

**THE ROLE OF “COMMUNITY” IN THE DESIGN AND
DEVELOPMENT OF VANCOUVER ABORIGINAL
TRANSFORMATIVE JUSTICE SERVICES**

by

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Abstract

Indigenous people in Canada are reasserting their inherent rights to live as distinct Peoples. A significant element of this involves taking back responsibility for justice reforms and initiatives. Fundamental tenets of Aboriginal justice processes require they be community-based, community-defined and community-driven. These are challenged when *mumuthni* (mainstream) governments remain the primary source of justice funding and construct the criteria by which those funds are allocated. Even greater challenges arise in urban contexts where *quu'as* (Indigenous people) reside and where issues of who “the community” is come to the fore. Combining archival sources, surveys and interviews, this thesis examines how the urban Aboriginal “community” in Vancouver was constructed during the design and development of Vancouver Aboriginal Transformative Justice Services, a culturally appropriate justice programme. In the process, the steps urban *quu'as* are taking to self-define and build community, and the challenges current *mumuthni* government policies pose, are considered.

To Li'l Irv (1976 – 2002) and Jo with an E (1978 -2002)

They once told me

words are healing

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List of Abbreviations and Acronyms

AJD – Aboriginal Justice Directorate

AJS – Aboriginal Justice Strategy

CJS – Criminal Justice System

RCAP – Royal Commission on Aboriginal Peoples

VAFC – Vancouver Aboriginal Friendship Centre

VATJS - Vancouver Aboriginal Transformative Justice Services

Chapter One: “Clearing a Space”

Introduction: Self-determination

*“Our government has remained hidden
in the hearts of our people,
but it has never died”
(Fred Plain, 1985: 36).*

The past several decades have seen Aboriginal people regain control of their communities and Nations more than ever as part of an assertion of their inherent right to govern. Aboriginal people across this land now called Canada assert that the right to their own systems of governance has never been, nor can it be, extinguished by the *mumuthni*¹ governments (Atleo, 2004; Monture-Angus, 1999: 30, Royal Commission of Aboriginal Peoples², 1996). For many Aboriginal people, these rights include governance in their own land and of their own people. It is the desire to control their lives and future destinies. It is a desire for independence. It is the right to self-determination that is afforded to all human beings and peoples.

I start with the belief that Aboriginal governance is an inherent right that can only be determined by the peoples who possess this right (*Ki-ke-in*, 2002; Isaac, 1999; Plain, 1985: 33). Aboriginal peoples, prior to European contact, had systems of governance, which included social, economic, educational, spiritual and political structures developed to meet their needs. The Aboriginal right of governance includes the right to have

¹ *Mumuthni* is a Nuu-chah-nulth word and in the current translation refers to “White people.” As in other Indigenous languages, the complex meaning of the term is lost in the English translation. I have heard other translations of the term that refers to the settlers when the European/Spanish explorers arrived “they were a people whose houses floated on the water; *people with no land*; people that were poor; and needed to be helped.”

² Hereafter referred to as RCAP.

institutions and systems based on the values, traditions, and customary laws of the Indigenous nation. Aboriginal people aspire to reclaim self-governing institutions that have direct input on matters affecting all areas of their lives, which includes the area of justice. The holistic view, with importance given to the “connection of all life³” (*Ki-ke-in*, 2002) is a concept recognized by many Aboriginal cultures. Therefore, in traditional Indigenous societies “justice,” or perhaps a more suitable phrase, “the way we live” was not seen as a separate category but an approach integrated into all areas of life (Monture-Angus, 1999; Palys, 1993; RCAP, 1996a; Ross, 1996). As a result, governance and justice are often seen as intertwined, and both are of vital importance in regaining control of Aboriginal communities (Gosse, Youngblood Henderson and Carter, 1994; RCAP, 1996a).

The Canadian *Constitution Act, 1982*, aggregates all “Indians, Métis, and Inuit people” into the category of “Aboriginal people,” a term that ignores the diversity of distinct cultures of the original nations⁴ of this land. Recognizing this diversity, along with the historical and political relationships with the *mumuthni* governments that have come to shape the present circumstances, many *quu’as* no longer reside in their traditional lands. In the present day, approximately 50% of Aboriginal people reside in Canadian urban centres (Graham, 1999; Hanselmann, 2001; Peters, 2000); these people, like me, are *nach-ya-panach*⁵, or living away from their home communities and Nations.⁶ The

³ For further discussion regarding “connection” or “*Heshook-ish Tsawalk*” translated to “everything is one” amongst the Nuu-chah-nulth, see Dr. Richard Atleo (2004) in *Tsawalk: A Nuu-chah-nulth Worldview*.

⁴ In this paper, I use various terms “Indigenous,” “*quu’as*,” “First Nations” and the current umbrella term of “Aboriginal” interchangeably. I do not intend to be disrespectful of the names people use to identify themselves and/or their Nations.

⁵ In the Nuu-chah-nulth language, this phrase refers to “living away from home.” However, the meaning is based upon our worldview as “someone who is away temporarily” for s/he still maintains a connection to their ancestral roots (even if this is unknown to the person).

⁶ Mary Ellen Turpel gives an example of an Aboriginal man who was “welcomed home” into his community and culture through an Aboriginal justice project in *Continuing Poundmaker & Riel’s Quest* (1994: 217-219).

need for developing culturally appropriate models of governance and justice is greatly needed in the urban centres to ensure all *quu'as* can experience justice based on Aboriginal cultural values and beliefs.

There has been acknowledgment by both Aboriginal and *mumuthni* governments that Aboriginal justice systems should be designed based on the needs, priorities and desired direction of the Aboriginal community (Aboriginal Justice Strategy, 2003; RCAP, 1996a). However, the word "community" becomes a complex construct and difficult to define despite its common everyday use. The term becomes even more complex when discussing Aboriginal people who live in the cities, for it has even been presented that Aboriginal people "do not unite to form an urban community" (see Silverman and Nielsen, 1987: 252) and that "there really is no such thing as an urban Aboriginal community" (Hanselmann, 2001: 20). Therefore, when establishing Aboriginal justice systems in urban locations, a central question often asked is, "who is the community?"

A series of urban Aboriginal Justice programmes have been developed that have had to address those very issues. The first was developed in Toronto in 1991, and was for a time the only urban Aboriginal justice programme in Canada (RCAP, 1996a: 148). Other programmes followed in ThunderBay and Winnipeg (VRJP, 1999). Vancouver Aboriginal Transformative Justice Services was the fourth, and began accepting cases in April 2000. My objective in this thesis is to examine how the "Aboriginal community of Vancouver" was identified and mobilized in the creation of Vancouver's Aboriginal justice initiative, and to explore the implications of this analysis for future programme development.

Colonial Histories

*“You have to understand where it is we have come from, to get to this point in time”
(Sinclair, 1997).*

Many Indigenous Peoples throughout this land now called Canada have found the disruption of their way of living and their present circumstances have been shaped by oppressive colonial powers. This experience is not unique to Canada, for it is also found worldwide in many Indigenous lands where imperial powers lay claim to the land and took the opportunity to create their own societies and government structures (Henderson, 2000a; Smith, 1999). Based upon these ideologies and beliefs so intricately woven into the societal institutions of *mumuthni* people, Indigenous peoples, in a variety of ways, have often been denied their claims to humanity (Adams, 1989; Henderson 2000b; Smith, 1999). Métis author Howard Adams, in his historical examination of the colonization process in Canada presents the degradation of native people as “objects” to be controlled and who were “dehumanized in every possible way” (1989: 41). The process of dehumanizing Indigenous peoples conducted through colonialism refers to “the process of encroachment and subsequent subjugation of Aboriginal peoples since the arrival of Europeans” (LaRoque, 1993). A more detailed definition is found in Blauner’s outline of internal colonialism:

1. Begins with the forced integration of the indigenous people into the dominant society on terms controlled by the dominant society.
2. The colonizing power carries out a policy that constrains, transforms, or destroys the culture of the indigenous people.
3. Racism is used as a system of domination (and a justifying ideology)
4. Members of the colonized group are administered by members of the dominant power, especially in such a way as to be managed and manipulated in terms of their ethnic status. (quoted in Ponting, 1986: 85)

This historical relationship of *mumuthni* government with the Indigenous Peoples of this land has had disastrous effects that have continued to the present day. The lingering effect of the *Indian Act*, residential schools, and assimilation policies has led to the loss of languages, and the erosion of cultures and identities. These losses or various forms of “disconnection” have created dismal living situations for many Aboriginal people that affect every aspect of being, with many ending up in the justice system (Manitoba Aboriginal Justice Inquiry, 1991; Monture-Angus, 1999; Ross, 1996; Sinclair, 1997).

Aboriginal over-representation has been the topic of numerous reports commissioned by *mumuthni* governments. The most recent report by the Royal Commission on Aboriginal Peoples (RCAP) calls attention to at least 30 prior official reports stating that the Canadian justice system has failed Aboriginal people miserably (RCAP, 1993: 15). Altogether, these reports have made numerous and repetitive recommendations to address this situation; very few have been implemented (RCAP, 1996a: 26 –27). Since it has already been well documented and the increasing numbers suggest the over-representation of Aboriginal people will only continue within the *mumuthni* justice system, in this paper I do not attempt to address “why” the justice system is failing Aboriginal people. It seems so very simple to understand that a foreign system imposed upon another culture ‘will not work’ (see Manitoba Aboriginal Justice Inquiry, 1991; RCAP, 1996a). According to Maori researcher, Moana Jackson,

“Does the subject of indigenous people and the law refer to the extant legal processes now operating in a country such as Aotearoa/New Zealand: or does it refer to the complex and complicated system of law used by indigenous people to regulate their own societies? In other words, are we to provide an analysis of indigenous peoples’ relationships with the legal status quo in contemporary society, or does it envisage a study of the indigenous law suppressed in the establishment of that status quo? ... to merely describe the contemporary relationship between indigenous people and the criminal law without acknowledging the dialectic of colonization is to legitimate the status quo as an unchallengeable given. To do so ignores both the forces, which shape the

relationship between indigenous people and the state, and the offending that occurs within it." (1995: 243-4).

Therefore, when discussing the manner in which Aboriginal people are over-represented within the criminal justice system, the perspective from which one chooses to look at the issue undoubtedly frames the discussion and proposed solutions.⁷

Reclaiming Humanity

Unless a child learns about the forces which shape him: the history of his people, their values and customs, their language, he will never really know himself or his potential as a human being.
(National Indian Brotherhood, 1972)

It is essential to understand how colonial relationships with *mumuthni* governments contributed to the current situations in which Aboriginal peoples and communities live (see RCAP, 1996a; Rudin, 1999). Decolonization will require the strength and determination that has been a continuous feature in our histories to re-establish and recreate our own way of living in this land that has been altered. The importance of Aboriginal languages, which embody culture and worldviews, is central to reclaiming and renaming our place in this world (Battiste, 2000; Henderson, 2000a; Smith, 1999). For it is in these "neglected lifeworlds" or Aboriginal philosophies "when one aspires to decolonize aboriginal people, contains the authority to *heal aboriginal identities and communities*" (Henderson, 2000a: 252; emphasis added). Decolonization is a long and painful process that will require much effort on both the part of *mumuthni* and *quu'as* alike (see Monture-Angus, 2000: 363).

I am only beginning to understand how the colonization process has affected my own life and personal identity. Over the years, my social, legal, and political identity as

⁷ See also Linda Tuhiwai Smith (1999) in *Decolonizing Methodologies* for further discussion of Indigenous research projects of "reframing."

an “Aboriginal person” has changed several times. Yet, my cultural identity, as a *quu’as*, which refers to a “human being,” has remained the same. According to the Nuu-chah-nulth teachings, it is the process of living, learning and understanding the potential of being human and the responsibilities that entails (*Nuu-chah-nulh-aht haahuupa*; see also Keitlah, 1999). I discovered how the policies and legislations of the *mumuthni* governments have attempted to define, categorize, and control all *quu’as* and the effects this has had and continues to have in my own life and the lives of other Aboriginal people.

Part of reclaiming our humanity, in defining our own identities and communities does not rest solely on biological terms, or blood quantum (recently referred to as bloodism⁸). Accepting the *mumuthni*’s view of who is considered “Aboriginal” will only serve to validate the racial tool of colonialism (Monture-Okanee, 1993: 112). Aboriginal identity, as stated by John Borrows,

“is constantly undergoing renegotiation. We are traditional, modern, and postmodern people. Our values *and* identities are constructed and reconstructed through local, national, and sometimes international experiences” (2002: 148).

The importance of the revitalization of Aboriginal cultures and decolonization is presented as a challenge to Indigenous communities to understand “how this occurred... to recover ourselves” and to “claim a space in which to develop a sense of authentic humanity” (Smith, 1999: 23; see also Henderson, 2000b: 249).

⁸ Presented by Lisa Charleson in “Understanding Lateral Oppression” workshop at Native Education Centre, Vancouver, BC, September, 2004.

Chapter Two: “Creating a Foundation”

Nach-ya-panach

Over the past thirty years, the urban Aboriginal population has grown and these numbers are only expected to continue to rise in the future (RCAP, 1992). It is estimated that approximately 50% of the Aboriginal population reside in the urban setting (Harding, 1994; RCAP, 1992; Ministry of Industry, 2003). However, the accuracy of these numbers is debatable (RCAP, 1992); the “real” numbers may be higher by 20-40% (Hanselmann, 2001: 3). Various research studies have found reliable statistical information is difficult to obtain and the actual number of urban Aboriginal people is not known⁹ (Hanselmann, 2001: 3). One of the reasons reported for the “undercoverage” of Aboriginal peoples referred to the mobility of Aboriginal people, moving between their home communities and the urban centres (RCAP, 1992; Ministry of Industry, 2003).

Keeping those limitations in mind, the 2001 Canadian Census¹⁰ reported the number of people who identified as Aboriginal was 976,305 or 3.3% of the total population (Ministry of Industry, 2003). A full 245,000 (or 25% of) Aboriginal people were located in 10 major urban centres, (listed from most to least) Winnipeg, Edmonton, Vancouver, Calgary, Toronto, Saskatoon, Regina, Ottawa-Gatineau, Montreal, and Victoria (Ministry of Industry, 2003).

⁹ Undercoverage arises when a household does not receive a census questionnaire, or when a person does not have a permanent residence at the time the census is conducted. Undercoverage was higher in the 2001 Census for Aboriginal People because 30 Indian reservations were not enumerated (Statistics Canada, 2003).

¹⁰ Nonetheless, the Census is still considered the most comprehensive and best available source of data on urban Aboriginal people (Hanselmann, 2001: 3).

Aboriginal Urbanization

What are some of the reasons why we find Aboriginal people in the city?

Sociologist Carol LaPrairie (1994) points to the economic limitations of reserve communities and suggests Aboriginal people are pushed from home communities by lack of employment, education, housing and other social conditions, and are pulled into urban centres by the potential opportunities of these same factors that caused them to leave (see also RCAP, 1992).

It is interesting to consider the assumptions underlying such analyses. First, the focus is on “status Indians,” and those who leave the traditional lands. Ignored are the factors that created the situation of Indigenous peoples being displaced within their lands, such as the undermining of our inherent rights, our governments, and our responsibilities to “take care of ourselves.” As stated by Ahousaht *hawilth*, Shawn *A-in-chut* Atleo, “everything necessary for life was contained within our traditional lands but since the imposition of colonial governments and the production of western capital economies, our people have to leave our territories for sustenance, to be able to provide for ourselves and our people” (2004).

Forced displacement and “resource poverty” often occurred as a result of early settlers desiring the “prime lands” or “coveted lands” for white settlement (see Miller, 1989). *Mumuthni* settlers took over “choice riverfront, coastal and agricultural lands” (RCAP, 1996b: vol.1 ch. 11: 1). The freeing of Indian lands¹¹ regulated through the *Indian Act* under the section of “removal of Indians” forced Aboriginal peoples to be “consigned to small geographically dispersed land areas” (Boldt, Long, and Little Bear, 1985: 5; Paul, 1993).

¹¹ See Daniel N. Paul in *We Were Not the Savages* (1993), for further discussion of Centralization and Relocation of the Mi'kmaq Nation.

Research conducted recently by the Royal Commission on Aboriginal Peoples, brought forward many of the issues Aboriginal people encounter in the cities. Based on data from the numerous workshops and hearings held across the land, RCAP highlighted various issues many Aboriginal people face when residing in the urban locations:

“Aboriginal people in urban centres often face overwhelming problems that are rooted in cultural dislocation and powerlessness, discrimination and economic hardship. In workshops and plenary sessions at the round table and in hearings across the country, they spoke of their experiences, the importance of their identity, their frustrations with governments and service agencies, and their determination to exercise influence over the institutions that govern their daily lives” (1992: 3).

