

September 26, 2007
Report for the
Ministry of Solicitor General and Public Safety

DOWNTOWN COMMUNITY COURT

ABORIGINAL CONSULTATIONS

**THE NATIVE COURTWORKER AND COUNSELLING ASSOCIATION OF
BRITISH COLUMBIA**

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Executive Summary

The Native Courtworker and Counselling Association of BC was asked to consult with the Aboriginal community regarding the proposed Downtown Community Court. From April to September 2007, the Aboriginal Consultation Team conducted over seventy consultations with Aboriginal service providers. These included leaders and individuals involved with the criminal justice system. We discussed the idea of a Downtown Community Court process, as well as problems experienced in Vancouver's Criminal Justice System. The Aboriginal Consultation Team invited recommendations from the Aboriginal community reps on how Downtown Community Court could best serve the Aboriginal Community and Aboriginal offenders.

The goals of the Consultations were:

- Compile educational information for use with the Aboriginal community in the Downtown Eastside.
- Establish contact with the Aboriginal and non-Aboriginal community;
- Create and promote involvement with Downtown Community Court
- Provide a final report to the Ministry of Solicitor General and Public Safety.

Aboriginal people account for approximately 20% of cases going through Vancouver Provincial Court.

Acknowledgments

The members of the NCCABC Consultation Team are grateful for the participation of members of the public. They freely and candidly gave us their views on street crime and disorderly behaviour. They assisted us in developing our recommendations. They are representatives from the Aboriginal community, service providers, and criminal justice personnel.

The NCCABC would like to thank the Ministry of Solicitor General and Public Safety, who gave us the opportunity to be involved with the developing Downtown Community Court. The Aboriginal community and the Criminal Justice System has an opportunity to create positive relationships. We want to help build a healthy and strong foundation, on an ongoing basis.

Judge Thomas Gove did his very best to make sure that the Consultation Team was apprised of all changes in the implementation of DCC.

Steve Howell, Executive Director - Integrated Crime Reduction, Ministry of Attorney General was most helpful in securing our grant. We gratefully thank him for that. Mr. Howell brought much experience and positive encouragement to the Consultation Team.

This consultation team would like to thank our Steering Committee members, Hugh Braker, President of the NCCABC, Lynn Lidberg, Vice President of the NCCABC, Darlene Shackelly, Executive Director of the NCCABC, Arthur Paul, Regional Manager of the NCCABC and Henry Hall, Secretary-Treasurer and Board Member of the NCCABC. They worked hard and gave us strong support throughout this process.

We thank WeiHsi Hu, Project Coordinator, Social Planning and Resource Council (SPARC) for sharing information and co-facilitating focus groups that helped both of our processes.

We are grateful to all those who provided valuable time to develop this report and to provide recommendations that would ultimately assist DCC and ongoing engagements with the Aboriginal community.

Darryl Shackelly and Nancy Carlson
Aboriginal Consultation Team
September, 28, 2007

DOWNTOWN COMMUNITY COURT'S RELATIONSHIP WITH THE ABORIGINAL COMMUNITY

The Aboriginal community in the Downtown Eastside does not currently have a positive relationship with the Vancouver Adult Criminal Court. With the exception of the Native Courtworkers, there have been limited opportunities afforded to Aboriginal programs to participate in the court system. We need to increase accountability, create faith in the system and establish relationships between courts and the Aboriginal community.

The Aboriginal consultations mandate was to gain knowledge that will assist DCC in creating positive relationships, open lines of communication and accountability, with the Aboriginal community.

SETTING STANDARDS OF ACCOUNTABILITY

The Aboriginal Community has significant insight to offer DCC, especially with regard to Aboriginal offenders. Consultation participants expressed a major concern that Aboriginal initiatives and perspectives were not addressed throughout the submitted draft models of DCC. The Aboriginal Community would like to see terms of reference that relate to Aboriginal Service Providers, and that they reflect Aboriginal values and practices.

The goal of the Consultation Team was to create and maintain an Aboriginal Downtown Community Court Advisory Committee, to oversee the involvement of the Aboriginal community in DCC. Consultations revealed that a number of strong, diverse, and healthy Aboriginal Committees already exist.

It would be more effective to attach the DCC mandate to an existing Aboriginal committee. This task should be established in a second phase of the consultation process (that may commence in October 2007).

RESTORING FAITH IN THE CRIMINAL JUSTICE SYSTEM

The original DCC draft stated the importance of affording opportunities to the community to be involved. Consultations were an opportunity for the Aboriginal

community to voice opinions and offer creative solutions relative to the Criminal Justice System. Opening the DCC doors to the community on a regular basis would strengthen community faith in the Criminal Justice System.

The Aboriginal community was grateful for this opportunity and requested lines of communication to remain open.

DCC needs to be accountable to the community. This can be achieved by providing members of the Aboriginal Community a seat at DCC implementation meetings, where decisions on process are made. The Native Courtworkers are the most appropriate people to facilitate these discussions.

HEALTHY RELATIONSHIPS

Judge Gove expressed an interest in meeting with Aboriginal Service Providers to create positive relationships with programs that he may consider for referrals (i.e. drug and alcohol counselling services, employment programs, or other support services). The Consultation Team shared this idea with the Aboriginal Community. They strongly encourage Judge Gove to visit Aboriginal Programs to meet staff and learn of the services they provide.

The Aboriginal Community feels that the rest of the DCC staff should be encouraged to visit programs as well. Relationships built between Aboriginal service providers and DCC staff will provide accountability. **DCC staff needs to visit Aboriginal programs.**

Consultations spoke about programs with negative reputations, or unwarranted credibility. If DCC staff have visited programs, and built healthy relationships it will ensure that offenders are referred to appropriate and accountable placements.

I wrote my own letters to Judges when I wanted to get on a CSO (Conditional Sentence Order). I would just get a letterhead (from an undisclosed treatment house) and then give it to my lawyer. My lawyer (and the Judge) just assumed that it was legit and gave me the CSO. I would have someone from the house call my P.O. (Probation Officer) and confirm that I was there. I would get to hang out, do drugs and crash wherever. My curfew was never enforced and I would only get caught if I was picked up on something else.

Recovering Addict

COURT STRUCTURE

DCC goal is to be a new system that will, in addition to being a court, provide services to people in need. Community involvement is imperative in order to make it a success. Three ideas were consistently raised during the Aboriginal consultations. One concern was the courtroom and its visual setup. Another was the importance of meeting with Chiefs and Councils of the local Coast Salish First Nations. The final topic was the DCC map.

THE COURTROOM

Aboriginal people are visual thinkers. Their songs, dances, and art reflect their values and culture. Visual representations are extremely significant to Aboriginal people.

Many Aboriginal participants felt that courtrooms at 222 Main Street (and other courtrooms throughout the province) are intimidating, and cause people to shut down. Creation of a new style of courtroom in DCC can encourage Aboriginal offenders to be willing participants, and open to its services. Aboriginal people are less adversarial if they feel comfortable and are not operating from a place of fear. **The removal of visual and structural hierarchal features of a courtroom will promote positive involvement.**

We've removed the traditional courtroom and designed a circular set up where everyone is involved at equal correspondence. The design affords opportunities for everyone to be involved.

Judge Thomas Gove

Aboriginal people pay respect to and acknowledge the people whose land they are on. DCC will be located on Coast Salish traditional territory. **If DCC includes Aboriginal Culture in Downtown Community Court (by way of aesthetics and/or practice) the Coast Salish People should be consulted. Any Native artwork displayed in DCC should represent the Coast Salish People as Vancouver is historically Coast Salish Territory. Other cultures can be displayed after consultation with the Coast Salish.** This recommendation addresses the melting pot of Aboriginal Cultures from all over North America currently prevalent in the Downtown Eastside.

FIRST NATIONS

There are three First Nations with historic ties to the land on which the Vancouver Downtown Eastside is located. They are: Musqueam Nation;

Squamish Nation; and Tseil-waututh Nation. If there is going to be a Grand Opening to DCC – then members of these Nations must be represented. The Leadership Council (First Nations Summit, Assembly of First Nations, and Union of BC Indian Chiefs), Métis Nation of BC and the United Native Nations also should be included.

DCC MAP

Domestic files that would reach Vancouver Provincial Court inside the DCC map (jurisdiction) may be submitted to DCC. The eastern border of DCC jurisdiction cuts out Commercial Drive and extensive Native Housing units. Domestic files that originate from this area and would benefit from the process of DCC will not be given the opportunity due to their location. This was a common concern and disappointment for members of the Aboriginal community.

DCC should use discretion when making decision about files they take. Domestic files that occur in the outer rim of the DCC map may be appropriate for DCC. Considering these files may help to promote faith in DCC and health in the community.

