

**ADVANCING THE STRATEGIC JUSTICE PLAN IN ELSIPOGTOG:  
THE RELEVANCE OF FIRST NATION AND OTHER INITIATIVES  
FOR INCREASED EFFECTIVENESS AND COMMUNITY  
OWNERSHIP**

**FINAL REPORT**

**PREPARED FOR THE ELSIPOGTOG JUSTICE  
ADVISORY COMMITTEE**

**SEPTEMBER, 2009**

**DON CLAIRMONT and TAMMY AUGUSTINE**

**ATLANTIC INSTITUTE OF CRIMINOLOGY,  
DALHOUSIE UNIVERSITY**

## OVERALL SUMMARY

### PROJECT'S OBJECTIVES AND METHODS

As the title of this report indicates, the central objective of this project has been to produce “a policy document well-evidenced”. The Elsipogtog Justice Advisory Committee wishes to take advantage of its readiness, in terms of both need and capacity, and favorable external circumstances to significantly advance its 2005 strategic action plan to realize greater community direction in the criminal justice field. The favorable circumstances refer to the announcement of the provincial government to close its Richibucto provincial court which currently handles Elsipogtog criminal charges, and explicit indications from the New Brunswick Ministry of Justice that it is considering the establishment of specifically Aboriginal courts. In order to generate the appropriate policy document for Elsipogtog, it was considered necessary to have a thorough appreciation of what is happening along similar lines in First Nations throughout Canada and in other similar jurisdictions, basically the United States and Australia. It was also important of course to document the pertinent wishes, needs and resources in the Elsipogtog community. Equally significant was placing First Nations initiatives and needs in the context of recent developments in mainstream conceptions and patterns of justice service delivery (e.g., the problem-solving court) and in Canadian judicial and societal acknowledgement of Aboriginal rights.

The research strategy involved extensive review of literature and salient documents (see appended bibliography), fieldtrips in Alberta, Manitoba, Ontario, New Brunswick and Nova Scotia, and utilization of telephone and e-mails to garner further information as required. Interesting developments in problem-solving courts in mainstream Canadian society were examined first-hand and, in the case of First Nations, both court and special court-supplemental programs (e.g., the Biidaaban program) were considered. While there was a copious literature on mainstream developments, such as the drug treatment court (DTC) movement, there was little literature or even documentary materials available on the First Nations' initiatives; what there was, was usually either inaccessible or dated. This circumstance underlined the importance of doing the fieldtrips and obtaining first-hand knowledge.

In the following summary discussion of the main themes of this report, the reader will be referred to specific power point slides in the 68-slide “deck” attached to this overview. The slides were made as self-explanatory and user-friendly as possible and elaborate on the key points of the summary. The following table identifies the slides specific to each of this report's themes.

**TABLE 1**  
**POWER POINT SLIDES (APPENDED)**

<b>THEME</b>	<b>SLIDE #</b>
<b>Overview of Topics</b>	<b>2</b>
<b>Elsipogtog Strategic Action Plan &amp; Updates</b>	<b>3-5</b>
<b>Trends in Justice Overview</b>	<b>6</b>
<b>Drug Treatment and Wellness Courts</b>	<b>7-17</b>
<b>Recent Developments in Aboriginal Justice</b>	<b>18-23</b>
<b>Elsipogtog Challenges and Capacities</b>	<b>24-32</b>
<b>Other Programs Examined</b>	<b>33</b>
<b>Alberta FN Programs</b>	<b>34-41</b>
<b>Akwesasne</b>	<b>42-43</b>
<b>Nova Scotia Mainstream and Mi'kmaq Initiatives</b>	<b>44-46</b>
<b>Toronto Gladue Courts</b>	<b>47</b>
<b>Hollow Water &amp; Biidaaban</b>	<b>48-51</b>
<b>Saint John Mental Health Court</b>	<b>52-53</b>
<b>Moncton Domestic Violence Court</b>	<b>54-55</b>
<b>Whitehorse Wellness Court</b>	<b>56-57</b>
<b>Central Observations from Other Programs</b>	<b>58-59</b>
<b>Possible Future Directions and Strategies</b>	<b>60-68</b>

## **BACKGROUND: ELSIPOGTOG**

In 2005-2006, a band council resolution (BCR) gave formal Elsipogtog approval to a strategic action plan (SAP) for justice services that was the product of an intensive examination of the needs, wishes and justice system experiences of the community residents. The research had been a year and a half in the making, utilizing a large, representative sample of households, focus groups with youths, elders and neighbourhoods, special meetings with service providers (separately with staff and with directors), analyses of diverse justice-related community stats, and several feedback sessions (Clairmont, 2005). Slides 3 to 5 describe the SAP and the developments in Elsipogtog justice over the subsequent three years. The Justice vision mapped out in the SAP called for an careful progression of specific goals and objectives from fine-tuning current programs which were seen as “mainstream-driven” to achieving a significantly Migmag / Elsipogtog–driven community justice system (slides 3 and 4).

In 2005 Elsipogtog had a modest but nevertheless province-leading restorative justice program (one and a half staff positions) which dealt with low-end offences committed by youth and adults; the referrals to the program were made essentially by the local RCMP police. Also, in addition to an impressive organizational structure which effected much integration between health and justice services, and the usual reserve-based alcohol and drug programs, there was a part-time person engaged in services to victims, a community probation officer (employed by the province), and two full-time certified providers of psychological services as well as an independent traditional treatment service. Slide 5 lists the developments that occurred since 2005, an impressive list. The restorative justice program received annually many more referrals (roughly an increase of 300%) and an additional staff position, the coordination of victim services became a full-time position, a new position – Justice coordinator - was created to provide overall oversight and direction, the local RCMP unit became a detachment with an increase of four positions, and several significant projects were launched dealing with offender reintegration, sexual assault and youth issues. In addition, the Eastern Door program focusing on identifying and treating children with FASD and related challenges experienced substantial growth and institutionalization. Clearly, Elsipogtog in the period 2005 to 2008 made significant progress in implementing its 2005-2006 SAP.

## **BACKGROUND: SOCIAL MOVEMENTS IN JUSTICE IN SOCIETY AT LARGE**

Over the past two decades there have been dramatic changes trends in Justice thinking and practices. The problem-solving court, whether drug treatment court or mental health court, has become increasingly common in North America along with the flowering of restorative justice or alternative justice practices (see bibliography). This “therapeutic jurisprudence” approach (called such because it links health and justice and

focuses on getting at the roots of certain criminal activity) appears to a byproduct, at least in part, of the evolution of the meaning of ‘citizenship’. Social scientists have argued that citizenship has evolved from a basic legal significance (some civil rights) through to political citizenship (voting, participating in governance) to a social stage where there is much emphasis given to taking into account the perspectives, needs and interests of all segments of society.

