
“This is How We Did It”: One Canadian First Nation Community’s Efforts to Achieve Aboriginal Justice

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The current proliferation of community-based Aboriginal restorative justice programmes in Canada cannot be understood solely as the direct expression of Aboriginal Peoples asserting their right to self-determination, or the result of the Canadian government’s appropriation, compartmentalization and administration of restorative justice. To explain the ambiguous state of Aboriginal justice in Canada, and to illuminate government and community responses to these Aboriginal justice initiatives, we offer a case study of one such initiative in Canim Lake, British Columbia. Through interviews, the Canim Lake Band and their supporters tell of the development and implementation of a Family Violence Programme, which we (re)present as a process-oriented story of community ownership, community development and community/government relationship building. Their example suggests that justice on Aboriginal terms can be realized provided that the solutions to crime and justice issues are community-generated and that political will is not limited by narrow interpretations of government policy.

Notwithstanding Aboriginal and treaty rights affirmed in the Canadian *Constitution* and landmark Supreme Court rulings such as *Delgamuukw v. the Queen*, and the recognition of Indigenous rights to self-determination in such international documents as the United Nations Working Group on Indigenous Populations’ *Declaration on the Rights of Indigenous Peoples*, the day-to-day realization of self-determination among Canada’s Aboriginal peoples often remains more promise than reality.

Aboriginal-designed and controlled alternatives to the adversarial criminal justice system have been identified as the key to the Aboriginal struggle for self-determination (Cawsey 1991; Hamilton and Sinclair 1991; Law Reform Commission of Canada 1991; Royal Commission on Aboriginal Peoples 1996). Proposed alternatives range from greater indigenization of the existing system, through accommodative procedures (e.g., sentencing circles), to parallel or separate Aboriginal justice systems.

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However, these possibilities are not all equally likely to occur (see Palys, 1993). Aboriginal communities vary in their sense of 'community', justice aspirations, and readiness to engage traditional mechanisms of maintaining social harmony. And given that governmental funding and administrative cooperation are still necessary to achieve new programme approaches, the agenda for realizing Aboriginal Justice remains to considerable degree in the hands of state governments.

The exercise of that power is not necessarily done with the aspirations and interests of Aboriginal peoples at the forefront (Boldt, 1993; Palys, 1993). Much as Tauri (this issue) describes for New Zealand, Canada's state governments are compelled to do *something*, but are reluctant to disturb the *status quo*. Initial emphases were on changing the 'look' more than the 'substance' of justice, by the governments of Canada. Governments first focussed on 'indigenizing' the system and 'accommodating' the justice-related goals of Aboriginal peoples within existing legal frameworks (e.g., Department of Justice, Canada 1997; Gosse 1994; Ministry of Attorney General, British Columbia 1997).

Aboriginal leaders in Canada accept indigenization/accommodation only as part of a "two-track strategy" — "...the first track being the reform of the non-Aboriginal system, the second the establishment of Aboriginal justice systems" (Royal Commission on Aboriginal Peoples 1996: 78; see also Bellegarde 1994: 317–319). The most successful steps toward the latter have arisen through community-driven initiatives that have stretched governmental conceptions of what is possible. In the urban setting, the standard is set by Aboriginal Legal Services of Toronto (ALST), where offenders across a range of crime categories are diverted to an Aboriginal Community Council (e.g., see Rudin 1993). The 'shining light' amongst First Nation reserves is Hollow Water, Manitoba, whose community-based approach to that Nation's problems of rampant sexual abuse has garnered international attention (e.g., see Ross 1996). Both programmes emphasize traditional healing — a restoration of physical, emotional, spiritual and mental balance among and within victims, offenders, and their communities.