NEW IDEAS

This chapter provides creative ideas and opinions for DCC. There were many ideas for processes that will help DCC be successful with Aboriginal offenders. Advice was never judged or minimized by the consultation team.

Below are ideas that came up on a regular basis.

HISTORICAL AND CULTURAL AWARENESS TRAINING

Learning how to work with Aboriginal Peoples and understanding cross-cultural perspectives will enhance DCC. Cross cultural awareness and history training programs will help DCC staff work more effectively with Aboriginal Peoples. Cross Cultural Training does exist in various professions in the criminal justice field but are vague and rarely provide significant awareness or practical skills. **More thorough education about historical events such as Residential schools, years of marginalization and how they impact Aboriginal people today is imperative.** Awareness of the historical factors that contribute to why Aboriginal people are dealing with significant socio economic issues will help remove stereotyping and frustration. **DCC should look to provisions in the *R v. Gladue* ruling for further justification.**

DCC staff needs the opportunity to understand how significant a role culture can play. Disconnection from home communities and subsequent loss of culture can be a root cause of criminal behaviour. **Historical and cultural training (that speaks to the impact of loss of culture) needs to be a priority for the Triage Team.**

TAKE THE TIME

Drug abuse, homelessness and crime in the Downtown Eastside have taken many years to get to where it is today. Aboriginal people generally felt that DCC may be a step in the right direction but cautioned not to rush the process. The Aboriginal community feels it may take at least 5 to 10 years. **Ongoing collaboration with Aboriginal people is a way DCC will be able to successfully affect Aboriginal offenders.**

TRANSPORTATION

If court mandated appointments are to be submitted in DCC – provisions for travel should be addressed. Transportation to and from appointments can be a challenge for some Aboriginal families. Various services are located throughout the GVRD and can be costly to access. **Bus tickets should be offered if scheduled appointments are a part of DCC decisions.**

The Aboriginal community supports the idea of service providers (including Aboriginal services) co-locating at DCC. This will alleviate the challenge of transportation costs.

CHILDCARE

People attending DCC will need to give their undivided attention to all aspects of the process. Some parents are forced to bring their children to court; this causes distractions to the courtroom process. **The Aboriginal community suggested DCC provide childcare to people attending court.**

COURT EXPECTATIONS ON CHRONIC OFFENDERS

DCC will attempt to go beyond the traditional scope of courts by addressing root-causes of people's criminal behaviour. In order for DCC to be successful, staff will need to be well versed in the areas of addiction, mental health, homelessness, and criminal behaviour. For Aboriginal offenders DCC court staff will need to know historical and cultural factors that may be root causes (see historical and cultural awareness training).

Consultations with ex-offenders revealed that they experienced court staff to be naïve about the chronic offender mentality. This contributed to a disconnection between offenders and court staff, and ultimately court proceedings and their sentence.

Recommendation: court staff to interview ex-offenders to gain understanding of offender mentalities; DCC employ ex-offenders, as they would offer insight gained from personal experience. This would also help reinforce the rehabilitation and recovery of ex-offenders.

WOMEN

DCC may hear prostitution and domestic violence charges. In these cases, the women may have a fear of men and may find a male dominated court room threatening. While DCC cannot remove men from the process it was suggested to **have a Woman Only Court Day**. One day a week would hear only cases with female offenders. There could also be more female staff on hand.

The media attention surrounding the Missing Women of the Downtown Eastside has increased fear of personal safety where DCC is located.

PREVENTION

A few consultations presented the solution of having offenders, who were willing, go into schools and to tell their stories as a form of prevention. This could also be a form of Community Work Service.

YOUTH CASES

Every consultation recommended that DCC look at Youth cases. It was consistently asserted that it is much easier to stop criminal behaviour from evolving during a Childs/youths formative years. Many Aboriginal Youth in the criminal justice system face the same challenges as adults do. They may have complex addictions, mental health and homelessness issues. They would absolutely benefit from DCC principles. Aboriginal youth leave their home communities with the hope of employment in Vancouver. They often have personal issues that they may be trying to escape. Often their first point of contact is the Downtown Eastside, where they are lured into criminal lifestyles.

FAMILY CASES

Family and Youth Court are located in a separate courthouse from Adult Criminal Court (approximately 5 Km apart). Aboriginal consultations emphasized the need to recognize when offenders have spouses and/or children because the offender's circumstances will affect everyone in the family unit.

Family court recommendations often overlap criminal court probation orders. Aboriginals advise that it would be much easier on families to deal with all court matters in one location. **Family Matters with criminal charges attached must be facilitated by DCC to address root-causes that involve the family as well as the individual.**

ENHANCING SERVICES

Discussions regarding funding were frequently raised with respect to gaps in service. The Provincial Government stated at the outset that no new development funding is available. The Consultation Team was asked to identify opportunities to enhance existing services to Aboriginal offenders.

The following are areas that the Aboriginal consultations wanted to see enhanced.

UTILIZING EXISTING SERVICES

The Consultation Team attempted to address ways to support Aboriginal services, in the event DCC created more referrals. The most common idea is to enhance communication and networking between the courts and service providers. Networking and improved communication between DCC and Aboriginal service providers can facilitate better relationships.

Regular social community meetings held at DCC would benefit connections between service providers and the Aboriginal community.

The Vancouver Adult Provincial Courthouse located at 222 Main Street has a cafeteria that provides a social environment for court staff. Work relationships benefit from informal interaction. This dynamic should be practiced at DCC.

DCC should support and encourage networking between Aboriginal service providers and DCC. DCC needs to facilitate gatherings where people can meet and exchange contact information to ease referrals and follow up.

LANGUAGE AND INFORMATION

Aboriginals spoke to the challenges in understanding court language and processes. Terminology of the criminal justice system is very difficult to grasp. Not understanding what is taking place or what is expected can lead to a feeling of disempowerment. Clear explanations of the DCC process are necessary. **A booklet or video complete with simple (and visual) directions about the DCC process be should be created by an Aboriginal organization specifically for Aboriginal people.**

WELLNESS PLAN

Many consultations with service providers spoke to the importance of staff “Wellness Plans.” These are usually enforced by organizations to promote health, and prevent burnout. The plan is created by the staff to support their mental, emotional, spiritual and physical well being. Balance of the “Medicine Wheel¹” provides equal balance in work.

There is concern from the community that DCC staff will be overworked, and become ineffective and, ultimately, regress back to original practices. **The Aboriginal Community encourages DCC staff to practice principles that create a healthy environment for individuals proceeding through this new court process.**

BURNOUT

A high percentage of consultations spoke to frontline staff burnout (especially in programs with emergency response). Almost every consultation with service providers, expressed a concern about funding and capacity. Most of these programs work with people in the target group (Mental Illness, Addictions, Homelessness and People Lacking Social Supports), and are currently dealing with wait lists, lack of resources, and underpaid staff. **Should DCC create more referrals to these programs (more work), it is recommended that they should be supported financially or otherwise.**

MODELS OF WRAP-AROUND

This chapter discusses models of integrated “wrap around” planning and interventions for Aboriginal offenders. Each suggestion is fashioned to assist DCC in implementing wrap-around to Aboriginal people.

¹ An Aboriginal tool used to help balance the holistic wellbeing of a person. This tool looks at four areas – Mental, Emotional, Spiritual and Physical.

ABORIGINAL STAFF

Aboriginal Leaders, Aboriginal Service Providers and the Aboriginal Community strongly reacted to the lack of Aboriginal Representation in the Triage Team (Crown Counsel, Defence, Probation Services, Forensic Nurses and Vancouver Police). They noted that members of the Triage team are the decision makers in the current Criminal Justice System. The Aboriginal community thinks that in order for an Aboriginal perspective to be considered there needs to be Aboriginal staff on Triage. **The Aboriginal community consistently recommended Aboriginal people to be included in Triage.**

Further, it was suggested DCC needs Aboriginal staff be in key decision-making positions as well as on the frontlines to ensure specific needs of Aboriginal offenders be effectively addressed at every level. It was expressed at consultations that solutions that affect Aboriginal people be made by Aboriginal people.

It is my understanding that the Native Courtworkers at 222 Main Street assist an average of 20% of the Daily Court List. If this same percentage is brought over to Downtown Community Court – then 20% of the Triage Team should also be Indigenous People.

Grand Chief Ed John, First Nations Summit

ELDER INVOLVEMENT

The Aboriginal Community feels that Elders² keep communication honest. There was consistent feedback to have Elders be involved in the Triage process. Elders can explain sentences to offenders. Elders have a good sense of what is appropriate.

