Jane Glassco Northern Fellowship 2015–2017

Policy Recommendations

THE GORDON FOUNDATION

JANE GLASSCO NORTHERN FELLOWSHIP

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Policy Recommendations

THE GORDON FOUNDATION

The Gordon Foundation undertakes research, leadership development and public dialogue so that public policies in Canada reflect a commitment to collaborative stewardship of our freshwater resources and to a people-driven, equitable and evolving North. Our mission is to promote innovative public policies for the North and in fresh water management based on our values of independent thought, protecting the environment, and full participation of indigenous people in the decisions that affect their well-being. Over the past quarter century The Gordon Foundation has invested over $37 million in a wide variety of northern community initiatives and freshwater protection initiatives.

JANE GLASSCO
NORTHERN FELLOWSHIP

The Jane Glassco Northern Fellowship is a policy and leadership development program that recognizes leadership potential among young northern Canadians who want to address the emerging policy challenges facing the North. The two year long program is built around four regional gatherings and offers skills training, mentorship and networking opportunities. Through self-directed learning, group work and the collective sharing of knowledge, Fellows will foster a deeper understanding of important contemporary northern issues, and develop the skills and confidence to better articulate and share their ideas and policy research publicly. The Fellowship is intended for young northerners between 25 and 35 years of age, who want to build a strong North that benefits all northerners. Through the Fellowship, we hope to foster a bond among the Fellows that will endure throughout their professional lives and support a pan-northern network.

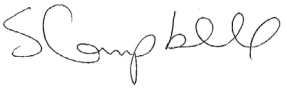
Forward

The Gordon Foundation is a charitable organization dedicated to protecting Canada's water and empowering Canada's North. Since 2010, The Foundation's Jane Glassco Northern Fellowship has been providing young Northerners 25 to 35 years of age with a unique opportunity to influence change in the North by participating in a two-year policy program. Fellows develop public policy research that addresses some of the most pressing issues facing Northern communities. As such, Fellows are often sought after experts and advisors to develop pan-territorial recommendations to inform government, and to present their policy research at local, regional, national and international events.

For the first time, The Gordon Foundation is compiling the Fellows' public policy research into a compendium to provide an accessible and centralized resource to advance policy recommendations developed by and for the North. This compendium showcases policy papers from the 2015-2017 Fellowship cohort. It provides a valuable examination of key issues, including the Canadian judicial system, the Truth and Reconciliation Commission, self-governance, economic and sustainable development, science communication, and education.

Over the past number of years, The Gordon Foundation has seen rapid change and intensifying interest in the Arctic. This compendium and future editions will amplify the voices of emerging Northern leaders, and provide a key resource for Northern communities, government and organizations in their quest for finding solutions to an ever-evolving Canadian North.

SHERRY CAMPBELL
President & CEO, The Gordon Foundation



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Jessica Black

Tupiq Nappaqtauliqtuq: Meeting Over-Incarceration and Trauma with Re-Centering Inuit Piusiit

"He could speak some Inuktitut, but not like Mike"[1]

My grandparents are Michael and Margaret Gardener.[2] They immigrated to what is now Nunavut by ship from rural England in 1955 as Anglican missionaries and as a newly engaged couple. Unmarried couples were prohibited from cohabitating, so my grandfather settled in Kimmirut and my grandmother in Pangniqtuuq. They were married aboard the CCGS *C.D. Howe* in September 1956, after the groom arrived three days late through bad weather. On anniversaries, my grandmother is keen to remind everyone that she is still deciding whether to keep him.

The newlyweds made Kimmirut their home, where my mother was later born in a small cabin next to the ocean shore. They moved to the community of Kinngait in 1961, then Pangniqtuuq in 1970 and finally Iqaluit in 1981. They built their entire life in Nunavut where my grandparents raised my mother and my two aunties to speak Inuktitut as close-knit members of their community. They later custom-adopted my uncle.

My grandmother was given the name Kuukutaaq (dear tall cook) and my grandfather was Mike or sometimes Ajuriqsuiji (the word now used for minister). My grandfather performed all his sermons and counselling in Inuktitut, travelling by dog team all over the north. My grandfather tells me his favourite times were always community dancing and games. My grandmother raised their children and volunteered full-time at community nursing stations. My mother tells me that one of her most vivid childhood memories comes with the rare arrival of a plane in the community, whose pried-open cargo door revealed the scent and sight of fresh oranges. My aunties, uncle and mother like to talk about the feelings of the transitions they experienced in their youth, about how their first exposures to "the south" were confusing and often deeply uncomfortable; a feeling, I sense, still lingering within them.

My aunties, uncle and mother all eventually met their spouses in Nunavut, each having three children. My older auntie lives in Grise Fiord with her husband, whose family were brought there by high arctic relocation. My younger auntie lives in Iqaluit and married my uncle, a man from Pangniqtuuq. They also helped raise me. I would later recognize my uncle's face in a manuscript and learn that he played a key role in translating and transcribing the words of Nunavut Elders. The same Elders whose words inspire the direction and set the waypoints of this paper.

My birth father from Hudson, Quebec, married my mother in Pangniqtuuq in 1980. They had my older sister in Iqaluit, and five years later, I was born in Almonte, Ontario. My mother and birth father divorced before I was two. My mother raised us in Iqaluit as a single mother for many years until she met my non-birth father from Grise Fiord in 1994. My youngest sister was born shortly after in Montreal, Quebec.

1 Pauloosie Angmarlik as cited in: Saullu Nakasuk, Jarich Oosten and Frédéric Laugrand, *Introduction [Interviewing Inuit elders]* (Iqaluit: Language and Culture Program of Nunavut Arctic College, 1999), 105.

2 During my time as a Jane Glassco Northern Fellow, I attended a meeting in Ottawa where Nunavut's first Member of Parliament, Nancy Karetak-Lindell, supported us as a resident mentor. It was here that before a presentation, she reminded me that it was respectful and part of Inuit custom to introduce your family before speaking. "So the audience knows who you are," she said. I intend to uphold this tradition in the context of this paper.

tiiturumaaviit?

She quickly earned the name Miijukpaaluk (preciously small), her ancestors are high arctic relocation survivors and descendants of the filmmaker Robert Flaherty.

I present these details for the purposes of both my identity and accountability. I choose to situate myself in it to more honestly engage in this topic in hopes that it will expose my biases in productive ways. I have observed that Western scholarship in law and science place particular value on impartiality in pursuing subjects with the view that the results are more credible. I have also observed in Western scholarship that considerable effort is made to remove or reduce bias and create distance between the issue and its analyst through language and word choice. The trouble with the perception of strict impartiality is that it can silence contributions and voices in its presentation, and stifle accessibility.[3]

This paper will look at criminal justice operations in Nunavut. As a Nunavummiut of European decent, in composing this paper, and throughout much of my adult life, I recurrently grapple in considering my family's complicated role in colonialism by helping to usher Christianity into the Arctic. This fact coexists alongside my own feelings of identity, my experience and my immense love and gratitude for my diverse family. As a non-Indigenous person, being a Nunavummiut is an immense privilege, and recognizing this in researching and writing this paper, I attempt to decolonize my approach. Growing up in Nunavut I see and closely feel some of the tensions of colonialism play out within my family and the wider aspects of my community. As with many Nunavummiut, I have interacted with the justice system at different levels and in different ways, and I understand how it comes to bear on the lives of those who call Nunavut home. I believe these interactions with justice along with connections and complicated narratives in my life spurred me to pursue a professional career within the justice system.

The views expressed herein are my own and I do not propose to present a voice for Nunavummiut or Inuit. The topic of this paper concerns the Nunavut criminal justice system, which operates on a small portion of Inuit Nunangat (Inuit Homeland), so I sought out articles and reports composed by Inuit and by those who have carried their voices throughout. I attempt to uphold the integrity of the voices of Inuit in this paper and to build my analysis from them because they are the inherent authority. They offer the solutions.

3 R. DiAngelo, "White Fragility" (2011) *International Journal of Critical Pedagogy*, 3:3, page 59.


iokka

INTRODUCTION

"I am very aware of this because I am an elder. I'm not that old, but my life really started to change when the missionaries told us about Christianity. We were told that Inuit piusiit were really bad. That is what we were told. From that point on my life really changed. I felt that I went into a void. We were no longer to follow the maligait of the Inuit if we were to begin to follow that which was good. I think we are still in this state today. I think we have to begin thinking about where Inuit have come from and where we are going to go in the future. I think we are in a three-way situation. We have to really think about this carefully for we have to plan ahead. We have to look to the past and look at where we were, we have to look where we are today. We see that people's physical and mental well-being are deteriorating. We have to start reviving ourselves again. We can do this together, Inuit and qallunaaq. Through working together we will get strength. If we work together there will not be divisions. Life would be a lot easier and more enjoyable. If we don't work together there will be more hardship. We don't know of what kind, but it will be there."[4]

Inuit never relinquished Inuit sovereignty over their lands but were assumed subjects of Canadian Crown. This imposition of Crown's sovereignty ushered in its laws, policies and values onto Inuit who began increasingly to feel its effects. There was a fundamental disconnect between those who lived community life realities and the bureaucrats among the treelined streets in capital regions of the south and Northwest Territories. These feelings spurred the negotiation of the largest land claim in Canadian history, the *Nunavut Land Claims Agreement* ("*Agreement*"), carved from Inuit Nunangat, predicating the creation of Nunavut as a geo-political state in 1999. The *Agreement* served as a platform to reconcile Canada's assumed sovereignty in return for a tangible opportunity to better empower Inuit within the Canadian political structure to make the critical decisions necessary for the betterment of Inuit and their lands. The *Agreement* founded new Inuit birthright organizations, co-management boards, a public government with special obligations under the land claims, and instills Inuit autonomy and control within societal institutions.[5] The majority Inuit population acts to insulate Inuit self-determination through democratic practices, suggesting that the Government of Nunavut should operate uniquely as a *de facto* Inuit self-governance system.[6]

On April 1, 2017, Nunavut turned 18 years old.[7] Within the territory there is much to be proud of, and to a large extent the hopes for Nunavut are still coming to fruition. Yet, a continuing point of tension exists: the justice system. The criminal justice system in particular continues to be a

4 Mario Aupilaarjuk as cited in: Alexina Kublu, Jarich Oosten, Frédéric Laugrand and Wim Rasing, *Perspectives on Traditional Law [Interviewing Inuit elders, Volume 2]* (Iqaluit: Language and Culture Program of Nunavut Arctic College, 1999), pg. 34.
5 This will be discussed in greater detail in the following pages.
6 Inuit make up 86% of Nunavut's population as cited in Statistics Canada (2011), "Number and Distribution of the Population Reporting an Aboriginal Identity and Percentage of Aboriginal People in the Population, Canada, Provinces and Territories," Table 2, National Household Survey.
7 *Nunavut Land Claims Agreement*, S.C. 1993, c. 29.

contentious topic due to its seeming inability to address Nunavut's high crime and incarceration rates. The fact that this particular topic remains an issue is worth our investigation because, at its core, crime in any society arises out of conflict.[8] Defining crime helps us recognize when a society deems a certain behaviour contrary to maintaining its social order, and to examine its response for "correction."[9] When a dispute arises between individuals, it becomes a crime where society defines it as such through laws and social norms.[10]

Today, as society expands in complexity, the State[11] takes the role of institutionalizing definitions of crime and subsequent responses through the criminal justice system.[12] Its purpose is to define and process disputes in an attempt to resolve them through imposing punishments as a method of deterrence and rehabilitation in the interest of public order and protection.[13] The State is obligated to resolve criminal disputes brought before it through the criminal justice system. In the case of Nunavut, this process is derived from a formal system created by the Canadian state, comprised of the Royal Canadian Mountain Police ("RCMP"), the Nunavut Court of Justice, the Correctional services and the Community Justice division.[14]

This paper aspires to interrogate why and how the criminal justice system in Nunavut experiences such high rates of crime and introduce possible solutions.[15] It seeks to examine the broader historical and systemic factors as the context in which the criminal justice system operates as well as its internal processes. Guided by the words and wisdom of respected Elder Mariano Aupilaarjuk, this paper will be presented in three sections: *Past*, *Present* and *Future*.[16] The first section, *Past*, will focus on Inuit perspectives of Inuit law and justice through the voices of Elders who lived and experienced it as the first Europeans were settling in the north. Their voices will present an overview of Inuit justice from which to begin to gain a basic understanding of some of its core values and principles which guide its processes. This section will outline the historical transition made by Inuit in the past 100 years instigated by increasing European presence and settlement in the Arctic, culminating in the statute signing into creation the territory of Nunavut and a new model of criminal justice.

The second section, *Present*, will broaden the scope of analysis to include institutional and social factors that contextualize the broader systemic influences in which the Nunavut criminal justice operates. It will then return focus to the formal criminal justice system in Nunavut by examining its internal mechanism, beginning with the RCMP, the courts, correctional services and probation, and then finally community-based justice. By taking a broad

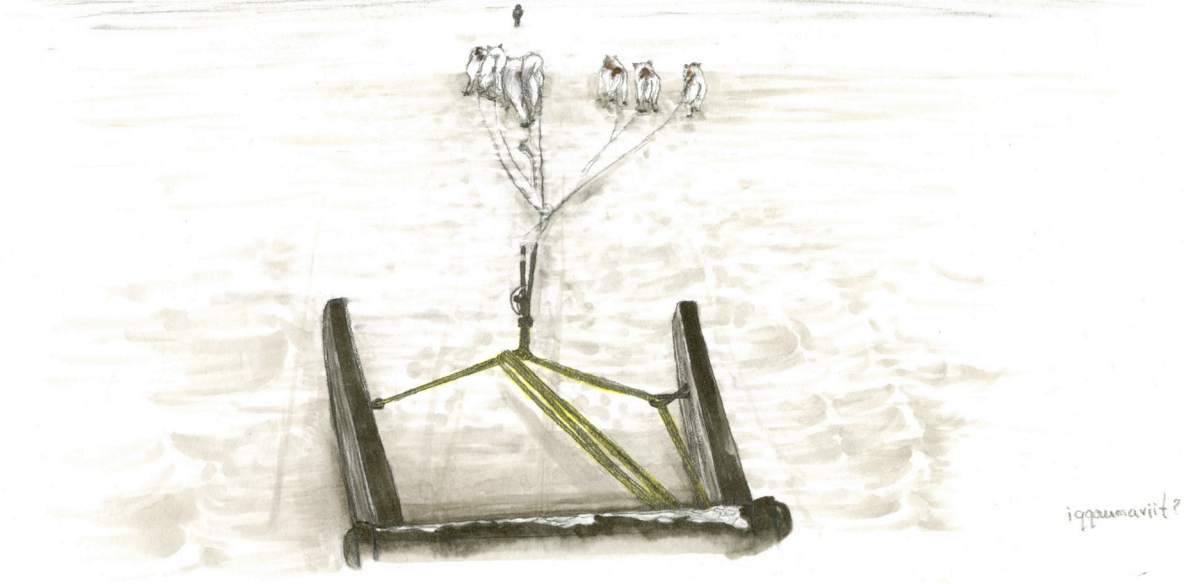
8 H. Zehr, "Doing Justice, Healing Trauma: The Role of Restorative Justice in Peacebuilding," *South Asian Journal of Peacebuilding* (Minneapolis: Peace Prints, 2008), 1:1.
9 *Ibid*.
10 J. Kleefeld, J. Macfarlane, J. Manwaring, E.B. Zeibel, M. Parlović, A. Daimsis, "Charter 1: Conflict Analysis" Dispute Resolution: Reading and Case Studies, (Toronto: Emond Montgomery Publications, 2003).
11 By State, I mean the prevailing formal system of government in place. I use "the State" preferentially throughout the paper as I feel it captures more than just governments, which are often strictly drawn along jurisdictional or constitutional lines. In Nunavut, because it is a territory, some of the ideologies, values and structure of the federal government and the Canadian State are downloaded onto Nunavut's territorial government, so using "the State" to describe the governing structure in Nunavut I feel is more appropriate.
12 M. King, A. Frieberg, B. Batagol, and R. Hyams, "Chapter 1: Introduction," *Non-adversarial Justice* (Annandale, Australia: Foundation Press, 2009).
13 s. 718 of *Criminal Code of Canada* R.S.C. 1985, c. C-46 outlines some of these objectives.
14 The "formal system" of criminal justice is the one provided by the state through Canadian law and policy. For the purposes of this paper, I make the distinction between the "formal system" of criminal justice in recognition that informal systems of criminal justice exist in communities. Indeed, in many respects, these informal systems of criminal justice are as important in resolving conflicts and crimes in society. Indeed, these informal systems often include culturally specific responses to the management of conflict within society.
15 I acknowledge that the scope of fully examining the criminal justice system in Nunavut is beyond this paper. My intention is to begin setting out some of the parameters and ideas of this work.
16 Elder Mariano Aupilaarjuk and his wife Marie Tulimaaq are highly respected Elders from the Kivalliq region of Nunavut who have passed away. Their contributions to Inuit perspectives on society and philosophy are invaluable and continue to be implemented and studied. Dividing the paper into these three sections comes from his words presented in the Introduction quote.

view and then refocusing, I will argue that high rates of crime are a result of larger, systemic issues. I will argue that a primary motivator in the creation of Nunavut was to provide better justice outcomes for Inuit by approaching crime and addressing its root causes in a manner consistent with Inuit worldviews. However, the system as it exists today is incapable of improving results because it is essentially a mirror of the mainstream Canadian criminal justice systems that frequently displaces the possibility of Inuit approaches to addressing crime and conflict. Displacement frustrates pluralistic approaches to resolving conflict, which can be more effective at healing and resolving disputes in favour of a system that remains largely ineffective. The Canadian approach tends to prioritize denunciation, deterrence and separation, whereas the traditional Inuit approach tends to prioritize rehabilitation and accountability. I argue that displacement occurs because those who implement the system in both Nunavut and Canada tend to favour and place disproportionate value and reliance in the Canadian approaches to addressing conflict, making it an accepted and established status quo. The consequences of favouring the Canadian approach speaks for itself in the statistics and the testimony of Nunavut community members, which tell of the current system's uncanny ability to perpetuate and create new harms with its high rates of trauma, victimization, crime and over-incarceration.

In the third and final section, *Future*, I argue that to address crime and incarceration rates in Nunavut the federal and territorial governments must value Inuit approaches to criminal justice on equal terms as Canadian approaches if society is to begin making steps towards an effective justice system. To place equivalent value on Inuit approaches to justice would require a systemic shift as well as a redistribution of resources. I will argue that these considerations are timely. Unique opportunities to makes concrete changes towards this shift are present. Among these are correctional legislation reform and the replacement of Nunavut's largest correctional facility, the Baffin Correctional Centre. The release of reports such as the *Truth and Reconciliation Commission of Canada Findings* in June 2015 and the newly formed National Inquiry Into Missing and Murdered Indigenous Women and Girls also form part of the momentum towards understanding how and why Canadian institutions are experienced differently by Canada's Indigenous peoples than other Canadians. Addressing these differences and their consequences poses significant legal questions surrounding: Indigenous rights, access to justice and colonialism. From a legal perspective, understanding the way Inuit experience the criminal justice system adds essential understanding of the Canadian system by exposing fundamental breaches in the constitutional foundation of the State, the *Nunavut Land Claims Agreement*, as well as Canadian obligations under s.35(1).[17]

In consideration of the vast scope of this topic and space constraints, I recognize and accept that this paper will only provide a starting point.

17 *Constitution Act, 1982*, Schedule B to the *Canada Act* 1982 (UK), 1982, c 11.



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PAST

> "I would like to look at the Inuit maligait that we had in the past and compare them with the laws we have today so we could develop better laws for the future. I know they are not the same, but in my opinion it is time we look at this, especially for when we have Nunavut." [18]

Language is central to understanding any legal system. Terms communicate meaning imbued with specific ideological concepts and contextual knowledge unique to the cultural values and approaches from where they came. Language forms an essential part of how different legal orders interact; how we understand and value legal concepts will depend in large part on the linguistic and cultural vantage point from which we understand, give and receive interpretations. So, translating legal terms from one language to another can be both enlightening and inherently problematic as expressions are often not directly translatable in attempting to describe the perspectives of a particular legal culture. In the case of Inuit law, our understanding is nuanced further by the diversity shared in the regional variations in both language and culture within Nunavut.[19]

In beginning to understand the contours of Inuit law and justice, the voices and teachings found in the 1999 series "Interviewing Elders" is an invaluable contribution. The research was conducted by students of the Inuit Studies program at the Arctic College in Iqaluit. Inutuqait (a group of Elders) were interviewed in Inuktitut about their perspectives on an expansive range of topics by students that was later published into volumes.[20] Much of the information presented in this paper comes from interviews conducted in Iqaluit between 1997 and 1998, concentrating on Inuit law and tradition.[21] The Inutugait interviewed in these courses were Marie Tulimaaq (from Rankin Inlet, but originally from Natsilingmiut), Lucassie Nutaraaluk (from Iqaluit, but originally from Kinngait), Mariano Aupilaarjuk (from Rankin Inlet, but originally from Natsilingmiut), Akisu Joamie (from Iqaluit, but has spent significant time throughout the south-Baffin region), and Emile Imaruittuq (from Iglulik) with valuable contributions of the students, supervisors and interpreters.[22] I have included the Inuktitut words spoken by the Inutugait and provided in these series with their translation as they hold some of the vital perspectives of the Inuit legal system. Even a brief scan of these manuscripts makes clear the sophistication and complexity of Inuit justice systems. As such, the purpose of this section is to first recount a high-level overview of key concepts within Inuit justice, and second, detail how this key organization system came to be interfered with since the onset of Canadian settlement.

18 Aupilaarjuk as cited in: supra note 4, at pg. 16.
19 Imaruittuq as cited in: supra note 4, at pg. 119 and 172.
20 *Supra* note 1 at pg. v.
21 *Supra* note 4, at pg. 7.
22 *Supra* note 4, at pg. 8.

"I can be asked what I know. I state only what I know." [23]

The fabric of Inuit society is entwined with the roles played by each person in a community. Every member had a role, including in the administration of justice; however, it was the Innatuqaq or Inutuqaq (Elder), angajuqqaaq or ataniq (leader) and angakkuq (shaman) who tended to play decisive roles. The laws and customs comprising Inuit justice reflect Inuit piusiit (moral values and social customs) carried through the generations and used to resolve conflict and correct and guide behaviour.[24] Some of these are maligaq (accepted guidelines followed in an inherent manner. Sometimes translated as "Canadian Law"), maligaralaaq (minor rules), piqujaq (acceptable customs and manners to be followed) as well tirigusuusiit and pittailiniq (both relate to what is forbidden actions or words).[25] Being deeply embedded, there was no need for written codification of laws and customs,[26] instead they are transmitted through observation,[27] art,[28] as well as orally through conversation, unikkaaqtuat (stories)[29] and pisiit (songs).[30]

Crime and conflict was created by going against these laws and customs, and responses were in turn guided by Inuit law and custom and nature. In each case, much attention is given to the context of the conflict.[31] Important contextual factors included the nature and severity of the crime,[32] such as who the individual(s) involved were through their roles and kinship,[33] and whether they had committed previous offences[34] or displayed genuine remorse,[35] the source of the conflict,[36] and the way the conflict was impacting the community.[37]

Counselling was the primary way that crime and conflict were resolved. This was primarily done in person by an Inutuqaq or Inutuqaiq[38] who have the role of counselling the wrongdoer and make decisions about the situation.[39] The first instance of wrongdoing by a person would be responded to by showing care to them as valued members in the community.[40] These efforts was made in order to reintegrate them back amongst the community to restore harmony and balance, and not cause emotional trauma that would prevent their return.[41] Recognizing and upholding value and dignity interrelates with both respect and responsibility, which are especially strong maligaq for Inuit,[42] including respect for wildlife.[43] There were reciprocal duties on behalf of the person who had done wrong to qaqialirniq (to confess a wrongdoing), especially to victims, and not keeping things a

23 Saullu as cited in: *supra* note 1, at pg. 65.
24 Akisu as cited in: *supra* note 4, at pg. 46.
25 *Supra* note 4, at pg. 1–2.
26 Aupilaarjukp as cited in: *supra* note 4, at pg. 13.
27 Imaruittuq as cited in: *supra* note 4, at pg. 84.
28 Dorothy Eber, *Images of justice* (Kingston: McGill-Queen's University Press: 2008).
29 Susan Enuaraq as cited in: *supra* note 4, at pg. 179.
30 Susan Enuaraq as cited in: *supra* note 4, at pg. 179.
31 Nutaraaluk as cited in: *supra* note 4, at pg. 160.
32 Aupilaarjuk as cited in: *supra* note 4, at pg. 30.
33 Nutaraaluk as cited in: *supra* note 4, at pg. 121.
34 Imaruittuq as cited in: *supra* note 4, at pg. 51.
35 Nutaraaluk as cited in: *supra* note 4, at pg. 160.
36 Imaruittuq as cited in: *supra* note 4, at pg. 57.
37 Imaruittuq as cited in: *supra* note 4, at pg. 44.
38 Imaruittuq as cited in: *supra* note 4, at pg. 93.
39 Imaruittuq as cited in: *supra* note 4, at pg. 53.
40 Imaruittuq and Nutaraaluk as cited in: *supra* note 4, at pg. 51 and 221.
41 Imaruittuq as cited in: *supra* note 4, at pg. 187.
42 Aupilaarjuk as cited in: *supra* note 4, at pg. 28.
43 Aupilaarjuk as cited in: *supra* note 4, at pg. 36.

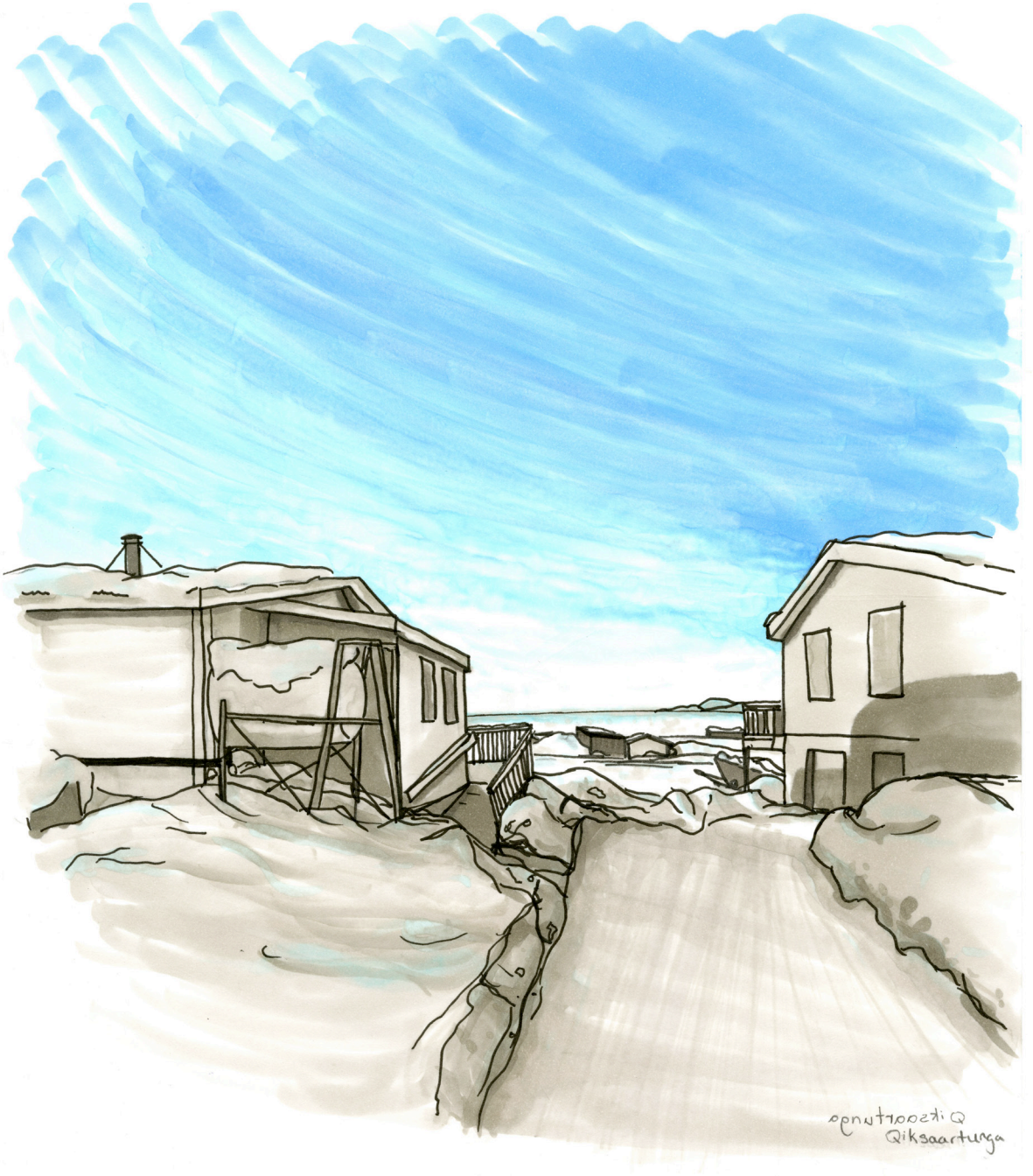
secret.[44] This goes hand in hand with aniattunik (letting go), to begin the healing process and seeking forgiveness.[45] Investigations seek to gather evidence not to place blame, but to seek truth and information about the source of crime to better craft an appropriate response.[46] Anagkkuq played special roles in uncovering truth and obtaining confessions, which were rigorous in cases where there were no admissions of guilt.[47] Without this important process unsanctioned revenge was more likely to occur.[48]

Sanctions were delivered by both the community and nature.[49] High levels of observation within community allowed the monitoring of progress,[50] but within the counselling process, confidentiality was taken seriously, so it was primarily done in private, possibly with immediate family members, to preserve the integrity and avoid gossip.[51] Repeated offences were addressed in counselling by increasing the severity and intensity of response addressing the consequences of continued law-breaking.[52] In these rare circumstances of a crisis or if private counselling was ineffective, the community as a whole be permitted to be directly involved in these conversations.[53] To have Inutuqaq and broader members of the community involved in addressing directly the issues of an individual was viewed as an embarrassing event and an definite escalation of the response towards addressing conflict.[54]

The ultimate sanction given was banishment. It was only given as a last resort after multiple attempts to rehabilitate the person in conflict.[55] Banishment was either a literal abandonment of the individual or a temporary exclusion from taking part in the community.[56] Murder was seen as the worst crime and did the most damage in the community, which could warrant a response of abandonment, but even then, the response to murder was highly contextual.[57] Inutuqait still sought to understand the reason why murder was committed, the likelihood of re-offending, and if there was genuine remorse.[58] If there was no remorse and a high likelihood of re-offending, there was little chance of a person who committed murder being successfully integrated back into the community, so they might be banished or killed.[59]

These maligait, maligaralaaq, piqujaq, tirigusuusiit and pittailiniq formed Inuit legal orders and outlined the roles governing Inuit society based on piusiit. Slowly, the Inuit legal order began shift from its place as the central form of governance in all manner of life with contact.[60] The introduction and eventual assertion of the Canadian state with its laws and institutions changed society's relationship to Inuit legal orders and values.

44 Imaruittuq as cited in: *supra* note 4, at pg. 145.
45 Elisapee Ootoova as cited in: *supra* note 1, at pg. 59.
46 Imaruittuq as cited in: *supra* note 4, at pg. 47 and 57.
47 Aupilaarjuk as cited in: *supra* note 4, at pg. 49.
48 Imaruittuq as cited in: *supra* note 4, at pg. 48.
49 Aupilaarjuk, as cited in: *supra* note 4, pg. at 14.
50 Akisu as cited in: *supra* note 4, at pg. 53.
51 Aupilaarjuk as cited in: *supra* note 4, at pg. 49.
52 Imaruittuq as cited in: *supra* note 4, at pg. 51.
53 Imaruittuq as cited in: *supra* note 4, pg. 44.
54 Imaruittuq as cited in: *supra* note 4, pg. 46.
55 Imaruittuq as cited in: *supra* note 4, pg. 54.
56 Imaruittuq as cited in: *supra* note 4, pg. 54.
57 Imaruittuq as cited in: *supra* note 4, at pg. 162.
58 Nutaraaluk as cited in: *supra* note 4, at pg. 160.
59 Nutaraaluk as cited in: *supra* note 4, at pg. 164.
60 Aupilaarjuk as cited in: *supra* note 4, at pg. p 26.



> "We would go for long periods of time when we didn't have contact with qallunaat" [61]

Understanding the arrival of Europeans and the creation of Nunavut in Inuit Nunangat is compelling as an often overlooked narrative in the broader colonial history of the arrival of the Canadian state to Indigenous peoples and lands. Inuit conceptions of "owning" land were contrary to Inuit piusiit and inconsistent with unilateral declarations made by European entities for vast areas of Inuit Nunangat. Ignoring Inuit sovereignty and with no consultation or consent, the Hudson's Bay Company had declared much of the area of southern Nunavut in 1670 as "Prince Rupert's Land." [62] Similarly, next to this territory, the British Crown at some point declared is ownership of "North-Western Territory" alongside Prince Rupert's Land, which comprised a significant portion of what we know is Inuit Nunangat. Likely spurred by the confederation of Canada in 1867, the Hudson's Bay Company sold this land to the British Crown to join with the North-Western Territory, creating the Northwest Territories in 1870. [63] The British Arctic Territories, islands to the farthest north, were transferred to Canada in 1880, completing the picture of Canadian sovereignty with the land transfers which would later become Nunavut.[64] The map in figure 1 shows the land areas in question.

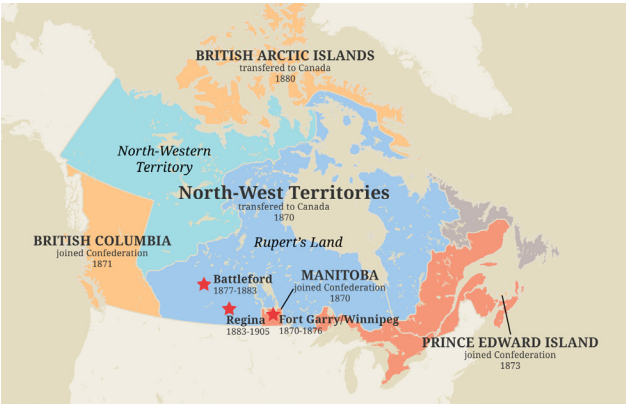
Although documented contact between Inuit and Europeans occurred as far back as the 1500s, the sustained presence of Europeans in the land now known as Nunavut, did not occur until after World Wars I and II.[65] Nunavut was one of the last places to be colonized in North America.[66] The first permanent European settlers in Inuit Nunangat were employees of the Hudson's Bay Company, missionaries and RCMP, each marking the transition into what see today. "Interview with Elders" recounts how, by the time of each of the Inutuqaq's birth, Europeans were present but an uncommon sight and the first time seeing one was a memorable experience.[67] With the arrival of the RCMP, the criminal justice system was one of the first Western institutions used to assert Canadian sovereignty in Inuit Nunangat. For a period of time, the Canadian government seemed content to not interfere with the Inuit methods of justice being carried out amongst Inuit and, to a certain extent, applied to Europeans.[68] It was not until 1919 when the first Inuit, two Inuk men named Sinnisiak and Uluksuk, experienced a Canadian formal prosecution and sentence as a demonstration of "British justice" being applied and "taught" by a State that viewed the Arctic as inhabited by "uncivilized, prehistoric savages." [69]

Between 1950 and 1975, the Canadian government took an active role as the primary agent of the change in the Arctic, which

61 Elisapee Ootoova as cited in: *supra* note 1, pg. 14.
62 Gordon W. Smith. "The Transfer of Arctic Territories from Great Britain to Canada in 1880, and Some Related Matters, as Seen in Official Correspondence." *Arctic Institution of North America*, Vol. 14, No. 1 (1961), March: 1–80.
63 *Ibid*.
64 *Ibid*.
65 Kenn Harper, *In Those Days: Arctic Crime and Punishment, Book 2* (Iqaluit: Inhabit Media Inc., 2015).
66 Nunavut Tunngavik Incorporated, Annual Report on the State of Inuit Culture and Society, pgs. 13–14: Examining the Justice System in Nunavut, (Iqaluit: Nunavut Tunngavik Incorporated, 2014), pg. 5.
67 Example: Paniaq as cited in: *supra* note 1, pg. 49.
68 Qikiqtani Inuit Association, *Qikiqtani Truth Commission: Thematic Reports and Special Studies 1950–1975* (Iqaluit: Inhabit Media Inc., 2014), pg. 20.
69 *Supra*, note 68, pg. 4, and S. Grant, *Arctic Justice: On Trial for Murder, Pond Inlet, 1923* (Montreal and Kingston: McGill-Queen's University Press, 2002).

Figure 1

Northwest Territories
1870



Source: http://www.pwnhc.ca/wp-content/uploads/2014/10/map-1870.png

swept through what would become Nunavut.[70] Canada's gradual Arctic establishment crept, in the name of Crown sovereignty, through institutions like the RCMP and schools. During this time, schools, nursing stations and houses appeared, and many Inuit families recall this was when their family made the transition from their camps on the land into permanent settlement life.[71] It is also a time when many atrocities were committed in asserting Canadian sovereignty and attempting to integrate Inuit into a Canadian society favouring European values and culture. Paternalistic and racist policies resulted in such things as the Inuit high Arctic relocation and forced settlement,[72] residential schooling[73] and the qimmiijaqtauniq (the dog slaughter),[74] leaving a legacy of distrust and trauma felt across generations.

By the 1970s there was growing awareness and dissatisfaction among Inuit and other Indigenous and non-Indigenous Canadians about the state of Inuit and other Indigenous communities in Canada.[75] The declaration that Canada was the sovereign and ultimate owner of Inuit Nunangat had to be reconciled with the fact that Inuit had never relinquished their lands, leading to negotiations between the Crown and Inuit. Negotiations culminated in the *Nunavut Land Claims Agreement* ("NLCA") in 1993 and later the creation of Nunavut as a geopolitical territory of Canada in 1999.[76] Powerful Inuit leadership sustained the mobilization of Inuit

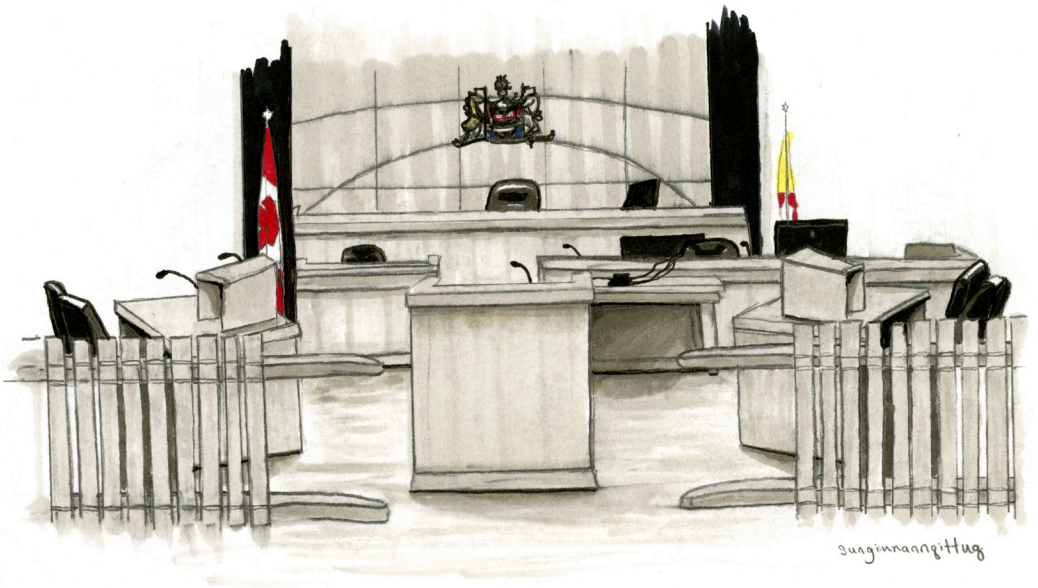
70 *Supra*, note 70, pg. 20.
71 *Ibid*, pg. 23 and pg. 46.
72 For more information, see: J. Borrows and L. Rotman, *Aboriginal Legal Issues: Cases, Materials, and Commentary*, 4th Edition (Markham, ON: LexisNexis Canada Inc., 2012), pg. 595.
73 *Supra*, note 70, pg. 33.
74 *Supra*, note 70, pg. 43.
75 J. Borrows and L. Rotman, *Aboriginal Legal Issues: Cases, Materials, and Commentary*, 4th Edition (Markham, ON: LexisNexis Canada Inc., 2012), pg. 603.
76 *Supra*, note 68, pg. 5.

towards self-determination and founded Nunavut's creation — a new territory changing the face of Canada forever, made in part to sustain and evolve the movement of Inuit Nunangat and piusiit preservation for future generations of Inuit.

In the years of negotiations leading up to its creation, when Nunavut was spoken of, the same breath often relayed how Inuit would regain control of their land and lives.[77] For one, Nunavut's demographics would ensure there would always be an Inuk premier holding the power to advocate for Inuit and Nunavut's interests to the prime minister and in top-level federal-territorial-provincial meetings.[78] The series "Interviewing Elders" is remarkable body of scholarship for many reasons, including its timing. The series, published in 1999, captures perfectly the Inutuqait perspective on numerous issues facing society and their hopes to reconcile these matters as they anticipated the creation of Nunavut with greater control by Inuit. Both the interviews and the planning and implementation documents frequently concentrate on mechanisms to address the disproportionately high rate of crime and violence in Inuit communities so poorly served by the system at the time.[79] Indeed, the Nunavut Implementation Committee reports designing a new model of justice for the new government, articulated that improving the administration of justice in Nunavut would require equal investment in the social, economic, cultural, health and well-being of the Inuit population to ensure a full partnership." A full partnership with Inuit necessarily includes the meaningful recognition and operationalization of Inuit piusiit as an integral element of Nunavut society.

The next section of the paper explores how Nunavut serves Inuit now. It begins by continuing this section's conversation about Inuit law and colonialism, and then moves to broadly examine the lager social systems designed by the state to realize "a full partnership" and Inuit involvement at different levels within these different social systems. The analysis will progress by inspecting how these broader systemic institutions influence Nunavut's criminal justice operation. It will examine each of the internal mechanisms of criminal justice in more detail, to see how it responds to the crime and conflict it is mandated to address.

77 For example: Jose Kusugak, *Nunavut: Inuit Regain Control of Their Land and Their Lives* (Copenhagen: International Work Group for Indigenous Affairs, 2000), pgs. 20–28.
78 Jose Kusugak, *Nunavut: Inuit Regain Control of Their Land and Their Lives* (Copenhagen: International Work Group for Indigenous Affairs, 2000), pg. 28.
79 *Supra* note 76, pg. 5.


Jungiunaangittug

PRESENT

"We were left behind. But now we want to take part in what is happening. That is why we should keep on talking about how things used to be done. Because it is not written, people think it does not exist. This makes us feel like we are caught in the middle. As our land Nunavut is different from the land down South, in the same way the culture of the two people is different from each other. Not everything that is taught in school is useful to our situation up here. You who have been educated in the school system, are probably unable to make use of the Inuit piusiq. If you began to understand this, then it could be put to use." [80]

The story and consequences of colonization on people are all-encompassing and interwoven. Another strong maligaq of Inuit is tunnganarniq (welcoming new people and being inclusive) and qanuqtuurniq (being resourceful, innovative and adaptable).[81] So resilient are these maligait, that the Government of Nunavut incorporates them into institutional guiding principles for the entire public body. So strong and inclusive are these maligait, that many arriving settlers were welcomed by Inuit; some settlers are even adopted into families and incorporated into community life along with aspects of their Western culture.

