and work towards a consensus resolution in the matter.

Currently, restorative justice also referred by the RCMP as a "Community Justice Forum," is the only community-based approach the RCMP has utilized for indigenous communities with no further developments or alternatives being discussed at this time. In Nanaimo, the John Howard Society is the only organization responsible for administering this program. The John Howard Society is a national organization whose mandate is to prevent crime, reduce recidivism rates, and assist offenders in their transition back into the community upon their release from prison. They provide public education programs, institutional services through pre-release counseling and community re-entry education

skills training, drug and alcohol education, pre-application for income assistance and the restorative justice program. It was on June 1, 1998, when the John Howard Society entered into a partnership agreement with the Nanaimo RCMP to run the restorative justice program. They accept referrals directly from the Nanaimo RCMP and Crown Counsel, rather than having offenders go through the court system. The referrals are for mainly minor offences such as assault, shoplifting, residential and business break and enters and mischief offences are some examples. This program is a priority between the Nanaimo RCMP and John Howard Society, and remains the lone alternative for a judge to consider when sentencing Snuneymuxw peoples. While the restorative justice program has attempted to include Snuneymuxw offender participation and Snuneymuxw members to be trained as facilitators, it hasn't had much success for a number of factors. Many Snuneymuxw community members describe the John Howard Society Restorative Justice Program as an "outsider" process. This is due largely from the fact it doesn't work closely and have an ongoing relationship with the families, and isn't knowledgeable about family dynamics and history which may have contributed to the conflict at hand. As a police officer, I've also personally witnessed instances where the John Howard Society has accepted assault and theft cases from off-reserve Snuneymuxw band members, without involving the required family leaders and elders. It's been left up to the offender and victim to determine which support people will attend the meeting, without ensuring the appropriate people are present to address issues of family dynamics and history as well as the implications and affects of the conflict. Furthermore, while the offender signs a compliance agreement, there's no follow-up meeting or plan in place to continue to monitor the progress and health of both the offender and victim.

While the restorative justice model does relate to Snuneymuxw cultural practices of bringing people together to discuss a dispute, the scripted model and structured process is seen by many as being too rigid. Furthermore, this process occurs at the John Howard Society in Nanaimo with limited opportunities for it to take place in the Snuneymuxw community. As a result, many Snuneymuxw members want to create their own process in accordance with their S'nuw'uy'ulh cultural teachings. This process could receive guidance from the principles and foundations of restorative justice, but explored deeper with input from the Snuneymuxw community and other indigenous communities to learn from and potentially adopt aspects of their models.

Restorative Justice Processes in other Indigenous Communities

Hollow Water Community Holistic Circle Healing (CHCH) – Manitoba

Rupert Ross's (1996) description of the "Community Holistic Circle Healing" program located at the Hollow Water First Nations near Lake Winnipeg, Manitoba provides an example of restorative justice being modified to suit the community. According to Borrows, et al (2005), "Hollow Water accomplished this by working with the police, crown and judge, to set up a system of having a charge laid against an offender who took responsibility for his sexual abuse, offenders were given a choice of going through the mainstream criminal justice system or entering a guilty plea and being placed on probation, a condition of which would be entering the Hollow Water Community Holistic Healing Process" (Borrows, et al, 2005: 166). From there, this program works with the criminal justice system in implementing a sentencing circle

process as a step in the healing process for the offender. A sentencing circle which brings together Elders and community members to collectively decide how to resolve an incident. As a result, it gives greater community control and flexibility in restoring harmony and taking responsibility for harmful events caused in their community. This program has evolved to the point where community members report incidences directly to members of the “Community Holistic Healing Program” rather than to the western judicial system. From a cost-benefit analysis conducted by the Native Counselling Services of Alberta, it found the following results:

Over the course of ten years, CHCH received about \$3 million in funding from the federal and Manitoba governments, ... if the program did not exist, it is estimated that the cost to government for providing the services to the victim and the offenders would be between \$6.2 million and \$15.9 million, ... for each dollar Manitoba spends on CHCH, it would otherwise have to spend \$3.00 for policing, court, institutional, probation and victims’ services
(Colas, et al, 2003: 17).

The Hollow Water’s “Community Holistic Circle Healing Program” provides a good example of the principles of restorative justice being utilized and modified to better suit the community. And from a cost-benefit analysis, these statistics could be used to support funding requests by the Snuneymuxw community in the creation of their own justice process.

Tsuu T’ina Court and Peacemaking Initiative - Alberta

The Tsuu T’ina Nation has a population of 1,800 Dene located adjacent to Calgary, Alberta. In 1996, the Tsuu T’ina Chief and Council proposed to the federal government, the creation of an Aboriginal and Peacemaking Court to be created within

their community. In October 2000, a Provincial Court was established and is solely responsible for reserve criminal offenses and youth matters utilizing traditional peacemaking methods alongside the normal provincial court process. “The judge, prosecutor, court clerks, court worker, and the probation officer are all of Aboriginal descent. In addition, the court conducted a community consultation process to identify respected individuals for training and selection as peacemakers” (RJ Online website). The court meets twice a month at the Tsuu T’ina chief and council chambers opening with a traditional smudge ceremony. Afterwards, crown counsel and the peacemaking coordinator review all cases before the court to determine which ones can be resolved through peacemaking rather than the normal court process. Much like the principles of restorative justice, the offender must take responsibility for their actions and the victim must agree to participate before the case is referred for peacemaking. All adult and youth offences are included except homicide and sexual assault. The process of peacemaking justice is as follows:

Cases selected for peacemaking are adjourned and the peacemaking coordinator assigns a peacemaker seen as fair to all sides. Peacemaking is done through a circle process involving the victim and offender, family members of each, and helpers or resource personnel (e.g., alcohol addictions counselors). Elders are also included in each circle to ensure that peacemaking is conducted properly. In the circle, each person speaks without interruption. Each round in the process has a purpose. This process can last from two hours to two days
(RJ Online website).

This process involving different rounds, deals with different aspects of the incident. The first round is a background discussion to talk about what happened, and the second round provides an opportunity for each person to talk about how they were

affected by the incident. In the third round, each person discusses what should be done and in the final round, everyone provides feedback and recommendations on proposed resolutions. The judge is normally not present during this peacemaking process. The objective in accordance with Tsuu T'ina tradition, is to resolve conflict and create a healing of relationships within the community. At the conclusion of this process, the offender signs an agreement which may include restitution, an apology, counseling, sessions with an Elder, or whatever the group may decide is necessary. But unlike restorative justice and community justice forums which would be completed at this stage, the peacemaking circle meets again after the offender has completed the terms of their agreement, in a ceremonial setting to celebrate the offender for completing their task(s). This meeting signifies a recognition to both the offender and to the community how this matter has been dealt with to everyone's satisfaction, and a healing and restoration of relationships affected by the situation can now take place. Once the final peacemaking circle is completed, the case is returned to court with the Peacemaking Coordinator reporting on what has been completed by the offender. The Crown prosecutor then evaluates the agreement and if they determine it to be sufficient, the charges are dropped. If not, the peacemaking agreement is considered by the court during sentencing. And if the offender doesn't fulfill the conditions of this agreement, the case returns to court "without prejudice" to the offender. As a result, from the perspective of offender, victim and community healing, this peacemaking process remains a success and plays a big part in the final resolution of this case.

Hollow Water's "Community Holistic Circle Healing Program," and the Tsuu T'ina Court and Peacemaking Initiative represent examples of peacemaking processes built on the foundation and principles of restorative justice but were modified to better suit their communities' cultural ways of resolving disputes. It's a viable process for the Snuneymuxw to consider and to further relate this research, current restorative justice programs within indigenous communities in British Columbia, will be examined to determine their cultural relevance and application to the Snuneymuxw community.

First Nations Restorative Justice Programs – British Columbia

A review of the Department of Justice Canada's website, found nineteen community-based justice programs in British Columbia serving indigenous communities. They are highlighted as part of the justice department's overall "Aboriginal Justice Strategy." The title of each of these programs and the indigenous community or location of each program is listed below:

- Esketemc Alternative Measures Program: Esketemc First Nation at Alkali Lake
- Gitxsan Unlocking Aboriginal Justice Program: Gitxsan Treaty Office
- Haida Gwaii Restorative Justice Program: Haida Tribal Society
- Lower Post First Nation Community Justice Program: Daylu Dena Council
- Nicola Valley Aboriginal Community Justice Program: Nicola Valley Family Justice Services
- Nisga'a Yuuhlamk'askw Justice Program: Nisga'a Tribal Council
- Nuxalk Restorative Justice Program: Nuxalk First Nation
- Prince George Urban Aboriginal Justice Society: Prince George Urban Aboriginal Justice
- Prince Rupert Urban Aboriginal Justice Program: Tsimshian Tribal Council
- Qwi:qwelstom – Sto:lo Nation Justice Program
- Secwepemc Community Justice Program: Whispering Pines/Clinton Indian Band
- Ska'ls – Beliefs in Justice Program: Victoria Native Friendship Centre
- Sliammon Justice Program: Sliammon Tla/Amin Community Health Board Soc.

- St'at'imc Restorative Justice Program: St'at'imc Restorative Justice Project Corp.
- Stikine Aboriginal Justice Program: Tahltan Health and Social Services Authority
- Tl'azt'en "Healing Circle" Justice Program: Tl'azt'en Nation
- Tsilhqot'in Community Justice Program: Punky Lake Wilderness Camp Society
- Vancouver Aboriginal Transformative Justice Services: Native Courtworker and Counselling Association of British Columbia
- Wet'suwet'en Unlocking Aboriginal Justice Program: Wet'suwet'en Treaty Office (Department of Justice website).

A review of each of these justice programs found similar processes of dispute resolution in accordance with the models and principles of restorative justice. Community justice forums, family group conferencing, circle sentencing, mediation, victim/offender reconciliation, healing circles, restitution, educational programs, elders/leadership interventions, counseling and treatment are examples of the similar processes being utilized. The urban and reserve-based programs differentiated slightly based on population base, community attachments and number of communities each justice program served. While these programs differed in some aspects in the administration of their programs, their overall objective was aimed at youth and adults in providing a holistic, community-based and culturally-appropriate process for healing individuals and families in conflict, and to reduce crime and violence in the community. Referrals to these programs came primarily from Crown counsel, the RCMP, community members or community social service agencies and primarily dealt with pre and post-charge diversions as well as sentencing recommendations. The cases relied on an acceptance by either a Justice Committee (eg. Haida Gwaii Restorative Justice Program), "Board of Directors" (eg. Nicola Valley Aboriginal Community Justice Program), Circle Group or a "House system" (eg. Gitksan). The composition of these committees had representation from different bands as well as community service and justice organizations (ie. RCMP,

Crown, Victims' Services, Ministry for Children and Family Services, Probation Services, etc). A requirement with these programs was a willingness from both the offender and the victim to participate. These committees decided on dispositions or diversion agreements for offenders. Some of these agreements included apologies, restitution, community service, cultural education, referrals to specific community services, various feasts, Elder visits, researching genealogy as well as curfews, mandatory school attendance and relationship-building with family and siblings.

The purpose in researching these programs was to determine if any of them were culturally-relevant and adaptable to the Snuneymuxw community in the development of their own process. This is based on the premise indigenous justice and healing cultural practices can be transferable to some degree to other indigenous communities. This is a view held by Snuneymuxw members who trace their historical and genealogical roots to other indigenous communities and have already brought into their community alternative cultural practices. In this review of justice programs, three programs should be considered by the Snuneymuxw based on their cultural similarities and other relevant aspects which will be discussed: the Qwi:qwelstom-Sto:lo Nation Justice Program, the Sliammon (Tla'Amin) Justice Program and the Ska'ls, Beliefs in Justice Program.

The Qwi:qwelstom-Sto:lo Nation Justice Program serving the Coast Salish Sto:lo Nation near Chilliwack, British Columbia is a program the Snuneymuxw should consider for a number of reasons. First of all, due to cultural similarities "Qwi:qwelstom" is the Halq-emeylem word (similar to Snuneymuxw's Hul'qumi'num) which best describes

justice according to the Sto:lo worldview. It focuses on relationships and the interconnectedness of all living things. Harmony and balance are the goals of this program and the encouragement to do things in a good way by being kind, respectful and humble, as well as a willingness to share and care are some of the guiding principles of Sto:lo values and laws. Central to Qwi:qwelstom is the healing of individuals, families, and communities which translates into a healthy and strong nation. According to Justice Coordinator Joanne Jefferson, “Qwi:qwelstom which began in 1999, means living in harmony and bringing you to a better place. We have a three person team responsible for attending court to advocate for their people and to promote our program” (telephone interview, March 16, 2007). This program takes Crown counsel referrals for alternative measures and also receives direct referrals from community members who attend their office.