Elders who are retired have a lot of information in their heads and we need to tap into it. They can cut through the bull shit better than anyone.

Merv Thomas, Circle of Eagles Lodge

Elders employed by DCC need to be chosen by the Aboriginal community in Downtown Eastside.

² Elders are identified members of the Aboriginal community who are respected for their wisdom gained through experience and/or years of contribution to their people.

FLOATING POSITION TO TRIAGE

The Aboriginal Community expressed a need for a Native Courtworker on the Triage team for Aboriginal offenders. The experience of a Native Courtworker would make the Aboriginal offender more comfortable and open to the process. Native Courtworkers have extensive knowledge of services that assist Aboriginal people and would ensure Aboriginal Programs are considered.

Provide for alternative staff that would provide the same type of service to the Triage Team regarding other cultures and communities such as the Mental Patients Association or the Vietnamese Community.

CASE MANAGEMENT (WRAP AROUND)

The Aboriginal consultation team canvassed community members' for ideas for case management. Almost every consultation suggested that, whenever possible, files be referred to Vancouver Aboriginal Transformative Justice Services (VATJS). Alternatively, files could be referred to First Nations Court in New Westminster Provincial Court, or Community-Based Justice Programs. **Aboriginal offenders that remain in DCC need access to Aboriginal staff and need to be referred to Aboriginal programs.**

RESTORATIVE JUSTICE - VATJS

Many programs were regularly discussed during Aboriginal Consultations. The program mentioned most consistently was VATJS.

VATJS provides a culturally appropriate alternative to the mainstream criminal justice system for Aboriginal adult and young offenders residing in the Lower Mainland. The program offers a forum that attempts to reconcile offenders with those they have harmed and developed a plan that seeks a positive integration of the offender and victim into the community.

VATJS is directed by council members that choose to be responsible for their own community, the Downtown Eastside. This group is trained on how to conduct effective Sentencing Circles, and to use non-judgmental practices throughout the duration of the process. The list of council members is extensive. There is great cause for the Aboriginal Community to take pride in the program.

The Aboriginal community insists DCC staff visit VATJS to learn about the program and encourage referrals. Files should be referred to VATJS wherever appropriate.

FIRST NATIONS COURT

This process has been working out of New Westminster Provincial Court for approximately one year. Judge Marion Buller-Bennett chose not to publicise the process until a clear foundation had been built. First Nations Court is looking to expand, and may therefore be open to taking referrals from Vancouver.

First Nations Court is held at a table that is open to various members of the Aboriginal Community. Anyone who could be of assistance to the offender or the process is welcome to the table. An Elder is present and sits beside the Judge with full respect from the table.

Judge Buller-Bennett has been given creative freedom to address the needs of Aboriginal offenders and practices unique case management. Family matters are attached to the case. The goal is to work with the entire family and create positive solutions. First Nations Court encompasses exactly what the Aboriginal Community suggested for DCC in consultations. **Establishing relationships and sharing ideas between First Nations Court and DCC would benefit Aboriginal Offenders.**

COMMUNITY BASED JUSTICE PROGRAMS

The Aboriginal Justice Strategy funds 19 programs throughout the province. These programs are meant to support Aboriginal communities to take greater responsibility for the administration of justice and reduce crime and incarceration rates of Aboriginal people.

Relationships with community based justice programs need to be created and maintained so that, if it is appropriate and the community as well as offender are willing, then the offender can be referred out of DCC. (See Appendix for complete list of programs)

INTERVENTION

LOW LEVEL INTERVENTION

Brief Intervention speaks to Employment and Income Assistance, Community Work Service and Community Health Information Sessions. **Aboriginal Programs need to be considered to facilitate low level intervention.**

The following are ideas for workshops for low level intervention :

- Cultural Awareness –reconnecting offenders to their culture
- Positive Self Esteem – Working with Elder Programs
- Reconnecting with your People – Lineage Research
- Anger Management – Warriors Against Violence
- Life Skills – First Nations Perspectives
- Employment – Bladerunners
- Relationship and Parenting – Vancouver Aboriginal Family Services
- Grief and Loss – NCCABC 50 Powell Street

These workshops must be facilitated by Aboriginal service providers. According to Aboriginal Consultations, these workshops do exist in the community. Aboriginal service providers regularly change and update the workshops they facilitate.

The Aboriginal community recommended Community Work Service hours should focus on placement that could result in employment. This will help individuals struggling to find work and going through the Criminal Justice System. Offenders need to be given an opportunity to learn workplace skills. Specifically recommended was work in trades (construction, welding, and mechanics). Criminal records have a negative impact on people seeking employment. Anything that people can add to their resume is positive; some individuals may never have had a resume.

DCC needs to build relationships with Aboriginal employment programs. These links will be vital to the success of Low Level Intervention Strategies placed on Aboriginal Offenders.

MEDIUM LEVEL INTERVENTION

Due to the diverse needs and experiences of offenders, finding the right program may take a number of attempts. A significant factor in the success of programs will be the offender's level of willingness to address their personal issues. Aboriginal people feel more comfortable accessing Aboriginal services. This

increases the potential for success. It is imperative that **Aboriginal offenders be given the opportunity to access Aboriginal programs. (See Appendix A – list of Aboriginal Services)**

It was disclosed at consultations that staff attitudes significantly impact offenders. When people dealing with offenders are rude it promotes defensive attitudes.

"I hate going into an office where the staff think they are better than me... if I already have low self esteem then it's just going to get worse after an experience like that..."

Drug User

The Aboriginal community recommends a high standard of professional attitudes among DCC staff, to encourage offender cooperation.

It was often asked what kind of consequences there would be for not succeeding in programs, and if there was a limit to how many times an individual could go through DCC. Aboriginal Addictions Programs and Half-way Houses spoke to the individual willingness to change. **DCC should be careful of the expectations they place on offenders going through this new process and be open to offenders who have to go through the process several times.**

HIGH LEVEL INTERVENTION

There is a major concern about individuals being released from jail late in the day, when services are closed for the evening and/ or weekend. Individuals often resort to criminal behaviour in order to survive until the next business day. By this time, they may have lost interest in recovery and/or accessing social services.

Consultations spoke to the need to have release plans that provides inmates transportation and scheduled appointments with service providers should they need them. It should also be addressed with the institutions that release times are early enough to complete this task.

GAPS IN SERVICE

Consultations identified gaps in service to the Aboriginal community and the criminal justice system. The Consultation Team attempted to focus on possible solutions to problems rather than submit a list of grievances.

This report mentions areas that lack adequate assistance to Aboriginal people going through the justice system: childcare; transportation; and additional support for women to name a few.

The most commonly mentioned concern was lack of Aboriginal representation on staff or in decision-making positions in DCC. The Aboriginal consultation provided a real opportunity for the Aboriginal community to offer insight into how to better serve their people. **Implementing these recommendations would be vital to the success of DCC. Lines of communication with the Aboriginal community need to remain open.**

FASD SERVICES

Lack of supports for individuals suffering from FASD (Fetal Alcohol Spectrum Disorder) was addressed at a majority of consultations. FASD is a major concern for the Aboriginal community because of the number of Aboriginal individuals affected. The solutions presented mostly involved funding for resources. **All staff of DCC should have at least a basic understanding of the effects of FASD.** It was advised that anyone presenting with these symptoms will need additional services as they can lack the capacity to have success in any court process. **The Aboriginal community consistently stated that FASD services currently do not exist, and thus need to be created.**

CONNECTING DCC AND NCCABC

The Social Service Delivery Working Group provided the Aboriginal Consultations Team with the Draft Operating Guidelines Framework which included a Criminal Process Overview. NCCABC has not yet been defined in this overview.

Given that DCC is attempting to operate differently than the Vancouver Adult Provincial Court there will be changes to the roles and responsibilities of court staff. Similarly there will be changes to the role of a Native Courtworker. Discussions are needed to define the new role for a Native Courtworker.

The Ministry of Solicitor General and Public Safety has committed funding for a full time NCCABC employee to be involved. NCCABC involvement in DCC is necessary because of its long history of working with Aboriginal people in conflict with the law. **The Aboriginal community has encouraged the NCCABC to advocate for a high level of involvement in DCC.**

FINAL SUMMATION

Beginning in March 2007, the Community Court Consultation team met with Aboriginal service providers, leadership, local First Nations, community members, offenders and Elders. The idea of Downtown Community Court was presented and the Aboriginal Community was given the opportunity to ask questions and give advice. This report is a reflection of what was discussed at those consultations.

The Aboriginal community was encouraged by the holistic approach to justice that Downtown Community Court is going to utilize. The resounding concern was that the Aboriginal community needs to be involved, beyond this consultation in this initiative in order for DCC to have success in dealing with Aboriginal offenders. This will be accomplished by the implementation of ideas from this report in the operation of DCC.