Both programmes also operate within an overarching mainstream justice model that requires Crown intervention and approval on a case-by-case basis. But Aboriginal peoples can also pursue justice for victims, offenders and their communities without necessarily engaging those powers of adjudication. The current paper describes one such initiative, when a First Nation community took control over a 'criminal justice' matter — sexual abuse — in a manner consistent with community sensibilities and justice traditions. Their success is embedded in the story of the *processes* by which the programme was generated, both within the community, and between the community and those criminal justice agencies whose cooperation and/or funding was required for it to proceed. As an originator of the programme stated,

To me, it's a programme that was initiated, community-based, a real innovative and creative process, and how government agencies rallied around the project...that is a learning experience for people out there. It's not so much that at the end of the day that the project might not work. After, two, three or four years from now maybe we decide that it doesn't work or that it doesn't work exactly the way it was designed, but at least it would give people out there an idea that community processes can work. Community ideas can collaborate with criminal justice, with the full support of them and this is how we did it. To me, that's a very important part (X, January 24, 1997).¹

Our focus is on *how* the programme came about, rather than on *what* it clinically entails. This is consistent with the emphasis in other vanguard programmes (e.g., Hollow Water, ALST), where *process* rather than *product* is considered the foundation of their respective successes (Ross 1996; RCAP 1996: 148–158). The story yields lessons for other Aboriginal communities who may be considering such a venture, as well as mainstream justice system personnel, on whose political will such programmes currently depend.

Methodology

The Canim Lake Band is part of the Secwepemec (Shuswap) Nation of interior British Columbia, Canada. The total on-or-adjacent-to-reserve population numbers 526. The nearest urban centre is 100 Mile House (population approximately 10,000), about 30 kilometres from the Canim Lake Band Office. As is true of many other First Nations in Canada, Canim Lake residents have suffered from years of *Indian Act* administration and generations of residential school abuses, leaving the community with much from which to heal.

Open-ended in-person interviews were the primary source of information. Forty-one research participants who were closest to the process of developing and implementing the Canim Lake Family Violence Programme (FVP) comprised a purposive sample. Two other community members asked to be, and were, interviewed, bringing the total eligible for participation to 43. Thirty-five people (81% of those eligible) consented to an interview, including 23 of 24 community members (fifteen women, eight men), five of six band employees (three women, two men), and seven (all men) of fifteen government agency personnel. Of the eight government personnel who were *not* interviewed, four of their agencies were represented in the completed interviews; for the others, documentary materials were relied upon (see below).

The average interview lasted ninety minutes; all took place in a private venue chosen by the participant. Interviews were conducted by the first author over five weeks in the Spring of 1997, during which time he resided on-reserve. All interviews but one were recorded.² Draft transcripts were returned to interviewees to ensure their views were accurately represented. Two transcripts were returned with corrections (which we corrected); one other person's transcript was withdrawn from the data at her request.

To triangulate and contextualize the interview, archival data also were gathered. These included: two FVP Needs Surveys (1993 and 1997); minutes of FVP staff and Band Council meetings (1995 and 1996); a federally-funded review of the FVP (1996); videotapes of three days of meetings involving FVP staff and government funding agencies (1997); a FVP Programme Report (1997); protocols negotiated by the FVP with government agencies; a contracted Canim Lake Needs Assessment Report (1993); a FVP Status Report (1994–1995); documents from the first court case in which a Canim Lake community member was sentenced to the FVP; and various descriptive documents outlining the components of the FVP.

A draft report was sent to FVP personnel for comment, with a note that mistakes of fact would be corrected and alternative interpretations reported and considered. There were no requests for either.

Canim Lake, and the Family Violence Programme: A Community-Defined and Assessed Problem

Canim Lake's decision to confront the issue of sexual abuse evolved from disclosures of physical, sexual and emotional abuse revealed in a Shuswap Nation Tribal Council study on the impacts of residential schools. A community leader discussed that study and its effects:

The research showed us that up to eighty percent of our people had been sexually abused at one point in their lives: whether it be in residential school or in our own homes. ... We came to realize that if we were going to get to the bottom of what was happening in our communities that we would eventually have to deal with the sexual abuse (X, January 24, 1997).