This evolution has presumably spawned, in the case of the justice system and young offenders, the movement from the juvenile delinquency act to the young offenders’ act to the current youth criminal justice act where the emphasis is on appreciation of young offenders’ special needs and circumstances and much less on punishment and incarceration. In the access to justice literature, there is reference to a third wave of access where much attention is focused on “expansive justice mechanisms to respond to interrelated problems such as health and justice and to offenders’ standpoints”. That kind of thinking appears to underline much of the momentum for the problem-solving court even while the latter’s stated justification may be more mundane, namely that is more effective in reducing recidivism and is cost-effective. This general cultural and policy development is especially salient for Aboriginal justice since here there is now also a strong constitutional basis and governmental acknowledgement for the creation of justice systems in Aboriginal communities that are firmly aligned with Aboriginal needs, wishes, and direction; so, in the case of Aboriginal justice, there is a “citizen plus” position that can be effectively advanced to argue for the kind of future justice programming envisioned in the Elsipogtog SAP.

Slides 7 through 17 provide much detail on the problem-solving court in its drug treatment court (DTC) guise. Slide 8 locates the DTC in the problem-solving court context, identifies its thrust of getting at the substance abuse addiction which has generated so much crime, incarceration and recidivism, and notes its underlying philosophy of abstinence, not harm reduction. The DTCs’ key features are identified in slides 9 and 10. There, it is noted that, while there has been significant variation in how the DTCs have been implemented, eligibility requires that an offender voluntarily opt for the program (i.e., pleads guilty and selects the DTC option) and is indeed an addicted person. The DTC court team, which meets frequently and where collaboration is the norm, includes, at the minimum, a judge (the leader), crown prosecutor, defence counsel, and treatment provider. The offender typically gets bail and becomes involved in a treatment program that is intensive, long-term and closely monitored with frequent returns to court for treatment and other updates. Successful completion of the treatment program usually enables the offender to avoid incarceration. As indicated in slide 11, the DTC initiative has grown substantially since its start in Miami in 1989 and in Canada in 1998, and increasingly is diverse in offender eligibility and treatment strategy. In both countries the DTC has been a federal-provincial (state) partnership.

While generating a number of central issues (see slide 13), the DTC has had a solid record of success (see slide 14) in reducing recidivism and being cost effective (basically costing one tenth the expense per person of the conventional use of incarceration). Successful offender participants have reported the close monitoring, with

implications for violations, and the relationship between the offender and the judge as especially crucial to the DTC success. Roughly 50% of the eligible offenders opt for the DTC and roughly 40% to 50% of those opting in successfully complete the program. Over time the DTCs have broadened eligibility criteria and become less stringent in opposition to the harm reduction philosophy. The emergence of other types of courts, such as the community court and the mental health court, have blurred the boundaries between the DTCs and other problem-solving courts (slide 15).

In “Indian Territory” in the United States, the DTC is called the Healing to Wellness Court (see slide 16). The first such court began in 1997 and now there are reportedly 75 such courts, of which five are mentor courts for new Indian initiatives. The Healing to Wellness court operates similarly to the DTC in eligibility, team work, close monitoring and so forth but has some special features such as more direct community involvement, both traditional and conventional treatment services, and an equal emphasis on both drug and alcohol addiction. As slide 17 contends, despite the challenge of a small population and the need for building up service capacity, the Healing to Wellness version of the DTC would appear quite appropriate for Elsipogtog and partner First Nations for a number of reasons – the substance abuse legacy of colonialism, the significant problem of addiction-related offending (see below) and the community’s readiness to progress to a more Migmag / community – driven approach to justice services.

## **DEVELOPMENTS IN ABORIGINAL JUSTICE INITIATIVES**

Slides 18 to 23 identify recent developments concerning Aboriginal justice initiatives which provide an important context for justice possibilities in Elsipogtog. Key developments include the 1982 Constitutional Act (“the existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed”), inquiries such as the 1990 Hickman Inquiry on the Wrongful Prosecution of Donald Marshall Jr, the 1996 Bridging the Gap report of the Royal Commission on Aboriginal Peoples (RCAP), and recent sentencing policy amendments to the Criminal Code and Supreme Court of Canada’s decisions such as the Gladue decision in 1999.

The recommendations of the 1990 Hickman / Marshall Inquiry (slide 19) have had a major impact on Aboriginal justice in Nova Scotia, leading up to its current province-wide justice services provided through the Mi’kmaq Legal Support Network (MLSN) which may well be the most effective and well-established multi-FN Aboriginal justice programming in Canada (Clairmont and McMillan, 2006). The 1990 recommendations have virtually all been implemented and indeed the justice services provided by MLSN have gone well beyond them. A key factor in this progress has been the 1990 recommended Tripartite Forum on Native Justice whereby quality federal, provincial and Mi’kmaq representatives meet regularly to monitor current justice initiatives and consider new ones. The 1990 Hickman / Marshall Inquiry reflected – as did most but not all such inquiries on Aboriginal justice issues between 1985 and 1992 – an agenda oriented to fairness and integration within the mainstream justice system. The 1996 RCAP Commission reflected a somewhat different agenda, one more oriented to autonomy and difference as elaborated in slides 21 to 23 inclusive. In 1996, at a general

meeting of Nova Scotia chiefs, there was consensus that, given the accomplishments of the 1990 Marshall recommendations, the appropriate future agenda for justice services should be that advanced by RCAP.

The RCAP agenda called attention to two additional points that are salient in considerations of Aboriginal justice in general and Elsipogtog possibilities in particular, namely (a) the possible importance of transcending community-specific justice programming to construct tribal or multiple-FN, partnered justice services (to achieve cost efficiency and better cope with conflicts of interest and favoritism), and (b) the importance of justice segments other than the criminal sphere in order to effect more culturally specific justice services (e.g., family justice and regulatory or band-initiated administrative justice initiatives). Family justice, it has been argued, is more likely than criminal justice to be a site where Aboriginal values and practices might yield substantially different justice policies and practices. Increasingly, too, FNs in Canada have been developing a dispute resolution capacity which appears essential to sustain effective self-government. According to the federal Department of Justice, there were approximately 89 community-based agreements with a reach of 451 communities as of 2005. The Department is working with INAC and the Aboriginal Justice Directorate to develop projects and resources to support self-government capacity building in the local administration and enforcement of Aboriginal laws prior to the implementation phase of self-government negotiations. For example, the Union of Ontario Indians received funding for developing capacity for appeal and redress mechanisms and the necessary training for the effective adjudication of their regulatory and civil laws when their self-government agreements comes into force. In British Columbia, agreements respecting First Nations knowledge are used to frame the management of lands and resource development according to their laws and values in ways that are preserving and sustainable. The Esketemc Alternative Measures program, also known as Alkali Lake, has a protocol for fish and wildlife offences that provides the delivery of a coordinated enforcement strategy. Offences are dealt with in a dispute management process using traditional healing circles, family group conferencing, mediation or victim/offender reconciliation, with an interagency justice committee monitoring a community living contract. The Nova Scotia Mi'kmaq leadership is currently considering a variety of initiatives in the family and regulatory justice areas.

