

RÉSEAU
pour la stratégie urbaine
de la communauté
autochtone à Montréal



Montreal
Urban Aboriginal
Community Strategy
NETWORK

REPORT

THE ABORIGINAL JUSTICE RESEARCH PROJECT

International Centre for the Prevention of Crime | NETWORK, Justice Sub-Committee



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DE LA CRIMINALIDAD

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Disclaimer:

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A snapshot

According to the Census (2006) the Aboriginal population in Montreal is the fastest growing populace out of all the cities.

1. Urbanization, Montreal, crime and violence

Increasing numbers of Aboriginal people¹ in Canada are migrating to cities, and 50.6% of Aboriginal people now live in urban areas². The city has for many decades been envisioned as a place of opportunity and providing freedom from challenges back home. Montreal is but one example of a city that has experienced a growing Aboriginal population due to educational and employment opportunities, and reconnecting with family and friends³. At this point in time we know that 17,865 Aboriginal people live in Montreal⁴ (Census 2006). Montreal is among the smallest per capita Aboriginal population⁵; Aboriginal people account for just 0.5 percent of the total population of Montreal, on par with Toronto (UAPS 2011). However, according to the Census (2006) the Aboriginal population in Montreal is the fastest growing populace out of all the cities that were examined in the Urban Aboriginal Peoples Study (2011)⁶ (Table 1). The 'average' Aboriginal person living in Montreal is female, identifies herself as First Nations, is between the age of 25 and 44, has either a high school or college degree, has an average household income of \$10,000 to \$30,000 and lives in a rented apartment or house (UAPS Montreal report 2011). One can compare this to the 'average' Montreal resident who is male, identifies himself as a Canadian citizen, is between the age of 35 and 44, has either a high school or university degree, has an average household income of \$68,000 and lives in a private house or condo (Statistics Canada 2007).

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As of 2006, First Nations peoples are the largest Aboriginal group in Montreal, accounting for almost six in ten (57%) of the Aboriginal population. Métis account for 34 percent of the Aboriginal population, while three percent identified as Inuit, and six percent offered other or multiple responses. The increase in the Aboriginal population in Montreal is due equally to growth among First Nations peoples (up 65% between 2001-2006) and Métis (up 62%) (UAPS Montreal Report 2011: 17).

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¹ For the sake of this report, we have used Aboriginal people for the sake of simplicity and in regards to Government of Canada use of terms. It must be noted that there are a number of different names for Aboriginal people. There are in fact 52 uniquely distinct Aboriginal cultural groups, and Aboriginal populations in Canada are typically classified into four major groupings: Status Indians, Non-Status Indians, Métis and Inuit (Norris 1998: 168).

² Statistics Canada 2003a and b

³ The detailed reasons for urbanization of Aboriginal people will be outlined at a later moment.

⁴ 10135 First Nations, 6010 Métis, 570 Inuit.

⁵ In relation to Vancouver, Calgary, Edmonton, Thunder Bay, Saskatoon, Winnipeg, Toronto, and Halifax

⁶ See http://uaps.ca/wp-content/uploads/2010/03/UAPS-Main-Report_Dec.pdf

Table 1 - Aboriginal population and proportion of CMAs, with population increase, 2001- 2006

	Aboriginal population (2006) (a)	Proportion of CMA (2006)	Change 2001-2006
Halifax	5,320	1.4%	+51%
Ottawa-Gatineau	20,590	1.8%	+52%
Montreal	17,865	0.5%	+60%
Toronto	26,575	0.5%	+31%
Thunder Bay	10,055	8.3%	+23%
Winnipeg	68,385	10.0%	+22%
Regina	17,105	8.9%	+9%
Saskatoon	21,535	9.3%	+6%
Calgary	26,575	2.5%	+26%
Edmonton	52,100	5.1%	+27%
Vancouver	40,310	1.9%	+9%

Source: Census 2006

Canadian urban areas, Aboriginal people are overrepresented in the criminal justice system when one compares their representation in the city. Further, a high proportion of Aboriginal people are victims of crime and violence and Aboriginal women face greater risk of victimization, poverty and oppression than non-Aboriginal women⁷. Urban Aboriginal youth are the fastest growing segment of the Aboriginal population in Canada and face discrimination by the wider community and denied equal opportunities in employment and education, thus being forced to engage in aggressive and risky behaviour, and illegal activities⁸. Taking this information into consideration, safety is an important issue which cannot be neglected. Safety embodies all aspects of one's life and is instrumental in the achievement of an equitable and inclusive city for all.

While Montreal may be attracting more Aboriginal people, safety is a major issue for many new arrivals as well as long-term residents. Montreal's Aboriginal population is still relatively invisible, however their vulnerability to crime and violence is oftentimes overlooked despite the fact that they experience a heightened level of exposure compared to most other groups in the city. As in other

⁷ Bourassa, McKay-McNabb & Hampton (2006)

⁸ NWAC (2007)

The Aboriginal Justice Research project

1. Background

The Aboriginal Justice Research project reflects an intensifying movement from the Aboriginal community in Montreal to build awareness regarding their needs and rights to the city as equal citizens, and to develop concerted action to influence, create and guide the very processes that impact their everyday lives. This 'movement' is in part experienced through the activities of the Montreal Urban Aboriginal Community Strategy Network (NETWORK), which started out as a partnership between the *Regroupement des centres d'amitié autochtones du Québec* and the Government of Canada and Quebec to "determine the specific needs of Aboriginal people living away from their communities" through conducting a needs assessment of the Montreal urban Aboriginal community⁹. The result was an overwhelming demand for a space where groups could meet to exchange on various topics relevant to the community and combine efforts to deal with the issues affecting Aboriginal people in Montreal. Working groups were created to allow for in-depth discussions on specific topics. Within the Social Services working group, the Justice sub-Committee was formed as a means of addressing the overrepresentation of Aboriginal people in the criminal justice system and their vulnerability to urban violence and crime.

The Justice sub-Committee has been active in various issues. This includes proposing an initiative to prevent the displacement of Aboriginal people from Cabot Square in connection with the Special Planning Initiative by the Ville Marie Borough to develop the *Quartier des grands jardins*¹⁰. The sub-Committee is also exploring possibilities for enhancing services for Aboriginal people in Montreal who are at-risk and are in conflict with the law. The sub-Committee was granted funding for research by Aboriginal Affairs and Northern Development Canada (AANDC) to explore the need to expand Aboriginal-specific programming (before, during and after custody) for Aboriginal people coming into contact with the criminal justice system in Montreal. The purpose of the research is to have concrete information on the issues at hand in order to expand services for Aboriginal people, and to address the challenges concerning the growing and disproportionate numbers of Aboriginals coming into contact with the criminal justice system in Montreal.

.....

...the mere fact of Aboriginal over-representation in the criminal justice system indicates that the system has "failed" Aboriginal people, and has led to Aboriginal people having no confidence in it (La Prairie & Stenning 2003: 179)

.....

⁹ <http://www.reseautlnetwork.com/eng/Home.aspx>

¹⁰ Please email Vivien Carli: vcarli@crime-prevention-intl.org for more information

The research is the first of its kind for Montreal. The outcomes have been used to create an action plan¹¹. This plan will engage various government and non-governmental bodies on finding solutions.

2. Why this research matters

With the rising numbers of Aboriginal people in cities¹² and the mounting issues of safety for urban Aboriginal people, this research is timely. It seems that we, as citizens of Montreal, are experiencing an increasing presence of Aboriginal people in the city, not to mention that Montreal has the fastest growing Aboriginal population out of all Canadian cities. The population is young, but also highly marginalized and vulnerable, which in part speaks to the significant growth in poverty and homelessness, and their overrepresentation in the criminal justice system. This complex reality necessitates a re-examination of what is being offered as support, why so many are offending or engaging in crime and violence¹³ – why that number is continuing to grow over time, what is lacking, what is working and what is not working, and to begin imagining creative and flexible solutions. At the same time, one must keep in mind the central issue of *rights*, which ultimately speaks to the topic that this research is exploring. To learn more about the international context of rights of Aboriginal people and the relationship to safety and security, please see Annex VIII.

Box 1 - Article 7 of United Nations Declaration on the Rights of Indigenous Peoples

Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

See:

<http://www.un.org/esa/socdev/unpfii/>

It must be noted that while there are initiatives being developed to specifically examine Aboriginal justice issues, there is little focus on safety in cities and its broader role on improving well-being. In addition, there is minimal in-depth exploration on this situation and its evolution in Montreal. There is also a significant lack of data¹⁴ collected from Montreal and other urban centers around Quebec. The research therefore intends to 'fill these gaps' and to provide recommendations to reduce the number of Aboriginal people who are in some capacity interacting with the criminal justice system, including police services. It also aims to prevent new cases as a means of ending the cycle of reoffending and/or re-entry into the system.

¹¹ The action plan is found in the Conclusion of this report

¹² Including Montreal, which as was noted is the fastest growing Aboriginal populace out of all Canadian cities examined in the UAPS (2011) study

¹³ Aboriginal people are incarcerated at about nine times their proportion in the Canadian population (Trevethan 2003)

¹⁴ Regarding Aboriginal people and their interaction with police, the courts, correctional services, access to legal services – services in correctional facilities - treatment – rehabilitative services – transitional housing etc.

The research is also part of a broader reflection on the development of an action plan to: a) identify the availability, evaluate the effectiveness and need, and rethink the value of 'Aboriginal-specific' programming/services for those who have been or are in contact with the criminal justice system and police services; and to b) integrate prevention as a tool to address underlying complexities that are affecting this population and influencing their involvement [and repeated involvement] in crime/ violence.

3. The research as an immediate response to the current crises

Securing the stability and sustainability of Aboriginal organizations and services [in Montreal] has always been a battle. Unfortunately, with growing cuts to social programs this may be even more evident. For Montreal, this situation is becoming severe with the looming closure of the Native Friendship Centre of Montreal (NFCM) and Projets Autochtones du Québec (PAQ).

The NFCM has served the Montreal Aboriginal community for 37 years. It has been an important gathering place for the community, a source of friendship and strength. Over the years, the growing number of Aboriginal homeless has necessitated a shift within the NFCM, making it both a community centre and shelter for those out on the street. Projets Autochtones du Québec (PAQ) is a not-for-profit organization. It offers essential services and shelter for Aboriginal and non-Aboriginal men and women in difficulty. In recent weeks, the NFCM and PAQ announced that they will possibly close their doors in the next three months due to funding cuts and/or location issues. If a solution cannot be found for these organizations, an important landmark and significant service for the Aboriginal community in the city will be lost. This situation necessitates urgent and concrete action.

The research results speak directly to these immediate crises and as the reader will identify in the report, there is significant concern over safety and homelessness/poverty as increasingly affecting the Aboriginal population in Montreal, and that this is tied to broader socio-economic issues, mental health problems and substance abuse. In addition, such problems are not being properly addressed and one result has been the growing presence of the Aboriginal people in prisons. Despite the discouraging realities facing the Aboriginal population, the research results reveal optimism. In this sense, the respondents foresee the crises as an opportunity to reflect on the need for revision and adaptation to the changing realities of those coming to and living in Montreal – to reassess what is working and what is not working, to strengthen community mobilization, and to rethink about their presence in the city and relationship with the greater Montreal community. One approach identified by the respondents is the renewal/revitalization of the concept of the friendship centre – which emphasizes the importance of offering a communal meeting space in the city and the provision of

socio-economic services and programs which embody a holistic, non-hierarchical and prevention-based approach.

4. Research methods

The research is exploring two central hypotheses¹⁵.

High offending and recidivism/reoffending rates among Aboriginal people in Montreal are related to:

- The over-reliance on the use of imprisonment which is compounded with the lack of appropriate services and programming for Aboriginal people;
- The lack of a targeted prevention approach, considering that more of the Aboriginal than the non-Aboriginal population fall into the socioeconomic group most vulnerable to involvement in the criminal justice system (La Prairie 1996).

The key questions guiding the research can be found in Annex I.

The hypotheses were tested through several methods, which include document and data analysis of existing materials, and qualitative and quantitative data collection and analysis. The document and data analysis focused on the following sources: legislative documents, reports, academic research, annual reports, policy briefs, compendiums, conference and seminar proceedings, expert meeting reports, deriving from government, national and local Aboriginal organizations and institutes, research councils and agencies, academic journals, and international institutions and organizations. Initiatives were examined from main Canadian cities and urban settings in countries with similar contexts as Canada concerning Aboriginal people, such as Australia and New Zealand. These include promising crime and violence prevention practices from government, civil society and non-governmental organizations that have been evaluated and shown positive results; and Aboriginal-specific services provided before, during and after contact with the criminal justice system that have successfully reduced and prevented the Aboriginal offenders from reoffending.

A combination of 63 semi-structured interviews and unstructured in-depth interviews were conducted in English and French, in person, over the phone or via email. The interviews¹⁶ were carried out in March and April 2012. Respondents were selected through the snowball sampling technique. There were two sets of respondents:

¹⁵ Essentially the focus is on Montreal, however the literature reflecting these hypotheses derives from other Canadian cities and provinces, and international cases

¹⁶ See Annex II for the questionnaires

Aboriginal people who have been in contact with the criminal justice system (Annex VII) and/or police in Montreal at any point in their lives; and individuals who have worked or currently work on Aboriginal justice issues (Annex VI), including staff and directors of Aboriginal organizations in Montreal, social workers, street workers, criminal defence lawyers, provincial prosecutors, Native court workers, researchers, practitioners, police officers, legal aid professionals, social services, shelters, Elders, youth, federal, provincial and local government and municipality officials, policy makers, and not-for-profit organizations. Of those interviewed, 18 were in the first set of respondents (having come into contact with the criminal justice system) and the rest (45 respondents) were in the second set. All respondents signed a consent form, which ensures complete confidentiality¹⁷.

The results have undergone a content analysis and were coded and analyzed according to certain themes, which were constructed by the Justice sub-Committee:

- The greatest problems/issues facing Aboriginal people coming into contact with the criminal justice system in Montreal;
- Similarities and differences between Aboriginal people and non-Aboriginal people coming into contact with the criminal justice system in Montreal;
- Offending;
- Processes experienced by those in conflict with the law;
- Assessment and classification of Aboriginal people coming into contact with the criminal justice system;
- The provision, availability, accessibility, appropriateness and quality of services and programs before/during/after contact;
- The need for Aboriginal-specific programming and services before/during/after contact;
- The role of prevention; and
- Lessons learned.

The results were analyzed both quantitatively to explore yes/no frequency and qualitatively to explore the open-ended questions, which encompass the majority of questions.

The research is being disseminated through various ways: it is being sent to Aboriginal Affairs and Northern Development Canada; it will be distributed on the website of the Montreal Urban Aboriginal Community Strategy Network and that of the members and partners¹⁸ of the Justice sub-committee; and it will be used for future publications and extended research.

¹⁷ See Annex III for the consent form

¹⁸ International Centre for the Prevention of Crime (ICPC); Montreal Urban Aboriginal Strategy Network (NETWORK)

The challenges – Overrepresentation of Aboriginal people in the criminal justice system and urbanization

1. Overrepresentation of Aboriginal people in the criminal justice system as offenders

As is commonly known, Aboriginal people are over-incarcerated. In 2007/2008, 17.3% of the total federal offender population was Aboriginal compared to 4% of the Canadian adult population. Aboriginal people represented 19.6% of those incarcerated and 13.6% of those on conditional release (parole). From 2000-2001 to 2009-2010, the Aboriginal incarcerated population under federal jurisdiction increased by 28.1% (Public Safety Canada 2010). For women, this overrepresentation is even more dramatic whereby 33.1% of women in federal penitentiaries were Aboriginal (Public Safety Canada 2008). In addition, Aboriginal women are the fastest growing population sentenced to federal prisons (NWAC 2007). Statistics Canada estimates that due to the rapidly growing young Aboriginal population, the 20 to 29 age group will more so be overrepresented in correctional facilities in the future²¹.

Box 2 - Aboriginal people in Canada, rights and justice

In 2004, the Universal Periodic Review (UPR) held its 4th session on the human rights situation in Canada concerning Aboriginal people, which was one of the main issues in this review. In the final report, the Working Group on Arbitrary Detention, the Special Rapporteur on Racism, and the Committee on the Elimination of Racial Discrimination (CERD) noted the over-incarceration of Aboriginal people – particularly women, as highlighted by the Committee on the Elimination of Discrimination against Women (CEDAW) – is more marked than before¹⁹.

The Working Group recommended strengthening policies to address this overrepresentation, particularly by²⁰ :

- Increasing Aboriginal participation in law enforcement;
- Increasing Aboriginal participation in the justice system;
- Sensitizing law enforcers about aboriginal issues;
- Giving preference to alternatives to imprisonment;
- Increasing efforts to address socio-economic marginalization and discriminatory approaches to law enforcement;
- Introducing a program facilitating reintegration of Aboriginal offenders into society.

For more information see Annex VIII

¹⁹ According to the research project, the children who were placed in foster care are more likely to be involved with criminal justice system. In this regard, the Committee on Economic, Social and Cultural Rights noted with concern that low-income, single-parent situations continue to force Aboriginal families to relinquish children into foster care because of inadequate housing.