In recent decades Inuit increasingly challenge the legitimacy and efficacy of colonizing Western structures that comprise the governing State.[82]A definition of colonialism is "control of other people's land and goods … the takeover of territory, appropriation of material resources, exploitation of labor and interference with political and cultural structures of another territory or nation."[83] By this definition Inuit experience colonization.[84] Inuit deal with a State that displaces and devalues central elements of Inuit piusiit, often implicitly. Disassociation of piusiit by the State creates a pervasive tension between the Inuit being and Inuit societal structures continuing to govern the lives of many Nunavummiut. It affects the degree that people understand and respected the newly imported State structures which simultaneously govern Nunavummiut. This tension is particularly felt in circumstances where puisiit and State structures seem to directly contradict each other.

While many Inutuqaq assign some positive value to Western approaches to justice, issue arises when the governance experienced by Inuit places higher value on Western methodology, thereby becoming the default response to delivering services, contrary to Inuit piusiit and at the expense of Inuit perspectives. This implicit valuing is how discrimination both disguises itself and propagates into a systemic problem. It also suggests that solutions are not necessarily met by the complete fusion of Inuit and Western principles into a single system to approach all issues, but rather the careful maintenance of both where each has equal value. However, because Nunavut operates with Inuit majority on Inuit Nunangat, Therefore, in

80 Akisu as cited in: *supra* note 4, pg. 46.
81 "Inuit Qaujimajatuqangit Katimajiit Summary Report 2013–2015," Government of Nunavut, February 2016, document number: 058-4(3).
82 Or perhaps Inuit voices have not necessarily been increasing but rather, technology has facilitated their move forward where society is confronted and must listen.
83 Idlout Lori, Kral Michael, Minore Bruce, Dyck Ronald, Kirmayer Laurence, "Unikkaartuit: Meanings of Well-Being, Unhappiness, Health, and Community Change Among Inuit in Nunavut, Canada," December 2011, Vol. 48, Issue 3-4, pgs. 426–438, pg. 426.
84 Acknowledging the complex nature and the manner in which colonialism affects our lives makes defining it extremely difficult. In one sense colonialism is a historical event, in another a system, in another it is an identity and in yet another it is a deeply personal experience with its own nuances.

Nunavut, Inuit methods of doing and knowing are the most appropriate approach to a given issue and should not be an institutional or optional add-on, but in many circumstances, the default.

Yet, it seems as Nunavut continues to grow and be shaped, the default delivery of State services, including criminal justice, is through Canadian institutions and not built around Inuit values and relationships, which consequently do not "fit" with Inuit worldview.[85] The presumption is that Western-style systems are foundationally superior and easily imported to any colony to create institutions requiring only minimal adjustment to produce a successful and just state. How are Nunavut's institutions faring?

"Symptoms of something all around us."[86]

Some argue that the current system is conditioning Indigenous youth for life within institutions as opposed to life within the community.[87] As of 2016, Nunavut has the youngest population in Canada, with a median age of 24.7, and the highest population growth rate.[88] People in Nunavut continue to face challenges relating to physical access to health services, as well as quality and appropriateness of the services despite Canada's universal health care ranking as among the best in the world.[89] The most recent analysis suggest Nunavummiut on average are expected to live approximately 10 years less than the average Canadian (71 versus 81 years old).[90] Self-reporting health is used as an indicator of overall health and, in recent surveys, 60% of Canadians view their health as "very good or excellent,"[91] compared to 38% of Nunavummiut — suggesting that potentially 62%, or well over half, of Nunavummiut view their health as something less than very good or excellent.[92]

Community consultations repeatedly reveal that Nunavut communities face barriers to providing health and mental health supports that include the existence of basic resources, particularly for mental health.[93] Meaningful data on addictions in Nunavut is particularly difficult to develop, but communities will tell you there is a problem with substance abuse. Some studies have suggested that Inuit living in Nunavut are less likely to engage in heavy drinking than other Inuit residing in Canada,[94] but this fails to take into account that the majority of Nunavut communities have chosen to either restrict or ban alcohol. Having a dry community does not mean that no one consumes inebriants or that it is not a problem. Community members, particularly Inutuqaq, voice their concerns over alcohol being one of the sources and aggra-

85 Shirley Tagalik *Innunnguiniq: Caring for the Children the Inuit Way* (Prince George, B.C.: National Collaborating Centre for Aboriginal Health, 2010), pg. 4.
86 This statement is a partial quote from a community organization participant articulating Inuit worldviews on mental health as cited in: Priscilla Ferrazzi and Terry Krupa, "Symptoms of something all around us: Mental health, Inuit culture, and criminal justice in Arctic community in Nunavut, Canada (2016)," Vol. 165, *Social Science & Medicine*, pg. 162.
87 "Child welfare" in A.C. Hamilton and C.M. Sinclair, The Justice System and Aboriginal People: Report of the Aboriginal Justice Inquiry in Manitoba, Vol. 1 (1991).
88 Statistics Canada, "Table 2: Population size and growth rate, Canada, provinces and territories, 2006 to 2011 and 2011 to 2016," *The Daily*, March 30, 2017, and Statistics Canada "Annual Demographic Estimates: Canada, Provinces and Territories, Section 2: Population by Age and Sex," 91-215-X, 2012.
89 Kluane Adamek, Teevi Mackay & Mitchell White, *Integrating Traditional Practices into Inuit Mental Wellness Programs* (September 2015), Jane Glassco Northern Fellowship, pg. 35.
90 Government of Nunavut, *Health Profile Nunavut: Information to 2014. Office of the Chief Medical Officer of Health Technical Report March 2016*, Department of Health, Government of Nunavut, pg. 13.
91 *Ibid*, at page 16.
92 *Ibid*, at page 16.
93 See for example, Government of Nunavut, *Public Engagement Report for the Crime Prevention Strategy, A Project of the Government of Nunavut Department of Justice Community Justice Division*. (Iqaluit: December 18, 2015) and "Inuit Qaujimajatuqangit Katimajiit Summary Report 2013–2015," Government of Nunavut, February 2016, document number: 058-4(3).
94 *Supra*, note 87, pg. 30.

vating factors of conflict within communities because substance abuse tends to exacerbate existing tensions and create conflict.

> "Things are different because of the alcohol. The elders today are just as knowledgeable as before, but we don't talk or instruct the young peoples as much anymore." [95]

Addiction is strongly predicated by childhood trauma and loss more so than choice, chance or genetic predeterminations.[96] Substances are often used as self-medication and as a coping mechanism for mental health issues.[97] The transition into settlements with "well-intended" social programs offered by the Canadian state were implemented with little to no input from Inuit, and which are sometimes entirely at odds with Inuit social values and organizations began gradually displacing Inuit piusiit as a grounding centre in society.[98] The impacts of settlement and State-sanctioned social programming, such as residential schooling, have undeniably resulted in trauma and societal gaps caused by the disruption of culture.[99] Unaddressed traumas and displacement help perpetuate gaps in social organization by enforcing barriers for individuals to engage in the larger Canadian society and its economies. For example, unaddressed trauma can make it difficult to meet family and community responsibilities, graduate from high school, or maintain gainful employment. Disturbances to family and parenting practices in particular have a tendency to perpetuate harm through intergenerational trauma.[100]

Suicide is often associated with trauma and profound loss. Nunavummiut are familiar with suicide. Public opinions regarding suicide range from seeing suicide as a systemic problem arising out of colonization to understanding it as being a part of Inuit culture.[101] In the past few years increasing attention has been drawn to Nunavut's extreme rates of death by suicide, which are about 10 times higher than the national average.[102] *Figure 2* details the number of people who died by suicide in the past five years as reported by the Nunavut chief coroner. This rate does not include the number of attempted suicides, which is nearly four times that of completed suicides.[103] The testimony of Inutuqait within *Interviewing Elders* briefly touches on the cultural elements of suicide by articulating that, historically, suicide was used by Inuit in strict circumstances to preserve the life of a camp as a whole, such as in times of starvation or assisting the gravely ill to die.[104] The Inutuqait found that much of the suicide they see in communities are completed by those who are struggling with finding belongingness experienced as a personal void resulting from

95 Apphia Agalakti Siqpaapik Awa as cited in *Saqiyuq: Stories for the Lives of Three Inuit Women* (Montreal and Kingston: McGill-Queen's University Press, 2001), pg. 136.
96 G. Maté, "Addiction: Childhood Trauma, Stress and the Biology of Addiction," *Journal of Restorative Medicine* (2012), Vol. 1, p. 56.
97 G. Maté, "Addiction: Childhood Trauma, Stress and the Biology of Addiction," *Journal of Restorative Medicine* (2012), Vol. 1, p. 60.
98 Shirley Tagalik, *Inuit Qaujimajatuqangit: The Role of Indigenous Knowledge in Supporting Wellness in Inuit Communities in Nunavut*, National Collaborating Centre for Aboriginal Health, Prince George, B.C (2009), pg. 3.
99 See, for example: Truth and Reconciliation Commission of Canada, *Honour the Truth, Reconciling for the Future: Summary of the Final Report of the TRC* (Truth and Reconciliation Commission of Canada: 2015).
100 Shirley Tagalik, *Innunnguiniq: Caring for the Children the Inuit Way*, National Collaborating Centre for Aboriginal Health, Prince George, B.C. (2010).
101 Nunavut Tunngavik Inc., "Statistical Data on Death by Suicide by Nunavut Inuit, 1920 to 2014," September 2015, pg. 1.
102 Steve Ducharme, "Nunavut's 2016 Suicide Death Tool Equal the Previous Year's," *Nunatsiaq News*, January 26, 2017. Accessed at: http://www.nunatsiaqonline.ca/stories/article/65674nunavut_suicides_remain_the_same_in_2016_attempts_increase.
103 *Ibid.* The RCMP V division reported 112 situations classified as attempted suicides.
104 *Supra*, note 86, pg. 17.

Figure 2

Number of People Who Died by Suicide in Nunavut

2012	2013	2014	2015	2016
25	45	27	32	32

Source: Nunavut Tunngavik Inc., "Statistical data on death by suicide by Nunavut Inuit, 1920 to 2014," September 2015, pg. 5.

adhering neither to piusiit nor Western culture and values.[105] Researchers believe that cultural continuity, through things such as language retention and revitalization, are protective factors against Indigenous youth suicide because cultural elements like language act as social anchors which support identity and connection to a future-self and belonging to a community.[106]

The most recent graduation rate in Nunavut is 31.5% while nearly half, 46%, of Nunavut's population do not have a high school graduation certificate or equivalent.[107] Nunavut also has one of the highest unemployment rates in Canada at 15.4%.[108] In Western societies, attaining a high school diploma is the expected baseline level of education one should receive, which generally links a person's perceived employability to their education level. The Government of Nunavut is one of the largest employers in the territory, and examining the distribution of Inuit who work within it is telling. *Figure 3* demonstrates that the majority of Inuit are working as "administrative support" at nearly representative numbers, while there is a significant dip in Inuit representation in the middle and senior management levels. Significant gaps in Inuit employment at the managerial level is particularly problematic because policy operates, is encouraged and monitored at this level. These positions report to Executive and therefore Cabinet on the status of their division and assist in prioritizing issues. Managers are also responsible for ensuring policies rooted in the NLCA are realized, which impacts how the State operates now and influences its operation in the future. A critical example of this is Article 23 of the NLCA, which is a law requiring State to adhere to hiring practices that are representative of Nunavut's population (i.e., 85% Inuit employment and 15% non-Inuk). If these positions are filled by individuals with little to no understanding of Inuit puisiit and culture, there is a strong possibility that formal policies aimed at their implementation will not be executed well. Gaps in Inuit employment at this level also suggest that informal implementation of policies and laws such as NLCA Article 23 by other staff may be potentially undervalued, thought of as illegitimate, unimportant or misunderstood.[109] For example, Inuit nuatqatigiitiarniagut (Inuit societal values) may be viewed as an inherent principle of operations requiring no or little active implementation rather than guiding principles that must actively direct governmental administration.

Gaps in Inuit hiring matter because employment practices have ripple effects in society. Employment directly relates to income and housing security, and other social dimensions, which is likely another reason why Inuit negotiated for NLCA Article 23 in particular. Nunavut experiences high rates of poverty, which manifests itself in different but related ways. The latest statistics suggest that the total number of people in Nunavut receiving income support was

105 See for example: Aupilaarjuk as cited in: *supra* note 4, pg. 26.
106 *Supra*, note 86, at pgs. 18 and 35.
107 Government of Nunavut, *Department of Education Annual Report 2013–2014* (Iqaluit: Government of Nunavut, 2015), pg. 36.
108 Statistics Canada, CANSIM, table 282-0100 and catalogue no. 71-001-XIE. Last modified: 2017-03-10.
109 See for example: Kathleen Martens "#Article23: Meet the woman who is the voice for bullied government employees in Iqaluit," APTN Investigates, National News, February 1, 2107.

Figure 3

EMPLOYMENT SUMMARY OF THE GOVERNMENT OF NUNAVUT PUBLIC SERVICE

POSITION	TOTAL POSITIONS	VACANCIES	BENEFICIARIES HIRED
Executive	38	2	47%
Senior Management	164	18	18%
Middle Management	469	111	27%
Professional	1650	440	26%
Paraprofessional	1068	328	63%
Administrative Support	1268	327	85%

Source: "Towards a Representative Public Service: statistics of the Public Service within the Government of Nunavut as of; March 31: 2016." Department of Finance, Government of Nunavut, pg. 3.

14,578, with discrepancies in recipients between communities.[110] As Nunavut's largest and capital city, Iqaluit taxpayers had the highest median income by a large margin ($65,590) compared to other communities, for example, Rankin Inlet ($38,000), Pond Inlet ($22,110) or Sanikiluaq ($18,370).[111] About 70% of Inuit households are food insecure, which is over eight times higher than the national average and one of the highest documented food insecurity rates in any developed country.[112] A comprehensive study conducted several years ago found that 1,220, or 4%, of Nunavummiut are homeless. This same study found that 4,230, almost 50%, of homes did not meet housing standards. Followup studies since have been skeptical of the findings in its unrepresentative capture of true homelessness hidden by transience or overcrowding. Although beyond the scope of this report, women are often disproportionately affected by poverty and its societal fallout.

The statistics described in the preceding pages point to a systemic problem, which perpetuates and, in some cases, exacerbates harm in communities. When Trina Qaqqaq stood to give her speech in the House of Commons on March 8, 2017, she said, "All we are asking for are our basic human rights. Where is the support from leaders with power and abilities to make change?" [113] The voices and data explored in the preceding pages provide a striking evidentiary backdrop to her speech. The sentiments and troubling statistics expressed cannot exist if most Inuit have their basic human rights met — rights which help assure "our family has what it needs. Basic things like food, water, warm clothing and a bed."[114] In this sense, the statistics are symptomatic of something that is

110 Government of Nunavut, *Nunavut Social Assistance Recipients by Community, Region and Territory, 2005 to 2013*, Nunavut Bureau of Statistics, December 11, 2014.
111 Government of Nunavut, "Nunavut Median Total Income of Taxfilers with Income by Region and Community, 1999 to 2014," Nunavut Bureau of Statistics, November 3, 2016.
112 Nunavut food Security Strategy and Action Plan 2014–16, Nunavut Food Security Coalition, 2014.
113 https://www.youtube.com/watch?v=qoeZw8FbtTU.
114 Government of Nunavut, *Public Engagement Report for the Crime Prevention Strategy, A Project of the Government of Nunavut Department of Justice Community Justice Division* (Iqaluit: December 18, 2015), at pg. 8.

all around Nunavummiut; a State that still seems to favour Canadian approaches and values in implementing services and programs; and a State that does so often at the expense of Inuit approaches and values in implementing services and programs, and in doing so sends a self-perpetuating message about the place of piusiit within Nunavut State operations.

Movements toward valuing and operationalizing piusiit within community institutions that significantly contribute to the well-being of Nunavummiut are occurring. For example, Ilisaqsivik (*recognizing one's self* or *a place where one identifies something or an issue*) operates as a nonprofit organization dedicated to community wellness in Clyde River.[115] Incorporated in 1997, when it first opened, the staff recognized that the organization was taking a Western-based approach to wellness that is inconsistent with Inuit puisiit despite serving primarily Inuit. As a result the team changed their approach, finding the best balance between the two.[116] Since then, the organization's work has gained national recognition and has grown to collaborate with other community organizations, developing a counsellor training program to expand to its area of influence outside of the community.[117] Although Ilisaqsivik is locally and nationally lauded, it continues to rely solely on short-term and project-based funding, a portion of which is from the State.

The State's approach makes visible through its funding decisions which services it supports. In allocating scarce public resources, the State prioritizes issues and approaches to services and therefore ascribes value. If these decisions do not attribute at least equal value to community-based approaches to wellness, how can the government ensure equal access and adhere to its mandate of supporting Inuit puisiit? What are the consequences of unequal access?

> "The person is faced with intimidation, fear and shame. They feel badly so they make things worse for themselves. If the Inuit ways were used, they would have felt sincerity and concern, but today they see it as hopeless. They just say, 'Forget it. I don't care anymore. I might as well just make things worse.' If I were before the court and was made to feel guilt, fear and intimidation and felt alienated from the whole process I would just say, 'Forget this. I don't care anymore' as well." [118]

When other systems — child welfare, education, economic development, food security, housing, social services, health care — do not provide adequate and appropriate access, people are more likely to come into conflict with each other and the law. The need for a new way to effectively address crime and violence rates in communities was a primary consideration in creating Nunavut. In Nunavut's creation, a formalized task force was mobilized to incorporate Inuit legal traditions and perspectives into Nunavut's new criminal justice system as a way of resolving conflict and decreasing crime. There was a sense that Inuit would finally be able to change the criminal justice to stem the historical perpetuation of injustice felt at the hands of the Canadian system by implementing a process culturally appropriate suited to Inuit Nunangat.[119] Although, the new government is a public institution, its origins and statutory

115 *Supra*, note 81, pg. 21.
116 *Ibid*, pg. 21.
117 *Ibid*, pg. 22.
118 Imaruittuq as cited in: *supra* note 4, pg. 51.
119 *Supra*, note 68.

obligations derive from the NLCA and directly relate to Inuit self-determination.

The following pages will examine how the criminal justice system in Nunavut is not working in the way that many who fought for its creation had hoped. Criminal justice is a visible centre where imported Canadian values and principles are firmly imposed on the people of Nunavut. I argue that, in many ways, the Canadian criminal justice system in Nunavut acts like a metaphorical funnel for Nunavummiut. Because once a person enters it from a community its processes tend to drive a person down toward additional criminal justice processes requiring more contact with the State rather than back into their community. If the State itself is a source of conflict, its task of resolving disputes becomes inherently problematic. Further, if the State favours adversarial responses to crime with few mechanisms and resources for diversion, most crimes will tend to culminate in a cycle of imprisonment or release with no meaningful intervention.

> "More people have to report things to the RCMP and work with them. Why are people scared to report? Why are people not reporting?" [120]

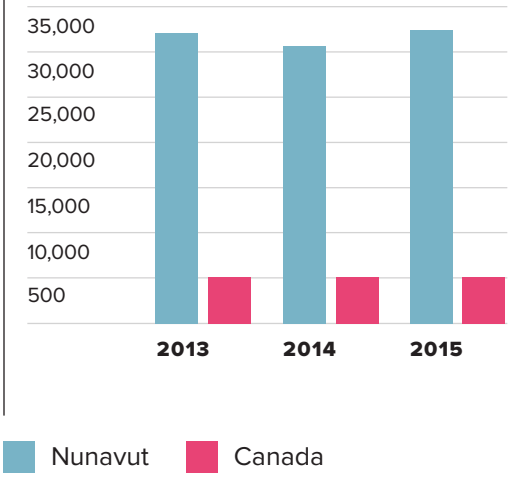
Elucidating on the analogy of the Nunavut criminal justice funnel, the very top of the funnel's entrance would be the RCMP because their services are carried out broadly first within the community and are generally the first to respond to conflict. If a conflict fits within the Canadian Criminal Code definition of a crime, the State is obligated to intervene, in which case, the RCMP will charge a person perceived to be causing the conflict and sometimes remove them from the community.[121] Nunavut's high rate of crime means that the RCMP is required to frequently intervene in the lives of Nunavummiut. *Figure 4* depicts recent police-reported adult crime rate trends, relative to the national average crime rate. The rates of crime in Nunavut are high and the types of crime being committed are more severe, pointing to a greater proportion of people in communities being exposed to or victimized in serious violent criminal disputes, such as murder or sexual assault. *Figure 5* illustrates the crime severity index of Nunavut relative to Canadian rates.[122] Such prevalence of violence and victimization helps normalize violence, reduces reporting and confounds efforts to restore and protect communities all the while making it more essential.[123] Most violence is perpetrated against family members, particularly women and children, making these numbers troubling.[124] Analysis conducted in 2014 concluded that one in every two Inuit women had experienced a sexual assault as a child.[125]

Considering that the RCMP is a first responder, intervener and law enforcer in every Nunavut community, in many ways they are the face of the State criminal justice system. Organizational expectations and the historical presence of RCMP in the Arctic suggest why their organization may have difficulty in policing Nunavut communities. The chronology of northern settlement with the arrival of the RCMP discussed in the previous section, along with the severe nature of the crimes being commit-

120 *Supra*, note 111, pg. 109.
121 H. Zehr, "Doing Justice, Healing Trauma: The Role of Restorative Justice in Peacebuilding," *South Asian Journal of Peacebuilding* (Minneapolis: Peace Prints, 2008), 1:1.
122 A point of caution: in 2012 Statistics Canada changed the way they report rates of crime from Table 2a to 2b.
123 M. Riedel, *Criminal Violence: Patterns, Explanations, and Interventions, 4th Edition* (New York: Oxford University Press, 2016).
124 Statistics Canada, *Family Violence in Canada: A Statistical Profile, 2013* (2014), Juristat Article: Catalogue no. 85-002-X.
125 *Supra*, note 68, pg. 24.

Figure 4

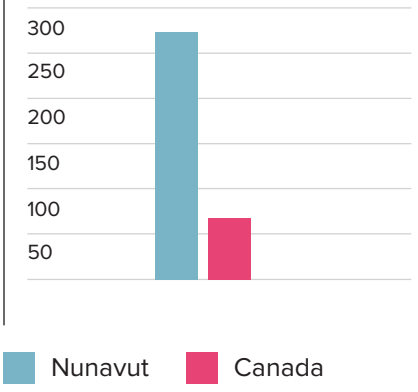
Police Reported Crimes



Source: Statistics Canada

Figure 5

Crime Severity Index Comparison Between Nunavut and Canada



Source: Statistics Canada

ted in Nunavut, breeds an intensity that can foster resentment and trauma on both sides of RCMP-community relationship in a way that tends to propagate itself.[126] The intense front-line nature and difficulty of the RCMP work means that RCMP officers are often first to arrive on a scene, where there is violence and often that violence is between family members, with children involved, and often in a close-knit community.[127] There has been sustained pressure to increase the number of Inuit RCMP members to increase mutual understanding and respect; however, the RCMP face recruitment challenges and the majority remain southern members. An RCMP member recently lamented in a community consultation meeting that there is an immediate need for intense cultural and language training for the RCMP.[128]

> "We only take sides during conflicts and through court. We are not dealing with our own conflicts between our own people."[129]

The courts represent the next ring in the funnel analogy. The person selected as the perpetrator of the conflict by the RCMP enters the funnel towards the next stage, the courts, once criminally charged. The courts adjudicate crime with an end of finding either no guilt or guilt accompanied by State-sanctioned punishments established in the interest of public order and protection.[130]

126 See for example: Alex Brockton, "Ottawa police investigate RCMP-involved shooting in Pond Inlet, Nunavut," CBC News, March 19, 2017, and "RCMP officer shot to death in Nunavut hamlet," CBC News, November 6, 2007.
127 *Supra*, note 68, pg. 15.
128 *Supra*, note 111, pg. 154
129 *Ibid*, at pg. 135.
130 *Criminal Code of Canada* R.S.C. 1985, c. C-46, s.718, outlines some of these objectives.

The creation of the Nunavut Court of Justice ("the Court") was envisioned to play a central role in criminal dispute resolution different from any other Canadian court. Its organization and unique features were to be reflective of both Inuit puisiit and community realities.[131] The Court unified the three levels of the judiciary into one, amalgamating each function to enhance efficiency in resolving criminal disputes. The unification is thought to increase access to justice by generating a unified response to almost all serious criminal and civil matters at local levels.[132] The Court's mandate to better address conflicts at local levels was supported by several innovative programs and services. A Justice of the Peace ("JP") system and an Inuit Court Worker program, each intended to increase the number of Inuit working within the Court by providing training.[133] The JP program is particularly innovative; they hear summary conviction matters arising out of territorial statutes, municipal by-laws, and selected criminal cases. The vision was that the training programs would be a conduit through which Inuit could take their rightful place as authorities in resolving criminal disputes in the territory, decreasing Nunavut's reliance on southern judges who are extremely costly and unfamiliar with Nunavut or Inuit. The development of a circuit Court brings criminal hearings and sentencing into each community in Nunavut. Circuit Court seems to create part of the problem, however. Community members perceive and experience the Court as delivering "parachute justice" where unfamiliar lawyers, court workers and judges occupy the community for a short period to hand out sentences and then promptly leave.[134] Lastly, the Court integrates with Community Justice through a protocol allowing for cases to be diverted away from the traditional adversarial court to Community Justice Committees, which will be discussed further.

Despite all of these functions, the Court still employs the same adversarial processes as most Canadian courts. All judges apply the *Criminal Code of Canada* to process conflicts with Canadian Law. Although perhaps obvious, it is nonetheless critical to explicitly state that because the *Criminal Code of Canada* represents one of the central ways Canadian law operates on Nunavummiut: Canadian laws determine innocence or guilt, freedom or captivity. The principles in which the courts determine guilty sentences are important because they represent the values used to approach and address conflict. These are the six principles of the *Criminal Code of Canada* used to sentence a person:[135]

1. to make a strong statement or example against the criminal act;
2. to discourage anyone from committing crimes, including those who commit crimes against other persons;
3. to remove someone from the community to separate them from society;
4. to help rehabilitate the person who committed the crime;
5. to compensate the victims or community of the crime; and,
6. to encourage the person who committed the crime to take responsibility and acknowledge the harm done to victims and community.

131 Nunavut Implementation Commission, Footprints 2: A Second Comprehensive Report of the Nunavut Implementation Commission (October 1996), 238 as cited in *Supra*, note 68, pgs. 5, 7, 24.
132 *Supra*, note 68.
133 Nunavut Social Development Council, *Report of the NSDC Justice Retreat and Conference "Towards Justice That Brings Peace"* (November 1998).
134 Natalia Loukacheva, *The Arctic Promise Legal and Political Autonomy of Greenland and Nunavut* (Toronto: University of Toronto Press, 2007), pg. 41.
135 *Criminal Code of Canada* R.S.C. 1985, c. C-46., s.718.

In comparing these principles to the criminal justice puisiit discussed in the first section, there is some overlap; however, the process used to apply these principles and the priority in which these are applied in Canadian and Inuit legal systems are often antithetical. The Canadian legal approaches tend to favour the first three principles of denunciation, deterrence and separation, while Inuit legal approaches tend focus on the fourth and sixth principles: rehabilitation and taking responsibility for the wrongs committed. The State's approach further serves to exacerbate conflicts by not addressing underlying causes and by applying principles in an adversarial context. Adversarialism is often inattentive to the voices and needs of the victim, accused and community, and tends to be most concerned with procedural fairness over substantive justice. It uses prosecution to resolve disputes through the assignment of blame and guilt. It decontextualizes criminal disputes by narrowing it within the framework of laws as rules which focus on punishment rather than healing or rehabilitation.[136] Those who are already vulnerable or disenfranchised find themselves at a particular disadvantage within this system. The State's focus on the adversarial punitive mode of criminal justice described likely disadvantages all Nunavummiut, but the shift away from the restorative approaches required in Inuit legal systems is predominantly and disproportionately felt by Inuit, which impacts the function of all society.

The Supreme Court of Canada ("SCC") convened in *R v. Gladue* [1999] 1 SCR 688 to recognize and address the growing disadvantage being felt by many Indigenous communities in Canada. In grappling with the alarmingly high rates of crime and incarceration among Indigenous communities,[137] the SCC hints at the tension created by the imposition of the Canadian judicial approach onto Indigenous peoples. The SCC held that, in most cases, the person in conflict with the law, the victim and their community, is not well served by this approach.[138] The court recognized that the system often works to discriminate against Indigenous peoples, leading to overrepresentation in correctional institutions.[139] So, the SCC introduced a new principle requiring, by law, that courts consider all sentencing alternatives other than jail in consideration of the circumstances of the offending person, particularly if they are Indigenous.[140] These circumstances are often articulated as "*Gladue* factors" and are intended to help a court understand the relationship between the person and their community and the systemic background contributing to the particular offense (e.g., substance abuse, poverty, racism and family or community breakdown).[141]

Twelve years later, the SCC in *R v. Ipeelee*, 2012 SCC 13 ("*Ipeelee*"), re-evaluated *Glaude* and found that it had made little difference — Indigenous peoples were still being over-incarcerated at disproportionate rates.[142] In investigating why *Gladue* had not made the hoped-for difference, the SCC found that in most cases it just was not being applied by the courts because it was viewed as inapplicable or a race-based justification for different sentences.[143] The SCC

136 J. Kleefeld, J. Macfarlane, J. Manwaring, E.B. Zeibel, M. Parlović, A. Daimsis, "Charter 1: Conflict Analysis" *Dispute Resolution: Reading and Case Studies* (Toronto: Emond Montgomery Publications, 2003).
137 Office of the Correctional Investigator, *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act* (Ottawa: Office of the Correctional Investigator of Canada, 2012).
138 *R v. Gladue* [1999] 1 SCR 688 at para 74.
139 People who identify as Indigenous make up approximately 4.3% of the Canadian population but are 24.6% of the prison population as cited in: Office of the Correctional Investigator, Annual Report of the Office of the Correctional investigator 2014–2015" (Ottawa: Office of the Correctional Investigator of Canada, 2015).
140 *Supra,* note 135.
141 *Ibid*, at para 80.
142 *Supra*, note 77, at para 63.
143 *Supra,* note 135, at para 64.

found the reasons the judiciary gives for not applying *Gladue* are incorrect interpretations. *Gladue* is not "reverse discrimination," but a tool to unveil the inequality perpetuated by the status quo. The SCC in *Ipeelee* notes how things such as employment status, level of education and family situation, normally taken into consideration, may appear as neutral information relevant to sentencing, but they are socioeconomic factors that "conceal an extremely strong bias in the sentencing process."[144] In other words, better understanding the current systemic barriers and background faced by a person leads to a better understanding of their case,[145] and a better understanding should result in better justice outcomes *for everyone*.

Applying the legal principles offered in *Gladue* and *Ipeelee* opens the judiciary to a form of resistance against the problem of discrimination in the criminal justice system.[146] Through the biases imported from Western ideals and standards, the poorly housed, differently educated and employed all appear to be better candidates for jail sentences, which ignore how they got there.[147] Fundamentally different worldviews and values may lead to different understanding about the appropriateness and effectiveness of a sanction and its ability to achieve the principles underlying a sentence. Consider for a moment through the eyes of a Canadian judge a case with a hunter versus a policy analyst reviewed for their suitability of a community-based sentence. A Canadian judge may view a hunter as unemployed, undereducated and at higher risk to offend than they would a policy analyst. The principles from this case provide a brief glimpse into how the standards used to operate the core Canadian criminal justice system can be discriminatory. It asks us to think critically about whose standards are applied and, more importantly, whose standards should apply.[148]

Gladue demonstrates a small way in which the judiciary can inform their proceedings in the nature of the culture diversity and trauma before them, and represents an unmet potential to construct sentences more in line with Inuit piusiit. The courts in Nunavut should be operating as a *de facto Gladue* court, but Nunavut courts rarely explicitly reference *Gladue* in determining sentences.[149] Whether its principles are applied in Nunavut in every case requiring a *Gladue* application is unknown, yet, the highest Canadian court is clear: all Inuit have a legal right to have *Gladue* factors considered until they expressly waive it.[150] Nunavut judges are required by Canadian law to acquire information regarding these circumstances, even when not automatically done by legal counsel.[151] Pre-sentence reports are also rare but appear to be used more often.[152] However, pre-sentence reports cannot replace *Gladue* reports because *Gladue* reports are supposed to present the ways in which historic and systemic discrimination touch a particular client's life which extends beyond the scope of a typical pre-sentence report.[153]

Requiring the application of *Gladue* and *Ipeelee* affords the court legal recourse in resisting the status quo methods of State-endorsed sanctions, such as long periods of imprisonment, which go against Inuit conceptions of law and justice. It allows for appropriate diversion away

144 *R v. Ipeelee* [2012] 1 SCR 433 at para 67.
145 *Ibid*.
146 Marie-Andrée Denis-Boileau and Marie-Eve Sylvestre, *Ipeelee and the Duty to Resist*, (2017) 21 Canadian Criminal LR 73.
147 *Supra,* note 141, at para 67.
148 For example, who and where is the "reasonable Inuk" in the operation of Canadian criminal law?
149 See: Marie-Andrée Denis-Boileau and Marie-Eve Sylvestre, *Ipeelee and the Duty to Resist*, (2017) 21 Canadian Criminal LR 73, pg. 33.
150 *Supra,* note 141 at para 83.
151 *Supra,* note 141 at para 84.
152 Another issue with this is that pre-sentence reports are often delegated to Nunavut probation officers who have large caseloads and may not have the necessarily training to complete these reports.
153 *Canadian Encyclopedic Digest*, Sentencing, V.1.(b).(ii).B.

from the criminal justice funnel towards more rehabilitative approaches in consideration of Inuit conceptions of law and justice, which are better for the person in conflict with the law and the community in the long run.[154] However, it seems that in a system that processes much violence and has few alternatives, the easiest option is to adhere to the sentencing principles which denounce, deter and separate by sentencing to a custodial institution; the principles most at odds with Inuit puisiit. The Court in *R v. Joamie*, 2013 NUCJ 19, provides some insight into why *Gladue* is inconsistently applied: "The Court's ability to structure a fit sentence is limited to those sentencing tools and sentencing resources provided by government. The Court cannot work miracles. It is the Government of Nunavut that has the legislative and constitutional mandate to determine funding priorities and allocate scarce public resources." (at para 60).

"You don't make a situation better by threatening a person or by putting them in jail. In the past, the deterrents and consequences were extremely severe. I think threatening people with incarceration just makes things worse. I don't know this for sure, but this is what I think."[155]

In the analogy of the criminal justice funnel, incarceration and correctional services are represented as the end of the funnel. People in conflict with the law only arrive in this system after contact with the RCMP, being charged and then found guilty and sentenced by the Court. Correctional services are directly impacted by services and agendas outside of their control, such as court proceedings and political will. Correctional services are the one system in society that cannot divert or reject a client — by lawful order, they must accept and place a client into a facility.

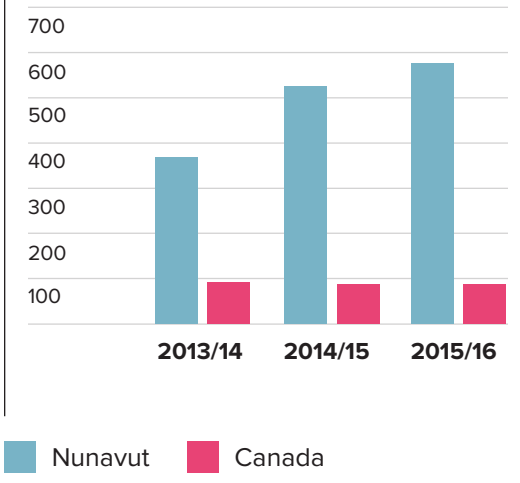
The same trends of overrepresentation articulated in the SCC in *Gladue* and *Ipeelee*, are seen in Nunavut's territorial prisons: Inuit make up 86% of the general public while making up 98–100% of incarcerated population.[156] Last year, 100% of incarcerated women in Nunavut identified as "Aboriginal."[157] *Figure 6* illustrates how a significant proportion of the territory's population is in jail at any given time compared to the average national rate.[158]

Nunavut's consistently high adult incarceration rates hinder its ability to deliver restorative justice. In 2015, the Office of the Auditor General conducted an official audit of the Department of Justice and found the department was failing critical rehabilitation and reintegration requirements.[159] Jail in Inuktitut is sometimes translated as "a place to get help," making such a high reliance particularly problematic because prisons do not work well to rehabilitate people.[160] We can give a correctional facility any name we choose; what matters is the substance of the work done.

154 This point is further expanded in the following pages regarding incarceration.
155 Aupilaarjuk as cited in: *Supra* note 4, pg. 28.
156 Auditor General of Canada, *Report of the Auditor General of Canada to the Legislative Assembly of Nunavut — 2015. Corrections in Nunavut — Department of Justice* (Ottawa: Office of the Auditor General of Canada, 2015).
157 Statistics Canada, *Table 5 — Admissions to adult correctional services, by characteristic of persons admitted, type of supervision and jurisdiction, 2015/2016.*
158 I did not include national incarceration rates in this analysis because this was not a consistently reported statistic provided by Statistics Canada and its limited usefulness given the distinctions between sentences served federally versus territorially/provincially.
159 *Supra*, note 153, pg. 25.
160 *Supra*, note 111, pg. 9.

Figure 6

Adult Incarceration Rates in Nunavut and Nationally



Source: Statistics Canada

The job of correctional services is challenging and dangerous. Effectively integrating restorative principles into Canadian correctional institutions requires a concerted effort to take a different perspective which usually goes against traditional Canadian approaches to criminal justice and is often outside the control of correctional services, making change extremely difficult. The government does try to make correctional institutions more suitable and restorative for Inuit by introducing outpost camps and occasionally offering carving programs, land-based programming and other culturally based activities, but this is insufficient. These are institutional add-ons that are constrained by the broader system in which they are expected to function. Integrating rehabilitation principles into correctional institutions that are consistent with Inuit puisiit requires a fundamental rethinking and restructuring of the entire system.

What will often move a lawyer, victim or community to advocate for a sentence involving incarceration is the perception that jail is the ultimate punishment and tool for protection. If you are impacted by crime, especially violent crime, this may be easy to understand and a legitimate response. However, incarcerated people are rarely incarcerated for long and they often return to their community. If rehabilitation and dispute resolution remain inaccessible to an individual in the funnel criminal justice, their transition back into the community only places them into the same situations and potentially worse.[161] As mentioned prior in this paper, separation of a community member who has committed a crime may be necessary because communities in Nunavut are often ill-equipped and under-resourced to protect victims and deal with complex disputes and trauma.[162] Healing trauma and restorative justice are intrinsically interrelated, which implicates the need for criminal justice to adopt these approaches if they are to be effective in preserving public order and protection.[163] Critics assert this applies especially to Indigenous peoples,[164] backed by communities and national statistics, which indicate that, although Indigenous peoples make up approximately 4.3% of the population, they are 24.6% of the prison population in Canada.[165]

Probation services are rolled under correctional services in Nunavut. Most sentences that have a custodial dimension include probation at the end of it, and, where custody is inappropriate, courts will give probation or a conditional

161 *Supra*, note 102.
162 *Supra*, note 54.
163 *Supra*, note 118.
164 *Supra,* note 134.
165 Office of the Correctional Investigator, "Annual Report of the Office of the Correctional Investigator 2014–2015" (Ottawa: Office of the Correctional Investigator of Canada, 2015).

sentence as an alternative. Probation orders are served in the community, usually with specific requirements such as abstaining from alcohol or banning contact with an individual. In some circumstances, this provides an effective transition back into the community, and some cases require minimal supervision. But for the complicated cases involving trauma and disputes requiring rehabilitation, the probation supervisor relies on their personal stamina and the resources within the community to support the person in conflict.

Re-offending and sentencing can be seen in a whole new light when we consider the characteristics of communities in Nunavut. The largest community has a population of about 8000 people, and the smallest has 129, but most have around 1000 people and are extremely geographically isolated. [166] Although Nunavut does not report on data specifically related to reoffending or recidivism, in part because of how complicated and nuanced calculating recidivism is, anecdotal evidence suggests it would likely be extremely high.[167] In other words, the system is a self-perpetuating one: individuals who go through the funnel are more likely to enter it again.

"The Community Justice Committee is needed so first-time offenders don't need to go to formal court." [168]

In Nunavut, existing somewhere outside of this funnel analogy but still within the criminal justice system is Community Justice. It exists outside the funnel analogy because no formal processes drive people in conflict with the law towards this system automatically, for the most part, clients must be referred. The broad mandate of community-based victim support and crime prevention make Community Justice extremely beneficial because it offers the only diversion outside of the Canadian system into more community-specific forms of justice. The extent of their service is outside the scope of this report, partly because what they offer is somewhat community-dependent. Of particular relevance to the scope of this paper are the Community Justice Committees ("CJC") and the outreach provided by the Community Justice Outreach Workers ("CJOW") who connect people in conflict with the law to local resources, such as Inutuqait or local programming. CJC offer an alternative to the status quo Canadian court and consist of local volunteers who hear cases (usually low-severity index offences, like theft), from their community and come up with dispositions.[169] CJOWs also help organize restorative client-victim mediation through the CJCs. CJCs and CJOWs are available in nearly every community but referrals are granted only when people in conflict with the law meet strict conditions and if the RCMP or Public Prosecution Service of Canada (PPSC) adhere to the protocol for a referral.[170]

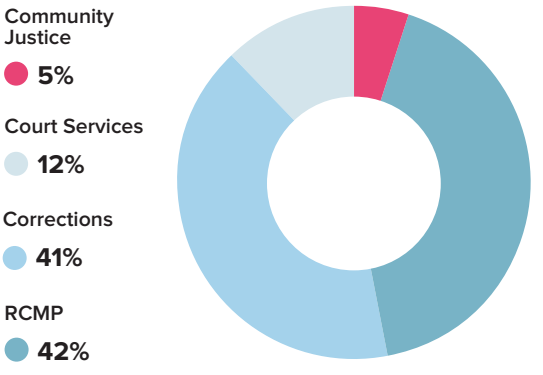
166 Nunavut Bureau of Statistics, *Nunavut Population Estimates by Sex, Age Group, Region and Community, 2016,* (2016) Government of Nunavut.
167 See, for example, anecdotes described within: *Supra*, note 68, pg. 34.
168 *Supra*, note 111, pg. 192.
169 *Supra*, note 68, pg. 20.
170 Community Justice Committees generally only hear from people who have already plead guilty. They must be convicted of a summary offence not involving domestic violence.

The work performed by Community Justice is generally highly regarded and effective, however, they are under-funded and under-utilized and not well recognized outside of communities. In 2012/2013, 137 cases were diverted away from the courts, 92 of those were completed, 29 are pending and 12 were referred back to court.[171] But because Community Justice has relatively finite resources, they do not extensively track the long-term outcomes of their service to demonstrably show its efficacy. Anecdotal testimony suggests that the people who go through the process have high levels of satisfaction and it has a lasting effect in resolving and reducing conflict.

Through some of the processes of Community Justice, the State is given a tangible opportunity to divert away from the Canadian status quo of processing people in conflict with the law in an adversarial court system and away from custodial practices. In doing so, there is tremendous opportunity to centre Inuit values within the heart of criminal justice and involve community in any potential healing or rehabilitation that occurs in this process. However, this process does not seem to be as valued or attract the esteem of the State in processing conflict. The status quo system is still favoured even though Community Justice processes seem to most closely resemble the processes of Inuit criminal justice described in the first section and it creates results that are just as effective as incarceration with potential to broadens the sphere of healing by attending to the needs of the community and victim inside the environment of the community. The preference persists despite the desire for change from the Canadian status quo for the betterment of Inuit in founding Nunavut.