## **ELSIPOGTOG CHALLENGES AND CAPACITIES**

Slides 24 to 32 refer to the challenges and capacities for Elsipogtog in advancing its justice programming. An examination of the tables provided makes it very evident that the violence and public safety patterns cry out for more effective solutions. Interpersonal assaults, domestic violence, and property offences are indeed at very high levels, far greater than in surrounding mainstream communities with larger populations, and unfortunately they show no sign of lessening. Interventions under the mental health act are very high as is community expert assessments of the number of children and youth impacted by FASD. The drug abuse situation among adults is epidemic in scale, roughly 80 times the per capita rate of Halifax Regional Municipality, the major urban centre for

drug abuse and drug dealing in Atlantic Canada. The police to population ratio is far higher than in most areas and policing is understandably basically reactive given the heavy caseload. There appears little doubt that the community as a whole has to be more fully engaged and take ownership in getting at the roots of these problems. The colonialist legacy that caused people to protect or shield their own versus the outside justice system, and to adopt the view that non-natives are the problem, is incongruent with the current realities rooted in band council authority and administrative responsibility and the significant economic and political developments since 2000.

Slide 32 summarizes Elsipogtog's justice-related capacities, elaborating on slide 5 cited above. Apart from the latter, it should be noted that Elsipogtog has had a number of persons trained in traditional dispute resolution techniques, a crisis intervention team available 24/7, an extensive coordination and planning capacity (e.g., working committees on violence, a broad-based justice advisory committee), and soon will be partnering with some other FNs (i.e., the MAWIW network) in a court worker program and accessing an Aboriginal duty counsel. Increasingly, the capacity and the will to deal with the very challenging issues are there and the focus is shifting to putting in place a justice system that the community fully participates in and that resonates well with its needs and values. Resources do remain an issue however. Elsipogtog has an INAC Wellbeing score of 66, higher than Tobique (63), Burnt Church (57) and Eskasoni (62) but lower than Membertou (74) and probably Millbrook (no INAC score available). Moreover, some community service providers have argued that a good number of the justice-related services have staff with minimal training and credentials.

In advancing towards a more effective and efficient Migmag justice system, the community leaders will have to be in the vanguard. Interviews with local mainstream justice officials do indicate, however, that they would be responsive to such initiatives, acknowledging that the level of violence and lack of public safety continues to be excessive and unacceptable.

## **EXPERIENCES ELSEWHERE**

Slides 33 to 59 detail the pertinent experiences of FN and mainstream justice experiences elsewhere. Slide 33 lists the sites contacted, namely the three Alberta FNs of Tsuu T'ina, Siksika and Alexis, the Akwesasne Mohawk FN, the Hollow Water FN in Manitoba, the Mnjikaning FN (Biidaaban program) in Ontario, the Gladue and DTC courts in Toronto, the Eskasoni FN and MLSN program in Nova Scotia, the Mental Health and Domestic Violence courts in Saint John and Moncton respectively, and the Wellness court in Whitehorse.

The three Alberta FNs illustrate well the diversity of First Nations in Canada regarding size, socio-economic well-being and justice strategies (see slides 34 to 41). All have provincial criminal courts which sit on reserve (though the Tsuu T'ina Peacemaker court is temporarily sitting in Calgary) and all utilize circles in various justice practices though none have sentencing circles in the classic sense where justice court officials are



involved. All three reported council and community support and all have plans to further develop their justice programming, especially to root out drug dealing and enhance healing. Mainstream Caucasian court officials with few exceptions (probation officers, one crown prosecutor) manage the court process.

The Alexis FN, working in collaboration with mainstream justice role players (all of whom are non-natives save the probation officer), has had since the 1990s, a well-recognized community-based, alternative response program to deal with substance abuse and violence issues. It operates very much like a DTC / Wellness Court (i.e., a guilty plea followed by a community rehabilitation plan worked out and monitored by a community committee, and regular courtroom updates) and the court proceedings convey a cultural ambience (e.g., smudging, role for elders). Though no formal assessment was available, both Alexis residents and mainstream justice officials claimed that the Alexis approach has worked well, has community support, and has reduced recidivism considerably (see slide 36). The Alexis program is managed by a small staff of full-time community people supported largely by federal funding but with some provincial support.

The Tsuu T'ina FN is well-known for its Peacemaker Circles option which began with the provincial court sitting on reserve in 2000. Initially the judge and crown prosecutors were native people and the court conveyed a strong native ambience. For certain offences (see slide 38), and with crown prosecutor approval, offenders could select the Peacemaker option, a restorative justice type of community circle (the elder participants were trained by the Peacemaker coordinator); if the circle agreement was not lived up to by the offender, the case would go back to the court for processing. While open to all types of disputes, the focus has been clearly on criminal matters. According to a 2004 assessment, about 50% of all cases where a Tsuu T'ina person is the offender are processed through the Peacemaker option and in 50% of these cases the offender completes the circle agreement.

In the Siksika FN case, the program has been more one of dispute and conflict resolution based on traditional principles (see slide 39) though criminal cases referred from the provincial court have also been dealt with. The Siksika approach can be likened to Elsipogtog's Apigsigtoagen initiative (slide 32) with the difference being that it is an operational program with a strong record and much community support. The Siksika program began with a BCR in 1998 and continues to receive significant funding directly from the band council budget. A strong community justice team undergirds the Siksika program which deals with conflict in all areas of justice – family issues, band policies such as housing, and criminal cases. There is no mistaking that it exists alongside rather than as a sub-unit of the mainstream justice system.