²⁰ A/HRC/11/17/Add.1

²¹ See CSC's *Strategic Plan for Aboriginal Corrections, Innovation, Learning & Adjustment 2006-7 & 2010-11*; <http://www.csc-scc.gc.ca/text/prgrm/abinit/plan06-eng.shtml>

The Office of the Correctional Investigator (2006) found that the Correctional Service of Canada (CSC) routinely classifies First Nations, Métis and Inuit people as higher security risk than non-Aboriginal people in prison, they are charged more often for violent offences, receive shorter sentences, and have longer criminal histories. The profile of Aboriginal offenders differs from non-Aboriginal offenders: Aboriginal offenders are young, single, have low educational attainment, are unemployed, experienced foster case, and potentially have an alcohol or drug related problem (Trevethan 2003; La Prairie 1996; La Prairie 1997). According to CSC (2002), issues related to employment and education are universal for the general offender population in Canada yet it appears to be more problematic for Aboriginal offenders. Further, living conditions of Aboriginal offenders have been noted as 'more strained' (Trevethan 2003). These circumstances for Aboriginal offenders are commonly seen across all provinces and territories, necessitating a need for different and tailored approaches for this population.

Table 2 - Proportion of Aboriginal and non-Aboriginal offenders on admission as of April 10, 2005

All Federal Offenders	Aboriginal	Non-Aboriginal
Violent Offences (Murder or Schedule I)	82.0%	67.4%
Murder I or II	17.4%	18.6%
Schedule I Offence	64.8%	48.9%
Schedule II Drug Offence	4.5%	16.0%
Women Offenders	Aboriginal	Non-Aboriginal
Violent offences (Murder or Schedule I)	80.0%	50.2%
Murder I or II	11.7%	16.2%
Schedule I Offence	68.3%	34.1%
Schedule II Drug Offence	12.7%	32.4%

Source: CSC Strategic Plan for Aboriginal Corrections <http://www.csc-scc.gc.ca/text/prgrm/abinit/plan06-eng.shtml>

In terms of reoffending, time and again the literature shows that Aboriginal offenders have higher reoffending and reconviction rates than non-Aboriginal offenders. The Aboriginal male reoffending rates are usually higher than for women (Bonta, Rugge & Dauvergne 2003-2). In a study by Public Safety Canada (1998) on reoffending differences between Aboriginal and non-Aboriginal people in Manitoba, the results showed that 65.9% of Aboriginal offenders and 47.8% of non-Aboriginal offenders reoffended within 3 years of completing community supervision. In another study by Public Safety Canada (2003), re-offending rates were higher for Aboriginal male offenders than Non-Aboriginal males (58% vs. 42%). As with women, the rate for Aboriginal reoffending was elevated (57% to 53%).

2. Urbanization

Since the 1960s, there have been increasing accounts of urbanization of the Aboriginal population in Canada. According to Statistics Canada²², almost 28 percent of Aboriginal people live in 10 of the nation's largest cities and the growth has more than doubled in most of these cities, and in some cases has tripled. Migration to the city may be due to several reasons. It is increasingly the case that such migration is voluntary. Some Aboriginal people are motivated by opportunities in urban areas for employment, health, housing, education, political participation, social recognition and visibility or other benefits that they may lack in their territories. In the face of insecurity, urban centres might provide safety. Others are pushed to the cities by poverty, lack of water supplies and the deterioration of traditional livelihoods and environmental degradation²³.

Urban inequality is a major challenge for the Aboriginal population. According to Statistics Canada (2006), 48 percent of Aboriginal children under six years old living off the reserve were in some kind of child care arrangement. The

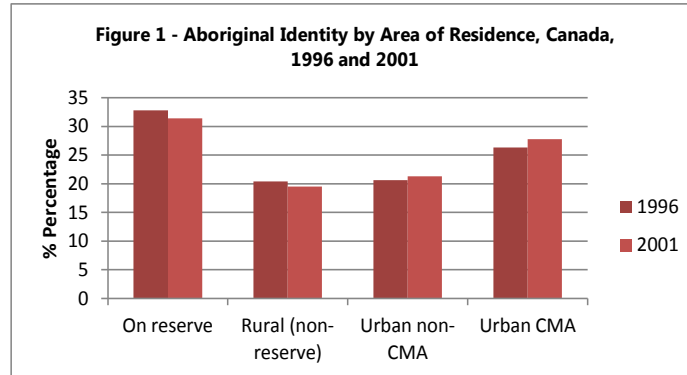
dropout rate among Aboriginal people living off-reserve 20 to 24 was 22.6 percent, compared to 8.5 percent for non-Aboriginal people²⁴. The safety of Aboriginal women and girls is a major problem that is escalating as a large proportion of the increasing Aboriginal migrant population are female and youth²⁵.

Urban Aboriginal people in Canada face similar challenges as other migrants [housing, education, integration in society] and maintain ties to their communities, yet they are different due to reasons which necessitate particular attention. Under

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City life is now an integral component of Aboriginal people's lives in Canada (Newhouse & Peters 2003: 5)

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Source: http://www.horizons.gc.ca/doclib/AboriginalBook_e.pdf

²² <http://www.statcan.gc.ca/pub/81-004-x/2005003/8612-eng.htm>

²³ Royal Commission on Aboriginal People (RCAP 1996b)

²⁴ <http://www.statcan.gc.ca/pub/81-004-x/2010004/article/11339-eng.htm#f>

²⁵ <http://www.aadnc-aandc.gc.ca/eng/1100100016869>

the Indian Act of Canada, the federal government defined its responsibility of Aboriginal people as focused only on those residing in reserves. Provinces and municipalities saw all Aboriginal people, even those in cities, as federal responsibility. While, there have been achievements in convincing the federal government of the legitimacy of urban Aboriginal people²⁶, regulatory voids and jurisdictional challenges maintain - in turn aggravating problems related to the lack of education, access to healthcare and training.

Growing attention to urban Aboriginal people

The reality is that the pressing needs of Aboriginal people in urban areas are in part associated with the growing numbers and the make-up of the population [young population], which have led to urgent demands from Aboriginal people for new frameworks of governance and calls for negotiations about new structures, programs, projects and policies²⁷. In Canada, these demands have been reinforced by the recommendations for urban Aboriginal governance made by the Royal Commission on Aboriginal People (1996) and the recently published UAPS²⁸. The result has been some positive response from the federal, provincial and municipal government, such as the renewal of the Urban Aboriginal Strategy (UAS)²⁹ to co-ordinate government to respond to Aboriginal people, and the development of community-based semi-autonomous urban organizations, and multi-agency systems to initiate meaningful partnership with a range of agencies. The Urban Aboriginal Strategy³⁰ also demonstrates the Aboriginal community's success to work with the government to provide the structure, framework and support to facilitate and enable Aboriginal people and organizations to make necessary changes with the goal of improving well-being and gaining a stronger voice.

Urbanization and safety

There are no existing nation-wide studies in Canada that have explored the link between urban Aboriginal populations and crime. In this sense, it is difficult to discuss the impact of urbanization on Aboriginal offending and victimization rates. What we do know is that compared to non-Aboriginal residents, urban Aboriginal citizens have lower rates of employment and lower average incomes, and women and youth are often faced with situations of extreme marginality and vulnerability due to poverty, homelessness, intergenerational impacts of residential schooling, impacts of the child welfare system and substance abuse (La Prairie 1996). There is some understanding that

²⁶ Establishment of the Aboriginal Friendship Centre Program in the 1980s

²⁷ Heritz (2010)

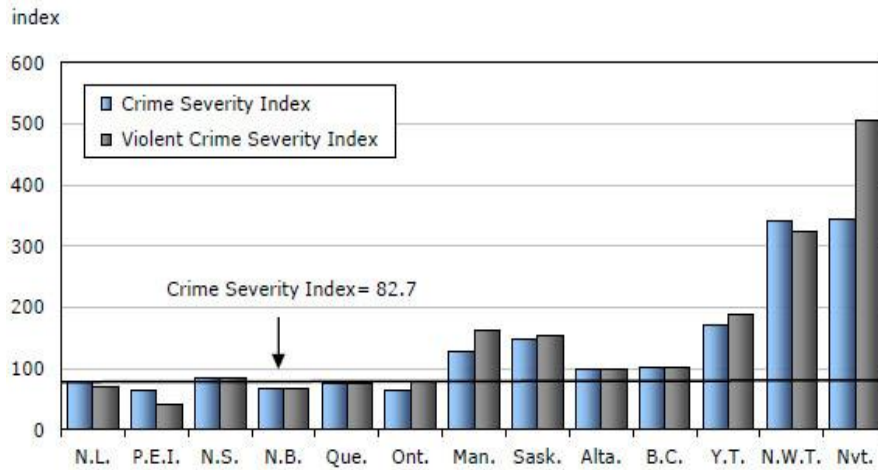
²⁸ See the study: http://uaps.ca/wp-content/uploads/2010/03/UAPS-Main-Report_Dec.pdf

²⁹ See <http://www.aadnc-aandc.gc.ca/eng/1100100014277>

³⁰ In the recent budget announcement, the government is renewing the Strategy for two years (2012-2014)

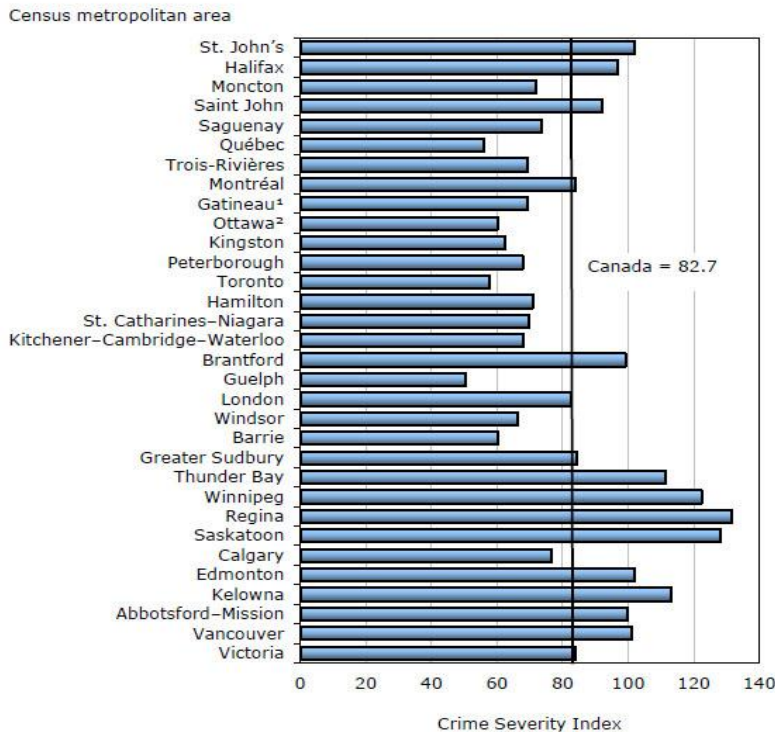
increasing numbers of Aboriginal women and youth are moving to cities which when compounded with marginalization; offending and victimization rates are more likely to be disproportionately high. In addition, 22% of all gang members in cities in Canada are Aboriginal, which is particularly pronounced in the Prairie Provinces (Monchalín 2012). Further, crime rates in Canada have dropped dramatically, yet provinces and cities with the highest numbers of Aboriginal people have the highest crime rates (Figures 2 & 3).

Figure 2 - Police-reported crime severity indexes, by province and territory, 2010



Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey; <http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11523-eng.htm>

Figure 3 - Police-reported Crime Severity Index, by census metropolitan area, 2010



Source: Statistics Canada, Canadian Centre for Justice Statistics, Uniform Crime Reporting Survey; <http://www.statcan.gc.ca/pub/85-002-x/2011001/article/11523-eng.htm>

Federal level: A look back at the criminal justice system and Aboriginal people

Overview – Aboriginal-specific programming and services

The 1970's marked the beginning of an in-depth examination by the Government of Canada on the interaction between Aboriginal people and the justice system. This included a series of commissions, studies, and reports³¹ which would alter the system and open the door to restorative justice and alternative approaches. It was only in the 1980's that the government set in motion the integration of Aboriginal values and culture into the Canadian criminal justice system. According to Public Safety Canada (1996), 1985 marked the recognition by Correctional Service Canada (CSC) of the importance of 'traditional culture and values a policy on Aboriginal spirituality' which led to the official development of a policy on "Native Offender Programs" in 1987. This was followed by CSC setting up The Task Force on Aboriginal People's in Federal Corrections to examine the processes which Aboriginal offenders go through as well as offender needs and how to improve their chances for social reintegration. The result was an effort to develop Aboriginal programming and services on a national basis through the Task Force on Community and Institutional Programming (1990). The *Corrections and Conditional Release Act* (CCRA) was one piece in a series of legislative reforms to the criminal justice system. CCRA provides special enabling provisions for the delivery of Aboriginal corrections programs and services (Box 3).

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Indigenization of criminal justice is a policy that resulted from pressures to promote Indigenous' right to self-governance. Such Indigenization has meant, for example, the creation of aboriginal policing, the appointment of aboriginal judges and the implementation of aboriginal courts. (Martel et al. 2011: 235-6).

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Box 3 - Corrections and Conditional Release Act (CCRA)

- Section 80: CSC shall provide Aboriginal specific programs;
- Section 81: CSC may enter into an agreement with an Aboriginal community for the provision of correctional services to Aboriginal offenders;
- Section 82: CSC shall establish a National Aboriginal Advisory Committee to provide advice on the provision of correctional services to Aboriginal offenders ;
- Section 84: Where an inmate who is applying for parole has expressed an interest in being released to an Aboriginal community, CSC to give the Aboriginal community notice of the parole application and an opportunity to propose a plan for the inmate's release.

Source: <http://laws-lois.justice.gc.ca/eng/acts/C-44.6/>

³¹ For more information see: La Prairie (1996); Brassard et al. (2011); Monchalin (2012).

Aboriginal Community Liaison Officers and Development Officers were put in place to support Aboriginal offender reintegration in communities. Other types of Aboriginal programming and services offered in certain areas include: Aboriginal Correctional Program Officers; First Nations, Metis and Inuit Elders who were integrated into federal corrections to meet with Aboriginal offenders, 'Pathways Healing Units' within correctional institutions; Healing Lodges that are federally owned minimum-security or Aboriginal-community facilities that that incorporate Aboriginal traditions and beliefs (Martel et al. 2011).

More recent developments in Canada include the Aboriginal Justice Strategy³² which has a strong prevention focus and funds Aboriginal community capacity building and justice-related programs. Another important measure that aims to enhance the link between Aboriginal communities and the criminal justice system is outlined in CSC's 2007-8 Strategic Plan for Aboriginal Corrections - the creation of a National Aboriginal Advisory Committee (under Section 82(1)) which would establish regional and local aboriginal advisory committees to provide advice to CSC on the provision of correctional services to Aboriginal offenders. In very recent developments, CSC has produced its Strategic Plan for Aboriginal Corrections, Innovation, Learning & Adjustment 2006-7 & 2010-11 (Annex V).

Box 4 - Confidence in the criminal justice system (UAPS 2011)

According to the UAPS (2011) study, more than half of urban Aboriginal people have little or no confidence in the criminal justice system in Canada, especially urban Aboriginal people. More than one in two urban Aboriginal people have little (33%) to no (22%) confidence in the criminal justice system. Almost four in ten (37%) have some confidence in this system, but only very few (6%) have a lot of confidence. First Nations people (57%) have little or no confidence and Métis (55%) express less confidence in the justice system than do Inuit (39%). Lack of confidence is also more evident among urban Aboriginal peoples in Vancouver (64%), Saskatoon (63%), Winnipeg (60%), Toronto (59%) and Edmonton (55%). Those aged 25 and older express less confidence than younger urban Aboriginal people in Canada's criminal justice system.

See the study: (p. 99) http://uaps.ca/wp-content/uploads/2010/03/UAPS-Main-Report_Dec.pdf

³² See <http://www.justice.gc.ca/eng/pi/ajs-sja/>

Restorative justice and alternatives

In the early 1990's there was growing attention towards the mounting issues faced by Aboriginal people, including the Aboriginal Justice Inquiry of Manitoba³³ and the Cawsey Report in Alberta³⁴, the Oka crisis³⁵, which led to the implementation of the Royal Commission on Aboriginal People. It was concluded that "the Canadian criminal justice system had failed Indigenous people and that the key indicator of this failure was their steadily increasing overrepresentation in penitentiaries and prisons" (Martel et al. 2011: 236). Following the Commission, the federal government attempted to address the high incidence of Aboriginal people incarcerated through law reform, which involved adding a qualification to a restriction principle regarding the use of incarceration as a sanction as a means of reducing incarceration rates (La Prairie 1996). In the same year (1996), in *R. v. Gladue* the court presented an interpretation, concluding that the sentence for an Aboriginal offender may in some circumstances be less than the term imposed on a non-Aboriginal offender for the same offence. The Supreme Court of Canada endorsed the concept of restorative justice and the use of community-based alternatives to imprisonment in the *Gladue v. the Queen* case. The Court was asked to consider the meaning of paragraph 718.2(e) of the *Criminal Code*, which stated that judges are to consider all reasonable alternatives to incarceration for all offenders³⁶. The *Gladue* decision highlights the importance of using restorative processes in sentencing Aboriginal offenders. Other forms of alternatives which are used in Canada, as well as in New Zealand and Australia include sentencing circles, healing circles and community-assisted hearings that are all seen as mechanisms in preventing re offending (Box 5).