Figure 7

Budget for the Criminal Justice System in Nunavut



Source: Statistics Canada
Note: Corrections includes Community Justice

Crime is costly. It is costly in the sense that it requires millions of dollars of resources, and it is also costly in its inability to address trauma and victimization, which has residual effects on the lives of all community members. In 2015/2016, it cost an average of $558 per day to imprison someone in Nunavut.[172] That same year, the average number of people in prison was 136, which means that the government spent approximately $75,888 every day, or $27.7 million over the year, to incarcerate Nunavummiut. Given the discussions outlined in this paper to this point, these figures raise the question of how can these funds be better allocated?

Community Justice Outreach Workers and the RCMP are often an invaluable resource in communities addressing or intervening in conflict, yet they represent the two extreme in

171 *Supra*, note 68, pg. 20.
172 Statistics Canada. *Table 6: Operating Expenditures of the Adult Correctional System, by Jurisdiction, 2015/2016* (Statistics Canada, Ottawa, 85-002-X, March 2017).

funding. *Figure 7* illustrates how Community Justice constitutes the smallest potion of the criminal justice budget, funded at 5%, while the RCMP constitutes the largest at 42%. How funding is allocated within each division illuminates where the State prioritizes and values services. A lack of adequate funding allocation to a division restricts the scope and capacity of their initiatives to address criminal disputes.

To this point, this paper presents how a major objective in the creation of Nunavut and the NLCA was Inuit self-determination; a major catalyst of which is the need to control a new criminal justice system to more effectively produce better justice outcomes by addressing the violence and crime disproportionately experienced by Inuit. I argued that this objective has yet to be realized because the current model of criminal justice is a mirror of the adversarial Canadian criminal justice system, albeit with some valuable, but still insufficient restorative and culturally informed attachments. I argued that while opportunities to deliver more restorative and culturally informed justice exist, Canadian approaches to criminal justice routinely favour their own laws and processes, which implicitly devalues and displaces Inuit and the operationalization of Inuit piusiit and maligat in the process of addressing crime. Through this system, I trace how many aspects of this system perpetuates harm and over-incarceration. I argued that this issue relates to and is exacerbated by the systemic issues created by colonization and other historical factors, failure of other societal structures and organization, and underfunding. Decisions made throughout the system ultimately impact who and what we see within our institutional facility and those decisions can be guided by our respective cultures.

The final section will attempt to identify some of the paths forward. It will identify and weigh policy options in decreasing over-incarceration. Changing the situation outlined above requires a concerted effort, more than what can be offered in the space of this paper, and will require answers to questions that may elicit uncomfortable conversations. It will also require tough decisions around where and how to allocate scarce resources. If we need *and* want to change the status quo, what can we do?

tapatuuraaluk.

"Losing part of the Inuit culture has meant adopting the colonial culture brought upon them — balancing both is what is required as the Inuit reality today is far different than what it was traditionally before colonialism. They must adapt to the Western way but acknowledge privileging Inuit values and traditional knowledge during the process." [173]

The Nunavut Court of Justice is a demonstration of the cultural primacy of adversarial courts in Canadian culture and its ability to colonize other systems of law. The State expects its subjects to know and act in accordance to its law within the rights granted to every Canadian.[174] Inutuqait see a need to rebuild institutions grounded in Inuit Qaujimajatuqangit (Inuit ways of knowing) to prevent Canadian principles and values from being favoured over Inuit piusiit, especially in criminal justice.[175] The State needs to decrease the system's over-reliance on incarceration and look to how it can support systems that better accord with Inuit piusiit. If the State looks at crime as disorder in the community while protecting victims, it can do much more to reduce harm by asking *how* a person gets into a situation where they harm others.

National inquiries into the status of Indigenous communities find that the reasons why the child welfare system has disproportionately high numbers of Indigenous children is the same reason why Indigenous peoples are over-represented in the criminal justice system.[176] It means that setting or amending timelines and quotas for Inuktitut-speaking teachers have an impact on communities, which manifests itself in different ways, including in the criminal justice system. The elimination of language is credited as a primary stage in a process of cultural genocide.[177] The survival and resurgence of language and culture act as a buffer ensuring that a generation is not swept into institutions and extracted from communities.[178] I am reminded of a quote from an extremely thoughtful friend and fellow law student reflecting on her experience before the Nunavut Court of Justice, who poignantly lamented "I often stumbled over names that sound so foreign in my mouth. How do you trust someone who cannot say your name?"[179] The answer here seems to be that you do not.

Recalling the words of Trina Qaqqaq in the House of Commons reminds us that achieving basic human rights for Inuit and recognizing Nunavut's full potential by meaningfully implementing Inuit and piusiit are inextricably entangled; each goal can only be met when the other is fulfilled. Familiar arguments may

173 *Supra*, note 86, pg. 35.
174 Although outside the scope of this paper, there remains a significant question as to whether Inuit in conflict with the law are sufficiently aware of their substantive and procedural rights necessary to receive fair and equal treatment before Canadian law. A valuable follow-up project to expand on this paper would be to determine this.
175 Government of Nunavut, *Pinasuaqtavut 2004–2009*. (Iqaluit: Government of Nunavut, 2004) as cited in Shirley Tagalik, *Inuit Qaujimajatuqangit: The Role of Indigenous Knowledge in Supporting Wellness in Inuit Communities in Nunavut*. National Collaboration Centre for Aboriginal Health.
176 "Child welfare" in A.C. Hamilton and C.M. Sinclair, *The Justice System and Aboriginal People: Report of the Aboriginal Justice Inquiry in Manitoba*, Vol. 1 (1991).
177 "Child welfare" in A.C. Hamilton and C.M. Sinclair, *The Justice System and Aboriginal People: Report of the Aboriginal Justice Inquiry in Manitoba*, Vol. 1 (1991).
178 "Child welfare" in A.C. Hamilton and C.M. Sinclair, *The Justice System and Aboriginal People: Report of the Aboriginal Justice Inquiry in Manitoba*, Vol. 1 (1991).
179 Jessi Casebeer, *"Justice from Another Planet": The Impact of Imported Justice on Inuit Self-Governance*. University of Victoria, pg. 5. [2016, unpublished].

be encountered against proactive integration of Inuit and Inuit culture, such as the notion that, as a public government, Nunavut should not prioritize the needs of Inuit over others. The argument that the Government of Nunavut is a public government and therefore should not make effort to meaningfully uphold Inuit piusiit ignores the fact that Nunavut is born from Inuit Nungat under the NLCA — a constitutional document holding the place of supreme law, requiring the public government to act in accordance to its provisions. It also ignores the fact that the NLCA directly relates to Inuit self-determination, and with a population that is majority Inuit, it should operate as *de facto* self-government. It also ignores the fact that, historically in Western society, to achieve substantive equality often requires formal equality.

Another familiar argument for favouring Canadian values or approaches might be that there is a lack of capacity or that Inuit values are inherent values shared by all cultures. From the perspective of this paper, these arguments are like two sides of the same coin; they are dismissive, which end up stifling the possibility of change by prohibiting critical thinking and innovation.[180] It can lead to over-reliance on the status quo. For example, it can lead to contracting important projects to non-Nunavummiut that produce reports which might not truly understand the context of Nunavut. It can also lead a State employer having difficulty hiring a candidate with the correct qualifications to overlook objective scrutiny of those qualifications to see if they are warranted, and from whose perspective. Things such as educational certification can be a superficial barrier. In the circumstance where certification may be genuinely required, systemic approaches to facilitating making that certification available within Nunavut should be a priority.[181]

The State recognizes that as a government, its services and programs are uniquely situated to work on crime prevention initiatives,[182] and it seems that some of the most fundamental ways in which justice can be improved is diversion away from the Canadian adversarial system. A key lies in how our system views and places value. So long as Canadian systems are valued over Inuit systems in Nunavut, communities' abilities to articulate and administer the full breadth of their legal traditions in addressing criminal disputes on their own terms are limited and the success of the justice system is therefore limited as well. No add-on within our Canadian framework will stop the systemic bias perpetrated against Inuit and Indigenous people within. Add-ons send the message that Canada will not change no matter how repressive society becomes — it is the person who is experiencing the repression and conflict who must transform and they are only willing to provide some tools. Canada often promotes Indigenous change as a way to normalize the ongoing injustice felt in communities.[183]

180 For example, "Kitchen consultation" models articulated in Jackie Price, *Tukisivallialiqtakka: The Things I Have Now Begun to Understand: Inuit Governance, Nunavut and the Kitchen Consultation Model*, 2007. Master of Arts thesis. University of Victoria.
181For example, if criminal justice is finding it difficult to fill its positions with Nunavummiut, perhaps it requires a collaborative and concerted effort on part of each of its elements to provide accessible education or training.
182 Government of Nunavut, *Nunavut Crime Prevention Strategy: Five-Year Strategy* (Iqaluit: Government of Nunavut: March 20, 2017), pg. 3.
183 Irlbacher-Fox, Stephanie. *Finding Dahshaa: Self-government, Social Suffering and Aboriginal Policy in Canada* (Vancouver: UBC Press, 2009), pg. 2.

In addressing the issue of over-incarceration through policy, options are usually presented and then weighed. From my vantage point, I see only three options:

01 The Status Quo

02 Address Over-incarceration Through Institutional Add-ons

03 Address Over-incarceration Through Strengthening Inuit Piusiit

I was wisely cautioned by Dr. John Borrows that evaluating policy options in the "traditional" approach of presenting policy options through a *pros-and-cons*-style table can create the illusion of a false dichotomy and remove perspective nuances. For example, there are positive and negative aspects to civil disobedience or bureaucratic discomfort depending on whose perspective you take when weighing each. I have opted for a list of considerations encouraging further thought regarding possible opportunities and obstacles created by the three policy approaches, each of these options are explored below.

The Status Quo

The preceding pages describe what is the status quo. They describe the current system which perpetuates harm in many areas of society, including those outside of criminal justice, particularly for Inuit. In weighing this policy option, the following is worth considering, in no particular order:

- Likely presents the path of least resistance, politically and in strategic planning — some individuals may feel that any alternative to the status quo is unacceptable for different reasons (e.g. "soft on crime," preference for a hard-line tradition punitive approach regardless of evidence).
- Possibility that the status quo will solve over-incarceration over time.
- Some individuals who commit crimes may be reformed by the current system.
- Likely continuation of the cycle of crime and victimization — people who commit crime, victims and communities will continue to be underserved.
- Costly because of expenses associated with the criminal justice system and its impact on wider social services.
- Continuation of a system that has discriminatory tendencies, denigrating human rights.
- Goes against significant evidence which suggests the current system is ineffective at addressing crime.
- Continue to pay untold and unaccounted for costs related to over-incarceration.
- Contradicts State commitments to reconciliation.
- Ignores Inuit piusiit and obligations under the NLCA.
- Potential to exacerbate current situation, resulting in unexpected consequences and community upset.

Address Over-incarceration Through Institutional Add-ons

The distinction between an institutional "add-on" versus a continuation of the status quo can be difficult to distinguish. What likely makes the distinction between the two is that policy intended to address over-incarceration through institutional add-ons in this section will likely require some recognition that there is a systemic problem with over-incarceration, specifically the over-incarceration of Inuit, and that it can be addressed through the strategic implementation of "culturally informed" or "culturally sensitive" programming, services or buildings. An example of an institutional add-on could be something like a trauma-informed sexual violence program delivered to incarcerated individuals designed for Inuit and delivered in a room shaped like an igluvigak. These institution add-ons are valuable in some sense because on some level they recognize diversity and can potentially address some trauma and some crime, and may help reduce crime rates. However, they also risk doing immense harm through essentializing and failing to address the wider systemic causes of crime and conflict. It is rare that institutional add-ons approach crime and conflict in systemic ways. In weighing this policy option, the following is worth considering, in no particular order:

- May require some dialogue around colonization and racism, which may be unsettling for some.
- Potential to be met with resistance and will require a level of public and political support.
- Will still require a shift in policy towards implementing and valuing institutional add-ons which implement Inuit principles and values.
- Will appear to address crime and has the potential for crime reduction but will not reduce conflict caused by the overall State system and structure.
- Potential to address some circumstances of trauma experienced by community members.
- Potentially more politically appealing.
- Sustained, small, incremental changes have the potential to completely rehabilitate over time.
- Requires political will and economic commitments
- Mostly ignores Inuit piusiit and does not uphold all obligations under the NLCA.
- Potential to exacerbate current situation, resulting in unexpected consequences and community upset.
- Contradicts State commitments to reconciliation.
- Still implicit devaluing of Inuit ways of knowing and doing.
- The development of new programs and services may be costly — it may also be costly in continuing the perpetuation of colonial traumas.
- Could provide barriers to bettering society.
- Results may not be immediately seen or apparent.

Address Over-incarceration Through Strengthening Inuit Piusiit

Placing equivalent value on Inuit approaches to justice requires a systemic shift as well as a redistribution of resources. Policy provides one mechanism to systemically enact change by formally directing attention and resources. In weighing this policy option, the following is worth considering, in no particular order:

- Provide a positive model for true reconciliation.
- Reduce conflict and crime reduction.
- Produce a healthier society over all.
- Greater adherence to the true intent and purpose of NLCA, in line with greater Inuit self-determination.
- Far-reaching impacts with society-wide implications.
- Challenges power structures to the extent of possible discord with colonial State-level sovereignty, law and policy.
- Potential to be met with resistance and will require public and political support. Public support will be particularly important for accountability and oversight to ensure changes are implemented and reach communities in meaningful ways.
- Requires the redistribution of power and the restructuring of State institutions.
- Transforms the Inuit-State relationship, rights, and obligations.
- Requires considerable dialogue around colonization and racism, which often goes unrecognized and is deeply unsettling for some.
- Requires active resistance against the status quo and a fundamental shift in perspective.
- Some individuals may feel that this constitutes “reverse discrimination” and as such, others are now being discriminated against.
- Potentially extremely politically unpopular.
- Results may not be immediately seen or apparent.
- Disruption of status quo and the structures which disenfranchise people.

CONCLUSION

If we take seriously the premise I have argued for: that over-incarceration is actually a symptom of larger systemic issues, our policy approach is clear. Addressing over-incarceration requires a response that touches on and integrates many aspects of society. It will require a fundamental shift in the way all Nunavummiut view crime. To look at people who committed offences as offenders is easy and satisfying to imagine a person as just their crime, undeserving of anything but negative attention, especially when they do great harm. In reality, and according to Inuit piusiit, we are much more complex. Decision-makers have a unique opportunity to make some concrete changes with correctional legislation reform and the replacement of Nunavut’s largest correctional facility, the Baffin Correctional Centre. In the coming years decision-makers will set a course, the legacy of which will come to shape Nunavut’s response to its most vulnerable and traumatized citizens. In

taking these first steps, we must look carefully to what Nunavut communities are saying and what is being said by both youth and Inutuqait.

In 2014, the Government of Nunavut consulted with 25 Nunavut communities to solicit their feedback on what they felt was needed to prevent crime.[184] The report recounts recurring themes, such as the requirement for basic amenities, consistency and access to services, such as counselling and substance abuse treatment. The root of much criminal activity in Nunavut is childhood trauma and maltreatment.[185] For example: "There needs to be a marriage between the old ways and the modern ways," [186] and "we need an addictions treatment centre in Nunavut. Right now, people have to go to Ottawa for treatment. We need something here." [187]

The change we require is a rebuilding and rethinking of the way we operate and what the system values and prioritizes. The Canadian criminal justice system operating in Nunavut is a continuation of historic sentiment that sought to render Inuit forms of conflict resolution illegitimate, and is symbolic of the deep unresolved conflict of imperial sovereignty. In undertaking this project, I was continually reminded of the innumerable reports created by countless southern settler legal scholars and academics recounting the dire situation in which the Nunavut criminal justice finds itself, but in the end their voices and my voice mean little if they displace Inuit narratives about how Inuit want to resolve disputes and ensuring support for Inuit efforts to do so. In making shifts away from the status quo, it is usually those who have the most to lose who speak the loudest. In this sense, the voice that deafens us all is the one produced by the Canadian State in Nunavut criminal justice.

184 *Supra*, note 111.
185 *Supra*, note 111, pg. 8.
186 *Supra*, note 111, pg. 16.
187 *Supra*, note 111, pg. 9.

Nukangmma
agahiit.

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Thomsen D'Hont

Addressing the Need for Indigenous Physicians in the Northwest Territories

The Northwest Territories (NWT) needs Indigenous physicians and, unlike other Canadian provinces, the NWT does not have programs that both encourage Indigenous students from the territory to pursue a career in medicine as well as encourage them to return to practise in the Northwest Territories.

BACKGROUND

In 2017, there was a 35% shortage of general practitioner physicians in the Northwest Territories (NWT). Smaller, primarily Indigenous communities in the NWT experience these shortages disproportionately compared to the capital city of Yellowknife. These smaller communities rely almost entirely on short-term solutions to maintain physician-provided services, including locum hiring that brings up doctors from the south. While these solutions are necessary and provide essential services to communities where services might be otherwise unavailable, they are expensive and contain many other costs. Such costs include poor continuity of care for patients due to high physician turnover and anecdotal high utilization of medevac and medical transportation ordered by locum physicians who are inexperienced practising medicine in remote settings.

One potential solution to address physician shortages in communities of the NWT is to focus on training and recruiting Indigenous doctors from the territory. Indeed, the need for more Indigenous physicians and other healthcare professionals in Indigenous communities is well established. The Royal Commission on Aboriginal Peoples report of 1996 and the Truth and Reconciliation Commission's (TRC) Calls to Action of 2015 have both recommended the training and hiring of more Indigenous healthcare workers in Canada. The TRC's Call to Action #23 specifically recommends that all levels of government strive to increase the number of Indigenous health care professionals working in Indigenous communities. Addressing this Call to Action could help the Government of the Northwest Territories (GNWT) address physician shortages as well as other challenges, such as providing culturally safe healthcare to Indigenous patients.

As of 2017 there was only one Indigenous doctor working in the NWT, even though the majority of the population of the NWT is Indigenous. Part of the reason for this underrepresentation is that prospective Indigenous doctors face numerous barriers along their journey into practice and do not have suitable supports along the way to encourage a career in medicine, whether this is during grade school, or later during their transition into medical practice. Some of the challenges include upstream social and geographic determinants that contribute to low high school graduation rates, as well as a need for high-quality science education in primary and secondary schools in the NWT. Upstream social and geographic determinants themselves are the largest barrier for many students to the point that simply graduating from high school is a significant accomplishment, let alone succeeding in high school to the point that post-secondary studies are an option. These upstream factors include, among others, intergenerational trauma caused by residential schools, poverty, loss of culture, poor housing, dysfunctional family life and a lack of access to high school for youth in some remote communities.

There are policy options available to create supports for aspiring Indigenous physicians in the NWT, though they may be limited by capacity and financial resource constraints in the territory. Internationally and in other Canadian provinces, policies that encourage practice in a rural and/or Indigenous community fit into a larger "pipeline" of systematic supports that target future physicians at a young age from high school through to when they become a licensed physician and are looking for a job.[1] These programs focus on admitting medical

1 Pong, R. W., D. Heng and P. P. Unit (2005), "The Link between Rural Medical Education and Rural Medical Practice Location: Literature Review and Synthesis." Sudbury: Centre for Rural and Northern Health Research, Laurentian University.

students from underserved regions and teaching them medicine in these regions, all with the goal of having them return to practise there. First, high school students are provided outreach and medical school application workshops.

Then, the students are preferentially admitted to medical school because they are more likely to return to practise in a rural setting due to family ties and/or cultural background.[2] In fact, there are also seats reserved at medical schools for Indigenous students who are committed to serving Indigenous populations. Once admitted to medical school, these rural and Indigenous students are provided training opportunities in underserved regions throughout medical school and residency training. Then, they are given incentives to work in these locations through return of service agreements and hiring incentives.

"The TRC's Call to Action #23 specifically recommends that all levels of government strive to increase the number of Indigenous health care professionals working in Indigenous communities."

Along this path there are also scholarships, continued dialogue with the prospective employer, education and career information websites, continuing medical education for ongoing professional development once established in a job and familial supports for relocation and spousal employment. While these are best practices for physician training and recruitment, the NWT does not outright control the pipeline of physician education, since it does not have a medical school, and instead must rely on partnerships to implement the above practices.

Currently, the GNWT is operating in an environment of fiscal austerity and the costs of any new healthcare training program and/or employment-incentive policy need to be carefully considered against other spending priorities. Medical education policy can be expensive and large-scale: in most southern jurisdictions policy revolves around well-resourced, brick-and-mortar, university-based faculties of medicine. Currently, creating a medical school in the NWT is not realistic, at least not in the traditional Canadian medical- school model, and any medical-school-related policy must rely on negotiating agreements with governments and individual southern medical schools. Still, there are practical, smaller-scale, affordable opportunities for the GNWT to support and encourage Indigenous students and doctors to work in the territory. These supports may provide value for money to both support the long-term development of Indigenous doctors and staffing in NWT communities while also meeting current physician demand using short-term solutions. Cost savings may be realized in the long-term by relying less on short-term contracts and locum physicians. Ultimately, educating and recruiting Indigenous doctors from the territory who have a vested interest and commitment to the North may help address the NWT's challenges of providing affordable, sustainable, culturally safe healthcare.

2 Grobler, L., B. J. Marais, S. A. Mabunda, P. N. Marindi, H. Reuter and J. Volmink (2009), "Interventions for increasing the proportion of health professionals practising in rural and other underserved areas," Cochrane Database Syst Rev(1): Cd005314.

POLICY OPTIONS

Below is a menu of options for consideration by policy makers. The selection of any combination of these options would help to address the problem defined at the beginning of this policy memo. After the summary list of options, each option is separately explained and costed.

01 Seat purchase at southern medical schools

02 Medical school application workshop

03 Medical College Admission Test writing centre in the NWT

04 Application process funding

05 Extend GNWT Student Financial Assistance funding

06 Facilitate physician shadowing

07 Clinical rotations in the NWT for Indigenous medical trainees

08 Create a website of resources for hiring and student support

09 Outreach to high schools

10 Return-for-service bursary

11 Establish a territorial family medicine residency

12 Prepare medical students for hiring

Seat purchase at southern medical schools

Background

Previously the GNWT has reserved seats at $75,000/seat/year between 2006 and 2011 in the medical programs at the University of Calgary and the University of Alberta. This program was discontinued when students were being admitted on their own merits within the general pool of provincial applicants. However, medical school admissions are becoming increasingly competitive to the point where some qualified Indigenous applicants from the territory have been unable to get in.

Implementation

Implementing this could be done alongside a return-for-service bursary, like what is done by the Yukon Government in partnership with Memorial University.[3]

Cost

$75,000 per funded student.

Medical school application workshop

Background

Every summer in British Columbia, the UBC Faculty of Medicine puts on a free three-day medical pre-admissions workshop for Indigenous students in Grade 11 and 12 and in post-secondary who are interested in studying medicine. Students learn how to write a strong medical school application, how to succeed on the Medical College Admission Test and they practice Multiple Mini Interviews, the standard interview format at Canadian medical schools.

Implementation

Implementation in the NWT could require guest speakers and facilitators. A main cost could be to transport participants from outlying communities.

Medical College Admission Test writing centre in the NWT

Background

The Association of American Medical Colleges Medical College Admission Test (MCAT) is a seven-hour standardized computer-based test that covers biology, organic chemistry, general chemistry, physics, psychology, sociology and reading comprehension. All but one medical school in Canada require the MCAT. Many applicants must rewrite the MCAT a few times to get a competitive score. The MCAT test registration fee is $365, but travel to a testing centre may be prohibitive for NWT students. The nearest writing centre to the NWT is in Edmonton, Alberta.

Aurora College in Yellowknife previously invigilated the exam until 2006. Anecdotal evidence is that it is challenging to set up a test centre outside of large cities.

Application process funding

Background

Applications to medical school can cost several hundred dollars. Further, applicants who are invited to interview must travel across Canada for in-person interviews. Flights, professional interview attire, and hotel fees can be prohib-

3 Yukon, Health and Social Service (2012), "Medical Education Bursary," last modified July 6, accessed May 8, 2017, http://www.hss.gov.yk.ca/meb.php.

itively expensive for applicants from the NWT. Additionally, it takes the students an average of three years of applications and interviews to get into a medical school in Canada.

Implementation
Implementation could include application, MCAT, and interview cost reimbursement.

Cost
$500–$10,000 per student per year.

Extend GNWT Student Financial Assistance funding

Background
Currently, the GNWT's Student Financial Assistant (SFA) program's funding for Indigenous students does not provide funding for the duration of a lengthy post-secondary education program, such as medicine. The current model funds a maximum of 12 semesters. At minimum it takes eight years, or 16 semesters, to graduate with a medical degree, based on requiring a four-year bachelor's degree before beginning a four-year medical program.

Implementation
Implementation could include an extension of SFA funding that medical students could apply for. Some current medical students suggested that tuition funding could also increase to better reflect the two- to three-fold increase in tuition in medical school compared to undergraduate studies. Another model might include providing loans with a return-for-service component of loan forgiveness based on years served.

Cost
Approximately $30,600 per funded student for the four additional semesters of funding (not including an increase in tuition funding).

Facilitate physician shadowing

Background
Medical students in the NWT are permitted to shadow physicians only as part of official medical electives during their senior years of medical school, whereas in southern provinces students may shadow physicians any time after starting their medical program. While it is not part of official medical education curriculum, physician shadowing is an important compo-

nent of learning the scope of practice and skills necessary for various contexts when exploring career options and it is encouraged during medical school. Medical students from the NWT have expressed interest in gaining clinical experience in the territory, but have been unable to because of the existing policy that does not allow clinical experience outside of credited electives. In the Yukon and Nunavut, students are permitted shadowing outside of official clinical electives for credit. In other Canadian provinces, shadowing is permitted for students who are insured there, as long as the student simply observes and does not perform any procedures or patient examinations.

Implementation

Implementation could include a policy change that allows for shadowing in which medical trainees have observer status but do not touch patients or perform procedures. The territorial Health Care Registrar and health authority legal counsels would still need to consider whether they require further insurance or could permit medical trainees into a clinical setting without a medical learner licence.

Clinical rotations in the NWT for Indigenous medical trainees

Background

Clerkship and residency clinical rotations of up to nine months in duration are available in the NWT through partnerships with the medical programs at the University of Manitoba, University of Calgary, University of Alberta and University of British Columbia. However, Indigenous medical students from the NWT will not necessarily attend these universities or be linked up with some of these rotations. Indeed, current Indigenous medical students have mentioned that they have been unable to get clinical rotations in the NWT despite their desire to learn remote practise skills and to eventually return to work in the NWT.

When possible, clinical rotations should be linked up with Indigenous medical students to root them in the NWT for at least part of their training for the pipeline approach to encourage them to practise in the NWT.

Implementation

Implementing this option might include maintaining a list of medical trainees to contact and prioritize their placement into clinical rotations in the NWT.

Create a website of resources for hiring and student support

Background

The NWT currently has the practicenorth.ca website that provides hiring information for physicians. However, it does not include education and career-planning information for prospective medical students and current medical trainees. A website could also serve as a retention tool where doctors could share resources and stories with each other. Doctors in Inuvik have maintained a blog that has been a key component of creating an online community of medical professionals.

Implementation

Implementation could include expansion of the practicenorth.ca website to include the resources mentioned above.

Outreach to high schools

Background

In 2016, a two-hour interactive workshop was held at a Yellowknife high school with approximately 30 students from a grade 12 Biology-30 class. Students participated in a "life of a med student" icebreaker and they participated in doctor-led hands-on stitching lessons and emergency medicine scenarios. Overall, the 19 students who filled out evaluation forms identified the need for future workshops and gave positive feedback about the hands-on activities and the career path presented in the icebreaker. Similar half-day workshops specifically for Indigenous students have been successful elsewhere in Canada.[4]

Overall, outreach is a key part to encourage students to consider medicine from a young age and to connect them with mentors. Indigenous medical students and doctors from the territory have explained that the availability of mentors was one of their strengths, while those who didn't have mentors explained that this was one of the most significant barriers in their pursuit of medicine. Leveraging the territory's past successes of training doctors can also help get rid of a discourse of inadequacy and self-doubt that occurs amongst many youth who don't believe that they can leave their community to pursue further education or a professional degree, such as medicine. These types of outreach could be implemented alongside the Research and Explore Awesome Careers in Health and Social Services (REACH) program with the GNWT and could involve in-kind presenters, such as medical students and doctors, who could be funded to travel to these workshops.

Return-for-service bursary

Background

Previously, medical students from the NWT were provided return-for-service (RFS) awards, but the RFS agreements were not honoured in most cases. The RFS that the GNWT offered medical students from the territory was $70,000, broken down into $10,000/year for the four years of medical school, then $15,000/year for a two-year residency in family medicine. The obligation was to return to work for four years. The penalty for not returning to practise in the territory was that the bursary would become a repayable loan. If re-implemented, increasing the penalties for discontinuing the agreement and increasing the dialogue between award recipients and the GNWT might improve this program. Elsewhere, RFS agreements include more significant penalties; for example, students from the Yukon who are funded to attend Memorial University medical school receive $200,000 funding for tuition and a $35,000 cash award that is all repayable if the work term of the agreement is not fulfilled.[5] Still, the NWT RFS program was not effective before and might not be effective in the future. In fact, a Cochrane review shows that RFS agreements have had variable success.[6]

In the NWT, there is some concern that financial incentives lure doctors back to the territory for the wrong reason. However, current Indigenous medical students disagree and have voiced the opinion that the RFS bursary was one of the few supports available to help reduce barriers to pursuing medicine, and without it the financial barriers are very significant since there aren't any other funding sources specifically to help cover the high tuition cost of medical school. These students said that the RFS was

4 Henderson, R.I., Williams, K., and Crowshoe, L.L. (2015), "Mini-med school for aboriginal youth: Experiential science outreach to tackle systemic barriers." Medical Education Online, 20 (1), 29561-7. doi:10.3402/meo.v20.29561.
5 http://www.hss.gov.yk.ca/meb.php.
6 Ibid.

primarily an incentive to pursue medicine in the first place, and that the service portion was aligned with their career intentions anyhow and therefore not overly coercive or binding.

Ultimately, an RFS bursary can still play a part in the medical training and employment pipeline[7], especially in an environment where signing a RFS with another jurisdiction might cause financially stressed medical trainees to practise elsewhere in Canada. Discussion with one Indigenous medical student confirmed that a lack of RFS in the NWT means that they are considering an RFS arrangement with another province that is offering one.

Cost

$70,000 per funded student.

Establish a territorial family medicine residency

Background

A residency program in the NWT would help provide medical trainees with the knowledge and procedural skills to effectively practise in a remote setting. Such a program has been outlined as a recruitment initiative in the GNWT Department of Health and Social Services 2015 Human Resources Strategic Plan and could be important for physician recruitment in the NWT.[8] Elsewhere, Nunavut has successfully implemented a family medicine residency where learners are based in Nunavut for four months out of a two-year residency program with Memorial University.[9]

Implementation

In the implementation of a residency program, Indigenous applicants who are committed to serving Indigenous communities could be given priority during the Canadian Residency Matching Service ranking of applicants. In other Indigenous health-focused family medicine residencies, such as at the University of British Columbia, for example, applicants are scored on a four-point scale based on lived Indigenous experience (1 point), a sincere interest in training at the Indigenous family-medicine residency site (1 point) and a personal letter (0–2 points).[10]

Prepare medical students for hiring

Background

Previous return-for-service agreements weren't honoured partly due to a lack of dialogue between the bursary recipients and the GNWT in organizing future employment options.

7 World Health Organization (2010), "Increasing Access to Health Workers in Remote and Rural Areas Through Improved Retention," Geneva: World Health Organization, http://www.searo.who.int/nepal/mediacentre/2010_increasing_access_to_health_workers_in_remote_and_rural_areas.pdf, 4.
8 Northwest Territories, Health and Social Services (2015), "Human Resources Strategy for the Health and Social Services System," accessed May 8, 2017, http://www.practicenorth.ca/uploads/HSS%20Programs/FINAL%20Strategic%20Plan%20-%20April%202015(dd).pdf.
9 http://www.med.mun.ca/familymed/postgrad/Curriculum-Overview/Map-of-Teaching-Sites/Nunavut.aspx accessed May 19, 2017.
10 University of British Columbia, UBC Family Medicine Residency (2017), "Indigenous," accessed May 8, 2017, http://carms.familymed.ubc.ca/training-sites/aboriginal-2-2/.

Implementation

This option could include compiling a list of current Indigenous medical students and maintaining contact with them regarding clinical rotations and future career opportunities in the NWT.

SUPPORT

Many southern medical schools have voiced a commitment to partnering with Canada's northern territories. Some medical schools have already developed individual agreements with regions of the NWT, such as the successful relationship between the previous Beaufort Delta Health and Social Services Authority and the University of British Columbia (UBC) Faculty of Medicine. Additionally, some medical schools consider students from the NWT as "in-province" for admissions, such as the University of Alberta, University of Calgary and UBC. Indigenous students from the NWT are also eligible to apply through the Indigenous admissions stream of reserved seats at some medical schools.

CONCLUSION

While the policy options described have up-front costs for a long-term benefit, there are also short-term and long-term costs for not acting. Over the short-term, the NWT could gain a poor reputation by not addressing the Truth & Reconciliation Commission's Call to Action #23, compared to other jurisdictions in Canada that have already focused on creating a pipeline for Indigenous physician training, recruitment and retention in Indigenous communities. The longer-term costs of not acting on this problem include the financial cost of continued reliance on short-term physician contracts and locums. Other costs may include, among others, poor continuity of care for patients in areas with high physician turnover, which may have profound population health impacts across many communities in the territory that have gone without a committed, long-term physician for many years. Not all the policy options in this paper need to be implemented to demonstrate a commitment to TRC Call to Action #23 or to provide meaningful supports to Indigenous students and doctors from the NWT: implementing any selection of the options will make a difference for aspiring doctors in the NWT and for Indigenous medical graduates who wish to practise in the NWT.

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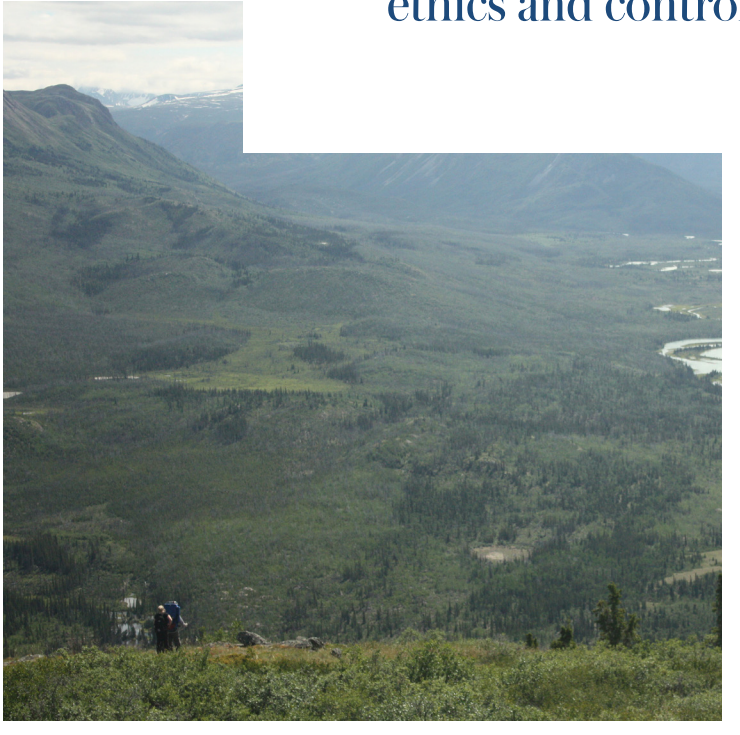
Meagan Grabowski

Recommendations for Modernizing the Yukon Scientists and Explorers Act

In its current form, the Scientists and Explorers Act, RSY 2002, c.200, does not account for modern government-to-government relationships between First Nations governments and the Yukon Territorial Government. There are overlapping issues of communication, capacity, ethics and control.



BACKGROUND

Yukon residents see an annual abundance of researchers collecting data from the land and the people. Approximately 80 research permits are granted annually in the Territory. Some Yukon communities see more than their population's worth of researchers within three years. Only a handful of these researchers are interacting directly with residents for a number of reasons, including logistics and a lack of funding for communication.[1] Building relationships between researchers and communities is therefore a challenge. There is a perception that a lot of research is going on but little awareness among northerners of who conducts research and why.

The Scientists and Explorers Act licenses people who "enter the Yukon for scientific or exploration purposes."[2] The Act itself no longer represents the actual procedure of licensing, especially with regard to who reviews applications and how decisions are made. The Act requires review and modernization, given the tripartite agreement-based First Nations, Territorial and Federal government structures in the Yukon. Modernization of the Scientists and Explorers Act will advance reconciliation in research.[3]

Due to limitations from all sides, the current licensing process is a "black box" for those who participate. The academic community and First Nations governments dedicate valuable time and resources to research and review licence applications and receive little to no feedback in return. This is leading to distrust between governments and institutions, resulting in conflict, changes in scope and in some cases legal intervention.[4]

If the research licensing process is not actively updated to reflect current Yukon realities, these issues will continue and more First Nations governments may choose to draw down territorial government powers of research licensing to the First Nations governments. Based on volume and impact, research licensing may not appear like an important file, and it therefore is conducted as an aside and not a main task. However, multiple layers of permitting can create a disincentive to research and researchers[5] and reduce Yukoners' access to benefits. As well, the tone the licensing process sets can have an impact on other government-to-government processes.

I conducted background research and interviews for the following purposes: to better understand the process and explore issues that have arisen related to the Scientists and Explorers Act and permits; to analyze policy options moving forward; and to address linkages between this policy, research relationships and reconciliation. In the following I present four options to modernize the Act and its licensing process, and provide potential implementation steps.

1 Example: Northern Scientific Training Program does not provide funding "for students to report results back to communities," Government of Canada (2016). *Northern Scientific Training Program Information Manual 2017-2018.* https://www.canada.ca/en/polar-knowledge/fundingforresearchers/nstp-information-manual-2017-2018.html, accessed: May 9 2017

2 *Scientists and Explorers Act.* RSY 2002, c.200, s.1. http://www.gov.yk.ca/legislation/acts/scex_c.pdf, accessed May 25, 2017.

3 Truth and Reconciliation Canada (2005). *Honouring the truth, reconciling for the future: Summary of the final report of the Truth and Reconciliation Commission of Canada.* Winnipeg: Truth and Reconciliation Commission of Canada; Yukon Native Brotherhood. (1973). *Together today for our children tomorrow: A statement of grievances and an approach to settlement by the Yukon Indian people.* Whitehorse, YT.

4 Example: In 2013, Champagne and Aishihik First Nations (CAFN) reviewed an Archaeological Sites Regulation permit (parallel process to S&E) for ice patch research and despite being not in support of the licence, the licence was approved by Yukon Government. A court injunction was pursued and the research went forward in better partnership, but the issue itself is presently unresolved with regard to authority.

5 There is interest in permitting from federal and international perspectives and these processes are often described as barriers to national and international collaboration (example: Arctic Council's Task Force on Scientific Cooperation). In the future, Territorial and First Nations governments may be required to ensure their jurisdiction is recognized by the international community.

This analysis is based on 24 full interviews and several informal conversations with individuals, including permit regulators, Yukon and First Nations government reviewers, researchers from natural and social sciences who apply for permits, and other stakeholders in Yukon research.

POLICY OPTIONS

01 Status Quo

02 Updates to Current Process

03 Devolve Permitting to First Nations Governments

04 Develop a Co-Management Board

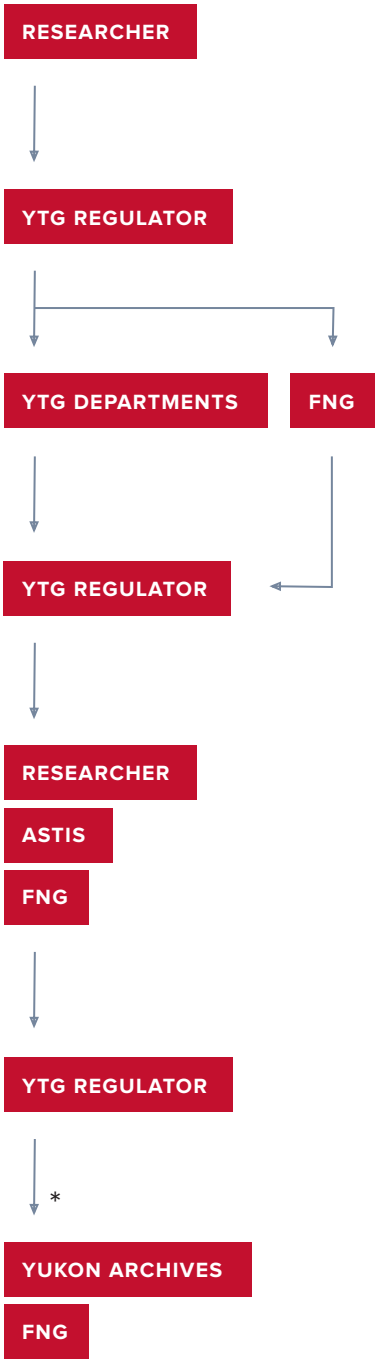
Status Quo

The first option is maintaining the status quo. Currently "outside" researchers (largely from universities) who want to conduct research in the Territory apply for a licence (Figure 1). There is a Guidebook on Scientific Research in the Yukon to help them apply, and let them know that they need to consult with any affected community about their research, and that there may be other permits they require.[6] Some researchers contact affected communities before their research (namely First Nations (FN) governments) and obtain a letter of support. The definition of "contact" is vague, and in some cases timelines for getting support or talking about the research do not line up before applying for the Scientists and Explorers permit. The regulator, currently the Manager of Heritage Resources, sends the application for comment to First Nations governments whose traditional territory the research is proposed to take place in, as well as other stakeholders, communicates with them to address any questions/concerns, and grants the license. A copy of the licence is sent to the appropriate First Nation government, the researcher, and other parties, and the research information is entered into ASTIS,[7] an online, publicly accessible database. A report is made by the researcher after the work is completed, which is then sent to other parties.

6 Cultural Services Branch, Department of Tourism and Culture, Government of Yukon (2008, updated 2013). *Guidebook on Scientific Research in the Yukon.* http://www.tc.gov.yk.ca/publications/Guidebook_on_Scientific_Research_2013.pdf.
7 Arctic Institute of North America, University of Calgary, *Arctic Science and Technology Information System.* http://www.aina.ucalgary.ca/astis/.

Figure 1

Depiction of the status quo licensing process



ASTIS

The Arctic Science and Technology Information System

YTG

Yukon Territorial Government

FNG

First Nations Government(s)

*Based on interviews and archival research, reports written by researchers are rarely received by Yukon Archives or First Nations Government(s).

ADVANTAGES

- Institutional memory and continuity
- Familiarity
- Costs for review incurred by First Nation governments

DISADVANTAGES

- Black box (feedback not reaching researchers/communities)
- Issues of accountability/transparency
- Assumes time/capacity in the FN governments to review
- Licensing decisions not made collaboratively
- Leaves ethics up to outside university
- Reports rarely received, format unclear
- Leakage (i.e., not all researchers apply)
- Little to no awareness/use of ASTIS
- Overlap with other permits (Parks Canada, FN governments)
- Lack of resources/staff for regulator to make updates

Updates to Current Process

Another option is to increase support to bolster the current process and relieve procedural issues.[8] This would involve a stronger liaison mandate, increased communication and longer timelines between Yukon and FN governments, a more comprehensive map-based database with reports uploaded, making the process online (similar to NWT), and an updated Guidebook. These updates would need to be implemented by the Yukon Territorial Government, or potentially, if it relates to land claim implementation, the federal government.