The Akwesasne Mohawk court has been in existence in this populous, wealthy FN for 26 years (see slide 42). Akwesasne has a Department of Justice which manages the court, restorative justice and dispute resolution programs, and other justice-related programming. Through its Department of Justice there has been a considerable focus as well on developing laws (community laws not band bylaws under the Indian Act) to deal with drug dealing issues and matrimonial and land issues. The Mohawk court deals

essentially with traffic laws, community laws and band bylaws; though its charter allows for processing minor criminal code offences, the Mohawk police typically lay these charges in provincial court (e.g., Cornwall) and it is referrals from these provincial courts which account for the restorative justice cases. The Mohawk court justices are not mainstream legal professionals but are trained following manuals prepared by the Mohawk Department of Justice and are paid from band funds. Recent band policies have strengthened the court's impact and credibility in the community (e.g., a band council resolution on unpaid fines which greatly restricts one's access to band resources until the fine is paid).

Slides 44 to 46 describe some of the key features of Mi'kmaq justice in Nova Scotia. The impact of the Marshall Inquiry has been noted, both for its stimulus in effecting a province-wide organization of justice services among Nova Scotia FNs (the MLSN) and for the ever-evolving range of justice services MLSN has provided. Slide 44 describe the mainstream justice situation in Nova Scotia, noting developments significant for Mi'kmaq justice such as the emergence of a problem-solving court in Halifax (a combination of a DTC and a Mental Health court), a Safe Communities Act which can shut down drug houses, and a provincial court at Eskasoni. The Eskasoni court is a provincial criminal court in every respect (e.g., mainstream Caucasian officials, ambience etc) but it has sat at Eskasoni for a decade and is much appreciated by the community leaders and MLSN staff (see slide 46). The MLSN organization is described in slide 45. It has oversight and advice provided to it by the Confederation of Mainland Mi'kmaq, the Tripartite Forum on Native Justice and an Advisory Committee constituted of Mi'kmaq leaders. Its programs include a customary law program (restorative justice circles), sentencing circles, court workers, cultural awareness and liaison in penal institutions and it is branching out into family and regulatory justice circles. A major challenge for MLSN has been shoring up its community linkages.

Given that some Justice officials in New Brunswick referred to the possibility of establishing Aboriginal courts as Gladue courts, it was important to visit the Gladue court (there are three in Ontario) in central Toronto and talk with court officials as well as the Aboriginal Legal Services staff that has been so instrumental in getting the Ontario judiciary to implement the Supreme Court of Canada's Gladue decision. The Toronto Gladue court deals solely with self-declared Aboriginal people and is especially, noticeably different than conventional court when bail or sentencing is under consideration. The emphasis in the Gladue court is on having an holistic approach, avoiding custody if possible and providing access for the offender to treatment programs and other beneficial social services. Aboriginal Legal Services also provides restorative justice and dispute resolution programming. Outside Ontario, there appears to be typically both no great push among the judiciary for special Gladue courts or even special Gladue reports, and no great demand for same by FN justice services. Generally, Aboriginal probation officers and court workers seem to be presumed to deal with the Gladue issues in their court roles. Field observations suggest that some FN justice providers may not fully appreciate the significance of the Gladue decision since they may assume they have already been taking the Aboriginal legacy and other factors into account in their dealings with specific offenders, But Gladue is important for directing

attention to alternatives to incarceration and for a better appreciation of how legacy, in terms of an offender's personal history and social circumstances, link up with offending patterns.

The Hollow Water and Mnjikaning FNs do not have courts on reserve and apparently no expectation of having them but they have made a major impact on FN justice in their approaches to spousal / intimate partner violence and sexual assault, both significant problems in Elsipogtog as noted earlier. Hollow Water (see slides 48 and 49) may have been - and remains - a relatively small, poor community but it is a storied example of a community taking ownership of a major problem in their community rather than being satisfied with dealing with minor offences. The Community Holistic Circle Healing Model, (CHCH), a comprehensive, in-depth, multi-year intervention that entailed widespread involvement and training among the residents of the small community, has been a major contribution to Aboriginal justice for over two decades. The approach of Hollow Water justice activists has been to emphasize the use of traditional and professional knowledge and to partner with mainstream systems. In recent years the circles program has become less specialized and deals now with virtually all offences in an alternative, restorative process. The Mnjikaning FN essentially followed the Hollow Water approach both in focusing on sexual abuse and in developing the Biidaaban model based closely on the CHCH model (see slide 50). Its evolution has been more to emphasize restorative justice and family dispute resolution using a healing philosophy and the circle principle.

Slides 52 to 55 deal with the Saint John Mental Health Court and the Moncton Intimate Partner Violence Court, provincial courts processing criminal cases. They were considered important as a context for Elsipogtog justice possibilities because they handled issues that are major problems in Elsipogtog and are centers in New Brunswick for their type of problem-solving court, just as Elsipogtog may be for the Aboriginal court in New Brunswick. Justice officials at both sites readily appreciated the concept of an Aboriginal court, noting the importance of cultural factors and community in effective treatment and their awareness of the level of social problems in FNs such as Elsipogtog. The Saint John Mental Health Court has been established since 2001, operates in the problem-solving court, team mode (i.e., offender pleads guilty, a treatment plan is developed, close monitoring and regular court updates are featured etc) and claims much success – low levels of recidivism - with the client offenders (slides 52 and 53). The Moncton Intimate Partner Violence Court is only in its third year and is different from the typical problem-solving court in that it is not voluntary and appears to render tougher sentences than were previously meted out in provincial court. It fits the model in that treatment is emphasized and there is close monitoring and regular reports provided to the court by the probation officer and the offender (slides 54 and 55).

The Whitehorse Wellness Court described on slides 56 and 57 has been in operation for only two years. Its clientele is largely FN people (as is the area's Domestic Violence Court established in 2002 (see slide 57). The Wellness court has been partnered by leaders of the Yukon FNs and the Yukon territorial government. Its eligibility includes adult offenders addicted to drugs or alcohol or affected with FASD. It operates like the

typical DTCs discussed earlier (e.g., voluntary, plead guilty, if accepted offenders go into a treatment plan, close monitoring and regular court updates). The Whitehorse Wellness court's eligibility criteria did not extend beyond offenders charged with minor offences and, given the lengthy treatment plan that characterized the program, a major problem has been to recruit volunteer offenders – such minor offending typically carries short incarceration sentences so there would have to be a significant commitment to change on the part of the offenders for them to opt for the lengthy treatment plan.