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A cost-benefit analysis conducted on a First Nation community in Manitoba demonstrated that for every dollar the federal government invested on community healing process, it would otherwise have had to spend between it would have had to spend between \$2.46 to \$12.15 on incarceration and parole costs of the offenders (Couture et al. 2001 : iv).

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Box 5 - Restorative justice

- In *sentencing circles* the victim, offender, family and community members meet with a judge, lawyers, police and others to recommend to the judge what type of sentence an offender should receive. The victim and the community have the opportunity to express themselves to the offender, and may also take part in developing and implementing a plan relating to the offender's sentence;
- *Healing circles* are ceremonies intended to bring conflict to a close, allow the participants to express their feelings, and indicate that the offender and victim have undergone personal healing;
- *Community-assisted hearings*, which are sometimes called releasing circles, are a type of National Parole Board hearing that is held in an Aboriginal community. It is an opportunity for the justice system, the community and the offender to be responsible for the successful reintegration of an offender.

Source: <http://www.justice.gc.ca/eng/pi/pcvi-cpcv/cons.html>

³³ See <http://www.ajic.mb.ca/volume1/toc.html>

³⁴ See http://justice.alberta.ca/programs_services/aboriginal/Documents/cawsey/Cawsey_I_intro.pdf

³⁵ See <http://warriorpublications.wordpress.com/2011/02/11/oka-crisis-1990/>

³⁶ See *R. v. Gladue*; <http://www.indigenousbar.ca/cases/gladue.htm>

There is ongoing criticism about the *responsibilization* of Aboriginal communities regarding their engagement in criminal justice processes. Several authors (Sutherland 2002; Martel et al. 2011) argue that while restorative justice initiatives work extremely well in certain cases when there is flexibility and independence from the system, the use and contribution of Aboriginal programming perpetuates a punitive system that historically has excluded, omitted and denied difference: “this responsabilization of aboriginal communities is deceiving, as it gives the illusion of added powers to aboriginals, and of increased cultural sensibility when, in fact, aboriginals may not be gaining authentic powers through this particular initiative” (Sutherland 2002: 6).

Transition – rehabilitation / reintegration

There are two types of reintegration. The first is reintegration of offenders into home communities and the second type is into families and communities. Parole release data reveal that federal Aboriginal offenders are less likely than non-Aboriginal offenders to receive full parole, and seriousness of offences appears to explain the differential release rates (La Prairie 1996). Aboriginal offenders also have higher reoffending levels. Due to prior offences and seriousness of offences, Aboriginal offenders are considered a higher risk for reoffending which influences parole decision-making. This is exacerbated by difficulty in formulating release plans and in receiving support from communities (La Prairie 1996).

Provincial level: Quebec, the criminal justice system and Aboriginal people

Provincial and territorial level

At the provincial and territorial level, certain jurisdictions have designated Aboriginal justice branches or directorates. For example, the Quebec Regional Headquarters of CSC has set up an Aboriginal Initiatives Branch, which involves Aboriginal community development officers and liaison workers that link up with Aboriginal communities across the province (Martel et al. 2011). According to CSC's website, the Aboriginal Initiatives Branch aims to "integrate correctional initiatives with Aboriginal communities and other levels of government, increase Aboriginal involvement at all levels and across CSC, so CSC can respond to the needs of individual offenders once in the community"³⁷.

General programs offered by provincial and territorial corrections may include literacy, substance abuse, anger management, job training, life skills and education. Some jurisdictions may offer Aboriginal-specific services or 'Aboriginal components' are attached to the general programs (Martel et al. 2011). Aboriginal-specific services can include Native Liaison Services, Traditional Spiritual Practices, Substance Abuse Treatment, Aboriginal Literacy, Aboriginal Cultural Skills, Native Life Skills Training, Sacred Circles, Native Awareness, Community Reintegration, Sweat Lodge Ceremonies, Aboriginal Language and Family Violence programs (La Prairie 1996: 80).

Quebec³⁸

According to the Aboriginal Affairs Secretariat (2007), in 2007 Quebec had 87,251 Aboriginal people (1.2% of its total population). In the province there are 11 nations, Abenaki, Algonquin, Attikameks, Cree, Huron-Wendat, Innu/Montagnais, Maliseet, Micmac, Mohawk, Naskapi and Inuit (Brassard et al. 2011). From 1996 to 2006, the Aboriginal population increased by 53%, placing Quebec fourth for the fastest growing number of Aboriginal people out of all provinces in Canada (Census 2006).

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The contemporary forms of the Aboriginal presence in Quebec cities reflect a new kind of modernity...not that of the Québécois, nor...Aboriginal people in western Canadian cities, but it is nonetheless anchored in the present. It is a modernity that is...the sum of the history, heritage, and contemporary imperatives of life in society, which may be constraining...but which also offer the potential for renewal in other circumstances (Lévesque 2003: 32).

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³⁷ See CSC Strategic Plan for Aboriginal Corrections <http://www.csc-scc.gc.ca/text/prgrm/abinit/plan06-eng.shtml>

³⁸ It must be noted that the publication by Brassard et al. (2011) provides an excellent profile of these topics discussed, and thus this part is a condensed form taken from the publication so that the reader has some background knowledge

Box 6 - The changing face of urbanization for Aboriginal people

The concept of *urbanization* may not necessarily be accurate in capturing the growth of Aboriginal people in Canadian cities. Lévesque (2003) raises this point, suggesting that the concept is not quite reflective of the contemporary realities, especially in the case of Quebec (p. 32). Aboriginal people in Quebec tend to encounter fluid boundaries, suggesting a highly mobile population that experiences continuous movements back and forth not just from their community of origin, but also potentially other communities and to the city. They confront constant daily restructuring of their lives which on the one hand is found as normal and not transitory. On the other hand, it is assumed that such mobility contributes to the individual's (and their family's) vulnerability (Jaccoud & Brassard 2003). This *intercommunity mobility* draws in several other significant features of Aboriginal people in cities in Quebec, which includes the extension of networks that feeds a constant circulation of information and movement: "the city is now the link..." (Lévesque 2003: 29). This also leads to increasing connections between nations through different cities. The effect of the network is also evident in the work of Quebec Native Women Inc. and the Assembly of First Nations whose work depends on these networks as well as in the growing number of organizations, associations, businesses providing support, jobs, education, legal aid, and other services and resources. These elements are redefining cities, removing a sense of cultural conflict and transforming urban spaces to become compatible and harmonious.

The city is now
the link...
(Lévesque
2003: 29).

Corrections

It is interesting to note that out of all provinces and territories, Quebec³⁹ had the lowest rate of Aboriginal people in sentenced custody, remand, probation⁴⁰ and conditional sentence (Statistics Canada 2008-2009⁴¹). However, over the years Quebec⁴² has shown increases in the number of Aboriginal offenders and has experienced the most growth of Aboriginal offenders under community supervision, by 34% (Motiuk & Nafekh 2000).

In terms of Aboriginal people in federal correctional facilities in Quebec, CSC (2011)⁴³ reveals that Aboriginal men make up 11% of the male population in federal prisons in Quebec, compared to 89% of non-Aboriginal male offenders. Aboriginal women represent 8% of the total female federal prison population in Quebec, compared to 92% of non-Aboriginal female offenders. As for provincial correctional services, the recent study commissioned by the Quebec Ministry of Public Security *Profil correctionnel 2007-2008: les Autochtones confiés aux Services correctionnels* (Brassard et al. 2011)⁴⁴ provides the first and only publicly available in-depth overview of Aboriginal people in correctional facilities across the province of Quebec (Box 7). It also offers historical and contemporary discussion on the Quebec justice system and Aboriginal offenders (Brassard et al. 2011: 18-25).

³⁹ Alongside Prince Edward Island

⁴⁰ Lowest rate alongside Nova Scotia

⁴¹ See: <http://www.statcan.gc.ca/pub/85-002-x/2010003/article/11353/tbl/tbl07-eng.htm>

⁴² As well as the Ontario and Prairie regions, 2008/2009

⁴³ These are unpublished statistics

⁴⁴ It is only available in French

Box 7 – Aboriginal offenders in Quebec

- In a correctional population of 51,814 people in Quebec, 1,734 are Aboriginals (3.3% of the correctional population of Quebec);
- In 2007-2008, 977 Aboriginal people have been admitted to a provincial detention facility, which represents 3.1% of admissions in Quebec. The average daily population in institutions (PMQI) was 189.7, or 4.3% of the total PMQI Quebec;
- Between 2003-2004 and 2007-2008, the number of Aboriginal people in provincial detention or correctional facilities rose from 152.3 to 189.7, which corresponds to an increase of 25%. During the same period, the increase observed in non-Aboriginal people is 18%;
- Aboriginal people are mostly incarcerated in Amos, St. Jerome, Baie-Comeau, Roberval and in smaller numbers in Sept-Iles;
- Aboriginal offences are less diversified than non-Aboriginals including crimes against persons (43%), assaulting in the three quarters of cases followed by offenses against property including breaking and entering in half the cases (21%). Sexual abuse is quite high;
- Aboriginal people are sentenced to longer prison terms than non-Aboriginals, with respective average lengths of 171.6 and 138.2 days;
- Aboriginal people have a length of stay in detention longer than non-Aboriginals;
- During their stay in detention, 42% of Aboriginal people are transferred, (nearly twice in comparison with non-Aboriginals).

Characteristics

- The majority of Aboriginal offenders are between the ages of 18-23 (21%), 25-29 (20%) and 35-39 (18%), and this majority have not completed high school;
- 60% of Aboriginal offenders do not speak French, and 47% live in couples (37% common law and 10% married);
- Inuit have the highest representation in the Quebec correctional system (almost one third);
- Inuit are more often incarcerated compared to other nations (31% of admissions). They are more likely to have committed offenses against the person (55%) and to present a problem of domestic violence (37% for Inuit versus 13% for all other Aboriginal groups). They have longer sentences and stay longer in detention;
- Although they are not necessarily the most numerous on correctional facility admissions, the Algonquins and Attikameks would be the two other nations with the most severe profile, and their most common offense is crimes against the person (41%);
- Aboriginal women consist of 4.9% of provincial correctional facilities. Compared to non-Aboriginal women, Aboriginal women are sentenced for longer periods and remain longer in detention.

Source:

http://www.securitepublique.gouv.qc.ca/fileadmin/Documents/services_correctionnels/publications/profil_autochtones_2007-2008/profil_correctionnel_2007-2008_autochtones.pdf

In 2002, the Government of Quebec passed the new Corrections Act for the province⁴⁵. The act lays out several components regarding correctional services for Aboriginal offenders, within and outside the institution, taking into consideration special provisions

⁴⁵ See:

http://www2.publicationsduquebec.gouv.qc.ca/dynamicSearch/telecharge.php?type=2&file=/S_40_1/S40_1.htm

for the population. While the act suggests “programs and services take into account the particular needs of...indigenous people” there are in fact very few programs for Aboriginal offenders, and in many facilities such services do not exist.

Over the years, the Government of Quebec has engaged in agreements with Aboriginal groups in the province regarding corrections. One example is the Sanarrutik agreement between the Inuit and the Government of Quebec; August 2006. The agreement aimed to establish a common economic and community development vision for Nunavik. The Agreement outlined that the Quebec government would invest in crime prevention, promoting community safety, providing assistance to victims of crime and improving correctional services for Inuit people. Another agreement was the Administration of Justice agreement between the Cree population and the Government of Quebec in 2007. This initiative suggests that the government must improve correctional services in Cree territory. An Advisory Committee was established to identify the needs of the communities and make recommendations: prioritizing the construction of courthouses in several communities, promoting the hiring of Cree staff, and establishing a detention center in Amos.

Only several correctional facilities in Quebec offer special programs for Aboriginal offenders⁴⁶, such as the QAJAQ program⁴⁷, Alcoholics Anonymous⁴⁸ and educational training⁴⁹. There are also general programs such as an educational program (a literacy program and general education up to Secondary 5), an employability program that offers paid work, consultation, skills-building and monitoring in the community, alcoholism and addiction programs, an academic course “Program de Parcours” and suicide prevention programs⁵⁰. Throughout Quebec, Aboriginal people have access to the Native Court Worker Program⁵¹. The Program provides annual reports on Aboriginal persons [youth, women and men] coming into contact with the criminal justice system – particularly those who have been charged with a criminal offence. The research team could only find publicly available data for 2004/2005 which captured totals for the entire province (Table 3). The data reveals that assault was rated as the most common crime committed by Aboriginal female adolescents, women and men. Probation violation was the second most common crime committed. The exception is for male

⁴⁶ James Bay, Amos, Saint-Jérôme, Makitautik Community Residential center (in Kangirsuk), Waseskun, St. Alphonse-Rodriguez, Sept-Îles.

⁴⁷ This is offered at Amos detention centre which consists of meetings between native staff members in Nunavik and Inuit offenders to raise awareness of violence and drug/alcohol abuse. It includes meetings with elders and sharing traditional foods. This program is also offered in Saint-Jérôme as a 12-week program

⁴⁸ This is offered in Saint-Jérôme for Inuit offenders

⁴⁹ This is offered in Saint-Jérôme in collaboration with the Kativik School Board, specifically for Inuit offenders in order to respond to their educational needs

⁵⁰ Other programs offered are related to violent behavior, anger management, knowledge and self-esteem, interpersonal relationships, emotional dependency, social skills and parenting, problem solving and gambling addictions

⁵¹ Les services parajudiciaires autochtones du Québec

adolescents where property crime was documented as the majority of offences, followed by assault. Further, most cases were settled outside of court and that an overwhelming number of those accused have previous criminal convictions⁵². Further, the majority had a lawyer while in court, yet few accessed a Native Court Worker.

Table 3 - Native Court Workers of Quebec (2004-2005)

Group	Total number of offences - Assault	Total number of offences - Probation violation	Total number of offences - Property crime	Total number of intervention outside of court / in court	Total number of accused persons with previous criminal convictions	Total number of accused with no previous criminal convictions	Total number of accused persons at the court with a Lawyer	Total number of accused persons at the court with a Native Court Worker	Total number of accused persons at the court with no lawyer
Total for all Aboriginal persons accused	1327	1027	349	7534 / 6985	2580	1010	2674	223	629
Total for adult female Aboriginals accused	222	130	86	1558 / 1213	338	325	457	45	130
Total for adult male Aboriginals accused	1048	862	218	5234 / 5318	2137	602	2078	161	456
Total for all Aboriginal adolescents accused	57	35	45	268 / 380	105	83	139	17	43
Total for Aboriginal female adolescents accused	22	8	3	49 / 92	16	25	28	1	10
Total for Aboriginal male adolescents accused	35	27	42	219 / 288	89	58	111	16	33

Source: Les services parajudiciaires autochtones du Quebec. Programs des conseillers parajudiciaires autochtones du Quebec - Compilation (2004-2005)

⁵² Except for female Aboriginal adolescents

Local level: Montreal, crime / violence and Aboriginal people

Gathering existing information and data for Montreal on Aboriginal offending and interaction with the criminal justice system has been challenging. In this sense, there is no existing available documentation on this topic. The research team successfully retrieved data (2011-2012) from the Native Court Worker Program of Quebec, specifically for the Montreal area⁵³ (Tables 4, 5, 6). As not all Aboriginal people accused of a crime access Native Court Workers⁵⁴, these figures only provide an overview of those who used the Program. As the information presents, in 2011 Native court workers for the Montreal area had a clientele made up of 64% men (1 male under 18 years old), and 36% female (2 females under 18 years old). A total of 603 clients were charged with a crime. Of the total, men represented 74% of those accused (including the male under 18 years old), and women represented 26% of those accused (including the 2 females under 18 years old). In terms of the charges, the majority of the clients (27.3%) were charged with 'other criminal code offences'⁵⁵, followed by 'failure to appear, escape custody, prisoner unlawfully at large' (12.8%), and 'simple assault' (11%). Most clients in 2011 had previous criminal convictions (31.6%). It appears that the main service provided by the court worker is to generally assist the client, which could assume numerous responsibilities. However, most clients did not access other services provided by the court worker.