The findings of the RCAP can be summarized in the following:

- “the survival of Aboriginal identity in an environment that is usually indifferent and often hostile to Aboriginal cultures;
- the existing void in government policies to recognize and reinforce the goals of urban Aboriginal people;
- the need for accessible and appropriate human services; and
- difficult questions around how urban Aboriginal people can gain an effective voice in governance and decision making” (1992: 2).

However, the Royal Commission also discussed the jurisdictional difficulties often encountered by urban Aboriginal people, who are often neglected by all levels of governments, both *mumuthni* and *quu’as*. For example, the federal jurisdiction of Indians applies mainly to reserves, whereas provincial and municipal governments treat urban Aboriginal people as “part of the general population” (1992: 5). RCAP found “Aboriginal people fall between the cracks of government programmes,” which aptly describes the situation of many urban Aboriginal people (1992: 92).

The diverse cultural backgrounds of urban Aboriginal people can pose difficulty in the creation of programmes that are culturally appropriate. Aboriginal peoples’ diversity of origins, legal status, and treaty rights compound the difficulty in trying to implement

solutions (RCAP, 1992). In order to ensure cultural differences and rights are protected, Aboriginal people have debated the structure and delivery of programmes (RCAP 1992: 8). There have been questions whether Aboriginal urban programmes should be status blind in the delivery of services, or whether programmes should be accessed only by certain segments of the Aboriginal population, or even extended to non-Aboriginal people (RCAP, 1992; VATJS Minutes, 12 March 1997).

Aboriginal Rights

The *Constitution Act* (1982) states:

35. (1) The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed.

35. (2) In this Act "Aboriginal peoples of Canada" includes the Indian, Inuit, and Métis peoples of Canada.

The Final Report of the Royal Commission on Aboriginal Peoples affirms these rights include Aboriginal rights of self-determination and self-government:

"Aboriginal peoples' right of self-government within Canada is acknowledged and protected by the constitution. It recognizes that Aboriginal rights are older than Canada itself and that their continuity was part of the bargain between Aboriginal and non-Aboriginal people that made Canada possible." (RCAP, 1996b: 25)

The inclusion of Section 35(1) within the Canadian Constitution and the accompanying recognition of the inherent right of self-government are considered "a major step towards the decolonization of the Canadian Constitution" (McNeill, 2001: 175). However, Constitutional discussions failed to produce agreement as to the meaning of Aboriginal self-government and have produced lengthy negotiations that have sidetracked the practical implementation of Aboriginal rights (Morse, 1999). Although the Charlottetown Accord included Aboriginal self-government provisions that

acknowledged Aboriginal peoples as “the first peoples to govern this land and that their governments constitute one of three orders of government in Canada” (McNeill, 2001: 183), this clarification was lost when the long and complex accord was not ratified by the Canadian citizenry.

Debates regarding the forms that self-government and Aboriginal justice reform might take often assume such efforts are confined to a particular land base or traditional territory. As a result, earlier conceptions of the administration of justice in Aboriginal communities took for granted that the community was homogeneous and reserve-based or nation-based. Although Aboriginal peoples maintain a connection to their traditional territories¹² and declare their rights and responsibilities are connected to the land, their rights are not limited by that territory.¹³

The individual and the collective struggle for survival can be found throughout many Indigenous cultures. International affirmation of the rights of Indigenous peoples is found in the United Nations draft *Declaration on the Rights of Indigenous Peoples*. The draft passed by the Working Group on Indigenous Populations in 1994 outlines principles and standards for respecting the rights and lives of Indigenous peoples (UN Working Group on Indigenous Populations, 1994; see also Palys, 2001; Venne, 1998).

The *Declaration* addresses both the concerns and aspirations of Indigenous peoples around the world who have suffered colonization and deprivation of their freedom, lands, and resources (UN Working Group on Indigenous Populations, 1994). Although, the Canadian government has respected international law when it is in support

¹² Limiting Aboriginal rights within the boundaries of the territory – and maintaining the idea of Indians confined on reserves – may fit neatly within federally-defined boundaries of jurisdiction. This is similar to earlier notions of ‘lands reserved for Indians’ and limited notions of rights (which permitted hunting and fishing on these lands).

¹³ For example see Supreme Court of Canada’s decision regarding the following cases: *Gladue*, *Métis*, and *Sparrow*.

of State's and individual rights, it has been reluctant to implement the collective rights of Indigenous peoples (Moses, 2000).

While there has been an increased recognition of the political and legal discussion of Aboriginal Rights and establishing Aboriginal Self-Government, many people contend that these "big ticket items" will not by themselves solve the current daily lives and situations found in many Aboriginal communities (Harding, 1994; Monture-Angus, 1999; Russell, 2000; Turpel, 1994). For Aboriginal people, it is from within the individual, the family, and the community that changes will arise.

Aboriginal Justice

During the course of my graduate studies, I was often questioned regarding the focus of my studies. If I replied with the short answer of "criminology/Aboriginal justice," I have had other *quu'as* ask, "Do you mean Aboriginal *In-justice*?" However, if I expanded my reply into a discussion regarding self-determination and re-establishing or re-creating our own systems of living, only then did I receive understanding and support from these people who did not believe the two words "Aboriginal" and "justice" could be uttered in the same sentence. This reminds us that "Aboriginal justice" is not a 'traditional' term or a way to think of "justice" in different *quu'as* languages and cultures. Yet, it has been noted that decolonization will initially begin from Eurocentric languages and thoughts before Aboriginal peoples are able to return to traditional systems (Henderson, 2000b: 249-250).

Our next steps must be to name the institutions and structures we build that comprise and affect our lives. For when we speak of "justice" we are typically speaking in a language that is not our own, on terms that are not our own, and that assumes a frame of reference for understanding the concept of justice that is also not our own

(Monture-Angus, 1999; Palys, 1993). There are, however, First Nations who do not fall into this situation, and who continue to define “justice” on their own terms, such as the *Stó:lō* Nation with *Qwi:qwelstom* (Victor, 2001).

As I have come to understand, the concept of “justice” based on daily living is comprised of all one’s relationships and includes one’s responsibility to maintain peace, harmony and balance within the individual, in relationships with others and with nature (*Nuu-chah-nulth-aht haahuupa*¹⁴). Maintaining connections to the land and the spiritual world are thus essential to maintaining one’s harmonious balance within all of creation. Through these connections, or relationships, people demonstrate the values and the virtues that are necessary to maintain the whole.

Jeanette Armstrong of the Okanogan Nation, in her reference to “communities of the heart,” states:

“In a healthy whole community, the people interact with each other in shared emotional response. They move together emotionally to respond to crisis or celebration. They ‘commune’ in the everyday act of living. Being a part of such a communing is to be fully alive, fully human. To be without community in this way is to be alive only in the flesh, to be alone, to be lost to being human. It is then possible to violate and destroy others and their property without remorse” (1997: 2).

Despite vast linguistic and cultural differences, there are some basic similarities in worldviews across Aboriginal cultures that are relevant to understanding the concept of justice (Dumont, 1993; Little Bear, 2000). In many Aboriginal cultures, the process of maintaining a peaceful and harmonious community traditionally involves an integrated approach to justice and living responsibly. Although the methods of dealing with improper behaviours vary from Nation to Nation, the underlying premise in most Aboriginal societies is to restore harmony and reintegrate people with one another and

¹⁴The English translation refers to the “Nuu-chah-nulth teachings,” the knowledge passed down through our oral traditions.

into the community. To my knowledge, Indigenous forms of justice have been occurring in communities conducted through traditional ceremonies and practises, beyond the domain of the formal justice system, and most likely all across the land (for example, see Griffiths and Hamilton, 1996; see also Victor, 2001).

Within the *mumuthni* system, justice reforms have developed based on various accommodative strategies that attempt to reduce the rate of Aboriginal over-representation by being culturally sensitive to Aboriginal people. The earliest attempts to reform the *mumuthni* justice system were conducted based on various types of “indigenization” strategies. These did not address the colonial nature of the justice system, but offered “quick fixes” or short-term solutions within the current system, ostensibly by addressing the cultural gap of understanding between *quu’as* and *mumuthni*’s when *mumuthni* justice is administered by Aboriginal people to Aboriginal people (Palys, 1993; RCAP, 1996a: 40-41). By appointing more Aboriginal police officers, probation officers, justices of the peace, and so on, it was believed justice could be conducted in a more culturally sensitive manner (Palys, 1993; RCAP, 1996a).

Some Aboriginal communities may decide that such approaches are acceptable (see Palys, 1993). While there are others who do not view “indigenization” approaches as long-term solutions but understand these approaches are beneficial based on an understanding that the *mumuthni* system will “continue to play a significant role in the lives of Aboriginal people” (RCAP, 1996a: 78; see also Monture-Okanee, 1995; Turpel, 1994; Zimmerman, 1992).

Other reforms to the *mumuthni* justice system developed as diversions or alternatives to the *mumuthni* system attempt to “accommodate justice-related goals of Aboriginal peoples within existing legal frameworks” (Warhaft, Palys and Boyce, 1999: 169; see also Giokas, 1993; RCAP, 1996a). Many of these accommodative strategies

are initiated and run by Aboriginal people to create culturally appropriate methods of justice (see Warhaft, 1999). For example, these approaches vary from Aboriginal-controlled police forces, sentencing circles, Elders panels, community justice committees, and healing lodges (see Canadian Criminal Justice Association, 2000; Griffiths and Verdun Jones, 1997).

John Giokas, citing Michael Jackson in "Accommodating the concerns of Aboriginal peoples within the existing justice system," writes that the first steps of "developing internal community structures" through various means contain the following elements,

"are community-based, utilize community resources and customary approaches, exploit the inherent flexibility of the existing justice system and are delivered by Aboriginal people to Aboriginal people as part of the larger program of community self-regeneration" (Giokas, 1993: 203-4).

A frequent critique of Aboriginal justice initiatives is that the *mumuthni* justice system is still reluctant to move beyond indigenization or accommodation strategies (Monture-Okanee, 1994: 228-229; Palys, 1993). Reforms to the criminal justice system put forward by Aboriginal people are ones that draw on Aboriginal traditions and values and "empower Aboriginal people to do justice for themselves" (RCAP, 1996a: 64). Aboriginal leaders stress the direction of justice reform should be towards Aboriginal control and responsibility that will possibly lead to the development of parallel or separate Aboriginal justice systems. However, debating the process of justice reforms creates a false dichotomy. As noted by Mary Ellen Turpel,

"Too much time can be spent debating whether justice reform involves separate justice systems or reforming the mainstream justice system. This is a false dichotomy and a fruitless distinction because it is not an either/or choice. The impetus for change can better be described as getting away from the colonialism and domination of the Canadian criminal justice system, resisting colonialism means a reclaiming by Aboriginal peoples of control of the resolution of disputes and jurisdiction over justice, but it is not as simple or as quick as that sounds. Moving in

this direction will involve many linkages with the existing criminal justice system and perhaps phased assumption of jurisdiction “ (Turpel, 1994: 215).

Aboriginal peoples’ drive to reform the justice system based on the larger political framework of decolonization and self-determination has led to the rise of many different justice initiatives across the land (RCAP, 1996a; see also Griffiths and Belleau, 1995).

The Aboriginal Justice Strategy (AJS), a section within the Federal Department of Justice, was created to assist Aboriginal communities in the development of justice programmes (Aboriginal Justice Strategy, 2001). As of 2003, there were approximately 260 justice initiatives in operation in Canada (Aboriginal Justice Strategy, 2003). The financial supports for these initiatives have been provided through shared costs with provincial governments and the Aboriginal Justice Strategy, usually on a year-to-year basis. Uncertainty of long-term funding hinders the development or expansion of Aboriginal justice systems. Although the Aboriginal Justice Strategy has been in existence for 15 years, *quu’as* are still struggling to construct Aboriginal systems of justice, beyond the gradual implementation of programmes and initiatives.

Aboriginal justice structures in urban centres “require a great deal of co-operation and coordination between the non-Aboriginal [Canadian] justice system and Aboriginal systems” (RCAP, 1996a: 283). The success of any justice initiative requires adequate resources, which often is difficult to obtain from the Canadian governments. Many times, Aboriginal programmes or justice initiatives lack ongoing funding and often operate on a pilot-project basis (RCAP, 1992). The lack of secure funding is problematic in developing long-term plans and in achieving long-term goals. Programmes in the urban centres are often under-funded or must compete with other programmes for funding sources. In addition, government funding often comes with a government-set agenda detailing what the programme can/cannot do (Palys, 1993; RCAP, 1993: 37). *Mumuthni* governments,

by controlling access to funds, “still set all the priorities and still effectively tell Canada’s Indigenous peoples what their justice systems can look like” (Palys, 2004: 2).

Community-based Aboriginal Justice Initiatives

Community-based initiatives in the areas of justice and other social programmes have proliferated in recent years.

“In the development of community-based justice initiatives the terms ‘community and community-based’ are used (and overused) to depict a wide range of justice programs and services. There has not been, to date, any clear delineation of ‘who’ the community is or what the criteria are for a program or service to be community based” (Griffiths, Wood, Zellerer and Saville, 1995: 142).

The questions of who “the community” is and how one defines the community were raised by the Law Reform Commission (1991) in their recommendation that Aboriginal communities should have the authority to establish their own justice systems (17). Some of the following questions raised by the report indicate the troubles that can arise when implementing such systems: “What about Aboriginal people in urban centres? Do they form a community? Is such a community cohesive enough to support control over significant aspects of the justice system?” (Law Reform Commission, 1991: 17). In response to these questions, the Law Reform Commission proposed, “Aboriginal people themselves should initially make those determinations” (1991: 17).

The RCAP asserted that “communities themselves know best what justice issues they wish to address and how they wish to address them” (1996a: 168). In addition to being a fundamental expression of self-determination, the Royal Commission on Aboriginal Peoples further explained the importance of encouraging this decision-making locus by noting that,

‘taking control of an aspect of the justice system is a very significant step for a community. Communities have to live daily with the consequences of decisions made in their justice programme. Programmes that

emphasize healing usually require offenders to live in the community rather than being locked up ... this reality encourages communities to develop their programmes slowly and to ensure that the programmes move ahead one step at a time” (RCAP, 1996a: 169).

Community involvement is necessary to ensure programmes are firmly grounded in the community and controlled by Aboriginal community members. In addition, it has been found that programmes that are developed collaboratively with communities are the most successful (Clairmont and Linden, 1998b; Griffiths et al, 1995; Hazlehurst, 1995b; Proulx 2004).

The involvement and participation of Aboriginal people in such programmes should go beyond the mere consultation processes that have historically been employed by *mumuthni* governments and agencies in relation to programmes, services, and policies that affect Aboriginal peoples. *Mumuthni* consultations or presentations that only provide the governments’ position or perspective and do not engage Aboriginal communities in a respectful dialogue are not honourable consultations.¹⁵ I am aware that Aboriginal people have refused to sign attendance books, so as not to be recorded in such consultation practices. The importance of a truly genuine community consultation in the development of Aboriginal justice programmes is outlined by the Royal Commission on Aboriginal Peoples as follows:

“A genuine consultation process is one that allows all those affected by the development of the justice project to have meaningful input to the process. A process undertaken only as a formality and that ignores sectors of the community that want input is obviously not a true consultative process. Ultimately, of course, the process is a sham and will prove counter-productive, since without community support an Aboriginal justice project will not succeed. The hallmark of a meaningful consultative process is one where *not* proceeding with the project is always an option” (RCAP 1996a: 170 –171).

¹⁵ See the Supreme Court of Canada’s recent decision regarding consultation with the Haida and Taku River Tlinglit First Nations.

The importance of a true dialogue cannot be understated, for it requires respect on both sides, and to listen to all the people within the community. It is imperative that the consultation process includes all the different groups or sectors within the community (RCAP, 1996a: 171). Due to the cycles of violence and gender imbalances that exist in many communities, particular sensitivity is required to ensure Aboriginal justice initiatives and the processes that create them do not continue to perpetuate injustices against those in positions of lesser power (Fournier and Crey, 1997; Monture-Okanee, 1993; Nahanee, 1993; Ross, 1996). But these challenges are not insurmountable, with their resolution all part of community-building (Warhaft, Palys and Boyce, 1999). For example, innovative programmes such as those in Canim Lake and Hollow Water provide community-based treatment to sexual offenders and victims and empower these Aboriginal communities to address their needs in their own way (Fournier and Crey, 1997; Ross, 1996; Warhaft, Palys and Boyce, 1999).