Finally, The Aboriginal Community recommended that the Community Court Consultation research justice initiatives that were created and run by Aboriginal people to gain insight into how they were established, how they operated and what were their successes and challenges. The Aboriginal community recognized that DCC was not an Aboriginal justice initiative, but rather one that the Aboriginal community was being asked to participate in. The final two appendices are reports of research into Aboriginal justice initiatives. They also include recommendations.

Recommendations from the Aboriginal community can be found in bold throughout this report and are summarized below:

1. Attach the DCC mandate to an existing Aboriginal committee
2. The Aboriginal community requested lines of communication with DCC remain open. Ongoing collaboration with Aboriginal people is the only way DCC will be able to successfully affect Aboriginal offenders.
3. DCC needs to be accountable to the community by allowing members of the Aboriginal Community a seat at DCC implementation meetings, where decisions on process are made. The Native Courtworkers have been suggested as the most appropriate resource to facilitate these discussions.
4. DCC staff needs to visit Aboriginal programs.
5. The removal of the visual and structural hierarchy of a courtroom will help to promote positive involvement

6. If DCC includes Aboriginal Culture in Downtown Community Court (by way of aesthetics and/or practice) the Coast Salish People need to be consulted.
7. DCC should consider taking domestic files that originate in the outer rim of DCC jurisdiction (Native Housing units around Commercial Drive).
8. Cultural training (that speaks to the impact of loss of culture) as well as thorough education about historical events such as Residential schools, years of marginalization and how they impact Aboriginal people today is imperative for DCC staff.
9. Bus tickets should be offered if scheduled appointments are a part of DCC submissions.
10. DCC provide childcare to people attending court.
11. Court staff to interview ex-offenders to gain understanding of offender mentalities. It was also suggested that DCC employ ex-offenders, as they would offer insight gained from personal experience. This would also help reinforce the rehabilitation and recovery of ex-offenders.
12. Women Only Court Day.
13. Have offenders, who are willing, go into schools and to tell their stories as a form of prevention.
14. Every consultation recommended that DCC look at Youth cases.
15. It was suggested that Family Matters with criminal charges attached be facilitated by DCC to address root-causes that involve the family as well as the individual.
16. DCC should support and encourage networking amongst Aboriginal service providers (and DCC). DCC needs to facilitate formal and informal gatherings where people can meet and exchange contact information to make referrals and follow ups easier.
17. It was suggested that a booklet or video complete with simple (and visual) directions about the DCC process be created by an Aboriginal organization specifically for Aboriginal people.
18. The Aboriginal Community encourages DCC staff to have wellness plans.

19. Should DCC create more referrals to Aboriginal programs, it is recommended that they should be supported financially or otherwise.
20. The Aboriginal community consistently recommended Aboriginal people to be included in Triage. Further, it was suggested DCC needs Aboriginal staff be in key decision-making positions as well as on the frontlines to ensure specific needs of Aboriginal offenders be effectively addressed at every level.
21. Elders employed by DCC need to be chosen by the Aboriginal community in Downtown Eastside.
22. The Aboriginal Community expressed a need for a Native Courtworker on the Triage team for Aboriginal offenders, when requested.
23. Aboriginal offenders that remain in DCC need access to Aboriginal staff and need to be referred to Aboriginal programs – VATJS, First Nations Court, and Community Justice Programs.
24. The Aboriginal community insists DCC staff visit VATJS to learn about the program and encourage referrals.
25. Aboriginal Programs need to be considered at all levels of intervention.
26. The Aboriginal community recommended Community Work Service hours should focus on placement that could result in employment.
27. The Aboriginal community recommends a high standard of professional attitudes among DCC staff, to encourage offender cooperation.
28. DCC open to offenders who have to go through the process several times.
29. DCC needs to promote release plans that provide inmates transportation and scheduled appointments with service providers should they need them.
30. All staff of DCC should have at least a basic understanding of the affects of FASD. The Aboriginal community consistently stated that FASD services currently do not exist, and thus need to be created.

EXPLANATION OF APPENDICIES

APPENDIX 1 – CONTACTS – SERVICE PROVIDERS/INDIVIDUALS

Appendix 1 is a comprehensive list of Aboriginal service providers that can, and should be accessed to support Aboriginal offenders going through DCC. Many of these service providers are interested in maintaining relationships with Downtown Community Court and invite DCC staff to visit their programs. An initial point of contact will be the Downtown Community Court Forum on October 30th, 2007, hosted by NCCABC at the Vancouver Aboriginal Friendship Centre.

APPENDIX 2 – LOWER ELWHA TRIBAL COURTS

The Community Court Consultation team travelled to Washington State to observe the tribal court system that exists on two reservations – Lower Elwha and Makah. These are examples of court systems that are run by members of the community.

APPENDIX 3 – PEACEMAKER COURT

The Community Court Consultation team travelled to Alberta to witness the Peacemaker Court. The Peacemaker Court is an example of an Aboriginal justice initiative that is bound by Canadian laws. Insight into this justice initiative reinforced the need to have Aboriginal people involved in the administration of justice for their own people.

Appendix 1 –

Contacts – Service Providers/Individuals

Due to unreliable funding and staff burnout (addressed in the body of this report) Aboriginal service providers, especially those in the Downtown Eastside, may have high staff turnover, shut down and/ or move, or change numbers/ contact people. This can represent extra effort in tracking down programs and individuals. This further denotes the need for someone to be placed in charge of maintaining contact with and building relationships with Aboriginal service providers. Moreover in the Aboriginal community, word of mouth is often the best way to find information about highly valued services. The involvement of Aboriginal services will be crucial for the success of Aboriginal files in DCC.

Annual publications (in print and online):
Helping Hands: Resource Manual for Native Youth – published by Urban Native Youth Association
The Red Book Online: directory of community, social and government agencies and services across the lower mainland:
<http://www2.vpl.vancouver.bc.ca/DBs/RedBook/htmlPg/home.html>

Note: More information about any of these programs or their specific recommendations is available in the form of meeting minutes.

SERVICES/INDIVIDUALS (CATEGORIES):

A) Consulted and interested services/individuals.

A – i services

A – ii political organizations

A – iii individuals

B) Services/ Individuals NOT yet consulted but provide services that are appropriate and effective for Individuals/ family members going through DCC.

C) Department of Justice – Aboriginal Justice Strategy

A – i) services

Providing direct or indirect support to Aboriginal Individuals or their families going through DCC. Most of the service providers already have clients involved in the criminal justice system. Experts in the field of Aboriginal Justice could be included in committees or as staff – to offer insight and to advocate for an Aboriginal perspective in DCC. Services/ individuals interested in participating in networking opportunities that may

arise. DCC is encouraged to make contact and visit some or all of these services.

1. Native Courtworker and Counselling Association of BC

Arthur Paul, Regional Manager

604.687.0281 (306)

- **Organizational Profile:** *The Association's Alcohol and Drug Program is centered at 50 Powell Street. It offers help to Aboriginal persons needing native courtworker services, family and youth advocacy, and addiction out-patient services to persons who suffer from alcoholism or drug abuse. Specific services include substance abuse counselling, one-to-one counselling, and referral and assistance with Vancouver detox centre, rehabilitation and residential centres. Staff also provides follow-up and aftercare treatment and offer support to various recovery programs.*

2. Aboriginal Mother's Centre

Mark Handley, Executive Assistant and Penny Irons, Executive Director

604.253.6262

- **Organization profile:** *Aboriginal Mother's Center provides a safe, child friendly setting where Aboriginal women can gather, it offers meal programs, self help opportunities, encourages volunteering, employment opportunities parenting programs, and outreach. AMC advocates for mothers and grandmothers in apprehension cases. They are opening up a 10 unit shelter. AMC is a registered non-profit and holds a business license (they are working towards being fully self supporting).*

3. Information Services Vancouver

Panteha Aghili, Manager

604.875.6431

4. Anderson Women's Healing Lodge

Velma Albert, House Manager

604.874.1246

- **Organization Profile:** *Anderson Lodge is a community residential facility for aboriginal offenders/ shelter encourages women to take back their Aboriginal Identity (sweat lodge on site). They educate women about the justice process – encourage better understanding (and relationships with justice system personnel – parole officers, police, lawyers), to reduce resentment and fear. They have 5 beds for homeless women and 5 for CSC clients. Their length of stay is 4-6 months. They help with reintegration into a healthy lifestyle. They help with life skills, D&A issues, and pre employment. There is 24 hour staffing.*