Table 4 - Native Court Worker Program (2011-2012) results for Montreal and surrounding areas: Native Court Worker Services

Provided information about the criminal justice system	Provided a referral to legal resources	Provided a referral to community resource to address underlying problem	Act as a liaison between client and a criminal justice official	Provided information related to alternative measures	Provided information related to sentencing	Assisting client	Give information regarding the client or the community to court personnel
4.0%	0.0%	0.3%	0.3%	0.0%	0.0%	94.6%	0.8%

Source: Les services parajudiciaires autochtones du Quebec. Program des conseillers parajudiciaires autochtones du Quebec - Compilation (2011-2012) – Montreal area

⁵³ Currently there are two Native Court Workers for the Montreal and surrounding areas

⁵⁴ There is no information on how many Aboriginal people charged with an offence actually access a Native Court Worker in relation to those that do not

⁵⁵ This includes: restraining, indecent phone calls, warrant, peace bond, uttering threats, harassment, fail to pay restitution), Traffic (Dangerous Operation of motor vehicle (MV) and other causing death, Dangerous Operation of MV and other causing Bodily Harm, Dangerous Operation of MV and other, Fail to stop/remain, Impaired Operations MV and other causing death, Impaired operation of MV and other causing bodily harm, impaired operation of MV and other .08mg., Fail/refuse to provide sample. Operating vehicle while prohibited, speeding, no operators)

**Table 5 - Native Court Worker Program (2011-2012) results for Montreal and surrounding areas:
Previous convictions**

Total number of accused persons with previous criminal convictions	Total number of accused with no previous criminal convictions	Unknown if previous convictions
31.6%	11.5%	22.3%

Source: Les services parajudiciaires autochtones du Quebec. Programs des conseillers parajudiciaires autochtones du Quebec - Compilation (2011-2012) – Montreal area

**Table 6 - Native Court Worker Program (2011-2012) results for Montreal and surrounding areas:
Type, number and percentage of clients charged with a crime**

Offence	No. of those charged	% of those charged
Homicide	10	1.6%
Robbery	2	0.3%
Sexual abuse	3	0.5%
Major assault	46	7.6%
Simple assault	67	11.0%
Kidnapping	1	0.2%
Arson	9	1.5%
Weapons and explosives	8	1.3%
Break and Enter	9	1.5%
Fraud and related	6	1.0%
Theft	23	3.8%
Possession of Stolen Property	3	0.5%
Property damage/mischief	35	5.8%
Public order offences	22	3.6%
Failure to appear, escape custody, prisoner unlawfully at large	78	12.8%
Failure to comply with an order, breach bail violations	41	6.7%
Failure to comply with disposition, breach probation/willful non-compliance	15	2.5%
Other criminal code offences	166	27.3%
Trafficking or importing Drugs	7	1.2%
Possession of Drugs	37	6.1%
Other federal Status	8	1.3%
Provincial Traffic Code such as dangerous driving	7	1.2%
Band bylaws	5	0.8%

Source: Les services parajudiciaires autochtones du Quebec. Programs des conseillers parajudiciaires autochtones du Quebec - Compilation (2011-2012) – Montreal area

The only recent available research for Montreal that has some link to this topic include the publication by Jaccoud and Brassard (2003) which analyzes the life trajectories of 10 Aboriginal respondents living in conditions that fall within the theoretical framework of exclusion and marginalization; and the UAPS (2011) Montreal report which has a section on confidence in the criminal justice system and support for an Aboriginal justice system that is based on qualitative in-depth interviews (Box 8). The publication by Jaccoud and Brassard (2003) reveals that migration to the city, specifically for Aboriginal women coming to Montreal, is in itself a marginalizing factor as it isolates the women and at times precipitates the deterioration of their living conditions. The findings further suggest that the city also provides opportunities for survival and protection. The results of the UAPS (2011) Montreal report regarding justice highlight that there is no consensus (from the respondents) about the criminal justice system in Canada. In this sense, close to half suggested that they have at least some confidence in the system, while the other half stated that they have little or no confidence. In terms of support for an Aboriginal justice system, the respondents (60%) were more likely to support the creation of a system separate from the mainstream one. Some other general findings outline that most of the respondents [urban Aboriginal people in Montreal]:

- Stay connected to their communities of origin;
- Are 'very proud' of their specific Aboriginal identity;
- Are seeking to become a significant and visible part of the urban landscape;
- Think that they are viewed in negative ways by non-Aboriginal people;
- Believe that education is a priority and enduring aspiration for the next generation, and;
- Expressed that Aboriginal services are needed addition to mainstream services in Montreal.

Box 8 - Urban Aboriginal People Study (UAPS): Montreal Report

The UAPS Montreal Report constitutes the ninth of a series of city reports. In Montreal, the main survey consisted of in-person interviews with 250 First Nations peoples (status and non-status), Métis and Inuit, who were 18 years and older, between May 1 and July 7, 2009. Out of the total people interviewed, 60% suggested that creating an Aboriginal justice system separate from the mainstream system is a good idea. The reasons are: the current justice system is perceived as biased and treats Aboriginal people unjustly (27% of the respondents) - and a separate system would offer a setting that is more culturally comfortable for Aboriginal people (26%); Aboriginal people would be better served by a system that allows them to be judged within their own value system and by their own peers, and that respects Aboriginal history and culture (22%); it would provide greater rehabilitation, healing and reduce recidivism (12%); and it would recognize that Aboriginal peoples have different values and orientations toward justice (10%). A significant majority of the respondents stated that a system which incorporates Aboriginal concepts of justice (such as sentencing circles and healing circles, Aboriginal laws, and alternatives to punishment such as reconciliation and restoration) would have a big or moderate impact on reducing Aboriginal crime rates (73% of the respondents), on improving community safety (81%), and on improving confidence in the system (78%).

Source: <http://uaps.ca/wp-content/uploads/2010/02/UAPS-Montreal-report1.pdf>

While there is no formal study affirming the situation, community organizations and shelters are witnessing a growth in the Aboriginal homeless population⁵⁶ (Box 9). This population is highly vulnerable to offending and victimization. They oftentimes receive fines for offences such as public intoxication, drug use, possession, and sleeping in public spaces - which leads to incarceration. Over the last decade, Montreal has experienced a rising number of homeless people facing fines by the police. According to Bellot et al. the number of tickets issued has skyrocketed in the last sixteen years and in 1994 there were slightly more than 1000 tickets issued, and by 2010 the number had jumped six times higher. Douglas (2011) suggests that this situation is essentially a 'criminalization of poverty,' which stems from a misunderstanding and abrogation of social responsibility and community cohesion: "Rather than dealing solely with tickets after-the-fact, more emphasis must be placed on changing the ticketing practices of the City of Montréal" (p.63). In terms of the Aboriginal population, fine default is a common occurrence due to poverty related issues. The result is detention or incarceration, therefore a criminal record and added difficulties for the Aboriginal person. Douglas (2011) states that this practice particularly targets socially marginalized populations, and thus calls for more than legal reforms and the changing of by-laws to improve the situation - a balancing of legal reforms with social awareness, concern and action. This can be accomplished by working with police, the City, courts, intervention

⁵⁶ NCFM, P.A.Q., Native Women's Shelter of Montreal

Box 9 - Homelessness, Rights, and Public Space in Montreal

Right to the City Volunteers Take Back the Square

Too many attempts to address homelessness result in the displacement or criminalization of the homeless, rather than the eradication of the condition and the factors that enable it. Instead of assigning blame to individuals, homelessness must be addressed as a systemic issue arising from neoliberal policy, with implications for our understanding of public space and basic human rights. People experiencing homelessness are caught between a rock and a hard place: on one hand, they have no private space to which they are allowed unconditional access (ie. a home); but on the other, they have the same basic needs we all do - needs which, when met in public, become criminal activities (sleeping and urinating, for example). Homelessness, therefore, is fundamentally criminal in a society that strictly delineates the public and the private, and enacts laws to prevent 'private' activities from being performed in 'public' space, even when private space remains inaccessible to part of the community. The right to reserve public space for sanctioned activities, such as leisure and recreation outside the home, thus usurps the right to survival of those left out of the public/private dichotomy.

Montreal is no exception to this societal rule. According to a study by Quebec's *Commission des droits de la personne et de la jeunesse*, Montreal homeless receive a disproportionately high number of tickets -- 31.6% of all tickets issued in the city in 2005, despite making up less than 1% of the population. These tickets, often for public intoxication or sleeping in metro stations, require many people experiencing homelessness to serve jail time, as they cannot afford to pay the fines, and constitute a pointless and repressive criminalization of homelessness. In this context, and amidst widespread gentrification of many low-income neighbourhoods, Right to the City (RTTC) is a small non-profit group working to build community solidarity in opposition to an urban revitalization project already underway in downtown Montreal. By sharing meals and information in the public space of Cabot Square, at Atwater and St. Catherine, RTTC volunteers are working towards meaningful community participation in the unfolding revitalization project, a public-private partnership which currently includes construction of luxury condominiums, but no enforceable plans for affordable or social housing. Right to the City's long-term goal is to see policies and practices put in place that, rather than displacing or criminalizing the homeless, address the social, political and economic roots of homelessness and protect the rights of people with no private space to call their own.

For more information on Right to the City, send an e-mail to: righttothecitymtl@gmail.com

workers, and community organizations to find equilibrium between public order, law enforcement and social concern. It also necessitates a redirecting of funds to social services and affordable housing.

In terms of other relevant publications regarding this research, *The Presence of Aboriginal People in Quebec's Cities: Multiple Diverse Issues* (Lévesque 2003) provides new insights on the urbanization of Aboriginal people in Montreal and other cities in Quebec, discussed earlier in the report. The Secretariat of Aboriginal Affairs (Quebec) is in the process of conducting a large-scale research on homelessness among Aboriginal people in Montreal. This will be integrated into the work of the City of Montreal as a component of the *Action: Plan regional interministérielle en itinérance 2010-2013*, which outlines as one of its objectives (3.1) - to improve access to services for homeless Aboriginal people in the city. Considering the strong links between being homeless and being in conflict with the law, the outcomes of the research will be pertinent for this study, and help advance knowledge on the situation of Aboriginal people in Montreal. On the subject of discrimination, the report *Racial profiling and systemic discrimination of racialized youth* (2011), the *Commission des droits de la personne et des droits de la jeunesse* (Quebec) highlights more generally the problem of discrimination against the Aboriginal population in Montreal, and its impact on their interaction with the justice system (Box 10). The report essentially reveals that Aboriginal people are one of the most discriminated groups in Montreal.

Box 10 - Profiling and discrimination – Aboriginal people in Montreal

Le Commission des droits de la personne et des droits de la jeunesse is a government agency created by the Quebec Charter of Human Rights and Freedoms (1975). The Commission is responsible for promoting and upholding the principles of the Charter and investigating cases of discrimination. The Commission published the report *Racial profiling and systemic discrimination of racialized youth* (2011) following public consultations and research over a two-year period. According to the report:

- Aboriginal persons are likely to be victims of racial profiling and systemic discrimination;
- Many of the problems faced by Aboriginal persons result from centuries of alienation and the application of colonial and discriminatory policies;
- Aboriginal people living in major urban centres are directly affected by the similar racial profiling and systemic discrimination as other groups;
- The disproportionate surveillance of Aboriginal people will result in an over-representation of these individuals all the way to the prison system;
- Racial profiling in the judicial system seems to be partially responsible for the over-representation of certain racialized groups in the prison system, especially Aboriginals.

The Commission suggests: the Montreal police provide better representation of racialized groups such as Aboriginal people among their employees; those involved in youth protection have an obligation to apply measures to take into consideration the characteristics of "Aboriginal communities"; the government should provide more measures to combat poverty among Aboriginal people.

Source : http://www2.cdpdj.qc.ca/en/publications/Documents/Profiling_final_EN.pdf

In regards to existing programs, resources and services in Montreal (and surrounding areas) for at-risk Aboriginal people, and Aboriginal offenders and ex-offenders there are several options. These initiatives consist of providing access to basic social services, treatment, counselling, shelter, transitional housing, socio-professional insertion project, community/cultural centres, healthcare services, healers, Native Court Worker Program, as well as general resources for the urban Aboriginal people in Montreal and surrounding areas. A list of existing Aboriginal-specific initiatives is provided in Annex IV⁵⁷.

What is missing

There is a lack of data and analysis in the Montreal area. This is compounded by the absence of understanding of the processes affecting Aboriginal people prior to sentencing, any assessments taken to identify the individual's needs, if and how often the individual engaged in programs/services before, during or after contact with the system, the processes after the sentence was served, and data on reoffending and recidivism, to name some examples. It is disturbing that such little data and research exist as it suggests that there is minimal knowledge on the actual situation of Aboriginal people coming into contact with the criminal justice system in Montreal and other parts of the province.

⁵⁷ This list is not exhaustive, and thus we apologize if any items are missing. If something is missing, please contact the principal research investigator at: vcarli@crime-prevention-intl.org

Reviewing the literature – Exploring the research hypotheses

The literature presents several theories on the disproportionate rates of incarceration of Aboriginal people in Canada and the high risk of reoffending. This section⁵⁸ will address some of the ongoing discussions in order to explore the research hypotheses: high offending and reoffending/recidivism rates among Aboriginal populations are related to 1) the over-reliance on the use of imprisonment which is compounded with the lack of appropriate services and programming for Aboriginal people, and 2) the lack of a targeted prevention approach, considering that more of the Aboriginal than the non-Aboriginal population fall into the socioeconomic group most vulnerable to involvement in the criminal justice system (La Prairie 1996)⁵⁹.

1. The over-reliance on the use of imprisonment, compounded with the lack of appropriate services and programming for Aboriginal people

In relation to imprisonment and the role of programming and services, La Prairie (1996) considers the following steps for improvement and the importance of Aboriginal-specific services:

- Make a commitment to a different kind of justice which does not use the criminal justice system to deal with social problems;
- Change philosophy about alternatives to incarceration;
- Prohibit the use of incarceration for certain offences - fine default, public order, administrative offences, some parole and probation violations;
- Build a good understanding of the offender's needs;
- Adapt the needs with institutional programming and community resources;
- Ensure quality and quantity of institutional programs;
- Emphasize community corrections as a re-integrative tool as well as a mechanism of social control; Understand regional variation in aboriginal over-representation in the correctional system - direct resources to the provinces, aboriginal communities and populations most in need;
- Change any discriminatory attitudes toward aboriginal offenders.

.....

A substantial reduction in the reliance on imprisonment is most likely to occur with sweeping systemic changes whereby both legal and administrative capacities are aimed at increasing the use of intermediate sanctions...(La Prairie 1996: vi).

.....

⁵⁸ This section will provide an overview of the main debates since countless studies provide in-depth analyses of this issue (La Prairie 1996; Trevethan 2003; La Prairie and Stenning 2003; Monchalin 2012; Perreault, 2011; Shaw 1994; Birkenmeyer & Jolly 1981; La Prairie 1994).

⁵⁹ These are the research hypotheses

Brassard et al. (2011) have similar recommendations for correctional services: training for corrections staff on the historical realities and Aboriginal culture; offer some services in different languages or to make sure offenders have access to an interpreter; provide services that are appropriate. The authors also encourage correctional institutions and the justice system to work to reduce profiling and discriminatory attitudes towards Aboriginal people, to enhance access to Native court workers, and to create more restorative justice approaches which are led and developed by the communities (Brassard et al. 2011).

Martel et al. (2011) state that while Aboriginal targeted programs within correctional facilities are needed, the classification and assessment of Aboriginal offenders prevents them from accessing services. In this sense, the risk management logic used by the criminal justice system aims to group offenders according to their level of risk. Martel et al. (2011) outline how Aboriginal offenders are usually identified as high-risk offenders, suggesting they have criminogenic behavioural tendencies. One would assume the classification would provide for targeted programming; however Aboriginal offenders do not fill the criteria set to access correctional programming because they tend to belong to a sub-group defined as presenting high risk of recidivism (Martel et al. 2011). The result is that they do not access risk-reducing programs.

An issue paper by the Native Women's Association of Canada (2007)⁶⁰ presents challenges regarding the interaction between Aboriginal women and the criminal justice system, highlighting the lack of appropriate facilities for Aboriginal women. It discusses the absence of services near their homes, suggesting that many Aboriginal women offenders are faced with long-term geographic separation from their children, families and communities. At the same time, NWAC (2007) refers to the poor quality or complete lack of proper assessment and treatment for Aboriginal female offenders whereby many suffer from depression, substance abuse, and/or fetal alcohol syndrome disorder (FASD).

The study *Programs correctionnels à l'intention des Autochtones en milieu urbain au Canada: Examen d'un choix de programs* (1994)⁶¹ reviews seven correctional programs for urban Aboriginal people in Canada. It reveals that there is a lack of: an integrated structure within CSC for urban Aboriginal offenders; Aboriginal-specific programming and services for those coming into contact with the criminal justice system in urban areas, and lack of financing for such services; trained and supporting staff; and an integrated network of services across urban Aboriginal organizations. Urban-based organizations are overloaded and there is a competition between for governmental support. The study also shows that a considerable number of Aboriginal offenders in

⁶⁰ Aboriginal Women and the Legal Justice System in Canada, see: <http://www.laa.gov.nl.ca/laa/naws/pdf/nwac-legal.pdf>

⁶¹ See Thérèse Lajeunesse & Associates Ltd. (1994) : <http://www.publicsafety.gc.ca/res/cor/apc/apc-12-fra.aspx>

federal or provincial facilities found no existing urban service facilities in their area [the scarcity of transition houses for women]. The authors highlight the need for research due to little systematic information on urban Aboriginal offenders, for monitoring, and for objective and comprehensive evaluations of correctional programs in urban areas.