ADVANTAGES

- Institutional memory and continuity
- Increased accountability, transparency
- Increased access to the results of research
- Increased liaison to enhance relationships
- Better use of ASTIS database

DISADVANTAGES

- Continued authority issues
- Assumes time/capacity in the FN governments to review
- Licensing decisions not made collaboratively
- Leaves ethics up to outside university
- Leakage (i.e. not all researchers apply)
- Overlap with other permits (Parks Canada, FN governments)

Devolve Permitting to First Nations Governments

A third option is to devolve the issuance of permits to First Nations governments. There is currently one First Nation government, the Vuntut Gwitchin Government, that conducts their own research-permitting review and granting process, and more are poised to follow. Several more First Nations governments have created Research Agreements when deemed necessary, or particularly when research is occurring on Settlement land. If this trend continues, at any given location researchers could be required to obtain more than three permits before conducting research. A further option to reduce conflicts in authority over research could be having no Territorial permit and solely the First Nations government permits, but then non–First Nation Yukoners may not be consulted or considered. While this option is not legally feasible, it was mentioned in interviews, reiterates the importance of jurisdictional issues, and demonstrates that neither permit by itself addresses what is in the best interest of all Yukoners.

8 Cirque Consulting + Communications (2009). *Final Report, Canadian Arctic Research Licensing Initiative: Yukon.* Submitted to International Polar Year, Federal Program Office. Dawson City, YT: Cirque Consulting + Communications.

ADVANTAGES

- Gives FN governments authority on their traditional territory
- Allows FN governments to set the terms in research relationships
- Enhances communication between FN citizens and researchers
- May further distribute benefits of research to FN governments and citizens

DISADVANTAGES

- Creates overlapping work for all parties (applicants, reviewers and regulators)
- Dual authority creates potential conflict (i.e. if Yukon Government (YG) grants permit but FN governments does not, or vice versa)
- Multiple permits are a bureaucratic disincentive to research
- Procedural issues continue
- Assumes FN governments have time/capacity to conduct their own licensing
- Does not require considering the best interests of all Yukoners

Develop a Co-Management Board

In order to relieve pressure on the current process to make final decisions and promote further reconciliation, a co-management board could be created to review and grant multi-year licences.[9] The board would grant licences based on consensus of the board and the FN government on whose traditional territory the research is proposed to take place (Figure 2).[10] It would convene as necessary[11] and have representatives from multiple Yukon research stakeholders such as YG, FN governments, Yukon College and resident researchers (Yukon Research Centre, Arctic Institute of Community-Based Research, Yukon Government researchers, etc.). It would remove the licensing from the Department of Tourism and Culture and create a new body, which may enhance transparency and accountability. It could potentially develop Yukon-customized standards for ethical research for all disciplines and create space for more communication and conditions under the license.

ADVANTAGES

- Consensus-based process
- Furthers reconciliation
- Builds trust and relationships
- Supports/builds capacity of reviewers via forum
- Can learn from other co-management boards in the Yukon and from academic critiques
- Space to resolve concerns
- Potential long-term collective savings

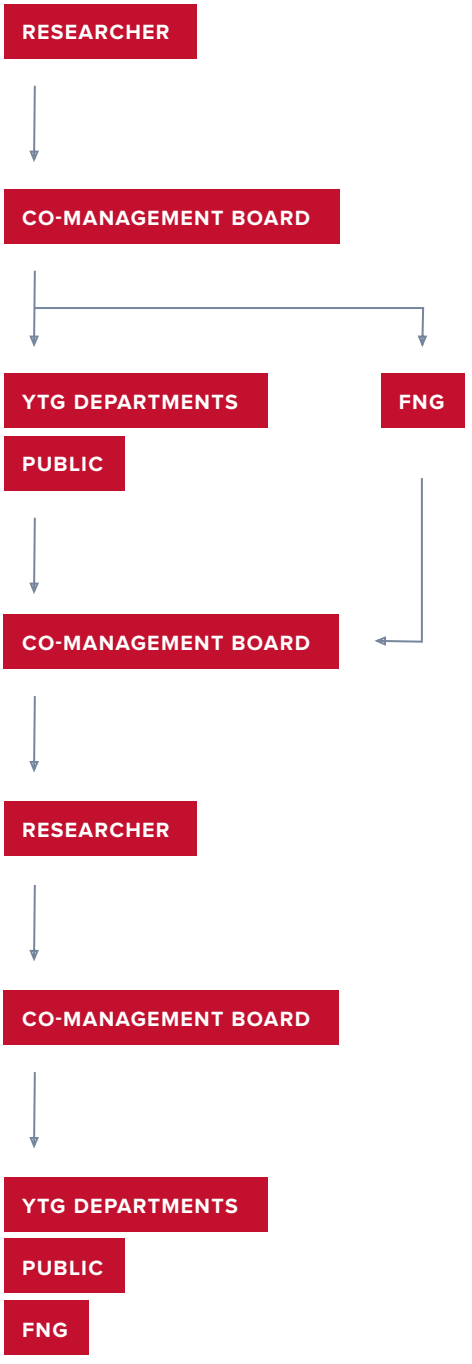
DISADVANTAGES

- Costly
- Longer timeline for establishment and licence granting
- New process (less continuity)
- Many stakeholders
- Some research licences may not be granted
- Could be differing opinions/conflict within the board
- Many individuals serving on other boards (capacity and tokenism risks)

9 The *Scientists and Explorers Act* currently requires annual renewal of licences. To relieve work on all parties, multi-year licences could be granted for the duration of research projects, as is done in the NWT.
10 NWT research licences are only granted with approval from the affected Aboriginal authority (personal communication, Pippa Seccombe-Hett, March 6, 2017).
11 The majority of licences may not require an in-depth liaison, and co-management could be used as a tool to address the few controversial licences.

Figure 2

Depiction of potential co-management model with facilitation between board, researcher, governments and public



YTG

Yukon Territorial Government

FNG

First Nations Government

CO-MANAGEMENT BOARD

Consists of YTG, FNG liaison, and community representative.

Could be from local research organization ie. AICBR, CYFN, or Yukon College.

Figure 3

Estimated Budget

To Establish	Annually to Run
$500,000	$80,000

RECOMMENDATIONS

A co-management board for research approval and liaising would address both the procedural and authority-related issues in research permitting. If First Nations governments are not actively accommodated in the approval or denial of permits, based on trends identified by this research I anticipate that individual governments will continue to create their own permit processes as resources allow.

SUPPORT

Several First Nations governments are already seeking a different process for research licencing, so they will most likely be supportive. However, consultation with each will still be required. There is a diverse set of opinions within and between different YG departments affiliated with research on how to move forward.

IMPLEMENTATION

The co-management board may require the following steps:

PHASE 1 (FIRST 6 MONTHS)

- Work with existing regulators to identify stakeholders, past conflicts that may arise again, procedural contacts and database-management tools.
- Engage all Yukon First Nations governments regarding their capacity and interest in a new board to review/approve licences.
- Develop and evaluate options for the board structure (number of members, organized by discipline/type of research, convene how often, where and how, etc.).

PHASE 2 (SECOND 6 MONTHS)

- Formal consultation with affected parties.
- Decide on structure, process, legislative aspects (e.g. abolish Act and create new one?).
- Establish outcomes for evaluation.

PHASE 3 (UPON COMPLETION OF PHASES 1 AND 2)

- Convene first board based on structure decisions and consultation.
- Evaluate progress in one and five years after start.

APPENDIX A: RESEARCH MOTIVATION AND DETAILS

Author's Note

After finishing my Master of Science degree (MSc), I had questions around how research was conducted in my home territory, the Yukon, which led me to study researcher-community relationships. For the majority of my MSc studies, I was based at Kluane Lake Research Station or at my home just outside of Whitehorse. I am a born and raised Yukoner, with a dedicated passion for northern science, and yet when visiting the local schools or attending Renewable Resource Council open houses I felt out of place. I wondered: what is the impact not just of my research but of my presence as a researcher? When I first started working in science I felt like the only Yukoner in many groups, which is why I wanted to pursue science: to prove that Yukon youth can get to the same level as anyone from down south. It surprised me how challenging and difficult it is to be a grad student from the "outside" (Whitehorse) working in rural Yukon and attempting to build relationships. I had many questions and wanted to study researcher-community relationships, and my Fellowship mentor Jocelyn Joe-Strack suggested studying relationships through the lens of legislation.

There is a deeply seated history of colonialism and a many-times-broken relationship where transient researchers extract information from the land and people of the North. There is a discrepancy between what is needed to create better researcher-community relationships and moreover better government-to-government relationships, and what is currently being done. Due to a lack of capacity, need for communication and a new era of northern participation in research, it is time for the issue to be addressed legislatively. This does not mean that permitting should become a barrier to research, but that it should facilitate transparency and collaboration by design.

Relationships are a two-way street. There are researchers who want to do more but rarely receive replies when they reach out, and governments running under-resourced research licensing and liaison files. There are communities that feel completely disconnected from the research done in their backyard. I hope this research and recommendation helps guide First Nations and Yukon governments and the many stakeholders in northern research in updating the permitting process and achieving better outcomes, including increased benefits of research to Yukoners.

Research Methods and Themes

Interviewees were selected based on involvement with the process from the three sides (applicant, regulator or reviewer), and regional representation. I chose to focus on the Kluane region for personal history reasons (Kluane First Nation and Champagne and Aishihik First Nation traditional territories), and Old Crow (Vuntut Gwitchin First Nation traditional territory) because it is seen as a region with high familiarity with and control of research. I also later added the Dawson City region (Tr'ondëk Hwëch'in First Nation traditional territory) and reached out to several more central Yukon First Nations but acknowledge their time and capacity limitations to participate. I recognize this is only a sample of Yukon First Nations who review permits, and of regions in which researchers work. The interviews were expanded based on referral sampling. Interviews were semi-structured (Appendix C) and recorded with consent. Interview audio was partially transcribed (point form, with illustrative quotes verbatim). Content was analyzed using NVivo for thematic content analysis (Table 1). Two overlapping levels of coding were used, one to address the pros and cons of different policy options, and one to address thematic issues emphasized or in common between interviewees.

The following overarching themes emerged during content analysis of the interviews. Here I will briefly describe the top three themes, listed by order of highest number of sources and references, and give a few illustrative quotes.

THEME	DESCRIPTION	ILLUSTRATIVE QUOTE
Communication	The permitting process has the opportunity to facilitate better communication, but the details are missing to make this happen. Both researchers and First Nations government reviewers alike are experiencing a gap in information flow. Researchers apply with the assumption that their applications are being reviewed and if they get a permit that means a certain level of awareness and room for comment has been made. They submit reports but don't hear if reports are useful or usable. The process is a "black box." First Nations governments submit comments, if they are able to get to it, and aren't always sure if their comments are heeded. They rarely receive reports from researchers via YTG.	"It seems to me in doing all these permits and doing all this letter-writing back and forth that surely there's got to be someone up there whose job it is to take advantage of the expertise that's passing through the community, or somehow figure out how to make something of this." —Y15 "Once the permit's issued it seems to be that's where it stops on the Yukon process." —Linaya Workman "...even if there have been concerns, we haven't received a lot of feedback, often from YG." —Y6 "...need to make some sort of connection between the issues we need information on here and the researchers that might be willing to work on those issues." —Jody Beaumont
Capacity	It was expressed throughout that there are assumptions made about capacity for FN governments to engage in conversations or reviews for the permits. Capacity limitations vary in the Yukon, and also vary among researchers. Researchers should work with communities until there is a capacity to engage, but they are also limited in time and funding in a competitive academic world that has institutional barriers to conducting community-based research. FN government reviewers give their limited time to reviewing proposals by researchers rather than conducting their own research to address local priorities. The process creates demands on time for both sides without giving much in return.	"...if you're a demanding a scientist do this [i.e., coming to the community beforehand], what are his real-world limitations...they've got a lot on their plate..." —Jeff Hunston "...the playing field isn't level. People in communities, especially Indigenous communities, are so often maxed out, and so to co-opt somebody to represent the community on an issue of a research proposal without the background that could be helpful to understanding what the implications are...it's very difficult for there to be equitable engagement on the part of communities and researchers." —Jody Butler-Walker "...review time [i.e. 60-day review period], working with under-capacity department...you're kind of prioritizing..." —Y3

THEME	DESCRIPTION	ILLUSTRATIVE QUOTE
Capacity cont.		"...if we get to it that's great, but YESAB permits, anything to do with mining, takes priority." —Y6 "we have our own research needs internally...to be spending our time with folks who are coming up to move their projects forward means we aren't moving our own..." —Jody Beaumont
Ethics and Control	Feedback also concentrated around the role of permits in ethics and control. Ethically, what should researchers be obligated to do? And what is the role of permits in allowing FN governments to have control over this conduct and more so over what research occurs in their traditional territory? There is a recognition of a new paradigm of research, where northern research priorities are addressed in collaboration with researchers, and incorporating local expertise and resources to better distribute benefits of hosting researchers. However, it will not be feasible for all projects to be of this depth and nature due to capacity. How do we ensure that research is still conducted ethically (i.e., isn't harmful to Yukoners or the land) without permits becoming a barrier or deterrent to research and researchers?	"...FN are involved as partner governments...that's not because it's a nice thing to do, that's actually law in Yukon for that to happen." —Jody Beaumont "Indigenous peoples have to be there instead of hearing about it after the fact." —Norma Kassi "I think there's a social responsibility for students and researchers to be actively thinking how they're going to give back to the community." —Rosa Brown "...so you have to really think hard, define your terms of engagement... and clarity in terms of authority, communications, all those kinds of things..." —Sheila Greer "...those affected by a decision should have a greater say in its outcome...and Yukoners have had livelihood impacts, health impacts [etc.]...as a result of research." —Y11

WHAT NEEDS TO BE AMENDED IN THE SCIENTISTS AND EXPLORERS ACT?

While a review of the Act is necessary, it may be lengthy and involve many stakeholders because research has become a lever for authority-related issues. Here I suggest preliminary solutions to parts of the Act which were identified during research as problematic.

Who is a scientist and who is an explorer?

Leave out explorer (this is a holdover from Mt. Logan climbers who are now covered by Parks Canada permits; and mineral exploration is hopefully covered by other processes such as the Yukon Environmental and Socioeconomic Assessment Act).

"Outside" the Yukon researchers only required to apply

"Inside/Outside" researchers is increasingly referred to as a false dichotomy. Create two levels of licences, one for internal researchers (governments, consultants and any private industry not covered by YESAA or other review processes) to publicly register their projects in an online database, and one for university-based researchers to be reviewed and permitted.

Ownership of data and samples returned to YTG

As physical samples are rarely taken in (lack of need and lack of resources to organize/archive), this part should be amended to align with current open data policies (http://open.canada.ca/en/open-data) where applicable, and/or assist in facilitating OCAP (Ownership, Control, Access and Possession) by First Nation individuals and governments (re: "ethically open data").[12]

Communication not addressed

Communication with "affected communities" is currently suggested by the Guidebook. It should be explicitly stated that communication with First Nation governments is necessary in the Act.

When is a project not licensed?

if consensus of the board cannot be reached based a concern that a project will inflict harm on Yukoners, and the researcher cannot find alternatives to avoid this harm, then a project should not be licensed.

Interviewees

Megan Williams, Heritage Manager, Vuntut Gwitchin First Nation (October 13, 2016)

Jeff Hunston, Manager, Heritage Resources Unit, Yukon Government (November 10 and December 12, 2016)

Brent Wolfe, Professor, Wilfred Laurier University (November 10, 2016)

Linaya Workman, Superintendent, Kluane National Park and Reserve (November 21, 2016)

Kate Ballegooyen, Environmental Officer and YESAA Coordinator, Kluane First Nation (November 23, 2016)

Gwenn Flowers, Associate Professor, Simon Fraser University (November 24, 2016)

Aynslie Ogden, Senior Science Advisor, Yukon Government (November 25, 2016)

Lacia Kinnear, Director, Strategic Growth and Innovation, Yukon College (November 29, 2016)

Ron Sumanik, Director, Oil and Gas Resources, Yukon Government (December 5, 2016)

Paul Nadasdy, Associate Professor, Cornell University (December 9, 2016)

Sheila Greer, Heritage Manager, Champagne and Aishihik First Nations (December 13, 2016)

Sian Williams, Station Manager, Kluane Lake Research Station (December 15, 2016)

Norma Kassi, Katelyn Friendship, and Jody Butler-Walker, Arctic Institute of Community-Based Research (January 4, 2017)

Rosa Brown, Lands Manager, Vuntut Gwitchin First Nation (January 5, 2017)

Bruce McLean, Habitat Programs, Yukon Government (January 6, 2017)

Christopher Burn, Professor of Geography, Carleton University (January 12, 2017)

Michael Jim, Fish and Wildlife Officer, Champagne and Aishihik First Nations (January 12, 2017)

Mark O'Donoghue, Northern Tutchone Regional Biologist, Yukon Government (January 12, 2017)

Douglas Clark, Associate Professor, University of Saskatchewan (January 16, 2017)

Jody Beaumont, Traditional Knowledge Specialist, and Kirsten Scott, Development Assessment Coordinator, Tr'ondëk Hwëch'in (January 31, 2017)

Pippa Seccombe-Hett, Vice President, Research, Aurora Research Institute (March 6, 2017)

APPENDIX B : EXCERPT FROM TOGETHER

Together Today for Our Children Tomorrow[13]

We are very often approached by a professor who wants to do some research. We haven't been very friendly so far, but now that we understand a little better, we are changing. But, if there is going to be research done, there must be some conditions first, if it is going to be any good to us.

12 Pulsifer et al. (2013). *Data Management for Arctic Observing: A Community White Paper.* http://www.arcticobservingsummit.org/sites/arcticobservingsummit.org/files/Pulsifer%20et%20al%20DataManagement.pdf.
13 Yukon Native Brotherhood. (1973). *Together today for our children tomorrow: A statement of grievances and an approach to settlement by the Yukon Indian people.* Whitehorse, YT. p. 23–24.

First, we must decide what we feel needs to be researched. We may need some help, but we must make the final decision.

Second, we must choose who will do the research. We can tell the difference between someone who wants to do the job for US, and someone who wants to do the job for himself (or for some outside interest).

Third, all research must include our own people. We must learn the necessary skills so we will be able to do our own research in the future.
Fourth, the results of the research must belong to us. It is no good sitting in a University or in some government office filing cabinet. Much research has already been done, but we are not able to get our hands on it.

Fifth, all recent research about Yukon Indians should be given to us.

APPENDIX C : INTERVIEW GUIDE

Interviews were semi-structured and depended on the position of the interviewee, thus questions served as a guideline.

Thematic questions

- How was the permitting process set up?
- How has the permitting process evolved?
- How does the permitting process facilitate relationships?
- What are the perceived benefits of research to Yukoners by different stakeholders?

To Regulators

- How was the permit process set up? How did it evolve?
- What was the original intent of the permits?
- What is the current intent of the permits?
- How many permits are processed annually?
- When do permits go smoothly from the regulatory perspective?
- When do permits not go smoothly from the regulatory perspective?
- Do the permits capture all research in the Yukon? Should they? Could they?
- What are the benefits of hosting researchers for Yukoners?
- Are those benefits distributed to Yukoners?
- How could more benefits of research reach Yukoners?

To Community Reviewers

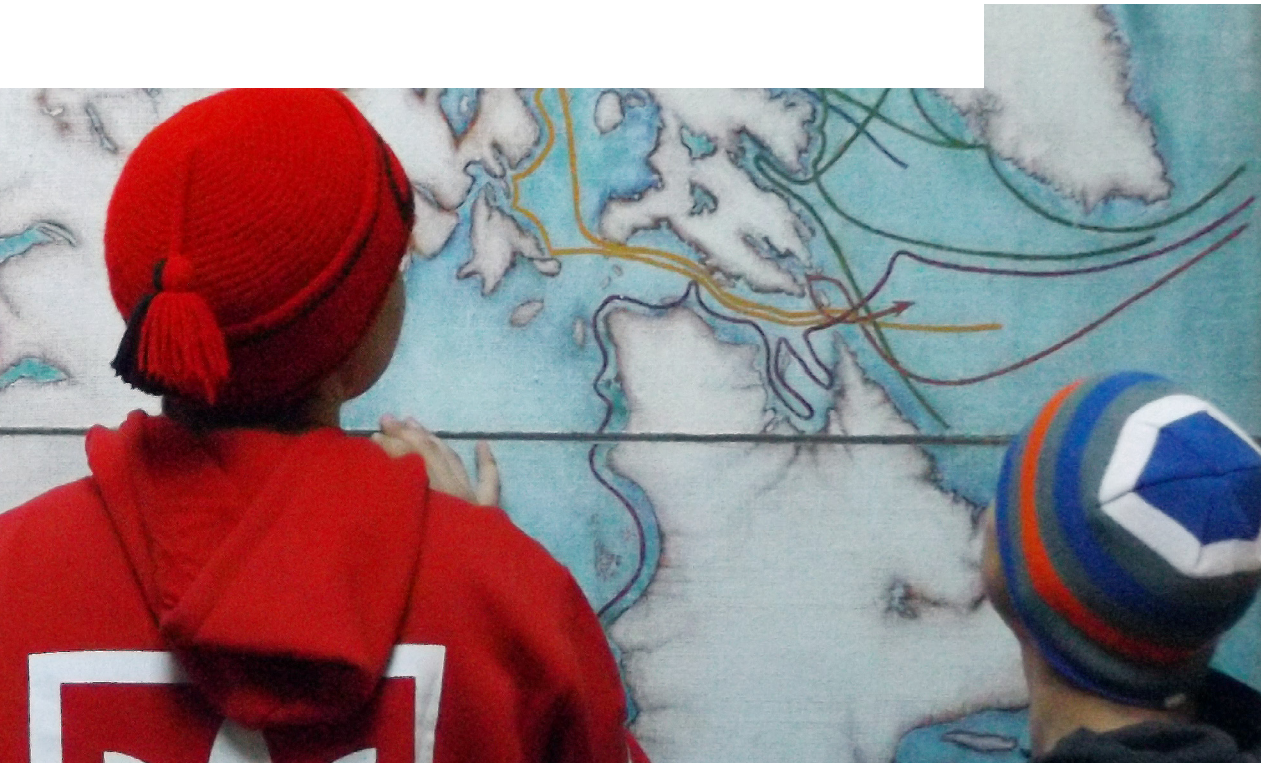
- How does the permitting process include First Nations governments?
- How many permit applications do you receive annually?
- How does the review process go in your government?
- Are there any barriers to completing a full review of each project?
- Are any connections made between you and the researcher prior to, during, or after the permit application?
- What would be the ideal process of research on your First Nations' traditional territory?
- What are the benefits of hosting researchers on your First Nations' TT?
- Are those benefits received?
- How could benefits be better distributed?
- What role do the permits have in creating connections?

To Researchers

- How does the permitting process go for researchers? How did you learn about the process?
- How many years have you been applying for permits, and have you observed any changes in the process through that time?
- Do you receive feedback on your application? If so, how often and from whom?
- Do you feel encouraged to contact any affected communities in advance of your proposal?
- What do you think the main benefits of research are to Yukoners?
- How are these benefits distributed?
- Is the Guidebook clear in its requirements? If not, how could it be improved?
- How would you like your interim and final reports/ papers to be distributed/stored?
- Have you used the ASTIS database to look for other researchers in your subject area or study area? If so, how could it be improved?
- Does the permitting process connect you to the community you work near? Should it? Can it?

Angela Nuliayok Rudolph

Breaking Down Colonial Borders in Inuit Nunaat Through Education



INTRODUCTION

Inuit, despite the borders that separate them, share a similar culture, including their traditional education systems. However, this culture was disrupted with outside contact. Through contact with various nation-states, Inuit have experienced very similar colonial histories in which colonizers pushed assimilationist policies on them, especially in regard to education. Inuit, within their four nation-states, have been fighting for greater autonomy in order to take back control of their lives. A prime example of how effective this has been can be illustrated through Nunavut's grade 10 social studies curriculum and the Nunavut Sivuniksavut program. These examples have guided my research question for this paper: "Would Inuit throughout the circumpolar north benefit from learning from these Nunavut-specific examples and expanding them to the wider circumpolar reality in which Inuit live?" Circumpolar Inuit from Inuit Nunaat face many of the same issues. It would be beneficial for Inuit to have curriculum in place to prepare them to address these circumpolar issues.

TRADITIONAL INUIT EDUCATION

Inuit Qaujimajatuqangit

Inuit Knowledge

Traditionally, Inuit had their own education system. Education was guided by the practice of *inunnguiniq* – to become an able human being. To achieve *inunnguiniq*, a person had to understand *Inuit Qaujimajatuqangit* (IQ) – Inuit knowledge. Shirley Tagalik, an Inuit educational consultant, explains IQ as follows:

> "IQ encompasses the entire realm of Inuit experience in the world and the values, principles, beliefs and skills which have evolved as a result of that experience. It is the experience and resulting knowledge/wisdom that prepares us for success in the future and establishes the possible survival of Inuit."
> Tagalik 2010, 2

According to *Inuit Qaujimajatuqangit: Education Framework Nunavut Curriculum, six of the guiding principles of IQ can be understood as learning outcomes*.

Pijitsirniq
The concept of serving

Aajiiqatigingniq
The concept of consensus decision-making

Pilimakmaksarniq
The concept of skills acquisition

Piliriqatigiingniq
The concept of collaborative relationships or working together for a common good

Avatimik Kamattiarniq
The concept of environmental stewardship

Qanuqtuurnnarniq
The concept of being resourceful to solve problems (Nunavut Department of Education 2007, 31–36)

These expertly-chosen guiding principles needed to be learned by individuals in order for them to develop *inunnguiniq, and ensured that Inuit were prepared to function and be a valuable resource within their society* (Tagalik 2010, 1-2).

One of the single most important aspects of Inuit society was their *maligait* – Inuit laws that ultimately contributed to living the good life untroubled. The IQ guiding principles prepared Inuit to pursue, achieve and abide by *maligait*. *Maligait* directly translates into "things one should follow." There were many *maligait*, which acted as laws that Inuit should follow, but there were four major *maligait*, which include, but were not limited to:

- Working for the common good
- Respecting all living things
- Maintaining harmony and balance
- Continually planning and preparing for the future (Tagalik 2010, 1-2)

Through the educational practices of *inunnguiniq*, IQ and *maligait,* Inuit were enabled to be valuable contributors to society, which allowed them to thrive for thousands of years in the circumpolar north. However, this traditional Inuit education system was disrupted when Inuit came into contact with non-Inuit.

Iñupiaq Ilitqusiat

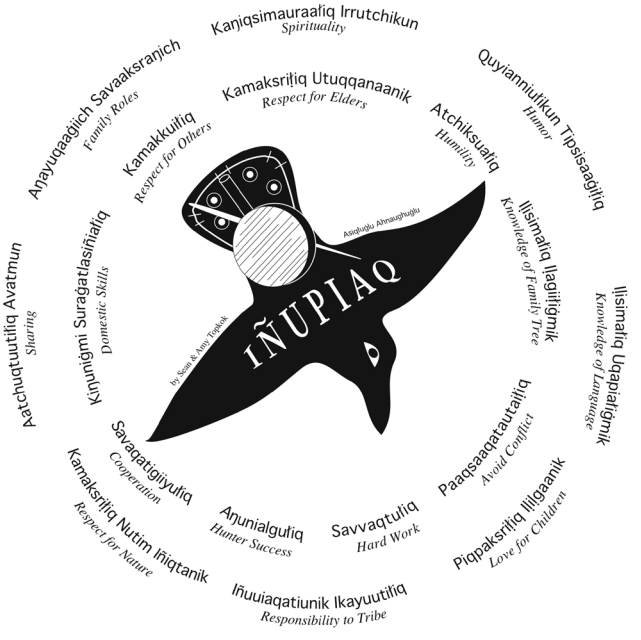
Iñupiaq Values

Like the Inuit in Canada, the Iñupiaq in Alaska had their own traditional education. This, although widely retained by Iñupiat elders, is documented to a lesser extent than IQ is in Canada. One of the lead researchers and documenters of *Iñupiat Ilitqusiat* (II) is Sean Asiqłuq Topkok, a professor at the University of Alaska Fairbanks in the School of Education. The traditional Iñupiaq education was taught through II. The purpose of II, as explained by an Iñupiaq elder named Rachel Craig in Topkok's dissertation, "is 'the way people are.' Their spiritual characteristics motivate their attitudes and actions. II actually means 'how the Eskimo[1] are'" (Topkok 2015, 23). Furthermore, "[II] seeks to assert and validate Iñupiaq ethnic identity, reactivate and preserve Iñupiaq skills, and solve pressing social problems by using traditional wisdom that is part of the essential heritage of the Iñupiat" (Topkok 2015, 22). The II principles are described below, in a graph taken from Topkok's dissertation.

Figure 1

Iñupiat Ilitqusiat

With guidance and support from Elders, we must teach our children Iñupiaq values.



Source: Topkok 2015, 24

1 Eskimo is a commonly accepted term for Inuit in Alaska. However, the term is considered to be a derogatory slur in Canada.

Iliranaqtuq

Having so much respect that it borders on fear

There is an Inuktitut word used by Inuit to describe the colonial history of Canadian Inuit – it is *iliranaqtuq*. *Iliranaqtuq* perfectly characterizes what Inuit went through during colonization.

Education of Inuit was the epitome of colonization efforts. The purpose of Inuit education during colonization was to destroy the "Indian[2] in the child" for the purpose of aggressive civilization (Government of Northwest Territories, Legacy of Hope Foundation 2012, 13-14). John Amagoalik, who is termed the "Father of Nunavut" for his efforts in negotiating the Nunavut Land Claims Agreement and the subsequent creation of Nunavut, says of residential schools that schooling at the time was "designed to separate the children from their parents, teach them a new language, and to forget their cultures and traditions. It was their intention to 'kill the native in the child'" (Government of Northwest Territories, Legacy of Hope Foundation 2012, 95).

Canada is currently going through a Truth and Reconciliation process to address the effects that residential schools had on Indigenous Peoples in Canada. The Truth half of the Truth and Reconciliation process provides the space for Indigenous Peoples to speak their truths about residential schools in Canada. Not only are they given the space to speak their truth but their truth is heard and honoured. The Reconciliation half is the restoration and creation of good relations between Indigenous Peoples and Canadians. The Reconciliation process also includes providing compensation for Indigenous People who are survivors of the residential school system.

There are five policy efforts put in place to achieve Truth and Reconciliation. The first policy addresses Healing. $125 million has been allocated to support the Aboriginal Healing Foundation to aid healing programs and initiatives. The prime minister of Canada at the time, Stephen Harper, also delivered a formal apology on June 11, 2008 as part of the healing process. In his formal apology Harper said:

> "The burden of this experience has been on your shoulders for far too long. The burden is properly ours as a Government, and as a country. There is no place in Canada for the attitudes that inspired the Indian Residential Schools system to ever prevail again. You have been working on recovering from this experience for a long time and in a very real sense, *we are now joining you on this journey* (emphasis added). The Government of Canada sincerely apologizes and asks the forgiveness of the Aboriginal peoples of this country for failing them so profoundly. Nous le regrettons — We are sorry —Nimitataynan — Niminchinowesamin – Mamiattugut." Government of Northwest Territories, Legacy of Hope Foundation 2012, 49

The second policy initiative is the Common Experience Payment (CEP). $1.9 billion was set aside for residential school survivors to access compensation for experience in the form of $10,000 for the first school year and

2 The term at this time included Inuit people. However, once Inuit political mobilization occurred, Inuit were able to identify themselves as a separate culture and identity from the "Indian" one.

$3,000 for each subsequent year. The third policy is Truth and Reconciliation. $60 million was granted over five years to promote public education and awareness of residential schools and their legacy. The fourth policy initiative is Commemoration. $20 million was granted to commemorate the legacy of residential schools. And lastly, the fifth policy initiative is the Independent Assessment Process (IAP). Residential school survivors who suffered severe sexual, physical or psychological abuses, and who felt the CEP did not do justice to compensate their experience in residential school can apply for IAP (Government of Northwest Territories, Legacy of Hope Foundation 2012, 160-162).

"School was something we really valued and wanted; we were just happy to be in school. There wasn't a kid that didn't want to go to school, because that was the only place that we could go. Most of us loved learning."
Blackman 1989, 65

COMPARISON TO BUREAU OF INDIAN AFFAIRS SCHOOLS IN ALASKA

Sadie Brower Neakok, whose life is detailed in Sadie Brower Neakok: An Iñupiaq Woman, serves as a great example of the Canadian Inuit experience. Brower Neakok was an Iñupiaq woman from Barrow. She began her schooling in Barrow at a Bureau of Indian Affairs (BIA) School. There were two classrooms and the students learned arithmetic, reading and writing. Technically, the Iñupiaq students were not allowed to speak their language, because the purpose of BIA Schools was to acculturate and assimilate the children into Western society, much like residential schools in Canada. However, Brower Neakok recalls that they had an Iñupiaq teacher who sympathized with them and occasionally let it pass when they spoke their language. Brower Neakok recalls her schooling experience in Barrow as follows, which is very dissimilar to how Inuit in Canada explain their residential schooling

Brower Neakok then went on to school in San Francisco. She lived in San Francisco alone with family friends. She describes the homesickness she experienced after her initial move to San Francisco, saying:

"The first year I was quite homesick. I waited for the snow to fall that winter, which never came. I missed the atmosphere — the cold, the snow. There was day and night all the time in San Francisco, and how strange it was to be living in an area where winter just never came"
Blackman 1989, 85

Brower Neakok doubted herself in comparison to the students who were from San Francisco. She felt that she was not as good as them, explaining, "I didn't class myself as being good enough, equal to the white children that I was placed with in that great big school" (Blackman 1989, 87). Brower Neakok explains that her inferiority complex arose from two sources. One was her inability to speak English as well as her classmates. The other was that the education she experienced was

so culturally irrelevant to her that she found it hard to be interested in what she was learning. She describes the experience of her history class as follows:

> "I didn't know what a president was, or his cabinet, congress, all those things. It was hard for me to learn and remember "important" dates ... [they] had no significance to me; why should I remember all these? These were people and events that had no bearing on my life, and I used to just about fall off to sleep when the history teacher would recite these things we had to learn, because I could never make heads or tails of it." Blackman 1989, 88

Ajurnarmat

That which cannot be helped, but we will endure and move on

There is another Inuktitut word that perfectly characterizes the experiences of Inuit schooling during colonization, and it is *ajurnarmat*. This word is used in the Inuktitut language most commonly when a person passes away. When people comfort the loved ones of the person who has passed away, they hug them and say "*ajurnarmat.*" When this is said, the person acknowledges the hardship that is experienced. They are letting them know that the hardship will be experienced, but that it will come to pass, and that things will eventually return to normal.

Although the experience of residential schools was hard, the hardship did not last, and it was not all bad. Paul Andrew, a man from Tulita, NWT, and a residential school survivor, says about residential schools that "on the balance, certainly the negatives will win, but we cannot forget the positive that has been brought around" (Government of Northwest Territories, Legacy of Hope Foundation 2012, 69). This is a sentiment shared by many. Edna Elias, who has acted as commissioner of Nunavut and is a residential school survivor, says that "life is too short to dwell on the negative. If I'm going to do wonderful things in society, if I'm going to contribute to society, I can't dwell on the past" (Government of Northwest Territories, Legacy of Hope Foundation 2012, 121). This shows how resilient Indigenous Peoples are, that no matter how hard the experience is, they will find ways to make the negative a positive.

There were some positives to take away from residential schools, although these positives should not overshadow the very real negative experiences of Indigenous Peoples in residential schools. Residential schools did empower Inuit to become valuable members of their society as newfound Canadians. Many residential school survivors went on to mobilize their peoples politically in response to their colonial experiences; to take back control over their lives. Peter Irniq, who was commissioner of Nunavut and is also a residential school survivor, has said that Inuit "have never said anything negative about the education system that we got. If anything, we have said the school that we attended, the education system that we got in English was a top-notch education system. We all became leaders in the end" (Irniq n.d.). He followed up that statement by explaining:

"In the early 1970s, we saw the formation of The Inuit Tapirisat of Canada, the Inuit Brotherhood of Canada, and regional associations that were established in various Inuit homelands in the Arctic, so there were lots of changes. We started to talk about the creation of Nunavut, which means "our land" in my language. We started to see the development of political structures for Inuit in the 1970s. Some of the changes that we saw in the 1970s were the changes that I myself helped to make those changes in regard to the creation of Nunavut."
Irniq, n.d.

This is a phenomenon that was not only experienced by Inuit in Canada. Like Inuit in Canada, Brower Neakok felt obligated to use her education for the betterment of her people. Her first experience in education, outside of being a student, was with Eklutna Vocational School. She was the headmistress of the woman's dorm. She helped to take care of the Alaska Native women. As a former Iñupiaq student who spent time away from home, she understood what the students were going through. She realized that students were struggling with the new Western food they were provided at Eklutna, so she fought to have Native food once a week for the students. She helped greatly to alleviate students' homesickness (Blackman 1989, 100-104).

Brower Neakok then went on to study at the University of Alaska Fairbanks, where she trained for two years to become a teacher. She then went to teach in Barrow. In her role as teacher, Brower Neakok tried to use her education and influence to change what she saw as inappropriate in education. Brower Neakok realized as a teacher that "the education kids got [in Barrow] wasn't related to life up [there]" (Blackman 1989, 113). As a result, Brower Neakok acted as an advocate for Iñupiaq education. She would travel often to discuss educational matters with the BIA to better the education of Iñupiaq. However, family issues arose that pulled her out of teaching. She never returned to education, but she did become the first Iñupiaq magistrate (Blackman 1989, 110–114).

With their newfound education and skills, Inuit in Canada were able to build the foundation to take back control of their lives, and education. Mary Simon, who has received many accolades as an advocate for Inuit, but, more important, she advocates strongly for Inuit education, was the lead proponent behind Inuit Tapiriit Kanatami's National Inuit Education Summit held in Inuvik in April 2008. Simon said, while at this summit:

"I heard the sound of rolling thunder. That is the sound, in Nunatsiavut, in Nunavik, in Nunavut and in the Inuvialuit Region, of Inuit rising up to reclaim our role as stewards of our children's education. Through our land claims, Inuit have taken back the stewardship of our land and our resources, and now, we have our eyes firmly set on transforming our education systems. We must build on our successes."
Akulukjuk 2008, 62

CURRENT EDUCATION IN NUNAVUT

Addressing the Education Deficit, written in 2011, states that nationwide in Canada only one out of four Inuit students will graduate from high school (Simon 2011, 50). This statistic has not improved from a report written in 2006 (Berger 2006, 38). There are many reasons as to why this may be true. One major reason is that the history of residential schools has tainted many parents' views of education. Other reasons include a lack of bilingual education for those Inuit who speak Inuktitut as their first language, as well as a lack of community involvement, and a lack of culturally relevant education (Simon 2011, 50-52). Kerri Tattuinee, an Inuk student who graduated from the Nunavut Sivuniksavut (NS) program, wrote an article for *Naniiliqpita Magazine* called "The Problem with Passion." In her article, Tattuinee writes about all the amazing culturally-relevant education that she learned while at NS, and explains why she is baffled and frustrated as to why Inuit did not learn this material in their homeland. Tattuinee goes on to state that:

> "It just amazes me how much work had to be put into all this – into Nunavut. It bugs me though, that a lot of young people don't realize it. People don't know, because they really aren't taught our history in schools or elsewhere. It's because our education system still follows Alberta curriculum, and besides having a few courses like Northern Studies and Aulajaaqtut, we don't really have the time to learn about our own history."
> Tattuinee 2007, 28-29

There has been some movement in creating culturally relevant education in Nunavut. The social studies grade 10 curriculum is all Inuit- and Nunavut-focused. The course is broken down into four modules. Module one is called *Staking the Claim: Dreams, Democracy and Canadian Inuit*. In this module, students learn about Inuit history and the Nunavut Land Claims Agreement. This module is an education resource created by NS. It is accompanied by three 20-minute documentaries. The documentaries were filmed by three NS graduates who interviewed prominent Inuit and non-Inuit leaders who were involved in the Nunavut Land Claims Agreement (Nunavut Sivuniksavut 2009).

The second module is called *Rights, Responsibilities and Justice.* In this module, students learn about traditional Inuit rights, responsibilities and justice; modern-day rights and responsibilities as an Inuk member of the Nunavut Land Claims Agreement; and they learn about their rights and responsibilities as Canadian citizens and the justice systems in Nunavut and Canada (Department of Education 2012).

Module three is called *Governance and Leadership*. Students learn about governance models that are relevant to them, such as the Inuit governance that has emerged as a result of the Nunavut Land Claims Agreement; they also learn about the Canadian and Nunavut governance systems; and about Inuit and non-Inuit leadership at various levels (Department of Education 2012).

Finally, the fourth module is called *The Residential School System in Canada: Understanding the Past — Seeking Reconciliation — Building Hope for Tomorrow.* This module emerged as a result of an initiative of the Truth and Reconciliation Commission to educate Canadians about Canada's residential school history (Government of Northwest Territories, Legacy of Hope Foundation 2012). The Nunavut

social studies grade 10 curriculum is an amazing and wonderful achievement in culturally relevant education for Inuit in Nunavut. However, that is what it is — it is culturally relevant education to be used almost exclusively in Nunavut.

SUCCESS STORY

Nunavut Sivuniksavut

Our Land, Our Future

Nunavut Sivuniksavut was created in 1985 when Inuit leaders saw a growing need to educate Inuit youth to negotiate and implement the Nunavut Land Claims Agreement. NS has grown into a unique college program for Inuit students in Canada. It is a two-year program; however, students decide on their own accord if they want to attend the second year. Students who are accepted into the program move out of their Inuit community and live in Ottawa for nine months. While at NS, first-year students take Inuit-specific courses such as Inuit History, Land Claims Agreements, Contemporary Issues, and Inuit-Government Relations. They also take practical courses to help prepare them for their future, such as Inuktitut, English, computer use, and Inuit music. Along with courses, students also act as Inuit ambassadors to teach southern Canadians about the Inuit and Arctic culture. They do this by performing as a group at various events in Ottawa, within Canada, and internationally (Hanson 2011, 32-37). The NS program is as successful as it is unique. NS has a graduation rate of 80 to 85% (Hanson 2011, 41). This statistic is astounding compared to the high school graduation rates of Inuit in Canada, where only one out of four Inuit youth graduate.

Morley Hanson and Murray Angus are both instructors of the NS program. In "The New Three R's," they explain what makes the NS program so successful. Hanson and Angus largely credit the success of NS to the cultural relevancy of their education, stating:

> "[NS teaches Inuit youth curriculum that is] from their perspective of their own – a.k.a. Inuit – experience. Students find it highly engaging because it helps them to understand, not only the world they're stepping into as young adults, but also how that world came into being.... They leave with a passionate commitment to building the Nunavut dream."
> Hanson 2011, 45

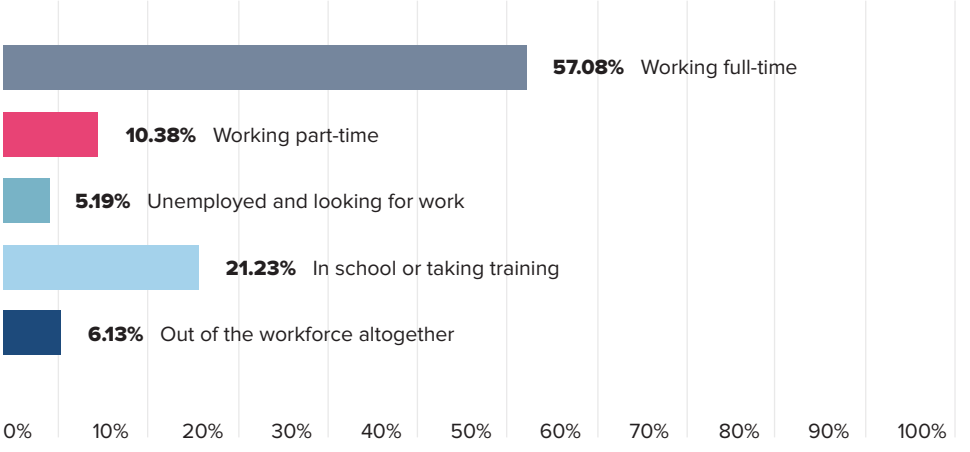
Inuit youth do leave the NS program with a passion to build on the Nunavut dream. Not only do these Inuit youth leave passionate and empowered, but the Government of Nunavut and Inuit organizations in Nunavut see the value in hiring them, because they understand the Inuit world that these governing structures function in. The two figures below show the employment rate of NS graduates.