## **CENTRAL THEMES EMERGING FROM THE FIELDWORK**

Slides 58 and 59 summarize the central observations drawn from examining the FN justice programs elsewhere and the several mainstream programs noted. Throughout the fieldwork phase common issues were identified, especially drug and alcohol addiction, effective response to drug dealing on reserve, dealing with intimate partner violence, and the need for community-based solutions which presume a strong community buy-in. Resources to mount restorative and healing alternatives to enforcement and incarceration were seen as problematic in most but not all sites. There was strong evidence that what we have termed “the RCAP agenda” has taken hold among many FNs and that the problem-solving court / wellness court was seen as a possibly effective way to deal with the disproportionately high level of social problems and crime recidivism found among FN people. Generally, whether they were largely conventional in format or Aboriginally nuanced, provincial courts on reserve were seen by local FN justice leaders as effecting positive change. Advancing almost any effective court-based initiative was considered to require establishing good relations with the judge and the crown prosecutor and, to live up to its share of the partnership, crucial community justice roles were deemed to be justice coordinator, court worker and probation officer. Active support of chief and council and strong team collaboration among local justice service providers appeared to be the important factors in accounting for successful and inventive justice programming. Elsipogtog justice programming, while impressive in New Brunswick, was seen as lagging when compared to the FN justice systems elsewhere that were examined.

## **FUTURE DIRECTIONS: THE OPTIONS**

Slides 60 and 61 specify the seven key conclusions of the project for Elsipogtog justice strategy and bear reiteration here:

1. More attention should be paid to justice team building in order to create and/or take advantage of opportunities.
2. Strategic collaboration with other FNs and Elsipogtog's leadership are appropriate and necessary in creating a center of excellence.
3. Having a provincial court on reserve and having several identified key community justice roles (see slide 60) seem necessary for moving forward.

4. Elsipogtog Justice should advance a broadly conceived Wellness Court model as a long-run goal.
5. Elsipogtog's Apigsigtoagen approach should be implemented with respect to family and regulatory disputes.
6. The time to act is now for many strategic and substantive reasons.
7. Action is building upon the SAP approved in 2005-2006, not a radical departure from it.

In slides 62 to 68 the case is argued for alternative approaches to having a court at Elsipogtog. Slide 63 advances the case for changes to the current situation. Essentially it summarizes key points already noted, namely the challenges and capacities at Elsipogtog, the more enhanced justice programming available elsewhere, the "timing" factor and the need for a center of excellence in Aboriginal courts in New Brunswick. Slide 64 summarizes the case for a Wellness Court as a long-range objective and slides 66 and 67 for a similar though specialized version of such a court. There are issues concerning adequacy of treatment resources, low numbers (if, as in the typical Wellness court, going before the Wellness court is an option voluntarily selected by the offender) and the strong support of justice officials, band council and community residents. Still, the Wellness court model or a specialized problem-solving court is very compatible with the realities, needs and wishes of Elsipogtog.

Slide 65 frames the case for securing a conventional criminal court on reserve now. A key issue here would be to ensure that it is a "starter not a cap"; in other words, it should be seen as important first step and as much as possible should feature Mi'kmaq symbolism (i.e., having a First Nation ambience) in order to ensure that it is a transitional step to a Wellness court. The final slide, # 68, points out that aside from striving for any type of court on reserve, the justice experiences of FNs such as the Siksika, Hollow Water and Mnjikaning indicate that much can be accomplished in dealing with major community problems and offending patterns by having a strong community justice team with the strong support of band council, and that it is important and necessary to elaborate Elsipogtog justice services to deal with serious offences and to branch out into other than criminal areas of justice.

On June 10, 2009 a band council resolution was adopted stating that "Elsipogtog chief and council support the development, organization and delivery of criminal court proceedings in Elsipogtog conducive to healing and reconciliation and adopts cultural practices". As a former chief said at the time, "this is a direction we've wanted for a long time".

## GENERAL BIBLIOGRAPHY

- Aboriginal Healing and Wellness Strategy, Annual Report, 2000-2001
- Acorn, Annalise.. Compulsory Compassion: A Critique of Restorative Justice. Vancouver: UBC Press. 2004
- Anderson, E, The Feather, The Gavel, The Sentencing Circle and The Smudge – And Where They All Have Their Place. Calgary: University of Alberta, 2007
- Agrawal, Arun.. “Dismantling the Divide Between Indigenous and Scientific Knowledge”. Development and Change. 26:413. 1995
- Attorney General Department, Aboriginal Healing Circles Models. New South Wales Government, November 2007
- AJLN, LINK, Vol. 1 (8). Ottawa: Department of Justice, Summer 2000
- Alfred, Taiaiake. Peace, Power, Righteousness: An Indigenous Manifesto. Oxford: University Press. 1999
- Alfred, Taiaiake.. Wasase: Indigenous Pathway of Action and Freedom. Peterborough: Broadview Press. 2005.
- Atlantic Policy Congress of First Nation Chiefs, Mi'kmaq and Maliseet Youth Speak Out, Moncton: 1999
- Atlantic Policy Congress of First Nation Chiefs, Mi'kmaq and Maliseet Elders Speak Out. Dartmouth: 1999
- Atlantic Policy Congress of First Nation Chiefs, Mikmaq and Maliseet Response to the Royal Commission on Aboriginal Peoples, Final Report. 1998
- Asch, Michael (ed). Aboriginal and Treaty Rights in Canada. Vancouver: UBC Press. 1997.
- Bakht, N., Problem- Solving Courts as Agents of Change. Ottawa: NCPC, 2004
- Barsh, R. and J. S. Henderson. “Marshalling the Rule of Law in Canada: Of Eels and Honour”, *Canadian Native Law Reporter*. 1 C.N.L.R.: 1-50. 1997.
- Battiste, Marie. Reclaiming Indigenous Voice and Vision. Vancouver: UBC Press. 2000.

Battiste, M. and J. Henderson, Protecting Indigenous Knowledge and Heritage: A Global Challenge. Saskatoon: Purich. 2000.

Bell, Catherine and David Kahane (eds.). Intercultural Dispute Resolution in Aboriginal Contexts. Vancouver: UBC Press. 2004.

Berkes, F., J. Colding, and C. Folke. "Rediscovery of Traditional Ecological Knowledge as Adaptive Management". Ecological Adaptations 10(5):1251-62. 2000.

Blaser, M., H. Feit, G. McRae. In the Way of Development: Indigenous Peoples, Life projects and Globalization. London: Zed Books. 2004

Bopp, Michael et al, Aboriginal Domestic Violence in Canada. Ottawa: Aboriginal Healing Foundation. 2003

Borrows, John. Recovering Canada: The Resurgence of Indigenous Law. Toronto: University of Toronto Press. 2002.