In terms of rehabilitative programming and services, the Office of the Correctional Investigator (2006) found that Aboriginal offenders often do not receive timely access which hinders their community integration; impacting on the likelihood of reoffending. According to a senior Shoalhaven Aboriginal Legal Services solicitor (2011) "Indigenous reoffending could be cut through improved access to rehabilitation programs"⁶². A report by the Bureau of Crime Statistics and Research (BOCSAR) found Aboriginal offenders were missing out on effective treatments because of a lack of available places. It has been argued that upon release, they would need access to employment and/or education, and better transitional support for reintegration (PSC 1998). There is also the challenge of those with substance abuse or mental health issues as an assessment is required for placement into treatment and counselling.

There is general support for some sort of Aboriginal focused service, and the improvement of existing services (Kennedy 1998). The emphasis is often placed on improving offender responsivity to programs, and expanding healing lodges, for example. It is interesting to note that CSC, in its recent *Strategic Plan for Aboriginal Corrections* refers to the lack of culturally appropriate programs/services for Aboriginal offenders and highlights the need to: enhance culturally appropriate services for Aboriginal offenders; to improve existing services (through evaluation); develop and implement culturally sensitive classification and assessment tools; to address systemic barriers internally in the system; and expand capacity to support the reintegration of offenders (Annex V).

Mann (2009) reveals that while correctional services have made substantial changes, there are several acute issues which demand attention: enhancing the transparency and accountability in the delivery of programming; conducting data collection and evaluation on a regular basis; and recognizing ongoing inconsistency in the use of section 84 which raises questions of the efficacy of CSC's implementation and the limited use of legislative provisions for Aboriginal reintegration. Other recommendations focus on rethinking the formalization of programming and concept of Aboriginal programming in correctional services. On the one hand, 'Aboriginal programming' and its relevance to all Aboriginal groups is being questioned. On the other, there is a significant absence of such programming as provincial level sentences are usually short and do not leave much time for accessing programs, such as in the case of Quebec.

⁶² See: <http://www.illawarramercury.com.au/news/local/news/general/poor-social-conditions-drive-aboriginal-reoffending-solicitor/2055185.aspx>

In conclusion, the literature focuses on the need to reassess several facets concerning Aboriginal-specific programming and services: the provision of Aboriginal-specific programming/services in relation to the classification and assessment of Aboriginal offenders; and the actual effectiveness and use of existing programming/services. It also provides recommendations for dealing with some of these issues; calling for attention towards research, monitoring, evaluation, reintegration services and transitional housing, as well as tackling profiling, discrimination and language barriers, and offering training and services for urban Aboriginal people.

2. More of the Aboriginal than the non-Aboriginal population fall into the socioeconomic group most vulnerable to involvement in the criminal justice system, necessitating a targeted prevention approach

It has been argued that a paradigm shift is required – calling for a move away from the reliance on a punitive criminal justice system, which essentially incarcerates Aboriginal people, and a move towards prevention and flexibility to genuinely work with Aboriginal communities to manage the challenges (Linden 2001; Dickson-Gilmore & La Prairie 2005; Monchalin 2012). This second hypothesis refers to the importance of prevention strategies regarding that Aboriginal people are more disadvantaged and disproportionately concentrated in high crime areas; inner cores of central metropolitan areas which causes them to be more susceptible to criminality (Trevethan 2003; La Prairie and Stenning 2003: 185). This can be tied to cultural insensitivity or racial discrimination on the part of the police and greater society, and over-policing that may be a response to social problems in the most marginalized city areas where appropriate services are unavailable (Mann 2009). This can result in the criminalization of poverty and alcoholism, homelessness and family disputes (La Prairie 1996). At the same time, it is argued that Aboriginal people’s demographic and socio-economic characteristics play a significant role, such as having a far greater proportion of its population in the higher offending [younger] age group, lower education levels, more unemployment, high levels of children going into foster care, and higher rates of substance abuse and addiction (La Prairie and Stenning 2003: 187).

Some frequently mentioned risk factors in the literature include family abuse, lack of parental supervision, academic failure, substance abuse, delinquent friends, extreme poverty and poor living conditions, to name a few (Hawkins et al. 1992; Sampson & Laub 1993). According to Totten (2009), Aboriginal youth and violent gang involvement in Canada is related to psycho-social problems: racism, colonization, marginalization and dispossession; the loss of traditional land, traditional culture, spirituality and values;

.....
These issues go well beyond the capacity of CSC [Correctional Service of Canada] alone to address (Mann 2009).
.....

and the breakdown of kinship systems and Aboriginal law. These psycho-social problems are linked to factors of entrenched and severe poverty, overcrowded substandard housing, high numbers of placements into child welfare, mental health, alcohol and drug abuse, low educational attainment and high rates of school dropout, unemployment, ill-health and suicide, high rates of criminalization, and high rates of family violence, sexual assault, children witnessing spousal violence and homicide involving Aboriginal people as both perpetrators and victims (Totten 2009: 137-138).

A high proportion of Aboriginal offenders were adopted or placed in foster care. Oftentimes this has resulted in poverty and/or homelessness. Aboriginal children are disproportionately represented in foster care in Canada. Data from provincial and territorial ministries of child and family services (2000-2002) suggest that 30% to 40% of children and youth placed in out-of-home care during those years were Aboriginal, yet Aboriginal children made up less than 5% of the total child population in Canada (Gough et al. 2005). The number of First Nations children from reserves placed in out-of-home care grew rapidly from 1995 to the present; increasing by 71.5% (Gough et al. 2005). Separating children from their families, even those with problems, can aggravate the situation. For example, children living with foster parents have encountered difficulties related to idealizing their biological parents and following their path (substance abuse), and being attracted by people who want to "help" them which may cause increasing homelessness, prostitution and street gang involvement (Gough et al. 2005).

In regards to Aboriginal women, NWAC's (2007) issue paper outlines that they are severely socio-economically marginalized, and one consequence of this has resulted in their overrepresentation in the criminal justice system both as offenders and as victims of crimes (NWAC 2007: 1). The authors suggest that there is a strong need to promote prevention and to address the root causes of these issues (Box 10).

In a recent publication by Brassard et al. (2011), the authors discuss how the Canadian experience has shown that the overrepresentation of Aboriginal offenders is highly complex and demands solutions not just from the justice system but also from realizing

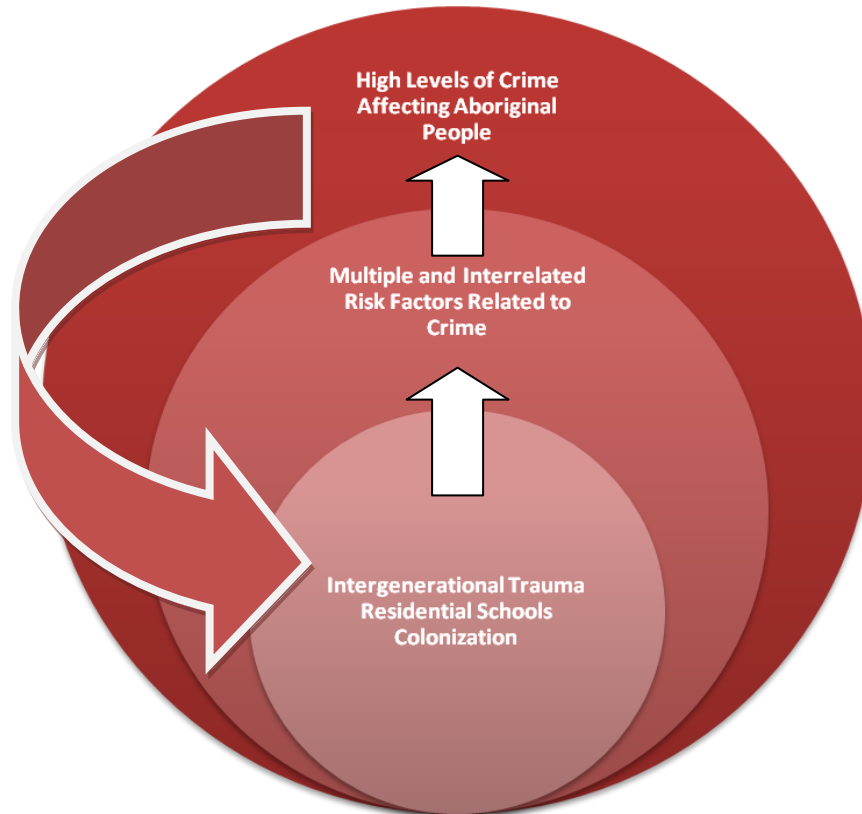
Box 10 - Recommendations from NWAC (2007) *Aboriginal Women and the Legal Justice System in Canada*

- National Aboriginal Organizations must play a primary role when it comes to the discussion of Aboriginal peoples in the justice system;
- Alternative practices such as restorative justice need to be brought into the justice system and used on a regular basis;
- Police officers, judges and lawyers must learn about the legislative and policy related history that impacted only Aboriginal peoples in Canada, especially Aboriginal women and the key factors which lead Aboriginal women into the justice system;
- Developing programming, in consultation with Aboriginal communities, Elders and National Aboriginal Organizations that meets the specific needs of Aboriginal women is essential.

Source:
<http://www.laa.gov.nl.ca/laa/news/pdf/nwac-legal.pdf>

that Aboriginal people experience unacceptable living conditions. Monchalin (2012) adds that understanding the accumulated negative outcomes of colonialism and residential schools provides a context for understanding why many Aboriginal people suffer from multiple risk factors related to crime (p. 25) (Figure 4). Brassard et al. (2011) propose prevention programs for family and domestic violence, and anger management, initiatives for drug and alcohol treatment, and youth crime prevention programs (such as sports activities).

Figure 4: Cycle of Crime affecting Aboriginal People



Source: Monchalin 2012, p. 24.

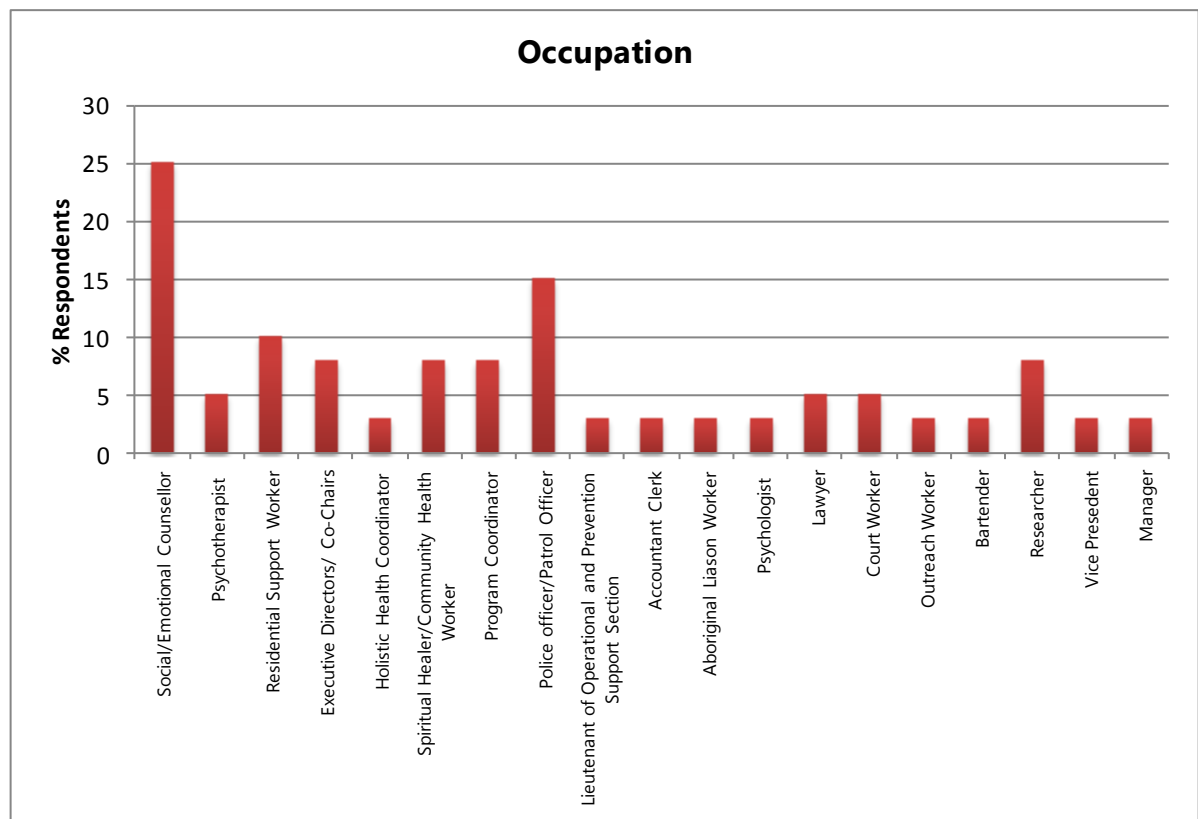
It is evident that prevention is a means for reducing Aboriginal people's involvement in offending and re-offending. Prevention offers the tools to address not just the act of violence or the crime, but the broader context regarding the underlying issues and perpetuation of existing challenges.

The research results⁶³

This section provides an overview of the results, which essentially provides an analysis of the 63 interviews; 18 with Aboriginal people who have been in contact with the criminal justice system and/or police services, and 45 with individuals who have or continue to work on Aboriginal justice issues.

1. Results – Individuals who have or continue to work on Aboriginal justice issues

In terms of the characteristics of these respondents (Annex VI), the majority (25%) have an occupation as a Social/Emotional counsellor, others are provided below.

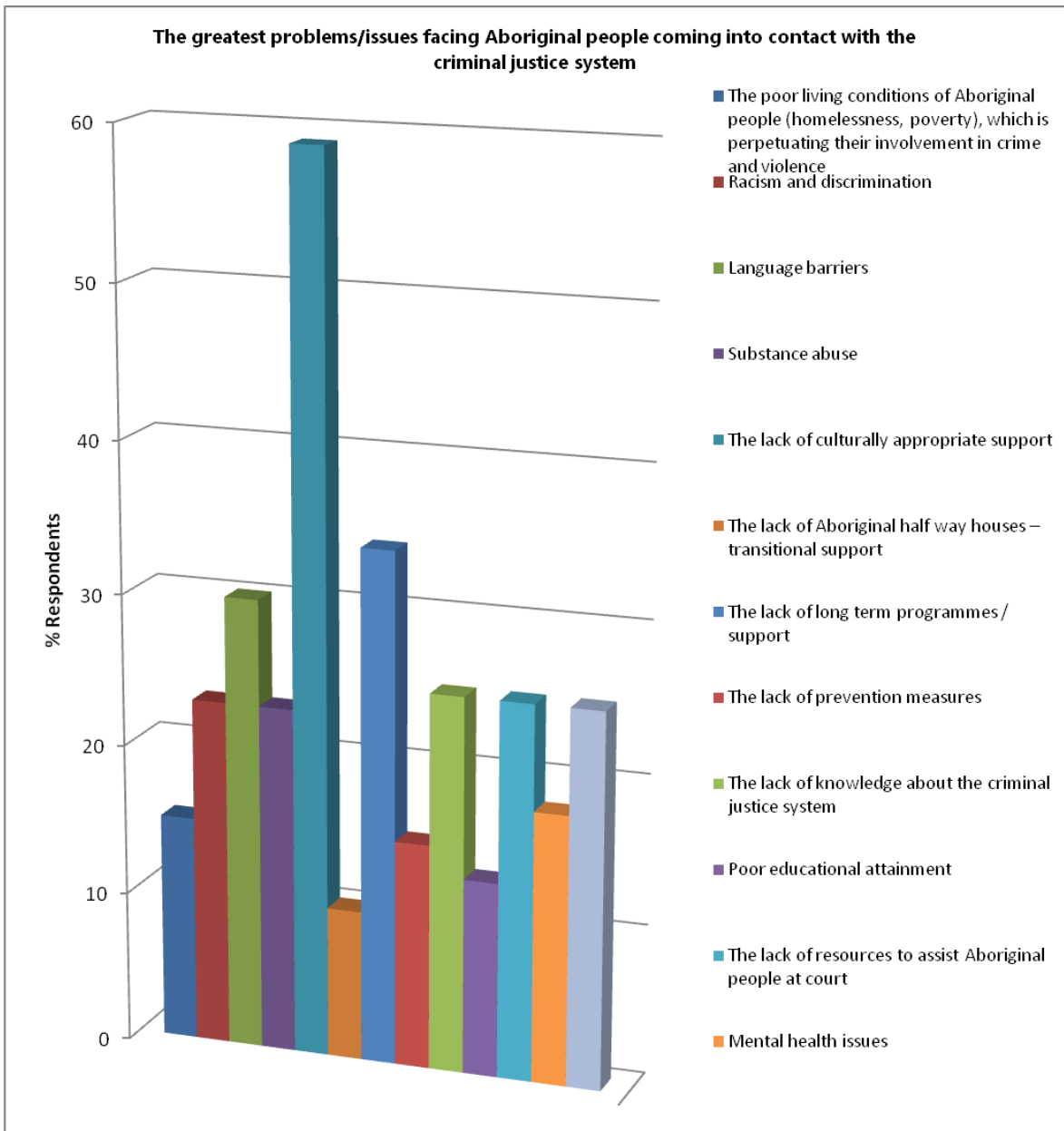


“The over-incarceration of Aboriginal peoples was considered a crisis situation over 10 years ago. Despite, Gladue today, there are more Aboriginal peoples incarcerated in Canada evidently the systemic and deplorable socio-economic situation will need to be addressed in order to effect any real change in this disconcerting situation.”