Although the program is based on the restorative justice model, they’ve made it more community-orientated. Elders provide an historical understanding and background of the families and relate how to apply traditional and cultural ways to issues which help guide this process through “Circle Work.” But before they get to the circle work, they have an intake meeting with the individual to see where this person is at, where they’re headed and if the circle work is right for them. From there, Qwi:qwelstom arranges the circle and elders with one stipulation being not to provide the elders with any facts or details about the case until they attend. This is done to ensure they attend the circle with an open mind. Everyone within the circle is treated equally and a commitment is made to keep details and information confidential from anyone outside the circle. An “Elders

Advisory Board” helps guide Qwi:qwelstom and also helps promote this program to the community. A community corrections liaison person assists Qwi:qwelstom with probation orders and also helps locate and monitor Sto:lo Nation people and in offering their assistance. According to coordinator Joanne Jefferson, funding for this program comes from the Department of Justice: Aboriginal Justice Strategy, Corrections Canada, Ministry for Children and Families, Federal Government (Youth Initiatives) and through the Law Foundation. Jefferson’s recommendations for setting up a Snuneymuxw justice program include speaking with the community to gain their advice and input. She also recommends implementing an Elder’s Advisory Board to research and learn from Elders traditional and cultural ways to resolve problems and issues, and how it can be applied today.

The Sliammon (Tla’Amin) First Nation located near Powell River, British Columbia has a “Sliammon Justice Program.” This community has many relatives and close family attachments with the Snuneymuxw. The justice program is managed by the non-profit “Sliammon Tla’Amin Community Health Board Society” with about eighteen programs administered by this society which include: “Men’s Support Program, Family Support Worker, Family Violence Worker, Youth Counselor, Addictions Program and Registered Therapist, ... the purpose of the program is to enhance and increase awareness of community justice” (Department of Justice website). According to Sliammon Justice Program Coordinator Mario Paul, the program has been in place since 1990 and its success is attributed to the integration of contributing agencies (ie, provincial and federal Crown counsel, RCMP, Ministry for Children and Families, Probation).

With the structure of this process, “its basic principles are from the restorative justice model but customized to fit the community where often times the individual is brought forward to face the community and it’s dealt with by the community. It is shame-based but we focus on reintegrating the individual” (Mario Paul telephone interview, March 28, 2007). For funding, Paul described how they first had to submit a five year proposal to start the program and now apply each year for funding with certain stipulations from the federal and provincial Department of Justice, Corrections Canada and Ministry for Children and Families. “The general caveat being that you have to prove you’re utilizing the restorative justice model, to show this is our goal or close to it” (telephone interview, March 28, 2007). This program is culturally relevant to the Snuneymuxw community and provides guidance on how to adopt and transform this funding-dependant restorative justice model. The Sliammon Justice program can also provide assistance on how to create a non-profit Snuneymuxw Justice/ Health Board Society and how to integrate programs and contributing agencies into their justice program.

The “Ska’ls Beliefs in Justice Program” located in Victoria, British Columbia, is a restorative justice program based on the principles of the Supreme Court of Canada ruling in “R. v. Gladue.” This was the case discussed earlier in this chapter which requires a sentencing judge to consider background and systemic factors when sentencing Aboriginal offenders, taking into consideration sentencing alternatives. The Ska’ls Beliefs in Justice Program is focused on: “ ... the development and implementation of a community owned and driven restorative justice program based on Aboriginal culture.

The program takes referrals for youth and adult diversion, alternative measures and sentencing advice” (Department of Justice website). According to Ska’ls Justice Coordinator Shirley Lang (telephone interview, March 28, 2007), they operate out of the Victoria Native Friendship Centre and have only started taking clients within the past three months. The structure of the program is based on the restorative justice model and they receive “referrals from anywhere.” Once the referrals are received, they set up an interview to discuss a healing plan. From there, they work with local elders to discuss this plan to try and meet the individual client’s needs. For funding, this program relies on applying each year to the Department of Justice (Aboriginal Justice Strategy) which Lang advises are “totally open” to the structure of their program and they also apply to the provincial justice institute which requires an alternative measures model.

With Gladue reports, Lang was given the primary responsibility for preparing these cultural reports in Victoria during pre-sentencing. However one problem she identified was in the responsibility and weight given to who prepares these reports. “What’s happening now is our judges are going by my reports and not probation officers (Gladue) reports. This has created a stir with the Justice Institute who are now training probation officers who are mainly non-Aboriginal people, to write these reports when they should be coming from community Aboriginal people” (Shirley Lang telephone interview, March 28, 2007). If the Justice Institute is now training its probation officers to complete Gladue reports, it’ll be incumbent for the Snuneymuxw community to contact probation services in Nanaimo to ensure these reports aren’t being completed for Snuneymuxw members on their behalf, without their required input and direction.

A review of indigenous community-based restorative justice programs provides guidance in the form of models and processes for the Snuneymuxw to consider on their path toward establishing their own justice system. Some of these models are culturally-relevant for the Snuneymuxw and by learning from the successes and failures of other processes, would greatly assist the Snuneymuxw community in the formation of their own process but warrants further research and analysis.

Conclusion

An examination of attempts to indigenize the Canadian criminal justice system with the Gladue decision and community-based restorative justice models reveals state initiatives which can provide input and guidance for the Snuneymuxw. However, these proposed initiatives have done little to connect with the Snuneymuxw people due to a lack of Snuneymuxw input in creating and implementing these processes. Furthermore, Tsalagi scholar Andrea Smith adds, "... simply adding restorative justice to the present criminal justice system is likely to further strengthen the criminal justice apparatus, particular in communities of color that are deemed in need of "restoration," ... (an) emphasis on criminal justice reforms diverts our attention from grassroots political-organizing strategies which do have the potential to address root causes of violence" (Smith, 2005: 160). Similarly, Patricia Monture-Angus, a Mohawk lawyer and professor of Native Studies at the University of Saskatchewan, describes these efforts to include indigenous perspectives in the criminal justice system as "nominal accommodations" with "indigenization" being only a partial solution. With justice, Monture-Angus describes how, "existing law is not the solution. Tradition is the solution. Recovering our distinct ways of being is the solution" (Monture-Angus, 1995: 257). This potential solution taking into account researching Snuneymuxw knowledge, values and teachings relating to justice, hasn't been fully explored. But the potential limits and extent to which Snuneymuxw cultural knowledge (S'nuw'uy'ulh) will be shared with an outside researcher is daunting and remains to be seen. The information gained from interviewing Snuneymuxw community members and officials representing different roles within the criminal justice system, forms the basis of the next chapter.

I'd like to see our system come back. For the sake of our children, that has to come back. And we'll be proud again like our ancestors, we helped one another, they respected one another. Our culture, our laws were still here when I was a kid and we were happy people. We have to work together. Same as our justice. The whole community's got to work together before it'll ever work

Snuneymuxw Elder Bill Seward

Chapter Three

The Canadian Criminal Justice System: Snuneymuxw and Criminal Justice Perspectives

In researching the creation of a Snuneymuxw justice process, interviews were conducted to provide a more grounded analysis to build upon the historical and contemporary study of alternative indigenous justice processes discussed in the first two chapters. This could also conceivably prove to be beneficial in relating many of the findings of this research to the Snuneymuxw community through the identification of common themes and concepts. Eighteen people were chosen to be interviewed with input and recommendations from both Snuneymuxw and Canadian criminal justice system officials. An additional three people were interviewed to research their roles and perspectives on alternative indigenous justice processes which was discussed in the previous chapter.

In the absence of a formal protocol for conducting research in the Snuneymuxw community, I was advised by the Snuneymuxw Band Administrator to meet with and discuss this research with Geraldine Manson who is the Snuneymuxw cultural advisor

and person responsible for the Elders' group. After meeting and discussing this research, it was accepted by Geraldine Manson who assisted in introducing it to the Elders' group, Snuneymuxw Chief and Council and the Snuneymuxw Justice Committee which was required prior to recruiting participants. Geraldine Manson also provided guidance on whom to contact for this research in accordance with their knowledge and experience related to justice. It was also suggested in accordance with Snuneymuxw custom, to offer an honorarium in the form of approximately \$10 in an envelope as a way to thank each Snuneymuxw participant for sharing their knowledge and time. When recruiting both Snuneymuxw and Canadian criminal justice system participants, I personally contacted and met with each participant outside of my professional (ie police) capacity to introduce and discuss this research in detail. I described how I would be discussing and asking for their comments about the effects of the Canadian criminal justice system on their community, including incarceration and their thoughts about developing a Snuneymuxw justice process. I requested their feedback on this research to determine any concerns and their willingness to participate. I also discussed my role as a police officer within the community and how this research was being undertaken to fulfill my thesis research requirements for my master's degree and explained my school program. I assured each participant which was also covered in the consent form, how their decision to participate was strictly voluntary, that they could withdraw at any time which would have no bearing, influence or repercussion on my professional relationship with the Snuneymuxw community. Fortunately, none of the participants expressed any concerns with this potential power-over relationship which may have been due to my five years experience and relationship developed with the community. From there, a date and time was

arranged to meet and conduct the interview which also provided each participant with additional time to think about their participation and address any additional questions or issues they may have. They were advised how their interview would be audio-recorded to ensure accuracy and would be informal and open-ended to encourage an open, general and frank discussion. Furthermore, everyone was informed of their option to be anonymous during the interview and how this would be respected with all identifying markers removed during transcription and names replaced with pseudonyms. This was requested by one individual who wished to be referred by their occupation as a “Nanaimo Provincial Court Judge.” Each interview was allotted approximately one to two hours with about fifteen minutes required beforehand to explain this research and identify any questions or concerns they may have. At the conclusion of each interview, approximately fifteen minutes was also allotted to debrief and address any potential issues. After the interviews were transcribed, a follow-up meeting was arranged with each participant to go over the transcribed copy and make any changes, additions or deletions the participant felt was necessary.

As I proceeded through the interviews, a strong equitable relationship and partnership with the Canadian justice system was a prevalent theme expressed in particular by Snuneymuxw members. This was also evident when discussing the creation of a Snuneymuxw Justice/ Healing process. This could be explained in part from University of Victoria Faculty of Law Professor John Borrows and University of Windsor Faculty of Law Professor John Rotman’s discussion of “intercultural forces.”

Intercultural forces of education, urbanization, politics, economic participation and inter-marriage each have a significant influence in drawing aboriginal peoples into closer relationships with Canadian society. Many people consider such developments as necessitating work on reforming the existing system, as well as working on separate processes of conflict accountability and resolution

(Borrows and Rotman, 1998: 893).

Taking into account this theme of equity and partnership, I set out to interview an equal number from both Snuneymuxw members (nine) and individuals representing different roles and positions within the Canadian criminal justice system (nine). The primary sources for this research were from four Snuneymuxw Elders, Ellen White, Wesley (Jack) Wyse and Bill and Maria Seward, whom represent different Snuneymuxw family lineages and are respected for their knowledge of Snuneymuxw culture and traditions. Ellen White is a prominent Snuneymuxw Elder who belongs to the Bighouse cultural tradition and speaks the Hul'qumi'num language. She also teaches in the First Nations studies program at Malaspina University-College in Nanaimo, and is a member of the Snuneymuxw Justice Committee. Jack Wyse is a former elected council member known for being assertive and standing up for the rights of his community. He's actively involved in regional indigenous boards (Kwumut Lelum Child and Family Services) and is a member of the Snuneymuxw Justice Committee. Bill and Maria Seward were formerly involved in the Snuneymuxw Justice Committee and are interested in exploring alternative justice system processes for their community. Bill speaks the Hul'qumi'num language and is a Bighouse head dancer and hereditary chief.

Additional sources for information included comprehensive interviews and consultation with five community members representing a cross-section in gender, age,

political and non-political involvement as well as differences in their connection with cultural values, practices and traditions. Interviews included formerly elected Snuneymuxw Chief John Wesley, Snuneymuxw Council member and Ministry for Children and Family Services Social Worker Bill Yoachim and Paul Wyse-Seward who is Elder Bill and Maria Seward's thirty-eight year old nephew. Paul Wyse-Seward is a Bighouse dancer respected for learning the language, culture and passing down these teachings to the younger generation. Snuneymuxw youth Bobbi Rae Milburn who resides off-reserve, was interviewed to gain an alternative perspective and insight for this research. And lastly, Snuneymuxw Community Helpers Committee member Arnold White was interviewed for his insights pertaining to his healing journey, in describing his experiences while incarcerated six years ago at both Wilkinson Road Correctional Centre in Victoria and at the Nanaimo Correctional Centre.