Braithwaite, John, Crime, Shame and Reintegration. New York: Cambridge University Press, 1989

Braithwaite, John and Heather Strang (eds.). Restorative Justice and Civil Society. Cambridge: University Press. 2001.

Buller, Ed, "Community Healing Processes: Investments and Benefits", Australian Institute of Criminology, Sydney, Australia October, 2001

Canadian Institute for Law and the Family, The Domestic Violence Treatment Option, Whitehorse, Yukon. Final Evaluation Report., Ottawa: National Crime Prevention Centre 2005

Chartrand, Paul (ed.). Who Are Canada's Aboriginal Peoples? Saskatoon: Purich Press. 2002

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

Clairmont, Don, The Shubenacadie Band Diversion Programme: An Evaluation of the Final Year and an Overall Assessment. Halifax: Atlantic Institute of Criminology, 1996

Clairmont, Don and Rick Linden, Developing and Evaluating Justice Projects in Aboriginal Communities: A Review of the Literature. Ottawa: Solicitor General of Canada, 1998

Clairmont, Don and Chris Murphy, Self-administered First Nations' Policing: An Overview of Organizational and Managerial Issues. Ottawa: Solicitor General Canada, 2000

Clairmont, Don (with Jane McMillan) After the MJJ: Future Directions in Mi'kmaq Justice, Halifax: Tripartite Forum On Native Justice. Queens' Printer, Halifax Nova Scotia, Department of Justice, 2001

Clairmont, Don, "The Saint John Mental Health Court", in The Feasibility of a Drug Treatment Court in Halifax. Halifax: Atlantic Institute of Criminology, 2003

Clairmont, Don, Elsipogtog Justice: A Strategic Action Plan. Atlantic Institute of Criminology, Dalhousie University, 2005

Clairmont, Don (with Jane McMillan), The MLSN and Future Directions in Mi'kmaq Justice, Tripartite Forum on Native Justice, Department of Justice, Nova Scotia, 2006

Clairmont, Don, The Evolution Of Policing in Aboriginal Communities in Canada. Toronto: The Ipperwash Inquiry, 2006

Clairmont, Don (with Jim Potts), For The Nonce: Policing Aboriginal Occupations and Protests in Canada. Toronto: The Ipperwash Inquiry, 2006

Clairmont, Don, Aboriginal Justice in Prince Edward Island. Ottawa: Aboriginal Justice Directorate, Department of Justice, 2007

Clairmont, Don, "Policing in First Nation Communities: Comparative Analyses of Policing Models", National Aboriginal Policing Forum, September, 2009

Coates, Ken. The Marshall Decision and Native Rights. Montreal: McGill-Queen's University Press. 2000.

Coflin, Jim, Review: Mi'kmaq Justice Worker's Program. March 1998

Comack, Elizabeth (ed). Locating Law: Race, Class, Gender Connections. Halifax: Fernwood Press. 1999.

Conley, John and William O'Barr. Just Words: Law, Language and Power. Chicago: University of Chicago Press. 1998.

Conley and O'Barr, Rules Versus Relationships: The Ethnography of Legal Discourse. Chicago: University of Chicago Press. 1990.

Corrections Services Canada, Corrections and Conditional Release Statistical Overview. Annual Report. Ottawa, 2006



Corrections Services Canada, Corrections and Conditional Release Statistical Overview. Annual Report. Ottawa, 2007

Couture, J and R.Couture, Biidaaban: The Mnjikaning Community Healing Model. Aboriginal Corrections Policy Unit, Public Safety Canada, 2003

Cruikshank, Julie. The Social Life of Stories: Narrative and Knowledge in the Yukon Territory. Lincoln: University of Nebraska Press. 1998.

Culhane, Dara. The Pleasure of the Crown: Anthropology, Law and First Nations. Vancouver: Talon Books. 1998.

Darnell, Regna. Invisible Genealogies: A History of Americanist Anthropology. Lincoln: University of Nebraska Press. 2001

Davis, A and J. Wagner. "Who Knows? On the Importance of Identifying 'Experts' When Researching Local Ecological Knowledge", Human Ecology. 31:463-489.2003

Dickson-Gilmore, Jane and Carol LaPrairie. 2005. Will the Circle Be Unbroken: Aboriginal Communities, Restorative Justice, and the Challenges of Conflict and Change. Toronto: Toronto University Press.

Dombrowsik, Kirk. Against Culture: Development, Politics and Religion in Indian Alaska. Lincoln: Nebraska University Press.2001

Eastern AJS Steering Team, Draft of Proceedings August 2006. Ottawa, Department of Justice 2006

Eastern AJS Steering Team, Draft of Proceedings September 2006. Ottawa, Department of Justice 2006

Feit, Harvey.. "Voices from a Disappearing Forest: Government, Corporate and Cree Participatory Forestry Management Practices". Aboriginal Autonomy and Development in Northern Quebec and Labrador. Colin Scott (ed.). Vancouver: UBC Press (119-148). 2001

Fienup-Riordan, Eskimo Essays: YUP-IK Lives and How We See Them. New Brunswick: Rutgers University Press, 1990

Fiske, Jo-Anne and Betty Patrick. Cis Dideen Kat: When the Plumes Rise. Vancouver: UBC Press.2000

Four Worlds Centre, Aboriginal Domestic Violence in Canada. Ottawa: Aboriginal Healing Foundation, 2003

- Fowler, Loretta. Shared Symbols, Contested Meanings. Ithaca: Cornell University Press. 1987
- Frideres, James, Native People in Canada. Scarborough: Prentice-Hall, 1993
- Furniss, Elizabeth. The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community. Vancouver: UBC Press. 1999.
- Geertz, Clifford. Local Knowledge. Princeton: Basic Books. 1983
- Gill, C., Evaluation of the Provincial Court Specializing in Domestic Violence. Moncton: New Brunswick Government. 2008
- Gledhill, John. Power and Disguises: Anthropological Perspectives on Politics. London: Pluto Press. 1994
- Goldberg, Susan, Judging for the 21<sup>st</sup> Century: A Problem-Solving Approach. Ottawa: National Judicial Institute, 2005
- Graham, John, Aggregation and First Nation Governance: Literature Review and Conclusions. Ottawa: Institute on Governance. 2003
- Green, Ross Gordon, Justice in Aboriginal Communities: Sentencing Alternatives Saskatoon: Purich Press, 1998
- Grenier, Louise. Working with Indigenous Knowledge: A Guide for Researchers. Ottawa: International Development Research Centre ( IDRC). 1998
- Havemann, Paul, "The Indigenization of Social Control in Canada", in Indigenous Law and the State. Morse, Bradford and Gordon Woodman (eds). Holland: Foris Press, 1988
- Head, Robert, Policing For Aboriginal Canadians : The RCMP Role. Ottawa: Royal Canadian Mounted Police. 1989
- Heckbert, Doug and Douglas Turkington, Turning Points: a Study of the Factors Related To The Successful Reintegration Of Aboriginal Offenders Ottawa: Correctional Services Canada, 2001
- Henderson, James (Sakej). The Mi'kmaw Concordant. Halifax: Fernwood. 1997
- Hickman, A., Report of the Royal Commission on the Donald Marshall Jr. Prosecution. Halifax: Province of Nova Scotia, Queen's Printer, 1989