5. Battered Women's Support Services

Mona Woodward, First Nations Women's Crisis Worker/Victim Support Worker
604.687.1868

- **Organization Profile:** *Battered Women's Support Services has a First Nation's Support and Outreach program for women who have experienced violence in relationships. The abuse may be emotional, physical, sexual or financial. They offer phone and in person services (provided by Aboriginal women counsellor/ advocates).*

6. Vancouver Aboriginal Friendship Centre Society

Susan Tatooch, Executive Director (303)
Gerry Adams, Urban Aboriginal Representative (307)
604.251.4844

- **Organization Profile:** *The Vancouver Aboriginal Friendship Centre Society has a variety of programs aimed at meeting the needs of Aboriginal people making the transition to the urban community. They offer programs and activities in health and welfare, human rights, culture, recreation, education, employment, justice, child care. A number of Aboriginal organizations are co located in the friendship centre (such as Vancouver Aboriginal Transformative Justice Services, ACCESS, and Sundance Daycare).*

7. BC Women's Hospital and Health Centre – Aboriginal Health Program

Lerinda Swain, Nurse Clinician
Jean Louis, First Nations Patient Advocate
604.875.3593

- **Organization Profile:** *The Aboriginal Health Program provides both on-site and outreach services to improve the health of Aboriginal women and their families. The on-site program includes a First Nations Patient Advocate that offers services to improve the quality of health care delivery to Aboriginal inpatients and outpatients through staff education and on-site patient support. The outreach program includes education about various women's health issues, cervical and breast cancer screening clinics, nurse training, and assistance with regional workshops. They could be looked to provide workshops for low level intervention.*

8. Circle of Eagles Lodge

Merv Thomas, Executive Director
604.874.9610

- **Organization Profile:** *Circle of Eagles is a community residential facility, with 24 hour staffing, for aboriginal offenders who have been paroled from institutions (16 beds). It has been in operation for 37 years. It has regular visits from Elders and access to a sweat lodge. They work closely with men in institutions, through the Native Brotherhood – assisting to develop release plans.*

10. Salvation Army Harbour Light shelters, detox, treatment and extended care

Wayne Oster, Executive Director (604.646.6820)

Tim O'Malley, Addictions Counsellor (604.646.6817)

Brian Fraser, Addictions Counsellor (604.646.6856)

- **Organisation Profile:** *Salvation Army runs a number of programs that could be of use to clients going through DCC - they have shelters, detox, treatment center, and extended living facility. They have between 40-50 beds each. The shelter can be a first contact point for clients who end up in detox. Their treatment program is 12-step based.*

11. Greater Vancouver Urban Aboriginal Strategy – potential funders to justice programs

Allyson Rowe, Acting Director

604.666.1023

12. Healing Our Spirit – Outreach Office (HIV/AIDS)

SueAnne Phillips

604.879.8884 (237)

- **Organisation Profile:** *Healing our Spirit runs a number of different programs and services for Aboriginal people dealing with HIV/AIDS and Hepatitis C. They provide peer counselling, family support, hospital visits, cultural activities, life skills and self care training. They could be a valuable resource to offer workshops to offenders at low level intervention who may be affected by these diseases*

13. Helping Spirit Lodge Society - range of programs (safe housing, education, healing)

Hazel Cardinal, Executive Director

604.872.6649

- **Organization Profile:** *Helping Spirit Lodge Society has a broad range of programs offering safe housing, education and healing to the Aboriginal community. They have a first-stage transition home for abused and battered women and their children. Pre-employment training. Holistic long term residential program, parenting program and outreach. They are a valuable resource.*

14. Hey-Way-Noqu Healing Centre – Addictions and healing

Thomas Stevens, Mental Health Liaison

Fred John, Alcohol and Drug Counsellor

604.874.1831

- **Organization Profile:** *Hey Way' Noqu' have 14 staff/ counsellors, mostly A&D but also offers children's therapy, youth worker, family worker and cultural worker. Their range of counsellors offers diverse options for dealing with addictions.*

15. Indian Residential School Survivors Society (IRSSS)

Alvin Dixon, ADR Form Filler
604.925.4464

- **Organization Profile:** *IRSSS supports survivors through crisis counselling, court support, information and referrals. They raise awareness of residential school issues, support and conduct research into history and effects of residential schools. They do training, education and workshops that may be valuable for DCC staff. Some of their workshops and support services could be used to any Aboriginal offenders who are survivors (first or second generation) of Residential School.*

16. The Aboriginal Front Door Society

Phil L'hirondelle, Executive Director
Daisy Nelson, Program Coordinator
604.697.5666

- **Organization Profile:** *It is located on the corner of Main and Hastings and is a safe place for Aboriginal people who spend time in that area. They have drumming workshops, healing circles, and community meetings and provide various levels of outreach and support to people who may not be comfortable accessing other services. Given their key location and clientele they can provide access and insight into the Aboriginal community.*

17. Vancouver Aboriginal Child and Family Services

Amber LePage, Team Leader - Family Preservation and Reunification Services
604.872.6723

- **Organization Profile:** *Vancouver Aboriginal Child and Family Services is partially delegated to handle files from the Ministry of Child and Family Development. They offer workshops and support families and parents. They are a good resource for Aboriginal offenders with family issues.*

18. Eagles Nest Aboriginal Head Start Preschool – for children and families

Leona Antoine, Program Coordinator
604.253.3354

- **Organization Profile:** *Eagles Nest Preschool is a cost free preschool that combines culture with traditional early childhood education. Most of the families that access Eagle's Nest live in the jurisdiction of DCC – It is located on Hastings Street and Princess Street.*

19. Knowledgeable Aboriginal Youth Association

Kelly L'hirondelle, Executive Director
604.254.5513

- **Organization Profile:** *KAYA's mandate is to advocate for urban Aboriginal youth within the Greater Vancouver area, encourage and assist urban Aboriginal youth to assert their voices and to create participation within the Aboriginal community to build participation capacity towards healthy progression. They offer services to youth and young adults.*

20. Métis Nation BC – Community Justice Support

Jennifer Robertson, Community Justice Support Worker
604.395.4110

21. Vancouver Aboriginal Transformative Justice Services

Christine Smith-Parnell
604.251.7200

Organization Profile: **see report**

22. Vancouver Métis Community Association/ Walk Bravely Forward

Paul Stevenson, President
Ken Pruden, chair Elder
Ron Kearsse-Barnes, Community development worker
604.682.2933

- **Organization Profile:** *Walk Bravely Forward bases its work around aspects of Métis culture and community. They believe the community and culture has the power and ability to work with offenders and bring them back to a positive state.*

23. Vancouver Native Health Society

Lou Demerais, Executive Director
604.254.9949

- **Organization Profile:** *Vancouver Native Health has a high standard of non-judgemental services. They have an HIV outreach team. They have doctors 7 days a week, and are open from 9:30-8:30. They have a partnership with St Paul's Hospital. They are located at 449 East Hastings, within the jurisdiction of DCC.*

24. Vancouver Aboriginal Health – Aboriginal Wellness Program

Carol Passmore, Aboriginal Wellness Counsellor
Barb Keith, Clinical Supervisor for Addictions
Carol Patrick, Clinical Supervisor for Mental Health
Christina Robbins, Aboriginal Wellness Counsellor
Mahara Allbrett, Aboriginal Wellness Counsellor
Bonni Hanuse, Outreach
604.875.6601

- **Organizational Profile:** *Aboriginal Wellness is funded by Vancouver Coastal Health Authority. They serve all those who self identify as Aboriginal and their family members. The Powell street site has counsellors and outreach workers. They offer workshops on culture and identity, have one to one counselling as well as support groups. They do not have a cap on how many clients they can serve. They are appointment-based. This program is a valuable resource*

25. Warriors Against Violence

Dan Parker, Facilitator (and co-founder)
604.255.3240

- **Organization Profile:** *Warriors Against Violence supports people with family violence issues and teaches healthy relationships. It is a 28 session program – once a week for 2 hrs in the evenings. Most of their staff are volunteers, as they have limited funding and limited opportunities to apply for grants. Individuals can be trained to host sessions once they have completed the program. They are based on wisdom gained from personal experience. They operate out of Kiwassa Neighbourhood House. They provide service to both men and women. Support for this program was brought up a number of times through consultations and is highly respected in the Aboriginal community*

26. Vancouver Aboriginal Community Policing Centre Society

John Sakamoto Kramer, Program Coordinator
604.678.3790

- **Organization Profile:** *A community-based storefront where community members can gather to identify, discuss, and address justice and safety issues in Vancouver. It is meant to serve as a positive link between the Aboriginal community and the Vancouver Police Department. The Centre relies heavily on volunteers and may be appropriate for community work service hours.*