From the Canadian criminal justice system, Nanaimo Provincial Court Judge Justine Saunders was interviewed to gain her insights from the bench and also from her educational experiences having completed her Phd dissertation which examined current sentencing and correctional practices with restorative and retributive models of justice. A second Nanaimo provincial court judge was interviewed to gain their perspective on this research and will be referred to as "Nanaimo Provincial Court Judge" in accordance with their wishes to remain anonymous. I also interviewed criminal defence lawyer Chris Churchill, who has been practicing in Nanaimo since 1994, Administrative Crown Counsel lawyer Ron Parsons, Nanaimo Correctional Centre Warden Don Moody, Director of Vancouver Island Community Corrections Dave Keating, Youth Probation

officer and Snuneymuxw Justice Committee member Annie Thuveson, Regional Manager for the Native Courtworker and Counseling Association Gordon Edwards and Nanaimo John Howard Society Program Manager of Restorative Justice Violet Smith. They were selected due to their tenure, leadership positions and experiences in their respective fields. This would also be beneficial in gaining their insights, perspectives and probable key roles they could play in the development of a Snuneymuxw Justice/ Healing process. Common themes and concepts identified in the interviews will be discussed in this chapter and related to a proposed Snuneymuxw Justice/ Healing Process.

Problematic Issues Facing the Snuneymuxw Community

Snuneymuxw interviews identified social oppression, colonialism and abuse as the root causes behind many of the problems plaguing their community, resulting in a lack of self-esteem among Snuneymuxw members. According to Snuneymuxw Elder Maria Seward, “they weren’t taught to be criminals, they’re supposed to be good upstanding citizens. And the breakdown, that’s when people lost their parenting skills” (interview, February 27, 2007). Paul Wyse-Seward believes traumatic experiences have played a role. “You know there’s always reasons why these people are doing the drugs whether it’s young or old, whether they lost a family member or just maybe something had happened to them, ... whatever they’re doing it’s sometimes hiding that what happened to them in a residential school” (interview, February 27, 2007). Likewise, “past mistreatment that has happened to them, ... alcoholism, witnessing abuse, witnessing going without food, witnessing being scared out of their little bodies when they’re young and you carry that with you until you deal with it, ... a lot of the people I

talk to, there is a little person that is very scared to come out” (Arnold White interview, February 17, 2007). While creating an economic base and employment in the community were raised as possible resolutions, they would only address surface issues without going deeper into the root causes which would require a more intense healing plan specific to the individual’s cultural and medical needs. A healing plan, which could be initiated and developed by a Snuneymuxw justice/ healing process knowledgeable of its culture and family histories. This plan could also be inclusive of Bighouse cultural ceremonies but would require an understanding and respect of this cultural practice and healing process taking into account the circumstances and needs specific to each individual.

Interviews with Snuneymuxw community members and officials representing different roles within the criminal justice system uncovered three main problem areas in the current criminal justice system:

- Snuneymuxw Drug and Alcohol Abuse
- Domestic Violence – Physical, Mental, Emotional and Spiritual Abuse
- Snuneymuxw Individuals Released from Prison and Returning to the Community

A brief, generic description of these issues will be outlined as hypothetical situations, but will relate to common occurrences currently affecting the Snuneymuxw community, with reflections added based on my experiences as a police officer. Furthermore, identified shortcomings of the existing criminal justice system in dealing with these issues and more meaningful alternatives through a Snuneymuxw process will be

proposed.

Snuneymuxw Drug and Alcohol Abuse

Drug and alcohol abuse was identified by everyone interviewed as a major concern and issue currently affecting the Snuneymuxw community. Its affects, encompassed a wide cross-section of the Snuneymuxw community, including youth, adults, Elders in addition to devastating the families of drug and alcohol abusers. A predominant theme raised during the interviews were concerns over addiction, but also users selling drugs and resorting to other crimes to support their habit. In my experience, I've witnessed the physical deterioration of a person's health from drug use and the corresponding thefts, prostitutions and residential and business break and enters committed by the drug user in order to financially support their habit. As a result, addicted Snuneymuxw individuals are repeatedly charged for criminal offences, go through the court process where penalties inevitably increase and lead to incarceration. Nanaimo Correctional Centre Warden Don Moody comments highlight the impacts of substance abuse on incarceration: "Over 80 % of the inmates here are alcohol and drug dependent" (Don Moody interview, February 14, 2007).

The criminal justice system has proven to be inadequate in dealing with this issue because punitive measures such as probation conditions, incarceration and other court monitored measures don't address the root of the problem. By not focusing on root causes, criminal patterns begin to emerge and recidivism rates increase. For Snuneymuxw youth Bobbi Rae Milburn, a possible way to begin the process of trying to

uncover root causes could be as simple as doing the following: “They could go to the individual and talk to him and help him out with finding him a job and finding out what he’s good at, besides doing drugs” (interview, February 19, 2007). This proactive approach would be effective in trying to reach out and support this individual and their family and attempt to uncover the root causes behind their drug and alcohol use. And by searching for root causes, you can help to break the addiction pattern. Even if this support is initially refused, this person will know it has been offered and is available to them when they’re ready to accept it.

Domestic Violence – Physical, Mental, Emotional and Spiritual Abuse

The effects of domestic violence on the victim, the victim’s children and the overall family are profound and most incidences are never even reported to police. And when the criminal court system is involved, I’ve witnessed many instances where the victim feels left out, without having had an opportunity for their voice to be heard. An alternative would be for a culturally appropriate, Snuneymuxw circular process to be developed to heal this conflict, provided certain pre-conditions are met. Relevance, is an important element in this process as recommended by a Nanaimo Provincial Court Judge: “... it has to be relevant to the victim and to the offender and to the community in which they operate. Consequences have to be meaningful, it has to be respected by the victim, respected by the offender as there’s a much better chance of that happening when it’s dealt with at the local level (interview, February 14, 2007). Furthermore, with the full and free consent and participation by both parties involved in domestic violence, a circular method has the advantage of giving both parties a voice and chance to express

the surface conflict as well as going into deeper issues connected to the root of the problem. But obtaining the full and free consent and participation from both parties is imperative. I've witnessed victims being pressured by the extended family of their domestic partner to not show up for court and drop the charges. Similarly, Tsalagi scholar Andrea Smith discusses the following concerns for alternative measures being used for domestic violence cases. "Survivors of domestic and sexual violence programs are often pressured to "forgive and forget" in tribal mediation programs that focus on maintaining family and tribal unity than on providing justice and safety for women" (Smith, 2005: 141). Correspondingly, the Native Women's Association of Canada (NWAC) describe how belief systems and community pressure are also elements to consider.

Community beliefs and expectations are also a factor in keeping aboriginal women in abusive situations. The woman is expected to resolve her marriage problems within the family and not go to outsiders. Abused women feel ashamed that they cannot solve their own problems, ... aboriginal women are reluctant to follow through with charges because of pressure put upon them by their Societies (communities) to keep the family together at all costs. Or, the woman may not see any chance of change in her situation. Also she may fear repercussions or loss of their children" (NWAC, 1994: 21-22).

Cultural barriers and other dynamics may also prevent indigenous women from reporting domestic violence. "Non-reporting is common for several reasons: the victim's fear of retaliation, protection of the accused, and the belief that nothing will be done as a result of reporting the incident" (NWAC, 1994: 19). A mistrust of the non-Native justice system may also be prevalent. "Aboriginal women in these situations may be intimidated by the criminal justice system, or just be afraid. In addition, aboriginal women may have a greater distrust of the justice system because of its negative impact on aboriginal

peoples over the years” (NWAC, 1994: 20). NWAC also cites stereotypes and a fear of the criminal justice system as causal factors affecting indigenous women.

Aboriginal women are doubly damned by stereotypes. As women, we are often subject to the presumption that we lie about being assaulted, that we are emotionally unstable, that we are spiteful and seek revenge, or that we provoked the attack. As Aboriginal women, we are also subject to the presumption that, if we had been drinking, we are drunks and would not have been assaulted if we were sober, ... when Aboriginal women are assaulted by non-Aboriginal men, they often choose not to report the incident to the police because they fear they will not be believed, and because of the different power balance that often exists between non-Aboriginal men and Aboriginal women. It is felt that the police, or judges (who are usually men) would more likely relate to, or understand, a male accused, and that they would be less likely to believe the woman
(NWAC, 1992: 5-6).

This tendency to “blame the victim” has occurred during my experience working with the Snuneymuxw community, in particular in cases involving children living in the home. There are community and familial pressures against victims of domestic violence reporting incidences to police and if reported, to not follow through with charges. The reasons for this are to ensure the abuser doesn’t go to jail thereby keeping the family unit intact without fear of the father and children being apprehended by police and social services. But what this position fails to foresee, are the effects on children who witness domestic violence and if perpetuated and left unchecked, for this behaviour to become accepted, normalized, and possibly emulated once these children become adults. As NWAC points out, “within the community, there is a need for a change in the collective attitude toward violence against women. Once this change takes place, aboriginal women can more freely take control of their lives and work with police to lay charges in abusive situations. Women will find the strength to come forward if they feel that the attitude in

the community supports them” (NWAC, 1994: 24). This change in attitude is required within the Snuneymuxw community and for a justice/ healing process to be successful and utilized by women affected by domestic violence, this will require a supportive atmosphere for their choice whether to lay criminal charges and/ or participate in an alternative justice. However, an alternative community based and culturally appropriate alternative justice process to heal incidences of domestic violence also brings up other concerns. Without equal participation, consultation and decision-making by women, the establishment of any alternative justice process may only serve to perpetuate male dominance and influence in Aboriginal communities. According to NWAC, “... it is primarily men who have almost total power and control in Aboriginal communities, e.g. Band Councils and Chiefs, male police, etc. These Aboriginal male leaders have protected each other, and have collectively or collusively contributed to the violence against Aboriginal women and children through their inaction, ineptness, ineffectiveness or neglect” (NWAC, 1992: 5). Currently, the Snuneymuxw have an elected female chief in Viola Wyse which may help counter this dominance to some degree, however a sharing of power between Snuneymuxw men and women is required for both formal and informal forms of leadership within the community. This sharing of power also requires a recognition of the valued roles, rights and responsibilities of Snuneymuxw women along with obtaining their input and direction when creating an alternative, culturally appropriate justice/ healing process.

Culture, values and traditions continue to evolve and change. According to NWAC, “Aboriginal traditions have become bastardized by Christianity and the

imposition of western culture, ... European religions set out to alter the roles of men and women in Aboriginal societies, and this was accomplished over a period of several hundred years. The traditional roles of men and women was displaced” (NWAC, 1992: 7-8). Defining Snuneymuxw traditions and culture is problematic and it’s use when creating a justice/ healing process is something we need to proceed cautiously on. The effects of colonialism, residential school and religion on Snuneymuxw culture and Bighouse ceremonies are issues to consider along with accounting for why certain individuals and families predominantly represent the voices and authority for transmitting culture and tradition. Since culture is ever-changing, it’s also susceptible to influences which reflect community and family politics. Band office council member elections, community votes on treaty and economic development are some examples of issues which have influenced Snuneymuxw culture, values and traditions. Furthermore, invoking traditions which are no longer effective or don’t exist are also factors which need to be taken into account.

Applying Snuneymuxw cultural values and traditional teachings in healing domestic violence was prevalent during the interviews. For Bill Yoachim, a Snuneymuxw Justice circular process being offered in conjunction with, or as an alternative to the criminal court system has many advantages. He describes his experiences while working with the Ministry for Children and Families with a domestic assault case.

In the circular fashion, he had to sit there across the table and look at the father and the women he had domestic violence against. He was able to clear that up in a way where deep, real life feelings came out doing it this way. The western

route would have been to sit there in front, the lawyers do all the talking. He pleads guilty, nobody would've heard his voice, his passion of being apologetic and sincerely how remorseful he was, ... the Judge would've just stamped whatever the usual case law is and the father-in-law would have left furious and the family would probably be separated

(Bill Yoachim interview, March 5, 2007).

Elder Jack Wyse believes a Snuneymuxw Justice team would be effective in this area by appointing one or two people (male or female), to approach the individuals involved in domestic violence and offer an open door to help resolve this through a circle. And if it's refused or it happens again, it would go through "the white man, European courts." And for Snuneymuxw males who are incarcerated for domestic violence, Elder support was recommended. "Bringing in people, even our Elders, our lady Elders to share with them how important it is to be respectful to our female partners, to help them learn to be more respectful and more kinder and softer when they're in our community" (Arnold White interview, February 17, 2007).

Snuneymuxw Individuals Released from Prison and Returning to the Community

In circumstances where Snuneymuxw members are sent to jail, it creates a disconnection between the individual, their family and the community during the time they're incarceration and upon their release from prison. And once released and re-introduced back into the community, this is further compounded by community fears for their safety in not knowing whether this individual is more dangerous than before they were imprisoned. Snuneymuxw Bill Yoachim, advocates one-on-one support is required not only during their time in prison, but from the beginning of the court process right through until after they've returned home. "They can be approached because you're

going to have your holistic people that are culturally in tune with the Coast Salish traditional values and then you're always going to have the desire for the western piece of holistic and that teachings and values which should be available when they come home too" (interview, March 5, 2007). For Arnold White, in recalling his experiences while incarcerated six years ago, he described a need to put as many resources and energy into helping this individual while they're in prison. "Help to make them feel more secure and positive before they even get incarcerated because it's not something you forget, ... that's it, your freedom is gone" (interview, February 17, 2007).