One of the first Aboriginal justice projects designed through community participation was established in Toronto to assist that city's Aboriginal peoples in conflict with the law (RCAP, 1996a). Toronto is "home to more than 40,000 Aboriginal people" according to Statistics Canada, 1991 (RCAP, 1996a: 148). However, "these figures are not adjusted to account for undercoverage, while agencies that provide services to Aboriginal people in Toronto estimate the population to be much higher, up to 70,000" (RCAP, 1996a: 148). Aboriginal Legal Services of Toronto (ALST) is a post-charge diversion programme that has been in operation since March 1992, which makes it "the longest-running Aboriginal diversion program in Canada" (Proulx, 2003; Rudin, 1999: 214). The ALST has succeeded in meeting the needs of Aboriginal offenders by reducing recidivism and in empowering the community as they regain control of the area of justice (RCAP, 1996a).

In a recent publication, Craig Proulx examined the Toronto programme and found the ALST helped bring the community together (2003: 150). He states the ALST assists the clients/community members to begin their healing journey, in finding their identity and their place in the larger Aboriginal urban community (2003).

“Traditional” Practices

In the examination of what is “culturally appropriate” there has been some concern raised regarding what is considered to be “traditional,” a “blending of traditions” or the “re-invention of tradition” (Dickson-Gilmore, 1992; Hoyle, 1995; LaRoque, 1997). It is even more unfortunate for *quu’as* when this debate must be engaged with both Aboriginal people and Canadian people. If “untraditional-ness” is a phrase used to bar Aboriginal peoples’ self-determination, it is just another expression of colonialism (Gilmore-Dickson, 1992: 499).

I am aware in “traditional” *quu’as* societies, through the interactions with other cultures and the sharing of knowledges, there was a tendency to “pick up and borrow” or “to take what was good” which led to the growth of Aboriginal traditions or “ways of doing things.” As I have come to understand “traditions” amongst the Nuu-chah-nulth, these are “the outward practices of the culturally held values” and it is in the retention of these values that will lead to rebuilding our communities (Atleo, 2002).

However, when the terms “traditional” or “traditions” are applied to Aboriginal people it often creates for *mumuthni* people the static cultural image of pre-contact. Jeremy Webber presents an “open concept of traditions” (1993: 138) within Aboriginal systems of justice:

“[T]he objective of Aboriginal justice reform is not to impose a single static vision of Aboriginal identity on an Aboriginal community. It is to create institutional structures through which the distinctive conversations of Aboriginal peoples about justice can continue, responding to new

situations and challenges in a manner that retains connection to the past” (Webber, 1993:140).

In the course of developing justice programmes, Aboriginal peoples are the only ones who can determine what traditions will best meet their needs (Dickson-Gilmore, 1992). It is up to them to reclaim, define, create, and implement those traditional practices they want to apply in the contemporary context.

Aboriginal Justice and Restorative Justice

One threat to the development of Aboriginal justice systems arises from *mumuthni* approaches to justice that appear to overlap to varying degrees with Aboriginal justice processes. For example, the rise of restorative justice as an alternative to the retributive justice system has led to wide number of justice initiatives based upon restorative justice principles, such as Family Group Conferences, Reintegrative Shaming, Circles of Accountability and numerous others. Current Aboriginal justice initiatives, which include Indigenous traditional values of healing and restoration, have been compared to restorative justice practises. In restorative justice, "crime" is viewed as the violation of a relationship that requires responsibility, accountability, and restitution to repair the harm caused by the behaviour (Van Ness and Strong, 1997; Zehr, 1996). Although restorative justice and Aboriginal justice systems appear to share similar goals, it is a mistaken notion these approaches are essentially the same. Despite superficial similarities, their underlying philosophies are drastically different. For many western societies, restorative justice is considered to be "returning to the roots of justice" and the conflict resolution processes that were in place prior to the development of retributive justice systems (Van Ness and Strong, 1997; Zehr, 1996). These are not the same roots for Indigenous peoples.

The philosophical values and beliefs reflected in the languages and the concepts used to describe the process of achieving justice illustrate the different “roots” of Aboriginal peoples and *mumuthni* peoples. One of my own experiences in university illustrates this point. It occurred when Aboriginal concepts were being taught within a restorative justice course; I had great difficulty grasping the idea of an ostensibly Aboriginal ceremony, which in English was being called a “shaming ceremony.” The Canadian cultural perspective focusing on punishment, and the use of English with the emphasis on the word “shame” removed my own cultural perspective and understanding of a concept that I have been familiar with my entire life! In my understanding, each ceremony has a *specific name based on the intended purpose*, without an emphasis on the punishment factor, but what the ceremony will achieve by restoring the balance of a wrongful act.

Kent Roach states restorative justice has “multiple faces” that claim to “serve most of the traditional goals of punishment” or the crime control philosophies of deterrence, crime reduction, rehabilitation and incapacitation, which underlie the criminal justice system (Roach, 2000: 262). Restorative justice principles were also influential in the Supreme Court of Canada’s ruling in the *Gladue* case, which supports alternative sentencing for Aboriginal people (Roach, 2000). According to Roach, “there is something in restorative justice to appeal to everyone” (2000: 263). However, the application and expansion of restorative justice to include Aboriginal people philosophically contradicts and in practice undermines possibilities for Aboriginal justice based on Aboriginal worldviews. Restorative justice initiatives are an alternative to the punitive measures within the *mumuthni* justice system; to accommodate Aboriginal realities within a restorative justice framework will only further marginalize the spaces in which Aboriginal people can develop their own justice systems.

Autonomy and control are important elements for Aboriginal systems of justice to maintain. However, as other authors have noted, changes cannot be made in isolation and will affect both non-Aboriginal and Aboriginal peoples (see Clairmont and Linden 1998b). Yet, this can be difficult when the authority and legitimacy of Aboriginal justice remain under the jurisdictional powers of *mumuthni* governments.

For Aboriginal people in an urban location, a “way of living” has been altered, and it is necessary to transform the various methods of living well. According to Aboriginal worldviews, the meaning of community is important to understand. It is a concept that characterizes a way of living and maintaining relationships or connections with others, for it is through living well with others that we achieve a sense of justice.

When discussing an Aboriginal healing programme, Ed Buller contrasted the use of the term community, as a “bunch of living entities called people,” that when they come together create a community, that has a life of its own, in comparison to the government’s understanding in terms of housing, structures, and programmes,

“It’s one of the shifts government has to make. For so long, they have been used to a very strict concept of “community.” And it’s been a sociological concept involving a number of institutions rather than an Aboriginal concept involving a number of people. Until they can understand that it’s a real concept, they’re not going to be able to understand healing. We have to really talk to people and go back to basic principles of what constitutes a community. Then we can begin to talk the same language” (in Nicholson, 1994: 37).

Similarly, Patricia Monture-Angus writes that institutions, as artificial creations, are not organized as “living in the way of peace” therefore, “change will not come from institutions but from the people” (1999: 159). An understanding of “community” must be based on Aboriginal perspectives or worldviews if a community-based justice initiative is to have a solid foundation in establishing an Aboriginal justice programme.

“Traditional Aboriginal justice practices have generally taken a holistic approach emphasizing healing and the importance of community involvement in justice practices. In fact, it has been stated that “Traditional Indian justice rules and methods are not ‘alternative dispute resolution’; they are the way things are done...” (Zion, 1992 in Linden and Clairmont, 1998b).

My objective in this thesis is to understand how the notions of “community” and “Aboriginal community” were given life in the development of the Vancouver Aboriginal Transformative Justice Services programme.

Chapter Three: “Building a Frame”

Research Methodologies

“Social science research is based upon ideas, beliefs, and theories about the social world” that guide our attempts to further understand and explain our world (Smith, 1999: 47). “Yet, the production of knowledge has been organized in a way that excludes many people from ever participating as either producers or subjects of knowledge” (Kirby and McKenna, 1989: 95). While scientific knowledge, built upon Western philosophies has traditionally been the exclusive domain of western societies, in recent years, the academic world has become accessible to a broader range of people (Palys, 1997). The inclusion of Indigenous peoples and knowledge is relevant to the understanding of the processes of constructing our world through our words, language, and perspectives.

Accordingly, in order to examine the role of the community in the development of the VATJS I believed it was important to hear the words of that community, Aboriginal people, their thoughts, and cultural traditions being brought into the urban setting in the development of this justice initiative. Toward that end, a purposive strategy was used to locate members of the Vancouver Aboriginal community in order to learn what it means to the people directly affected by this construct, and who give meaning to the term (see Denzin and Lincoln, 2000: 3). The use of different research methods, such as semi-structured open-ended interviews, a survey, and analysis of archival data were employed in the hope to better understand the topic (Denzin & Lincoln, 2000; Palys, 1997; Ristock and Pennell, 1996: 51).

I first became aware of the programme when one of the community programme coordinators gave a presentation at a criminology class at Simon Fraser University (in March, 1999). I was also present as a volunteer at the initial community consultation in June of 1999.

Research Ethics and Protocols

At the beginning of the research, prior to the data collection stage, I applied in writing to the VATJS Advisory Committee (also called the Aboriginal Caucus) for permission to do this research. The programme's Advisory Committee is comprised of Aboriginal representatives from local Aboriginal organizations who guide and steer the direction of the programme. I informed the Aboriginal Caucus that the research would be used for my MA thesis and requested permission for access to the programme with that understanding. I subsequently received written consent from the Programme Director, on behalf of the Aboriginal Caucus, to proceed. Furthermore, I agreed to abide by the protocol that no individual community member would be identified, nor would any information be shared that could be used to identify any individual without his/her permission. I also obtained approval from Simon Fraser University's Office of Research Ethics.

Ten interviews were conducted for this research project. While nine people permitted and even indicated they preferred their names to be used, one person preferred to remain anonymous. To ensure the identity of the one person who chose to remain anonymous and not be made known in the write up of this thesis all identifying statements made by this person were excluded; any remaining statements appear under a pseudonym.

Research Stages

The following archival materials were gathered in June of 2002 while three other research initiatives were conducted during an eleven-month period from February 2003 to January 2004.

Archival Data

In June of 2002, the programme director authorized access to archival material based on formal meetings, reports, and papers written by VATJS programme coordinator(s). The complete list of documents includes:

- Lessons for Restorative Justice Projects (February, 1999).
- The Urban Aboriginal Restorative Justice Projects of Winnipeg, Thunder Bay and Toronto: An Overview (March, 1999).
- Looking at the Options: Elements of Restorative Justice Programme for Consideration by the Vancouver Restorative Justice Project (attached to April 1999 minutes).
- The Vancouver Aboriginal Restorative Justice Programme (VARJP) (May, 1999).
- Elders' Consultation (June 4, 1999).
- Community Forum Feedback (June 10, 1999).
- VARJP's Aboriginal Caucus (July 29, 1999).
- Recommendations for the Implementation Phase of the VARJP (August, 1999).
- VARJP Community Partnership Agreement (Ratified October 7, 1999).
- VARJP Elders' Consultation (January 17, 2000).
- Restorative Justice: Frequently Asked Questions (February, 1999).
- The Vancouver Restorative Justice Project: A Draft Model (May, 1999).
- Draft Final Report for the Development Phase of the Vancouver Aboriginal Restorative Justice Programme (VARJP) (July, 1999).
- Steering Committee Minutes, March 1997 – September 2000 (handwritten field notes).
- Aboriginal Caucus Meeting Minutes, November 1998 – November 2000 (handwritten field notes).

These archival materials offered a central frame of reference for my own research by providing a chronological recounting of how events unfolded. The recorded documents included the timing of the events, recorded the people who were involved, and detailed what issues arose in the development of the justice programme. The

information provided through these materials also helped me to identify prospective people to interview and assisted with formulating interview questions. The archival materials were also a useful means of corroborating participants' statements, and at times prodding peoples' memories.

Beginning with the Elders

According to the document that recorded details of the Elders' Consultation of 4 June 1999, there were 35 Aboriginal Elders involved. Aboriginal Elders and the knowledge they carry are fundamental in the preservation and continuance of our cultural knowledge(s) and it is unfortunate that we are losing much of this knowledge with their departure from this world. The Programme Director offered assistance to me by providing any contact information he had, and informing me which of the Elders were now deceased.

I was able to arrange interviews with four of the Elders: Bill Lightbown, Ken Pruden, Margaret Webber, and Harry Lavallee.¹⁶ The location of each interview varied, depending on the Elder's preference. I informed each person of the reasons for my research project and reminded them that their participation was voluntary (see Appendix A). The design of the interview questions included nine open-ended questions inquiring about their involvement and the contribution they had in the design and creation of the programme (see Appendix B). The open-ended format offered flexibility to ask other questions or discuss other topics that arose during the interviews. Although three of the Elders permitted the interviews to be tape-recorded, one was not comfortable having the conversation recorded, but did allow me to take handwritten notes during the interview. This was a very awkward situation, to be writing while an Elder was talking, so I took

¹⁶ These are the names of the participating Elders who indicated preference and gave permission to use their names.

minimal notes, and added to my notes immediately after the interview. The length of the interviews varied from thirty minutes to two hours. The taped and handwritten interviews were later transcribed and given to the Elders who shared their experiences and stories with me, but no changes were requested. The stories/knowledge of the Elders captured on the tape cassettes were agreed to be returned to each Elder upon completion of this project.

The four Elders came from unique backgrounds and brought diverse experiences and knowledges to the VATJS. Each explained where s/he came from and the history of his/her people/Nation, (or in the case of one Elder, the “adopted” Nation into which he had married). I was also informed of their involvement in/with the community, knowledge of and/or involvement with political organizations, and/or political activism on the local and national scene.

In addition, I was ‘interviewed’ by one of the Elders before being allowed to proceed with my own set of questions. Actually, the experience was more as if I was being ‘tested’¹⁷ in order for this Elder to determine what information could or should be shared with me. This was my first interview and I perceived it as a lesson that taught me how to engage in research with people. This Elder also reminded me of “Aboriginal protocols of introduction,” the importance of stating where you are from and to whom you belong. Patricia Monture-Angus refers to this introduction – the Aboriginal greeting – as an affirmation of legal relationship [based on Aboriginal laws] that recognizes the fundamental relationships that exist between Aboriginal peoples (1999: 159). This formality, a central aspect of identity, allows me to remain connected in knowing my place, role(s) and responsibilities, and allows the other person to understand who I am by connecting me to a family/Nation and the land (*Nuu-chah-nulth-aht haahuupa*).

¹⁷ See Linda Tuhiwai Smith (1999) for discussion of the extra requirements placed on Maori researchers based on cultural terms (119-120).

West Coast Night Surveys

At the community consultation held in 1999 at the Vancouver Aboriginal Friendship Centre (VAFC), one of the methods the VATJS developers used to gather input from the community was through a survey regarding the desirability and direction of such a programme. I incorporated the same method into my research, although my survey questions were tailored to examine perceptions regarding level of community participation in the creation of the programme, as well as awareness and support for the programme (see a copy of the survey in Appendix C).

The Vancouver Aboriginal Friendship Centre (VAFC), referred to by some people as the Friendship Centre or the Indian Centre, is a central community venue that provides social, cultural, spiritual, and educational training, sports activities and brings together many people from diverse cultural backgrounds and locations. The VAFC is open to all *quu'as*, as well as people of other cultures who assemble at the Friendship Centre. It is a community gathering place accessed by a wide range of Vancouver's Aboriginal people of all ages -- from babies to Elders, and every socio-economic status from rich to poor and homeless. The people who come to the Friendship Centre may live permanently or temporarily within Vancouver or elsewhere in the Lower Mainland. Other people simply "drop by" the Friendship Centre while in town for specific events and/or knowing that they will be able to connect with other Aboriginal people. Overall, it provides a very positive gathering place for Aboriginal people.

Every Wednesday evening at the Vancouver Aboriginal Friendship Centre is West Coast Family Night, also known as West Coast Night, a social gathering hosted by different First Nations from the West Coast of British Columbia. Due to the high

population of Aboriginal people and the diversity of Aboriginal cultures found in Vancouver, I had anticipated different responses from various peoples. I was hoping to gather as many responses from people to see how they believe the concept of 'community' was/or should be defined for the VATJS.

For three consecutive Wednesdays in April of 2002, I attended West Coast Night and set up a table in the main entrance hall leading into the gymnasium, the area where the gathering occurs. My table was set up for a three-hour period each night. With the surveys, I used a written cover sheet, informing people of my purpose for conducting the survey (see Appendix A). I found the majority of the people would not come up to the table and 'just read' the cover sheet. In most cases, creating a dialogue with people who showed interest worked best. I informed participants I was a criminology graduate student and explained the purpose of the research project. I also informed the participants their participation was voluntary and that their names were not necessary on the surveys. I obtained verbal consent from participants before they filled out a survey.