27. Urban Native Youth Association

Lynda Gray, Executive Director
604.254.7732

- **Organization Profile:** *UNYA serves youth and young adults (up to 29). They run 18 different programs in education, peer support, D&A counselling, workshops in communication, life skills and culture recreation. They have 3 residential facilities – a safe house, a residential treatment facility and supported housing. They could be accessed for low intervention workshops.*

28. Atira Women's Resource Society

Amber Prince, Legal Advocate
604.331.1407

- **Organizational Profile:** *Atira supports women who have been victims of violence. They have counsellors and advocates. 38% of their staff is Aboriginal. They are located on in the heart of the Downtown Eastside (101 Cordova Street). They have a number of residential facilities.*

29. Take Charge

Mike Antoine, Coordinator
Cheryl Terry, Coordinator
604. 254. 5401

- **Organizational Profile:** *Take Charge is a program for young adults up to 30. It is a 7 month program focussing on employment skills, life skills, personal development, team building and communication skills.*

A- ii) First Nations Political Organizations

1. United Native Nations

David Dennis, Vice President
604.688.1821

2. Assembly of First Nations – BC Western Vice-Chief – portfolio on AFN First Nations Justice

Rhonda Sim, Executive Director
Wade Grant, Leadership Council Policy Analyst
604.922.7733

3. First Nations Summit

Grand Chief Edward John
604.926.9903

A – iii) Individuals

1. Calvin Helin, Author of *Dances with Dependency*

604.275.6670

2. Marjorie White, Elder

Marj is very much active in the area of justice. She used to be the Executive Director of the Vancouver Aboriginal Friendship Centre, as well as Executive Director of Circle of Eagle's Lodge. She is on the board of Pacific Association for First Nations Women.

marjoriwhite@hotmail.com

3. Old Hands, Elder

Old Hands spends time at the Aboriginal Front Door. He used to work with Cwenengitel Aboriginal Society. He has spent a considerable amount of time volunteering in institutions.

604.572.8429

4. Terrence La Liberté, QC

Terrence is a board member of NCCABC, and on the Vancouver Police Board. He has practiced criminal law, as both defence and prosecutor for almost 30 years.

laliberte@telus.net

5. Preston Guno, Associate Child and Youth Officer

Preston.guno@gov.bc.ca

B) Individuals/Services NOT yet consulted, but should be considered – as per recommendations from Aboriginal community

Individuals:

Lieutenant Governor Steven Point

Aboriginal JP, Julie Clark

Sharon John – Elder

Willie Pierre – Elder

Kathy Lewis - Aboriginal NPB member (retired)

Judge Barry Stuart

Services:

First Nations Legal Clinic – located at NCCABC 50 Powell office

Native Education Centre

BladeRunners

ACCESS

Community Health Centers - Downtown, Pender and Three Bridges;

Venture (after hours psychiatric services)

PACE - prostitution alternatives;

RISE/PEERS (former/current sextrade workers)

WISH Drop in Centre for sex trade workers

Downtown Eastside Women's Centre

WAWAW (women against violence against women)

Elizabeth Fry

Aboriginal Supported Child Development

MCFD - Aboriginal Branch

Downtown Eastside Youth Activities Society (under 25 DETOX + advocacy)

The Dugout

First United Church
Safe Injection Site (Insite)
Crabtree Corner (YMCA)
Legal Services Society
Ray-Cam Co-op Centre
The Gathering Place
Oppenheimer Park
Carnegie Community Centre
Neighbourhood Safety Office - Dave Dickson
Vancouver Police Department- Aboriginal Community Advisory Committee.
Network of Inner City Community Services
BC Aboriginal Network on Disabilities
BC Coalition of People with Disabilities

FASD Services:

Asante Centre
B.C. FAS Resource Society – Maple Ridge
Connections: Serving Adolescents and Adults with FASD - Surrey

Association of BC First Nations Treatment Programs:

Carrier Sekani Family Services: Ormond Lake
Round Lake Treatment Centre - Vernon
Gya'wa'tlaab Healing Centre – Kitimat
Kakawis Family Development Centre – Tofino
Ktunaxa/Kinbasket Wellness Centre – Creston
Namgis Treatment Centre – Alert Bay
Nenqayni Wellness Centre Society – Williams Lake
Northwind Healing Centre – Dawson Creek
Tsow – Tun Le Lum Treatment Centre – Lantzville
Wilp Si' Satxw House of Purification – Kitwanga

C) Aboriginal Justice Strategy – Programs

Community-based justice programs that may be accessed by band members. Referrals to these programs can come from anywhere and we encourage the staff of DCC to familiarize themselves with these programs to as to promote utilizing them where appropriate.

Contact:

Natalie Robins, Program Officer
Department of Justice – Aboriginal Justice Strategy
604.666. 4646
nrobins@justice.gc.ca

1. Esketemc Alternative Measures Program
2. Gitxsan Unlocking Aboriginal Justice Program
3. Haida Gwaii Restorative Justice Program
4. Lower Post First Nation Community Justice Program
5. Nicola Valley Aboriginal Community Justice Program
6. Nisga'a Yuuhamk'askw Justice Program
7. Nuxalk Restorative Justice Program
8. Prince George Urban Aboriginal Justice Strategy
9. Prince Rupert Urban Aboriginal Justice Program
10. Qwi:qwelstom – Sto:lo Nation Justice Program
11. Secwepemc Community Justice Program
12. Ska;ls – Beliefs in Justice Program
13. Sliammon Justice Program
14. St'at'imc Restorative Justice Program
15. Stikine Aboriginal Justice Program
16. Tl'azt'en "Healing Circle" Justice Program
17. Tsilhqot'in Community Justice Program
18. Wet'suwet'en Unlocking Aboriginal Justice Program
19. Vancouver Aboriginal Justice Program

Appendix 2

Lower Elwha Klallam Tribal Courts

Based on recommendation of the Steering Committee – the Community Court Consultation team was to travel to a jurisdiction that practices tribal sovereignty (in the area of justice). Research provided a list of Washington State's various Tribal Courts. Listed was the Lower Elwha Klallam Tribe located in Port Angeles, Washington. Rodney Charles, Chief of Police was very enthusiastic in inviting us to the US to witness their Tribal Court in action. This led to a secondary contact with the Makah Tribal Court in Neah Bay, Washington – where we were welcomed by Chief Judge Jean Vitalis and various service providers working in the Makah community.

The Aboriginal Consultation Process was improved by witnessing two communities taking direct responsibility for their own Justice System. We were impressed as to how tight the communities were with their people and service providers. We found little to no gaps in service. The Lower Elwha and Makah people work very hard at advancing and educating their communities to maintain strength that they can call their own. It is this consultation team's goal to instill these values to the Downtown Community Courts Implementation Team.

NCCABC President and Steering Committee member, Hugh Braker, suggested on March 31, 2007 that the consultation team needed to strive for the implementation of an Aboriginal Initiative in the Downtown Community Court process. Mr. Braker recommended we connect with an Aboriginal community that practices judicial independence. There were suggestions of Hobbema, Alberta and various American Indian communities.

We contacted different tribal courts in Washington State and the Lower Elwha Klallam Tribe invited the consultation team to witness their Tribal Court process. The Lower Elwha Tribal Courts are held on the last Wednesday of each month.

On Wednesday April 25th, Chief of the Tribal Police, Rodney Charles, greeted us at our hotel, and transported us in his police cruiser to the Lower Elwha Klallam Tribal Office, where Tribal Court convenes. During this time, he spoke about challenges him and his team face policing the reservation. Rodney gave a brief lesson on American criminal law and its connection to the Lower Elwha Tribe. Enforcement of Tribal Laws applies to about 800 Lower Elwha Tribal members living on the reservation. We offered Rodney a golf shirt with the NCCABC logo as a gift for providing such a great experience.

The Consultation Team was introduced us to Judge Brian Coughenour, Court Director, Administrator and Probation Officer Lola Moses, and Tribal Attorney Robert Strohmeyer. Police Chief Charles graciously printed for us, all 106 pages of the Lower Elwha Justice Code, as well as a copy of the Lower Elwha Court Procedures manual. Tribal Courts have their own Tribal Justice Codes, which, in effect, are exact replicas of state laws, differing only in who administers them. There are, however, opportunities to incorporate traditional and culturally relevant justice strategies – but this must be on the initiative of the Tribe and approved by the Bureau of Indian Affairs. Although Tribal Court employees work under non-traditional laws they are often still aware of traditional cultural justice and retribution principles (and can speak to them).