When an incarcerated Snuneymuxw member is released and intends to return to the community, it was recommended in seven interviews that this individual appear before a Snuneymuxw community-based justice/ healing committee in order to determine their likelihood to re-offend and offer this person support and a healing plan. This would address community safety concerns and begin a process of building mutual trust and respect.

It all boils to down to what type of imprisonment this person went through for, ... if you're like a sex offender, ... if you were in prison for that and you were going to come back to the community you know it wouldn't be up to just the committee it would have to go to the membership. And you know is this person healed enough to come back to the community or does this person need more healing from this justice committee after coming from the Canadian court system imprisonment, we would have to get everybody gathered and he would have to more or less stand like right in the middle of the floor and you know explain himself and plead for that forgiveness.

(Paul Wyse-Seward interview, February 27, 2007).

These recommendations if implemented, would go a long way in resolving many of the unanswered questions and concerns Snuneymuxw community members have with

individuals returning home after being incarcerated. Currently, the Snuneymuxw community has little input in this area and they're often caught off guard to learn when one of their members has already been released from prison and is residing in their community. Implementing chapter one's discussion of Section 81 and 84 of the "Corrections and Conditions Release Act," which permits the release of indigenous offenders to their community and allows for indigenous communities to gain care and custody of indigenous prisoners prior to their release dates, would help to resolve many of these issues. To facilitate implementing these sections, Nanaimo Correctional Centre Warden Don Moody, recommended a Snuneymuxw Justice/ Healing coordinator work with the probation officer and the correctional supervisor and be included as part of an "Integrated Offender Management team." Furthermore, Don Moody adds: "if we had an offender from the local Native community, then we would be in touch to get their perspective with respect to developing a plan with the community that is really meaningful in terms of community re-entry and the needs of the community and needs of the offender" (interview, February 14, 2007). Likewise Dave Keating, director of Vancouver Island Community Corrections, suggested the following.

For Section 84 kind of offenders, it would be with an Aboriginal community and could be that their justice people, there would be a lot of conversations and planning as to what did they think the person needs and once the offenders agree they were to allow them access to information, they'll know a lot about his history, what kind of stuff he's been doing inside and can be actively involved in developing a correction plan for that person that could go right from the time that he starts incarceration, right until he finishes in the community at his expiry date, ... there's the potential for Aboriginal-specific kind of hearings that are circle hearings that members of the community could attend or a regular hearing that a member could attend to speak on behalf of what they've done, what their expectations are and either for or against the person in terms of comments (Dave Keating interview, February 18, 2007).

Sections 81 and 84 of the “Corrections and Conditions Release Act,” creates an opportunity for Snuneymuxw participation and influence in developing a correctional plan for their members. However this could be problematic if a Correctional Services of Canada plan conflicts with a proposed “Snuneymuxw healing plan” with the former plan most likely superseding the latter. Nevertheless, it still requires the Snuneymuxw to further examine the application of this process which may prove to be beneficial for their community.

Common Themes of Interviews

A common theme from both Snuneymuxw and criminal justice system interviews dealt with how the current justice system is a European-based (foreign) colonial and hierarchical process, which isn't always fully comprehended and relevant to Snuneymuxw members and their culture. It's described as being highly regimented with a legal procedure and language which serves to exclude anyone not trained in this process. As a result, it serves to legitimize itself and maintain its sense of power, dominance and hierarchy. Arnold White identifies a trend he sees in his community where the court system doesn't have cultural relevance for Snuneymuxw members who avoid it and try and get it over with, at times pleading guilty to crimes they didn't commit. “They just go in and say I'm guilty and get it over with, when I went through the court system I just pleaded guilty, ... I went through quite a rigorous court battle and I had served eight months out of the year, a year house arrest, and a year's probation. I was found guilty for a rape charge which I did not commit” (interview, February 17, 2007). Arnold White described his time spent at both Wilkinson Road Correctional

Facility in Victoria and Nanaimo Correctional Centre as being very regimented and lacked cultural relevance. “There was nothing to do with Snuneymuxw First Nations culture, ... the sage and the feather passed around the talking circle came from the Okanagan area and down in the States, ... there was no real encouragement from bringing in Elder band members to talk to you and encourage you not to come back to that area after your time is served” (interview, February 17, 2007). This lack of Snuneymuxw cultural inclusiveness is ironic considering the Nanaimo Correctional Facility is located on the traditional territory of the Snuneymuxw nation.

This focus on punishment is contrary to a Coast Salish circular process which values relationships and healing. “No (it) hasn’t been culturally relevant to Snuneymuxw, there’s not much room or leeway in the present system. It’s so linear and so hierarchical and there has not been too much room for Snuneymuxw culture and values” (Bill Yoachim interview, March 5, 2007). Likewise, Provincial Court Judge Saunders describes the Canadian justice system as being: “... repressive in some respects in how it applies to Natives and in particular the Snuneymuxw who appear in this region where I work, so from that point of view, I would like to see something that is more culturally attuned because I have the distinct impression the Snuneymuxw have a more inclusive culture as opposed to the very individualist white man’s culture” (interview, March 1, 2007). Defence Lawyer Chris Churchill’s question encapsulates this criticism distinctly: “Now that we’ve got an adversarial model, how do you make it culturally appropriate if that wasn’t the actual basis of your culture” (interview, February 19, 2007).

Justice as Punishment and Justice as Healing

The terms and concepts associated with justice from a Snuneymuxw or Canadian justice perspective is relative to its cultural definition. “Offender,” “crime,” “punishment,” and “judge” are terms commonly used in the Canadian justice system but may not have relevance and aren’t easily translatable into the Hul’qumi’num language. Likewise, Snuneymuxw meanings of “Elder”, “Hereditary Chief”, “Bighouse member” “healing” and “community” may have quite different cultural definitions in contrast with conceptions from the Canadian justice system. As a result, there are inherent problems from the outset with attempts to equate Snuneymuxw cultural values, concepts and meanings with those from the Canadian justice system. Therefore, attempts to make the Canadian justice system more inclusive and sensitive to indigenous peoples, may prove to be problematic in attempting to find commonality among ideologically separate and distinct values and principles.

Further sentiments reflect the “punishment” versus “healing” values which separate and distinguish both systems. “They’re found guilty and they’re sent to prison or to do time and nine times out of ten they’re gonna come out a better criminal, ... it’s pretty tough to agree with that type of court system where it’s a punishment, we go through our way of justice it would be a healing” (Paul Wyse-Seward interview, February 27, 2007). This criticism of the Canadian criminal justice system highlights the difficulty in trying to equate or bring together justice as punishment with Snuneymuxw conceptions of justice as healing. A sentiment which was also expressed by defence lawyer Chris Churchill: “you’re sort of trying to mix two ideas that may have no foundation in their

culture so I don't know how that's going to fit necessarily" (Chris Churchill interview, February 19, 2007).

Healing and support were common themes expressed by Snuneymuxw members for the individual in need of healing but also expanded to include their affected immediate and extended family members. Moreover, Borrows and Rotman (1998) add: "Support for families in stress, timely interventions in the budding criminal lives of young offenders, help desperately needed to maintain positive momentum for people faced with crippling pressures that often lead to crime, community involvement in all of these matters could often be more effective than the existing justice system" (Borrows and Rotman, 1998: 908).

In accordance with traditional ways, Snuneymuxw elders were recommended to assist in supporting the individual when they were ready to receive help and ready to help themselves (T'sat'sawuth). Support, which helped these individuals and their families work through their feelings and problems and help guide and heal them. According to Snuneymuxw Elder Ellen White, she recommended the following: "You have to talk it over with somebody to see how it came to be, don't condemn this person, talk to them. Just try and support them, make them heal themselves and make this person believe that he could be helped with the help of others. And it's just the way old people used to" (Ellen White interview, February 17, 2007).

Healing and support were also recommended for Snuneymuxw members

incarcerated. Snuneymuxw youth Bobbi Rae Milburn suggested something as simple as: “going to see them there and talking to them, a lot of those people in prison get mistreated. So if the Snuneymuxw justice system could probably help by seeing that they don’t get mistreated and that they have the community to come out and help them” (interview, February 19, 2007). Furthermore, Paul Wyse-Seward adds the following:

There could be visits or you know things that could be good in the process the steps for an individual to get prepared, ... I think it would have to be more than one person and not necessarily just one person to be assigned you know it would have to at least three or four people. That’s my personal feeling you know it should never be just one person. And it goes back to the way I was brought up not only by my parents, I was brought up by my grandparents, my uncles, my aunts (Paul Wyse-Seward interview, February 27, 2007).

Ongoing support for an incarcerated Snuneymuxw member and a transitional plan for their release and return to the community, would go a long way towards resolving what defence lawyer Chris Churchill describes as a current failure with the current system. “The transition back into the community is an absolute failure. You just go get warehoused for a period of time and then they’re basically given a bus ticket and they end up back in Nanaimo or wherever you are and you’ve got no support so you fall back, ... proper community supports are far more than what we offer up in our system currently” (Chris Churchill interview, February 19, 2007).

Developing a Snuneymuxw Justice /Healing Process

In proposing a Snuneymuxw Justice/ Healing process, my initial thoughts when interviewing both members of the Snuneymuxw community and the criminal justice system centred around possible disinterest and an unwillingness by participants to

embark in this direction. Fortunately, these thoughts gave way to a sincere willingness to offer their support and assistance because of their belief in what a Snuneymuxw Justice/Healing process could bring to their community. “I personally think it would work out, it’s just like anything else it would take a little while to get off its feet but I feel it would make the community a lot better place and a happier place to be again” (Paul Wyse-Seward interview, February 27, 2007). “I think that the mainstream system would benefit immensely from getting exposed to some of the principles in First Nations justice. More of the community-based thinking, less of sort of a punitive approach. More of a how do we heal it approach, I think that’s important” (Chris Churchill interview, February 19, 2007). Snuneymuxw member Paul Wyse-Seward and criminal defence lawyer Chris Churchill’s comments on the development of a community-based Snuneymuxw justice/healing process reflect the overwhelming support and interest from both groups in this research. This support was indicative of an acknowledgement in all interviews how the current criminal justice system is failing indigenous peoples and requires a new, more meaningful and relevant focus. John Wesley describes the following advantages with a community-based Snuneymuxw justice/healing process. “I think we know the background of a lot of the people that are going to be coming to the justice program. We know where they’ve come from, whereas the court system knows they got a record. We go past the record, we know what their family ties are and what their family life was like” (interview, February 24, 2007). This relates with Borrows and Rotman’s (1998) description of a limitation they see with the court system. “The court’s process, often too engrossed in the administration of the law, is not sufficiently alive to the reality of what happens in the community before and after a sentence is imposed. Within the community

lies many answers to what causes crime, what will prevent crime and what can be done to rehabilitate offenders” (Borrows and Rotman, 1998: 908-9). It’s this family history and connection within the community which relates to Elder Ellen White’s earlier sentiments with: “aw nuwu tse’ ni’ thuyt kwthu snuw’uyutls kwthun’ syaas xe’ xe’ tu’ i’ ” as the responsibility you have in making right decisions and also passing on knowledge from sacred teachings and cultural healing would have come from different elders and those members providing the healing.

Would a Snuneymuxw justice/ healing process serve band members, non-band members, on reserve or off reserve? These are all important aspects to consider in creating an alternative process. A common theme among Snuneymuxw interviews was a process which is inclusive for all band members. “I think it should deal with community (members) here you know whether they’re on or off reserve, if a person is living off reserve it’s not by choice, it’s not their fault you know. If it’s anybody’s fault it’s the government of yesterday” (Paul Wyse-Seward interview, February 27, 2007). For non-natives whether they enter this process as victims of offenders, it’s recommended they be included but with limitations. “My grandfather says you got to help everybody. If they want help you help them, you got to heal them, ... if we wanted to pull in a non-Native, you can only go to a certain degree on the cultural part of it you know, especially the winter ceremonial parts, it’s pretty much strictly for the Native, full Native person” (Paul Wyse-Seward interview, February 27, 2007).

The theme of voluntarism in this process was recommended because it would

demonstrate a genuine commitment of caring for the community and working to make inroads and heal its members. According to Snuneymuxw member Paul Wyse-Seward, “My personal feeling on making something work you got to put in your own time, you got to put your own funding in, nothing works if you’re going to get handed the money, to make this work you’d have to have everything started as voluntary work, ... you got to make people understand that it’s going to be for the betterment of the nation” (interview, February 27, 2007). Elder Jack Wyse concurs, “I would really like to see it voluntary. It shows the people that you do care for our children, and our brothers and sisters” (interview, February 23, 2007). Conversely, John Wesley felt some of the positions would have to be paid, or to make a few of them an honorarium stipend which may be required once this process is fully developed and functioning. Similarly, Youth Probation officer Annie Thuveson believes, “there needs to be a paid person in the Snuneymuxw Nation to take on the role of promoting it” (Annie Thuveson interview, February 24, 2007).