⁶³ Please note that there is considerable overlap in the results as most respondents provided more than one answer for each question, therefore the percentages do not necessarily add up to 100%

Most of these respondents lived in either Montreal (65%) or Kahnawake (16%), and had either 1 to 5 years (40%) of experience working on Aboriginal justice issues, or 11 to 20 years (29%). It was found that the majority worked with all Aboriginal and Inuit (45%), and with both females and males (38%).

A large number of respondents (59%) identified the lack of culturally appropriate support as the greatest problem/issue facing this particular population. This was followed by the lack of long term programs/support (34%), language issues (30%), and homelessness, lack of knowledge about the criminal justice system and lack of resources to assist Aboriginal people at court (25%). Additional issues are outlined below.



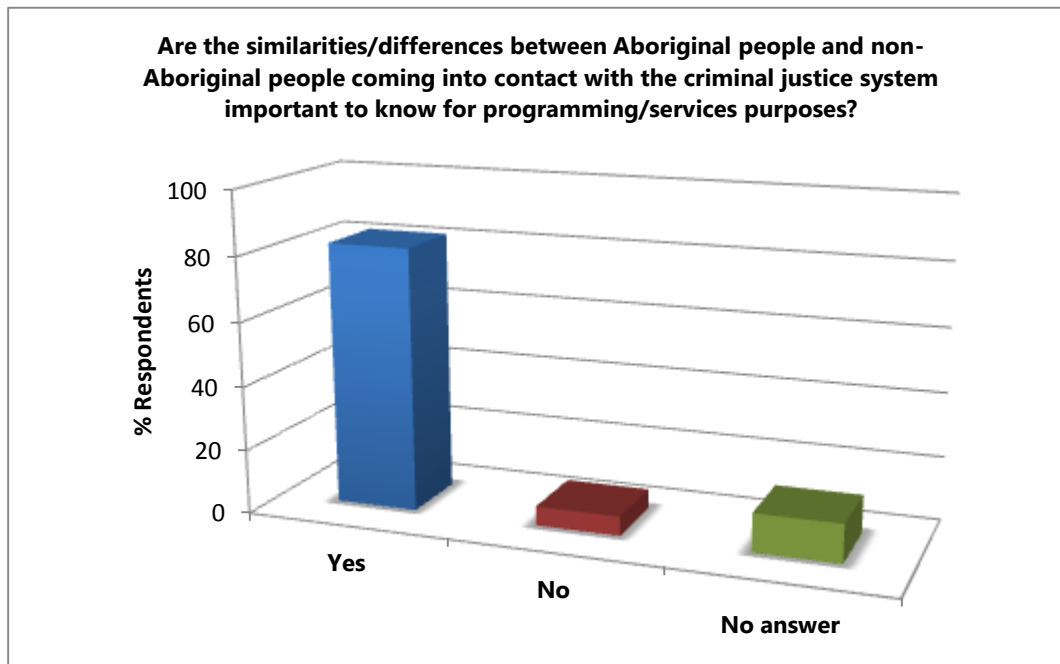
Similarities and differences between Aboriginal people and non-Aboriginal

It was often noted by the respondents (40%) that in terms of similarities; Aboriginal people and non-Aboriginal people coming into contact with the criminal justice system seem to have substance abuse problems, and have experienced family issues such as sexual abuse and domestic violence. It was also stated by 18% that there is a need for better services and assessment based on where the individual is from, 13% suggested that both Aboriginal people and non-Aboriginal people tend to reoffend and have family issues, while 8% claimed that both groups tend to lack knowledge of the system.

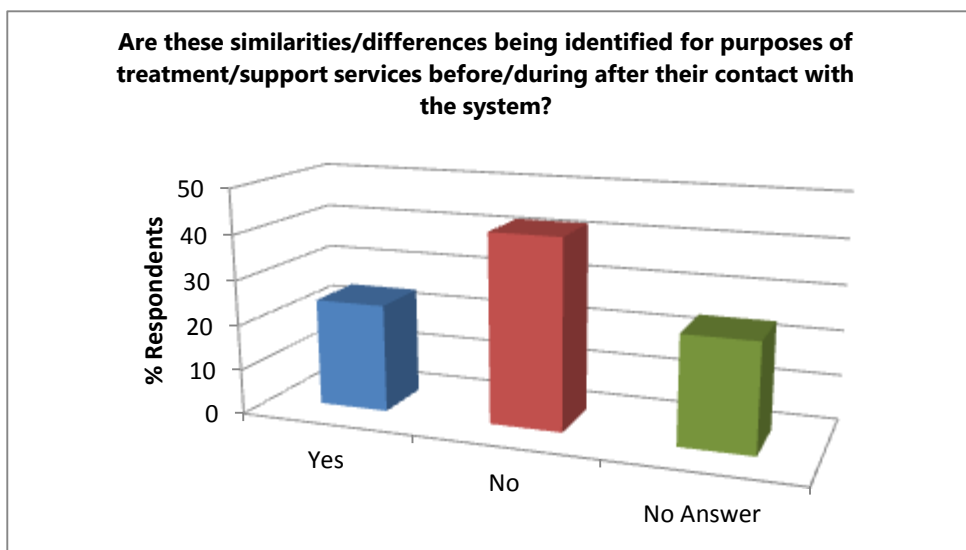
About 28% of the respondents outlined that the differences are usually related to cultural factors (specific to Aboriginal people); that Aboriginal people face more racism and have harsher sentences (20%). In addition, 15% related the differences to the fact that Aboriginal people more so lack an understanding of their rights and the judicial system, and 13% claimed that urban Aboriginal people lack access to services in the city and experience major mental health problems in relation to residential schools.

The majority (82%) of respondents stated that identifying these similarities and differences is important for programming/services purposes.

"Regardless of ethnicity, the individuals are psychologically wounded and frequently have drug and alcohol addictions."



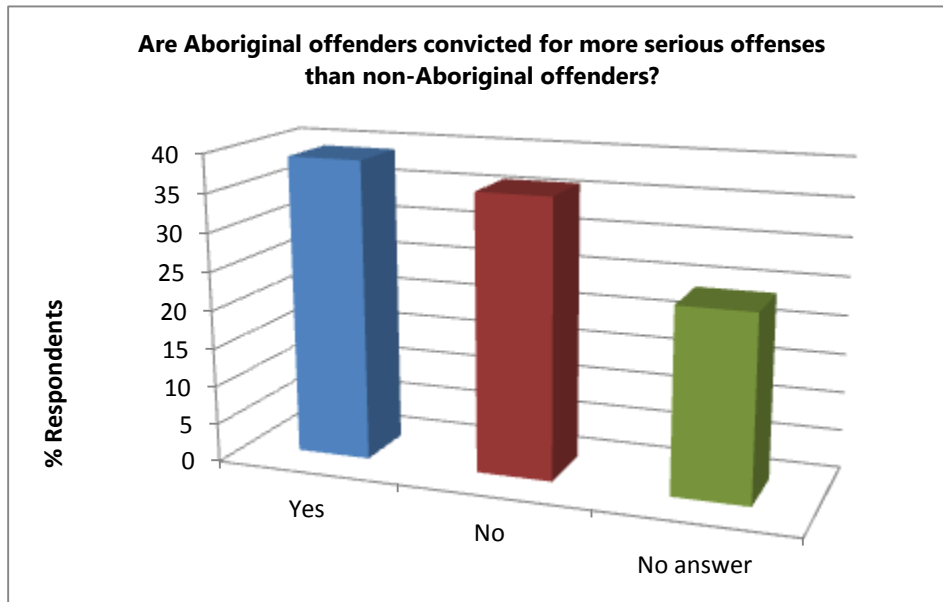
However, over 40% of the respondents expressed that the similarities and differences were in reality not being identified. Out of this group, 33% suggested that to improve the situation there could be a database with more accessible follow-ups of programs and services, and that there could be an assessment of the major issues (substance abuse, mental health) as a first step.



Offending

A little under one half suggested that the reasons for offending were related to poor living conditions of Aboriginal people in general (poverty, low educational attainment, unemployment, discrimination, broken families, lack of access to services and proper housing). According to these respondents, such factors lead to domestic and family violence issues, alcohol and drug abuse or addiction, and mental health problems.

Several respondents (39%) claimed that Aboriginal offenders are convicted for more serious crimes, while others (36%) disagreed. When asked how this could be improved, under half of the respondents stated that racial profiling and social problems would need to be addressed. For those individuals who responded differently (36%), there was consensus that it was difficult to tell as it changes across locations.



Discrimination and rights

Though not addressed in the questionnaire, many respondents (55%) discussed the issue of discrimination and racial profiling. There were also complaints of police brutality and taking advantage of those that did not know their rights (32% of the respondents).

Assessment and classification

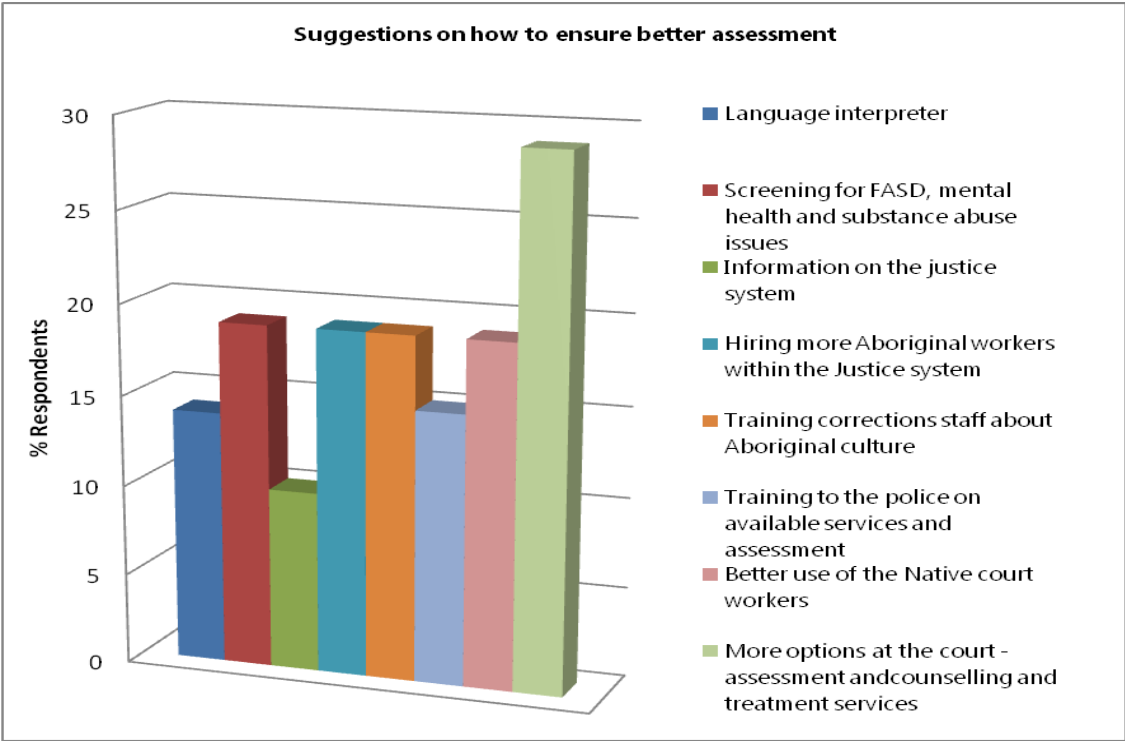
Under one half of the respondents (43%) expressed concern that there is no proper assessment of Aboriginal people who have been charged with a crime or have come into conflict with the law. At the same time, the respondents stated that the police do not provide referral to services or assessment.

Concerning the provincial system, 36% asserted that those entering the provincial system are not adequately assessed as their duration in a correctional facility is short [maximum of 6 months] or that they were assessed but there was no follow-up. At the federal level, offenders are assessed and classified at the start. Some respondents (14%) were weary that the questions posed in correctional facilities (i.e. if incarcerated previously what was it like before; what are your plans for the future; how will you solve your drinking problem) are not appropriate for Aboriginal people and reflect a cultural insensitivity as well as an ignorance to the underlying issues that Aboriginal people face, whereby a 'drinking problem' is often part of larger issues related to trauma.

In terms of classification, at the federal level Aboriginals are regularly classified as 'high risk' which suggests criminogenic needs. Most (69% of the respondents) claimed that

this classification is inappropriate as most Aboriginal offenders do not have criminal behaviour. In addition, it was outlined by some (31%) that the classification system compartmentalizes the offenders' needs and problems so much so that it does not address the broader and fundamental issues.

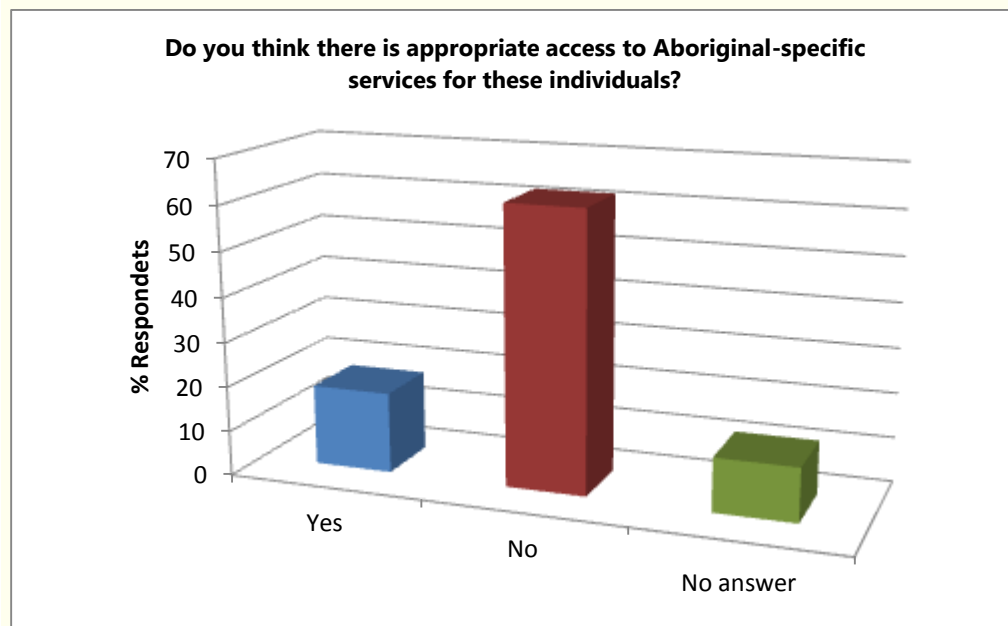
The respondents provided some suggestions on how to ensure better assessment; most (29%) called for information on the justice system, followed by 19% who recommended hiring more Aboriginal workers within the Justice system, training corrections staff about Aboriginal culture, better use of the Native court workers and screening for FASD, mental health and substance abuse issues. Other suggestions are outlined below.



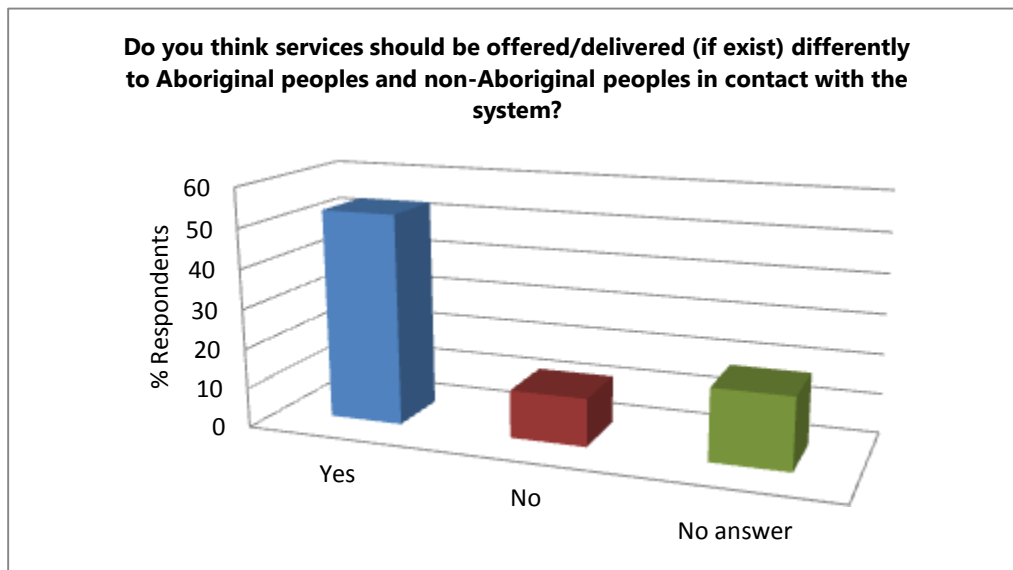
The need for Aboriginal-specific programming/services before/during/after contact

On the topic of how well Aboriginal people are serviced before, during and/or after entering the criminal justice system in terms of Aboriginal-specific programming/services, the majority of respondents (61%) claimed that they are not well serviced.