The provisions of the Lower Elwha Justice Code extend, in conformity with American Federal law, to areas and persons set forth in applicable Lower Elwha Tribal Court Procedures Ordinance. Only tribal members that commit offences on reservation land are subjected to appear Lower Elwha Tribal Court.

The Lower Elwha Tribal Courtroom structure was unlike the structure of regular American courtrooms. The proceedings took place at a medium-sized table and appeared more like a case management strategy meeting than a formal court appearance. Judge Coughenour wore a suit, not a robe, and sat at eye-level with the table. Everyone was treated with the same amount of respect. The accused appeared to be at ease and was very involved. The program coordinator and counsellor of a local drug and alcohol treatment center sat in the room and chatted with community. These of casual practices would encourage positive participation in Downtown Community Court by offenders and service providers.

All decisions made at the court table are canvassed by Lola, the Court Administrator and Probation Officer. This leaves very little room for gaps. For example, Lola understands policies and procedures of various treatment programs which facilitates easy decision making. If a 'release of information' is needed, she would have that done during the court appearance. Administration duties can often create opportunities for the accused to make excuses and cause delays. When a person agrees to a Compliance Order – Lola eliminates unnecessary adjournments by dealing with paperwork and communication responsibilities with the accused person right away. The consultation team would like to see the Downtown Community Court implement this type of intense supervision and accountability. Our time with Lola was brief but very informative. We gave her a golf shirt with the NCCABC logo on it as a gift for allowing us to impede on such a busy day.

People going through the Tribal Court have a defence attorney acting on their behalf and the Tribe has an attorney that enforces the Lower Elwha Justice Code. Bailiff services are provided by the Elwha Klallam Tribal Police. The Tribal Police currently has 3 members.

The Consultation Team was impressed with the dynamic of the courtroom. A simple gesture like offering free coffee to the public was a clear sign that the community is welcome. A funeral was being held on the same day as court. The Lower Elwha Tribal Court team was aware of this event and worked around the community's needs, by excusing those who were at the funeral. This level of community connection needs to be implemented into the Downtown Community Court. If the DCC team practiced being open and involved with its community, the community would respond by participating in the DCC and strategies dealing with offenders would benefit.

In one case – a young man was appearing on several charges; Judge Coughenour had previously put him under several bail conditions. One of the bail conditions was regular urine analyses, to assess the abstinence of drugs and alcohol. This bail condition is an opportunity for increased accountability; it allows the accused to take responsibility. It is also a creative method whereby the accused tribal member can remain out of custody but still be monitored and forced to comply when ordered to stay off drugs and alcohol. Despite being under bail conditions of clean and sober this individual committed an offence involving alcohol and damage to Tribal Land. In this case the Judge has utilized his access to a local jail. The Judge sometimes uses the jail as leverage towards Tribal Members that do not comply with his orders. Judge Coughenour stated that some people need to spend a little time in jail to wake up and get back on track. The Judge has the option to revisit bail and release the Tribal Member back into the community, while still being responsible for outstanding charges and accessing community services. Urine analyses and flexible jail terms are two beneficial sentencing tools.

In Vancouver, when a Judge revokes bail and detains a person – re-release is rarely canvassed. A person remains in custody (in a pre trial institution) until completion of court responsibilities. Downtown Community Court could use urine analysis and the practice of re-releasing members into the community while still working towards dealing with their personal root-causes of crime.

Judge Coughenour was kind enough to sit and chat with us about his job duties. He sits on various benches throughout Washington State – one of them being a drug court. Judge Coughenour used to be a public defender, and this role he served a lot of community members thus he has relationship history with many of the people who now appear before him. Although he is not a Tribal Member, he attends weddings, funerals and is involved in canoe racing with the Lower Elwha People. He also used to be married to a woman from the near-by Lummi Reservation and they have a son. Reflection of the Judge's time spent in the community speaks to his personal commitments to the Lower Elwha Tribe and its members. Moreover, his history and personal connections to the community contribute to an increased respect of his orders, and the ease members who sit before him feel. We provided Judge Coughenour with a golf shirt with the NCCABC logo as thanks for allowing us to witness his courtroom in action.

We had lunch with three members of the Lower Elwha Community. Rodney Charles, Chief of Police, Christine Tyndall, Lower Elwha Daycare Director and Michelle Cook, Social Worker. During this discussion it was disclosed that the entire Lower Elwha people went on a huge canoe journey that everyone participated in. The preparation of the event touched everyone in the community by helping connect neighbours and business merchants from working together. Rodney Charles explained that the entire community was on their best behaviour because nobody wanted to miss out on this awesome event. Everyone chipped in and had a great time together.

Community events that call upon the Downtown Community Court team to be involved would break down personal barriers between the Court Team and various community members. The Implementation Team has repeatedly stated that they want the court to belong to the community. The consultation team would like to see the DCC Implementation Team connecting to the community on a personal level in developing positive strategies, as seen in the Lower Elwha Tribal Court

Michelle Cook mentioned a personal connection she had to Chief Judge Jean Vitalis from the Makah Tribe in Neah Bay, WA. It was mentioned that everyone in their criminal justice process are Makah Tribal members. Communication gave welcome to Justice Development Training with the Makah Tribe and a day with the Chief Judge. We traveled to Neah Bay.

We met Chief Judge Jean Vitalis at the Makah Marina building in Neah Bay, WA. We learned that Makah people are actually the furthest Southern community of the Nuuchalnuth people, and practice similar traditions (such as whaling). The Judge explained the Makah Tribal Court System and promised to take us on a tour of Neah Bay. Judge Vitalis confirmed that the Makah Tribal Courts are operated entirely by Makah Tribal members. Her honour was born and raised in Neah Bay and has a very strong connection to and presence in her community. We presented Chief Judge Vitalis with a golf shirt with the NCCABC logo on it a gift for welcoming us to her territory.

Law Professor Ron Whitener from the University of Washington lectured and answered questions for the majority of the day. It was remarkable how the community was being informed and remained engaged in discussions about complicated jurisdictional issues in American Indian Tribal Law and land agreements, property rights and wills. It showed a very high level of discipline and commitment from and within the community. The audience was made up of various community members, service providers and respected elders. It was inspiring to see all of these people taking such an interest in community issues.

The Makah Tribal Police presented on crystal meth and its' impact on the community. It was disclosed that young people are not interacting with the drug; rather it is being made and consumed by older members of the community (ages 18 – 35). In the presentation, it was submitted that it is as easy to make crystal meth as it is to make cookies. The Makah Tribal Police pleaded with the community to disclose information about crystal meth (or any drug presence) to the police as they want to keep the community safe. We were also advised that the Neah Bay reservation is a dry community and do not allow alcohol consumption by its members.

Judge Vitalis asked us to eat lunch quickly as she wanted to provide a tour of Neah Bay and her courtroom. We got to see the entire reservation, beaches and borders that made up the Makah Tribe. We also go to see the Adult Correctional Center where they hold members for up to 6 months. We came onto the Tribal Council Center that was a former US Air Force Base. The Makah Tribal Court is located on the former base as well as health services, financial offices, and other tribal offices. We entered the building and were introduced to its' operations. The building housed the courtroom where Judge Vitalis sits. Downtown Community Court is trying to create the same "one-stop shopping" initiative the Makah community has in their Tribal Council Center. The Judge stated that when various services are so close by it significantly benefits individual needs.

Judge Vitalis provided the consultation team with the Makah Justice Team Three-Year Strategic Plan. The Justice Team was formed approximately eight years ago for the purpose of resolving intra-tribal disputes among justice related agencies. The Makah Tribe has had an operational tribal court since at least the 1930s and the Tribe exercises full sovereign jurisdiction over all civil (most importantly including Indian Children) and criminal matters (including an active tribal police force and a jail) to the fullest extent allowed under federal law.

Judge Vitalis noted how the adversarial justice system completely went against Makah traditional values. She also noted that a challenge exists when family members are called as witnesses against each other. Family loyalty is incredibly strong and this poses real spiritual and emotional dilemmas for tribal members. Although these issues are not easily overcome, as the Tribal laws are based on the American model of justice, the fact that Judge Vitalis and other court employees are aware of the tensions, and can speak to them, makes it easier for tribal members to negotiate their way through the system.

The newest initiative of the Makah Tribal Court is a Tribal Court Services Assistance Program. This program will see tribal members involved in the courts that have drug, alcohol and mental health issues receive wrap-around services and intensive case management. We spoke to the individual in charge of the program and she mentioned one of the biggest obstacles for a lot of her clients is not having a license. This is the same ideology proposed by the Downtown Community Court.