Snuneymuxw youth Bobbi Rae Milburn recommended the justice/ healing process should be a committee representative from each of the different families and the four separate reserves which make up the Snuneymuxw community. “Cause each family may have different input and you can use that and figure out how it’s going to work and figure out who’s willing to help and support, ... (and) by just talking about the issues and having the community member have some input, you can answer them back on that input. And then they’ll see that they have a say in what’s going on and that they’re going to be able to work together” (interview, February 19, 2007). It was recommended young

people make up this committee and be instrumental in its growth, development and direction. A committee of about six or seven people was recommended by John Wesley who are there for the right reasons, would help to ensure they make the right decisions. Any higher number its believed, would increase the potential likelihood of this process getting side tracked. This committee was also recommended by Elder Ellen White to take on the role of a “Watcher” in the sense of continuing to watch over the family and support them during their healing journey.

Going door-to-door was a common recommendation for recruitment and to elicit input and feedback for a Snuneymuxw Justice/ Healing process because according to John Wesley, “if they’ve got any questions, they could get answers right away so it doesn’t linger on and they stew about things, ... I think if they get their questions answered right away, I think that would be more effective” (interview, February 24, 2007). Obtaining community involvement even included Elder Jack Wyse’s ruse. “I’ve always maintained that we should just make an idiotic statement like this is gonna be a dry reserve now. Whether you like it or not anybody caught drinking, from now on you’re out, ... put it in black and white, and we’d like your participation. You know the people will get mad at us. They’ll show up and say what the hell you guys doing” (Jack Wyse interview, February 23, 2007). Nevertheless, the advantages of personal contact over band office meetings and newsletter articles (which not everyone attends or reads), was a key point highlighted during the interviews in order to obtain community input and support.

Snuneymuxw Elders involvement in this process was a dominant theme for healing individuals, which was in accordance with culturally appropriate ways of dealing with conflict. According to Snuneymuxw Elder Bill Seward:

If you gone and done something wrong, the Elders got together and they talked to that guy, ... we made them take responsibility for what they did to their victim so they had to face the victim, ... we heard the criminals say it's better to face the white system than to face the Elders. Because the white system you just go and do your time and you're done with it. And with the Elders, you're not done with it, hardly ever. Because you still have to approach them when you see them somewhere, ... our justice once you done something wrong you go through Elders and that's forever
(interview February 27, 2007).

Borrows and Rotman (1998) elaborate on this further, describing the effects of punishment administered by the community rather than through the court process. "Punished by a court, the offender confronts the disapproval of a stranger, enforcing strange laws whose punishment carries the authority of the State. Punished by the community, the offender faces the disapproval of his neighbours, friends, and of those within his most immediate environment, whose punishment carries the authority of a consensus within the community" (Borrows and Rotman, 1998: 908).

With the prevalence of new kinds of drugs, new offenders and new types of criminal offenses, these issues could present challenges to traditional methods of healing. It was felt a partnership with outside resources would have the advantage of applying an alternative western method of healing in conjunction with Snuneymuxw traditional healing practices. The recommended resources and agencies for the Snuneymuxw to develop stronger links with include: ADAPT (Alcohol and Drug Abuse Prevention and

Treatment), Adult Addictions Services, VIHA (Vancouver Island Health Authority), MCF (Ministry for Children and Families) and the British Columbia Drug and Alcohol Information and Referral Services.

Involvement of Snuneymuxw Bighouse with Justice/ Healing Process

Snuneymuxw youth Bobbi Rae Milburn felt the Snuneymuxw Bighouse (Longhouse) could play a role in a Snuneymuxw Justice/ Healing process. “At the Longhouse some people put their family members in to get them off like the drugs or alcohol, and some people are put in because they’re sick. So I think in the healing way, they could have them in the Bighouse for a while, to cleanse their spirits” (interview, February 19, 2007). For individuals making poor choices, getting in trouble with the law and headed for prison, Paul Wyse-Seward could see the Bighouse playing an important role in healing and transforming the individual.

There’s been three I think that have gone through the winter ceremony rather than going getting shipped off to Brannen Lake or William Head or Wilkinson Road (jails). Not going into too much detail about the Longhouse it lasts probably five to six months tops and you’re getting lectured by a lot of Elders and you’re pretty much confined to the one house and you gotta go through a lot of different initiation stuff, ... after those few individuals came out, they changed their life around. They were able to stand on their own two feet by themselves and not depend on anybody else (Paul Wyse-Seward interview, February 27, 2007).

For other Snuneymuxw members interviewed, they had mixed feelings on whether to include Bighouse ceremonial teachings with a justice/ healing process. “The Bighouse is a place of respect and do we use that for the justice program? I’m not sure. I think we’d have to sit down and discuss that with everybody that’s gong to be involved in

the justice program” (John Wesley interview, February 24, 2007). During my experience working with this community, the Snuneymuxw Bighouse is a place of healing and not punishment. It’s a form of healing requiring the capacity and understanding of the cultural practices and workings of this healing on the individual selected. It’s a process which can’t be mandated or forced upon an individual. As a result, the inclusion and role of the Bighouse in a Snuneymuxw Justice/ Healing process would depend upon the circumstances and needs specific to each individual. While I can foresee it playing a role in this process, I concur with John Wesley’s sentiments on how it requires further discussion and input from community members.

Partnership of Snuneymuxw Justice/ Healing Process with Canadian Justice System

The creation of a stronger, more meaningful and equitable relationship between a Snuneymuxw Justice/ Healing process and the Canadian justice system was a predominant theme from the interviews. A relationship of respect and equality by the criminal justice system for Snuneymuxw culturally appropriate ways in dealing with conflict was evident. “No party, either party should not be the one holding the upper hand, it should always be everything straight across the board and one shouldn’t be more superior than the other” (Paul Wyse-Seward interview, February 27, 2007). But what steps are required to make this happen? And how could we initiate and foster this equitable relationship amongst divergent justice processes? Possible resolutions included meetings and a cross representation by members of both processes. “I think in a partnership whether it works on reserve or in the courthouse, or we go and take that justice committee to sit in and have that judge sit on the committee, I think that would be

essential to start things up” (John Wesley interview, February 24, 2007). For Administrative Crown Counsel Ron Parsons, he believes Snuneymuxw political leadership needs to play a key role. “Within the confines of the criminal justice system, I think they’ve got to continue to be active in terms of advancing the cultural interests of people, ... somebody that could express the concerns and values of the community, and why it’s necessary to do something perhaps unique or something other than the usual process of rounding people up, putting them in jail and letting them out” (interview, February 18, 2007). With Judge Saunders, she recommended: “there would obviously have to be consultations about where the overlap would occur, ... meetings where it would be informative or educational about this is what we’re doing, this is why we’re doing it, this is the philosophy behind it. So that the judges and everybody who has this mentioned to them as an alternative, know what it’s all about, ... (interview, March 1, 2007). For Native Courtworker Gordon Edwards, he recommended more of a participatory and integrated process.

Just one courtroom, just for First Nations people going through to get a fair hearing we could do that once a month or twice a month that would be great, ... the band social worker could sit in court and provide information to the judge, a representative from Tsow-tun-le-lum (treatment centre) could go in and answer questions when it comes to waiting times, Child and Family Services, the friendship centre could send somebody down, ... a place where we would send all the First Nations resources (interview, February 15, 2007).

Integration/ Partnership of Snuneymuxw Justice/ Healing Process with Outside Health Resources

John Wesley described a need to develop stronger relationships and partnerships

with resources not found within his community. “If we sit down and get to know one another like I think it could be all beneficial you know. A lot of our people don’t know who would help, where they could help and you know what their criteria is for help and I think our people need to start to get to know all those stuff” (interview, February 24, 2007). John Wesley also described an interesting point about how new perspectives and insights could be gained from bringing in alternative resources. “An outside person would have a better look overall on what the problems are, rather than within because we’re all related in one way or another” (interview, February 24, 2007).

Snuneymuxw Elder Ellen White believes a community justice/ healing process should partner with outside resources for help in providing drug and alcohol treatment and counseling . With Paul Wyse-Seward, he felt strongly about a role for “different native and non-native treatment centres,” specific to what the individual needs. And Bill Yoachim believes, “you would need various community partners ranging from agencies such as the Ministry for Children and Family Development, ... friendship centres, drug and alcohol, Family Life, the whole resource list, you’re going to need a relationship with each and every one of them because each scenario will be touching on something in this society where support is going to be needed” (interview, March 5, 2007).

Conclusion

Interviews with members of the Snuneymuxw community and Canadian criminal justice system provided a significantly deeper analysis for this research, making it relatable to the current dynamics within the community. I found a willingness among Snuneymuxw participants to share cultural values, traditions and teachings relevant to their conceptions and application of justice and healing for their community. Understandably, certain limitations did occur when discussing their sacred Longhouse (Bighouse) ceremony which would require further community discussion to determine its relevance and application for a Snuneymuxw Justice/ Healing process. Interviews identified themes, concepts and recommendations from many of the personal stories, reflections and advice shared by each participant. This also had the personal benefit of further enhancing my interest in this topic in developing a viable Snuneymuxw Justice/ Healing process. In order to help reach this stage, the next chapter will provide substantive recommendations on developing a Snuneymuxw Justice/ Healing process through an analysis of information obtained from the background research and interviews. The following is a summary of recommendations proposed from the interviews:

- Snuneymuxw Justice/ Healing team made up of a coordinator and six to eight volunteers representing each of the different families, four reserves and off reserve members
- Coordinator and volunteers participate for the “right reasons” out of their genuine care to heal the Snuneymuxw community and work towards its

collective betterment and not participating for personal gain

- Snuneymuxw Elders actively involved as an “Advisory Council” to provide guidance and direction in accordance with their culturally-appropriate ways of dealing with conflict
- Recruit volunteers and elicit input and feedback in developing a Snuneymuxw Justice/ Healing process by going door-to-door which would work towards gaining grassroots community participation and support
- Snuneymuxw Justice/ Healing Process be inclusive and responsible to help all Snuneymuxw members regardless if they live “off-reserve” or “on-reserve” and also “non-Natives” but with limitations in particular with Bighouse ceremonies
- Snuneymuxw Justice/ Healing team assign members to appoint and coordinate individuals (ex. Elders, heads of families, youth, counselors) who will approach and work with individual and their family affected by drug/ alcohol abuse, domestic violence, incarceration, and provide a healing plan specific to their needs (ie counseling, support, cultural Bighouse teachings/ ceremonies)
- Snuneymuxw Justice/ Healing team educate through personal home visits, counseling, seminars and meetings to address cultural, familial, and community barriers and pressures placed on women to “forgive and forget” incidences of domestic violence; work towards eliminating any attitudes/ prejudices which serve to reinforce violence against women

- Provide a supportive atmosphere which considers how women are impacted differently by the criminal justice system and supporting their choice whether to proceed with laying criminal charges and/ or a Snuneymuxw Justice/ Healing process
- Snuneymuxw Justice/ Healing Process including Bighouse/ cultural ceremonies as an option for healing specific to the needs of an individual and their family, taking into account the circumstances and an understanding and respect for this process; but this option requires further community discussion
- Upon incarcerated Snuneymuxw members being released from prison and their return to the community, this individual and their family will appear before a community-based justice/ healing committee to discuss community concerns about recidivism and offer support and a healing plan
- Snuneymuxw Justice/ Healing coordinator to meet with Court Services (ie Native Courtworker, Crown, Defense, Judges, and Probation Services) to develop a stronger, more meaningful and equitable relationship which includes their participation in a coordinated, ongoing healing plan for Snuneymuxw individuals and their families throughout the court/ incarceration process
- Snuneymuxw Justice/ Healing coordinator to meet with Correctional Services and discuss ways to obtain financial support for implementing Section 81 and 84 of the “Corrections and Conditions Release Act,” which permits the release of Snuneymuxw offenders to their community and

would allow for the Snuneymuxw community to gain care and custody of their member prior to their release dates

- Snuneymuxw Justice/ Healing Coordinator to develop stronger links with outside resources (ie ADAPT, Adult Addiction Services, VIHA, MCF, Friendship Centres, Family Life, BC Drug and Alcohol and Information and Referral Services) to gain their experience and possible application of western methods of healing in particular for new kinds of drugs, offenders and types of criminal offenses

These recommendations are dependent upon a strong group of leaders from both the Snuneymuxw community and Canadian criminal justice system to take ownership over some of these recommendations, and move this process forward. Although justice is described throughout the interviews as a priority, there has been little movement on this issue in my five years working with this community. I feel it's an issue which deserves attention and commitment toward healing because of the detrimental effects these problematic social issues are having on the overall health and well-being of the Snuneymuxw community. I remain committed and accept the challenge of playing a role both within and outside of my professional capacity in bringing this process to fruition. A major component nonetheless, will be grassroots Snuneymuxw support and leadership for it to resonate and gain a stronger voice from within the community. Based on my experience, a unified Snuneymuxw call for change with the existing justice system, will become clearer and louder over time because of the community strength and empowerment which will emanate from holistic community healing.