In order to respect and accommodate the various preferences people made in completing a survey, being flexible was necessary. Several people took a blank survey and returned a completed survey later in the evening. Two other people indicated their desire to fill out the survey, but did not have their reading glasses with them. I was able to sit at the table, read out the survey questions, and record their answers.

For the first two weeks, I offered Bannock and salmon or jam as a way of thanking the people who completed the survey.¹⁸ In the first week, I received thirty-two responses; in the second week, there were twenty completed surveys.

However, it became uncertain whether I would be permitted to set up a table during the third week, due to concerns raised that my location near the exit was a

¹⁸ A special thanks to Erma Robinson for assisting me with the preparation of the bannock.

potential fire safety hazard. Arrangements were made to move the table further away from the door. In the final week, only six people approached the table and completed a survey. It appeared I had reached a saturation point and was not going to get any more respondents. In total, 58 surveys were completed.

Follow-up Interviews

The final question on my survey/questionnaire asked participants if they would be willing to discuss the topic further in an interview, and if so, to leave a contact number. Approximately half indicated they would be willing to participate in a follow up interview. Although I was able to contact the majority of these people when scheduling the follow up interviews, many subsequently declined. In the end, six interviews in this category were arranged and completed in December 2003 and January 2004. The location of each interview was again chosen by each participant, and included the Vancouver Aboriginal Friendship Centre, restaurant, place of work, and one in my residence. I reminded the interviewees their participation was voluntary, that they could withdraw at any time, and that their names would not be used unless they gave their permission and indicated their preference to do so (see Appendix A). In addition, I explained that the purpose of the follow-up interview was to enable a discussion of the topic that could be more in-depth than the survey format permitted. I followed the same format as on the survey questionnaire, but did not compel people to review and expand on each question. However, I did ask each person to specifically discuss the topic of "the community." The follow up interviews were open-ended and people chose which questions or topics from the survey they preferred to discuss. The time frame for the interviews varied, and depended upon the information people were willing to share. On average the interviews were thirty minutes, with a range of fifteen minutes to one hour. I offered everyone a copy of the interview transcripts if they desired to review for

accuracy and/or to make any corrections. One person requested his/her transcript, but no changes were requested.

Positioning Myself in the Research

All researchers occupy a position of privilege in the construction of knowledge (Palys, 1997; Smith, 1999). In the creation of knowledge, it is recognized that all knowledge is to some degree influenced by one's subjective stance (Monture-Angus, 1999; Palys, 1997). According to Ristock and Pennell, "we must start from the personal and indicate ways in which our locations and identities as researchers inform and shape the research process" (1996: 67).

I had the opportunity to grow up in my own 'urban Aboriginal community' in a small rural town on the west coast of Vancouver Island. Living within *Nuu-chah-nulth-aht* afforded my family the privilege of maintaining close connections to our communities, our histories, and cultures. Like many other *quu'as* students, pursuing an education within a western academic institution required me to leave my own community and relocate in a major Canadian urban centre. Intrigued by justice issues and an awareness of Aboriginal overrepresentation within the criminal justice system, I was lead into the field of criminology. There are many occasions when I missed being away from my 'home community' and the security that comes with the familiarity of a shared cultural background and history. I am aware that I am fortunate to have this connection of growing up with my own people, whereas some Aboriginal people, for various reasons,¹⁹ have never had the opportunity to share similar connections. It was during this time that I began to look for the 'Aboriginal community' in Vancouver and was able to combine both my personal and academic goals in this thesis.

¹⁹ Residential school experiences, the 60's Scoop or Great Grab, enfranchisement of Indian peoples, etc.

This research project combined my interests in Aboriginal peoples, justice, and my own personal quest of attempting to understand the 'urban Aboriginal community' by examining the Vancouver Aboriginal Transformative Justice Services. There is an abundance of stories from Indigenous peoples around the globe expressing concerns of research conducted *on* Indigenous peoples. Based on these histories (and my own peoples' experiences²⁰) I grappled with my own conflicted feelings of being an Aboriginal graduate student conducting research to the point at which I resisted the role of 'researcher' and preferred to introduce myself to participants as a graduate *student*. To do research within an Aboriginal community, I found establishing a 'rapport' with the people involved did not refer solely to creating a 'research connection', but that it was necessary to build relationships based on respect in understanding 'life connections'.²¹

I have found the experience of attending university comparable to that of other *quu'as* students who have felt the difficulty of finding a comfortable space in a *mumuthni* institution, and there were times I felt disconnected in this strange environment (see also Guno, 2001; Victor, 1999). While trying to adapt and learn another way of thinking, I found there were times I did "Other" myself. Roles were constantly negotiated while I reflected whether "I was an insider or an outsider in this research project." For example, one night I could be "just hanging out" at the Centre, and the next day having an interview with someone at the Centre.

The insider/outsider debate was an unresolved matter until I came to the realization, yet again, that my identity is comprised of various roles at various times. Abdi Kusow, a native ethnographer, describes the insider/outsider roles as similar to other

²⁰ A recent example within the *Nuu-chah-nulth-aht* was the unethical use and uninformed consent of blood samples taken by Dr. Richard Ward, which he later used for other purposes beyond the original research.

²¹ I am referring to Aboriginal teachings of the 'connection of all life' and Linda T. Smith's (2000: 120) discussion of indigenous ethical codes of conduct.

“social roles and statuses [that] are frequently situational, depending on the prevailing social, political and cultural values of a given social context” (2003: 592). Kusow suggests these roles are “products of a particular situation and not from the status characteristics per se of the researcher” (2003: 591). I had been aware of this before, but found that by trying to place myself within the academic setting to do research, I had come to frame my experience in a dichotomized way.

According to Aboriginal worldviews, “truth” is an elusive concept and an understanding of truth can only be subjectively based upon one’s experiences (Little Bear, 2000). No one can experience another person’s truth or reality. The people who participated in this research shared their thoughts and experiences with me. I recognize that this write up is my own - my experience of what I have learned - yet it is important to acknowledge the people who have participated in this research. It is my responsibility to respectfully use their words.

Furthermore, in my attempt to understand the meaning of community, I am also making sense of my own place in the ‘community’. As a *quu’as* student living in Vancouver, my current reality, and my daily life comprises and is connected with these people, the Aboriginal community members who have contributed to this research project. While conducting this research, I was not employed by the justice programme or involved as a volunteer Community Council member.

Chapter Four: “Finishing the Longhouse”

Conceptions of Community

To understand the Aboriginal “community” in the urban context is to place this construct in relation to all other social realms of humanity. The community is created by the social, historical, political and global influences that form how we live. In Aboriginal perspectives, to understand we do not exist on our own - everything is interconnected - was illustrated by one of the Elders, Bill, who stressed that an understanding of the “community” could only come from first understanding our world.

“...I wanted to mention how I got involved in this process in the first place, first of all, I believe every Aboriginal person the day they are born are born into politics whether they like it or not. They are born into the struggle, at some point in their life they are going to have to recognize that and take on some of the responsibility in the process. Everybody doesn't get there but they should ...

You have to expand your horizons, you have to expand your knowledge of what is going on not only in your community, not only in the province, not only the country, but what is going on in the world and you know *we are all part* of what is going on there. (Bill referred to the international political scene). I mean all of those things deal with issues of what is right and what is wrong in morality, and of course, our people are knowledgeable about those kinds of things because we have been subjected to that kind of imperialism since the day they first landed on our shores. And we are still struggling to get out from under the yoke of these people who come over here assuming they have the right to take over our lands and resources and our lives.

So, really that's what this whole thing is all about, the process that we are dealing with right now, which is the justice system, which is just a very small part of the whole process and you have to put that into context with everything else that is going on” (Elder Bill, 2003:10-11, transcript; emphasis added).

Quu'as defining "Community"

During the course of this research, I asked people to define the "community" and discovered three common themes emerged: (1) Identity, (2) Relationships, and (3) Space. Identity emerged as an inclusive concept that referred to all people who self-identify as "Aboriginal" and/or who trace their cultural ancestry to the First Peoples of this land. Regarding the second theme, it is noteworthy the "urban Aboriginal community" was defined by relationship-based connections that comprise and reflect the collective unity of Aboriginal people. The third premise of community entailed "space" or the urban location that is shared by all Aboriginal people in the Lower Mainland.

Community as Identity

Many different First Nations have historically lived in the area that is now called British Columbia. However, this only partially contributes to the diversity of Aboriginal people in Vancouver, with people from other places accounting for the rest. I found many participants indicated a strong sense of Aboriginal identity and used their own First Nation affiliation in the self-identification process. In the survey portion of this research, the 35 people who answered this question listed ancestral backgrounds showing connection to approximately 20 different First Nations; still others referred to Métis ancestry or used more general descriptions such as First Nations, Aboriginal, and North West Coast.

The matter of self-identifying and the rejection of *mumuthni* labels to determine who "Aboriginal people" are was a central topic in defining the Aboriginal community. One community member emphasized that the distinction of *mumuthni* labels should not be the basis of who is considered a "community member" and thereby eligible for an Aboriginal community-based programme. "I don't know why they get individual names

like status, non-status; we're all Aboriginal people, I wouldn't turn away from anyone, Métis, Inuit..."(Denny, 2004: 1, transcript).

When discussing the names that have changed over the years, from "Indian" to "Aboriginal" and "First Nations," Erma rejected the application of *mumuthni* labels,

"None of them are ours. None of them are ours. None of them are our constructions. They belong to somebody else. I think it is very different for people in "Canada"... native people here... to come up with a national designation. The European national designation came up in what the 1500's, they started calling it Europe, but there were designated areas, it wasn't the whole area it is today and that [name] came from outside too. That wasn't their own designation, but they adopted it. They kept it. We haven't adopted one yet" (Erma, 2004: 8, transcript).

Community was seen to be inclusive of all those who self-identify as Aboriginal, with reference made also to those individuals who may not be aware or currently willing to acknowledge their Aboriginal identities.

I think that personally, I think the "Aboriginal" community would and should consist of not just status, non-status, Métis, Inuit. I think we need to acknowledge people who self-identify, whether they are status, non-status, Métis, accepted Métis whether they have a Métis card or status card, people who self-identify because in my mind you never know where your strengths are going to come from. You don't have any idea what's in the future ... [gave an example of those who do not have status but generations later returned to their roots]. I think we need to be as inclusive as possible when we're talking about community, because the bigger our number in our community the stronger we are. The more avenues we have to access, for whatever purposes, legal, caretaker whatever, the more people we have the better ... we can't close the door (Erma, 2004: 4, transcript).

Those who are "disconnected" or removed from the community did not refer solely to *quu'as* away from their community "back home." This disconnection was also applied to those within the urban location and urban *quu'as* removed from their cultural connections were also seen as "being away temporarily." According to Aboriginal people, this absence, even if it is a lifelong, will not remove the connection to one's ancestral roots. One only has to think of the numerous people who have traced their

family genealogy to discover an Aboriginal ancestor, and then eagerly embraced the cultural traditions. The door to the community is always open for those willing to participate.

“I would have to say every one of us of Aboriginal descent, from the broad range of wherever you are from, including all of us who are the have-to-be’s, the wannabes, I feel they’re welcome, and even the dontwannabe’s. They may live outside the circle of the community, but when we see them, we know they are part of us, and they are always welcome back in. That’s the way I look at it” (Scott, 2004: 2, transcript).

Yet another category mentioned in the survey portion of this research was the broader connection of Canadians (or other nationalities) involved with and part of the Aboriginal community. In response to a question that asked, “Who is ‘the community’ and how would you define it,” one respondent said:

“Anyone who is of Aboriginal descent *or closely associated with those who are*, who are affected by laws, government policies, economic conditions, prejudicial treatment or *benefit from cultural teachings and practices and social and spiritual gatherings*, whether we actually regularly attend functions at the VAFC or not we are affected and share as a community” (Survey participant #11; emphasis added)

The reciprocal nature of all relationships is not only based on the benefits one receives from association but is also built upon the contribution one makes to the relationship or association with the community (whether or not one is Aboriginal).

Community as Relationships

The importance of relationships and a connectedness with Aboriginal people was a principal indicator of community that weaved through the other themes of identity and space. I found that many people emphasized the importance of relationships and cultural connections when discussing the urban community. Aboriginal philosophies are built upon the interconnection of all living things, in both this world and the spiritual. The maintenance of Aboriginal cultures and traditions, in the urban setting, can be

summarized as 'If you live your culture, your culture will take care of you.' As explained by one community member,

"We have a cultural identity, and if we choose to practice it then we're obviously going to be taken care of by our culture. If you practice within your culture, if you practise the language, you should speak to your Elders within the city, even Elders from other nations, if you live the good life, if you live with a pure heart, if you live with that principle, people will know that. It's self evident, those people that are successful, those people that are out there that are speaking to people, that when they walk into a room they are recognized, not because they are famous, or because they have oratory skills but because people with good hearts can see other people. People who practice their culture, you walk into the big room at the Friendship Centre, even just going there for some people that's practising their culture 'cause you know they're listening to the songs. They might be singing it in their heads. They might talk to one person. So I think that is the closest thing we have to a community gathering, is our Wednesday nights" (Interview Participant #10, 2004: 3, transcript).²²

It is through our daily activities, whether it is work or leisure, that our relationships with others are maintained.

"The community is defined on the basis of people that work together, get together, stay together, play bingo together. Probably the greatest number of bingo players in Vancouver resides in this particular area. As an example, that's where they see each other, talk to each other, know each other, and know what is going on" (Elder Bill, 2003: 7, transcript).

Furthermore, relationships Aboriginal people maintain are inclusive of all *quu'as* across the land through the understanding that we all belong to the human family.

"It is inclusive by the way of all Aboriginal people...in this community we have Aboriginal people from right across Canada and we accept each other as equals and brothers and sisters" (Elder Bill, 2003: 7, transcript).

The central aspect of the meaning of community can be found in the importance of relationships and taking care of each other.

"My community I think is ...I take all the people around, each Aboriginal person. I know in my philosophy we all help each other; I don't know how true it is for the rest of them. I always try to use that philosophy to try to

²² To respect this community member's wish to remain anonymous, I have replaced this person's name with "Interview Participant #10"

help other people. I worked in a half way house and I used to try to help those individuals that bounced. I don't know what other places they can go for help. But I know Elders, if you speak to the Elders and ask them for help, seems like they sit back and wait for people to ask them for help. So, I take the whole Aboriginal people as community..." (Denny, 2004: 1, transcript).

The need to be responsible for the well being of other Aboriginal people was stressed to be important to assist with many of the negative social, emotional, psychological, and physical harms that can affect people.

"We need to protect, feed and shelter. Those are the 3 most important.

Protect our youth from exposure to: drugs, alcohol, sex, death, laziness, and suicide.

Protect our mothers from exploitation: from men ... men who demean them, or men who live off of the single mom on welfare, from men who smack them, who verbally, psychologically abuse them, the native woman should be the strongest, the most revered in the native community, no one should disrespect a native woman.

Protect our men from discrimination [discussion about building self-esteem and] ...get more jobs for our Aboriginal men" (Scott, 2004: 3, transcript).

It was even presented by one community member as the need for community members to be responsible for the well being of each other, since he believed outside authorities [police] are unable to efficiently monitor or respond to the needs of the community.

"[My/our role of the community] is to watch out for each other. The people in the area are the community; sometimes they need to watch out for each other in the area. Someone's house gets broken into, someone starts a fire, they got to protect their surroundings, where they live, and look after themselves too while they're at it. Hands on kind of thing, instead of phoning the proper authorities [Vancouver Police Department] and they take forever to get there, like, take things into their own matter" (William, 2003: 1, transcript).

An example of the mutual relationships that one creates is evident in the caring *quu'as* exhibit to others through helping and sharing necessities, such as food.

“They [community members] help each other out once in a while. I stayed with my Gram [Grandmother] and she had friends come over, if they needed help, she'd help them out, give them food or they lived in the area too, they come over and give her stuff too. That's helping around there” (William, 2003: 2, transcript).

The “sharing of food” not only serves a physical aspect, but also the emotional and spiritual connections of Aboriginal people. This occurs in many of the important cultural feasts, and also in daily life when cultural teachings are passed onto others. For when you “take in the food” you are then able to also “take in other good feelings” (*Nuu-chah-nulh-aht haahuupa*). People are then able to learn, embrace and draw upon the strength and support that is shared amongst the people.

The “community” was defined by one *quu'as* as the active participation that one does, reinforcing the group connection of being within and belonging to a community. As previously noted, Jeanette Armstrong refers to the “community” as the people who interact and “commune” every day (1997: 2). This is a conscious effort of maintaining the relations with others and one's place within the community, regardless of blood quantum, legal status, or living within a specific location or Aboriginal community.