- Hocking, Barbara (ed). Unfinished Constitutional Business? Rethinking Indigenous Self-determination. Canberra: Aboriginal Studies Press. 2005
- Hoffman, Bernard. Historical Ethnography of the Micmac of the Sixteenth and Seventeenth Centuries. Unpublished Ph.D. Dissertation, Department of Anthropology, University of California, Berkeley. 1955.
- Holm, Elizabeth, The Maintenance of Traditional Values Among the Mohawk of Akwesasne. Unpublished M.A. Dissertation, University of Tromso, 2008
- Hornick, Joseph et al, The Domestic Violence Treatment Option, Whitehorse, Yukon: Final Evaluation Report. Ottawa: National Crime Prevention Centre, 2006
- Indian and Northern Affairs Canada, Aboriginal Economic Development in Atlantic Canada, Ottawa: Indian Affairs, 2002
- Isaac, Thomas. Aboriginal Law. Saskatoon: Purich Press. 2004
- Johnson, Darlene. The Taking of Indian Lands in Canada: Consent or Coercion. Saskatoon: Native Law Centre Publishing. 1989
- Keating, Colin, "Judicial Functions On Marae", Address by the Secretary for Justice to the Conference on Indigenous Peoples and Justice, Wellington New Zealand, June 1999
- La Prairie, Carol, Seen but Not Heard: Native People in the Inner City. Ottawa: Department of Justice, 1994
- LaPrairie, Carol, "The Impact of Aboriginal Justice Research on Policy: A Marginal Past and an Even More Uncertain Future", in Canadian J. of Criminology, vol 41 32, 1999
- Latimer, Jeff et al, A Meta-Analytic Examination of Drug Treatment Courts: Do They Reduce Recidivism? Research and Statistics Division, Department of Justice Canada, 2006
- Law Reform Commission of Canada, Aboriginal Peoples and Criminal Justice: Minister's Reference. Ottawa: Law Reform Commission of Canada, 1991
- Lawrence, Bonita. "Real" Indians and Others: Mixed-Blood Urban native People and Indigenous Nationhood. Vancouver: UBC Press. 2004
- Lazarus-Black, Mindie and Susan Hirsch (eds.). Contested States: Law, Hegemony and Resistance. New York: Routledge. 1994

Llewellyn, Karl and E. A. Hoebel. The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence. . Norman: University of Oklahoma. 1941

Louitt Pennie and Sherry Stinson, The Mnjikaning Community Healing Model, August 1995

Mainville, Robert. An Overview of Aboriginal and Treaty Rights and Compensation for Their Breach. Saskatoon: Purich. 2001

Mandamin, Tony, "Justice as Healing: Peacemaking and the Tsuu T'ina Court", in Native Law Centre, Vol 8 #1, 2003

Mannette, Joy (ed.) Elusive Justice: Beyond the Marshall Inquiry. Halifax: Fernwood. 1992

Mastrofski, Stephen, "Policing for People", IdeasinAmericanPolicing. Washington: Police Foundation, 1999

Mauze, Marie, Present is Past: Some Uses of Traditional Native Societies. New York: University Press of America, 1997

McNeil, Kent. Emerging Justice: Essays on Indigenous Rights in Canada and Australia. Saskatoon: Native Law Publishing Centre. 2001

Menzies, Charles. "Putting Words into Action: Negotiating Collaborative Research in Gitxaala", Canadian J. of Native Education. Vol. 28 (1 & 2). 2004

Merry, Sally. Colonizing Hawaii: The Cultural Power of Law. Princeton: Princeton University Press. 2000

Merry, Sally Engle, "Culture, Power, and The Discourse of Law" in New York Law Review, (37) 209-225, 1992

Miller, Bruce G. The Problem of Justice: Tradition and Law in the Coast Salish World. Lincoln: Nebraska University Press. 2001

Miller, Bruce, "The Individual, The Collective, and Tribal Code", in American Indian Culture and Research Journal, 21(1) 107-129. 1997

Milward, David, "Not Just the Peace Pipe but also the Lance", in Wicazo Sa Review Vol 23 #1, Spring 2008

MLA Review of the Aboriginal Court Worker Program. Edmonton: Government of Alberta, February, 2006

Mohawk Council of Akwesasne, Justice - Conflict and Peace, Presentation to the Ipperwash Inquiry, Forest, Ontario, March 2006

Monture, Patricia. Journeying Forward: Dreaming First Nation's Independence. Halifax: Fernwood. 1999

Moore, Sally Falk (ed.). Law and Anthropology. Malden: Blackwell Publishing. 2005

Morrison, Andrea (ed.). Justice for Natives: Searching for Common Ground. Montreal: McGill-Queen's University Press. 1997

Murbach, Ruth (ed.), "Cross-Cultural Jurisprudence", Canadian Journal of Law and Society, Volume 20, No. 1, 2005

Murphy, Chris and Don Clairmont, First Nations Police: A Survey of Police Officers in First Nation Communities. Ottawa: Solicitor General Canada, 1996

Nader, Laura. The Life of Law. Berkeley: University of California Press. 2002

Nader, L. Harmony Ideology: Justice and Control in a Zapotec Mountain Village. Stanford: Stanford University Press. 1990

Native Council of Nova Scotia, Mi'kmaq Fisheries: Netukulimk – Towards a Better Understanding. Truro: Native Council of Nova Scotia. 1993

National Parole Board, "The Gladue Decision", Ottawa: National Parole Board, 2008.

New Economy Development Group, A Formative Evaluation of Marshall Phase 11: Final Report. Ottawa. New Economy Development Group, 2005

Niezen, Ronald. Defending the Land: Sovereignty and Forest Life in James Bay Cree Society. Boston: Allyn and Bacon. 1998

Niezen, Ronald. The Origins of Indigenism: Human Rights and the Politics of Identity. Berkeley: University of California Press 2003.