Native Americans have proven time and time again, that they are fully capable of handling their own criminal justice issues in their own way, if two things occur. First, there must be sufficient resources to fund the system or infrastructure of their own design. Second, they must be left to design, implement, and test their systems in their own way, rather than be forced to abide by the somewhat arbitrary standards set by external review

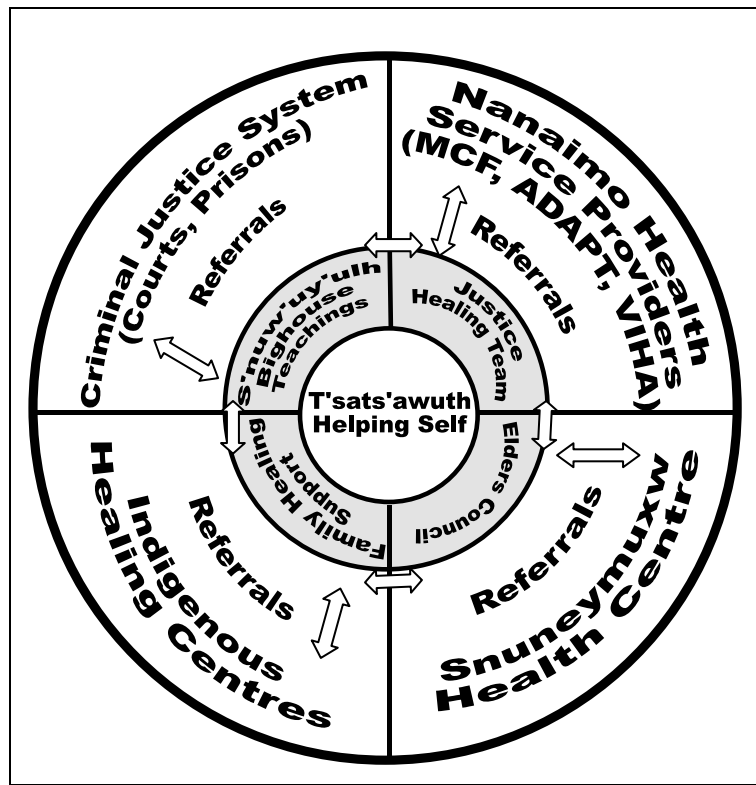
(Ross and Gould, 2006: 241).

Chapter Four

Recommendations on the Development of a Snuneymuxw Justice/ Healing Process

A Snuneymuxw Justice/ Healing Process would have to incorporate a traditionally circular method of bringing people together to discuss how an individual, their family and the community were affected by an incident. From these discussions, a healing plan would be developed for the individual and their family along with Snuneymuxw Elder Ellen White's concept of a "Watcher" where individuals are assigned to watch over the family to support them during their healing journey. Furthermore, providing a healing plan would have to incorporate and develop stronger links with outside resources as discussed in the last chapter. Figure 1, illustrates how this Snuneymuxw Justice/ Healing Process would be incorporated into Snuneymuxw Elder Ellen White's principle of "T'sats'awuth" (healing self).

Figure 1: Snuneymuxw (T'sats'awuth) Justice/ Healing Process



This proposed Snuneymuxw Justice/ Healing model would be a fluid inter-related process and centres around the principle of T'sats'awuth (Helping Self). Central to this circular process, are relationships and referrals to identifying healing strategies and requirements specific to a Snuneymuxw individual's needs. For example, for an individual affected by drug and alcohol abuse, they would be represented at the centre T'sats'awuth (Helping Self) stage. This individual would be identified by the Snuneymuxw Justice/ Healing Team and Elders' Council to discuss a healing plan and support for the individual and his/her family. This individual and their family would be approached to discuss this healing plan which may also include participation in Bighouse ceremonies and learning S'nuw'uy'ulh values and teachings. Furthermore, resources

including the Snuneymuxw Health Centre, Indigenous Healing Centres and Nanaimo Health Service Providers may be required alternatively to gain their experience and support for healing and recovery with this individual and their family affected by the drug and alcohol abuse. And lastly, the criminal justice system which includes the courts and prisons are included for the Snuneymuxw Justice/ Healing Process to develop a stronger relationship and links with, to ensure this Snuneymuxw individual is provided with ongoing healing and support throughout the court and prison process. And while this process is fluid to be inclusive of a range of healing approaches, the model also works from the outside inwards where a Snuneymuxw individual and their family may be identified and referred both circular and inwards to alternative healing processes. Key to this process is a strong and equitable relationship between this Snuneymuxw Justice/ Healing Coordinator and team with these alternative agencies. This model will be referenced throughout this chapter.

Building Legitimacy for a Snuneymuxw Justice/ Healing Process (T'sats'awuth – Helping Self)

Culturally appropriate laws command allegiance and respect. Conversely, laws and governance structures that do not resonate with a community's culture and values lack legitimacy, ... laws based on a community's own traditions and principles would be more relevant and meaningful to its members and could thus strengthen the rule of law in the community
(Law Commission of Canada, 2006: 8).

I would recommend for this process to start small, focus internally on each individual committed to building up this process which could come from an individual like Arnold White, given his experience with the criminal justice system and current role

with the Snuneymuxw Community Helpers Committee. This process takes into account Alfred and Corntassel's (2005) "Mantras of a resurgent Indigenous movement", or in this case a Snuneymuxw Justice/ Healing movement. In particular, with reference to the mantra of "Change Happens One Warrior at a Time:"

Our people must reconstitute the mentoring and learning-teaching relationships that foster real and meaningful human development and community solidarity. The movement toward decolonization and regeneration will emanate from transformations achieved by direct-guided experience in small, personal, groups and one-on-one mentoring towards a new path (Alfred and Corntassel, 2005: 613).

For the Snuneymuxw to decolonize from their acceptance of the Canadian criminal justice system as a mechanism for "resolving" all of their criminal conflicts with limited success to date, requires a regenerating of their cultural values and teachings toward developing a process for healing. This philosophy of "Change Happens One Warrior at a Time" in creating a Snuneymuxw Justice/ Healing Process, could conceivably bring about solidarity and interconnectedness through this one-at-a-time process and also result in relationship-building and support. Ongoing communication and direction from all of the families which make up each of the different Snuneymuxw reserves would help to build and sustain grassroots support and involvement. While open and transparent discussions with community members is required, ongoing involvement and feedback will help mold this healing process into a model appropriate for the community. To help ensure this process stays on track, clear and concise short and long term goals and directions are also required.

In the development of a Snuneymuxw Justice/ Healing process, it will have to be flexible and innovative to deal with social problems and issues not dealt with in recent history. Substance abuse, domestic assaults and the return from prison of Snuneymuxw members are all examples of problematic issues currently facing the Snuneymuxw community. These social concerns present new challenges for a new justice process which will have to work closely with external community programs and services to provide western medicine and counseling services in addition to Snuneymuxw Healing practices in accordance with an individual's healing plan. Therefore, a relationship will need to be built with all partners (ie. Snuneymuxw Health Centre, Court, Corrections, Nanaimo Health Service Providers, treatment centres) where referrals both outside and inside this circle of healing (see Figure 1) can be identified for both the individual and their family in need of healing (T'sats'awuth).

In order for a culturally-appropriate Snuneymuxw Justice/ Healing process to gain acceptance as a viable alternative to both the Snuneymuxw community and Canadian criminal justice system, this will require a number of steps. Snuneymuxw community and criminal justice grassroots support and engagement in this process could be further developed by approaching each individual interviewed for this research who offered their commitment and assistance to this process. Moreover, building partnerships to gain input and advice with other alternative indigenous justice processes (ie. Qwi:qwelstom – Sto:lo Nation, or Sliammon Justice Program) is recommended in order to learn best practices and also assist with finding resources and funding as required.

A Snuneymuxw Justice/ Healing Program should begin by getting away from the negative connotations associated with “justice” and be translated into an appropriate Hul’qumi’num word(s). Snuneymuxw Elder Ellen White suggested “t’sats’awuth” meaning “helping self” while other possible Hul’qumi’num terms and concepts include: “... “hulit” which means to heal him or her, and “cawutul” which means to help each other (Aleck, et al: 1999, 8, 35). The overall guiding principle to incorporate into this team should be: “aw nuwu tse’ ni’ thuyt kwthu snuw’uyutls kwthun’ syaas xe’ xe’ tu’ i’ ” which means the responsibility you have in making right decisions and also passing on knowledge from sacred teachings” (Ellen White interview, February 17, 2007). A further value or principle required for committee members is for their commitment to be working for the people and not for chief and council or the band office. As a result, this should reduce the impact and influence resulting from changes in council and band office staff. Furthermore, this committee should be supported by chief and council but remain at “arms length” to help limit political influence. Snuneymuxw Community Helper Arnold White provided the following advice: “the secret of this is (to) work for the people and not for the office. And that’s something we haven’t had in a long time is someone who will go to the people, listen to their concerns and take steps in finding solutions, ... be open and honest with the people is working” (Arnold White interview, February 17, 2007).

The environment or place where this healing process takes place has to remain flexible to the wishes of the Snuneymuxw people. Any alternative to the band office including the Bighouse, community kitchen, recreation hall or peoples’ homes were all

held up as examples of places where this process can take place and should be considered. Furthermore, this process should be flexible enough and develop stronger links with health and social service resources outside the community. This would have the benefit of making available western approaches and strategies along with Snuneymuxw traditional practices for healing Snuneymuxw individuals and their families. This would also address Snuneymuxw members who don't want to deal with their disputes "in-house" and may opt for alternatives provided by the John Howard Society (Restorative Justice Program), ADAPT (Alcohol and Drug Abuse Prevention and Treatment), Vancouver Island Health Authority (VIHA), Adult Addictions Services, or the British Columbia Drug and Alcohol Information and Referral Services. Furthermore, this partnership model would develop space and build legitimacy for a Snuneymuxw Justice/ Healing process. For example, matters involving Snuneymuxw community members brought before the attention of the courts, the police or Ministry for Children and Families (MCF) could be diverted to a Snuneymuxw Justice/ Healing process (see Figure 1). To help facilitate this partnership with resources, the Snuneymuxw Justice/ Healing coordinator and team should liaise and have monthly face to face meetings with these organizations which would help gain legitimacy and support for their program. This would also assist on developing ways to collaborate and address problematic issues facing both communities. Furthermore, once this partnership is established, resources external to the Snuneymuxw community (ie police, corrections, courts, MCF, ADAPT) can also help promote a Snuneymuxw justice/ healing program as a viable alternative.

Snuneymuxw Justice/ Healing Coordinator and Team

The community should take time to be selective when choosing a Snuneymuxw Justice Coordinator and team because of the responsibility required in determining which cases to handle and how to approach healing for both the individual and their family. In accordance with Snuneymuxw custom when selecting leaders, the heads of the Snuneymuxw families should get together and chose the coordinator from amongst those identified as having the necessary qualities. Accordingly, this position shouldn't be a political appointment from chief and council but rather a position and team of people selected for their knowledge of S'nuw'uy'ulh cultural values and teachings and known for their "uy'skwuluwun" (having a good mind and heart). Additional qualities for this team include the following: "they should be non-biased, with an open heart, don't open that book and judge that person before you know anything about that person, ... (and) to disconnect family from this kind of work, ... we really have to say we're here for this person (Arnold White interview, February 17, 2007). Respect was another key value which begins with oneself before having the ability to apply respect and healing to others. According to Snuneymuxw Elder Ellen White: "Respect we give to others if we respect ourselves it's how we're gonna turn to others. And the old people used to say, don't let that be wasted. We spend hours and hours with you, turn it around and give it to others who need it, the families" (interview, February 17, 2007).

While I believe any community grassroots movement requires commitment and a sincere desire to make a difference in helping to improve your community, volunteerism and the availability of a Snuneymuxw Justice/ Healing coordinator and team were raised

in interviews. Availability which extended beyond band office business hours for someone to feel free to meet, have a coffee and have an open and frank discussion about their concerns. If this process were to begin on a volunteer basis, this would demonstrate a genuine and sincere commitment and interest in helping others for the overall betterment of the community. If funding became a priority, contact should be made by the team to other alternative indigenous justice programs (ie Qwi:qwelstom, Sto:lo Nation, Ska'ls, Victoria Native Friendship Centre, Tla'Amin, Sliammon Justice Program) to explore possible avenues for funding (ex. Law Foundation, Corrections, Department of Justice: Aboriginal Justice Strategy) and to also receive guidance and input when developing the Snuneymuxw Justice/ Healing process. Further avenues for funding could include adding a Snuneymuxw Justice/ Healing process funding as part of their treaty negotiations with the provincial and federal governments.