Mainstream approaches had been ineffective at enhancing community health and reducing abuse:

[O]ffenders were charged, they were sent off to jail, they'd come home, they'd be angry, they'd re-offend. The family was torn apart. There was no real healing occurring. The offender was coming back to the community where the victim was. The victim hadn't any time during the jail sentence to deal with his or her issues. And, a lot of denial in the families that there was sexual abuse occurring because they had seen what had happened to other offenders or offenders in their family unit who went to prison. So, what I saw was that the victims were denying that anything was going on. They didn't want to go to the RCMP (Royal Canadian Mounted Police), they didn't want to come forward and say anything. (E, February 10, 1997).

Developing a Programme

At the community's behest, the Chief and Council initiated the Community Oversight Committee (COC) — community leaders and care givers who were assigned the task of finding and developing a programme for Canim Lake. A model on which to base the FVP was found in the US. The person who developed the programme was invited to Canim Lake to adapt it and equip community members with the skills to run the programme on their own.

With an overall mandate to "create a safe place for our children," a seven-phase programme was devised³ that integrated traditional healing practices with contemporary clinical practices to treat sexual offenders and victims.⁴ A unique and controversial element of the FVP was its 'deferred reporting period': a two-week period during which offenders are given the opportunity to come forward and self-disclose. A polygraph test is used to maximize the completeness of their self-disclosed report. Those who come forward are not prosecuted provided they: (1) agree to participate in the programme; (2) are considered by the COC to be an appropriate candidate following an assessment of risk; and (3) fulfil all conditions of the programme. Offenders who do not come forward during this period forfeit the opportunity of community management and treatment, and face possible court action.

Ensuring Community Ownership and Support

The whole community has driven the programme from the outset. The first step was to disseminate information and to promote discussion about sexual abuse:

We [the COC] put out a lot of newsletters and we did a presentation at the Annual General Meeting. We went out and talked to people in their homes and we did presentations. Every chance we got, we invited the community members to be involved. We had luncheons, dinners, potlucks, Sweathouses, elder's gatherings; we tried everything and anything (I, February 7, 1997).

A 1993 community referendum granted the COC the authority to implement the FVP: 87% of the respondents supported the programme; 78% supported the use of polygraph testing on offenders; 69% approved of the use of phallometric testing on offenders; and 85% believed that criminal charges should follow a breach of the behavioural management contract.⁵

Enlisting Government Expertise and Support

With community support the cooperation and funding of relevant government agencies were sought:

If the project is going to work, it needs the full support of Probation, judges, Crown prosecutors, the RCMP and the community. So, we started to involve people at the highest levels of government so we wouldn't have any problems (X, January 24, 1997).

This interaction "at the highest levels" was important. Realization of the programme would require cooperative agreements, trust, and political will, which required those with the political power to become involved directly. The community was asking people to take a chance:

[T]here's always a risk of allowing a programme like this, that was unproven and just in the development stage, to have as much leeway as we were looking at. ... I guessed that one of their main concerns was whether they could give that authority to a programme like this and give up that much control. (C, February 19, 1997).

The data the community had amassed to support their request (the pervasiveness of the abuse; the failure of the mainstream system to effect any positive change; survey data that showed extensive community support) proved compelling to prospective funders. A respondent from Probation, for example, acknowledged the futile cycle of offense, charge, incarceration, probation, offense..., and observed:

So, the community looks at that and they say, "Our people accessed the resources from the more dominant culture, from the larger community, and came back and re-offended. Can we do better?" I think that's a valid question (Probation, February 17, 1997).

To implement the programme, government funders and representatives of agencies whose cooperation would be required were invited to the community to hear about and discuss the possibilities. Some were skeptical at first regarding their prospective role. It is not the job of the RCMP, for example, to provide "therapeutic-type polygraph examinations."

But, when you sat there for a day and you listened to the concept and you realize some of the research material that [the FVP consultant] had, with the statistics on the amount of family abuse that had taken place within that community, and combined that with the lack of following through with the typical justice system, and when you could feel, as opposed to hear, some of the emotion coming from some of the community members... When we left that day, the only question in our minds

was not whether or not we could provide the polygraph testing, at least on a trial basis, but "Could we as RCMP, as police officers, number one, do it?" and, secondly, "How do we get the authority to do it?" (RCMP, February 25, 1997).