“The ideal way is to have accessible culturally appropriate services in Aboriginal approaches and languages.”

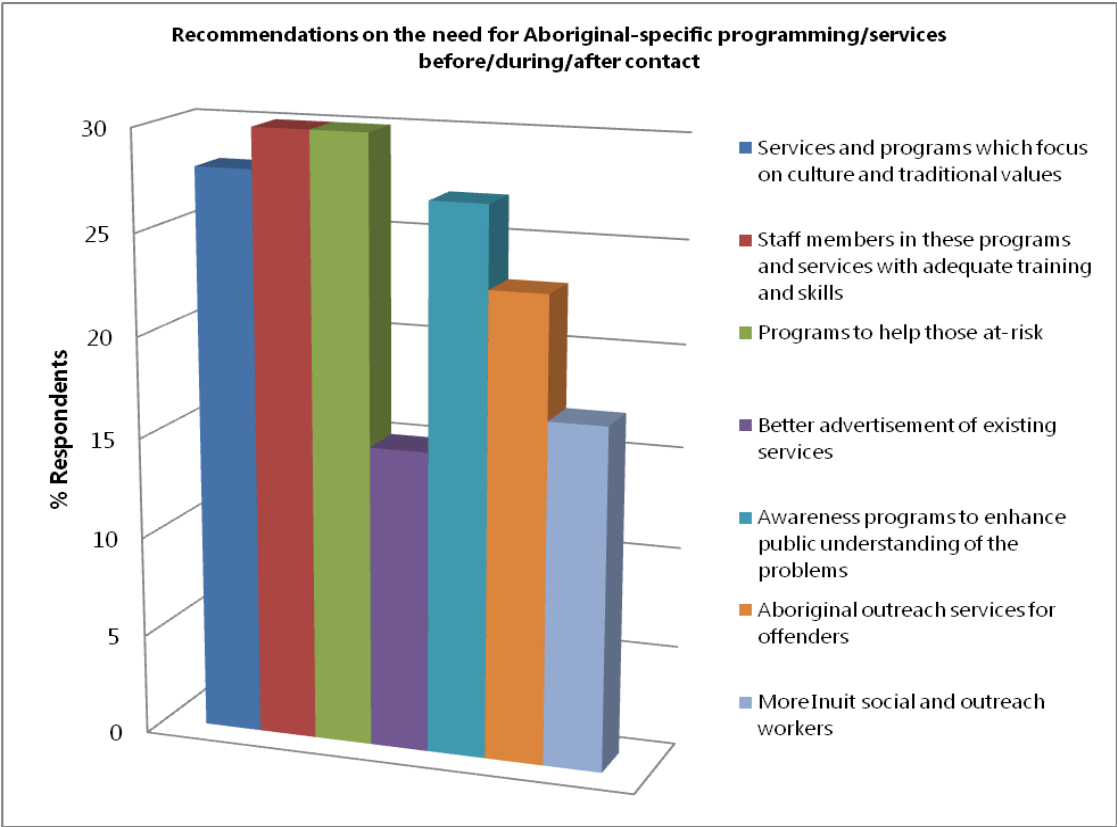


Over half of the respondents (52%) suggested that services should be offered and delivered differently to Aboriginal people and non-Aboriginal people in contact with the criminal justice system.



The most common reason (38% of the respondents) was related to language barriers, in which it was proposed that should be provided in the native language if needed. Moreover, there was discussion (35% of the respondents) on the foreign nature of the system for Aboriginal people, so providing more culturally appropriate services such as Elders and ceremonies would allow the individual to better relate and understand. There was a small number of respondents (22%) who claimed that there needs to be caution taken in dividing services as it leads to further isolation, and for those living in urban settings it does not reflect the reality of their lives.

In terms of recommendations, the majority (30%) recommended programs to help those at-risk, as well as that staff members in these programs have adequate training and appropriate skills. This was followed by the importance of services and programs which focus on culture and traditional values. Some others are outlined below.

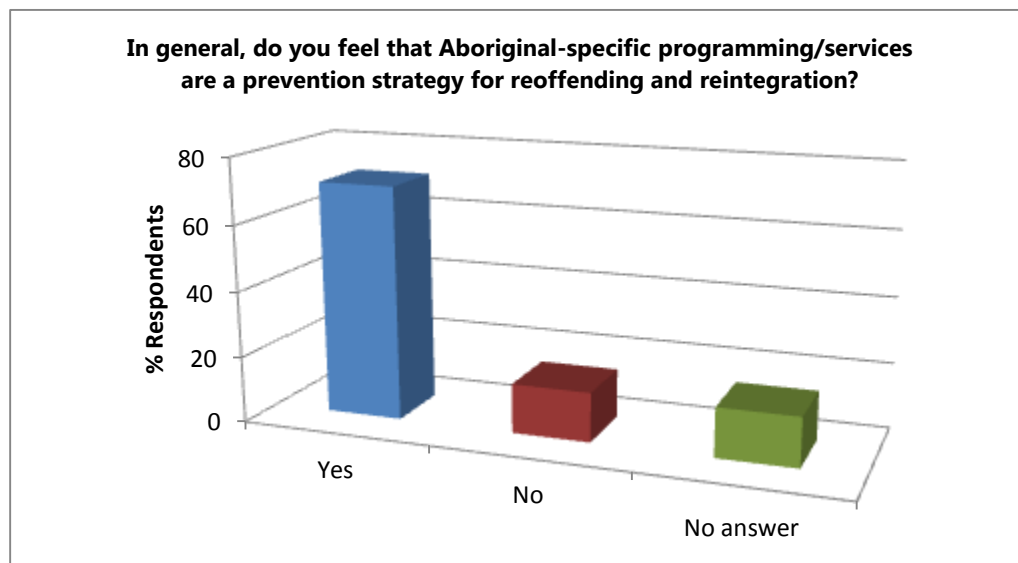


The role of prevention

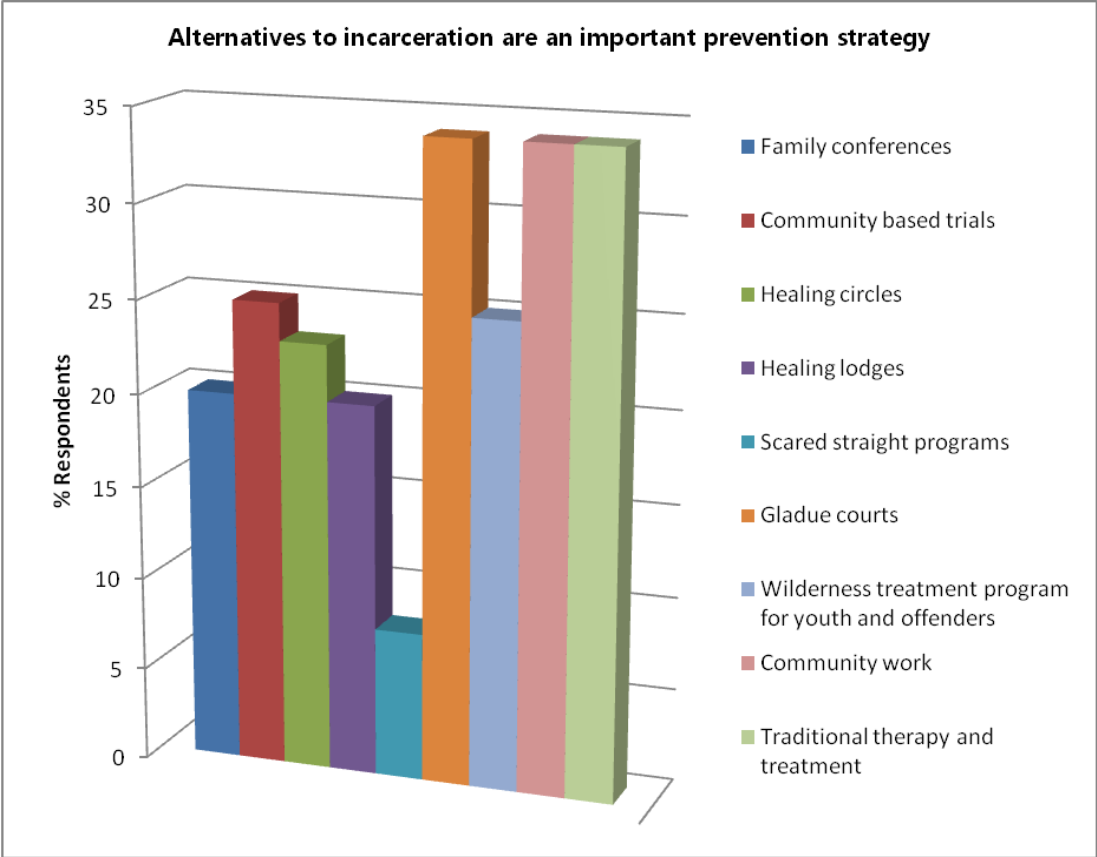
Prevention was highlighted at several points in each interview. Most respondents (55%) would often relate to the need for prevention as a means of addressing the unresolved issues that were leading to crime and violence, and advancing a negative cycle for many Aboriginal people in Montreal. Just under half of the respondents stated that there is a need for programs for at-risk Aboriginal men, women and youth, such as healing circles, trauma counselling and treatment, family, parenting and life skills training, job training, educational opportunities, resources and help for new arrivals to the city to prevent vulnerability, and positive behaviour development. Approximately 40% identified reintegration as crucial and that the urban community would need a strong justice committee to help with the integration process, if family and friends cannot provide that support.

In terms of factors that reduce reoffending for Aboriginal people, 35% stated that proper assessment and support systems are needed, as well as restorative/alternative justice. Roughly 24% suggested that information and education programs, and substance abuse treatment services [before, during, after] would be useful. Community oversight and participation [Elders, ceremonies] was also recommended by 15% of the respondents.

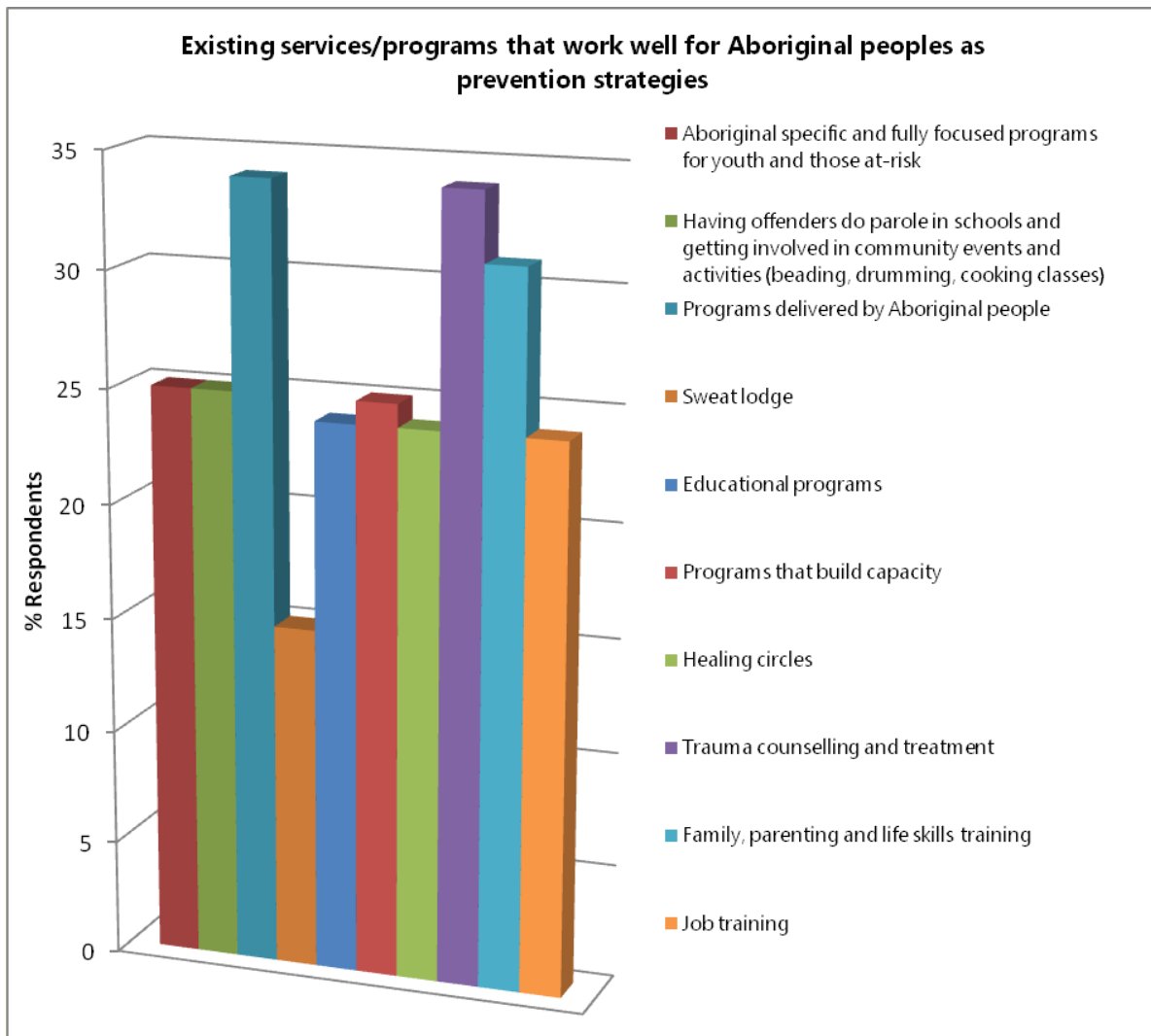
In general, half of the respondents felt that Aboriginal-specific programming/services are a prevention strategy for reoffending and reintegration.



The same number asserted that programs would have to be offered within the community as Aboriginal offenders would be less likely to reoffend if they are dependent on the community and culture, and feel they can easily access help. Respondents claimed that alternatives to incarceration are an important prevention strategy, and most (34%) recommended community work, traditional therapy and treatment, and Gladue courts. Additional alternatives are outlined below.



When asked about existing services/programs that work well for Aboriginal people as a prevention strategy, most respondents (34%) stated that programs delivered by Aboriginal people as well as trauma counselling and treatment were important. This was followed by family, parenting and life skills training (31%), and programs that build capacity, having offenders do parole in schools and getting involved in community events and activities (beading, drumming, cooking classes), and Aboriginal specific and fully focused programs for youth and those at-risk (25%), others are outlined below.



As police officers usually have the first contact with individuals coming into conflict with law, they essentially can play an important prevention role. Several respondents (35%) recommended that there should be training for police officers on the available services (i.e. judicial supports, social services, treatment) and to create closer links between them and Aboriginal organizations. In this sense, the police will gain the ability to a) refer Aboriginal people to available resources, and to b) prevent arresting, detaining or fining

Aboriginal people in order to reduce the cycle of violence. A few respondents (10%) stated that the police must more so follow the obligation under the law to ask if a person [detained or arrested] is Aboriginal. This act is important as it is an interpretation of the constitutional right to counsel under section 10(b) of the Canadian Charter of Rights Decisions Digest. This is particularly important for an Aboriginal person who has a right to access Aboriginal counselling services and a Native court worker.