The Restorative Justice Program administered by the Nanaimo John Howard Society could provide initial best practices guidance and should be contacted by the Snuneymuxw Justice/ Healing Committee when developing their own process. Program Manager Violet Smith offered the following to the Snuneymuxw community. "For Restorative Justice, we could offer training to community members. We could share our experiences with how we've done and not done so well or where our strengths are and I think you know that's one way we could share" (Violet Smith interview, February 16, 2007). The restorative justice process can be utilized as a tool to learn from and while there are cultural similarities in bringing people together to resolve conflict, the current form and function of the Restorative Justice program is viewed by many Snuneymuxw

members as a foreign process which is overly structured and scripted. Furthermore, I would recommend taking this Restorative Justice program model one step further and adopt what's practiced with the Tsuu T'ina Nation Court and Peacemaking Initiative discussed in chapter two. This is where a celebration is held after the offender has completed their required tasks agreed upon during the first restorative justice meeting. This would have the advantage of holding up and re-integrating this individual and their family back into the Snuneymuxw community after having completed their task and would help to restore balance and harmony.

A concern that would have to be taken into account with the restorative justice model is raised by Tsalagi scholar Andrea Smith. "Restorative justice models often promote community silence and denial around issues of sexual/ violence without concern for the safety of survivors" (Smith, 2005: 160). This "blame the victim" issue could be resolved in part by the Snuneymuxw Justice/ Healing Team providing community education programs to change any prevailing community attitudes surrounding these issues and help support victims who may feel pressured to reconcile and restore the community. Victim support would have to be a cornerstone of this Snuneymuxw Justice/ Healing process for victim's to feel safe, respected and supported in their decision to have their matter brought before either the Snuneymuxw Justice/ Healing process or the Canadian court system.

Elder's Council

Greater influence and participation of Elders to assist in healing troubled individuals and their families is a key element in developing this process. This was identified throughout the interviews with a need to bring back cultural values and relate the teachings to Snuneymuxw youth. Therefore, Elders knowledgeable of S'nuw'uy'ulh cultural values, teachings, and/ or the different family histories and dynamics would be required.

But how do we initiate dialogue in this area and approach Elders for their involvement and guidance in building grassroots community support? Going door-to-door to elicit input and participation from Snuneymuxw Elders would be a start. Soliciting volunteers for this Elders' Council would demonstrate to the community how individuals are committed to this process and motivated not by money but through their desire to heal and work towards its betterment. But what's required to initiate this process is a Snuneymuxw Justice/ Healing Coordinator receiving the support and commitment by Snuneymuxw political and hereditary leadership prior to meeting with the heads of families/ Elders. Once this is obtained, presentations at Elders' gatherings and luncheons and Elder home visits by the Snuneymuxw Justice/ Healing coordinator and their team members will assist in forming an Elders' Council.

I would expand the current age-based recognition of a Snuneymuxw elder from sixty-five years of age, to be inclusive of younger Elders known for their cultural knowledge and suitability to this process based on their values of respect, fairness,

openness and willingness to participate. Building upon the Snuneymuxw term “uy’skwuluwun” meaning “good mind and good heart,” an Elder for the purposes of this council can be younger than sixty-five years of age and should include a fair representation among all Snuneymuxw families, from each of the four different reserves and also include off-reserve. The Elders Council could form either as a separate advisory body to the Snuneymuxw Justice/ Healing Coordinator and Committee, or to be included as part of the overall team. They would assist the justice/ healing team along with the heads of families as advisors, to meet and decide how to correct an individual and their family on the problem that has occurred. From there, the Elders’ council through the Snuneymuxw Justice/ Healing coordinator, can discuss and attempt to reach consensus on possible resolutions and healing plan specific to troubled individuals and their families. This would also be relevant for Snuneymuxw members who are incarcerated. An Elders’ Council through the Justice/ Healing coordinator, should liaise with Nanaimo Parole and Probation Services, to visit and support Snuneymuxw members during the time they’re incarcerated and offer culturally-appropriate healing ceremonies specific to Snuneymuxw needs. Upon their release and re-introduction back into the community, a meeting should be held with this individual and their family to discuss their suitability for re-entry into the community. This would take into account their intentions, reasons for being incarcerated, commitment to healing, and potential risk to the overall safety of the community. At this time, support and ongoing healing specific to their needs would be offered irregardless of whether they were accepted into the community.

Due to strong familial relationships among neighbouring Coast Salish nations, the composition of this Elder's Council can take on one of two directions. It's recommended initially, this council represent each of the Snuneymuxw families and reserves which make up the Snuneymuxw territory. And once this council gains acceptance within the community, this council can expand to be a regional representation among other Coast Salish Elders. The advantage of a regional representation model is that it would take into account the health and well being of Snuneymuxw Elders by addressing the time requirements, impact and subsequent stress in dealing with such matters. This was a concern raised by Snuneymuxw Elder Ellen White. "This healing also needs to be extended to the healers, when we're doing some work in here with some of the Elders, ... how are you going to look after them, ... I think it would really benefit if some of these people would open up and talk about how they felt while helping somebody" (interview, February 17, 2007). A regional Elders Council would also address the unfortunate reality of how the Snuneymuxw community is losing many of its Elders. And by increasing the composition with this council, it helps support and bring Coast Salish communities together. This reflects traditional values of bringing extended families together to support one another and help restore relationships during times of conflict and harm.

In having Snuneymuxw Elders provide direction and cultural advice to a Snuneymuxw Justice/ Healing team, they can also assist in recruiting participants which is in accordance with cultural practices. According to Bill Yoachim, "Elders do delegate and as they say in our world when you're called up you gotta step up. Whether it's to be pressed to speak, do this or that for that family, so when you're called up it would be a

given people would step up cause that's one of those unwritten rules of Coast Salish" (interview, March 5, 2007). Therefore, it'll be instrumental to involve Elders in the recruitment of volunteers, a coordinator and in obtaining grassroots acceptance and involvement by ensuring everyone will step up when they're called upon to assume roles in the development of a Snuneymuxw Justice/ Healing team.

Role Model/ Healing Team Assigned to Support Individual and Family

Healing was identified as the central value and focus of this Snuneymuxw Justice/ Healing process to include the individual, their family and their relatives which will have an overall effect on the health and well-being of the Snuneymuxw community. In accordance with this principle, a Snuneymuxw Justice/ Healing Team will be required to assign team and community members to support individuals and their families. Support given in the spirit of respect and value for this individual and their place within the community. The Snuneymuxw Justice/ Healing team should have representation from community health, economic (job creation), political and education departments who could all collectively get together to discuss ways to heal an individual and their family. This healing doesn't necessarily have to come in at the latter stages of court but more importantly, work to proactively help and heal any troubled individual and their family before it gets to this stage. This has the advantage of providing holistic healing to the individual and their family which also benefits the greater community since the aim is to address the harm or conflict in its infancy before it has a chance to grow. This is where consultations by the team with the family can propose a community healing process including the Bighouse, healing centres/ lodges, Elders' teachings, and partnering with

outside resources for their assistance and expertise (see Figure 1). This process has been initiated by myself on a smaller scale with the Nanoose First Nation in our “Case Management Meetings” where leaders from education, health, social assistance, alcohol and drug counselor, police, youth and an Elder collectively get together to discuss our knowledge about a troubled individual and their family and look at ways to work together and heal them. It’s a process resembling restorative justice principles of bringing people together to collectively look at ways to help and heal those in need. This process has also expanded outside of justice-related matters to provide solutions in areas such as employment training, peer support and cultural activities for individuals and their families.

This assistance in assigning a role model, mentor, friend or team to the individual and family to address healing a harm or conflict and also for incarcerated members, would display a commitment of reaching out and supporting individuals and their families. While it may be refused at times, it still reflects a Snuneymuxw value of support and caring for one another and may be accepted at a later stage once the individual and their family are ready to heal themselves (T’sats’awuth). It’s these values of support and caring many Elders report is sadly missing within their community and need to be brought back and taught especially to the youth.

Snuneymuxw Justice/ Healing Process – Relationship with Court System/ Jails

A strong, equal relationship and connection of a Snuneymuxw Justice/ Healing Process with the Canadian criminal justice system was a dominant theme in interviewing

both Snuneymuxw community members and participants of the criminal justice system. The real and symbolic nature of this connection can't be mutually exclusive from one another; rather a process which overlaps, involves and respects both processes is required. An empowerment is required to equate a Snuneymuxw Justice/ Healing process with the Canadian criminal justice system. Although a Snuneymuxw Justice/ Healing process should start off small and address the main issues facing their community including minor criminal offences (e.g. thefts, assaults, mischiefs, harassments), this team should liaise with the Native Courtworkers as well as the courts in order to receive direct court referrals. Gladue courts are a recent development to transform or indigenize the court system and make it more receptive which mandates spending time examining cultural and historical factors for indigenous peoples and the justice system to explore with alternatives to incarceration. It's recommended with the assistance of the Native Courtworker and defense council, that the Snuneymuxw Justice/ Healing Coordinator and team identify Snuneymuxw individuals brought before the courts and develop a process for completing the Gladue cultural reports. And if these reports aren't completed or taken into consideration by the courts, a Snuneymuxw Justice/ Healing coordinator and defense lawyer can explore the option of appeal. According to a Nanaimo Provincial Court judge, "from the outset of a sentencing consideration, in particular with respect to a pre-sentence report, ... Crown Counsel has to remember Gladue issues in making their submission. Defense counsel should remember it and the court has to remember it. And if it's overlooked then that would be reviewable at the appeal level" (Provincial court judge interview, February 14, 2007). What's also paramount to this, is developing and gaining court approval for the

Snuneymuxw Justice/ Healing process program as a viable alternative for diversion of Snuneymuxw members from the court system. This would be accomplished as recommended by Judge Saunders through meetings of the Snuneymuxw Justice/ Healing Coordinator and team with the Chief Judge of the Province, local Nanaimo judges, Administrative Crown, defense, probation and corrections. This would help facilitate this process and also discuss Native Courtworker Gordon Edwards' proposed suggestion of a courtroom assigned for First Nations people with immediate contacts and links with First Nations resources. I would take this one step further and seek a Snuneymuxw meeting place or room located within the community as an alternative to the courtroom.

For serious cases involving a violent assault or murder, they would invariably go through Provincial or Supreme Court, but there should also be a process in place which can be inclusive of the Snuneymuxw Justice/ Healing Program. A dual process which provides cultural support and healing to this individual and their family throughout the court process, during their term of incarceration and upon their release and possible reintroduction back into the Snuneymuxw community.

In chapter two, provisions of Section 81 and Section 84 of the "Corrections and Conditions Release Act," were discussed which permit the release of indigenous offenders to their community and allows for the possibility of indigenous communities to gain care and custody of indigenous prisoners prior to their release dates. Nanaimo Correction Centre Warden Don Moody expressed support for these sections, advising, "if we had specific contact with the local (Snuneymuxw) community and they had an

interest in helping re-integrate their band members into their community, then we certainly would use that contact” (interview, February 14, 2007). The Snuneymuxw Justice/ Healing Coordinator and team will need to meet with Don Moody to set up a process for including cultural practices for healing and support for Snuneymuxw members incarcerated at the Nanaimo Correctional Centre and at other facilities. This meeting and proposal Moody described could also be assisted by contacting and including the Native Prison Liaison worker in this process. The Snuneymuxw (T’sats’awuth) Justice/ Healing Process outlined in Figure 1, outlines how this would be implemented. The “Criminal Justice System” quadrant of this circular process which includes courts and prisons, would need to develop a strong and equitable relationship between the Nanaimo Correctional Centre/ Native Prison Liaison worker, with the Snuneymuxw Justice/ Healing Coordinator/Team. It’s at this stage, where the Nanaimo Correctional Centre/ Native Prison Liaison worker can meet with the Snuneymuxw Justice/ Healing Coordinator, to discuss and implement a healing strategy specific to the needs of the incarcerated Snuneymuxw individual. This may include providing S’nuw’uy’ulh cultural values, teachings and ceremonies by the Elders’ Council for this individual while they’re incarcerated and also to their family in the community. This healing and support plan would also extend upon their release from prison and re-integration back into the community.