Problems were anticipated and resolved. The Assistant Deputy Attorney General (ADAG), for example, saw sexual abuse as a contentious focus, given controversy that had been associated with it elsewhere (e.g., see a.m. Research Services et al., 1995):

Our main concern was that we don't divert sex offence cases. And, at that time — the law has been amended now, in September of '96 — but at that time the law ... was that if a person was put on diversion ... and didn't comply, we couldn't prosecute them. There's no better way to undermine this programme than someone enters it, refuses to participate in treatment, goes out and re-offends and then we can't prosecute for past history.

There are two other key concerns in my view. One, is ensuring that the potential accused's rights are protected. You can say what you want about traditional values in the community. The reality is that they're all Canadian citizens and they're entitled to the same protection under the *Charter*... That's one thing that we wanted to see in play.

Equally important, is to ensure that we have a mechanism where complainants, and in an informed way, make a decision as to whether or not they want that offender to go through this programme or whether they want that offender prosecuted. There can be a lot of pressure on a complainant in a small community like that. (AG, April 11, 1997).⁶

The FVP's deferred reporting period alleviated the Crown's concerns about the ability to prosecute for past history. Also, a protocol was developed to ensure that both victims and offenders knew and felt they were free to seek resolution through the criminal courts if they desired.

One judge, asked to sentence an offender to the FVP, was concerned initially (1) whether a community disposition was appropriate for a sexual offence; (2) whether polygraph testing, in this context, invaded the offender's rights under the *Charter*; and (3) what role information gained from the polygraph might play in court. The community disposition was deemed appropriate because of the intense nature of the FVP and its requirements for monitoring and supervision, and the precautions taken to ensure women and children were protected.⁷ And although the judge deemed it "unwise" to order polygraph testing, the issue was skirted by obliging the accused to abide by his "commitment to the Programme," which coincidentally included use of the polygraph. Problems regarding self-incrimination were avoided by considering the offending history gleaned by polygraph not as 'fact' evidence for the determination of guilt, but as 'character' evidence for the determination of sentence.

This same general story was repeated for each of the agency/governmental personnel whose cooperation was solicited by Canim Lake.⁸

Framing and Funding the Programme

The programme's success at obtaining funding was due in part to the community's ability to show funders where their and the community's interests coincided, and to

piece together the mandates of prospective funding agencies to complete the community's healing puzzle. For example, when approaching the RCMP, the FVP Executive Director noted the 'community policing' aspects of their proposal.⁹ In reference to that proposal, a polygraph examiner said:

No matter what type of conference you go to, what type of training you receive, what you pick up in the newspaper, if you sat in and listened to the Chiefs of Police Conference of the last year, everything has to do with community-based policing. ... Everything that we were given here seemed to fit that type of thinking and that model (RCMP, February 25, 1997).

Agencies outside of the criminal justice system also were asked to make commitments to the programme. For example, Indian and Northern Affairs Canada provided funding under their "Family Violence Initiatives," while Health Canada did so through their "Building Healthy Communities" project.

On the Sidelines: The Department of Justice

The Department of Justice's Aboriginal Justice Directorate (AJD) was approached to participate in the FVP because of their logical connection to what Canim Lake saw as a 'justice' programme. Despite a broad mandate and \$22.5 million for various "justice-related projects" contained in its former "Aboriginal Justice Initiative" (Department of Justice 1992) and \$37.7 million in its current "Aboriginal Justice Strategy" (Department of Justice 1997), the AJD declined to fund the FVP, apparently because they did not see it as a 'justice' programme. As the Regional Director of the AJD said:

My view would be it's hard to characterize that programme into any of [our funding] parameters ... Is this a mediation programme? It's not mediation by anything I know. It's not circle sentencing and it's not a JP [Justice of the Peace] programme. Is it a diversion programme? It's not really a diversion programme because diversion is something that takes place... the Crown look at a case and they divert it back to the community. This is something that doesn't get to the RCMP, doesn't get to the Crown for investigation. This is something that people within the community want to have counselling on sexual abuse. So, counselling, it's a mental health issue. As such, you can get counselling through the non-medical use of drugs or whatever it is... a component of Health Canada programmes and Aboriginal peoples (AJD, January 22, 1998).¹⁰

The Regional Director also expressed concern about the potential political fallout associated with Canim Lake's decision to deal with sex offenders:

This is one of the most sensitive areas of programme development that you could get involved in. It's an area where there are different views on how matters should be dealt with. Particularly, we were faced with a programme which was in conflict with the results of our consultation with Aboriginal women who had raised very serious concerns about programmes which attempted to divert sexual abusers from the system (AJD, January 22, 1998).

How ironic that the views of Aboriginal women would be used to justify refusal of a programme designed and run largely by Aboriginal women, with the support of

94% of the women of the Canim Lake Band, to address a phenomenon that primarily endangers Aboriginal women.

Be Careful What You Wish For

We had protocols in place, but protocols and treatment are two different things. A protocol isn't going to get anybody well. It wouldn't get you to your ultimate goal. The ultimate goal is your treatment and wellness (D, February 10, 1997).

Collective healing is easier to anticipate than to realize. Optimistically, and cautiously, the community envisaged what might happen if, in an identified two week period — the deferred reporting period — the community got what it wished for, and everyone owned up to their experience with sexual abuse. The release of emotion in such a situation was of potentially suicidal proportion. Community members who took part in a review commissioned by the funders expressed concern:

I am worried about the strength of the children in the community, there is a real fear for the children, they may commit suicide.

It's possible that a victim who has not been to [FVP] and is faced with the offender coming forward might kill herself.

There is no easy way; there will be pain and turmoil. (1996: 15–17).

Nonetheless, even without the deferred reporting period having occurred, twenty-four victims of sexual abuse and eight offenders (six self-referred¹¹ and two court-ordered) were soon partaking in community treatment. The magnitude of the problem the community faced was evident in a statistic that arose from the first offender and victim groups: seven offenders admitted to abusing 277 victims and seventeen victims disclosed abuse by 122 different offenders!

Whether the postponement of the deferred reporting period and the fact that “only” six offenders self-referred for treatment meant that the cup was half-empty or half-full depended on whom one asked. From the perspective of the AJD and the RCMP, the cup was half-empty — eight offenders simply was not enough, and the fact that self-referred offenders could walk whenever they wished (and three did so) was, in the words of an RCMP polygrapher, a cause for some “anguish.” The problem, from their perspective, was that the programme had no teeth. Both wanted to see charges laid, and participation made a requirement of sentencing. For example, the Regional Coordinator of the AJD stated:

To wait for people to come into the programme on their own volition ignores the whole psychological structure of sexual abusers. They train themselves in how to deceive and they have all of the denial mechanisms in place... So, you had to ask yourself if this is the kind of thing that you want to put money into. ... I'm really not convinced this is the way to go (AJD, January 22, 1998).

In contrast, Probation emphasized the value of the victim's side of the FVP, and its potential effect on offenders:

Victims need to be strong to sustain themselves. They form an essential ingredient to the programme from an offender's point of view because if an offender believes his victim is weak, the [deferred reporting period] will be meaningless to him unless he's just ready. ... But, if he sees around him all these victims that are going to counselling, getting education and improving their lives and experiencing success and becoming assertive with their own lives and making healthy choices, that would be scary for an offender: to watch that happen in his own community. (Probation, February 12, 1997).