The NS program is a highly successful program. However, like the social studies grade 10 curriculum in Nunavut, it is most useful and relevant to Nunavut Inuit.

Figure 2

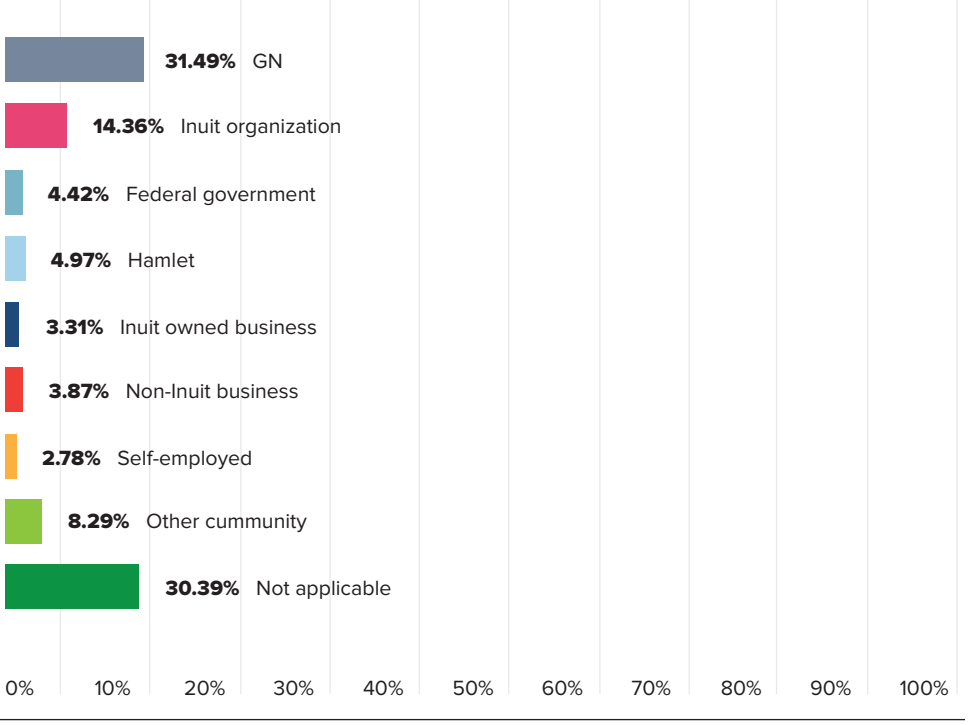
What are you doing now?

Answered: 212 **Skipped:** 2



If you're working, who do you work for?

Answered: 181 **Skipped:** 33



Source: Nunavut Sivuniksavut, 2015

Inuit Nunaat

Inuit Land

The circumpolar north is facing many issues. The Gordon Foundation conducted a survey and released it in a 2015 report called *Rethinking the Top of the World: Arctic Public Opinion Survey, Vol. 2*. One of the survey questions asked respondents from Canada and the United States what they think the biggest threats are to the Arctic. The top threats, in ascending order, include climate change; environmental damage; resource, oil and gas exploration and exploitation; lack of political support, representation and sovereignty (The Gordon Foundation 2015, 28). These are international and trans-boundary circumpolar issues that cannot be addressed by one nation-state alone. Inuit, who are a circumpolar people and whose homeland is the Arctic, often find themselves at the heart of these issues.

Inuit live in a vast territory making up the majority of the circumpolar north. The land they occupy can be called *Inuit Nunaat* (Inuit lands). *Inuit Nunaat* extends from Russia to Alaska to Canada and finally Greenland. Borders are a new concept to Inuit, imposed on them by nation-states. Pujjut Kusugak, a modern political leader who has served on many Inuit organizations, says, in regard to his Canadian Inuit identity that, "First, we can go back and say this: Inuit did not pick Canada. Canada picked the Arctic and Inuit happened to live there" (The Gordon Foundation 2013, 20).

Inuit, despite the borders that separate them, recognize their shared culture and identity. Describing Inuit connections, Natan Obed, president of Inuit Tapiriit Kanatami, has said, "Our families spread across jurisdictional boundaries. Our bonds are not cemented in our land claim silos, and our love for one another is not confined to cultural or linguistic attributes … and we connect meaningfully despite distance" (Obed 2015, 2). This is something many Inuit leaders have known for a long time. As early as 1976, Eben Hopson, an Iñupiaq leader from Barrow, was advocating for the creation of a pan-Inuit political unit to create Arctic policy to address issues that Inuit were facing. Hopson was successful in gathering Inuit for the first Inuit Circumpolar Conference. Inuit were given the platform to discuss policy concerning mineral and energy resource extraction that affected them. In 1980 this evolved into the Inuit Circumpolar Council (ICC) and Hopsen was the first president to serve ICC. ICC represents 155,000 Inuit across the circumpolar north. Later, in 1991, it became apparent to nation-states that there was a need for an Arctic organization for countries to collectively address issues in the Arctic. Thus, in 1996, the Arctic Council was established to enable Arctic nations to create Arctic policy (Anjum 2013). Governing structures such as the ICC and the Arctic Council now play a major role in the lives of circumpolar Inuit.

With the ever-growing and pressing concerns that Inuit from the circumpolar north face, which are largely transboundary, there is a need to prepare Inuit youth to address these international issues; this is their circumpolar reality. Kirt Ejesiak, an Inuk from Nunavut who has served as executive director of ICC-Canada, passionately advocates for a pan-Inuit Union or Inuit State. In the Inuit Union, Inuit would form a union similar to the European Union. Inuit in the Inuit Union would still be members of their respective nation-states. However, there would be political tools put in place where Inuit would have more of an ability to govern their lives to best fit their circumpolar reality.

WHAT AN INUIT CIRCUMPOLAR CURRICULUM COULD LOOK LIKE IN ALASKA

Inummarik

The real human being

Education is the best way for Inuit to address the issues of their circumpolar context. Education has the amazing power to shape an entire peoples and their future. Inuit need to create curriculum that promotes what Rachel Qitsualik, a prominent Inuit writer whose written work strives to include Inuit traditional practices, calls *inummarik*. Qitsualik explains *inummarik* as follows:

> "The Inummarik, too, is a ghost-concept, a model alone, though it is one toward which Inuit have aspired since ancient times. This model is the free human, sovereign over the self, respectful of the self-sovereignty of others. It is the human whose awareness not only renders self-sovereignty possible, but comprehends how self-sovereignties — those of others in society — synergize toward a system of self-perpetuating health."
> The Gordon Foundation 2013, 36

Curriculum needs to be created by Inuit for Inuit to enable them to live successfully in their circumpolar world. If NS, with its culturally relevant education to Inuit in Nunavut, is so successful within what Obed calls its "land claim silo," then imagine the implications a circumpolar-wide culturally relevant curriculum would have on Inuit of the circumpolar north. Inuit would be able to walk away from their educational experience feeling empowered. Perhaps they would feel as Sadie Brower Neakok felt when she learned culturally relevant education from her husband, Nate Neakok:

> "I was born into Eskimo life, I knew what it consisted of, but I was so young when I was taken out to school. So, I had to learn it all over-learned to sew all over again, how to make clothing, mukluks, parkas, tan hides. Some of the life of my people just really sank into me that first year of our marriage, because it showed me how much I had missed, and how much I didn't know that existed in our native way of life. Nate was a hunter; it was his livelihood. He never went to school, but he knew more than I did, a college student, a teacher. From him I learned how to be an Eskimo all over again."
> Blackman 1989, 124

There are education policies from various Inuit organizations already put in place that Inuit could use. In Canada, there is the *First Canadians, Canadians First: National Strategy on Inuit Education 2011*, which was released by Inuit Tapiriit Kanatami. Education policies recommended in this report which could help Inuit create curriculum for Inuit circumpolar empowerment include developing leaders in Inuit education, and investing in Inuit-centred curriculum (Inuit Tapiriit Kanatami 2011). In Alaska, there is the *Alaska Inuit Education Improvement Strategy 2015,* which was released by ICC-Alaska. Education policies recommended in this report could help Inuit create curriculum to address their circumpolar reality:

▸ Promote the indigenization of education frameworks to more clearly align with Inuit ideologies
▸ Suggest, advocate for, and influence policies related to Inuit education
▸ Research, advocate for, and promote the development, implementation, and sharing of culture-based curriculum that focuses on students' identity as Inuit
▸ Foster educational leadership capacity among Alaska Inuit. These are frameworks that provide Inuit the foundation to build upon and create an Inuit circumpolar-wide curriculum (Inuit Circumpolar Conference — Alaska 2015)

CONCLUSION

It was through colonial policy that Inuit were separated into four different countries: Russia, Alaska, Canada and Greenland. Education was considered the epitome of colonization efforts. Inuit in Canada were colonized through the residential schools. Inuit in Canada express their experience with residential school as *iliranaqtuq*, whereby so much respect was given that it induced fear. Inuit in Alaska were colonized through BIA schools. Inuit in Alaska, as seen in the example of Sadie Brower Neakok, commonly expressed their experiences as inducing an inferiority complex similar to *iliranaqtuq*. Prior to this, Inuit had their own education frameworks. In Canada, Inuit describe this education framework as *inunnguiniq*, which means the process of making a capable human being. To achieve *inunnguiniq*, Inuit followed the guiding principles of *Inuit Qaujimajatuqangit,* which were governed by *maligait.* In Alaska, Inuit practiced *Iñupiat Ilitqusiat.*

Throughout the circumpolar north, there are ever-growing and pressing international issues. Although Inuit are separated by four nation-states, they share a common culture. This common and shared culture prompts Inuit to respond to these circumpolar international issues with the same attitudes. However, because Inuit are separated by four nation-states, it makes it difficult for Inuit to come together to address these issues. Therefore, it is important for Inuit to unite — despite the borders that separate them — to address these issues. One way that this can be accomplished is through international education efforts, which promote *inummarik*. The case study of Nunavut Sivuniksavut as a success story can provide valuable insight into how this can be accomplished and the successes that may follow as a result. There are policies from Inuit organizations that provide the foundation and frameworks for this to be accomplished, such as Inuit Tapiriit Kanatami's *First Canadians, Canadians First: National Strategy on Inuit Education 2011* and Inuit Circumpolar Council Alaska's *Alaskan Inuit Education Improvement Strategy.*

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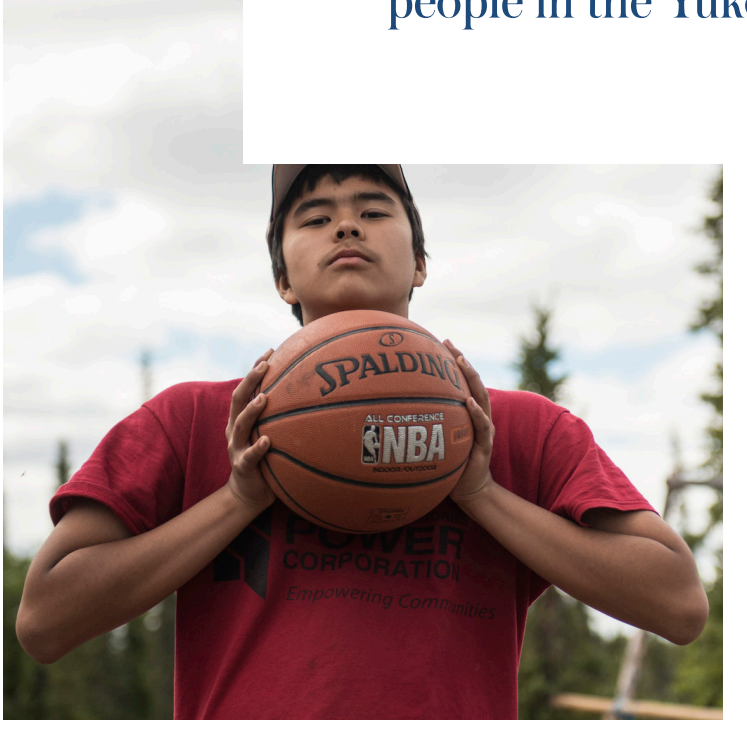
Melaina Sheldon

Department of Justice Yukon Policy Memo

In criminal matters First Nations people appear to be presumed guilty rather than innocent by Royal Canadian Mounted Police (RCMP) in the North, resulting in disproportionate incarceration rates of Aboriginal people in the Yukon Territory.



BACKGROUND

▸ There is a disproportionate number of incarcerated First Nations men and women in the Yukon Territory, as they comprise only 23% of the population, but make up 70 to 90% of those in custody.

▸ Aboriginal offenders tend to be younger than their counterparts. In 2013, 21.3% of all federally incarcerated Aboriginal offenders were 25 years of age or younger as compared to 13.6% of non-Aboriginals.[1] The Aboriginal population is growing, and a prediction from the 2012 Government of Canada report speculated that by 2017, Aboriginal people aged 20 to 29 could make up 40% of the general public population in the Yukon Territory.[2] These related statistics imply that incarceration rates in the territory are only likely to increase.

▸ The remand rate in the Yukon rose in 2010/2011, while it fell in other provinces and territories across Canada. The Adult Correctional Statistics in Canada, 2010/2011 report by Mia Dauvergne also notes, "Overall, most crimes committed by adults admitted to provincial or territorial sentenced custody in 2010/2011 were non-violent. [More specifically,] 76% of all such admissions involved property offences, impaired driving, drug offences or other non-violent offences while 24% involved violent offences."[3]

▸ In 2011, it was noted that the Yukon also had the highest percentage of complaints against the RCMP concerning "improper-use-of-force" of any jurisdiction in Canada, averaging 47 complaints per year, and these were only complaints that were filed.[4]

▸ There is a known and existing tainted historical relationship between Yukon First Nations and RCMP resulting from learned, intergenerational experiences, including: enforcement of the Indian Act, segregation law, residential school and the "60's Scoop."

▸ There are prevailing, systemic stereotypes about First Nations people in Canada that must be recognized, addressed and debunked.

▸ "In 2013–14, more than $14.6 million was allocated to correctional services within the [Yukon] Department of Justice. This represented 22 percent of the Department's budget and included: about $10.6 million directly related to custodial services; about $1.9 million directly related to community supervision; and about $2.1 million for other community and custodial programs and services such as community justice initiatives."[5]

1 Dauvergne, Mia. "Adult Correctional Statistics in Canada 2010/2011." Accessed January 10, 2016; retrieved from http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11715-eng.htm.
2 Ibid.
3 Ibid.
4 Keevil, Genesee. (2011, July 13). Yukon targeted by RCMP complaints commission. The Yukon News. Accessed March 1, 2017; retrieved from http://yukon-news.com/news/yukon-targeted-by-rcmp-complaints-commission.
5 Auditor General of Canada. (2015, March 5). Corrections in Yukon — Department of Justice. Accessed October 12, 2015; retrieved from http://www.oag-bvg.gc.ca/internet/English/yuk_201503_e_40251.html.

These facts have led me to conclude that the growing population of Aboriginal youth paired with already existing and increasing incarceration rates of Aboriginal persons, make bleak statistics for Aboriginal youth currently and going forward.

The Aboriginal youth population is growing; "[c]lose to half (46%) of Aboriginal people in Canada were under the age of 25, compared with 30% of the non-Aboriginal population."[6] This makes them the fastest-growing, next generation of the Canadian workforce. But what vital contribution can they make to Canadian society if they are behind bars?

As the majority of admissions to Yukon incarceration facilities were for non-violent offences and the cost of maintaining correctional facilities far exceeds the cost of the implementation of preventive measures, there exists a need to keep Aboriginal youth from entering the correctional system from the starting point, the first gateway to the correctional system: interactions with the RMCP.

"What vital contribution can they make to Canadian society if they are behind bars?"

POLICY OPTIONS

These options could include programs already existing or under development in the Yukon to address these issues. Options have the potential to build a stronger connection and relationship between Yukon First Nations and Yukon RCMP, addressing the issues of systemic and historical stereotypes, focusing on fostering positive RCMP and First Nations interactions and potentially creating a decrease in the anticipated rising rate of Yukon First Nations youth entering the justice and correctional systems in Yukon.

01 Status Quo

02 Yukon Police Council Scheduled Reporting

03 Yukon Phoenix Pilot Project Training Initiative

6 Statistics Canada. (2015, November 30). "Aboriginal Peoples: Fact Sheet for Canada." Accessed December 16, 2017; retrieved from http://www.statcan.gc.ca/pub/89-656-x/89-656-x2015001-eng.htm#a3.

Status Quo

A first option is to wait and see how incarceration rates change in the next five years by maintaining the status quo and not pursuing new initiatives.

ADVANTAGES

- Low cost: Finances are not being expended on crime prevention initiatives
- Low risk: Public scrutiny does not increase

DISADVANTAGES

- Could be depicted as ignorance of a public epidemic
- Potentially financially unstable if incarceration rates rise, thus increasing correctional costs and overall judicial system costs
- Public scrutiny increases

Yukon Police Council Scheduled Reporting

The Yukon Police Council was established to provide a formal structure and ongoing mechanism for community members to have input into the policing services they receive. The Council's focus is to promote ongoing dialogue in order to foster positive relationships between the Yukon citizens, the Yukon RCMP ("M" Division) and the Department of Justice.

The establishment of the Yukon Police Council is a key recommendation flowing from Sharing Common Ground, the final report of the Review of Yukon's Police Force 2010.[7]

The Yukon Police Council's main roles are to ensure that a broad representation of Yukon citizens have input into the Territorial Police Service objectives, priorities and goals established by the Minister of Justice; provide advice that the Minister of Justice may consider when establishing policing objectives, priorities and goals pursuant to the Territorial Police Services Agreement; and increase the flow of information among citizens, the Department of Justice and "M" Division of the RCMP.[8]

ADVANTAGES

- Yukon Police Council maintains community presence and activity
- Yukon RCMP conduct and guide their actions as a collective
- Yukon RCMP person-to-person interactions are guided by the priorities
- The Council no longer remains unique to the Yukon Territory, but is initiated nationally

DISADVANTAGES

- Policing priorities are set yearly, but lack feasible and tangible initiatives that address all priorities set for the year
- Results of policing priorities that are addressed remain difficult to quantify
- The Yukon Police Council is perceived as ineffective
- Incarceration rates and community police complaints continue to rise despite the Yukon Police Council's recommendations

Yukon Phoenix Pilot Project Training Initiative

The Yukon Phoenix Project is a training pilot project with an aim to bring Yukon First Nations youth (ages 12–14) and members of the

7 Simone Arnold, Peter Clark and Dennis Cooley, Sharing Common Ground; Review of Yukon's Police Force Final Report (Whitehorse: Government of Yukon, 2011); retrieved from http://www.policereview2010.gov.yk.ca/pdf/Sharing_Common_Ground_Final_Report.pdf.
8 Yukon Government. (2016 March 3). Yukon Police Council — Department of Justice. Accessed March 3, 2017; retrieved from http://yukonpolicecouncil.ca/.

Whitehorse division of the RCMP together in a two-day training workshop, utilizing the Yukon College First Nations Initiatives Department's core competency training, Yukon First Nations History and Cultural Training and Popular Theatre techniques for the fostering of mutual education, understanding and respect between First Nations youth and law enforcement officers.

ADVANTAGES

- Yukon Police Council's policing priorities are addressed
- Participation numbers and thus results are quantifiable
- Yukon First Nations youth (pre-teens/early teens, i.e., before they commit crimes) are educated on the Canadian Criminal Code, their legal rights and consequences of criminal activity as a minor and as an adult
- Yukon First Nations youth and Yukon RCMP learn together the history of Yukon First Nations and their relationship with the RCMP
- The project provides a place for a safe, premeditated interaction between youth and RCMP, creating a muscle memory for future, positive interactions
- Has potential for crime prevention and thus, lower incarceration rates for Aboriginal youth
- Varying production costs depending on number of participants
- Could become an effective training tool for RCMP to foster better relationships with the First Nations community, aiding in potentially de-escalating interactions and administering equitable and fair enforcement for First Nations offenders

DISADVANTAGES

- The nature of the workshop requires an intimate group to foster trust and there will initially be low impact as capacity per project would remain small; no more than four youth and four RCMP are able to participate per workshop
- Time availability of students, RCMP and workshop facilitators can be difficult to schedule as students are in school or on summer holidays, RCMP have regularly scheduled shifts, and currently the facilitators are not based in Whitehorse where the pilot project will initially be conducted. Availability for RCMP participation is potentially difficult, as staffing rates in the territory remain low
- Student availability may be difficult if the workshops are not a part of curriculum
- There is a high turnover rate of RCMP within the territory; those trained may not stay in the territory, creating a need for the training to be ongoing
- Potential high cost to sustain the project; facilitator fees, RCMP wages, venue costs, etc.
- Need to have a consistent, trained facilitator for project delivery and maintenance
- Potential to be perceived as ineffective
- Potential parental disapproval

> "There exists a need to keep Aboriginal youth from entering the correctional system from the starting point."

RECOMMENDATIONS

The Yukon Department of Justice support and focus efforts on implementable and tangible outcomes of Yukon Police Council Policing Priorities such as: crime prevention, relationship-building with First Nations citizens, and supporting children and youth, including those at risk, via public and financial support of grassroots initiatives, such as the Yukon Phoenix Pilot Project aimed at fostering RCMP and First Nations relations and crime prevention in the territory.

If pilot workshops are successful, the Yukon Department of Justice, in conjunction with the Yukon Department of Education, support the evolution of the workshop into a curriculum based, territorial-wide, two-day training workshop for Grade 8 students and RCMP, focused on the history of policing in the territory and the operation of the criminal justice system, with the intention of halting the predicted increase of incarceration rates of Yukon First Nations youth.

SUPPORT

Groups that have indicated their support of these recommendations include:

- Yukon RCMP (M Division) Officer in Charge of Criminal Operations
- Yukon College First Nations Initiatives Department
- Yukon College Northern Institute of Social Justice
- Stage Left Productions (Calgary, AB)

Further supporters to be contacted include:

- Yukon Department of Education
- Yukon Mental Health Supports
- Yukon First Nations Government Justice Departments: Teslin Tlingit Justice Council

IMPLEMENTATION

This policy recommendation will be tested via a pilot project in September or October of 2017. This pilot project will discern the effectiveness of the training with direct feedback from officers and Yukon First Nations youth. If response from the workshop is positive, future workshops can be delivered as a part of regular school curriculum starting as early as September 2018 and would be available to non–First Nations youth as well.

Should this pilot prove useful, the Yukon Minister of Justice and Education, Tracy-Anne McPhee, could be approached to inquire about the Justice Department's capability of assisting with implementation costs. The RCMP would be expected to supplement the wages of officers in support of workshop participation. The pilot project, with in-kind assistance, would run a total cost of $22,000 for two days. Funding support will be sought after by the Yukon-based theatre workshop facilitator via the Jane Glassco Northern Fellowship Alumni Fund and the Crime Prevention and Victim Services Trust Fund (Yukon).

A Yukon school will be identified as a pilot "host." The Yukon College Northern Institute of Social Justice and the First Nations Initiatives Department will be essential to workshop delivery. Currently the First Nations Initiatives department is reconfiguring and developing workshop materials that speak directly to the workshop theme: the historical relationship between RCMP and First Nations people of the Yukon.

APPENDIX A :
YUKON PHOENIX PILOT PROJECT SCOPE

The Yukon Phoenix Project will be a pilot project with an aim to bring Yukon First Nations youth (ages 12–14) and members of the Whitehorse division of the RCMP together in a two-day[9] training workshop, utilizing the Yukon College First Nations Initiatives Department's core competency training, Yukon First Nations History and Cultural Training and Popular Theatre techniques facilitated by Calgary-based Stage Left Productions Artistic Director, Michele Decottignies, and assisted by a Yukon theatre artist, for the fostering of mutual education, understanding and respect between First Nations youth and law enforcement officers through workshop education and theatrical role-playing.

This cross-cultural collaboration will utilize embodied Popular Theatre techniques (with "popular" meaning "by, of and for the people"). These creative techniques immerse the participants in collective engagement, exploration and discovery that is complementary to traditional teachings, as they are holistic: they engage participants in spiritual, emotional, intellectual and physical learning and sharing. And this workshop's intensity is meant to be the beginning of a long-term, reciprocal community collaboration.[10]

The Calgary Congress for Equity and Diversity in the Arts website defines reciprocal collaboration as follows:

Reciprocity means that there is an ethic of mutual respect and a back-and-forth sharing of resources. Everyone involved both gives and receives something — be it resources, knowledge, ideas, time, energy, space or other contributions. In reciprocal collaboration the knowledge, expertise and experience of diverse [persons] is valued, sought out, acknowledged and integrated. The contributions made by those of us on the margins are understood as just as significant as those that are made by [those that are considered authorities or higher ups].[11]

This definition deeply applies to the work the Yukon Phoenix Project aims to accomplish by bringing together Yukon First Nations Youth and Yukon RCMP in a facilitated environment, where they are encouraged to interact and engage with each other on a "level playing field," with a focus on breaking down mutually held stereotypes of the "other." Through this guided educational workshop and popular theatre techniques, all participants become both educator and learner.

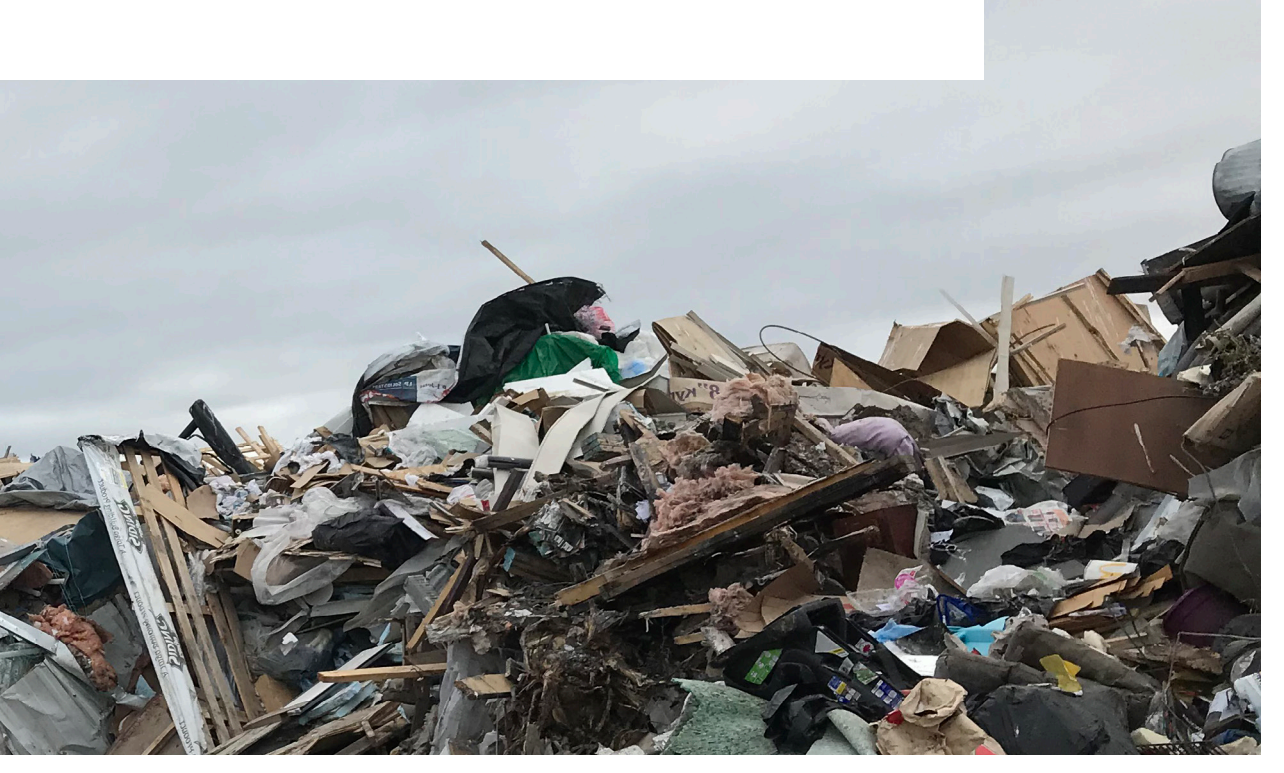
9 Logistically, the availability of currently employed RCMP officers has determined that a workshop of this nature cannot run more than three days. Personal communication, Superintendent Brian Jones, Yukon RCMP "M" Division, Officer in Charge of Criminal Operations. Friday, March 31, 2017. Whitehorse, Yukon.

10 M. Decottignies (personal correspondence, February 14, 2017).

11 The Calgary Congress for Equity and Diversity In The Arts (CCEDA). "Values: Reciprocal Collaboration." Accessed February 14, 2017; retrieved from http://www.calgaryartsequity.org/values.html.

Dawn Tremblay

Watching Our Waste-line:
Used Electronics, Tires and Organics



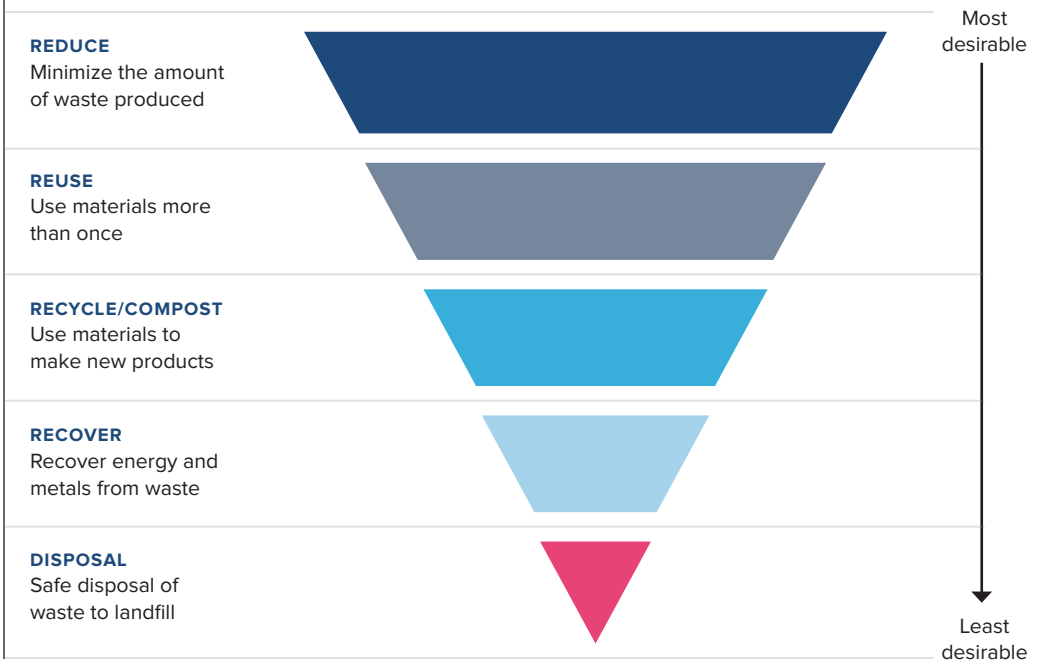
INTRODUCTION

People produce many different kinds of waste. While researching waste management in the Northwest Territories (NWT), I focused on three main components of the waste stream: electronics, old tires, and food waste (organics). These three components represent a cross-section of commonly consumed and discarded items. Waste is generally managed at the local level; however, there are territorial and federal programs and responsibilities for waste management. The figures below illustrate two waste management theories. Figure 1 illustrates the waste management hierarchy and ranks options from most sustainable to least sustainable. While Figure 2 illustrates a closed-loop cycle of waste management, which produces zero waste. The following document includes an update on the nascent electronics recycling program, and more detailed policy memos for old tires and organics recycling. The tire waste policy option is written for the Government of the Northwest Territories (GNWT), since it addresses the Territory-wide problem of used tire accumulation and the need for territorial programming. Whereas the organics waste-recycling policy memo is written for the City of Yellowknife, since it focuses on the problem of increasing participation in organics recycling beyond the residential curbside collection. How are used electronics, tires and organics impacting our waste-line?

Figure 1

The Waste Management Hierarchy[1]

A waste management theory ranking options from most sustainable to least sustainable.

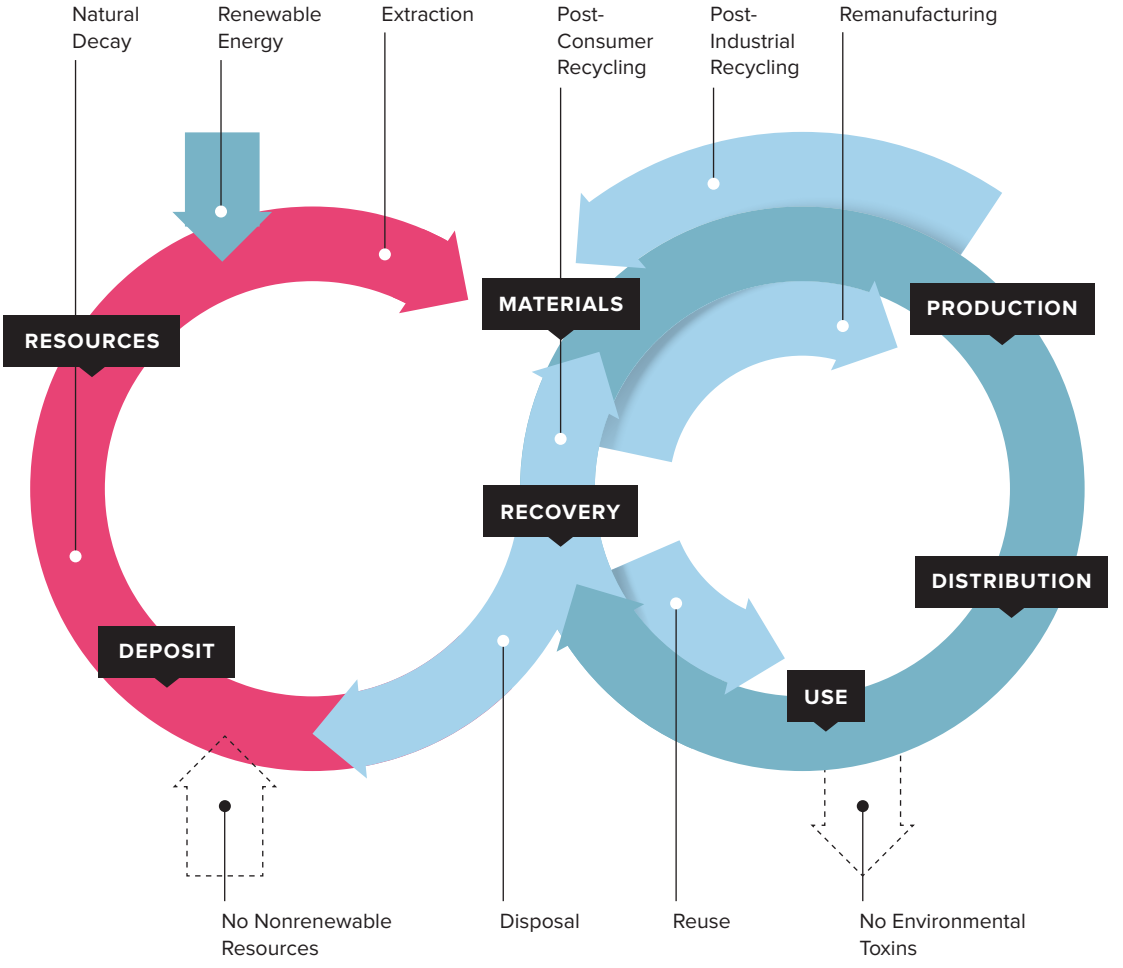


1 Diagram A: Durham York Energy Centre, accessed February 28, 2017. https://www.durhamyorkwaste.ca/FAQ/FAQ.aspx.

Figure 2

The Circular Economy[2]

A waste management theory illustrating a closed-loop cycle of waste management, which produces zero waste.



2 Diagram B: Re-Thinking Progress: the Circular Economy, Olive Ventures, accessed April 17, 2017, http://oliveventures.com.sg/act/2011/08/31/re-thinking-progress-the-circular-economy/.

Electronic Waste Management

Policy Options for the Government of Northwest Territories

OVERVIEW

The Government of the Northwest Territories (GNWT) launched a territory-wide electronics recycling program on February 1, 2016, following a pilot project in four communities starting in 2013. The program introduced an environmental handling fee on new electronics purchased in the NWT. Retailers collect the fees and submit them to Government of the Northwest Territories to cover the costs of recycling.

A similar program exists in neighbouring jurisdictions such as Alberta. In the NWT, recycling depots originally established to accept beverage containers now accept selected electronics. However, unlike beverage containers, residents do not collect a refund when they drop off old electronics. A year into this program, it is premature to analyze and provide recommendations for improvements. Nevertheless, an evaluation of the electronics recycling program in the near future enhances the likelihood of an optimally effective policy and program. In theory, electronics recycling decreases our waste-line by providing infrastructure and funding to responsibly management electronic waste.

Tire Waste Management

Policy Options for the Government of Northwest Territories

PROBLEM DEFINITION

Tires are commonly brought into and used throughout the Northwest Territories, and they end up at our solid waste facilities or dumped on the land at their end of life. Sometimes they go directly into the landfill and sometimes they are piled in a separate area. Tires are flammable and piles of tires are a breeding ground for mosquitoes when water pools in them. If they burn, the resulting toxins reduce air quality and can cause health and safety problems. Currently, no funding exists specifically for communities to deal with used tires, limited options exist for reusing tires, and large freighting distances to southern markets are costly for recycling. Thus, tires steadily accumulate and present an ever-greater risk of burning. We don't know the proportion of tires tossed into the environment versus disposed of at solid waste facilities in the NWT. These challenges can be overcome with a sufficient budget, but securing funding is problematic once tires reach the end of their usable life. The problem is consistently generating the funding required to deal with used tires in a financially, environmentally and socially responsible way.

BACKGROUND

Tires come from a variety of transportation uses, including residential, commercial, industrial and essential services. Currently, some communities in the NWT such as Yellowknife and Fort Smith have a disposal fee for old tires. However, many NWT tire users do not pay anything at time of purchase or disposal of their tires. In Yellowknife, businesses may charge an extra fee on tires, to cover the costs of taking them to the Solid Waste Facility; as a result, some consumers discard old tires into the environment to avoid the fee. Most communities have no specific source of revenue to manage old tires.

Government has the responsibility to ensure a safe environment for people. This has come to include dealing with toxins that result from the disposal of products such as tires. Governments realize a systems approach is required, and producers or retailers must be regulated to ensure accountability for the safe end-of-life disposal of the products they produce or sell. Therefore, producers of tires have a responsibility for the huge piles of tires in our communities. They make the tire and should make use of the old rubber. Producers could (or should) play a role in the end of life-cycle of their products.[3] While producers should take this responsibility, they are not located within the NWT and thus are not regulated by NWT authorities, which makes it difficult to address the issues faced in the NWT. However, many tires disposed of in the NWT are purchased here, and therefore an opportunity exists to address responsibility through tire retailers.

Local policymakers have the most jurisdiction over diversion programs like tire recycling. However, they often have insufficient resources or capacity to take this on. Territorial policymakers have jurisdiction stemming from the *Waste Reduction and Recovery Act*,[4] which can be exercised through territory-wide diversion programs.[5] Aboriginal governments in the NWT have varying degrees of jurisdiction over waste management based on land claims and self-government agreements, but at this time have not indicated interest in taking on an active role.[6] The federal government has jurisdiction over air pollution, GHG emissions, and Hazardous Waste, so they have some responsibility to support initiatives which contribute to clean air, decreased GHG emissions and hazardous waste management.

The Northwest Territories and Nunavut are the only jurisdictions in Canada without a tire stewardship program. The specifics vary in each province and territory, but all programs have people paying a fee on the purchase of new tires and disposing of them free of charge, which also prevents the practice of discarding the tires into the environment to avoid a fee. The fee at tire purchase is meant to cover the costs of recycling tires. A range of fees exists for different sized tires. Fees vary from $3 to $7 for passenger vehicles and light truck tires. Ontario adjusts the fee annually based on the actual numbers of tires sold into the market. Some provinces limit the number of tires you can return at one time (generally four or five, with the highest limit of 10 in Saskatchewan). A few programs include bicycle tires for free.

3 This concept is referred to as Extended Producer Responsibility (EPR).
4 *Waste Reduction and Recovery Act*, S.N.W.T. 2003, c.29, https://www.justice.gov.nt.ca/en/files/legislation/waste-reduction-recovery/waste-reduction-recovery.a.pdf accessed November 15, 2015.
5 An example of a GNWT diversion program is the Beverage Container program. It is a stewardship program. People pay a fee when purchasing a beverage, a portion of which is returned when the beverage container is dropped off at a depot or collection event. The remainder goes into the GNWT's Environment Fund which covers recycling and operation expenses.
6 In the NWT, self-government agreements include clauses pertaining to waste. For example, according to the Déline Self-Government Agreement, '95, "Despite subsection 72.03(1) or any territorial law, the Gwich'in and Sahtu First Nations, the Tlicho Government and the Déline Got'ine Government are not required to pay any fee in respect of the use of waters or the deposit of waste for non-commercial purposes on their first nation lands, Tlicho lands or Déline lands as the case may be." This is substantially different than in southern jurisdictions, where user pay systems are in place for dropping waste off at solid waste facilities.

Saskatchewan is running a program to encourage tires from farm land and properties to be returned free of charge, thus cleaning up historic tire accumulation. Management of the programs vary between each jurisdiction. Non-profit associations, arm's length Crown corporations or governments run the programs.

Challenges for an NWT stewardship program include limited financial and human resource capacity at the community level, and an initial stockpile of tires. Transportation to southern markets for recycling is a major challenge.

POLICY OPTIONS

01 Stay the Same

Allow tires to accumulate in communities.

02 Tire Stewardship Program

Implementing a tire stewardship program would require NWT consumers to pay a fee on the purchase of new tires to fund the end-of-life tire recycling costs, similar to the electronics recycling program.

03 Standardize Nationwide

A nationwide program in which the Government of Canada or each jurisdiction implements a nationally coordinated Extended Producer Responsibility (EPR) program, ensuring producers pay a recycling fee to cover the end-of-life costs of tires.

ANALYSIS

Stay the Same

ADVANTAGES

- Low cost politically and financially
- Low effort

DISADVANTAGES

- No source of funding to deal with tires
- Continue to increase hazard (fire and health potential and mosquito breeding ground)
- Original problem gets worse

Tire Stewardship Program

ADVANTAGES

- Generates revenue to deal with old tires
- The existing Beverage Container program systems (depots, legislation, infrastructure) provide a ready platform for implementation
- Communities receive financial support to participate in tire recycling program
- Decreases hazards (fire, health and safety)

DISADVANTAGES

- No role for Extended Producer Responsibility
- People resist change, and don't want to pay more
- Retailers may resist since it adds to their workload
- Funding may be short of what is required because some tires are purchased outside the jurisdiction but disposed of here

Standardize Nationwide

ADVANTAGES

- Requires that producers play a role in end of life-cycle costs
- Decreases hazards permanently and comprehensively by being nationally coordinated
- Standardized throughout the country
- Covers the recycling costs for all tires

DISADVANTAGES

- May initially be costly to achieve
- Interjurisdictional negotiations can be time-consuming, politically challenging and difficult to complete
- Producers may be reluctant to take on responsibility, and slow down negotiations or implementation

RECOMMENDATIONS

At this time, the recommended policy option to immediately improve tire waste management is to implement a tire stewardship program. Moving forward, the GNWT should support dialogue toward the establishment of a national Extended Producer Responsibility program. The benefit is generating funds to responsibly and environmentally deal with tires throughout the NWT once they are no longer useful.