Nova Scotia Working Committee On The Constitution, Canada: A Country For All. Halifax: Province of Nova Scotia, 1991

Office of the Correctional Investigator, Annual Report of the Office of the Correctional Investigator 2005-2006. Corrections Services Canada. 2006

Palys, Ted, Prospects for Aboriginal Justice in Canada. Vancouver: Simon Fraser University, 1993

- Paul, Daniel, We Were Not The Savages. Halifax, Nimbus Press, 1993
- Pommersheim, Frank, Braid of Feathers: American Law and Contemporary Tribal Life. Berkeley: University of California, 1995
- Prins, Harold. 1996. The Mi'kmaq: Resistance, Accommodation and Cultural Survival. Fort Worth: Harcourt Brace. 1996
- Proulx, Craig, "Current Directions in Aboriginal Law / Justice in Canada", in Canadian J. of Native Studies, Vol. XX, 2(2000).
- Proulx, Craig. Reclaiming Aboriginal Justice, identity and Community. Saskatoon: Purich. 2003
- Razack, Sherene (ed). Race, Space and the Law: Unmapping a White Settler Society. Toronto: Between the Lines. 2002
- Rendell, Brian, "Historical and Constitutional Foundations of Aboriginal Justice: An Overview of the Unique Status of Aboriginal Peoples in Canada" in Aboriginal Justice Handbook: A Resource for Crown Counsel. British Columbia: Criminal Justice Branch Ministry of Attorney General, 2000
- Ross, Rupert, Returning to the Teachings: Exploring Aboriginal Justice. Toronto: Penguin Press, 1996
- Ross, Rupert, Traumatization in Remote First Nations: An Expression of Concern. [rupert.ross@jus.gov.on.ca](mailto:rupert.ross@jus.gov.on.ca). 2006
- Ross, Rupert, "Colonization , Complex PTSD and Aboriginal Healing", Adult Custody Division, Heath Canada Conference, British Ministry of Public safety and Solicitor General, April, 2008
- Royal Commission on Aboriginal Peoples, Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada. Ottawa: Supply and Services, 1996
- Royal Canadian Mounted Police, Commissioner's Directional Statement. Ottawa: Royal Canadian Mounted Police, 1990
- Royal Canadian Mounted Police, Nova Scotia "H" Division RCMP Responds to the Royal Commission on the Donald Marshall jr Prosecution. Halifax: RCMP News Release, 1990.
- Rugge, Tanya, Risk Assessment of Male Aboriginal Offenders: A 2006 Perspective. Ottawa: Public Safety and Emergency Preparedness Canada. 2006

- Ryan, Joan, Doing Things the Right Way: Dene Traditional Justice in Lac La Martre, NWT. Calgary: University of Calgary Press, 1995
- Salisbury, Richard. A Homeland for the Cree: Regional Development in James Bay, 1971-1981. Montreal: McGill-Queen's Press. 1986
- Schneider, R., The Path to Justice for Individuals with FASD: Mental Health Court and Sentencing the Mentally Disordered Accused. 2008
- Sider, Gerald. Lumbee Indian Histories: Race, Ethnicity and Indian Identity in the Southern United States. Cambridge: Cambridge University Press. 1993
- Sioui R. & J. Thibault, Examining reintegration potential for Aboriginal offenders, unpublished, (contacted at [amiskou@globetrotter.net](mailto:amiskou@globetrotter.net)) 2002,
- Six Nations Geo Systems, First Nations Policing Sector Study: Future Direction and Current Resources. Ottawa: First Nations Chiefs of Police Association, 1999
- Smith, Linda Tuhiwai. Decolonizing Methodologies: Research and Indigenous Peoples. London: Zed Book. 1999
- Solicitor General Canada, First Nations Policing Policy. Ottawa: Supply and Services, 1992
- Starr, June and Jane Collier (eds.). History and Power in the Study of Law: New Directions in Legal Anthropology. Ithaca: Cornell University Press. 1989
- Starr, June and Mark Goodale (eds.). Practicing Ethnography in Law. New York: Palgrave MacMillan. 2002
- Strang, Heather and John Braithwaite (eds.). Restorative Justice and Civil Society. Cambridge: Cambridge University Press. 2001
- Strathern, Marilyn. Kinship, Law and the Unexpected. Cambridge: Cambridge University Press. 2005
- Trigger, Bruce. Natives and Newcomers: Canada's Heroic Age Reconsidered. Montreal: McGill-Queen's Press. 1985
- Union of Nova Scotia Indians., The Mi'kmaq Treaty Handbook. Sydney: Native Communications Society of Nova Scotia. 1987
- Valentine, Lisa Philips and Regan Darnell., Theorizing the Americanist Tradition. Toronto: University of Toronto Press. 1999

- Warry, Wayne. Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government. Toronto: University Press. 1998
- Wachtel, Ted, "Safer, Saner Schools: Restoring Community in a Disconnected World" in Restorative Justice in Everyday Life: Beyond the Formal Ritual. Canberra: Australian National University, 1999
- Waldram, James. The Way of the Pipe: Aboriginal Spirituality and Symbolic Healing in Canadian Prisons. Peterborough: Broadview Press. 1997
- Walker, P., "Decolonizing Conflict Resolution", American Indian Quarterly, Vol 28, #3, 2004
- Weatherburn, Don et al, Reducing Aboriginal Over-Representation in Prison", Canberra, Australia 2003
- Whonnock, K., Aboriginal Courts in Canada: Fact Sheet. Scow Institute, Calgary Alberta, 2008
- Wicken, William.. Mi'kmaq Treaties on Trial: History, Land and Donald Marshall jr. Toronto: University Press. 2002
- Wildsmith, Bruce. Aboriginal Peoples and Section 25 of the Canadian Charter of Rights and Freedom. Saskatoon: Native Law Centre Publishing. 1988
- Wolf, Eric.. Europe and the People without History. Berkeley: University of California Press. 1982
- Wolf, Eric. Envisioning Power: Ideologies of Dominance and Crisis. Berkeley: University of California Press. 1999
- Woolford, Andrew. Between Justice and Certainty: Treaty Making in British Columbia. UBC Press. 2005
- Wotherspoon, T. and V. Satzewich. First Nations: Race, Class and Gender Relations. Scarborough: Nelson Press. 1993
- Wright, Mr. Justice David. Report of the Commission of Inquiry into Matters Relating to the Death of Neil Stonechild. Regina: Province of Saskatchewan. 2004
- Yukon Government Press Release, Yukon Government Announces Community Wellness Court. Whitehorse, April 30, 2007