“Community are people that want to participate. Even on a reserve, or a village, and I've lived in different parts of Canada, just because you live in the village doesn't mean you're a member of the community, if you don't participate you're not part of the culture, if you're off doing your own thing, you're isolated, you're not part of the community. So, that's the same way here, in Vancouver, if someone doesn't come out, for whatever reason, who doesn't participate, who doesn't make it known that they're part of the community” (Interview Participant #10, 2004: 2, transcript).

“Community” is doing, participating, and celebrating key events with others thereby reaffirming culture and community. Doing 'community' by nurturing our social, physical, cultural, and spiritual connections is the continuance of living our cultures. This

situates the term “community” into the framework of many Aboriginal philosophies and verb-based languages that view “life as a process” or very “process oriented” (Keitlah, 1995; Little Bear, 1994; Ross, 1996) in contrast to *mumuthni* philosophies and the English language that tends to be very “product oriented” (Little Bear, 1994). In naming our world this is not limited to “static products” or “nouns” or “things” that exist as separate from people, but instead are based on the relational network and fluid nature of life (Little Bear, 1994; Ross, 1996).

“Those people, they are there physically, but our cultures, our community cultures takes, I can only speak of [my own] culture, we have different principles, for the goodness of everyone, working together, and being of a pure heart, and that means respecting what we call our laws, the spoken word, and those laws are upheld by community gatherings.

The feast, the ceremonies, blessings, celebrations, of birth, death, marriage, coming of age, we can speak of for days the different ceremonies which don’t happen anymore on some reserves. Some may, a lot don’t. In Vancouver how often do we have naming ceremonies? Not very often. The community is still defining itself, and until we can actually can think of and come together as one to provide that governance representation we’re not going to get recognition from the two senior levels of government for funding, for what is due to us” (Interview Participant #10, 2004: 2-3, transcript).

At the conclusion of Erma’s interview, we agreed the interrelation of the topics were difficult to clearly distinguish and separate. Often, one area would lead into another “and you can’t talk about one thing in an Aboriginal perspective without consideration of everything else, because community means more than just the word “community.” Community is people and everything about the people. It’s not just that word. And to me that is a big thing” (Erma, 2004: 19, transcript).

Community as a “Space”

The “community” also refers to a sense of place where its community members can come together. Although there are no physical markers outlining the borders of the urban community “space,” its existence is recognized.

We have a village in the city, it struggles to define itself in many ways, for example our [Wednesday] West Coast Family night, [and] our Tuesday night²³ that [are] seen as a community event” (Interview Participant #10, 2004: 1, transcript).

However, you have to find “community” and seek it out, for it is not a space that exists but is created and constructed based on the feelings or perceptions one attaches to a particular place.

“[Community is] where I find it, I go to the Indian centre [Vancouver Aboriginal Friendship Centre], the Elders gatherings and I say it’s all around, it’s all over, people all over the place. I find it [community] and there’s a lot of communities that I see. People, like the Women’s Downtown Eastside²⁴, and Crabtree.²⁵”

Yah, where they live, like where I live there are so many native people there. Like there’s also Raycam²⁶, I don’t think many people get involved in that place, although I think it is a good place, it’s a little community place. Everything is free there for people to go there, its like the Indian Centre, I see friends there (Eve, 2003: 3-4, transcript).

²³ In comparison to the Wednesday West Coast night, which has a committee, Tuesday night at VAFC is another social and cultural gathering referred to by several names such as Powwow Night, East Coast Night, or Prairie Night, and at the time of the research did not have an official organizing committee.

²⁴ The Downtown Eastside Women’s Centre, located in Vancouver at 302 Columbia Street, is a non-profit agency that offers counselling, advocacy, support groups, workshops, crisis intervention, and outreach programmes for women of the Downtown Eastside.

²⁵ The YWCA Crabtree Corner is a drop-in centre at 533 East Hastings Street for women and their children that provides a variety of services such as, advocacy, support, information and referral centre, parenting program, FAS/NAS (Fetal Alcohol Syndrome/Neonatal Abstinence Syndrome) Prevention Project and transitional housing.

²⁶ Ray-Cam Child and Family Services, located at 920 East Hastings Street, includes educational and recreational programmes and services for parents and children, and also offers daycare and preschool services.

The place of community was recognized by many participants to be within the City of Vancouver. East Vancouver was specifically stated to be the “core space” of the urban Aboriginal community.

“I think in the urban area people are so far apart, maybe 12th to PNE grounds, to downtown Vancouver, I think the people who have problems with the justice system, they want something convenient. I look at Aboriginal people, they’re not going to go far to get help. Maybe those who have lived in the city longer know the outlying area, may go farther to look for help” (Denny, 2004: 1, transcript).

However, the larger outlying regions of the Greater Vancouver Lower Mainland were also seen by many participants to be part of the urban Aboriginal community. This was based on the view that even though not everybody can live within the ‘neighbourhood,’ they are still a part of the community.

“I see us as within lower east Vancouver. It’s really, Commercial Drive is really the split line, or the backbone. Mainly from 1st avenue down to Commercial is where we are really concentrated and of course, not all of us live there, but that is the hub. That is the centre and everyone is satellites... and I would call the lower Commercial Drive area our capital” (Scott, 2004: 2-3, transcript).

This central location in East Vancouver, sometimes referred to as the ‘urban rez’ was a term rejected by Erma, who presented the need for creating a positive view and the development of urban Aboriginal space.

“I think, personally, in the ideal world, we would have a massive space somewhere, just a great big place, which says “we’re in this section over here” and “we’re in this section over here.” All right in this one area. Say this table is the city of Vancouver, and say somewhere we have 6 blocks that is all First Nations community places.

I’m not saying we need to segregate, I don’t like that term either, but I’m saying we need a space that we can identify as our own. Say what an urban rez, and not the downtown eastside, which is what a lot of people refer to as the urban rez, even though there are a lot of Aboriginal people down there, I think we need something very positive, and something very inclusive. Inclusiveness is a priority for me. I try to be as inclusive as possible whenever I’m doing something. So, inclusiveness is very important” (Erma, 2004: 14, transcript).

Vancouver Aboriginal Friendship Centre

An important community structure that helps to promote a positive and recognizable place in the urban location is the Vancouver Aboriginal Friendship Centre (VAFC). The Vancouver Aboriginal Friendship Centre (VAFC), referred to by some *quu'as* as the Friendship Centre or the Indian Centre, is presently located at 1607 East Hastings.²⁷ Stated by an Elder, "the focal point of course in this area is the Vancouver Aboriginal [Friendship] Centre, so people come and go from there in an ongoing basis in this community" (Elder Bill, 2003: 7, transcript). For many the VAFC was considered the "hub" of the community, a central gathering place for urban Aboriginal people. Traditional Aboriginal communities have a "gathering" place, known by a variety of names in the diverse languages, where the people come together to conduct important ceremonial and cultural social events. It is in this space that serves to continue the communal aspect for urban *quu'as*.

However, one community member stated that the Friendship Centre is "too political" and that the "VATJS [justice programme] needs to be in a neutral location" (Survey participant #3). In addition, Eve informed me of conversations she has had with people who do not participate in activities or events at the VAFC. She offered encouragement and stressed it is the responsibility of the individual to become involved in community events.

"I say 'go to the Indian Centre' [VAFC]. They say 'oh what for? What's there?' 'Involved with many things, you learn,' I say. They say 'I don't have to go there.' They just say they don't like how they [people at VAFC] act. They said you walk in and [you get] looks. They don't recognize you. I say 'you don't have to wait for them to recognize you. You talk to somebody, you talk to people.' That's what I do, I go there, and I talk. They say 'it is a cold feeling.' And I don't find it like that. It's good to have

²⁷ The history of its present location is stated to be a relocation based upon a survey by City of Vancouver that indicated the majority of Aboriginal people lived between Cambie and Nanaimo Streets. The Board of Directors implemented a relocation plan and moved the Centre to the present location at 1607 East Hastings in 1981. The new location is considered to be easily accessible for the Aboriginal community (BCAAFC & VAFCS, 1998).

that place, look at Wednesday night. My son was there last night – wall to wall people!” (Eve, 2003: 4, transcript).

The Urban Aboriginal Justice Initiative

In order to understand the role “community” had in this justice programme, it is essential to examine its origins to perceive how the “community” was defined in the creation of this justice programme.

Programme Background

In 1997, formal discussions²⁸ of an Urban Aboriginal Diversion Project began in Vancouver to address the overrepresentation of Aboriginal people in prisons in an effort to provide an alternative to the Canadian criminal justice system. Many different representatives from Aboriginal organizations and the *mumuthni* government came together to discuss the project, which, from the start, understood and emphasized the importance of community involvement, ownership, and control in order for the project to be successful.

These meetings led to the formation of the Urban Aboriginal Diversion Project Steering Committee whose mandate was to ensure traditional concepts focusing on rehabilitation and healing were respected in the creation of the programme (Aboriginal Justice Strategy, 2001). The combined effort of these different organizations helped to avoid potential criticism or controversy of a single organization managing the programme (Steering Committee Minutes, January 1998). An Aboriginal Caucus comprised of Aboriginal members was also formed and first met in November 1998, to act as an advisory body to guide and steer the direction of the VATJS and to establish all policy-related materials (Steering Committee Minutes, December 1998). The formation of the

²⁸ I was informed informal discussions were occurring between *quu’as* prior to the commencement of these formal meetings.

Aboriginal Caucus was to “ensure consensus and unanimity in finalizing the content and structure of the restorative justice model” (Aboriginal Justice Strategy, 2001: 4). The Aboriginal Caucus are representatives employed by various Aboriginal organizations and agencies involved in social, legal, and political agencies from Vancouver and the Lower Mainland. As of July 29, 1999, membership in the Aboriginal Caucus included representatives from the following organizations:

- Aboriginal Women's Action Network
 - Aboriginal Women's Council
 - Battered Women's Support Services
 - Circle of Eagles Lodge Society
 - Empowerment Consulting
 - Legal Services Society of B.C. Native Programmes
 - Native Community Law Office Association of B.C.
 - Our Elders Speak Wisdom Society
 - U.B.C. First Nations Legal Clinic
 - United Native Nations
 - Urban Native Youth Association
 - Vancouver Aboriginal Friendship Centre Society
 - Vancouver Métis Association
 - Vancouver Police and Native Liaison Society²⁹
 - Warriors against Violence Society
- (VARJP Aboriginal Caucus, July 1999).

As First Nations people, these community members brought their cultural knowledges and experiences to the Caucus. But, as community advocates and service providers in the urban setting, they also brought an awareness of the daily lives of urban Aboriginal people. The Aboriginal Caucus can be described as the core “community of interest,” and, as such had a significant and influential role in the further development of

²⁹ Vancouver Police and Native Liaison Society is no longer present – due to closure of the agency.

the programme. This group used their experience, knowledge, connection, and understanding, to assist in the development of the justice initiative. The Steering Committee at one point had expressed the desire for “more involvement from Youth, Elders and Women’s groups” (Minutes, April 1999), thereby indicating these groups may not have been as well represented as it would have liked. However, it was later presented by those involved (Steering Committee and Aboriginal Caucus itself) that the Aboriginal Caucus represented the diversity of Aboriginal peoples in Vancouver, covered the age range from youth to Elders, and had gender representation by both men and women (Steering Committee Minutes, September 1999).

Due to the diversity of the Aboriginal Agencies, each with its own priorities, resources, and time commitments, it sometimes proved difficult to reach an agreement and consensus on the direction of the programme (e.g., Steering Committee Minutes, May & July 1999). Although there are representatives for legal services in Vancouver on the Aboriginal Caucus, at one point the Native Community Courtworkers Association of British Columbia (NCCA) withdrew from the programme (Steering Committee Minutes, May & July 1999).

Development Phase

In December of 1998, the development phase of the Vancouver Restorative Justice Project began with the hiring of two project coordinators, one male and one female to ensure gender representation (Steering Committee Minutes, December 1998) with the mandate to “research and facilitate the development of a culturally appropriate restorative justice model for the Aboriginal community of Vancouver” (Draft Final Report, 1999:1). However, it was acknowledged by all involved - government, criminal justice agencies and the Aboriginal agencies - that this justice initiative would involve many

stages, and each stage would be dependent upon evidence of the continued support from the community.

The six-month development phase included numerous activities, meetings, consultations, and presentations, with various organizations, agencies, and groups. One of the activities involved travelling to other locations across Canada, to learn how other urban communities developed their projects. I viewed this as a positive effort to “pick up and borrow” to learn what works and what does not, to incorporate that knowledge into the Vancouver justice initiative. In two of these programmes, also funded by the AJS, community consultations were carried out to determine what the concerns each community had with the project “as it was designed “(VRJP, March 1999:13). However, the Aboriginal Ganootamaage Justice Services of Winnipeg developed the project in consultation only with Aboriginal Political organizations, Winnipeg’s business sector, and City Council Members, and not with the community (VRJP, March 1999: 2). Although Elders were consulted, community consultations “were prevented due to a lack of time and staff” (VRJP, March 1999: 2). The Vancouver Steering committee initially viewed a three-month development phase as a sufficient time period, but community consultation was a priority; therefore, the development phase was extended to ensure the programme worked effectively (Warhaft, 2002).

Vancouver’s Draft Model

Consistent with their funding guidelines, the AJS representatives presented four possible models for an Aboriginal Justice Diversion initiative: (1) mediation, (2) diversion and alternative measures, (3) family group conferencing, and (4) Aboriginal Justice of the Peace Courts (Steering Committee Minutes, March 1997). The Aboriginal Caucus agreed upon the development of a diversion model (Aboriginal Caucus Minutes, December 1998).

A potential Aboriginal justice initiative that outlined the possible avenues of structuring the programme was developed by the program coordinators for discussion purposes only (VRJP, April 1999). There were several types of restorative justice projects that were available for the VRJP to choose from in designing a project tailored to the diverse needs of the Aboriginal community in Vancouver (VRJP, Draft Model, 1999: 3). The four primary restorative justice models that were in operation at the time of developing this project were: (1) Victim-Offender Reconciliation Programs; (2) Family Group conferencing models; (3) Neighbourhood accountability boards/panels; and (4) Circle remedies (VRJP, Draft Model, 1999: 3). The Caucus chose a proposed strategy of structuring the programme as a Community Council Hearing, an adaptation of Neighbourhood accountability boards/panels and Circle remedies (VRJP Draft Model, 1999: 3). This outline was first reviewed by the Aboriginal Agencies, and *mumuthni* governments and justice agencies (Draft Final Report, 1999). A second more detailed proposal was developed and presented to the Elders and the Aboriginal community based on the following goals of the justice initiative as perceived in May 1999:

- To provide more culturally appropriate programmes and services for Aboriginal people in conflict with the law in Vancouver;
- To involve all Aboriginal representative organizations including Elders, women, and youth in all aspects of programming to enable input on spiritual and cultural matters;
- To develop processes which promote self-determination for Aboriginal people;
- To provide more effective justice services for Aboriginal people in Vancouver;
- To reduce the rate of incarceration and recidivism among Aboriginal people in Vancouver;
- To enhance public safety (VARJP, 1999).

Although these goals were written prior to the Elder and Community consultations, the program coordinators did extensive community outreach in various venues by representing and discussing the development of the programme at public and

political gatherings, forums, conferences, and workshops (Draft Final Report, 1999). The programme coordinators attended meetings with various Aboriginal and non-Aboriginal agencies and services, such as a Simon Fraser University criminology class, Elders luncheon at VAFCS, Native Youth Movement to name only a few of the places (Draft Final Report, 1999). Therefore, it appears these goals were developed by the program coordinators in various consultation forums and with input by different sectors of the larger Aboriginal community.

Archival materials defining Aboriginal Community

A central element in the development of the justice initiative was to define who the programme would serve and how it would do so. The goals of the programme were concerned with addressing the needs of “Aboriginal people,” and to provide justice services to people who self-identify as having Aboriginal ancestry, which includes, Status and non-Status Indians, Métis and Inuit. Accordingly, as the programme was developed, it was determined from the outset that if the programme was to meet the needs of Aboriginal people and be a community-based programme, the definition of the Aboriginal Community would be based on self-identification by Aboriginal people themselves (Steering Committee Minutes, March 1997).

According to the archival materials, the programme was seen to encompass Aboriginal people *in Vancouver*. It is noteworthy this geographical boundary was found consistently throughout all the archival materials and listed in the goals of the programme. For example, in the Provincial Crown Protocol (1999) and the mandate and goals of the programme indicated “the Aboriginal community in Vancouver” (VRJP Draft Model, 1999).