The ADAG recognized the value in the community defining and pursuing its own objectives:

A lot of those decisions, I think, have to be at the community level and we have to be supportive, even where there is failure. Again, the thing I always come back to is forget the theory and look at the reality of what we're doing in the mainstream justice system. Everybody stop worrying so much as long as you protect the individual rights of the offender and ensure that the victim is fully and freely participating. When you don't, and when they change their mind, they ought to be able to, in the event of non-compliance, take them to court. But you can't fall into the trap of comparing it against what we *think* the traditional justice system does (ADAG, April 11, 1997).

Inside the Vision: Listening to the Community

Although the community wanted to get on with the business of healing, they also recognized that a problem a hundred years in the making would not disappear overnight. There were also unique challenges to address. Several of the interviewees noted complications that arose from the density of social networks that exist in the community. Therapeutic sessions called for a public admission of one's experience with sexual abuse, but this could conflict with the maintenance of confidentiality in a setting where persons across the circle may be related, certainly know each other, and may or may not trust each other:

We had some younger members in [the treatment group] and they still drank. I kind of felt uneasy telling these people about my inner secrets. With alcoholism, they can't keep a hold on what they say (T, February 14, 1997).

I don't know if I'd want to confide in my uncle. One of my uncles works there. I don't know if I'd want to come out with these things and my uncle's sitting there. Would you want your uncle to know that so and so did something to you? What if it's his friend? or if you've never been able to get along with a person and they're sitting there in your group? It's things like that that might work against the programme and I think that it does play a factor in how that programme is going to work (Y, February 20, 1997).

It is also difficult to know where to start when the whole community is affected, and everyone waits for others to jump in first. When the entire community did not simultaneously leap into the process of confession and healing, fingers were pointed. Some of these were directed at community leaders, whose seminal role in initiating the FVP was recognized, but whose reluctance to take the healing plunge themselves was questioned. FVP staff also were believed to have issues with which

they had not yet dealt. Staff were aware of these criticisms, and tried to put them in perspective and address issues of concern.

I think if we understand it as part of the process, then it's easier to deal with. When we talk about something that's sensitive and so truthful, it's easy to have us as a scapegoat. The strength comes from within the treatment programme, where you separate the behaviours of people and what is going on in the community and set that aside and know that some day we'll come full circle and we'll all be strong (W, February 21, 1997).

Community hesitation towards the FVP caused the staff to reassess the community's commitment to the programme. In keeping with a philosophy of community accountability, the community was surveyed again (in 1997) in a near-replication of the 1993 Programme Needs Survey,¹² to determine whether their support for the programme endured. It did: 89% of the respondents¹³ supported the programme overall; 71% of the respondents supported polygraph testing on offenders; 56% supported phallometric testing to measure the sexual interests of offenders; 84% believed criminal charges should follow a breach of the behavioural management contract; however, just 46% supported a deferred reporting period.

With this overall re-affirmation of support, FVP personnel continued to engage in community education, and improved guidelines around ethics and confidentiality. As for the controversial deferred reporting period, which has yet to be enacted, a member of the FVP staff stated:

[W]e will probably have to go for a community referendum on it after making what it means clearer through workshops and meetings. We also plan to discuss different concepts of the deferred reporting period, or different ways of going about it (W, February 21, 1997).

On the Road to Wellness

Although conventional measures of success such as lowered crime and recidivism rates have not yet been studied at Canim Lake, positive changes were noted by many of the interview participants, which they attributed to the FVP. For example:

It's me that had the primary treatment, but it affected my whole family in the way I treat them, in the way I present myself to them. So, it's not only healing me. It's healing my family. (R, February 13, 1997).

My self-esteem changed in going through the programme. ... It was in that group that I found out that some of my offenders were offending some of the others in the group. All this time, I thought I was the only one. (I, February 7, 1997).

I no longer carry the offenders with me. It's almost like it didn't happen. The offenders are not ghosts in my closet anymore. I'm a totally different person than I used to be. I used to stay in my house and not go anywhere. I was terrified, but, now, I can handle myself. I can speak up (M, February 12, 1997).