IMPLEMENTATION

Governance
Minister of Environment

Department
Environment and Natural Resources

Agency responsible
Environment Division, Waste Reduction and Management Section

Human resource implications
Incremental workload increase related to current depot and program delivery, and substantial work required to establish a new program, comparable to establishing the electronics recycling program.

Timeline

Years 1–3
- Establish and launch program
- Add tire recycling regulations under the *Waste Reduction and Recovery Act*
- Identify regional challenges, consult and increase capacity at current depots
- Marketing campaign
- Interjurisdictional negotiations for funds collected on vehicles purchased out of territory for example in Alberta and the Yukon

Years 4–5
- Rotate 5-year regional transportation plan (focus on one region per year to ensure tires and accumulated tires get to southern markets when local uses are exhausted)
- Encourage Cabinet to complete EPR negotiations at FPT (Federal/Provincial/Territorial forum
- Establish a clear annual public collection schedule for communities without depots
- Establish a regular evaluation mechanism to ensure the fees are covering the cost of the program, and a mechanism to adjust them accordingly

Years 6–10
- Tackle transportation challenge of accumulated tires.
- As of program launch date, focus on one region per year

Budget

Per year over 5 years
$87,000

Revenue will depend on the fee rate, and number of tires purchased in the NWT. The Environment Fund will see incremental cost increases to annual operations such as advertising and promotion, depot handling fees, equipment maintenance, freight, insurance, processing-centre handling fees, storage, and wages and benefits. One-time cost expenditures will be experienced to establish a new program, predominantly in the following categories: advertising and promotion, engagement, freight costs associated with regional accumulated tire removal, and purchase of new equipment such as a shredder.

Organic Waste Recycling

Policy Options for the City of Yellowknife

PROBLEM DEFINITION

Putting organic material in a landfill takes up valuable and costly space, contributes to the production of toxic landfill leachate and produces methane emissions. So, landfilling organics can pollute the environment. However, when organic material is composted it creates a beneficial soil amendment. Low soil fertility is a problem for food production in parts of the NWT that could be addressed by adding compost, the fertile soil amendment created by collecting and composting organic waste. Composting is an accessible waste-diversion option throughout the NWT. The City of Yellowknife has created a great organics recycling option based on a successful pilot project. The Yellowknife Centralized Compost Program offers curbside organics recycling for single family units,[7] and organics dumpsters to a few businesses (also referred to as the Institutional, Commercial and Industry (ICI) sector).[8] However, this only represents a small portion of the city's organic waste stream. A much higher proportion of organics need to be diverted to achieve an effective program that reduces health concerns, greenhouse gas emissions and high landfill costs. The ICI sector has a significant impact on the diversion rate. The problem is how to achieve high participation rates from the ICI sector.

BACKGROUND

Waste management is important for human and environmental health. Organics recycling has a positive environmental, health and economic impact. It reduces the amount of organic materials going into the landfill, where saving space saves money – because the "quicker you fill, the larger the bill."[9] The cost of building a new landfill cell in Yellowknife is $3.5 million, which does not include closure or operational costs. When food scraps and yard waste (organics) are landfilled, they decompose very slowly because there is not enough oxygen, and they produce methane. Methane is a very potent greenhouse gas (GHG) contributing to climate change.[10] When organics are composted, no methane is produced.

> "Residents play a central role in organics recycling because they separate organics at the source."

The Yellowknife Centralized Composting Pilot Project ran from 2009 to 2012. It diverted over nine hundred tonnes of organics and proved that turned windrow composting is an effective composting method in the North. Between 20 to 25 restaurants and businesses participated in the project. After the pilot project transitioned into a paid program, many restaurants stopped participating. Starting in 2014, the City of Yellowknife phased in the

7 "Single Family Unit means a self-contained residential unit with its own entrance that is not accessed through another dwelling unit, but does not include a multi-family unit premise." City of Yellowknife. *Solid Waste Management By-law No.4376*, September 12, 2005.
8 The business sector includes all waste other than single-family units, therefore it includes multi-family units like apartment buildings and condominiums, institutions such as schools, and businesses such as restaurants and grocery stores.
9 "The cost of landfilling waste has historically been estimated at $150/m^3. The City believes that this has dramatically increased with the necessary construction of new landfill cells." p. 228 https://www.yellowknife.ca/en/city-government/resources/Budget/2016_Budget/Final_Budget_Documents/13a-2016-Capital-Projects.pdf, accessed February 7, 2017.
10 According to the International Panel on Climate Change (IPCC) 2013, methane has a global-warming potential 34 times more potent than carbon dioxide over a 100-year period and 84 times over a 20-year time period https://www.ipcc.ch/report/ar5/wg1/ accessed February 15, 2017.

Yellowknife Centralized Compost Program, or green cart program, over 4 years. The program will service all single-family units by September 2017. A phased approach to implementation has been a successful way of spreading out the capital construction costs while refining public educational tools. The next and final phase of expansion is for the ICI sector.

There are several key players in organics recycling. First, residents generate waste. 40% of household waste is organic.[11] Residents in single-family units pay a $21/month solid waste levy per premise. People's buying habits, consumption habits and disposal habits affect the volume of organics being generated and sent to landfills. Individual actions cover a wide spectrum when it comes to disposing of organic waste. Residents play a central role in organics recycling because they separate organics at the source. They are also responsible for ensuring that plastics do not end up at the compost facility in Yellowknife.

Second, the ICI sector makes up at least two-thirds of the full waste stream in Yellowknife. Therefore, it plays a large role in the success of an organics recycling program.[12] Local food producers exist in the North, and composting to produce a soil amendment is a standard practice for gardeners and farmers. Currently, the City of Yellowknife has not expanded the organic waste collection program to include the ICI sector, other than the continued participation of some pilot project participants. Presently, the price difference between mixed waste and organic waste is meant to provide enough incentive for ICI sector participation. The tipping fee for mixed waste is $104/tonne, whereas the tipping fee for organics waste is $33/tonne. That is to say that businesses should save money in the long run if they decrease the frequency of their garbage collection and increase the use of an organics Dumpster. Some main factors influencing ICI sector participation are cost, space for a Dumpster or fleet of green carts, and incentive. Within the ICI sector, specific challenges exist for multi-family dwellings, restaurants and grocery stores and other institutions or businesses.

Third, local policymakers at the City of Yellowknife have the most jurisdiction over organics recycling. The City pays to manage waste, whether through landfills or diversion programs like recycling. Other governments have varying degrees of jurisdiction and interest in waste management. However, the main responsibility for participation and diversion rates lie with the City of Yellowknife. The City of Yellowknife assumes this responsibility with the solid waste management bylaw and the corresponding solid waste levy, and with solid waste tipping fees charged at the landfill.

Fourth, a solid waste contractor hauls waste in Yellowknife. The company has a contract with the City of Yellowknife to collect waste from single-family units, and has contracts directly with clients in the ICI sector. The current costs of an organics Dumpster for the ICI sector include a $33 tonne rate at the Solid Waste Facility, plus the Dumpster rental and collection costs determined by the contractor (Kavanaugh Brothers).[13] The only direct influence the City has over ICI sector waste is through the tipping fee at the landfill. A strong relationship with the contractor, Kavanaugh Bros., is instrumental in addressing cost and space concerns for the ICI sector.

11 City of Yellowknife Solid Waste Composition Study and Waste Reduction Recommendations Final Report, Gartner Lee Limited, p. 8, July 2007.
12 Statistic provided by both the Sustainability Coordinator, and the Solid Waste and Sustainability Manager for the City of Yellowknife.
13 Kavanaugh's rental fee for a Dumpster is the same whether it is an organics or mixed solid waste (MSW) Dumpster. The price per lift and for extra lifts is different. For a 2yd Dumpster MSW costs $20.94/lift and organics cost $13.54/lift. A 4yd Dumpster for MSW costs $33.68/lift and for organics costs $18.89/lift. There is a minimum of one lift per month on all bins.

POLICY OPTIONS

01 Status Quo

Relying on the hope those in the ICI sector will choose to participate because it's the right thing to do.right thing to do.

02 Strong Stance

A bylaw that requires participation in a diversion of organics from the landfill.

03 Promote Participation

Increase participation through (1) targeted public education; (2) leading by example (implementing within City facilities and events); (3) clearly outlining a target diversion rate for organics.[14]

ANALYSIS

Status Quo

ADVANTAGES

- Low cost
- Low effort
- Easy to implement

DISADVANTAGES

- Low participation results
- Low community buy-in on program
- Dealing with upset people because they don't know what's going on

Strong Stance

ADVANTAGES

- Ensures participation
- Shows leadership in northern waste management
- Could be simplest way to achieve diversion targets
- In sync with leading trends internationally
- Provides an opportunity to require compostable disposable dishes at all restaurants and public events

DISADVANTAGES

- The cost may be debilitating to the economics of some members of the ICI sector
- Political will to do this is uncertain
- Will require strong and transparent leadership
- May require City assistance to some members of the sector in early stages of implementation
- People don't like having to pay money if they separate incorrectly, and won't be happy if the fees on mixed waste increase

14 This option would require a penalty and enforcement provision. Personal communication.

Promote Participation

ADVANTAGES

- Increases proper participation
- Reduces time spent removing contamination
- Saves money & environment by keeping more organics out of landfill

Targeted public education

- Increases awareness of program
- Provides information that is relevant and necessary for easy and proper participation
- Directs efforts to areas with largest potential impact

Leading by example

- Employees learn to compost in the workplace
- Public learns behaviour while at any City facilities
- People can take learning home
- Low cost as City would be doing so anyway, presumably

Clearly outline a target diversion rate for organics

- Gives residents a clear goal
- Gives people an incentive
- Gives policy makers and employees direction and evaluation tools for programs

DISADVANTAGES

- People resist change
- Hard to evaluate effectiveness

Targeted public education

- Difficult and costly to achieve wide-spread knowledge
- Can get repetitive and some people may tune out the message
- Still voluntary, degree of increase in participation is unknown

Leading by example

- Unknown impact on rate of participation by targeted audience
- Potential for contamination by people who don't understand the program
- May be confusing for visitors to Yellowknife

Clearly outline a target diversion rate for organics

- Could be hard to reach
- If unreached people could get discouraged
- May be costly to measure accurately

RECOMMENDATIONS

I recommend taking a strong stance, and begin the process to amend the solid waste management bylaw to require participation in organics recycling. Changes should be made public, with several years' advance notice before participation becomes mandatory. All options need an enforcement and evaluation provision. However, since this can be a lengthy process, in the interim, I recommend the City promote participation by doing targeted public education, leading by example, and establishing a target diversion rate.

IMPLEMENTATION

Governance
Mayor and Council, City of Yellowknife

Department
Public Works and Engineering

Agency responsible
Sustainability and Solid Waste

Timeline

Years 1–3

- Phased implementation
- Start internal process for bylaw update immediately
- Lead by example, and implement program in all City facilities for staff and the public (year 1)
- Continue targeted public education (year 1, ongoing)
- Expand program to include schools (years 1-2 school year)
- Expand program to include multi-family units (take a phased approach starting in year 2)
- Establish a target diversion rate (year 2)
- Increase ICI sector participation to include all restaurants and food handling establishments, as a first step to citywide participation (years 2-3)

CONCLUSION

In conclusion, I recommend the GNWT both evaluate the electronics recycling program and implement a tire recycling program. I recommend the City of Yellowknife take a strong stance while updating their Solid Waste Management Bylaw to make organic waste diversion mandatory, and, in the interim, promote participation in organics recycling in the ICI sector. These policy recommendations will improve waste management in the NWT. However, success depends on individual participation in programs. We all have a role to play and decisions to make about how we contribute to waste management. What have you done today? Does it increase or decrease our Waste-line? Is that what we need?

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Clara Wingnek

Arctic Governance: An Examination of the Effectiveness of Governing Bodies in the Kitikmeot Region of Nunavut

EXECUTIVE SUMMARY

Canada's northern communities are predominantly governed by various boards and committees. From Institutions of Public Government (IPGs), whose mandates map the Inuit span of control outlined in the Nunavut Land Claim Agreement (NLCA), to smaller, more defined obligations such as managing the operations of a local daycare, these bodies are hugely important to how these communities function.

The purpose of this study is to find out how effective the public boards are in the Kitikmeot region of Nunavut. The Kitikmeot region of Nunavut is comprised of five communities: Kugaaruk, Taloyoak, Gjoa Haven, Kugluktuk, and the administrative hub of the region, Cambridge Bay. The Kitikmeot region is the smallest of Nunavut's three regions with a collective population of approximately 6,500 people, most of whom are under the age of 25.

My approach to the research consisted of canvassing the region for feedback on recent experiences with public boards from a membership level. Through my research I tried to understand the challenges that were overcome and the successes, and also the processes that were used to make decisions. By searching the internet and scanning news and media outlets, I was able to construct a listing of boards that functioned with members from the Kitikmeot region and through this list I reached out for participation.

The findings were clear. There were consistencies throughout on what they identified as barriers but also pathways to success. Board training was not always available to members and the training varied among members, ineffective chairing of meetings, cancelled meetings, lack of resources and communication barriers were all identified as challenges. Success came when the appointing body engaged members continuously, communications were clear and concise, and resources were available for the members to complete tasks assigned to them.

There are numerous Canadian post-secondary institutes that offer academic disciplines relevant to northern governance, like the University of Saskatchewan, which offers a master's program in Northern Governance and Development, but there have been few examinations of how boards currently function in the Kitikmeot region and whether or not these boards are effective in achieving their mandates.

This paper aims to address that research gap. This paper does not necessarily apply to local boards in other regions in Nunavut.

BACKGROUND

The Nunavut Land Claims Agreement

Signed in 1993, the Nunavut Land Claims Agreement (NLCA) became a binding contract between the Government of Canada and the Inuit in the Nunavut Settlement Area. This contract stipulates the conditions of the exchange between Aboriginal title to the Nunavut land mass and the rights and benefits set out in the NLCA. These benefits include a cash settlement, changes in the ownership of land and its minerals, and ultimately the creation of Nunavut, which occurred in 1999.[1]

Negotiations for the NLCA started in 1976 and this agreement has become a leading example of a solid aboriginal land claims agreement to many people worldwide. A key goal of the NLCA is to encourage self-reliance, and

1 Nunavut Tunngavik Incorporated. http://nlca.tunngavik.com/ (accessed January 2017).

many elements are intended to ensure more employment and training opportunities for Inuit. Several Inuit organizations were thus birthed from this agreement, whose duties are to protect and preserve the Inuit identity. One of these organizations is Nunavut Tunngavik Incorporated, which works closely with Regional Inuit Associations (RIAs) and the Institutions of Public Government (IPGs) also created under the land claim. The IPGs allow for the joint management among the Inuit of Nunavut and the territory of Nunavut of all lands, waters and wildlife resources. In total, there are five IPGs in Nunavut.

Institutions of Public Government

NUNAVUT WILDLIFE MANAGEMENT BOARD

The role of the Nunavut Wildlife Management Board (NWMB) is to include Inuit in the wildlife decisions made in Nunavut. The co-management model set out by the NLCA is focused on the partnership of Inuit and the Government of Nunavut (GN) in all aspects of the institution's commission and conduct of research programs. Co-management is required for all approvals, advice, recommendations and information. The GN then implements and enforces the NWMB decisions once they are made. Working groups and committees are developed through the NWMB that focus on specific wildlife management issues.[2] This board is based in Iqaluit.

NUNAVUT PLANNING COMMISSION

The Nunavut Planning Commission (NPC) was established by the NLCA to establish wide-ranging planning policies, goals and objectives for the Nunavut Settlement Area (NSA), as well as develop land use plans that provide guidance and direction for resource use, development and conservation.[3]

Similar to the NWMB, the co-management model set out by the NLCA is focused on the partnership of Inuit and the Government of Nunavut in all aspects of the institution's conduct. Co-management is required for all approvals, advice, recommendations and information. The GN then implements and enforces NPCs decisions once they are made. This board is based in Iqaluit with regional offices in Cambridge Bay and Arviat.

NUNAVUT IMPACT REVIEW BOARD

The Nunavut Impact Review Board (NIRB) was established by the NLCA and is responsible for screening development project proposals for potential impacts on Nunavut and determining if a public review of these proposals is required. During this process, the NIRB is responsible for defining the regional socio-economic and environmental impacts of these proposals, determining whether the project should proceed and under what terms and conditions, reporting these findings to the Minister of Environment for Nunavut, and then monitoring the projects in accordance with provisions set out in the NLCA. The main purpose of the NIRB is to protect and promote the existing and future wellbeing of the residents and communities of the Nunavut Settlement Area (NSA), and to protect the ecosystemic integrity of the NSA.[4] The NIRB must also take into account the well-being of residents of Canada outside the NSA. This board is based in Cambridge Bay.

NUNAVUT WATER BOARD

The Nunavut Water Board (NWB) was established as an IPG under the NLCA. The NWB has

2 Nunavut Wildlife Management Board. http://www.nwmb.com/en/ (accessed January 2017).
3 Nunavut Planning Commission. http://www.nunavut.ca/en/about-commission (accessed January 2017).
4 Nunavut Impact Review Board. http://www.nirb.ca/mandate-and-mission (accessed January 2017).

responsibilities and powers over the regulation, use and management of inland waters in the NSA. Their main function is approving the licensing uses of water and deposits of waste, in addition to considering the environmental effects of these decisions as regulated by the Nunavut Waters and Nunavut Surface Rights Tribunal Act. This board is based in Gjoa Haven.[5]

NUNAVUT SURFACE RIGHTS TRIBUNAL

The Nunavut Surface Rights Tribunal (NSRT) is established by the NLCA. The NSRT is responsible for dispute resolution related to the access to surface land in Nunavut and claims for compensation arising from loss or damage to wildlife, carving stone and other specified substances from development in Nunavut.[6,7] Just as with the NWB, this body must adhere to the Nunavut Waters and Nunavut Surface Rights Tribunal Act. However, NSRT is not an agent of the Government of Canada. This board is based in Iqaluit.

Inuit Organizations

The Inuit of Nunavut are part of the land claim's co-management partnership and are represented by Nunavut Tunngavik Incorporated (NTI). NTI is responsible for ensuring that the promises set out in the NLCA are achieved through coordination and management of Inuit responsibilities and seeing that the federal and territorial governments meet their obligations.[8]

The Kitikmeot Inuit Association (KIA) is a Designated Inuit Organization (DIO) that represents the Inuit in the Kitikmeot region of Nunavut. They are responsible for protecting and promoting the social, political, environmental and economic well-being of the Inuit population in this region.[9]

Then there is the Kitikmeot Corporation (KC), an arm of KIA, with the main responsibility of pursuing economic opportunities that strengthen the region and benefit the Inuit of the Kitikmeot region. Both the KIA and KC are based in Cambridge Bay.

Other Boards

DAYCARE BOARDS

Licensed childcare facilities must meet Government regulations. One of the criteria for the operation of a childcare facility is that it is registered as non-profit society. As such, a board of directors must be in place before such an operation is licensed. Each community in the Kitikmeot region has at least one childcare facility licensed with the Government of Nunavut.[10]

DISTRICT EDUCATION BOARDS

Each education district in Nunavut requires a District Education Authority (DEA) composed of individuals within that district who are interested in education. This group must follow the education regulations set out by the Government of Nunavut. These individuals are elected by the community on three-year terms. They are responsible for making decisions concerning education delivery in the Kindergarten–Grade Twelve curriculum and are required to represent the best interest of the community. Some of their responsibilities include: establishing a school calendar, creating by-laws and policies relevant to their communities, overseeing student suspensions and expulsions, and working with the

5 Nunavut Water Board. http://www.nwb-oen.ca/ (accessed January 2017).
6 Nunavut Surface Rights Tribunal. https://nsrt-nunavut.com/en/about-us (accessed January 2017).
7 https://nsrt-nunavut.com/sites/default/files/rules_of_process_and_procedure_final_draft_0.pdf (accessed January 2017).
8 Nunavut Tunngavik Incorporated. http://nlca.tunngavik.com/ (accessed January 2017).
9 Nunavut Wildlife Management Board. http://www.nwmb.com/en/ (accessed January 2017).
10 Government of Nunavut: Child Day Care Act (R.S.N.W.T. 1988,c.C-5. http://www.gov.nu.ca/sites/default/files/files/consRSNWT1988cC-5.pdf (accessed January 2017). Additional links and resources can be found at http://www.gov.nu.ca/information/resources-and-links.

community and school officials in the delivery of the curriculum. Currently the Education Act is under review, which may lead to changes in the powers that these district education authorities have in Nunavut.[11]

ARCTIC CO-OPERATIVES LIMITED BOARDS

Arctic Co-operatives Limited is a business model in which the organization is owned by the members who use the service. Local co-ops elect board members who are in control over such decisions as hiring management and providing feedback to management on what members want. There are 32 jointly owned and operated Arctic Co-operatives Limited services in Nunavut, NWT and the Yukon. Each community in the Kitikmeot region has an Arctic Co-operatives Limited general store, so in total this region has five ACL stores and five community boards.[12]

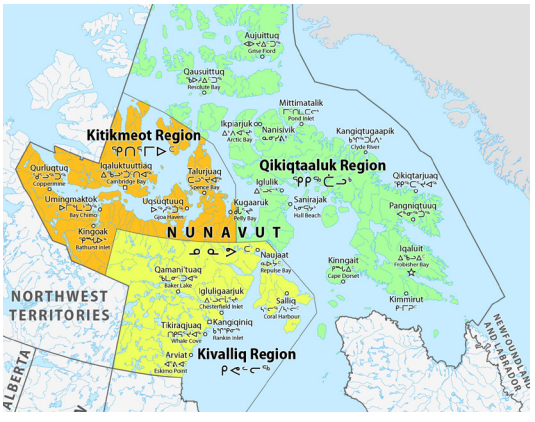
HUNTERS AND TRAPPERS ORGANIZATIONS

Each community in the Kitikmeot region has a Hunters and Trappers Organization (HTO).[13] They all work with the Kitikmeot Regional Wildlife Organization (KRWO) to oversee harvesting at local and regional levels including regulating harvesting practices, allocation of basic needs levels for harvesting and overall management of harvesting among the members of HTOs in the region.

A number of other boards also operate in the Kitikmeot region. A list of all significant boards that came up during research are listed in Appendix 3.

The Kitikmeot Region

Nunavut is broken down into three administrative regions: the Kivalliq, the Qikiqtaaluk and the Kitikmeot regions. The Kitikmeot Region is located in western Nunavut and consists of five communities with a collective population of 6,887[14] (the total population of Nunavut is 37,280).[15] These communities are Kugaaaruk, Taloyoak, Gjoa Haven, Kugluktuk and Cambridge Bay. The Inuit population in this region followed nomadic lifestyles until the late 1960s.



16

11 District Education Authority. http://gov.nu.ca/education/information/district-education-authority (accessed January 2017).
12 Arctic Co-operatives Limited. http://www.arcticco-op.com/about_co-ops-what-is-coop.htm (accessed January 2017).
13 Hunters and Trappers Organization. http://www.niws.ca/_en/_krwb/index.html (accessed January 2017).
14 Nunavut Tourism. http://nunavuttourism.com/about-nunavut/people-of-nunavut (accessed January 2017).
15 Nunavut Bureau of Statistics. http://stats.gov.nu.ca/en/home.aspx (accessed January 2017).
16 http://ontheworldmap.com/canada/province/nunavut/nunavut-region-map.jpg (accessed January 2017).

Figure 1

Kitikmeot Population

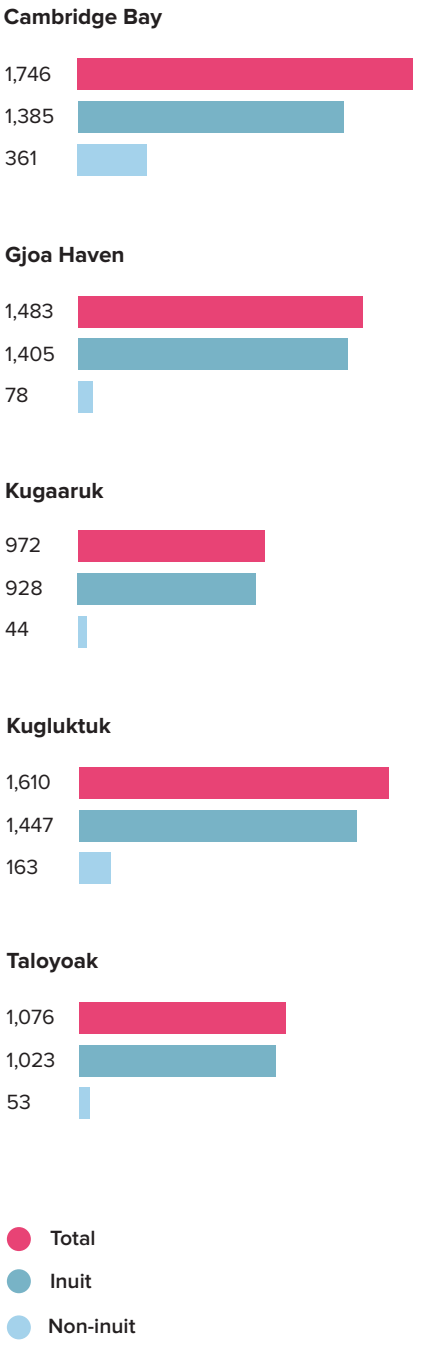


Figure 2

Qikiqtaaluk Population

19,654

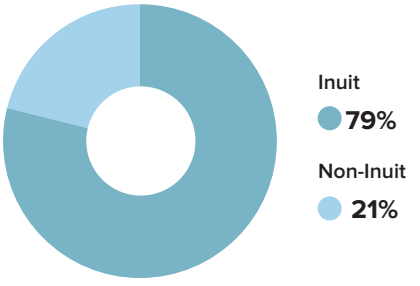
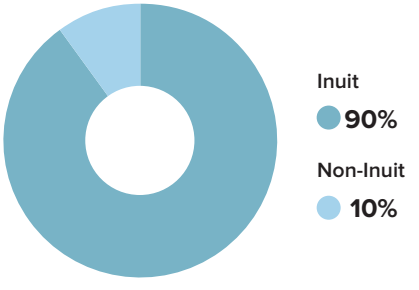


Figure 3

Kivallik Population

10,528



RESEARCH

During the research stage, I started by creating a database of functioning boards that existed in the Kitikmeot region, beginning with the ones birthed by the NLCA, the IPGs. Then I added to the list by scanning news articles, public forums and public bulletin boards. I also supplemented this approach by engaging in discussion with public members. I then created a questionnaire and made it accessible online and in person. I approached the organizations in my database and asked them to participate in my questionnaire. In return I offered them access to the results of my findings. This resulted in a completion of eight online surveys. In addition to this, I completed nineteen in-person interviews.

Although I was able to solicit feedback, I was unsuccessful in engaging all of the boards I approached. Because I did not have a translator with me, I was unable to engage unilingual Inuit as well.

> "There have been few examinations of how boards currently function in the Kitikmeot region and whether or not these boards are effective in achieving their mandates."

CONCLUSION

Based on the 27 questionnaires completed:

- 80% of the participants were over the age of 30
- 100% participants expressed interest as motivation for joining a board
- 75% of member terms were three-year staggered terms, the remaining 25% had terms that were not staggered and ranged from one to four years
- 90% of the participants stated their board did not have youth representatives
- 75% of the participants stated their board did not have elder representatives
- 100% of the participants were aware that their role had an effect on the community
- 45% of participants did not have board training and it affected their ability to carry out their duties
- 100% of meetings were held monthly and ran from 0 to 4 hours long
- 100% of the participants stated that quorum was required to pass motions
- 100% of meetings were open to the public. However, only 25% of the time these were advertised and advertisements were seldom translated into Inuinnaqtun or Inuktitut

Some of the shortfalls of my research are:

- The questionnaire and interviews were conducted in English only
- I did not get feedback from an elder or youth board member
- I was unsuccessful in engaging participants from all the boards listed in my database

Based on the feedback received, the consistency, quality and quantity of board training was identified as a major contributing factor in the effectiveness of board output. Although many of the IPGs follow a board training mod-

ule with each appointed board member, other boards may not offer the same opportunity to their members. It is important to note that while IPGs have adequate resources, other bodies may lack the time, the people and the funding resources. This presents a unique challenge when it comes to completing action items. Resource people and experts are often required for making informed decisions that adhere to government and organizational regulations and laws. When these resources are not available, important decisions are deferred, causing delays in progress and board inertia.

An ineffective Chair was also identified as a barrier to progress made by community boards. Meetings that lacked structure and had little guidelines to how meetings were conducted resulted in long and ineffective discussions.

Another obstacle that boards in Nunavut must overcome is the travel that is often required to attend meetings. Meetings are often cancelled due to travel challenges from inclement weather conditions in the communities. These changes can be costly and result in unnecessary change fees, no-show charges and additional honoraria costs. Oftentimes no backup plans are made for these occurrences and meetings end up being postponed or cancelled altogether.

It was mentioned that some of the smaller boards, when not guided by the reporting body, often went months without quorum. There is correlation between these circumstances and boards that have disbanded and/or dissolved. This correlation can be supported by the knowledge that the larger IPGs, where administrative staff from the appointing body communicated regularly with members to keep them engaged and keep dialogue ongoing between members, rarely had issues with disbanding or long intervals between meetings.

Nunavummiut, particularly IPG board members, expressed concern that government ministers still had final veto on all decisions. This instilled anxiety and discouraged full engagement in activities due to uncertainty whether the decisions made by these boards would even be enforced and monitored.

Internet connectivity was recognized as an issue for some. With slow and costly internet access in the Kitikmeot region, information sharing can be time-consuming and lead to delayed discussions and decisions. Some board members have been asked to use their own internet at home to complete work and the financial burden of this was listed as an issue.

RECOMMENDATIONS

The following recommendations are based on the feedback provided throughout the research period. These were considered at length based on feasibility and preliminary cost-benefit analysis.

Board training should be provided to all new board members, whether they are part of a local, regional or territorial board. This training should aim to teach board members to voice strong concerns and engage in relevant dialogue that would lead to well-thought-out decisions. This training ought to be mandatory and all members of a board should receive the same training to ensure that each member comprehends their role and understands the expectations the appointing body has of them, while giving them the skills to do so effectively.

For smaller boards that are tied to essential services and lack funding resources to complete this training, such as daycare boards, I would recommend that the Government of Nunavut step in to address this need. This would be an ongoing and potentially costly endeavour; however, the ramifications of not providing this critical training outweigh the financial costs.

The population of Nunavut is young. Public board decisions affect all people in our

communities. Therefore, I recommend that all boards adopt a policy to have at least one youth representative seat on their board. This would provide our youth with positive exposure to the decision-making process in these organizations and also give them a voice in the decisions that have the potential to shape the lives of youth.

It is impossible to discuss Inuit culture and not address the fact that there is the utmost respect given to our elders. Although their knowledge may not be school-based, they do have transferrable skills and are quite knowledgeable. I recommend that all boards adopt a policy to have at least one elder representative seat on their board.

I strongly recommend that if meetings are open to the public, they be advertised well in advance in high-traffic areas of the relevant community and through common media streams. Advertisements must be available in all relevant languages and be clear and concise. Public meetings should have translators available to support the engagement of all members of the public. Again, this can be costly, but the benefits would outweigh the costs.

The appointing bodies should engage with their respective board members regularly to maintain interest, keep members updated on any new developments and encourage open dialogue. Additionally, operational procedures should already be in place when board members are appointed.

Organizations responsible for selecting board members should adopt policy that allows members to be chosen based on merit and qualifications. This would ensure that decisions are being made by people who understand the depth of the decisions they are making and the implications of those decisions.

Board decisions should be final and binding. Any outside organization that relies on these decisions should be briefed and prepared to accept the decisions made by the board. This understanding would enforce the power of these decisions and also limit outside influences and their impact on the decision-making process, and alleviate stress on financial and time resources.

ACADEMIC STUDIES IN GOVERNANCE

University of Saskatchewan

The Master of Northern Governance and Development at the University of Saskatchewan is the only program in North America that offers students the opportunity to focus on northern governance issues. Applicants may complete the majority of the program online, so it does require a good internet connection. This program includes coursework, an internship and a five-day Northern Saskatchewan field school. The program is designed to be completed over two years and offers scholarships to qualified students to cover tuition costs. Their website strongly encourages northerners to apply.[17]

Athabasca University

Athabasca University is a Canadian institution that offers online post-secondary courses. One of the courses that they offer is a three-credit governance course in social science and there are no prerequisites. This course focuses on nonprofit and voluntary sector governance with a goal to provide a deeper understanding of the nature of governance, leadership and management. Although there is no specific focus on northern governance, the curriculum is relevant on a Canadian scale. This course would cost approximately $1000.[18]

17 University of Saskatchewan. http://www.usask.ca/icngd (accessed January 2017).
18 Athabasca University. http://www.athabascau.ca/syllabi/govn/govn380.php (accessed January 2017).

Carleton University

The Centre for Governance and Public Management is a research centre at Carleton University. Their focus lies in public administration, public sector leadership and policy development and implementation in transitional and developing countries. They have recently done work in Botswana, where they helped establish a technical university. They seek opportunities for field research and teaching tools based on international examples, with hopes to engage soon in policy debates on good governance both in and outside of Canada.[19]

University of Victoria

The University of Victoria offers a Master of Arts degree in Indigenous Governance that focuses on current political realities that are relevant to Indigenous communities in Canada. Though you must have an undergraduate degree to pursue the degree, it is one of the more renowned academic institutions in this field of study. This program weaves community engagement into the courses by offering opportunities to devote course work to community initiatives and attempts to prepare students for leadership roles in their communities.[20]

Banff Centre

The Banff Centre offers an Indigenous Leadership program. Realizing that Indigenous nations and organizations are at varying levels of exercising their sovereign rights, the Banff Centre attempts to give students a better understanding of how governance looks and aims to provide a better understanding of colonial forms of governance. Focus on constitutional and legal frameworks is stated as being the basis for successful self-governance and is offered through this institution. The cost of this program is listed at $2,300.[21]

Ryerson University

Ryerson University founded the Centre for Indigenous Governance in 2010, with the goal of building capacity in Indigenous governance, encouraging research on governance issues and offering educational opportunities relevant to the Aboriginal population. It offers a variety of workshops, seminars and training programs to address governance concerns and is open to collaborative research on Indigenous issues.[22]

19 Carleton University. http://www3.carleton.ca/cgpm/About/index.html (accessed January 2017).
20 University of Victoria. http://www.uvic.ca/hsd/igov/current-students/maig/index.php (accessed January 2017).
21 Banff Centre for Arts and Creativity. http://www.banffcentre.ca/programs/inherent-right-indigenous-governance (accessed January 2017).
22 Ryerson University. http://www.ryerson.ca/chair-indigenous-governance (accessed January 2017).

APPENDIX A : BOARD MEMBERS AS OF JANUARY 2017

Nunavut Wildlife Management Board

Charlie Inuaraq
David Igutsaq
Caleb Sangoya
Daniel Shewchuk
David Kritterdlik
Johnny Peters
Willie Annanack

Nunavut Planning Commission

Andrew Nakashuk
Percy Kabloona
Ovide Alakanauruk
Peter Alareak
Charlie Arngak
Putulik Papigatuk

Nunavut Impact Review Board

Elizabeth Copland
Henry Ohokannoak
Guy Alikut
Marjorie Kaviq Kaluraq
Philip (Kadlun) Omingmakyok
Allen Maghagak
3 Vacancies

Nunavut Surface Rights Tribunal

Theodore Bert Rose
John Maurice
Elisapee Karetak
Andre Tautu
Meeka Kakudlik

Nunavut Water Board

Thomas Kabloona
Lootie Toomasie
Ross Mrazek
Colin Adjun
Alex Ningark
Makabee Nortok
Norman Mike
Amanda Hanson-Main

Nunavut Tunngavik Incorporated

Aluki Kotierk
James Eetoolook
Stanley Anablak
Attima Hadlari
David Ningeongan
Raymond Ningeocheak
PJ Akeeagok
Olayok Akesuk

Kitikmeot Inuit Association

Stanley Anablak
Attima Hadlari
David Nivingalok
Charlie Lyall
Andre Otokiak
Darlene Elias
James Aiyout
Simon Komangat
Tars Angutingunirk

Kitikmeot Corporation

Edna Elias
Stanley Anablak
Bruno Qavvik
Wilfred Wilcox
Frank Ipakohak

APPENDIX B : BOARD INFORMATION

All decisions made by IPGs follow the same process. The majority vote process is used and decisions that are made must be made with a quorum of members present. All members have a vote, except the Chairperson, who only votes to break a tie. They rely on the Nunavut Government and Inuit partners for advice and technical support but are required to make their decisions on behalf of the public of the Nunavut Settlement Area, not on behalf of their appointing bodies. Each appointed member's term is for a period of three years and a member may be reappointed.

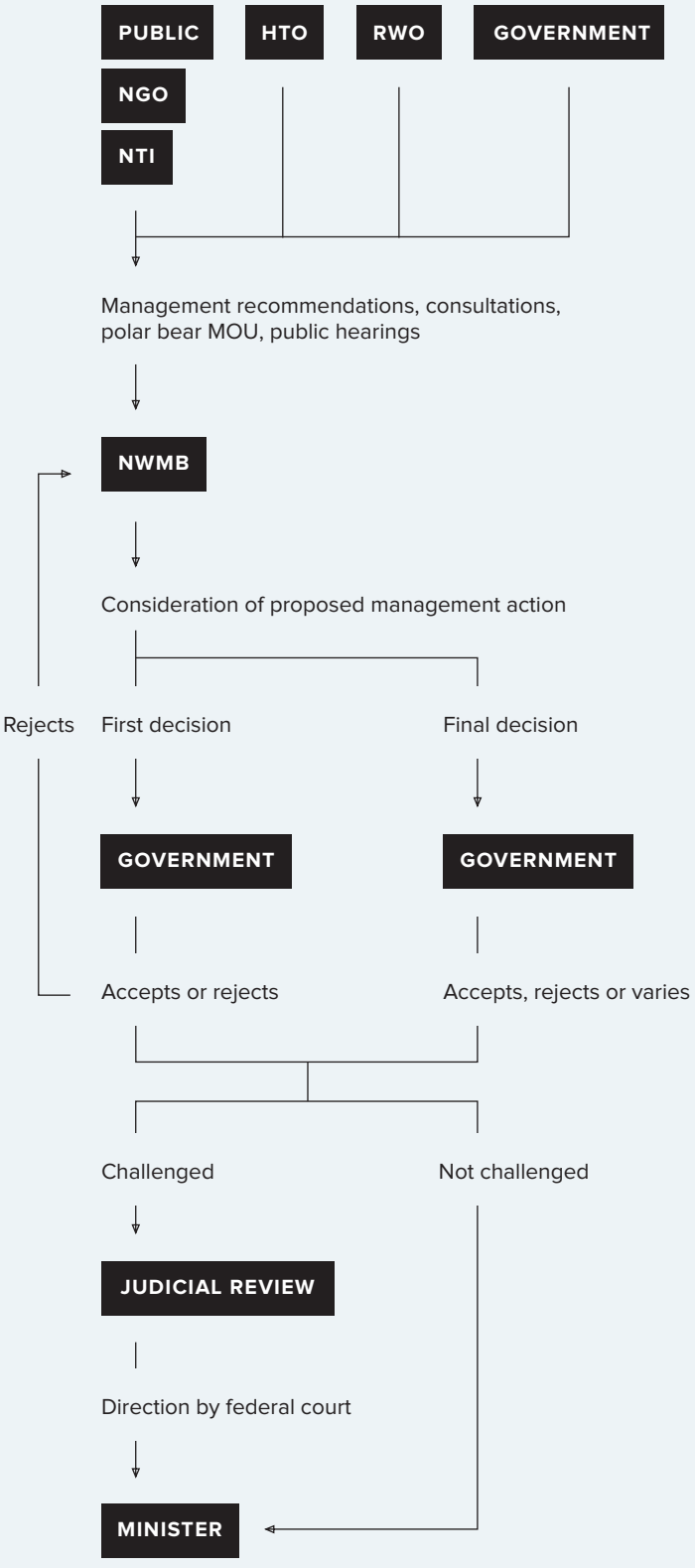


Figure 4

The IPG Decision Process

Nunavut Land Claim Agreement (Article 5) Wildlife Management Decision Process

NGO
Non Government Organizations

NTI
Nunavut Tungavik Inc.

HTO
Hunter's and Trapper's Organizations

RWO
Regional Wildlife Organizations

GOVERNMENT
Consists of CWS, DFO, and GN

CWS
Canadian Wildlife Service

DFO
Department of Fisheries and Oceans

GN
Government of Nunavut

MOU
Memorandum of Understanding

NWMB
Nunavut Wildlife Management Board

The Nunavut Waters and Nunavut Surface Rights Tribunal Act

Establishment of Board

14 (1) There is hereby established the Nunavut Water Board, the members of which are to be appointed by the Minister.

Number of members

(2) Subject to sections 16 and 17, the Board consists of nine members, including the Chairperson.

Proportions

(3) The following rules apply to the appointment of members, other than the Chairperson:

(a) one half of the members shall be appointed on the nomination of the designated Inuit organization; and

(b) one quarter of the members shall be appointed on the nomination of

(i) the territorial minister responsible for renewable resources, and

(ii) the territorial minister or ministers designated, by an instrument of the Executive Council of Nunavut, for the purposes of this paragraph.

Appointment of Chairperson

(4) The Chairperson shall be appointed after consultation with the other members.

Term of office

15 (1) A member of the Board shall be appointed to hold office for a term of three years.

Acting after expiry of term

(2) If the term of a member expires before the member has made a decision in a matter for which a public hearing is held, the member may, with the authorization of the Chairperson, continue to act as a member only in relation to that matter until the hearing is concluded and a decision is made. The office of the member is deemed to be vacant as soon as the term expires for the purpose of the appointment of a replacement.

Additional members

16 Additional members may be appointed to the Board for the performance of a specified purpose, or for a term of less than three years, in the manner and the proportions provided by subsection 14(3).

Inuit of northern Quebec

17 (1) During any period preceding the ratification by the parties of an agreement to settle the offshore land claims of the Inuit of northern Quebec, the Minister shall appoint, on the nomination of Makivik, a number of substitute members of the Board equal to one-half the number appointed on the nomination of the designated Inuit organization.

Role of substitute members

(2) In respect of licensing decisions of the Board that apply to any area of equal use and occupancy described in Schedule 40-1 to the Agreement, the substitute members shall act in the place of such members appointed on the nomination of the designated Inuit organization as are identified by the Minister, after consultation with that organization, at the time of the appointment of the substitute members.

Term

(3) Subject to subsection 15(2), the term of a substitute member is three years, except that the term of that member expires on the ratification referred to in subsection (1).

Status of substitute members

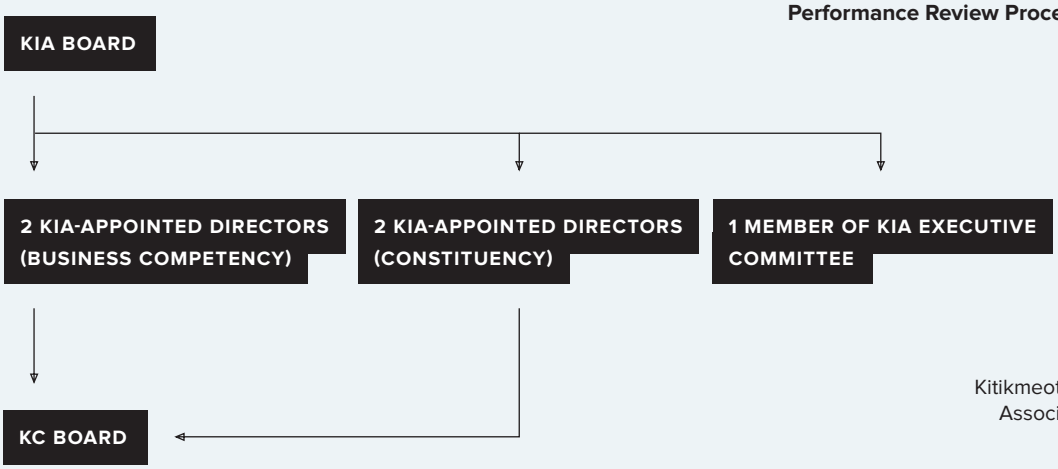
(4) Substitute members shall not be considered to be members, except in respect of decisions referred to in subsection (2).