A “community of interest” approach was taken for community members to decide for themselves who would be involved and how the programme should operate (Warhaft, 2002). The notion is based upon the idea that Aboriginal community members who wish to become involved will appear and volunteer when the matter is sufficiently important and within their domain of interest (RCAP, 1996a).

In examining the construction of the term “community” involved in the development of the justice programme, I found there was general agreement by urban *quu’as*, the program coordinators, Aboriginal Caucus, and Steering Committee, and *mumuthni* governments, that the justice initiative would be based upon the inclusive nature of Aboriginal people who self-identified in Vancouver.

Presenting the Draft Model to the Aboriginal Community

In May of 1999, near the end of the development phase, the program coordinators completed a Draft model of the justice initiative. The intended model was developed by the programme coordinators for discussion purposes only (VRJP Draft Model, 1999). In addition, the draft outline of the program represented an “evolutionary approach to programming – that is implementation is phased-in at a pace determined to be manageable by Project organizers and workers, available services in Vancouver and financial resources” (Draft Model, 1999: 1). Although it was already outlined in the Draft model what the programme would encompass, it was considered important to leave it flexible enough to incorporate whatever directions Aboriginal community members might wish to see an Aboriginal justice programme develop in future.

Elders Consultations

To ensure the programme would be supported by the Elders, the program coordinators conducted the first formal Elders consultation on 4 June 1999 in the Chief

Simon Baker room at the Vancouver Aboriginal Friendship Centre. This consultation included 35 Elders from the Vancouver Lower Mainland, and was essential to frame the development of the programme by incorporating and respecting Aboriginal traditional concepts of justice and based upon a consensus approach of how a programme could serve the needs of Aboriginal people in conflict with the law.

I was able to speak with four of the Elders involved in the consultation process and was told their involvement was based upon their life experiences, knowledge and determination to see a process of justice established and administered for Aboriginal people who reside in the city.

It is interesting to note the following Elder framed this meeting as a “presentation” rather than a “consultation,” and referred to it as an investigative discussion for the purpose of requesting Elders input and suggestions.

I did take part in that presentation and during the presentation they did a slide presentation, they also used the flip chart to take notes, they asked for the Elders input on and suggestions on various ways to approach and to conduct the circles. All and all it was quite a thorough investigation” (Elder Ken, 2003: 3, transcript).

Although Harry was unable to tell me what happened to the results of consultation, he did recall the input Elders had during the initial consultation process. He stated many of the Elders, including himself, had experience with the criminal justice system.

“Yah, I was involved in there too. What become of it, I don't know. It's just that we did that when we went into that work. They'd [the Elders would] bring up some of the personal stuff of themselves because they were involved in prisons themselves. I worked 10 years in prisons, I was with the justice department 20 years, and most of my work was prisons and courts. I was a Courtworker for 10 years and that's how I got involved; and I was, I visited prisons, had clients in prison, and we did sweats with them” (Elder Harry, 2003: 3, transcript).

Harry also recalled that during the consultation, the program coordinators asked many questions of the Elders and recorded their answers on paper. According to Harry, the Elders informed the program coordinators “what they were supposed to do” and the best way to deal with people in a circle, determining who should be involved in the circle, down to the seating arrangement (Elder Harry, 2003: 2, transcript).

Although Margaret stated, “I was just sitting there listening” (2003: 1, transcript), I did not find this statement to be unusual, based on an understanding of Elders to gently guide and allow others to come to their own decisions. Her continued involvement with the programme spoke to her support of the VATJS as it was developed and currently operates.

In addition to explaining their contributions at the initial consultation, the underlying reasons for their participation and support for the VATJS was evident in their feelings of responsibility for Aboriginal people and their determination to see traditional ways brought forward.

The Elders were supportive of the “intended model” as presented by the programme coordinators’ at the Elders Consultation (Elders Consultation, 1999). Their statements can be summarized as follows:

- The Elders were “happy with the proposed model and how it was being presented” (Elders Consultation, 1999: 2)
- The Elders stated they had respect for the programme and the intended goals directed towards Aboriginal people living in Vancouver (Elders Consultation, 1999: 2).
- Furthermore, the Elders stated their support of the programme, which in their views was seen as an “excellent programme” that was “long overdue” (Elders Consultation, 1999:2).

- In addition, they did note, “prevention was the key” (Elders Consultation, 1999: 2).

Need for Cultural Services

The lack of culturally appropriate services for Aboriginal people has long been recognized within the urban location. The importance of having diverse services to address the holistic vision of healthy living was noted, including options dealing with substance abuse, parenting, support, youth, domestic violence programs and services, with justice only being one of the areas needed (Elders Consultation, 1999: 2). The consultation report recorded that, the “need for services was brought up frequently; many of the Elders stress the importance of having services delivered by Aboriginal people to best address the community needs” (Elders Consultation, 1999: 2).

Cultural Diversity

The need to respect the rich cultural diversity of all Aboriginal peoples that live within the urban location was of utmost importance. It was recognized that we have a “diverse community” therefore, “Aboriginal values, beliefs, and diverse practices must be respected” (Elders Consultation, 1999: 3). It was also stated that we “cannot fall into the trap of Pan-Canadian Indianism” (Elders Consultation, 1999: 3). The programme was seen as a starting point for justice issues where we “must agree on commonality then go to individual nations and cultural specific background” (Elders Consultation, 1999: 3).

Role of Elders in the Programme

Elders must be involved “and they must address cultural issues” for their knowledge is priceless (Elders Consultation, 1999: 4). The role of Elders must be seen as culturally relevant and respectful of the knowledge and traditions they bring with their involvement.

Youth Services

The need for youth programs was specifically addressed for it was felt that “youth without traditional ways need to learn where they come from and given a sense of belonging” (Elders Consultation, 1999: 3).

Traditional Values/Aboriginal Justice

In order for the programme to reflect Aboriginal justice “Aboriginal ways must be brought forth to help deal with factors which brought the person into trouble” (Elders Consultation, 1999: 3). Furthermore, the Elders stated the programme must be based on Traditional values/Aboriginal justice and should be holistic in how they deal with people coming into the justice programme (Elders Consultation, 1999). The holistic nature included not only the person, but also his/her family and the linking to other community services (Elders Consultation, 1999: 4).

Self-Determination

The overarching theme can be found in the fundamental meaning of self-determination, stated by the Elders that it is “time to take control of our own lives” (Elders Consultation, 1999: 3). In relation to justice, this was stated as the need to “establish own rules” in having Aboriginal ways brought forward (Elders Consultation, 1999: 5).

In addition to the ideas presented by the Elders of establishing Aboriginal rules or system of living, it was felt that the program should not be limited to the Alternative Measures categories 3 and 4 offences (Elders Consultation, 1999: 5). How is it possible for Aboriginal people to regain control of their lives and justice issues if it is only limited to certain areas? Furthermore, the Elders expressed that this programme “should not fit into mainstream justice system” and it “must keep away from [the] justice system (Elders Consultation, 1999: 4). One of the suggestions to ensure an Aboriginal justice

programme could be on its own was to bypass the *mumuthni* system altogether, “rather than Crown Counsel making the referrals to the program, the Aboriginal Community identifies those people and makes referrals to the program” (Elders Consultation, 1999: 3).

These participating Elders “offered support and direction to the VARJP” and encouraged the programme to move into the implementation phase of the justice initiative (Elders Consultation, 1999: 5). After the Elders consultation, where the message was that a justice programme was desired and supported, it was agreed by all involved that a second Elders consultation would be necessary to clearly delineate the role of Elders in the programme. A second Elder’s Consultation occurred on 17 January 2000 to define the role of Elders within the justice programme. Nine Elders participated (Elders Consultation, 2000).

The initial Elders consultation was viewed by the Elders I spoke with as a successful effort to incorporate the community in the development of the programme.

“What was attempted here is that the community, there was an attempt made to involve the community, and I would hope that the community is involved in an ongoing basis, because it is the community that lives with the problems that we have the answers” (Elder Bill, 2003: 6, transcript).

“I think that there was a very good effort made to incorporate the community ... (Elder Ken, 2003: 6, transcript).

The findings from these consultations were indeed instrumental in guiding the direction of the programme (Warhaft, 2002). The input of the Elders into the development of the programme and the support that was indicated for the justice initiative was a key element in the programme proceeding to the next stage of presenting the ideas of the programme to the community. The next step was to include the larger Aboriginal community conducted by a Community Consultation, which the archival materials refer to as a “Community Forum and Feast.”

Archival Material of the Community Forum

When the programme was presented at the Community Forum and Feast at the Vancouver Aboriginal Friendship Centre in June of 1999, over 230 people attended. This Community Forum consisted of a presentation outlining the developmental work, and a description of the planned model, followed by a panel discussion (Community Forum Feedback, 1999: 1). The people who attended and participated were able to ask questions or state their concerns regarding the draft model during the forum, or on a feedback form (Community Forum Feedback, 1999: 1).

At this community forum, people presented their ideas that Community Council members should be very knowledgeable of both Aboriginal ways and of the *mumuthni* system, in addition to being healthy individuals.³⁰ As service providers 'operating within their own community', it is a valid demand that these people are in a healthy position to be able to assist other people.

This forum was seen as an assessment of the community's support and the programme developers viewed there to be "a large degree of approval for the program as designed" (Community Forum Feedback, 1999: 5). In addition, it was acknowledged "further educational outreach efforts are required to ensure the support of the community" (Community Forum Feedback, 1999: 5).

Survey and Interview Responses of the Community Consultation/Forum

When I questioned people regarding their awareness of the initial development of the programme referring specifically to the Community Consultation, six (possibly seven, for one person described the event but was unsure if this was the correct event) community members responded that they could recall the consultation process. Four of

³⁰ For further discussion of "healing the healers," see Wayne Warry in *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government* (1998).

the respondents were positive and believed this consultation process was a reasonable process. One person remarked, "it was a start" (Survey participant #5). Another respondent was somewhat more critical stating, "no, only client delivery services and select organizations" were involved (Survey participant #35). However, this remark could be based on a misunderstanding of the specific consultation I was referring to, for I am aware that a separate consultation was held with Agencies and organizations prior to the Community Consultation Forum (Draft Final Report, 1999; Steering Committee Minutes, April 1997).

Two people in the survey portion indicated Vancouver was not their permanent residence, and at least four other people informed me that they leave the city for several months throughout the year. Therefore, the mobility factor of Aboriginal peoples, along with people's memories could have contributed to the lower recall of this event.

Although Erma was unable to offer her thoughts on the details of the Community Consultation, she did consider the turnout to be excellent.

"Did I know about the consultation process in the beginning? I had no idea there was one. But you know this is probably something that I should look into, because I like to know, if somebody says to me this has happened, I like to be able to say you know you could do this.

Well, that's good, 230 is a good number of people to get together for a consultation. In my experience, that doesn't happen a lot. I think that is a lot of people. You're touching a good number from the population. It doesn't sound like a lot. But I have been at other workshops and you don't get that many, you don't get that many coming out" (Erma, 2004: 3, transcript).

Community Council Members

In the next stage, the Aboriginal Caucus nominated Elders and Community Council members who would participate in the operation or delivery of the programme. The Elders were seen as 'recognized Elders' meaning he or she was seen as a

traditional Elder within his/her home community (Steering Committee Minutes, December 1999). The recruitment of Community Council members by Aboriginal Agencies was stated to “help ensure community ownership of the program”³¹ (VRJP Draft Model, 1999). In addition, it was believed the nomination process would lead to the selection of individuals “who have familiarity with justice-related issues and are knowledgeable about social services available in Vancouver” (VRJP Draft Model, 1999). The requirement of a knowledgeable and well-balanced set of volunteer Community Council members was consistent with the views presented by the broader Aboriginal community at the Community Forum and Feast.

From this initial recruitment, twenty-six people, 18 women and 8 men, had volunteered as Community Council members who were seen by the program coordinators to represent a cross section of Vancouver’s Aboriginal population (VATJS, 2000 First Quarter Progress Report). An additional 10 volunteer applications were submitted to the programme between April and June 2000 (VATJS, 2000 First Quarter Progress Report). Overall, there was considerable interest by people who were willing to donate their time, energy, and resources to actively take on the responsibility of working in a justice programme with and for Aboriginal people.

Programme Focus and Community Involvement

It is important to examine whether the views presented by Aboriginal people were respected in the consultation processes and incorporated into the programme, thereby creating an Aboriginal community-based programme, and not another “indigenization” model of justice.

³¹ The selection of community council members by a community-based nomination process was also conducted by Aboriginal Legal Services of Toronto, which stated the “belief that hand-picking volunteer members would interfere with community ownership” (VRJP Travel Plans, March 1999).

In the next section, I examine the focus of the programme and community involvement in order to further understand the role of community in the creation of this justice initiative. The questions that I attempt to answer to assess the role of community are the following:

Does it promote self-determination processes for Aboriginal people in an urban setting? Does the programme incorporate Aboriginal ideas and values of what constitutes a “community?” Does the programme fit with the justice-related goals of the community and the elements desired by Aboriginal people? Does the programme provide culturally appropriate services delivered by Aboriginal people? How does it incorporate Traditional Aboriginal values and methods while at the same time respecting cultural diversity? And, if not, why?

Aboriginal Justice or Alternative Measures Programme?

The establishment of the justice programme as an “Alternative Measures Programme” was developed in agreement between the Aboriginal Caucus, the Steering Committee, and representatives of the provincial and federal governments. Based on the funding policies as set by the *mumuthni* governments via the Department of Justice, the Aboriginal Justice Strategy already determined the parameters of what an Aboriginal justice initiative could be. However, the unique protocol developed for the Vancouver justice initiative reflects a collaborative process in which the Department of Justice was willing to work creatively within the existing legal framework. This protocol of the Vancouver Aboriginal justice initiative³² attests to the development of positive working relationships between representatives of *mumuthni* governments and Aboriginal people addressing the justice related concerns of Aboriginal people. One of the elements that

³² VATJS differs from Toronto’s ALST justice initiative.

led to the programme reaching desired goals has been the relationship building between the federal government and the Aboriginal community (Warhaft, 2001).

Developing the programme as an "alternative measures" programme does not reflect the community's ultimate desire to establish a distinct Aboriginal justice programme or Aboriginal system. However, this classification of the programme does not limit the future expansion of the justice programme as was intentionally specified in any protocol agreements that emerged from the process. Justice initiatives and reforms connected to self-government will inevitably require collaboration between Aboriginal people and the *mumuthni* governments. The open-ended nature of the agreement between the *mumuthni* government representatives and the justice programme reflects the Vancouver Aboriginal community's desire to move further as the programme gains strength and their relationship with *mumuthni* governments evolves.

Many diversion programmes limit the classification of offenders' entry into the program to first time offenders and minor offences. However, in this justice programme, repeat offenders are not considered ineligible for entry into the programme. Nonetheless, since entry into the programme has been based upon Crown referrals, the justice programme must negotiate for the inclusion of repeat offenders into the programme (Provincial Crown Protocol Agreement, 1999: 2). In addition, according to the open-ended protocol the justice programme could also possibly extend beyond minor offences should the Vancouver Aboriginal community indicate the desire to do so and if the appropriate support services are available (Provincial Crown Protocol Agreement, 1999: 2). This reflects a realistic appraisal by both the Aboriginal Caucus and Steering Committee that while the programme must not be "frozen," its evolution must grow in concert with capacity, resources and community support.

Aboriginally Driven and Controlled

The topic of the programme being “Aboriginally run and controlled” was discussed at length by all those involved since the meetings first began. This topic was also raised in the Elders consultation, the Community Forum, as well as in this research. It can be acknowledged that there are *quu’as* who are not tolerant of *mumuthni* people at all. This intolerance can be reflected in their general attitude towards all Euro-Canadians. It is unfortunate that one community member disagreed with the administration of the programme due to “race” issues (Elder Harry, 2003). However, it is important to note that the operation of the programme, as previously mentioned, is under the guidance of Aboriginal community members in the Aboriginal Caucus. Fortunately, the issue of race control noted by this one individual is an isolated concern. Those who have been involved with the programme view it as being “Aboriginally driven and controlled” (Warhaft, 2001; White, 2001) even though not all persons associated with the programme are Aboriginal.

Community Knowledge of the Programme

One of my survey questions asked participants if they could describe what the programme is. I found only a few people could generally describe the justice programme.

“I’m not completely sure about what they do. I didn’t ask her [former VATJS staff member] a lot of questions. My interpretation of what they do would be that they work for Aboriginal people within the law community. I would think that what they were trying to do is bring as much Aboriginal perspective into the justice community as possible. To try to make things more... appropriate, in regards to what traditions, in the broad sense, because there are so many First Nations cultures in Vancouver, but where traditions may have been, where people might have come from” (Erma, 2004: 1, transcript).