In conclusion, the Consultation Team came away with a lot of ideas that will ultimately benefit our consultation meetings and our final report. Witnessing two exemplar communities that are taking responsibility for crime and running their own courts gave us visual impressions and inspiration. The following is a list of points (explained in detail in the above report) that the consultation team will include in their final report:

RECOMMENDATIONS FOR DCC:

1. A casual setting and attire puts offenders at ease and shows equal amounts of respect to everyone. Offering coffee and welcoming community increases community participation, awareness of process and improves relationship.
2. Court Administrators who are informed about local programs (procedures and staff) allow for immediate connections and less paperwork.
3. Having Court staff be a part of community events and committed to building relationships that reach beyond their professional role allows for a relevant and effective experience for accused. It increases community buy in.
4. Creative sentencing allows for the opportunity for accused to take greater responsibility (i.e. urine analysis). Judges should remain flexible and open to the need for jail and the possibility that it may be appropriate to re-release on occasion.
5. There is huge benefit to having the judge make an effort to ingratiate him or herself into the community. When the community has a positive relationship with or impression of the Judge outside of the court room they tend to care more about court procedures.
6. Close proximity of social services does make a huge difference to offenders' ability and willingness to access them.
7. When the use of culturally relevant justice traditions/laws are not available, it makes a significant difference to have community members (in the case of Downtown Community Court – Aboriginal people) working in the court. Moreover, individuals working in the court need to be informed about the culture and traditional conceptions of justice of the accused in order to make the process relevant and effective.

Appendix 3

Peacemakers Court - Tsuu Tina Nation

Judge Mandamin's rendition of the origins of Tsuu T'ina Court

The need for a court system on the Tsuu T'ina reserve in Alberta was identified after a traffic violation case. A woman was charged for driving without registration on a reserve road. She appealed and won, due to the fact that RCMP/ Provincial jurisdiction are on public roads (i.e. not reserve roads).

The Province and RCMP met with Chief and Council and informed them of the situation. The proposed solution at that time was to make the reserve roads open to the public. The community voted against this. Instead Tsuu T'ina established their own traffic by-laws, mirroring those of the province. However, the RCMP could not enforce them thus they were ineffective. Issues surrounding drivers and safety continued to worsen on the reserve. The community was fearful that someone would get hurt and the driver would have no insurance.

Elders in the community demanded that Chief and Council do something. They developed a more complex system of traffic laws. The issue was then, how to enforce them. They began looking at a traffic court. But the problems on the Tsuu T'ina were much bigger than traffic. There was hesitation to simply copy the 'white man's way.' The community began looking at the idea of a First Nations Court.

From this came the idea of Peacemaking. And also the idea of having a Provincial Court on the Tsuu T'ina reserve, where all the cases arising from the reserve would be heard. They went for a multi jurisdiction court (civil, family, and criminal). There requirements were for all matters (between band members, and non band members alike) occurring on the reserve would be heard in this court. They also required that all staff would be Native. This would help with buy in from the community. They went so far as to say that if there was not a Native judge there would be no point in setting up the Court.

They also took the opportunity to set up Peacemaker Court. This required looking into the history of peacemaking with Tsuu T'ina. They looked to traditional Blackfoot law, but considered how to apply it to contemporary situations. They kept the traditional process. They began to deal with some cases. They asked the Elders which cases they should take. They said no homicide or sexual assault cases, and advised that Peacemaking required victim participation. They changed the language of the courts.

The process is that when someone is charged the RCMP then either they or the individual flags it as a case appropriate for Peacemaking. It is then dependent on Crown approval. Once Crown approves it, there is a 2 week adjournment to assess appropriateness and contact the victim. If the victim agrees to participate and the assessment is positive, then the case will go to Peacemaker Court. The process is given an initial three months with the possibility of an extension.

When they were setting up Peacemaker Court, Ellery went out into the community and asked every single household who they would trust to be fair. He received a list of names. People were excluded if they were on band council, were too busy, too young, or had a too long of a criminal record. At the end there were 50 names, these people were trained to be Peacemakers. Ellery assigns a Peacemaker to each case. There is also always Elder involvement.

The court meets in a circle. Everyone gets a chance to speak. Staff in the court has a mix of judicial apparel and traditional regalia. They start each session with a smudge. Together they come up with a creative solution of how to rectify the situation; the charged individual goes out into the community and completes it. Notes are kept through the process, at the end if/ when everyone is satisfied they burn the notes and it is considered done. The costs of the court are space (housed on Tsuu T'ina reserve) and honorariums to the Elder and Peacemaker. At the end, a letter is sent to Tsuu T'ina regarding the Peacemaking process and describing what the individual did to rectify it. The Crown then assesses whether it is appropriate by Crown standards, if it is then the charge is dismissed.

They began doing Peacemaking in the high school and it developed a strong reputation among the kids for being so difficult that the kids are now behaving and they no longer need to facilitate sessions.

There has been an ongoing evaluation, data collection, focus groups. The most common question is "has it reduced recidivism?" The answer is simply that for those who went through Peacemakers, there is the lowest amount of recidivism. People who have gone through Tsuu T'ina Court have a much lower recidivism rate than those going through other courts in Alberta. Moreover, people are more at ease, regard Peacemakers and Tsuu T'ina court as more informal and accessible.

Mandamin is Anishnabe from Manatoulin Island in Ontario. He was born in England then came to Canada and was raised by his grandmother on the reserve. Mandamin said that he was going to miss Tsuu T'ina Court alot; he said that it had been extremely rewarding.

Recommendations from Tsuu T'ina Court

- *Grunt Jobs* do not work – traditionally people used to do the grunt work as punishment when they did something wrong, when they were done they were invited back into the community. The problem with menial work service is that no one is watching to acknowledge that it is done, the work has no meaning and nothing happens when the person has completed it.
- When the light goes on it can happen fast – it is the responsibility of the person/ people who help in this to assist in getting the person on a path that they can be responsible for
- Teach people to plan, so that they become able to plan for themselves.
- Peacemaking court identifies when they are dealing with someone with a 'battered spirit.' That is to say their spirit has been sucked out of them. Often they will grab anything else to try to fill it back up.
- It can be a huge effort for someone to simply make a plan to go all the way to the grocery store and buy ichiban and come home, and to follow this through.
- You cannot force people to receive help. They need to want to get help and buy in to the process. There needs to be other options for those who do not want help.
- Need to take the linear process out of funding requirements.
- Networking is imperative. Have a centralized action team. There can be agreements with different agencies.
- Each case needs to be individualized. Need to ask the person who they need to be there. Whoever they respect should be invited into the circle. This person is often a huge asset – they may have an opinion on the type of punishment required. Often people respect people because they are honest and fair. It is not a matter of having all your friends there – it is a matter of having the person you respect the most.
- Look at people's lives in depth. Look way beyond education and personal problems.
- We should look to the history of Vancouver and the history of the downtown eastside (DTES) and specifically the location of DCC.
- Look at why there are so many Native people and different ethnic groups in the DTES. Ask them what they think of the DTES.

- Ask Native people in the DTES if they are active or not in their belief system. Ask if they have taken something else on.
- DCC staff training is incredibly important and needs to be thorough. People need to know how to ask the right questions. A huge focus of the Peacemaker Court is educating and training staff. It is imperative for the success of the program.
- Training for police and people in DCC about Aboriginal culture, traditions, history, current realities. Often training will focus on the Aboriginal Spirituality and not about being a human being who is Aboriginal in today's world.
- Peacemaker Court can provide good examples to DCC and should be investigated further for applicability to British Columbia.

Examples/ Cases from Peacemaker Court:

- A woman was charged with shoplifting. She had a number of difficult circumstances in her life at the time. When she entered the Peacemaking Process she wanted to get the process over with quickly. She sat down with the Elders and they helped her find her skills by asking simple questions (can you read and write? Can you keep your house clean? Can you make and break camp?). Through this process she gained some self esteem in realizing that she did in fact have a number of skills. She felt some remorse for taking so long to realize her value. The Elders helped her get comfortable with the time that was wasted. She went back to school and received exceptional marks. After a year she withdrew temporarily because her being in school placed too big of a burden on her family.
- A man had been in and out of the justice system for years (he had approximately 14 charges). Peacemaking was not working for him. The Elders asked him why he kept agreeing to go to counseling. He provided a number of reasons/ excuses. He was then asked why he did not simply say he did not want to go. He agreed that he did not want to go and did not want to stop drinking. He agreed to pay a fine and so something other than help himself in order to make it up to the community. He felt good at the end of the process because he had been allowed to be honest.

- Before Peacemaker Court opened they took time to establish a timeline of their history, and a history of the land they were presently on.
- They had a group of kids go through Peacemaker Court who was Christian. They were asked if they would mind if they smudged the court room. It was explained that this was a practice done to help people be more honest. They agreed.