Oath of office

18 Before taking up their duties, members of the Board shall take and subscribe the oath of office set out in Schedule 2 before a person authorized by law to administer oaths.

Figure 3

Depiction of the Kitikmeot Corporation Performance Review Process



KIA

Kitikmeot Inuit Association

KC

Kitikmeot Corporation

Kitikmeot Inuit Association and Kitikmeot Corporation

The Kitikmeot Corporation Board meets regularly to review the performance of its investments (subsidiaries, joint ventures, properties and partnerships), establish corporate priorities, approve policies and set KC's strategic direction. All KC Board members are Inuit beneficiaries of the Nunavut Land Claims Agreement and registered in a Kitikmeot community.

The KC Board includes a member of the Kitikmeot Inuit Association Executive Committee and four other members, two of whom are appointed based on their business experience and two appointed based on constituency (representing East and West Kitikmeot).

Nunavut Tunngavik Incorporated Board of Directors

All eight members of the NTI Board of Directors are directly elected by Inuit who are registered under the NLCA. NTI's president and vice-president sit on the NTI Board of Directors along with six RIA representatives, which include the presidents of each RIA. The members of NTI's executive committee include NTI's president and vice-president as well as the presidents of the RIAs.

Nunavut Inuit Wildlife Secretariat

Article 5 of the Nunavut Land Claim Agreement identifies the responsibilities and authority of designated wildlife organizations, of which the Hunters and Trappers Organizations (HTO) and Regional Wildlife Organizations (RWO) are the main stakeholders. Regional offices were set up to administer funds to the communities and support the regional Boards. However, problems arose because of lack of capacity, lack of external support, mismanagement and other factors. The Wildlife Secretariat was proposed as an alternative means of managing regional budgets and supporting regional Boards and community HTOs.

APPENDIX C : BOARD REPRESENTATION

- Nunavut Impact Review Board
- Nunavut Planning Commission Board
- Nunavut Water Board
- Nunavut Surface Rights Tribunal
- Nunavut Tunngavik Incorporated Board
- Kitikmeot Inuit Association Board
- Kitikmeot Corporation Board
- Daycare Societies In Each Community
- District Education Authorities In Each Community
- Hunters And Trappers Organizations In Each Community
- Legal Services Board
- Qulliq Energy Board
- Community Joint Planning And Management Committee
- Nunavut Joint Planning And Management Committee
- Nunavut Resources Corporation Board
- Nunavut Economic Developers Board
- Nunavut Business Development Corporation Board
- Pauktuutit Board Of Directors
- Nunavut Trust Board
- Former Kitikmeot Health Board

Implementing the Truth and Reconciliation Commission's Calls to Action : Teach for Canada

Thomsen D'Hont, Angela Nuliayok Rudolph,
Dawn Tremblay, Clara Wingnek

EXECUTIVE SUMMARY

How can Teach for Canada implement the Truth and Reconciliation Committee's Calls to Action?

Teach For Canada is a non-profit organization that aims to address high teacher turnover rates in northern First Nations communities and endeavours to examine the educational gaps in learning achievements and other educational deficits.

The First Nations community partners that Teach For Canada serves are Ojibwe (Anishnaabe, as they traditionally call themselves), Oji-Cree and Cree. These First Nations communities are located in northern Ontario and have a high dropout rate as a combined result of residential schooling under-funded federal schooling and high teacher turnover rate, among other factors.

Canada mandated the Truth and Reconciliation Commission to gather the written and oral history of residential schools, while working toward reconciliation between former residential school students and the rest of Canada.

The 'Nish Group have identified three main options for Teach For Canada to implement the Truth and Reconciliation Commission's "Calls to Action" in their final report. First, Teach For Canada can choose the "Wait and See" option without implementing any of the calls to action. Second, Teach for Canada can choose to implement the "Do All Possible" option, which addresses all the relevant calls to action. Third, Teach For Canada can choose to implement the "First Four" option, which addresses a narrow selection of relevant calls to action.

The 'Nish Group recommends that Teach For Canada implement the "First Four" option, which aims to apply a narrow selection of relevant calls to action from the Truth and Reconciliation Commission's final report.

BACKGROUND

Who is Teach for Canada?

Teach For Canada is a non-profit organization that attempts to transform education in northern Ontario First Nations communities. Teach For Canada receives applications from qualified teachers across Canada who want to teach in a northern Ontario community and are willing to sign a two-year commitment agreement. From April to June, working alongside thirteen First Nations school partners, Teach For Canada brings education directors from these communities to Toronto, Ottawa and Thunder Bay to run interviews with pre-screened teachers. Teachers who are selected by the interview panels are entered into an online teacher database and Teach For Canada's community partners make hiring decisions on their own. The selected teachers then complete a three-week training program before entering the classroom in September. Teach For Canada provides teachers with professional and personal support throughout the two-year time frame.

Since the program's beginning, Teach For Canada teachers have been involved with the community beyond their classrooms: they have launched student councils, coached hockey teams, created music programs, started choirs, organized field trips, launched school websites and run outdoor education events.

The motto of Teach For Canada is: "Together, we can make education more equal."

What is the Truth and Reconciliation Commission?

The Truth and Reconciliation Commission was created as a result of the largest class-action lawsuit in Canadian history. Former students of Indian residential schools decided to settle an out-of-court agreement with the federal government and four national churches. As a result, former residential school students are assured their stories are not lost. The Truth and Reconciliation Commission was mandated to gather the written and oral history of residential schools, while working toward reconciliation between former students and the rest of Canada. The Truth and Reconciliation Commission held seven national events between 2010 and 2013, where they gathered stories from residential school survivors. The Truth and Reconciliation Commission have since collected more than 6,500 statements from residential school survivors, which resulted in the Truth and Reconciliation Commission's final report containing the 94 "Calls to Action."

Who are the First Nations Community Partners?

The First Nations communities that Teach For Canada serves are located in northern Ontario and their populations are largely Ojibwe (Anishnaabe), Oji-Cree and Cree. The 13 First Nations communities that Teach For Canada serves are Deer Lake, Eabametoong, Fort Severn, Keewaywin, KI (Big Trout Lake), Marten Falls, North Spirit Lake, Sandy Lake, Poplar Hill, Big Grassy River, Lac La Croix, Lac Seul and the Ojibways of Onigaming. Many children in these communities do not have access to high schools in their home communities. Therefore, they often leave home to attend high school in Sioux Lookout, Thunder Bay, Winnipeg or elsewhere. The community populations range from Big Grassy River with a population of 280 to Sandy Lake with a population of 2,571. Student enrollment for each of the schools ranges from 57 to 586.[1] In these First Nations communities, three out of five students will drop out of high school, largely as a result of historical and systemic education injustices, such as residential schooling and teacher recruitment and retention difficulties, among other factors.[2]

Who are the Jane Glassco Northern Fellows?

The Jane Glassco Northern Fellowship is an initiative of The Gordon Foundation. It is a policy and leadership development program aimed at young northerners, aged 25 to 35, who want to build a strong North that benefits northerners. The Fellowship is a two-year-long program, in which the Fellows work on individual and group research projects. The 'Nish Group has been tasked with this group research project, in which they take on the role of a team of consultants writing an advisory report for a client, Teach For Canada. The 'Nish group comprises NWT Fellows Dawn Tremblay and Thomsen D'Hont, and Nunavut Fellows Angela Nuliayok Rudolph and Clara Wingnek. All members of the group have diverse skills and interests relevant to this project and all have lived and have professional experiences in northern Indigenous communities. In this policy paper, the 'Nish Group would like to emphasize that they are not from Northern Ontario and therefore lack local knowledge specifically to

1 Sara-Christine Gemson, director of communications, personal communication, August 24, 2016.
2 Teach For Canada, *Program Overview*, (Toronto, April 2016, p. 4).

Teach For Canada's endeavours in this context. However, there are many similarities between the territories' educational issues and Northern Ontario educational issues, and therefore there are lessons to be learned from both regions. For the purposes of this exercise, this group of Fellows, the 'Nish Group, plays the role of a team of consultants writing an advisory report for a client, Teach For Canada.

POLICY OPTIONS

01 Wait and See

For Teach For Canada, the Truth and Reconciliation Commission's Calls to Action represent a daunting challenge. Even for a non-governmental organization deeply committed to improving Indigenous education outcomes, the Truth and Reconciliation Commission agenda requires powerful political will and the summoning of considerable human and financial resources. Even with the best of intentions and leadership acumen, it is difficult to know how to start implementing the Truth and Reconciliation Commission's Calls to Action. One practical option would therefore be to wait and see what others will do with the Truth and Reconciliation Commission's Calls to Action and then to follow their lead.

02 Do All Possible

The 'Nish group recognizes that it is unrealistic for Teach For Canada to implement an approach to address all 94 Calls to Action in the Truth and Reconciliation Commission's Report. The "do all possible" option is the next best option. This option would see Teach For Canada implement ten of the Truth and Reconciliation Commission's Calls to Action, selected by the 'Nish group as relating to Teach For Canada's mandate, which are identified in Appendix A.

03 First Four

Rather than doing nothing in the "wait and see" option or doing more than Teach For Canada can afford in the "do all possible" option, we suggest Teach For Canada focus on four education-related Calls to Action that are most relevant to the agenda for Teach For Canada. This option will be referred to as the "first four" option, which is identified in Appendix B.

ANALYSIS

While there are 94 calls to action in total, the main criteria used to analyze and prioritize the Truth and Reconciliation Commission's Calls to Action by the 'Nish Group were:

1. Releance to Teach for Canada's mandate
2. Cost
3. Teach for Canada's ability to implement them

This section analyzes the advantages and disadvantages of implementing the different policy options.

Wait and See

Now and in the coming years, numerous organizations across Canada, including federal departments, provincial ministries and municipal administrations, as well as non-governmental organizations (NGOs), will digest the Truth and Reconciliation Commission's recommendations and consider how best to respond to the numerous Calls to Action. A tiny NGO might decide that a realistic strategy would be to wait and see how similar organizations with comparable mandates might act. From the actions of many organizations from every province and territory might emerge a consensus about viable approaches. And from this consensus, Teach For Canada might identify a viable action.

ADVANTAGES

Mandate
As a young organization committed to learning, Teach For Canada can benefit from the experience of similar organizations in developing best-practices.

Cost
The immediate cost of this option is minimal.

Implementation
For the immediate future, this option has few implementation challenges.

DISADVANTAGES

Mandate
For an organization committed to Indigenous education, a "wait and see" or "do nothing for now" response would amount to a serious sign of bad faith in relation to their mandate and their First Nations community partners.

Cost
The money saved by a failure to act on Truth and Reconciliation Commission's Calls to Action would not be worth the reputational risk to Teach For Canada; and

Implementation
The perception that Teach For Canada responded slowly to the Truth and Reconciliation Commission's challenge or "played catch-up" could damage its fundraising potential.

Do All Possible

Since Teach For Canada cannot feasibly implement all 94 of the Truth and Reconciliation Commission's Calls to Action the 'Nish group has identified a "do all possible" selection of 8 Calls to Action that could be implemented, which are relevant to a teacher organization such as Teach For Canada. If Teach For Canada were to choose this option, they would show a strong commitment to the implementation of the Truth and Reconciliation Commission's Calls to Action, which would solidify their reputation in First Nations education. However, this option

is the most costly, requiring a lot of money and resources to effectively implement, which, as a small teacher organization, Teach For Canada may not have access to.[3]

ADVANTAGES

Mandate
Implementation of the Truth and Reconciliation Commissions Calls to Action will successfully contribute to Teach For Canada's values of humility, transparency, culture and collaboration. Teach For Canada would also demonstrate the highest degree of commitment to reconciliation.

Cost
The money spent by Teach for Canada in their effort to "do all possible" to implement the Truth and Reconciliation Commission's Calls to Action would build a respectable reputation.

Implementation
Teach For Canada would demonstrate a dedication to excellence, which supports the option of aiming to implement all the relevant Calls to Action.

DISADVANTAGE

Cost
A drawback to implement this option would include the need for increased resources in terms of human and financial resources. Teach For Canada would have to do additional work to create and implement the "do all possible" option.

Implementation
Teach For Canada would run the risk of over-extending itself: they would risk doing a poor job addressing a large number of calls to action, instead of a doing a good job of addressing a few calls to action.

First Four

The main criteria used by the 'Nish Group to prioritize the Calls to Action for Teach For Canada were 1) relevance to mandate, 2) cost, and 3) ability to implement. Based on these criteria, some Calls to Action are easily eliminated as not relevant to an educational organization such as Teach For Canada. For example, several Calls to Action address tasks outside the scope of Teach For Canada. The 'Nish Group has selected Calls to Action that align with Teach For Canada's mandate, which have been termed the "first four".[4]

ADVANTAGES

Mandate
The "first four" are the most consistent with Teach For Canada's mandate and values.

Cost
A small organization with limited resources, such as Teach For Canada, needs to focus on the most relevant Calls to Action. The 'Nish Group believes the chosen four are the most feasible for Teach For Canada at this time. The "first four" option is also a more cost-efficient option in comparison to the "do all possible" option.

Implementation
Teach For Canada would apply the limited resources it has as a small teacher organization to effectively implement a small number of very relevant Calls to Action very well.

3 This list of the "do all possible" option is available in Appendix A.
4 This list of the "first four" option is available in Appendix B.

DISADVANTAGES

Cost

This option is more expensive than the "wait and see" option.

Implementation

Teach For Canada would exclude the opportunity to implement other Calls to Action, which would provide benefits to Teach For Canada and the First Nations community partners they serve.

RECOMMENDATIONS

From the three policy options provided, the 'Nish Group recommends that Teach For Canada implement the "first four" option. In terms of the criteria used to analyze the three different policy options, the advantages of the "first four" option greatly outweigh the disadvantages to Teach For Canada's mandate, cost to implement and ability to implement. Moreover, the advantages and disadvantages for the "first four" option are more favourable than the advantages and disadvantages of the other two policy options ("wait and see" and "do all possible").

Consultants in the 'Nish Group are not from Northern Ontario but rather from the Northwest Territories and Nunavut. They have considerable experience with educational issues in the Far North, including the effects of policies imported from the South, and understand the issues that arise out of this process. This group would also like to highlight that they have had little interaction and research opportunity with the Northern Ontario communities who will be affected by this policy recommendation. As a result, the 'Nish Group very strongly recommends that Teach For Canada engage with their Northern Ontario communities to understand whether or not they support the policy recommendation of the "first four."

The 'Nish Group has taken the Calls to Action identified as important Calls to Action for Teach For Canada to implement from the Truth and Reconciliation Commission's Final Report and modified them to make them applicable to Teach For Canada. Within some of the Calls to Action of the "first four" there are many sub-sections; in this case some of the sub-sections are not feasible or within the scope of Teach For Canada's ability to implement. Therefore, we have omitted some sub-sections from various Calls to Action to correspond with the feasibility of Teach For Canada to accomplish within their current scope of ability. The 'Nish Group recommends the "first four" option, as follows:

FIRST FOUR : TRUTH AND RECONCILIATION CALLS TO ACTION

10. We call on [Teach For Canada] with the full participation and informed consent of Aboriginal peoples [to] incorporate the following principles:

ii. Improving education attainment levels and success rates.

iii. Developing culturally appropriate curricula.

iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages.

v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems.

vi. Enabling parents to fully participate in the education of their children.

vii. Respecting and honouring Treaty relationships.

57. We call upon [Teach For Canada] to provide education to [their teachers] on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous People, Treaties and Aboriginal rights, Indigenous law and Aboriginal-Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.

62. We call upon [Teach For Canada], in consultation and collaboration with [residential school] Survivors, Aboriginal peoples, and educators, to:

ii. Educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms.

iii. Utilize Indigenous knowledge and teaching methods in classrooms.

63. We call upon [Teach For Canada] to maintain an annual commitment to Aboriginal education issues, including:

i. implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools [in the classroom and their summer training program].

ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history.

iii. Building student capacity for intercultural understanding, empathy, and mutual respect.

iv. Identifying teacher-training needs relating to the above.

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APPENDIX A : DO ALL POSSIBLE

The following is a compiled list of eight of the Calls to Action that the 'Nish Group have identified as important for Teach For Canada to implement in the "Do All Possible" option.

DO ALL POSSIBLE : TRUTH AND RECONCILIATION CALLS TO ACTION
10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles: ii. Improving education attainment levels and success rates. iii. Developing culturally appropriate curricula. iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as credit courses. v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems. vi. Enabling parents to fully participate in the education of their children. vii. Respecting and honouring Treaty relationships.
13. We call upon the federal government to acknowledge that Aboriginal rights include Aboriginal language rights.
14. We call upon the federal government to enact an Aboriginal Languages Act that incorporates the following principles: iv. The preservation, revitalization, and strengthening of Aboriginal languages and cultures are best managed by Aboriginal people and communities
57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.
62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to: ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms. iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
63. We call upon the Council of Ministers of Education Canada to maintain an annual commitment to Aboriginal education issues, including: i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools. ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history. iii. Building student capacity for intercultural understanding, empathy, and mutual respect. iv. Identifying teacher-training needs relating to the above.
87. We call upon all levels of government, in collaboration with Aboriginal peoples, sports halls of fame, and other relevant organizations, to provide public education that tells the national story of Aboriginal athletes in history.
88. We call upon all levels of government to take action to ensure long-term Aboriginal athlete development and growth, and continued support for the North American Indigenous Games, including funding to host the games and for provincial and territorial team preparation and travel.

APPENDIX B : FIRST FOUR

The following is a compiled list of four of the Calls to Action that the 'Nish Group have identified as important for Teach For Canada to implement in the "first four" option.

FIRST FOUR : TRUTH AND RECONCILIATION CALLS TO ACTION
10. We call on the federal government to draft new Aboriginal education legislation with the full participation and informed consent of Aboriginal peoples. The new legislation would include a commitment to sufficient funding and would incorporate the following principles: ii. Improving education attainment levels and success rates. iii. Developing culturally appropriate curricula. iv. Protecting the right to Aboriginal languages, including the teaching of Aboriginal languages as. v. Enabling parental and community responsibility, control, and accountability, similar to what parents enjoy in public school systems. vi. Enabling parents to fully participate in the education of their children. vii. Respecting and honouring Treaty relationships.
57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.
62. We call upon the federal, provincial, and territorial governments, in consultation and collaboration with Survivors, Aboriginal peoples, and educators, to: ii. Provide the necessary funding to post-secondary institutions to educate teachers on how to integrate Indigenous knowledge and teaching methods into classrooms. iii. Provide the necessary funding to Aboriginal schools to utilize Indigenous knowledge and teaching methods in classrooms.
63. We call upon the Council of Ministers of Education Canada to maintain an annual commitment to Aboriginal education issues, including: i. Developing and implementing Kindergarten to Grade Twelve curriculum and learning resources on Aboriginal peoples in Canadian history, and the history and legacy of residential schools. ii. Sharing information and best practices on teaching curriculum related to residential schools and Aboriginal history. iii. Building student capacity for intercultural understanding, empathy, and mutual respect. iv. Identifying teacher-training needs relating to the above.

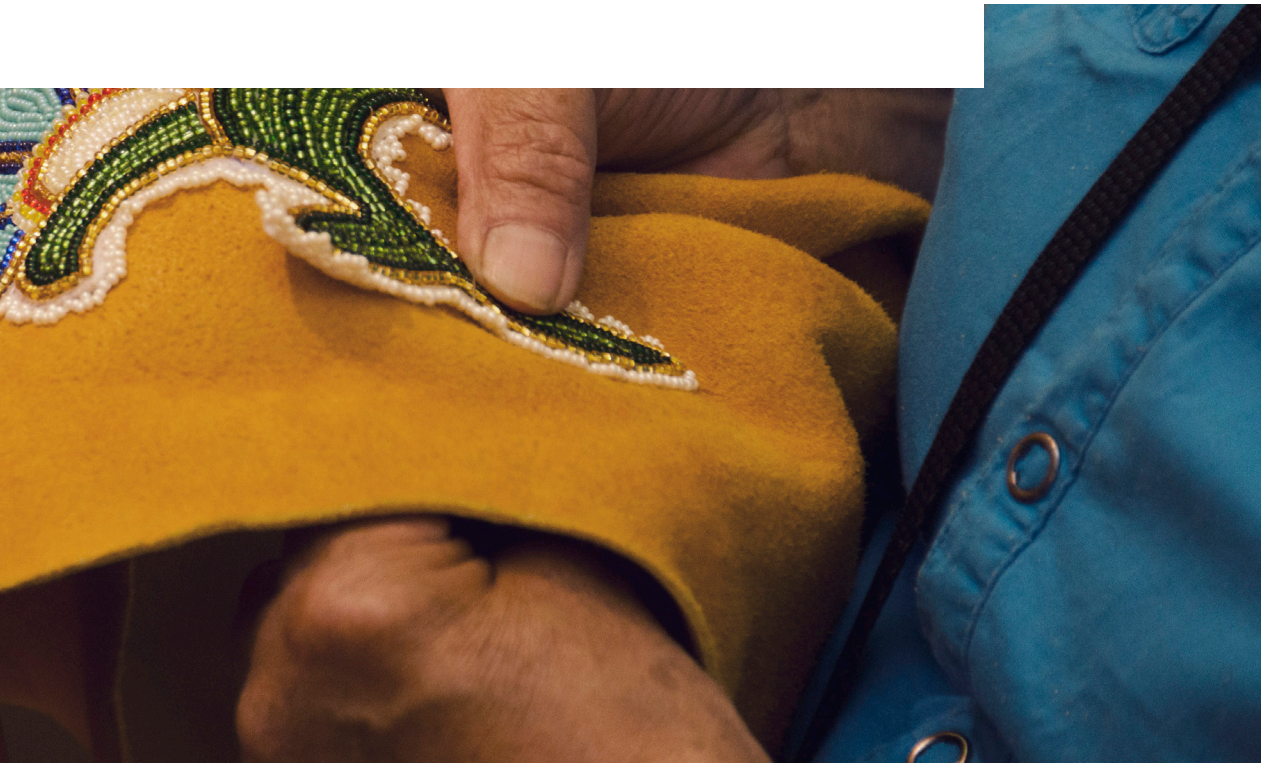
Nän K'ałädàtth'ät:

Changing Times, Continuing Ways:

A Re-evaluation of Court Options for Shadhäla, Äshèyi yè kwädän

Champagne and Aishihik First Nations

Samantha Dawson, Jessica Black, Melaina Sheldon,
Jordan Peterson, Meagan Grabowski



INTRODUCTION

"We don't want a brown version of the YTG system."[1]

The Jane Glassco Northern Fellowship is a program hosted by The Gordon Foundation, which selects emerging leaders in northern public policy from across the Canadian North. We are five northerners, age 25 to 35, from diverse backgrounds, communities and skill sets, who are passionate about the well-being of the North and its people. The Fellowship fosters understanding and enhances experience in policy and leadership in the North through connection and work. This report represents a part of the group project component of the Fellowship as a "mock consultation learning exercise" in northern policy development; however, our intention is to assist the Shadhäla, Äshèyi yè kwädän (Champagne and Aishihik First Nations, herein referred to as CAFN) in evaluating the next steps for CAFN Justice.

Based on the diversity of our individual experiences, we see the urgency and importance of reducing the disproportionate representation of Indigenous peoples in the Canadian justice system. Some of us are training to be lawyers, and are dealing with how to practise law given the many unjust precedents set by the colonial system. Some of us have been targeted by the justice system based on racial identity and deal with the multiple impacts of racial profiling. Some of us have family who are in enforcement and know the level of institutional dysfunction within. As we conducted this group project, we passionately discussed and shared our experiences, and recognize the need for healing, accountability and true justice. We also firmly recognize the unique position of Champagne and Aishihik First Nations and hope this work assists in shedding light and furthering justice discussions.

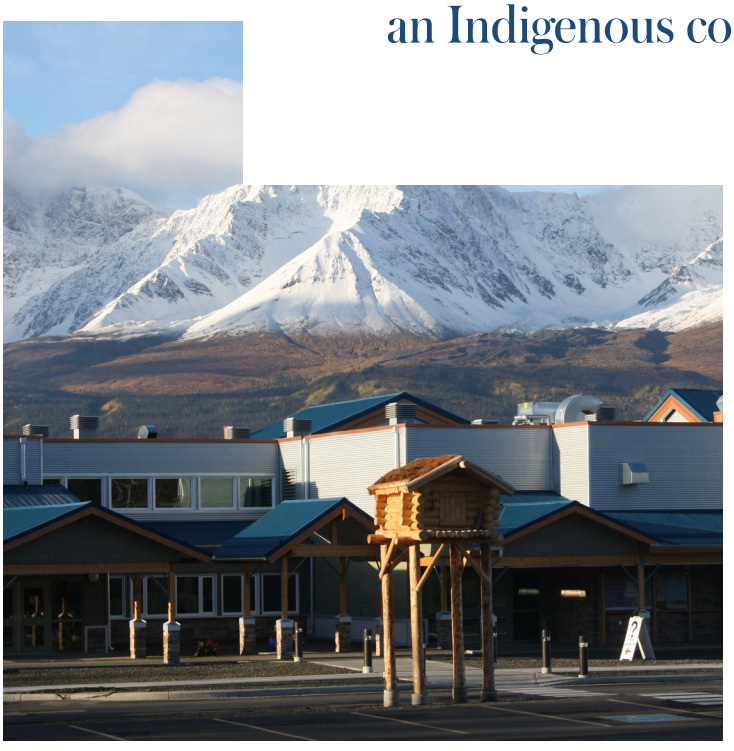
This document explores options available to the CAFN to implement justice under the *Yukon Umbrella Final Agreement* and CAFN law.[2] We provide recommendations to address some ongoing problems persisting since the imposition of a colonial legal structure in the Yukon, and enhance the ability of Indigenous communities to administer justice for their citizens and lands. In this report, we begin with the presentation of our problem definition. Next, the background section includes a colonial historical context example and a brief summary of CAFN's justice work and current programming. In the second section, the report presents five options, each accompanied by a risk analysis. In the final section, we present further considerations with a summary of our recommendations.

The Jane Glassco Northern Fellows were given privileged access to and entrusted with CAFN reports and documentation. Through this document, our group will present court model options available for implementing CAFN Justice. Our recommendations will be based on this completed work, as well as drawn from the research and experiences of academics and other Indigenous governments.

In a broad context, these questions are timely; CAFN and the federal government signed the *Administration of Justice Agreement* framework on February 21, 2011, to resume negotiations.[3] The release of reports such as the *Truth and Reconciliation Commission of Canada Findings* in June 2015, and the newly formed commission charged with investigating Canada's missing and murdered Indigenous women, illustrate the increasing pressure to examine the state of Indigenous peoples and their inherent rights.[4]

1 Champagne and Aishihik First Nations, CAFN *Justice General Assembly Report* (2004): 19.
2 *Yukon Umbrella Final Agreement*, ss. 24.2.1.13.
3 Champagne and Aishihik First Nations. CAFN *Annual Report 2015-16*. 2015, 7. Accessed at: http://cafn.ca/wp-content/uploads/2015/04/2015-16-CAFN-Annual-Report-for-web-1.pdf.
4 Truth and Reconciliation Commission Canada. *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada*. (Winnipeg: Truth and Reconciliation Commission of Canada, 2015.)

How can CAFN successfully implement the justice provisions of the Yukon Umbrella Final Agreement and its own Self-Government Agreement to create an Indigenous court system?



Da Kų Cultural Centre in Dakwäkäda (Haines Junction).

Imposed and Overlapping Methods of Yukon Justice

The gold rush of 1898 spurred the creation of a new Yukon Territory, accompanied by the Canadian colonial justice system. Yukon Courts served as a response to the growing population of Dawson City. The first murder trial to be tried held in the Yukon Court was the "judicial homicide" of the Nantuk brothers.[5]

Figure 1

Four Nantuck brothers in iron leg with Corporal Rudd (North West Mounted Police) at Tagish Post, Yukon, 1898.[6]

The four Yukon Tagish First Nation "brothers"[7] were tried in Dawson City, required to plead guilty to the murder of William Meehan and attempted murder of Christian Fox, and sentenced to be hanged. Two of the brothers, Frank and Joe, died in prison from scurvy and tuberculosis. From a historical perspective, the execution of the brothers was

> "intended to send a strong message, to first nations: don't you step out of line, you'll face the full weight of the law, and that includes execution. For the Americans: Don't take things into your own hands — the government of Canada will take all measure necessary and impose justice of the highest order."[8]

The language and law set by the provisional court system and experienced by the brothers, fundamentally lacked an understanding of Tagish Tlingit language and laws. Poor translation capacity by the court in Dawson City failed to accommodate the Nantuk brothers from Tagish, who would have spoken Tagish, Southern Tutchone and Tlingit.[9] The Nantuk brothers' trial exemplifies the profound cultural and linguistic barriers the courts accommodate based on incarceration trends and despite some efforts by Gladue reports and Aboriginal Court Workers.

Many historians, archaeologists, anthropologists and biographers have since reflected on what was already known by many First Nations: the Nantuk brothers were administering the Tagish Nation's justice. As summarized by Justice McGuire in his report to Ottawa after the trial, when the Nantuks were asked for justification, they said, "the whites were 'good friends' but (that) some white man a year or two years ago had killed two Indians."[10] However, this was merely a side note in the trial documents. For the Nantuk brothers, the Yukon legal system had run contrary to their understanding of jus-

5 Alan Grove. "Where is the Justice, MR Mills?': A Case Study of R. v. Nantuk." in H. Foster & J. McLaren (Eds.), *Essays in the History of Canadian Law: British Columbia and the Yukon* (87–127). (Canada: The Osgoode Society for Canadian Legal History, 1995.)
6 Canadian Museum of History. Klondike photographic collection, J6186.
7 They were "brothers" in their clan (Ganaxtedi, raven symbol and part of the Crow moiety), which was interpreted by settlers and police as literal brothers. Their first and last names were potentially also given at some point during their arrest. (Susan Moorhead Mooney, pers. comm.)
8 John Thomson, "Bones discovered in Yukon tell tale of Klondike justice." *The Globe and Mail*, November 12, 2010, accessed January 20, 2016. http://www.theglobeandmail.com/news/national/bones-discovered-in-yukon-tell-tale-of-klondike-justice/article1314028/.
9 Julie Cruikshank, "Oral Traditions and Written Accounts: An Incident from the Klondike Gold Rush." *Culture* 9 (2) (1989): 25–34.
10 *Ibid.*

tice. They had adhered to Tagish Tlingit laws in responding to the death of fellow clans people, and their deaths as a consequence would only create an imbalance in the numbers.[11]

"...Natives are still, as they were a century ago, invariably compelled to defend their practices in a manner consistent with Western logic."[12]

The 2015 CAFN General Assembly at Kusawa Lake.

Many stories give further insight into the harm that the brothers were avenging. Mrs. Kitty Smith and Mrs. Angela Sidney shared with Julie Cruikshank that a boy brought a can of white powder left behind by settlers at a camp to his aunt, who used it in bannock.[13] The aunt first fed the bannock to a dog as a test, but because the effects of the poison were delayed, two Crow members consumed the bannock and died. According to their traditional Tlingit laws, the Nantuk brothers as clan members of the deceased were required to administer the reciprocal deaths of two settlers.[14] In this regard, Meehan and Fox were considered social equivalents of the deceased, whose deaths would fairly restore community equilibrium.

"We, the Indians of the Yukon, object to... being treated like squatters in our own country. We accepted the white man in this country, fed him, looked after him when he was sick, showed him the way of the North, helped him to find the gold, helped him build, and respected him in his own rights. For this we have received little in return. We feel the people of the North owe us a great deal and would like the Government of Canada to see that we get a fair settlement for use of the land. There was no treaty signed in this Country, and they tell me the land still belongs to the Indians. There were no battles fought between the whites and the Indians for this land."[15]

Overriding Indigenous justice with colonial justice has led to the untimely deaths of many, including the Nantuk brothers. Indigenous justice systems were disregarded and deemed inferior despite their presence in the Yukon Territory.[16] The colonial court remains the primary and default judicial system, but has only been predominant since 1898. Indigenous laws have always and continue to play a central role in governing the land and the lives of Indigenous peoples and Yukoners alike. The *Yukon*

11 Susan Moorehead-Mooney (pers. comm.).
12 Julie Cruikshank's, 'The Social Life of Stories: Narrative and Knowledge in the Yukon Territory', 1998. p. 97
13 *Ibid*, *supra* note 10.
14 *Justice* by Leonard Linklater. Gwaandak Theatre, Whitehorse, Yukon. 2012. Performance.
15 Tämbey (Elijah Smith) Käjèt (Crow clan)
16 *Ibid.*

Umbrella Final Agreement (UFA) formally recognizes the self-governing authority of Yukon First Nations in colonial law. The UFA sets out the lawmaking authority of the self-governing Yukon First Nations, who have the power to negotiate administration of justice agreements. The UFA and agreements that flow from it are powerful self-determination tools entrenched in section 35 of the *Constitution*[17] and a number of self-governing Yukon First Nations have begun using these tools, including CAFN. Indigenous legal orders also operate independently of colonial systems of law and recognition.

Previous Work by CAFN on Justice

As part of our research for this project, we were given access to a number of justice filing boxes. Given the limited time to address these files, we can discern that a large body of research has been completed by CAFN on justice. Due to limitations in our timelines and capacity, we must preface the following summaries on previous work and present programs by acknowledging that these are not comprehensive assessments.

From approximately 2001 to 2009, CAFN had a Justice Manager whose work, along with CAFN negotiators and lawyers, led to an *Administration of Justice Agreement Framework* (AJA), signed in 2016.[18] The Justice Manager also led the community-based nature of a justice program and conducted research through community workshops and Elder interviews to define CAFN justice values for its citizens. The key results from these consultations can be seen in CAFN *Justice Visioning Principles* (*Appendix B*) and Elder interview transcript documents. There were several documents about mediation and adjudication options. For example, a CAFN *Justice General Assembly Report* (2004) presents several models for a CAFN-specific or integrated Indigenous court system. The following information summarizes, as far as our research indicated, what the Justice Manager achieved in planning a CAFN court system.

The Administrative Appeals Tribunal (AAT) was a judicial body set up within CAFN in 2001 under the *Government Administration Act*, to "investigate, hear, and decide complaints brought forth by persons who are aggrieved by actions, decisions, recommendations or procedures of CAFN public officers."[19] As the role and mandate of the AAT became unclear, a review was conducted in 2008, and the tribunal was no longer run as of 2009. As with the Teslin Tlingit Council's ("TTC") Peacemaker Court, a CAFN court could deal with formal complaints by CAFN citizens to the CAFN government.[20]

In 2009, John Bailey wrote *Options for Improving Champagne and Aishihik First Nations' Appeal Processes*, which suggests to "repeal all provisions relating to the Administrative Tribunal and replace them in the *Government Administration Act* with provisions establishing a CAFN Ombudsman with a similar mandate to the Yukon Ombudsman."[21]

17 *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.
18 Champagne and Aishihik First Nations. CAFN *Annual Report 2015–16*. 2015, 7. Accessed at: http://cafn.ca/wp-content/uploads/2015/04/2015-16-CAFN-Annual-Report-for-web-1.pdf.
19 Champagne and Aishihik First Nations. Department of Secretariat. *Administrative Appeals Tribunal Review. Governance Administration Act. Working Group Finding and Recommendations*. December 2008, 5.
20 The Teslin Tlingit Peacemaker Court is independent from the General Council and Executive Council of the Teslin Tlingit Council. The Peacemaker Court has the jurisdiction to resolve any dispute between citizens, any dispute that may arise under the Teslin Tlingit Constitution, resolve or adjudicate a dispute between, among or within clans (if the clan leaders involved so request). There is a Discipline Panel to address complaints made against a Peacemaker, but currently there is no official process to address complaints made by a citizen against the government.
21 John Bailey. *Options for Improving Champagne and Aishihik First Nations' Appeal Processes.* March 31, 2009, 17.

Existing CAFN Justice Programs

The Haines Junction Community Justice Program and the Restorative Community Conference Coordinator are initiatives that provide alternatives and diversion away from mainstream courts for CAFN citizens.[22] Given the upcoming AJA framework implementation negotiations,[23] these restorative justice programs could provide guidance on efficacy.

The Haines Junction Community Justice Program started in 1994 as part of the *Aboriginal Justice Strategy*[24] and is funded by the Aboriginal Justice Directorate (Justice Canada) and the Yukon Government Department of Justice, and administered through CAFN. The program consists of a Coordinator and a Committee. The Committee has six appointed individuals: three appointed by CAFN Chief and Council, and three appointed by the Village of Haines Junction Council. The Committee determines whether alternative justice is an appropriate option for a client. The client base of the Haines Junction Community Justice Program is both CAFN citizens (within geographical access) and residents of Haines Junction, making it one of the few "bridging agencies" in the community.

The *Aboriginal Justice Strategy*, and therefore the program, advocates for clients to be kept out of the mainstream court system and diverted into alternatives (such as: healing circles, counselling, suspended sentences), with the goal to administer justice in a manner better aligning with a community's traditions and well-being. Alternatives can be provided at various stages of the justice process, including pre-charge or post-charge, through healing or sentencing circles, or other diversions from correctional facilities.[25]

The Haines Junction Community Justice Program facilitates healing/restorative justice circles and other opportunities for restorative justice. Circles consist of fewer than 12 people, and on average will have in attendance the following:

- The victim (optional, can send a proxy);
- The offender;
- A facilitator (Haines Junction Community Justice Coordinator);
- Support people for the victim, offender, and community members and;
- Potentially the Haines Junction Community Justice Committee members (often community elders).

The offender must accept responsibility for their actions. One person speaks at a time, following the order of the circle, for as long as they require. Everybody who will attend is interviewed beforehand to ensure the process is one of healing and any additional conflicts are minimized. The result or decision is decided by consensus of the circle (minus the facilitator). There were many concurrent circles in the mid-nineties, but referrals have become scarce (a rate of approximately one circle/year) due to changes in court and RCMP practices. The program has shifted from its main function of providing support for persons facing charges, incarcerated or on conditions, towards active supports such as organizing camps, crisis lines and support groups.

22 Information on these programs was collected via the current Coordinator of the HJ Community Justice Program (with the understanding that this information is for a report for CAFN), and from attending a presentation by the Restorative Community Conference Coordinator.

23 Champagne and Aishihik First Nations. CAFN *Annual Report 2015–16*. 2015, 7. Accessed at: http://cafn.ca/wp-content/uploads/2015/04/2015-16-CAFN-Annual-Report-for-web-1.pdf.

24 Government of Canada. *Aboriginal Justice Strategy*. (Ottawa: 2017.) Accessed at: http://www.justice.gc.ca/eng/fund-fina/acf-fca/ajs-sja/index.html.

25 Our research indicated that pre-charge diversion rarely occurs.

Da Kų Nän Ts'étthèt (Our House is Waking up the Land) festival at Da Kų Cultural Centre.

The Restorative Community Conference Coordinator administers the Community Conference, which is a Yukon Territorial Government program. The Coordinator is responsible for providing restorative justice opportunities for youth victims and offenders under the age of 18 in all Yukon communities. The Coordinator was hired in 2006 and is responsible for providing restorative justice opportunities for youth victims/offenders under the age of 18. Occasionally adults are included if co-accused with a young person. The Coordinator meets with the offender and assesses willingness to meet with the victim and hear their story, then meets with the victim and hears their story (what happened, what impact the incident had on them, how the harm could be mediated). After each gives consent, the client, victim and whoever else needs to be there (as determined by the victim and client) are then brought together to resolve the dispute and the victim identifies the punishment. Both parties are monitored in carrying out the punishment, depending on the referral.

These programs avoid Western adversarial approaches to justice by providing an opportunity for transparency, support and accountability. Diversion programs like these seek to address the harm and shame often accompanying criminal activity, decrease the likelihood of re-victimization and recidivism and enable life to continue in small communities by facilitating healing relationships. Some challenges experienced in providing these programs are: logistics; accessibility/awareness; willingness; human chemistry and sometimes resistance by the offender and/or victim (regarding concern about accountability or retaliation).

OPTIONS FOR CAFN COURTS

Status Quo

The Canadian justice system's formal structure and regalia reflect British and French colonial history, culture and traditions. By nature, it is a binary and adversarial system that assigns innocence or guilt and punishment, which does not focus on respect, teaching and reconciliation, as Indigenous justice systems do. For example, CAFN documentation indicates that traditional

justice systems were holistic, focusing on the effects of conflict on community as opposed to individuals.[26] Healing and teachings were used to resolve conflict and crime in a clan-based system of justice decision-making.[27]

The Canadian justice system disproportionately charges, convicts and imprisons Indigenous people. Indigenous people make up approximately 4.3% of the general population, but 24.6% of the prison population in Canada.[28] An Indigenous male is more likely to be incarcerated than to graduate from high school.[29] The Indigenous female offender population grew by 90% between 1999 and 2009.[30] Correctional Service Canada has commitments and obligations to provide "Aboriginal specific programs," yet further increases in Aboriginal incarceration are projected well into the future.[31] Many communities believe that police enforcement systematically mistreats and discriminates against visible minorities, particularly Indigenous people. Statistical trends in police-reported crime rates and self-reported victimization studies routinely demonstrate crime levels in the Territories are the highest in Canada.[32]

A defining feature of the Canadian criminal justice system seems to be how culturally inappropriate and ineffective it is for Indigenous communities.[33] One of the major critiques of the system is that it decontextualizes crimes by focusing on punishment rather than healing or rehabilitation.[34] This focus serves to exacerbate the dysfunction in communities by not addressing underlying causes. It also silences the voices of the victim, accused and community by placing them in a highly adversarial environment. It favours procedural fairness over justice, so those who are already vulnerable or disenfranchised find themselves at a disadvantage.

The Canadian justice system was and is completely foreign to Indigenous peoples. The courtroom setup, with a judge presiding over the parties from the bench and legal counsel in their black robes, is not reflective of Indigenous values or Indigenous legal principles.

Similar critical reception and frustration with the current system has spurred the academic field of Alternative Dispute Resolution (ADR), which credits many Indigenous communities' approach to resolve and prevent crime through peacekeeping and circles. ADR prioritizes healing trauma and restorative justice as highly interrelated in preserving public order and protection.[35] ADR is also a priority within CAFN *Justice Visioning Principles* (see: *Appendix B, principle 14*).