Community members also observed how Canim Lake has changed over the years. Many of the transformations were attributed to the advent of the FVP, and the commitment to healing it represents. For example,

I think the people in the [FVP] are very hard working people. They do this for the community and I think that it's paying off. Girls no longer put up with being battered. A lot of people are now attending the alcohol and treatment programmes (A, February 14, 1997).

The elders are getting stronger because before they seemed to let things go by. But, now, they're starting to even speak up a little more and make the community be more accountable. They're starting to do stuff for themselves and sit on various committees (S, February 21, 1997).

There's a big change since I first came here. Not only people starting to deal with their sexual abuse, but also alcohol and the violence. When I first came here the violence was really bad. In the seventies there were five or six deaths a year. There's a lot more caring now. (M, February 12, 1997).

Conclusion

This paper has focussed on relationships within a First Nation community and between the community and government agencies. We see the FVP as a story of community development and government/community relationship building. Although the tale is far from complete, we can reflect on lessons learned from the Canim Lake Band's actions and experience to date.

Disclosures of sexual abuse, provoked by the Tribal Council's assessment of the impact of residential schools, were addressed by Canim Lake with an approach that is a model of community consultation, inclusion, and accountability. Community ownership of the FVP has been ensured through a process of ongoing community consultation and participation in decision-making, and the hiring of people in the community to staff the available positions. In return, the community has shown overwhelming support for the FVP's efforts to provide community-based treatment to sexual offenders and victims.

With a community leadership committed to healing, a community willing to take responsibility and control over its own welfare, an innovative programme design, and an Executive Director who inspired trust in a range of high-level government personnel, the Canim Lake community has realized a programme that fits its holistic view of 'justice'. In particular, this involved moving away from the notion that a crime is a breach of a law or statute, to the notion that a crime is a breach of a relationship that is best repaired with a traditional community-based healing approach.

With respect to funding, the Canim Lake Band invited relevant agencies to discuss funding commitments, and, together, they identified problems and generated solutions that remained true to the community's vision. By showing a willingness to maintain dialogue with and address the concerns of outside agencies — including one (the AJD) that was conspicuously absent from the list of funders — a sense of partnership, without interference, appeared to be fostered. All government funders and participating agencies are to be lauded for their openness to the community's initiative, and to their receptivity to the community's definition of the problem and its solution.

At the same time, there are problems to be recognized. Within the programme, the biggest challenge is to turn enduring community *support* for the programme into community *participation* in the programme. The 'deferred reporting period' has been placed on indefinite hold, but the community may by now have run the gamut of self-referrals. How will they induce the next wave of participants?

Given the wave of mutual respect and good faith that has characterized the FVP to date, we remain puzzled as to why the government's Aboriginal Justice Directorate (AJD) continues to remain on the sidelines for what is arguably a most innovative justice project. It cannot be because of the community's choice to deal with the controversial issue of sexual abuse, since the AJD funded the successful project at Hollow Water that deals with exactly that issue. Nor can it be because of some perceived lack of community support, or worry about whether the interests of women were being represented, since the FVP has carefully generated and assessed community support at every instance; women have dominated the FVP-creation process, and have shown via survey that the vast majority (94%) support the programme.

Indeed, the key difference between Hollow Water and Canim Lake that may account for the AJD funding the former, but not the latter, is that, at Hollow Water, the Crown retains the choice, and the veto, of who will enter the programme. In contrast, at Canim Lake, it is the community that makes the choices, while the mainstream justice system is there as a back-up or supplement for those victims and offenders unwilling to engage only the FVP. Alternatively, we can see the AJD's non-funding of the FVP as simply a clash between the First Nations' and the federal government's views of what "justice" itself entails. Certainly we would expect a divergence of views on that issue; it's unlikely there would have been any call for 'Aboriginal justice' if the two were synonymous, since the distinction would be redundant.

The Directorate's compartmentalized view of criminal justice — which only allows it to fund structures that strongly resemble its own — led it to label the FVP as "something off in left field". Rather than succumbing to such compartmentalization, Canim Lake creatively and successfully accessed other federal and provincial agencies to provide funds for those parts of the FVP to which their mandates corresponded. The situation with the AJD, however, reaffirms the need for an Aboriginal-controlled forum in which justice proposals can be encouraged and considered.