In the survey portion of the findings, thirteen people wrote down the type of services they believe the VATJS offers to the community. Three of the respondents described the programme to specifically involve Aboriginal cultural traditions stating VATJS employs “Aboriginal traditional values, teachings and ceremonies to help overcome issues and to find solutions” (Survey respondent #8) and a “traditional native-style healing circle” (Survey respondent # 7) and “culturally appropriate” sentencing (Survey respondent #55). Meanwhile, six of the respondents described the programme as simply an alternative justice programme to the *mumuthni* system. Based on these responses, it appears people have a general understanding of the VATJS as an alternative programme based on cultural traditions and that provides justice services to help Aboriginal people in need. However, three people described the process as a “sentencing circle.” This could indicate they were not in agreement with the use of the circles as an alternative form of justice or they did not understand the underlying process of the healing approach used by the justice programme.

Does it Incorporate Aboriginal Justice?

When I asked the Elders if they believe the justice programme captures their understanding of ‘Aboriginal Justice,’ all four agreed that the programme does so. One of the Elders stated,

“I think it does a very good job of capturing the Aboriginal justice as we know it because I have investigated it and related it to the medicine circle, which is a pre-assessment tool. And, the different stages of the medicine circle actually relate to the different stages of the Transformative Justice circle. You know you go through your introductions, your telling of the story, you’re planning and arriving at conclusions, and, solving the problems, arriving at solutions. So, reintegrating the individual back into the community to me makes much more sense than incarcerating them where you’re spending money to maintain them. The medicine circle *and* the transformative justice circle focus more on the victim, making reparations whereas the justice system itself focuses on the offender. So, I think the circle really relates well to the former Aboriginal type of justice.

Reintegrate the individual back into the community” (Ken, 2003: 4, transcript).

Another Elder stated that although the programme does capture Aboriginal processes of justice, he presented his belief that the programme was still developing; therefore, the programme will continue to evolve and adapt to meet the needs of the community based on the involvement of Aboriginal people.

“Ok first of all, I think they’re doing a good job. But anyway, I also believe it’s still in its formative stages, and I think that it is not having as large an impact *yet* on the Aboriginal community as it will in the future. Of course what I like about it is that the process is *in* the hands and the responsibility of *Aboriginal people* who understand our community and who are going to develop a program that is going to be appropriate to *our* people” (Elder Bill, 2003: 3, transcript; emphasis by respondent)

Operation of the Programme

The operation of the justice programme indicates that it is firmly grounded in Aboriginal beliefs and values found within many Traditional Aboriginal communities. The “commission of a crime is viewed as a lack of spiritual, physical, emotional and intellectual balance within the person and an offence against human relationships rather than an act against the ‘state’” (VATJS pamphlet). The process of repairing the harms caused by the wrongdoing and transforming relationships is conducted through a circle format, in a Community Council Forum. This process allows the community to take some control of ownership of justice concerns and of their own members. In the Community Council Forum, three community volunteers and an Elder along with the victim, the offender and support people, discuss the circumstances that led to the wrongdoing. Aboriginal teachings of the sacred Four Directions of the Medicine Wheel guide the proceedings of the Community Council Forum and emphasize the importance of holistic learning, spirituality, and respect (VATJS, 2000). The Forum closes by reaching a consensus in a healing plan or what the person must do to restore his/her imbalance

and to make amends for the harm caused to the victim and community (VARJP, May 1999). The healing plan (outlined in the Provincial Crown protocol as a disposition) can include various options such as, community services, victim related restitution or compensation measures, drug and alcohol counselling, employment and or educational training, and participation in cultural and spiritual activities (Provincial Crown Protocol, 1999). It is signed by the offender and must be completed in three months. If there is no compliance, then the case may revert to Crown Counsel. If there is partial compliance, the accused must come before the Community Council to explain the reasons.

VATJS has been taking adult referrals since April 2000. Although the inclusion of youth has been a priority and a desired direction since its inception, the programme has only recently expanded to include Aboriginal youth. Entry into the programme is voluntary, and similar to other diversion programmes, a person must accept responsibility for his/her behaviour before s/he can be diverted from the *mumuthni* justice system. However, formal approval into the programme is based upon referrals from the Provincial or Federal Crown Attorney's Office. The cases that are diverted involve less serious crimes³³ such as: theft under \$5000, mischief, minor assault, possession of stolen property, causing a disturbance, break and enter (other than a dwelling house), trespass at night, communication for the purposes of prostitution, and other minor crimes.

Respecting the Words of the Elders

In examining the focus or operation of the programme, I found that many of the desired elements presented in the Elders consultation for a justice initiative are included within this programme. Reflecting traditional Aboriginal values and incorporating them

³³ Referrals are limited by the protocol agreement to criminal offences listed in categories 3 and 4 as outlined in the *Alternative Measures for Adult Offenders* manual.

into the programme to create and operate an Aboriginal justice programme is indeed the underlying basis of the programme. People are dealt with in a holistic manner to help correct the imbalance within the individual and his/her connection within the family and the community. Furthermore, the programme provides a much needed cultural justice service that is grounded in and guided by the teachings of Aboriginal people and delivered by Aboriginal people. By respecting the cultural diversity of urban Aboriginal peoples, the programme was seen as offering a starting point for justice. The programme will include Elders and culturally specific protocols³⁴ if those being diverted into the programme express a desire and if the programme is able to do so. For example, if there are Elders and Aboriginal people from the same cultural background as the “offender.” The expressed intention to include services for youth that has been phased in as part of the programme’s evolutionary process further reflects recognition of the Aboriginal community’s aspirations.

Community Development

One of the important elements in the development of the justice initiative is the reintegration of the victim/offender and the involvement of the community – the role of community. As outlined in the VATJS Draft model and the programme’s goals to create self-determination processes, community empowerment – and the transformation of justice calls for the community to be involved not just informally or at the design phase, but throughout the process of delivering justice. Doing so relies on “the community” while simultaneously building and strengthening it.

Dealing with social issues within the community is seen as a way of building community:

³⁴ The program coordinators consulted with local First Nations to ensure proper protocols would be followed should a person from one of those First Nations be diverted into the programme (Aboriginal Caucus minutes, April 2000; First Quarter Progress Report April – June, 2000).

“Well I think it probably will eventually reach the point where we have control of our own justice system, period. That when a person, one of our people are arrested and incarcerated that there will be very real involvement by the entity we establish, not just on the sentencing basis but also on the process on working with the crime liaison, and maybe at the point of being responsible for charges and for seeing justice come from that. In other words, total control of the justice system as it relates to Aboriginal people.

I believe that it's not only necessary but that *it will happen*. Now how quickly that happens, I really don't know. We have a lot of lawyers already. We have some judges and we have had some lawyers and judges over the years, and we have a lot people in law school now who have found it necessary to take up law because of the legal matters and problems that are confronting our Aboriginal people in our community.

I think we are gradually moving towards a position of self-determination in the Aboriginal community and that's obviously not just in Vancouver, but that will happen throughout the province as our people take on their responsibility. Right now we're wards of the government and we allow governments to make our decisions and to develop and implement programmes supposedly for the benefit of our people, it's not working. Our people are going to *have to take* on the responsibility of self-determination within the community, self governance, and of course part of that process is the educational process and I'd like to see more of our people involved in but to me it should all be geared towards self-governance, self-determination.” (Elder Bill, 2003: 8, transcript; emphasis by respondent)

Addressing Diversity in Building Community

As in any community when dealing with group dynamics there can be great difficulty in meeting the needs of all those involved. One of the problems of addressing community needs emphasized the difficulty of “serving the diversity effectively” (Survey Respondent #46).

One of the community members suggested that an awareness of the many people who comprise the community will promote the relationships and connectedness based on the guidance of the Elders.

“Well, I think we, if everybody knows there is different groups and different people, like West Coast Night [Wednesday] and Prairie Night [Tuesday], if they knew of the justice programme, they'd be able to help

each other out, they'd be able to talk to each other. I have friends from all across Canada we get together and share. I heard that from an Elder, if I'm asked I'm glad to help. It's what needs to be done more, to ask the Elders to have that input. And for the youth, it's a worthwhile thing to see our community to raise up and be strong" (Denny, 2004: 6, transcript).

Another community member stated that notwithstanding this diversity, there also are shared similarities amongst Aboriginal peoples that can create a foundation for an urban Aboriginal justice programme.

"Regardless of how different we are across the country, there are still a lot of similarities within our cultures. So, there may be, similarities with the way things are done for different ... different people might do things similar. You know, the way they handle how to deal with something that has not been done proper, or how to deal with... I guess today you would say 'someone who broke the law.' I would think that they [VATJS] would try to bring as much of that Aboriginal perspective into the justice system as possible ..." (Erma, 2004: 1-2, transcript).

The Urban "Space" of the Programme

A unique challenge of urban community is that many services are not situated close together; making access to needed services difficult for urban *quu'as*. It is beneficial for the programme to have knowledge and good working relationships between the different organizations and services to be able to assist urban Aboriginal peoples.

"I think that in Vancouver, I think a lot of "Aboriginal" space is scattered. You know you got the Indian Centre [VAFC], Courtworkers [NCCA] in Gastown, and Métis Association in Surrey, right. Each band has its own area, own office, and space. But what is in Vancouver is spread out, it's hard to get to know where everything is, especially if you are a newcomer, and it's even harder to get there" (Erma, 2004: 13, transcript).

Because of this dispersion, it was seen as necessary to establish the justice programme in a central location. A central positive space in which Aboriginal people gather in the urban location was important to meet the needs of Aboriginal people and within the "space" that Aboriginal people view constitutes their community.

"I think in the urban area people are so far apart, maybe 12th to PNE grounds, to downtown Vancouver, I think the people who have problems with the justice system, they want something convenient (Denny, 2004: 2, transcript).

The Friendship Centre being a central provider of numerous services for urban Aboriginal people could successfully house the programme in order to meet the needs of such an initiative. Therefore, housing the justice programme within the VAFC was an appropriate choice that reflected an understanding of the needs of urban Aboriginal people.

The Relationship-based Community of the Programme

One community member stressed the need for connecting Aboriginal people through caring and assisting others, as the VATJS does, and that by doing so is one way to build community.

"I think it would be a really strong community if we help each other out, I do that if I see somebody have a hard time, I'll let them know where they can get help, a lot of times they just need somebody to talk to. I try to have time for people, if they're hurting, it's important. A lot of people have their own issues, a lot of Aboriginal people have issues, they do have a lot more problems than the rest of the community, but I know we all work together, that there is people that do care, break down these walls that people have. If people encourage them, that it's [VATJS] there for them, they will use the services" (Denny, 2004: 5, transcript).

Margaret provided an example of how the programme is based on the connected relationships and caring between community members. In her words she states, we "should really help the people that need help and not to look down. Just to love them and care for them so that they will get out of that place where they were" (Elder Margaret, 2003: 3, transcript). Margaret, a mother, and grandmother, has also taken care of numerous other children; she used an example of raising children to explain how behaviour can be corrected and how this is also done in the justice programme, that

once the wrongful behaviour/incident has been dealt with, it should be left in the past and never brought up again.

I am certain in her example of raising children she did not intend to infantilize the people who are diverted into the programme and only reveals her attitude towards those who are on the wrong path by focusing on helping and caring. "That's what I think of this programme. Lot of people look at the mistake, but not love, or hold them up. That's what Indian people do [referring to the latter]" (Elder Margaret, 2003: 4, transcript).

When an Aboriginal person is diverted from the *mumuthni* system, s/he is encouraged to connect with their identity, and the community.

"Well, the community I think first involves the victim and the offender in that area. However, depending on the healing plan that is developed... the Aboriginal community, in fact one of the healing plan emphasis that we try and encourage is to increase the knowledge of the offender and the victim with the Aboriginal culture because it's quite common for young people, especially if they're away from their culture to become disassociated with it. And reintegrating them into the culture is I think beneficial to both them and the culture when they realize they have a connection. They have in fact a cultural association to be proud of rather than ashamed of and they realize that there are people in their culture that will support them and will offer advice when they need it. So I would say there is wide community involvement in that and there should be" (Elder Ken, 2003: 7, transcript).

Naming the Programme

The use of words and the language is a key construct in defining the programme. The Aboriginal justice initiative has gone through several name changes. This project began as an "Urban Aboriginal Diversion Project," then became the "Vancouver Aboriginal Diversion and Sentencing Alternative Programme" (December 1997), then the "Vancouver Restorative Justice Programme" (April 1998), and the "Vancouver Aboriginal Restorative Justice Programme" (May 1999), before officially becoming the Vancouver Aboriginal Transformative Justice Services" (VATJS) in June, 2000.

An Aboriginal name, *Chiyax* - had been proposed in the Squamish language that refers to [Indigenous] laws and protocols and translates to 'the way things are done' (Aboriginal Caucus Minutes, April 2000; Warhaft, 2002). However, due to the programme's location on *Tsleil-watuth* land, this name was determined to be inappropriate by Chief Leonard George, although he supported the programme (Aboriginal Caucus Minutes, April 2000). As a result, the name was officially changed to Vancouver Aboriginal Transformative Justice Services in June 2000. The search for an Aboriginal name for the programme has been set aside for now, but may be considered in the future (Warhaft, 2002).

The search for a suitable name exemplifies some of the unique challenges of being in a "multi-cultural" (multi-Aboriginal) setting. The *Stó:lō* can easily agree on an appropriate name for their justice programme because they all share the same language and historical connection to the land. In contrast, due to the diversity of urban Aboriginal people, many do not share the same linguistic background. The location of the programme in an urban setting must respect the First Nations people and the land on which it is situated. The word Aboriginal in the programme's title is an important identifier of ownership by the Aboriginal community as well as to the larger urban community by signifying overtly this justice initiative is an Aboriginal programme.

Community Awareness of the Programme

In the survey portion of this research, I found that 21 out of 58 survey participants stated they were aware of the programme, although more than half of the participants were not aware of the programme. For the people who were aware, I found they had received information about the program through various sources, either directly by knowing people who work or volunteer in the programme or by seeing the signs or information at the Friendship Centre or within the community.

“... I wouldn't have known, it's just because I happened to walk past that tiny little sign. That was the only reason” (Interview Participant #10, 2004: 5).

One of the community participants informed me he had “never heard of the programme, but I continued to fill out the survey, it sounded interesting. If I didn't hear about it, I think other people must not have either” (Denny, 2004: 3, transcript).

Moreover, another community member presented a similar comment, “No, I wasn't aware. I didn't hear about this. I don't know how to describe what they do” (Eve, 2003: 2, transcript). However, when discussing awareness of community events, Eve did imply that it is the responsibility of the community members to be involved and seek out information. As she told a friend of hers,

“Yah, [name of friend] looks at me and she says ‘they don't tell us about anything’ and I thought to myself ‘well we're not alert ourself.’ You know we should be more. Like listen and read what's on the wall, posters. Posters, a lot of people post on the walls. It's our fault I thought” (Eve, 2003: 4, transcript).

As indicated in the statements made by the following community members, community awareness and active participation are those who are interested and do want to keep informed of what is occurring within the community.

Am I aware of it [VATJS]? Yes, by seeing the promotion for it. I always keep up on the events and new changes in our community. And when something new comes up, I don't just pass by, I like to be informed of exactly what it is, what it does and for who. It [the promotions] was a poster, and then it was a pamphlet, and then booklets came into our schools telling us what it was all about. So I went through the booklets that they delivered [mailed] to the grade schools” (Scott, 2004: 1, transcript).

“ ... I was aware of the programme because a woman I went to school with was (with) the programme, a year after she graduated and we kept in touch... I knew [about it] 'cause she worked there, and I had a few conversations with her having to do with school and trying to make connections off of campus and to try to keep tabs on where our graduates were and what they were doing” (Erma, 2004: 1, transcript).

Community Support for the Programme

The Elders who participated in this research - Bill, Ken, Harry, and Margaret, shared with me their overall support of the program as a positive and greatly needed development for Aboriginal people. At the time of this research, Ken and Margaret were both actively involved with the program and were quite pleased with its operations.

In Margaret's opinion, "they're doing good work in there. *I am really amazed* at how they [VATJS staff and volunteers] are doing that job" (Elder Margaret, 2003: 5, transcript; emphasis by respondent).

However, Bill and Harry were no longer directly involved and had expressed concerns with certain aspects of the current operation of the program. Harry attributed his recent lack of involvement to a conflict with the administration of the program, of which he states, "there's definitely some problems that has to be ... thinned out somehow" that were related to *mumuthni* control of the programme (Elder Harry, 2003: 5, transcript).