GLADUE REPORTS WITHIN THE STATUS QUO

The Supreme Court of Canada in *R. v. Gladue* (1999) is a landmark decision in response to the Indigenous peoples' overrepresentation within Canadian mainstream court systems. The judgment recognizes the unique systemic

26 Author unknown, Champagne and Aishihik First Nations document, "AJS/YTG D of J." April 20, 2004.
27 *Ibid*.
28 Government of Canada, Office of the Correctional Investigator of Canada. *Annual Report of the Office of the Correctional investigator 2014–2015.* (Ottawa: Office of the Correctional Investigator of Canada, 2015.)
29 Emile Therein. 2012. "The national shame of aboriginal incarceration." *The Globe and Mail*, July 20, 2011, Accessed at: http://www.theglobeandmail.com/opinion/the-national-shame-of-aboriginal-incarceration/article587566/.
30 Government of Canada, Office of the Correctional Investigator. *Annual Report of the Office of the Correctional Investigator 2009–2010*. (Ottawa, 2009). Accessed at: http://www.oci-bec.gc.ca/cnt/rpt/annrpt/annrpt20092010-eng.aspx#2.4.
31 Michelle Mann. *Good Intentions, Disappointing Results: A Progress Report on Federal Aboriginal Corrections*. (Ottawa: Office of the Correctional Investigator of Canada, 2013.) Accessed at: http://www.oci-bec.gc.ca/cnt/rpt/pdf/oth-aut/oth-aut20091113-eng.pdf.
32 Government of Canada. Statistics Canada. *Police-reported crime in Canada's Provincial North and Territories, 2013*. Juristat, 85-002-x. (Ottawa, 2015).
33 Office of the Correctional Investigator. *Spirit Matters: Aboriginal People and the Corrections and Conditional Release Act.* (Ottawa: Office of the Correctional Investigator of Canada, 2012.)
34 John Kleefeld et al., "Charter 1: Conflict Analysis" in *Dispute Resolution: Reading and Case Studies*, (Toronto: Emod Montogomery Publications, 2003).
35 Howard Zehr. "Doing Justice, Healing Trauma: The Role of Restorative Justice in Peacebuilding." *Peace Prints: South Asian Journal of Peacebuilding* (2008): 1:1.

circumstances and historical traumas affecting Indigenous peoples with the intention to lower over-reliance on incarceration by making viable alternatives and realities within communities. In that case, the Supreme Court interpreted s. 718.2 (e) of the Criminal Code of Canada for the very first time. This section requires that:

> "...all available sanctions, other than imprisonment, that are reasonable in the circumstances and consistent with the harm done to victims or to the community should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders." [36]

The section is a sentencing principle *requiring every* Canadian criminal court to carefully consider an Indigenous person's background in making sentencing decisions and to consider alternatives to incarceration. A focus on more restorative community-based justice methods means that jail is to be used only as the last resort and least preferable option.[37] Gladue reports are composed to help fulfil the legal requirement under s.718.2(e). In these reports, personal histories are prepared for trial judges to outline mitigating factors to consider when sentencing an Indigenous person. This is framed as a Gladue right, which entitles an Indigenous person in conflict with the law to such considerations.[38]

Twelve years later, the Supreme Court of Canada revisited *Gladue* in *R v. Ipeelee* (2012) and found that it had made little difference — Indigenous peoples were still being overincarcerated at disproportionate rates. In investigating why *Gladue* had not made a difference, the court found that in most cases it just was not being applied because it was viewed as inapplicable or a race-based justification for different sentences. The court found these interpretations to be incorrect. *Gladue* is not "reverse discrimination," but a tool to unveil the inequality perpetuated by the status quo of the mainstream courts. The courts note how things such as employment status, level of education and family situation, normally taken into consideration when sentencing a person, may appear to be neutral but they are socioeconomic factors that "conceal an extremely strong bias in the sentencing process." In other words, better understanding the current systemic barriers and background faced by a person leads to a better understanding of their case, and should result in better justice outcomes.

Eighteen years after *Gladue* and five years since *Ipeelee*, these decisions remain underutilized and lack of designated financial support for the order of this statutory obligation.[39] The duty to ensure reports are conducted fall on the court; all Yukon First Nations have a substantive legal right to have *Gladue* factors considered until they expressly waive it. Yukon Legal Services (Legal Aid) only recently began working on setting up pilot projects for consistent Gladue Report writing with a working group established with representatives from the Council of Yukon First Nations (CYFN), Skookum Jim's Friendship Centre and Legal Aid. Up until now, Gladue Reports have been written on a case-by-case basis without funding for the individuals compiling them. The Council of Yukon First Nations Justice Manager and a handful of others in the territory compose reports, but because of the time necessary to gather the information (–six to eight weeks), employees may require the

36 Criminal Code, R.S.C. 1985, c.46, s. 718.2 (e)
37 http://www.duhaime.org/LegalDictionary/G/GladueRights.aspx.
38 http://www.thecanadianencyclopedia.ca/en/article/r-v-gladue/.
39 Yukon Legal Aid Service Provider, Melissa Atkinson. (April 2017.)

permission of an employer. On occasion, legal aid defence may pay for the service of Gladue Report writing, but finding the providers of such services proves difficult because as of yet there is not an established program in the territory. This leaves counsel to outsource the work or to ascertain information for themselves, for which they have not been provided any form of training.

There is an immediate need to establish Gladue Report methodology with minimum standard guidelines that do not force further systemic barriers. Current problems include untrained writers (lack of standard format to follow) who are unfamiliar with the individual or the community, prolonging report completion and making the timeframe acting as a further barrier to access. Those currently working with Gladue Reports in the Yukon Territory suggest that Gladue Report writers should be First Nations people from the communities who can pair their lived Canadian First Nation experience with tested report-writing processes and training for Gladue Reports to be truly effective.

Gladue Reports came to exist out of a recognition that Indigenous peoples face racism and systemic discrimination in and out of the criminal justice system. Gladue requires that a court hears and considers the historical and current life experiences that can lead a Canadian Indigenous person to come into conflict with the colonial law. Hearing these factors and considering alternatives is a sample of restorative justice in the mainstream, yet, if the reports are not being integrated and utilized as standardized practice for each case involving an Indigenous person, is the intention of *Gladue* null and void?

Some movement is being made. The Yukon Law Society is implementing a pilot project Gladue Report–writing system, which will become refined through trial and error. To prepare for a high case-load and avoid the potential for vicarious trauma considering the subject matter of the reports, the recommendation is to ensure more than one report writer in the territory exists.[40] Yukon First Nation Governments could help meet this effort by coordinating a small roster of Gladue Report writers from their respective communities. This may be especially useful in the process of Yukon First Nations administering criminal justice. A specialization in the research and writing of Gladue Reports could affect sentencing times of citizens within the court system. The reports facilitate a restorative justice–based approach and could provide value in a First Nation court. The practice of Gladue Report writing should be developed with First Nations input and taught to First Nations individuals, giving the opportunity to help determine the path of their fellow citizens and make a greater difference in the Yukon Territory than they already do.

Below, and in each subsequent option section of this paper, a table will present some of the anticipated opportunities and obstacles involved in implementing a particular option. Balancing these considerations is a necessary step in selecting the most appropriate trajectory for CAFN justice.[41] The current legal system presents some opportunities and obstacles, which are presented in Table 1.

ADVANTAGES

- Societal norm.
- Costs are incurred by the territorial government and not by First Nation governments.
- Assumes that all accused persons are innocent until proven guilty.[42]

40 Council of Yukon First Nations Justice Manager, Laura Hoversland. (April 2017.)
41 The group acknowledges that the distinction between an "opportunity" and "obstacle" is a sliding scale with much contextual nuisance involved not captured by the dichotomist nature of these tables.
42 However, data supports the idea that the application of the presumption of innocence is skewed.

▸ The system is evolving. For example, the Charter of Rights and Freedoms limits the Canadian Parliament from creating laws that discriminate against race or nationality.
▸ Options are available for restorative justice, diversion and programs such as circle sentencing, Community Wellness Court and the Haines Junction Community Justice Program.

DISADVANTAGES

▸ Limited access to justice through courts and persistence of systemic discrimination.
▸ Long-term societal costs felt primarily by communities.
▸ Does not account for Indigenous culture, traditions and language, which creates an alienating environment.
▸ Most communities have little control over law enforcement (e.g. RCMP in the Yukon).
▸ Indigenous people cannot equitably access diversion options from mainstream courts to their citizens, even where available, without first pleading guilty to the offence.
▸ Not enough referrals are made to existing diversion programs.

Hybrid Court

A hybrid court option combines mainstream court structures and proceedings with customized First Nations justice measures, such as including Elders and having a designated docket, which means all CAFN citizens could be tried over one customized session.[43] A hybrid court would cost less than creating a new First Nations court or could serve as an interim measure.
Having an Elder permitted to speak in court allows space for a familiar, community voice in the courtroom. Currently, only the lawyers, judge and whomever is called to testify are able to speak. Adding this voice could increase the ability of an Indigenous person to feel less culturally alienated in the mainstream court system, criminal law and corrections system. Allowing for other voices in the courtroom is used in Aboriginal Community Court in Australia, where the magistrate is assisted by Aboriginal elders in their decision-making.[44]

A designated docket where all CAFN citizens are tried in one session potentially increases access to existing diversions from mainstream courts, however there must be diversion programs in place and an awareness of the possibility for diversion. A designated docket would also allow space for those in the mainstream court, such as lawyers, judges and court workers to acknowledge the particular needs of CAFN citizens.

A risk of the hybrid court option is continued reliance on court staff potentially unfamiliar with CAFN values, principles and traditions. This unfamiliarity leads to misunderstandings that further discriminate against those in the system. Another issue may be cost. Either the First Nation or the courts would need to cover costs of having an Elder present. Additionally, deciding which Elder presides could be a difficult point to negotiate to ensure equity and balanced representation from the community and/or First Nation clans, Raven or Wolf. These decisions should remain with the First Nation. Financial support from the federal government for measures such as these could be negotiated as part of the *Administration of Justice Agreement*.

43 Victoria Fred, presentation to the Trudeau Foundation in Whitehorse, Yukon, May 2016.
44 Government of Western Australia, Department of the Attorney General, Aboriginal Community Court. 2015. Accessed at: http://www.courts.dotag.wa.gov.au/A/aboriginal_community_court.aspx?uid=4279-5018-6799-1500.

ADVANTAGES

▸ Accommodates a certain degree of Indigenous legal knowledge and applicable principles within the mainstream court system.

▸ More community presence via Elders permitted to speak in court may help offenders feel less alienated.

DISADVANTAGES

▸ The framework of mainstream court is still the adversarial, binary system.
This approach limits the use of existing CAFN laws and customs. Western-style judges still make the court decisions.

▸ May not change the overall structure or fundamentally alter systemic discrimination, and may not result in improved outcomes for community members.

Teslin Tlingit Peacemaker Court Model

The Teslin Tlingit Peacemaker's Court emerged from the Teslin Tlingit Council (TTC) *Administration of Justice Agreement* signed on February 21, 2011, by representatives of the Government of Canada, Government of Yukon and the Teslin Tlingit Council, and came into effect on June 30, 2011. TTC's jurisdiction and authority over the administration of justice is recognized within the *Teslin Tlingit Final Agreement and Self-Government Agreement (1993)*.

The AJA allows the establishment of a Teslin Tlingit justice system that provides for courts, corrections and enforcement services over Teslin Tlingit matters.[45] The administration of justice in Teslin Tlingit Council settlement land is to be based on inherent Teslin Tlingit *Hà Kus Teyea* ("The Tlingit Way") values and guidelines for resolving disputes and preserving traditional territory. The agreement affords the nation the power to create its own laws that do not impose penalties for violations of TTC laws, appoint individuals to enforce and prosecute violations of these laws, and establish a Peacemaker Court to adjudicate violations and reconsider decisions made by TTC government officials and/or administrative bodies.

The implementation of the AJA was entered into with the understanding that the first implementation phase (Phase I) would occur in two stages. The first stage would be the establishment of a TTC Justice Department, TTC Justice Council (composed of one representative from each of the five Teslin Tlingit Clans), Peacemaker Court, Disciplinary Panel and Peacemakers. On November 24, 2011, stage one began with the enactment of the *Peacemaker Court and Justice Council Act*. The AJA estimated it would take four years to implement stage one.

The Teslin Tlingit Council Justice Department and Council have implemented stage one, which provides mediation services to adjudicate violations of enacted TTC law and judicially reviews TTC governmental decisions. The court is composed of a Chief Peacemaker, Alternate Chief Peacemaker and Associate Peacemakers. Five clan leaders act as an advisory panel. The TTC Peacemaker court model includes jurisdiction over the following:

▸ Adoption
▸ Inheritance
▸ Wills
▸ Solemnization of marriage
▸ Management, control and protection of Settlement Land
▸ Rights and interests on Settlement Land

45 Victoria Fred, *Teslin Tlingit Justice Council Orientation*. December 2016.

▸ Natural resources, gathering, hunting, trapping or fishing, protection of fish, wildlife and habitat
▸ Prevention of overcrowding of residences or other buildings, and planning, zoning and land development

Teslin Tlingit Council and the Peacemaker Court are not currently exercising criminal law or procedures but the ability to do so can be negotiated. Transfers and appeals of TTC Peacemaker Court Decisions are sent to Yukon's Supreme Court.

The Peacemaker Court established by Teslin Tlingit legislation will have the jurisdiction and authority to:

1. Resolve and adjudicate disputes under Teslin Tlingit Laws;
2. Resolve and adjudicate violations under Teslin Tlingit Laws;
3. Hear appeals from Teslin Tlingit administrative bodies;
4. Assist in dispute resolution where parties are prepared to be bound by the Peacemakers decision; and
5. Adjudicate federal or territorial laws, upon prior written agreement with the respective government.

The Peacemaker Court has the authority to hear all matters arising under Teslin Tlingit law and can impose penalties of a fine up to a maximum of $5000 or imprisonment for a term not to exceed six months. However, in the case of environmental offences, Teslin Tlingit law may provide for a fine of up to $300,000. Peacemaker Court orders will be enforced in accordance with Teslin Tlingit enforcement and corrections laws, should the Teslin Tlingit Council choose to enact such laws. Until such time as the Peacemaker Court is able to adjudicate its own laws and have its own enforcement capacity established, section 14.2.2 of the AJA provides that the Yukon Courts will adjudicate TTC Laws.

Stage two will focus on enforcement of TTC laws and correctional services within TTC traditional territory. These negotiations will focus on the provisions within the AJA that address law enforcement, policing, enforcement of Peacemaker Court orders, corrections and community services. The TTC envisions negotiations for phase two of criminal justice.

In practice, the estimate for the timelines for full implementation should be increased to take into consideration the realistic amount of time required for negotiations and development of capacity in Peace Maker court practices.

There are both opportunities and obstacles which exist within the Teslin Tlingit Peacemaker Court Model. The opportunities afford Teslin Tlingit Justice Council the right to establish jurisdictional laws and attain recognized court status, but the obstacle is the reality of limited financial and human capacity and the time necessary for training of both Teslin Tlingit citizens and territorial and federal courts and legal practitioners.

ADVANTAGES

▸ The TTC Administrative Justice Agreement affords the Teslin Tlingit Council authority to create its own laws reflecting Teslin Tlingit cultural values that can be exercised within Teslin Tlingit traditional territories.
▸ Vital jurisdictions and authorities of importance to the Teslin Tlingit are the authority over legal child adoptions and the authority to exercise enforceable protection of their Settlement Land.
▸ The Yukon Territorial Court and associates of the court must recognize and will be

expected to be knowledgeable about TTC laws and must give consideration to Hà Kus Teyea and Teslin Tlingit values when hearing one of our laws in the Territorial Court or hearing an appeal at the Supreme Court.

▸ Nowhere within the TTC Self Government Agreement has the TTC ceded its option to be responsible for the administration of criminal justice.
▸ Creates a vision of a culturally appropriate "system" moving into a second stage and beyond, creating a tool for its own long-term intentions.
▸ The fact that appeals may be heard at the Supreme Court may mollify non-Indigenous opponents of Indigenous courts.
▸ When authority to exercise criminal law is negotiated and implemented, the judgment of an offender could be considered as a composition of the individual's entire life experience as opposed to a single act of crime as the mainstream judicial system does. Cohesively, the "correction" of this individual's offence would also take into consideration the individual's entire life experience and to focus on healing and "correcting" the entire individual in a communal environment as opposed to punishment by imprisonment.

DISADVANTAGES

▸ Necessity to establish and record TTC laws (customary, civil, regulatory and quasi-criminal laws) that are inclusive and encompassing of Teslin Tlingit traditional laws. This makes for a lengthy process as oral, inherent, spiritual values of Hà Kus Teyea ("the Tlingit Way") have yet to be made available in written form.
▸ Necessity to build capacity to recruit and train TTC Peacemakers and Enforcement Officers within a limited-capacity environment. It is yet to be determined whether or not the enforcement officers would come from within the community or from outside of the community.

▸ Ultimately, the village of Teslin is comprised of TTC citizens and non- TTC citizens, as well as First Nation and non-First Nation residents. There exists the need to enter into jurisdictional agreements with the federal RCMP when stage two and enforcement is actualized.
▸ Implementing all facets of the AJA will be costly and TTC will need to generate or negotiate the necessary funds.
▸ TTC Peacemaker Court does not yet have the authority to exercise criminal law or procedures. The timeline for negotiation extends the wait for Teslin Tlingit First Nation individuals within the mainstream correctional system who are in need.
▸ The Supreme Court would hear appeals of the judgments of Indigenous courts, which may reduce the authority of the First Nation.

Canoers on Mät' àtäna M' n (Kathleen Lake) in the CAFN Traditional Territory.

CAFN Indigenous Court

Indigenous courts are difficult to define because of different approaches to providing justice and answering jurisdictional questions by both Indigenous communities and colonial law-making authorities. For this report, we took a broad approach to defining Indigenous courts in order to provide a greater breadth of understanding of these approaches by First Nations. We decided that an Indigenous court would be a mechanism to adjudicate both Canadian law and CAFN law. There were five models suggested for a CAFN Indigenous court/justice system in the 2004 CAFN Justice General Assembly Report.[46]

In researching this area, our group reviewed 14 existing and four planned Indigenous court models currently operating in Canada, as well as two Indigenous court models operating in the United States (see Appendix A for a list of the models reviewed). Some Indigenous communities partner with provincial governments as an arm of the provincial courts but have specialized adjudication processes with First Nation culture and values. Additionally, these specialized provincial courts often have a First Nations judge presiding. An example of this is the Tsuu T'ina Peacemakers Court Circle sentencing courts in Calgary.

Other First Nations have created Indigenous courts through negotiated self-government agreements, but all have done so in slightly different ways depending on cultural, judicial, jurisdictional and financial needs. For example, the Teslin Tlingit have extensively enacted legislation to create the Peacemaker Court, and the Kahnawá:ke First Nations have elected a Justice of the Peace through the *Indian Act*.

ADVANTAGES

- Exercises CAFN's inherent sovereignty and diverts from colonial perspectives of law.
- Asserts self-determination, promoting greater CAFN autonomy in justice administration through increased independence from territorial and federal powers.
- Is an opportunity to revitalize and incorporate CAFN customary law and language into the justice system.
- Provides long-term solutions by creating space for innovative approaches to crime and healing, potentially reducing recidivism.
- Diverts citizens away from institutions that can further harm and disenfranchise.
- Facilitates the creation of a CAFN working body of law, a CAFN common law system which can evolve and drawn upon.
- Presents an opportunity for reconciliation and new partnerships between CAFN and the territorial and federal governments, which accords with the Truth and Reconciliation Commission's Calls to Action.
- Provides a positive model of First Nation self-determination for other Nations to adopt or build on.

DISADVANTAGES

- Requires ongoing negotiation and support with the territorial and federal governments, who may be reluctant to negotiate alternative court options or relinquish authority.
- Requires adherence to the Canadian Criminal Code and the Charter of Rights and Freedoms, placing limits on CAFN's autonomy and authority.
- Potentially may be perceived as detracting from CAFN independence and legitimacy.

46 Champagne and Aishihik First Nations, CAFN *Justice General Assembly Report.* 2004, General Assembly Report, 10–14.

▸ Expensive and time-consuming in planning and ongoing operation. It would require consideration of: funding sources (identification, certainty and consistency), territorial and federal appeal mechanisms, training regimes, data collection, community education and consultation, and other related programming and services.
▸ High capacity demands for resources and personnel.
▸ Challenges of translating customary law to the extent that it could be enforced in a Court.
▸ Poses some risk in replicating adversarial colonial institutional/systemic features that harm communities.
▸ Creates complexity in jurisdiction and potential overlap.

Integrated/Shared Indigenous Court System

An Integrated Indigenous Court option, or an interconnected system of more than one Yukon First Nations court, might be a potential long-term vision for CAFN. The *2004 CAFN Justice General Assembly Report* suggests a "Southern Tutchone Tribal Justice" model.

This option would entail Yukon First Nations self-government justice departments developing legislation for their respective courts, and then multiple First Nations sharing resources, capacity, or authority to benefit all parties involved. The scale of this sharing model could be based on different commonalities, such as culturally or linguistically similar First Nations, or could involve any self-governing First Nation. In the long term, this option addresses any perceived conflicts of interest by rotating or sharing court adjudicators and workers.

To some extent the development of this option depends on the stage of AJA implementation reached by each self-governing First Nation. For example, if two Southern Tutchone First Nations are at a similar stage of AJA implementation, they could form an agreement to share "judges," principles of customary or Indigenous law, and consensus-based decisions about how legal problems can be dealt with. This would effectively build a Southern Tutchone body of cases or legal precedents.[47]

ADVANTAGES

▸ Opportunities to develop a long-term vision that would benefit each participating First Nation.
▸ Creates a system where First Nations values, laws and principles are adequately reflected.
▸ Shared resources and responsibilities make available several judges who could act as deputy judges in each other's courts.
▸ Communities can define their adjudication process on their own terms outside of territorial and federal authority to the extent of being outside of Criminal Code offences.
▸ Disagreements within shared court could be decided in territorial court.
▸ Serves as an entrenchment of First Nation values and vision for the future. Integrated or shared courts are helpful in establishing collective values as a body of First Nations common law.
▸ Assist in the evolution of First Nations courts.
▸ As with individual Indigenous courts, an integrated system would have powers to preside over hearing offences that occurred on settlement land.
▸ Could enable a single First Nations' court registry.

47 This discussion of an integrated system takes place against the backdrop of Western legal terminology. The group notes that these frameworks are not a necessary starting point, but a practical approach that outlines one way in which to envision an integrated Indigenous court system.

DISADVANTAGES

- Concept of Integrated Indigenous court system may be perceived as threatening Yukon territorial court jurisdiction.
- Would require extensive cooperation and time to negotiate an agreement between First Nations, territorial and federal governments.
- Yukon First Nation governments are still building and capacity is taken up by day-to-day tasks.
- This system would have to be unified in some way in order for the tribal courts to co-exist with each other, and might not accommodate individual participating First Nations to the full extent their own court would. For example, Tlingit courts would have to work with Southern Tutchone courts to establish judicial character, values, share intrinsic similarities, etc.

COSTING ESTIMATES

Although determining cost projections for each of the options provided are outside of this report's scope or expertise, expense is an important consideration. Below are some extremely preliminary costing estimates for each of the options. The second column in the table below ("Immediate Cost") reflects more upfront costing requirements, mostly related to implementation. In assessing the initial costs of these options, it is also important to consider the long-term implications of each choice with its interplay on the expense of other systems, which includes both social and economic. The third column in the table below ("Long-term Cost") attempts to account for some of these concerns. For example, while maintaining the status quo is an inexpensive option, the negative effects on Indigenous communities is well-established, whereas an Integrated Indigenous Court System may initially be the most exorbitant, but cost savings are had in sharing services with other Indigenous and non-Indigenous governments. Additionally, where and how finances are integrated and prioritized impact systems outside of justice. National inquiries have demonstrated that the reasons why disproportionately high numbers of Indigenous children are in the child welfare system is the same as the reason why they are over-represented in the criminal justice system.[48] Each option's impact on CAFN self-government and self-determination is also a vital invaluable and immeasurable consideration.

HYBRID COURT	IMMEDIATE COST	LONG-TERM COST
Status Quo	Low	High
Hybrid Court	Low-Moderat	Moderate
Teslin Tlingit Council Peacemaker Model	High	Low
CAFN Indigenous Court	High	Low
Integrated Indigenous Court System	Moderate (shared)	Low

48 "Child welfare" in AC Hamilton and CM Sinclair, *The Justice System and Aboriginal People: Report of the Aboriginal Justice Inquiry in Manitoba*, Vol. 1 (1991).

FURTHER CONSIDERATIONS

For this report, our primary focus was on presenting court-model options as a method to develop and implement CAFN justice. In this sense, our group recognizes the limited scope of this report and its relative silence in analyzing the most efficient ways to realize CAFN justice within the community from a more interrelated and holistic perspective.

Courts are not necessarily the starting point in justice development. The desired outcome in implementing a CAFN justice system should be the guide in the analysis and ultimate selection of a particular approach. This evaluation is of considerable importance given the centrality of justice systems within society, combined with the tension created by scarce resources and capacity. Appropriately addressing this issue goes to the heart of this quote from the CAFN Justice General Assembly report (2004), "We do not want a brown version of the YTG system."[49]

While CAFN citizens would likely benefit from the establishment of a more culturally appropriate court model, all Canadian courts must abide by the *Charter of Rights and Freedoms* and the exclusive jurisdiction of the *Criminal Code of Canada*, and as such, reconciling Indigenous laws and customs within this colonial framework is limiting. However, there are still innovative options available which facilitate and assert a significant level of community self-determination through justice. As indicated in the analysis section, the TTC model provides the opportunity for self-design, but it is important to recognize challenges and limitations.

If the ultimate reason for establishing a CAFN court is to reduce crime, successfully deal with disputes and provide increased opportunity for healing, then solutions may lie in focusing support on existing programs or in expanding them. Less formal mechanisms to prevent and address crime at a community-based level may be more cost-effective and fruitful in achieving the desired outcome.

We feel that there are some outstanding and interrelated issues related to the successful implementation of CAFN justice options, including:

YOUTH

There is a sequence of events through which an individual may find themselves in the justice system, and by more fully understanding this sequence we could avoid courts altogether. Community diversions could take effect long before the justice system intervenes, through continuing to support ways in which youth can find pride and purpose in their lives.

LAW ENFORCEMENT

There are limitations in the ability, training and resources of Royal Canadian Mounted Police (RCMP) to do their job in the best interest of community well-being. Due to the background of law enforcement agents and their transiency, we predict limitations will persist. Thus, First Nations must consider the role of community policing in providing better access to diversions and alternatives, and/or consider training options for local RCMP. This could include community partnership in training on normalization, movement policy, diversion awareness, sensitivity training and de-escalation.[50]

CAPITAL AND HUMAN RESOURCES

The timeline for negotiating our suggested Option 5 (a shared Indigenous court) could be 10–20 years, in addition to the process of data repatriation, tracking and transparency. It would require already a budget and mandate to take on that commitment. As a group, we recognize these challenges.

49 Champagne and Aishihik First Nations, CAFN *Justice General Assembly Report*. 2004, 19.
50 This relates to CAFN *Visionary Principle* 11 (See: *Appendix B*).

AWARENESS OF DIVERSION OPTIONS

There are challenges faced by existing programs because not everyone is aware of or has access to the diversions available. Given the status quo analysis, access to current diversion programs could be strengthened by better communications, an awareness strategy or agreement with RCMP, and better communication between citizens in the system and coordinators.

JURISDICTION

In the path forward there are questions remaining about jurisdiction. To whom would a First Nations court apply? To whom does First Nation law apply? Over what land would these laws/courts apply (i.e: settlement vs. traditional territory)? These jurisdictional questions would need to be answered and addressed to move forward in cooperation with the territorial and federal levels of government and all Yukoners.

Kusawa Lake, CAFN Traditional Territory.

RECOMMENDATIONS

In consideration of the preceding analysis, we offer the following recommendations:

1. Allocate funding for and hire a CAFN Justice Manager to work towards establishing and implementing a dedicated CAFN Justice Department, including continuation of previous justice work.
2. Create better connections between the CAFN citizen registry and diversion programs to ensure access to diversion programs from mainstream courts.
3. Hire a qualified professional to examine the costs and availability of federal subsidies for each option, including community-based diversion programs.
4. Create official policy which systematizes diversion away from courts to CAFN programming within the community (i.e. before disputes reach court).
5. Ensure that cases diverted to CAFN are tracked in a centrally located database. This will be useful to track the progress and success of programs as well as garnering support in application for future grants.
6. Based on our analysis of court-specific justice options, we see value in making a recommendation towards pursing the Indigenous court option. However, we believe further consideration is warranted before this can be established as a firm recommendation. In relation to this, we would recommend that CAFN explore collaborating with other Yukon First Nations in establishing a shared or integrated Indigenous court in the Yukon.

GLOSSARY OF TERMS

Colonial

A system put into place during the building of Canada, meaning it did not exist in the Yukon before contact with non-Indigenous people, but remains today.

Hybrid courts

Mainstream courts that operate in the current legal system but have additional measures, such as the inclusion of Indigenous perspectives or methods of healing.

Indigenous courts

Courts that would be run by the First Nation or other Indigenous group.

Integrated/Shared Indigenous court

Courts involving multiple First nations, potentially sharing resources such as adjudicators.

Mainstream courts

The current colonial legal system not including diversion programs or alternatives.

APPENDIX A: REVIEW OF 14 EXISTING TRIBAL

EXISTING COURTS

First Nation Courts in B.C.

Location: Duncan
Nation: All, but provides particular support to local Cowichan.
Initiation: May 2013
Jurisdiction: a specialized provincial court
Operation and Procedure: Presided over by judge and a rotation of 10 different elders. Healing orders are given in place of probation orders, and may use ceremony and witnessing.
Comment: The Cowichan Justice Committee works closely with the court to provide alternative sentencing. The Justice Committee recommends policies and programs to council and oversees implementation, funded by the band's own revenue.

Location: New Westminster
Nation: All, but primarily Squamish, Tsleil Waututh and Musqueam.
Initiation: November 2006
Jurisdiction: As a specialized provincial court, it will only hear matters that have no prospect of jail time. Focuses on guilty pleas and restorative justice sentencing.
Operation and Procedure: Operates based on the medicine wheel principle. How clients meet restorative justice goals depends their social and cultural location.
Comment: Presiding Judge Marion Bennett (Mistawasis First Nation). The court also has a relatively sophisticated community education and outreach initiative.

Location: Kamloops—Cknúcwentn First Nations Court
Nation: All, but primarily Secwépemc
Initiation: March 2013
Jurisdiction: As a specialized provincial court, will only hear guilty pleas from those who have taken responsibility for their actions.
Operation and Procedure: Takes a problem-solving approach with holistic focus.
Comment: Led by Métis and non-Indigenous judges.

Location: North Vancouver
Initiated: February 2012
Nation: All, but primarily Squamish and Tsleil Waututh.
Jurisdiction: Specialized provincial court hearing all criminal sentencing proceedings (including indictable) from guilty pleas and self-identified Aboriginals.
Operation and Procedure: Presided over by Joanne Challenger (non-Aboriginal).

Gladue Courts in Ontario

Location(s): courts currently operating in Brantford, Sarnia, London and Toronto.
Nation: All (those who self-identified as Aboriginal
Initiation: Since 2001 (Old City Hall location) — 2014 (Brantford)
Jurisdiction: A type of specialized provincial court; the purpose is to operate on the basis of R. v. Gladue and 718.2(e) of the Criminal Code.
Operation and Procedure: Gladue provides criminal bail applications and sentencing matters of those plead or are guilty, which may be available to self-identified Aboriginals who choose to be heard in these courts. Judges and court workers are specially trained in Gladue.
Comment: Accesses funding for their Aboriginal Criminal Court Worker Program through the Ministry of the Attorney General.

The Cree Court in Saskatchewan

Location: Circuit: primarily Loon Lake and other small Saskatchewan communities.
Nation: Primarily Cree
Initiated: October 2000 (first of its kind in Canada)
Jurisdiction: As a specialized provincial court, it handles criminal matters and child-protection hearings.
Operation and Procedure: The Cree Court operates in a manner similar to other provincial court circuits. The judge may emphasize traditional Cree values.
Comment: Essential emphasis on use of Cree language. Presided over by Judge Gerald Morin, Cree and member of the Cumberland House First Nation.

The Tsuu T'ina Peacemakers Court

Location: Calgary (formally on reserve but moved due to infrastructure and resource issues)
Nation: Tsuu T'ina Dene
Initiated: October 2000
Jurisdiction: Integrated with the provincial court by working with community traditions. Has criminal and youth justice jurisdiction (except indictable offences). Plans to expand into family, child welfare, and civil matters, which would be available to all First Nations, and to non-First Nation individuals as a provincial

court. Proceeds as a provincial court if a “not guilty” plea is entered.
Operation and Procedure: Both parties must consent to the Tsuu T’ina First Nation peacemaking system, or else the Western justice system is used.
Comment: Presided over by Judge Leonard S. Mandami (Anishnawbe, Wikwemikong).

The Court of Kahnawá:ke

Location: Kahnawake, Quebec
Nation: Mohawk
Initiated: January 2000 (as a mediation and arbitration program)
Jurisdiction: Self-government and election of Justice of the Peace through the Indian Act (s.81 and 107. JPs used instead of Judges). The court is divided into criminal and traffic courts. criminal court hears summary convictions and traffic court hears ticket offenses. No indictable offenses are heard (at the community’s request).
Operation and Procedure: Offers peacemaking and restorative justice forums conducted by trained community members. It also provinces the services of a native court worker for court appearances and inquiries.
Comment: Has an in-depth community decision- and law-making process resulting in a broad spectrum of legislation. Implemented Kahnawà:ke Justice System Act, funded by a cost-sharing agreement between the province of Québec and Canada, but since 2005, both governments have only agreed to yearly funding. In 2004, JP appointments under the Indian Act were halted.

The Saint Regis Mohawk Tribal Court

Location: Akwesasne Reservation, Quebec (crosses U.S./Canada border)
Nation: Mohawk
Initiated: December 2000 (beginning with a traffic court)
Jurisdiction: Self-government and the election of Justice of the Peace through the Indian Act. The court consists of a traffic court and a civil court.
Operation and Procedure: collaborates with neighbouring courts to provide a judicially supervised program that uses cultural traditions in a wellness/drug court.
Comment: In the process of establishing a family court system designed to hear all family cases that are currently being heard off-reserve.

Mashteuiatsh Tribal Court

Location: Saguenay–Lac-Saint-Jean/Pointe-Bleue, Québec.
Note: Difficult to research, but Mashteuiatsh appears to be very similar to Akwessne and Kahnawake.

Teslin Tlingit Council Peacemaker Court

Location: Teslin, Yukon
Nation: Tlingit
Initiated: 2012 The TTC Justice Department was formed in 2012 and the Administration of Justice Agreement (AJA)
Jurisdiction: The Teslin Tlingit Final Agreement and Self-Government Agreement (1993) laid the legislative foundation (s.13.3.17, 13.6.1, 13.6.2, 13.6.3) for the TTC to pass the AJA and the Peacemaker Court Act in 2011.
Operation and Procedure: Adjudicates violations of enacted TTC law and judicially reviews TTC decisions. Decisions can be appealed to the Yukon Supreme Court, subject to AJA terms and TTC laws. A Chief Peacemaker, Alternate Chief Peacemaker and Associate Peacemakers compose the court. Five clan leaders act as an advisory panel.
Comment: TTC Government trains their own peacemakers.
Planned Courts

Location: Thunder Bay
Status: In development as of February 2016. Likely similar to Gladue Courts.
Location: Tsilhqot’in territory, likely Williams Lake
Status: No set date, but in official initial stage as more than a sentencing court.
Location: Lheidli T’enneh Territory/Prince George
Status: Suggests that court would be up and running in 2016.
Location: Sto:lo nation territory, Chilliwack, B.C.
Status: Official but initial stage. Seem to be leaning towards a more provincial-type model.

EXAMPLES OF U.S. TRIBAL COURTS

Hopi Tribal Court

Location: Keams Canyon, Arizona, U.S.
Nation: Hopi
Initiated: 1972
Jurisdiction: Created by the tribal council exercising their inherent sovereignty. The courts have trial and appellate levels. Trial court has civil jurisdiction over all actions of members and criminal jurisdiction over any violation of Hopi ordinances on reservation
Operation and Procedure: Hopi Rules of Civil Procedure and Federal Rules of Criminal Procedure and Rules of Evidence govern the procedure in all court proceedings. Hopi courts interpret and apply laws stemming from Hopi Constitution, by-laws, legislation, customs, traditions and culture, and federal and state laws.
Comment: Produced a comprehensive Code. Hopi Tribe common and positivistic law requires the Hopi Court to apply customs, traditions and culture of the Hopi Tribes in a court’s decision of what law to apply before a court reaches the use of any foreign law.

Judicial branch of the Navajo Nation

Location: Numerous district locations throughout Navajo territory, Arizona, U.S.
Nation: Navajo
Initiated: 1960s–1985
Jurisdiction: Complete civil and criminal jurisdiction (criminal jurisdiction limited to crimes codified in the Navajo Nation Code along with its terms of punishment) over tribal members acting on the reservation, with a focus on peacemaking.
Operation and Procedure: Operates on a two-level

court system: trial and Navajo Nation Supreme Court (an appellate court). The Navajo have transcribed their principles into a document, The Fundamental Laws of the Dine, outlining rules for judicial process. Comment: The Navajo Nation use a linguistic model as a framework for their justice model.

APPENDIX B: CAFN JUSTICE VISIONING PRINCIPLES

Drafted at the CAFN Justice Visioning Workshop on January 2004

Any CAFN justice processes must be based upon the following principles. These principles are foundational to any negotiations and laws of CAFN:

1. The CAFN justice processes and laws shall be based upon the traditional and holistic values of respect, honesty, sharing, caring, spirituality and the communal nature of CAFN society;

2. The traditional clan and family processes must be the basis of the formation of any CAFN justice process or system;

3. CAFN citizens, Elders, youth, families, communities and clans must assume their traditional roles to ensure that time-honoured traditional values of CAFN cultures are retained and relearned and taught to the succeeding generations;

4. The CAFN justice systems or processes must use the traditional languages of CAFN to ensure that the languages are retained and enriched;

5. CAFN justice must be community-based and flexible;

6. The offender and his/her clan must take responsibility for the actions of the offender and make appropriate repayment as mediated or imposed by the CAFN court to the victim and the victim's family or clan;

7. Justice must be transparent, fair, and immediate and at all times built on the holistic values of CAFN society;

8. Healing to instill pride, self-esteem and self reliance of offenders as opposed to punitive sanctions is central to CAFN justice;

9. The sanctions must be traditional and contemporary and should include concepts such as repayment, banishment, if deemed to be culturally appropriate, rehabilitation and, as a last resort, incarceration;

10. Other First Nation sharing of ideas or institutions must be explored to ensure that costs and other matters are shared;

11. Enforcement and policing must be addressed and included in any justice agreement and these matters must be premised upon CAFN values;

12. Corrections must include diverse and pragmatic options such as probation, holistic healing centres with satellite healing camps, and Elder, citizens and youth circles;

13. During the phasing in of any CAFN justice processes there should be interim justice agreements respecting diversion, young offenders and other aspects relating to the criminal law;

14. Mediation and other forms of Alternative Dispute Resolution (ADR) be used to resolve disputes within the CAFN community before there is resort to the CAFN justice process or other justice processes;

15. A culturally appropriate meeting or conference be held to record the customary laws of CAFN, including Aduli, and that these teachings be shared and taught in a manner as direction by the clan Elders; and

16. Support programs or other sources of support as directed by the Chief and Council, youth, citizens, Elders for those in need of care be adopted and utilized as part of the CAFN justice programs.

Finally, there is a need to draft these principles into a document that will be presented to the Governments of Yukon and Canada as directed from time to time by the Chief and Council, the Elders, youth and citizens of CAFN.

Author Biographies

JESSICA BLACK

Jessica Black is a Nunavummiut from Iqaluit. Jessica has spent her career so far imbued within the field of justice. She is currently residing in Victoria, B.C., while she completes a juris doctor at the University of Victoria, but her home and heart remain in the North. Her dream is to practise environmental and indigenous law in a way that advocates and contributes to the arctic and its peoples. She is passionate about circumpolar affairs, complex policy issues, art, and loves surfing and cycling.

THOMSEN D'HONT

Thomsen D'Hont was born and raised in Yellowknife, NWT, and from a young age has been connected to his Métis culture and community in the North. Currently, Thomsen is a medical student at the University of British Columbia's Northern Medical Program in Prince George, BC, and after his training he plans to return to the Northwest Territories to practise as a physician. Thomsen is passionate about primary healthcare, social determinants of health, and reducing barriers to medical education for Indigenous students. For his individual Jane Glassco Fellowship project, Thomsen is exploring how the Northwest Territories can implement the Truth and Reconciliation Commission's Call to Action #23 for more Indigenous healthcare workers from the territory working in Indigenous communities in the territory. In his spare time, Thomsen loves cross-country skiing, mountain biking, hunting and pretty much anything else that gets him out in the bush.

MEAGAN GRABOWSKI

Meagan Grabowski was born in Dawson City, raised in Whitehorse and continues to live in the Yukon Territory. She completed a B.Sc. in Natural Resource Conservation and an M.Sc. in Zoology at the University of British Columbia. Meagan is interested in alpine and Arctic science, and how this science is communicated to the people who live where it takes place. She has completed over eight field seasons in ecological and climate change research in the circumpolar and boreal regions, as well as research and teaching projects with many northern organizations including Yukon College, Yukon Parks, Council of Yukon First Nations and Wildlife Conservation Society Canada. With the Jane Glassco Northern Fellowship, Meagan completed policy research and analysis on both the Yukon Scientists and Explorers Act, and indigenous courts.

ANGELA NULIAYOK RUDOLPH

Angela Nuliayok Rudolph is an Inuk from Gjoa Haven, Nunavut. Currently she is completing graduate studies at the University of Alaska Fairbanks, with a focus in Indigenous Arctic Policy. Through her master's thesis she is exploring how colonization has shaped the Inuit identity, and how Inuit gender cultural practices prepare Inuit men and women to endure and respond to colonization differently. Angela's policy focus in the Jane Glassco Northern Fellowship focuses on how Inuit throughout the circumpolar north can come together and build leadership capacity to address international issues that Inuit face. Prior to Angela's research endeavours, she worked as a high school teacher in her hometown of Gjoa Haven at the Qiqirtaq Ilihakvik High School, teaching grades 10–12 social studies and Aulajaaqtut (the Nunavut school health curriculum). Angela received her Bachelor of Education from Lakehead University with a focus in Intermediate and secondary levels in Native Studies and Social Science. Angela did her student-teaching in Thunder Bay at Dennis Franklin Cromarty High School and McKellar Park Elementary School, schools that serve an entirely Anishinaabe or majority Anishinaabe student body, respectively. This experience has helped her tremendously through the group project.

Author Biographies

MELAINA SHELDON

Melaina Sheldon is of Polish/Ukrainian, Southern Tutchone and Inland Tlingit descent of the Deisheetaan (Beaver) Clan from Teslin, Yukon Territory. As an alumna of the Jane Glassco Northern Fellowship 2015 cohort Melaina completed her fellowship with a focus on crime prevention and relationship-building between First Nations people and law enforcement officers, combining her passion for justice with a deep-seated belief in the power of theatre to effect social change. She currently sits as a member of the Yukon Police Council and as a clan representative on the Teslin Tlingit Justice Council.

DAWN TREMBLAY

Dawn Tremblay was born in Fort Simpson and raised in Yellowknife, Northwest Territories (NWT). After high school, she went south to university. She returned home with a political science degree, and an appetite for more northern knowledge. So Dawn sought out opportunities and completed a certificate in circumpolar studies with the University of the Arctic through Aurora College, followed by a semester at the Dechinta Bush University. Dawn is currently working for Ecology North, an environmental non-profit organization with charity status. Her Fellowship research is about sustainable waste management, with a focus on a tire stewardship program for the NWT and the organics recycling program in Yellowknife. In her spare time, Dawn likes to get outside with her son and her dog.

CLARA WINGNEK

Clara Wingnek is from a western Nunavut community called Cambridge Bay. She studied Business Management at Grant MacEwan University and has worked in several fields in the north, including tourism and education. Currently, Clara is a regional finance manager working with the Department of Health, Government of Nunavut. Aside from this, she is a member of the Jane Glassco Northern Fellowship, a board member with the Nunavut Joint Planning and Management Committee for Territorial Parks and recent co-chair of the Ikaluktutiak District Education Authority. As a board member with the Ikaluktutiak District Education Authority she worked closely with K–12 schools in her community to ensure that effective policies were adopted and implemented, endorsed the value of education to the community, monitored school plans and provided direction to principals on how to oversee these schools. Her passion includes setting the stage for change in local governance models and is focusing her research in the Jane Glassco Northern Fellowship in this area.

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