The price that Canim Lake has paid for remaining true to the community's vision is that, instead of pilot project funding that is itself fragile, but at least may last three years, the FVP receives its government contributions on a year-to-year basis from multiple sources. On the positive side of this equation, the FVP is not "owned" by or subject to the whims of any one funding agency. Nonetheless, long-term programme development remains stifled, and changing departmental budgets do not guarantee that the FVP will be adequately supported in coming years. Despite these realities, the FVP has entered its fourth year of operation and continues to be funded by its original supporters.

Notwithstanding Canim Lake's continuing success, there are dangers to adopting any single model of Aboriginal justice development for all Aboriginal communities. Canim Lake's lengthy and community-driven path to the FVP must be considered by other communities (and government agencies) that may be tempted simply to

adopt an existing programme into their communities. It is not the FVP *per se* that is the strength here, but the painstaking, inclusive *processes* by which it was generated. In any event, communities should be cautious of "solutions" where control and the very definition of "the problem" remains firmly in the hands of government agencies, some of whom still impose their viewpoint on Aboriginal people.

Finally, it is important to note that not one law or governmental policy had to be enacted or altered to achieve fundamental changes in how the criminal justice system does its business with Canim Lake. The FVP demonstrates what is possible when a community decides to take control over its own well-being and governments decide to listen. The personal successes and the positive community-wide changes the FVP has been able to effect suggest that true "justice" for Aboriginal people/s may yet be possible, but must occur on a foundation they define and achieve on their own terms. The Canim Lake Band, and the government agencies that fund and support them, continue to show the way.

Endnotes

- 1 Each community respondent is designated by a different letter; letters used have no systematic connection to respondents' actual names.
- 2 The one individual did allow notes to be taken during the interview.
- 3 Since our emphasis is on the *process* by which the programme was developed/implemented, rather than on the FVP *per se*, we discuss the FVP's treatment philosophy/phases/statistics only when they relate to process. See Warhaft (1998) or contact authors for more specific details regarding the FVP.
- 4 Decades of abuse in the Residential Schools resulted in a community permeated by sexual abuse. Distinguishing between "victims" and "offenders" is difficult in this context; many are both.
- 5 Participants included 82% of adult Band members (ages 20–80) and 50% of young adult Band members (ages 16–19) who reside on reserve.
- 6 Pressure may be felt when a rigid dichotomization of alternatives forces victims to choose between Aboriginal *versus* mainstream justice. But we note one case where the victim proceeded with criminal charges that resulted in the conviction of the offender, and then encouraged that he be sentenced to the FVP. This important example shows that reliance on some aspects of the mainstream system need not necessarily mean one turns one's back on Aboriginal justice. Also it suggests that empowered community members will define for themselves what mixture of systems they can support.
- 7 If the child victim and offender reside in the same home, the FVP relocates the sexual offender (rather than the child) for the duration of treatment.
- 8 Space limitations preclude a detailed explanation for every participating agency. Those interested in more elaborate treatment should consult Warhaft (1998).
- 9 Each of the funding representatives interviewed, with the exception of the AJD, cited the ability of the Executive Director to access and inspire key government personnel as a significant factor in their support of the FVP.
- 10 However, the AJD continues to be invited to Canim Lake along with those who fund the programme, and continues to participate in the dialogue.
- 11 Confidentiality prevented target sampling of FVP clientele. Research on reasons for self-referral may, however, prove useful to the FVP in attracting self-referrals in future.
- 12 The 1997 version added a glossary that defined/explained programme components, such as "polygraph" and "phallometrics," and specifically asked about the deferred reporting period.
- 13 Most (69%) of the surveyable on-reserve population and 23% of the surveyable off-reserve population responded to the survey. Approximately the same proportion of men and women participated; both groups were highly supportive (94% of females; 84% of males).

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