In circumstances where Snuneymuxw members are incarcerated at correctional facilities more distant from the Snuneymuxw community, it’s recommended the Snuneymuxw Justice/ Healing Coordinator liaise with Correctional Services Canada

(CSC) to look into a transfer of their members to the Nanaimo Correctional Centre or facilities located closer to the Snuneymuxw community. This would provide more readily available access to community healing and support. It's an issue also raised by Eileen Luna-Firebaugh (2007): "allowing tribal members to be housed within or close to their home tribal community, thus increasing the possibility of family and cultural contacts while also holding miscreants directly accountable to the Indian nations themselves, can be a significant step forward for law and order in Indian Country" (Luna-Firebaugh, 2007: 108). Implementing these measures would create a process of building mutual trust and respect and be inclusive of S'nw'u'y'ulh cultural values, teachings and healing ceremonies which is currently absent from the Nanaimo Correctional Centre and at other correctional facilities.

Resources and Format of a Snuneymuxw Justice/ Healing Process

Snuneymuxw Council member Bill Yoachim recommended the format and place for a Snuneymuxw Justice/ Healing process to be as follows: "I would like to see it done in a circular fashion whether it was through the arrangement of the chairs, the design of the building, a proper building for traditional justice to be conducted in and done in an environment with the four pillars and Longhouse style" (interview, March 5, 2007). Avenues to explore to fund such a venture could include the recent federal government's 2007 budget announcement allocating more financial resources toward the Department of Justice: Aboriginal Justice Strategy. Alternatives could include the Snuneymuxw Justice/ Healing coordinator contacting alternative indigenous justice programs (ie Qwi:qwelstom Sto:lo Nation, Ska'ls, Victoria Native Friendship Centre, Sliammon Justice Program) to

explore their avenues for funding (ex. Law Foundation, Corrections, Department of Justice: Aboriginal Justice Strategy). While resources could assist in creating a more culturally-suitable environment for this process, government money would most likely result in government direction and influence over the structure of a Snuneymuxw Justice/ Healing Process. It's recommended for the Snuneymuxw to begin this process slowly, to recruit volunteers to this team with a small stipend to cover unexpected costs and to choose an existing building or place to hold these meetings. From there, costs and funding applications can be explored as this process gains legitimacy both within the community and the Canadian criminal justice system.

Politicization of the Snuneymuxw Justice/ Healing

Waivers, consent forms, police background checks, terms of reference and other bureaucratic issues may come to the forefront in an increasingly civil/ legal society when dealing with sensitive issues. Concerns over political interference and the power over relationship between Snuneymuxw Chief and Council and community members was identified in interviews of Snuneymuxw members and is also factual given my professional (police) relationship with the community. It's recommended Snuneymuxw Chief and Council support a Snuneymuxw Justice/ Healing process but remain at "arms length" from this committee as recommended by current Snuneymuxw Council Member Bill Yoachim. "I believe the chief and council which I'm part of, should give their blessings and support behind the initiative but whoever comprises that committee should have the say with no micro-managing of any sort" (interview, March 5, 2007). This will help to ensure open dialogue and recruitment of volunteers to this process without fear of

bias or political repercussions from council. This is a concern also expressed by Arnold White.

Chief and Council can be biased (and) hard to get along with and also our Chief who likes to control the flow of the meeting as she likes to sand up and say no and that's it, it's no, ... we should exclude them from our meetings which they would not like but to keep the bias out and let us be there for our purpose, ... if they're outspoken just more than what they accept, ... they're not invited back by council (interview, February 17, 2007).

This power over relationship also extends to myself as an RCMP officer. While it is my intention to provide assistance as a community resource in helping to develop this process in accordance with their vision, it must remain community-driven to ensure its long-term success. Therefore, the role and function of police either at arms length or with greater involvement in a Snuneymuxw Justice/ Healing process would be respected in accordance with their wishes.

In the development of a Snuneymuxw Justice/ Healing process, I've witnessed an unwillingness by family members who continue to support and turn a blind-eye when it comes to their relatives causing problems (ex. selling drugs) within their community. As Snuneymuxw Council member Bill Yoachim describes: "where no one will speak on this house or that family because they might be related or cousins, and it is really hush hush, then things snowball and it might be innuendos, (or) rumours, but if we have a justice committee where we could put it out on the table in a non-shameful manner than you get your answers" (interview, March 5, 2007). Likewise, Youth Probation officer Annie Thuveson has witnessed, "... sometimes the relatives don't want to deal with other relatives so we're limited in that there's only so many families" (interview, February 24,

2007). This concern could slowly be addressed by the Snuneymuxw Justice/ Healing coordinator and team demonstrating their values and commitment to respect, “t’sats’awuth” (helping self) and “hulit” (to heal him or her). If genuine and sincere respect is given to each individual with an emphasis on healing over punishment, this process over time will gain acceptance, legitimacy and participation and result in a healthier Snuneymuxw community and improved social development.

Conclusion

There will always be supporters and detractors with any new initiative or process. I have concerns from my experience working with the Snuneymuxw community how good intentions and initiatives begin well enough but sometimes get side tracked and lose steam to where they're placed on the backburner and forgotten about until the issue resurfaces in one form or another. An example of this was where two community suicides occurred within a relatively short time frame from one another. The community came together to discuss ways to support the family and heal the effects of this trauma on the community. Initiatives such as health department resources and workshops to help prevent its re-occurrence were initially instituted, but not sustained once interest subsided and with no other suicidal occurrences, the issue was dropped.

Taking into account and learning from past Snuneymuxw initiatives which have failed to become implemented and sustained, the following are recommendations which would help ensure grassroots support and long-term success in creating a viable Snuneymuxw Justice/ Healing process. Also included are steps required to researching and achieving these objectives.

- Personal visits and meetings with community members will assist in receiving feedback and input and keep this issue moving forward;
- Ongoing meetings which are at arms-length from political influence by Snuneymuxw Chief and Council will help ensure changes in council positions have little to no effect on this process

- Personal contact by myself and others identified in this research as interested and sincere in developing this process, will help ensure it's long-term viability
- A Snuneymuxw Justice/ Healing process will succeed if it's community-developed and driven in gathering community input and direction, taking into account differences in age, political versus non-political involvement, on-reserve, off-reserve dynamics
- Representation from each of the families and communities which make up the Snuneymuxw nation is required to build grassroots community input and support
- This process will have to be flexible enough to make changes which best serve the needs of the Snuneymuxw community
- This research identified key individuals who expressed their support during the interviews in creating and sustaining a Snuneymuxw Justice/ Healing process which will have the advantage of moving this process forward from dialogue, towards implementing many of these recommendations

This research will enable the Snuneymuxw community to learn about the present state of the Canadian criminal justice system and its effects on their people while providing recommendations or tools to help them develop and implement a more culturally relevant justice/ healing process. As a result, this may have the effect of strengthening and empowering their community based on their cultural teachings

(S'nuw'uy'ulh). I understand how as a member of the RCMP my position is to reinforce acceptance of the colonial structure of the Canadian justice system; however my intentions as a researcher were to empower the Snuneymuxw to develop a separate justice/ healing process. A process which respects their S'nuw'uy'ulh teachings and values of restoring balance and harmony when faced with problems or conflict, over opposing alternative Canadian justice values of deterrence, guilt and punishment. This is a process which needs to be developed because the alternative option provided by the Canadian justice system, is lacking the culturally meaningful component.

The creation of a Snuneymuxw healing process is faced with many challenges. Snuneymuxw Chief and Council meetings routinely list issues of treaty, land and economic development as key priorities however the overall health and prosperity of their community is beginning to take precedence. This is due to a growing understanding of how the health in one area, also reflects and influences the overall health in other areas. Therefore, creating a healthy and supportive justice/ healing process will positively benefit and create balance with the other identified priorities as well. This research also demonstrated how the development of this justice/ healing process needs to begin internally before looking outside or externally for help. Likewise, the failures of imposing the Canadian criminal justice system upon the Snuneymuxw community, illustrates how the long-term sustainability and healing of this process has to be sewn, created and nurtured from within the community. This will be accomplished through assembling like-minded individuals interested in the health and healing of their community. Like-minded, but open to a divergence in thoughts, beliefs and discussions

which would assist in assembling the various pieces of this puzzle to develop this process. While this research has provided substantive recommendations in assist the Snuneymuxw community in developing their own healing process, it serves as a guide. A guide based on my analysis and perspective as an RCMP officer which offers another piece of the puzzle in the formation of this process. It's recommended this healing process begin slowly to focus on one or two key recommendations which resonate with community members. And from there, this process should begin with one individual, their family, relatives and eventually build among Snuneymuxw families and the overall community. The advantages of this, will be to help create community buy-in and input in its development and work to sustain this process as well. It's a process worth undertaking which will take considerable time and effort and should also seek input from justice officials where the community sees fit.

This research will help guide the process but what's required is for Snuneymuxw individuals and their families to undertake this challenge because the desire and leadership already exists within the community and needs to be accessed and called upon. The next step is for the Snuneymuxw to take that step forward, make changes and remain committed to this process to create a healthier and empowered community. This step forward is vital because doing nothing blindly accepts the inadequacies and failings of the current colonial system of justice which will never work unless justice originates from the hearts and minds of the Snuneymuxw people.

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Appendix A: Interview Questions

Please introduce yourself.

Background Discussion

- Describe what justice for Aboriginal peoples means to you?
- Describe your feelings about how the Canadian court system has served your community?
- How has the Canadian court system been culturally relevant for Snuneymuxw community members?
- Describe your experiences and/ or involvement you've had either directly or indirectly with the Canadian criminal court system?
- Describe any changes you'd like to see with the Canadian court system and jails?

Culturally-Relevant (Snuneymuxw) Justice Process

- Describe any experiences you may have had with any alternative or indigenous forms of justice for your community?
- What are your thoughts about an alternative Snuneymuxw or parallel justice system which is more culturally- relevant?
- Do you believe a Snuneymuxw justice system should be separate from the Canadian court system?
- What do you feel would be the benefits and/ or drawbacks of a Snuneymuxw justice system separate from the Canadian court system?
- What steps do you believe would need to be taken to implement a Snuneymuxw alternative justice system for your community?

Developing a Snuneymuxw Justice Process

- Who would need to be involved to organize it, create it, and sustain it?
- Describe the roles and responsibilities of a Snuneymuxw justice system? Whom do you believe should come under its authority?
- How would you recommend getting community members input and involvement?
- Describe three main types of conflicts, problems or issues you'd like to see resolved with a Snuneymuxw justice system that isn't being resolved through the court system?
- How would a Snuneymuxw justice system address these three main issues?
- Describe the cultural values and teachings would be required for a Snuneymuxw justice system?

Relationship of Snuneymuxw Justice Process with Nanaimo Court System/ Local Correctional Facility

- What role/ relationship if any, should a Snuneymuxw justice process have with the Nanaimo court system?
- For Snuneymuxw community members who have gone through the Canadian court system and are imprisoned, describe the role a Snuneymuxw justice system should play upon their release and re-introduction back into the community?

Is there anything further you'd like to add which you feel is important to our discussion?

Appendix B: Interviews and Personal Communication

Interview with Don Moody, Nanaimo Correctional Centre Warden (February 14, 2007).

Interview with Nanaimo Provincial Court Judge who wished to remain anonymous (February 14, 2007).

Interview with Gordon Edwards, Regional Vancouver Island Manager for the Native Courtworker and Counseling Association (February 15, 2007).

Interview with Violet Smith, Nanaimo John Howard Society Program Manger of Restorative Justice (February 16, 2007).

Interview with Ellen White, Snuneymuxw Elder (February 17, 2007).

Interview with Arnold White, Snuneymuxw Community Helpers Committee Member (February 17, 2007).

Interview with Ron Parsons, Nanaimo Administrative Crown Counsel Lawyer (February 18, 2007).

Interview with Dave Keating, Director of Vancouver Island Community Corrections (February 18, 2007).

Interview with Chris Churchill, Nanaimo Criminal Defense Lawyer (February 19, 2007).

Interview with Bobbi-Rae Milburn, Snuneymuxw Youth (February 19, 2007).

Interview with Jack Wyse, Snuneymuxw Elder (February 23, 2007).

Interview with John Wesley, ex-Snuneymuxw elected Chief (February 24, 2007).

Interview with Annie Thuveson, Nanaimo Youth Probation Services Officer (February 24, 2007).

Interview with Paul Wyse-Seward, Snuneymuxw member (February 27, 2007).

Interview with Bill Seward, Snuneymuxw Elder (February 27, 2007).

Interview with Maria Seward, Snuneymuxw Elder (February 27, 2007).

Interview with Justine Saunders, Nanaimo Provincial Court Judge (March 1, 2007).

Interview with Bill Yoachim, Snuneymuxw Council Member and Ministry for Children and Families Social Worker (March 5, 2007).

Telephone interview with Joanne Jefferson, Qwi:qwelstom-Sto:lo Nation Justice Program Coordinator (March 16, 2007).

Telephone interview with Mario Paul, Tla'Amin Sliammon Justice Program Coordinator (March 28, 2007).

Telephone interview with Shirley Lang, Ska'ls, Beliefs in Justice Program Coordinator (March 28, 2007).