Bill has been less involved for other reasons not related to the administration of the programme or its personnel:

"No I haven't [been involved with the VATJS lately], I've been...I've been, you know when you get to be my age you don't so much participate on an active ongoing basis as you stand back and watch how things progress. People are entitled to make their own mistakes, I made mine when I was younger, and, if it's a serious situation then *I would have spoken up*. So far I've been kind of *monitoring* on the sidelines and keeping an eye on how things are going. Most, *most of what is happening I am supportive of*, uh, up to this point I really hadn't any direct input into making changes in the direction of the program." (Elder Bill, 2003: 2, transcript; emphasis by respondent)

From the broader community, there was a large show of support, with 37 of the 58 survey respondents, indicating their support of the VATJS (which included the follow up interviews who all indicated their support). Eleven others stated they were unsure and

felt they needed to have more information on which to base an evaluation, while only 4 people directly stated they were not supportive. None of the four provided a reason.

In the survey portion, when questioned if people had suggestions for the programme, five people offered words of encouragement for the programme to continue as it currently operates. "Keep on going" (Survey respondent #37) and "keep at it" (Survey respondent #55). While one of the survey participants replied, "I think they're doing great, happy to see you [VATJS] there" (Survey respondent #27) and another stated, "Congratulations. Take things slow. Make it right before growing" (Survey Participant #3).

Of those who stated their support, 22 also indicated the level of their willingness to become involved. Others asked, "How do I get involved?," or were contemplating how to fit the volunteer work into already busy schedules. Still others commented they were unable to become involved due to their schedules. This is also the reason why one survey respondent was no longer able to participate in the programme (Survey participant # 10). Another survey respondent indicated s/he had previously been involved as a volunteer in the programme but left because "it didn't work in the way I envisioned for it to work" (Survey respondent #5). Although this person did not offer any further explanation for this answer, s/he still continued to offer support for the programme.

Overall, the willingness of community members to become involved in the programme is a positive development that indicates a high level of support for the programme, along with a willingness to take on some of the responsibilities of justice within the urban Aboriginal community.

Concerns about the Programme

In the survey portion, seventeen people stated they had no concerns, whereas one participant responded his/her concern would be there is a need for “more, more, more” (Survey participant #50) while eleven people did not give an answer. Four other people stated they had a concern but did not explain what this was. The concerns from the remaining twenty-four who filled out the survey expressed a desire for more information, or involved questions about the operation of the programme itself due to lack of information.

Chapter Five: “Opening the Doors”

Conclusion: Welcoming the People

*Our Laws come from the longhouse. The door has been closed on the longhouse. It needs to be opened.
(Stanley Sam Sr., Nuu-chah-nulth Elder)*

In this research, I found that Aboriginal people are developing ways of regaining some measure of control of the “community” in the development of Vancouver’s Aboriginal justice programme. The notion that the terms “community” and “justice” must be based upon Aboriginal people, philosophies, and teachings is central to creating an Aboriginal “community-based” justice initiative. I found that the programme as a community-based justice initiative defined by and based in the Vancouver Aboriginal community was consistent with the views expressed by Aboriginal people regarding the meaning of “community.”

The meaning of community defined by the urban *quu’as* I found in this research focused on identity, space, and relationships. The inclusive nature of recognizing all people of Aboriginal descent and not feeling limited by *mumuthni* definitions is important to understand that the community door was open to all who self-identify as an “Aboriginal” person. The aspect of identity and Aboriginal people defining on their own terms, based on their own histories, and languages is central to reclaiming humanity. In the Vancouver Aboriginal Transformative Justice Services those who are considered part of the urban Aboriginal Community is based upon the inclusiveness of all people with Aboriginal ancestry and not imposed by colonial definitions or criteria. In respecting

the self-determination of Aboriginal people the Vancouver Aboriginal Transformative Justice Services assists to empower the individual and the Aboriginal community to reclaim control of their lives in relation to justice concerns.

In a large urban environment, the need for a positive “space” to create a sense of place, and the perceptions that Aboriginal people attach to the “space” is an important element in creating and defining the Aboriginal community. It is also in this community “space” that a person can also reconnect, not only for individuals who are being diverted from the *mumuthni* justice system, but also for community members with each other in their daily activities.

The Vancouver Aboriginal Transformative Justice Services, housed within the Vancouver Aboriginal Friendship Centre, is located within and provides the “space” that many *quu’as* recognize as a core venue for the Aboriginal community in Vancouver. The healing circles within the Vancouver Aboriginal Transformative Justice Services are conducted in the multi-purpose conference room, known as the Chief Simon Baker room. Chief Simon Baker of the Squamish Nation, one of the founders of the original Friendship Centre, throughout his lifetime was involved in numerous community projects and organizations. The spiritual and cultural significance of this location not only embodies the historical legacy of the man for which it was named, but also serves to continue the aspirations of maintaining Aboriginal cultural identity and traditions while at the same time promoting community development within Vancouver.

For many *quu’as*, the philosophy of connectedness and relationship with others is an important element of “community.” Our relationships and our understanding of our roles and responsibilities to one another govern our daily interactions. Since “justice” in different Aboriginal languages often refers to recognizing and doing one’s responsibilities and “taking care of each other,” I discovered that *quu’as* are doing just that in their

everyday lives and in this justice programme, evident in the relationships they maintain and create with one another. In the words of James Sákéj Henderson, “for justice to flourish it must be practiced daily as a way to become more fully alive and bring forth the goodness and kindness already present within us” (1994: 432).

In the Vancouver Aboriginal Transformative Justice Services, the relationships of Aboriginal people are inclusive, extend to all people of Aboriginal descent, and encompass all who are willing to actively participate in the community. In the Vancouver Aboriginal Transformative Justice Services, the use of healing circles and Aboriginal philosophies to address the imbalance within the individual assists in the attempt to restore harmony within the individual and his/her place within the community. It is relationship-based connections that ultimately give meaning and life to this community-based Aboriginal justice programme.

It has been a truly amazing experience to witness *quu’as* from different Nations, to come together as individuals, while still respecting their differences and embracing their similarities to create ‘community.’ In this research, I become aware of not only ‘how’ Aboriginal community members came to be involved in this justice initiative but also “why” I learned through their dedication and commitment that it is possible to become self-determining people in the city.

Furthermore, I discovered the significance of “community” based on our relationships and connectedness in this world extends beyond what I originally had thought I would be examining in this research. The story of Frank Brown of the Heiltsuk First Nation, who was removed from his own community as a traditional way of dealing with his improper behaviours illustrated this for me. During his banishment on an isolated island for 8 months, Frank underwent a dramatic transformation. Frank states he is “searching for ways to help young people establish a firm identity and membership in the

human community without going through the alienation he experienced” (RCAP, 1996b: page vol 1 ch15, s9- 12). This story helped me to further understand the meaning of *quu’as* and one’s place in this world entails a huge responsibility and extends beyond the Aboriginal community to the rest of humanity.

The topic of community is difficult to separate from the other influences that affect our everyday duties and responsibilities as Indigenous peoples. Based on our histories and the understanding that our people and communities have been, and continue to be, affected by *mumuthni* peoples - locally, nationally, and internationally - has an influence on the structures and well being of our communities. The combination of these historical, political and social factors has led to the present need to re-create systems that are necessary to ensure we can live well.

The key factor for success in Aboriginal initiatives is the involvement of the community from the very beginning in the design, development, and delivery of justice initiatives. In this justice initiative, the initial discussions began with a core group of Aboriginal community members, the Aboriginal Caucus, who were committed to ensuring positive change and community empowerment for the well being of all urban Aboriginal people. The development of the programme extended into the community, through various discussion groups and meetings that enabled urban Aboriginal people to gain a voice in the decision making of this justice programme.

The traditional ways of “doing justice” in Aboriginal cultures with the importance of holistically dealing with the mental, emotional, physical and spiritual balance of the individual provides a much-needed cultural justice programme. Its strength draws on the teachings of Aboriginal people, delivered by Aboriginal people for Aboriginal people.

Challenges

In the creation of the Vancouver Aboriginal Transformative Justice Services, there was great collaboration by the people involved from both the Aboriginal community and representatives from the Federal and Provincial governments. It was through developing positive working relationships between people in this justice initiative that assisted the Aboriginal community's goals of regaining some measure of control of justice concerns for urban *quu'as*.

In Aboriginal perspectives, people cannot and do not exist on their own, but based on the holistic view are connected to all life. The process of self-determination for Aboriginal people comes from within the individual, the family, and the community. In the process of living, people are connected to others thereby creating a "community." This research has illustrated that Aboriginal community-based justice initiatives must be defined, developed, and controlled by the people who create "the community."

Based on the *mumuthni* language and understanding of the "Aboriginal community" by the Canadian governments creates difficulty in establishing justice processes that are in accordance with inherent Aboriginal rights. The development of the programme and the relationships between *mumuthni* government representatives and the Aboriginal community was confined within federal policies that regulate the Aboriginal Justice Strategy. As stated by the Royal Commission on Aboriginal Peoples,

"Aboriginal nations and communities make applications for funding that are evaluated in terms of these [*mumuthni*] objectives and principles. Funding is entirely discretionary and there is no Aboriginal participation in evaluating applications or setting funding priorities. From our review of the projects funded by the directorate [Aboriginal Justice Directorate] we believe it is fair to say that most of the money has gone to projects intended to improve the existing system rather than initiatives designed to provide a framework for distinctive Aboriginal justice systems [Based on a] policy that "does not envisage an entirely separate system of justice for Aboriginal peoples" (RCAP, 1996a: 303).

The establishment of the justice programme based on the funding policies as set by the *mumuthni* governments via the Department of Justice; the Aboriginal Justice Strategy already sets and determines the parameters of Aboriginal justice initiatives and omits, again, Aboriginal people who are affected by the legislation. In the process of becoming self-determining, the notion that Aboriginal people require another *mumuthni* government department to oversee the development of justice processes is only a continuation of colonialism. It works against the process of developing Aboriginal justice initiatives that are truly based on the values, principles, and philosophies of Aboriginal people. While the *mumuthni* government recognizes the self-identification of Aboriginal people, in the process of self-identity, one of the most fundamental rights of a people is the right to determine where and how Aboriginal identity is connected to and is part of the larger relational network within the "Aboriginal community."

Future Programme Development

While this research examined the role of community in the development of VATJS, the topic of broader community awareness is central to ensure the programme is able to continue meeting the needs of Vancouver *quu'as*. There was great support indicated for the VATJS, by those who were previously aware of the programme and by some who only became aware through this research. Yet, more than half the people surveyed in this research were not aware of the programme. Most concerns that were expressed indicated a desire for more information.

In order for the VATJS to continue meeting the needs of the Vancouver Aboriginal community, broader community awareness and input is necessary to ensure the community is involved in the future development of the VATJS. In order to prevent overburdening and burnout of the VATJS employees and Aboriginal community volunteers (see Linden and Clairmont, 1998), the creation (or reinstatement) of a specific

position, such as a Community outreach worker, could be valuable for the growth of the programme.

Future Research

The focus of urban Aboriginal justice initiatives is a topic that has received relatively little attention both in the development and in the research conducted on urban Aboriginal communities. I am aware that evaluation research of the VAJTS had been discussed and initiated; the status of that project is unclear. Future research projects to examine how Aboriginal people in the urban community view the justice services offered by the VATJS could be useful to further develop the programme. Now that the VATJS has been developed and implemented based on the goals and aspirations of the urban Aboriginal community in Vancouver, a question that arises is whether consensus is still generally prevalent amongst urban *quu'as* regarding the future direction and vision of the VATJS.

Another topic to further examine should urban *quu'as* assert more control of justice concerns the process or the steps that might taken to accomplish such measures. As well, how would *mumuthni* governments' respond to greater *quu'as* control in relation to justice services beyond Alternative Measures and diversion programmes? At various points in this research, many of the Elders made statements regarding regaining control of many facets of justice that would constitute full *quu'as* control of the VATJS or the future aspirations of an Aboriginal system of justice.

At the conclusion of my interview with one of the Elders, I was given a "task," and later realized that he was reminding me of my responsibilities. I was to "figure out where we want to be in the future, and then figure out the steps that we have to take to get there" (Elder Bill, 2004). The significance of these words hit me, and I am convinced that

this “task,” which simultaneously appears to be very simple and extremely complex is certain to be a lifetime mission!

Longhouse

To bring back full circle, the meaning of self-determination for me, I relate to the re-construction of a West Coast Longhouse. It is important to note that traditionally these buildings on the West Coast were not permanent community structures, but could be quickly and efficiently dismantled by the people, should the need arise, to be re-assembled in other locations. The construction of such an immense building requires careful preparation and planning along with the collaborative effort and support of many people to ensure a strong and solid foundation. There will be those who will first clear the space, followed by those who will then create the foundation and build a frame. In our current reality, this requires knowledge of both the old ways and new methods for a construction that involves a blending of both traditional and modern to create an appropriate structure that will meet our current and future needs. However, it is when the construction is complete and the doors are opened to the people, that the people are able to re-create the ‘space’ that is needed to live according to our cultural teachings and values as *quu’as*, thereby affirming our identity and humanity. It is this communal “space” that provides shelter and safety, nurtures the relationships that provide comfort and strength, and teaches us the necessary skills for living. Traditionally, and a continual element of understanding life, our relationships extend to all *quu’as* and others who choose to be there. The longhouse, a fundamental element within many Aboriginal cultures is adaptable and flexible to the community’s needs and location, much like what we require in Aboriginal systems of justice. For urban Aboriginal people, we are entitled to our own cultural and communal structures that foster all *quu’as*.

Appendices

Appendix A Information Sheet

My name is Tammy Dorward. The research that I am conducting is part of an evaluation of the VATJS. The research that I am conducting is part of an evaluation of the VATJS designed to improve the programme and could possibly influence the development of future Aboriginal Justice programming in Canada. I am a graduate student at Simon Fraser University and the information that I gather will also be used for a MA project at SFU/Criminology, under the supervision of Dr. Ted Palys.

The title of my research project and the information that I am looking to gather regards the role of the community in the design and development of VATJS. I am asking participants to share with me, either through an interview or a survey, their role as community members involved in this justice programme. Your participation in this research is voluntary and you may withdraw at any time. In this research project, individual community members will not be identified, nor will any information be shared that could be used to identify any person without his/her permission. Strict confidentiality will be maintained unless you indicate you would prefer to be named. All material gathered will be either returned to the participants or disposed of in a safe manner once the research is complete. For any person interested in the results, a copy of the research will be available in the Administration office at the Friendship Centre. If you have any concerns about this research you may register a complaint with me, or with Rob Gordon, Director of the School of Criminology of Simon Fraser University, 604-291-3213 or Darlene Shackelly, Interim Executive Director of the Native Courtworkers and Counselling Association of BC at 604-985-5355.

I thank you for your time and participation,

Tammy Dorward

(Contact info)

Appendix B Interview Questions with Elders

1. What was your involvement in the programme's consultation process?
2. Have you had a continual role in the programme?
3. Whether, and to what extent do you believe the VATJS does a good job of capturing 'Aboriginal Justice' as you know it?
4. Do you think VATJS been a positive development?
5. Do you have any concerns about the programme?
6. The community basis of programming is important, as is community development, what do you think of the way efforts were made to incorporate 'the community' in the VATJS development process?
7. What should 'community' entail/involve?
8. What are your thoughts about the future direction of the programme?
9. Are there any other comments you would like to make?

Appendix C West Coast Night Survey

Tammy Dorward
MA Candidate,
School of Criminology, SFU

Ancestry:

Gender:

Age:

1. Are you aware of the Vancouver Aboriginal Transformative Justice Services?
YES / NO
If yes, how did you hear of /learn about the programme?
How would you describe what they do?
2. Have you had personal experience or indirect experience with the programme?
3. Did you know anything about the consultation process in the beginning of the programme? YES / NO
If yes, did you think it was a reasonable consultation process?
4. The Vancouver Aboriginal Transformative Justice Services is supposed to serve the 'Vancouver Aboriginal community.' Who is 'the community' and how would you define it?
5. How does/could Vancouver Aboriginal Transformative Justice Services incorporate community connection mechanisms into its ongoing existence?
6. What are the pros/cons of being community-sensitive?
7. All things considered, are you supportive of the programme? YES / NO
8. Do you have any concerns about Vancouver Aboriginal Transformative Justice Services?
9. Do you have any suggestions for the programme?
10. Have you, or would you consider volunteering as a community council member?
Why / why not?
11. Are there any other comments you would like to make?
12. Would you be willing to discuss this topic further in an interview setting?
If yes, please leave a contact number.

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