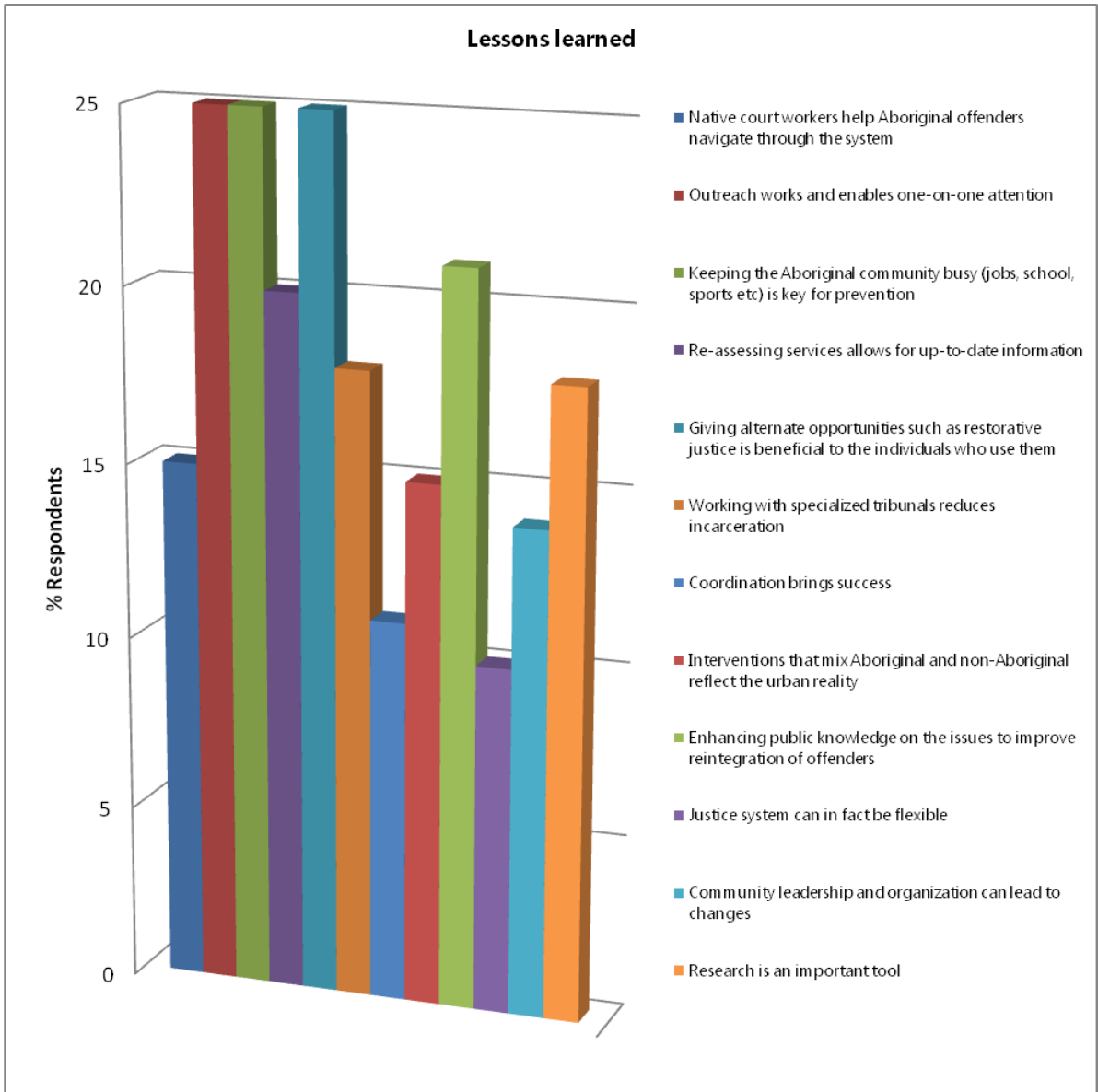
A few final comments were made regarding prevention. Certain respondents (36%) addressed the need to work with the communities outside of Montreal to ensure that those coming to the city have access to information on available services and resources, and have support when they arrive to avoid victimization. Further, several respondents (47%) suggested in some way it has become evident that justice is a social issue, and not a legal issue.

Lessons learned

It was suggested (47% of the respondents) that there needs to be a common vision of Aboriginal justice for the Montreal community so to determine priorities and build an action plan. This could be done through the creation of a justice committee, or transformation of the existing committee, that acts as a reference and link to the criminal justice system in place, as well as setting up a Justice Commission within the Assembly of First Nations of Quebec and Labrador to ensure links with the communities (5% of the respondents).

Some valuable lessons learned over the years were provided, whereby the majority of the respondents (25%) proposed: outreach works and enables one-on-one attention; keeping the Aboriginal community busy (jobs, school, sports etc) is key for prevention; and giving alternate opportunities such as restorative justice is beneficial to the individuals who use them, some other lessons are outlined below.

Improving socio-economic conditions of Aboriginal peoples, providing youth with prevention programs and simultaneously educating the non-Aboriginal population.



2. Results - Aboriginal people who have been in contact with the criminal justice system and/or police services

Characteristics of the respondents (see Annex VII)

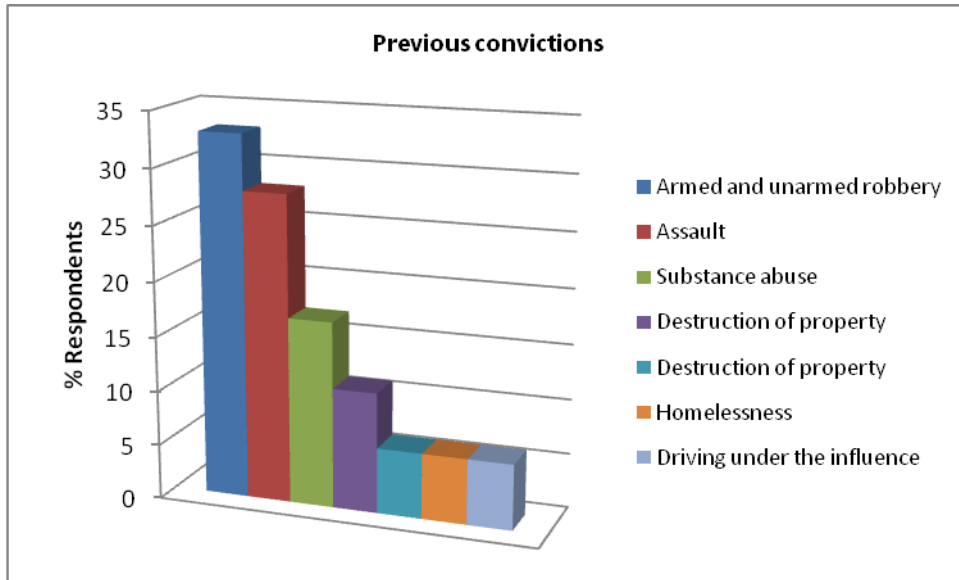
The majority of the respondents (33%) who had contact with the criminal justice system and/or the police services were 44 years and older. Most were female (67%), identified themselves as Mohawk (22%), mainly spoke English (61%) and live in Montreal (89%). The respondents (61%) tended to have family in Montreal. Most (33%) claimed that they had spent most of their life in a city, followed by an Aboriginal community (i.e. reserve) (28%). Interestingly, a large number were employed (56%), while 44% were unemployed. Below one half of the respondents had up to secondary school as the level of education (44%), 22% had finished primary school, and only 17% had a university degree. In addition, half of the respondents were adopted or placed in foster care.

Offending

Only 39% of the respondents were currently charged with a criminal offence; primarily for alcohol-related issues, followed by assault, theft (major and minor) and trafficking/solicitation. A minority (22%) were not on probation order or conditional sentence. Out of those individuals, they had been charged for escaping prison, murder or organized crime activities. For those in the process of a conviction, most (28%) had been acquitted or had been released from a correctional facility and were on parole (22%). For those who were on probation (17%), half stated that they were not provided any planned programs or support to obey the conditions.

A high number of respondents had first come into contact with the system due to homelessness and substance abuse problems. Approximately 67% of the respondents had been in contact with the system before the age of 20, and 22% before the age of 15.

Most (56%) had a previous conviction - 28% had less than 5 convictions and 22% had over 5 convictions, whereby these were usually for different offences. Other offences are outlined below.



Those with previous convictions stated that the reason for their numerous offences was related to poverty (18%), addiction (17%), and homelessness, family issues or social problems (11%). Most (59%) claimed that their convictions were related to anger/violence problems, and/or were drug or alcohol related (67%). Over one half (56%) of these respondents claimed to have received help, treatment or support.

Roughly 72% of the respondents had been incarcerated and about 39% had served their sentence in a federal institution, while 33% had served it in a youth facility or in a provincial institution (28%). Respondents who had been detained before sentencing were mainly held for several hours in a police office (28%).

Discrimination and rights

Though not addressed in the questionnaire, the respondents (45%) discussed the issue of discrimination and racial profiling. They felt that due to their status as an Aboriginal person the police were more likely to fine, arrest or detain them even if they were not a threat to society or doing anything against the law.

Processes experienced by those in conflict with the law

Several respondents (33%) claimed that they appreciated having a Native court worker as it helped them better understand the processes and feel more confident, and some assisted in helping them seek some form of treatment. Oftentimes (51%) they felt that the judicial system was foreign, intimidating and discriminatory towards Aboriginal people. Certain respondents explained (41%) that they did not understand the system.

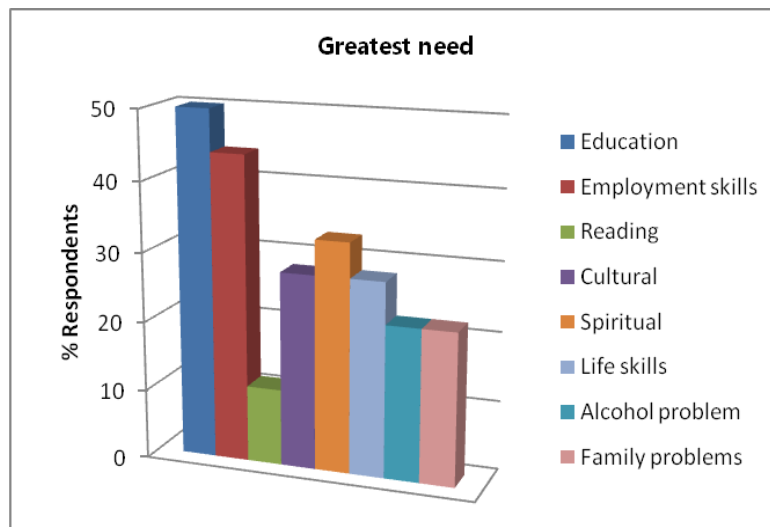
Provision, availability, accessibility, appropriateness and quality of services and programs before, during and after contact

About 31% recommended more options at the court - better access to resources, and counselling and treatment services. Most of these respondents (52%) addressed the 'criminalization of poverty' as they had a series of fines they could not pay (fine default) due to being homeless or were at risk of being homeless, and thus were detained or incarcerated.

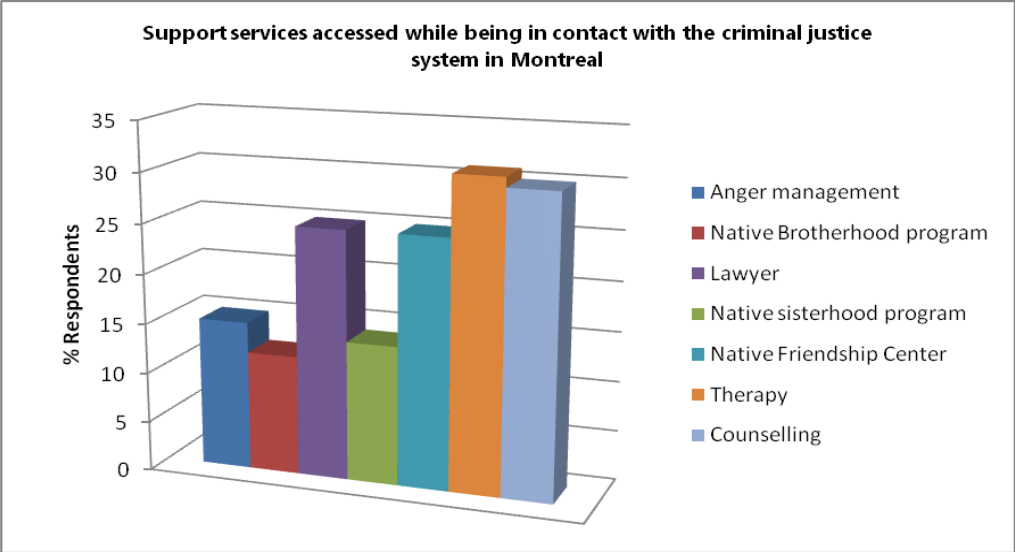
Respondents who had been in a provincial correctional facility claimed that they were either not offered any services, the services available were not in the appropriate language (offered in French only), or they were non-Aboriginal focused. Further, after release - treatment programs were too short (usually 6 weeks) of a period, did not help them in the long-run, and did not prevent reoffending. In addition, some (34%) felt that as the rehabilitative services offered by the Montreal community were mainly non-Aboriginal, they felt uncomfortable and did not attend or continue. However, 31% of the respondents explained that there were some good non-Aboriginal and Aboriginal treatment centers, but again the period of treatment was too short.

The need for Aboriginal-specific programming/services before/during/after contact

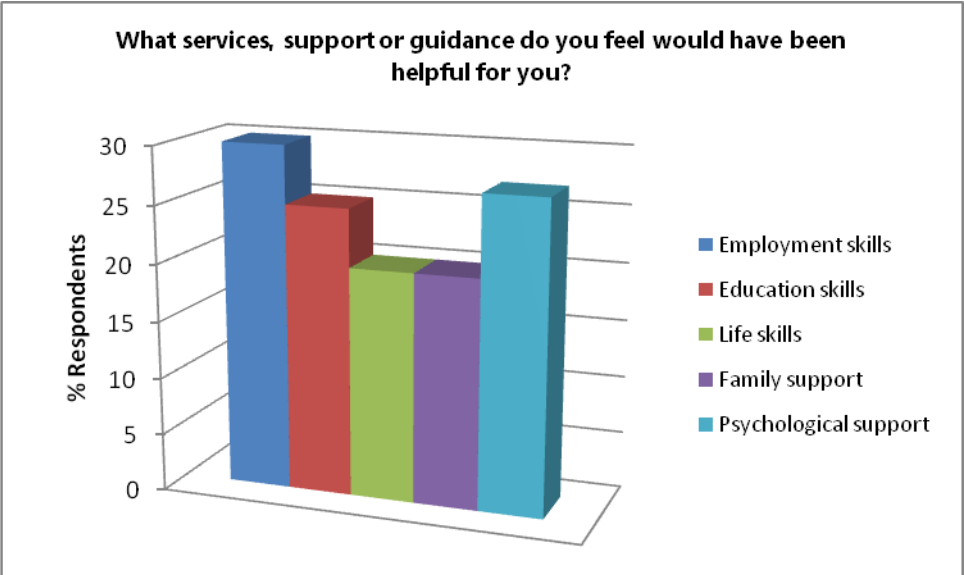
Most respondents suggested that their greatest needs were education (50%) and employment skills (44%). Additional suggestions are outlined below.



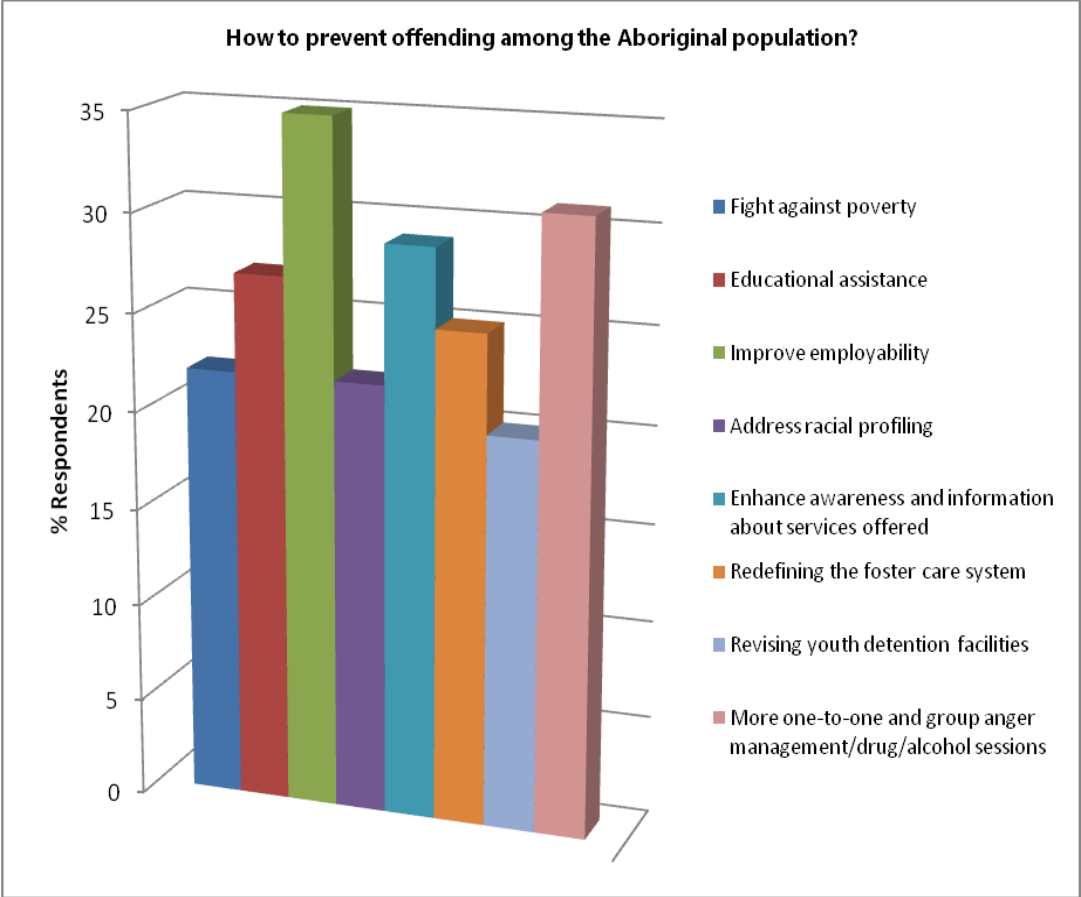
The majority (61%) asserted that their needs had been assessed, however the assessment suggested that their greatest need was treatment/therapy. Under half had received support services while being in contact with the system, mainly after trial. The support services listed below were accessed by the respondents in Montreal, Kahnawake or a detention centre.



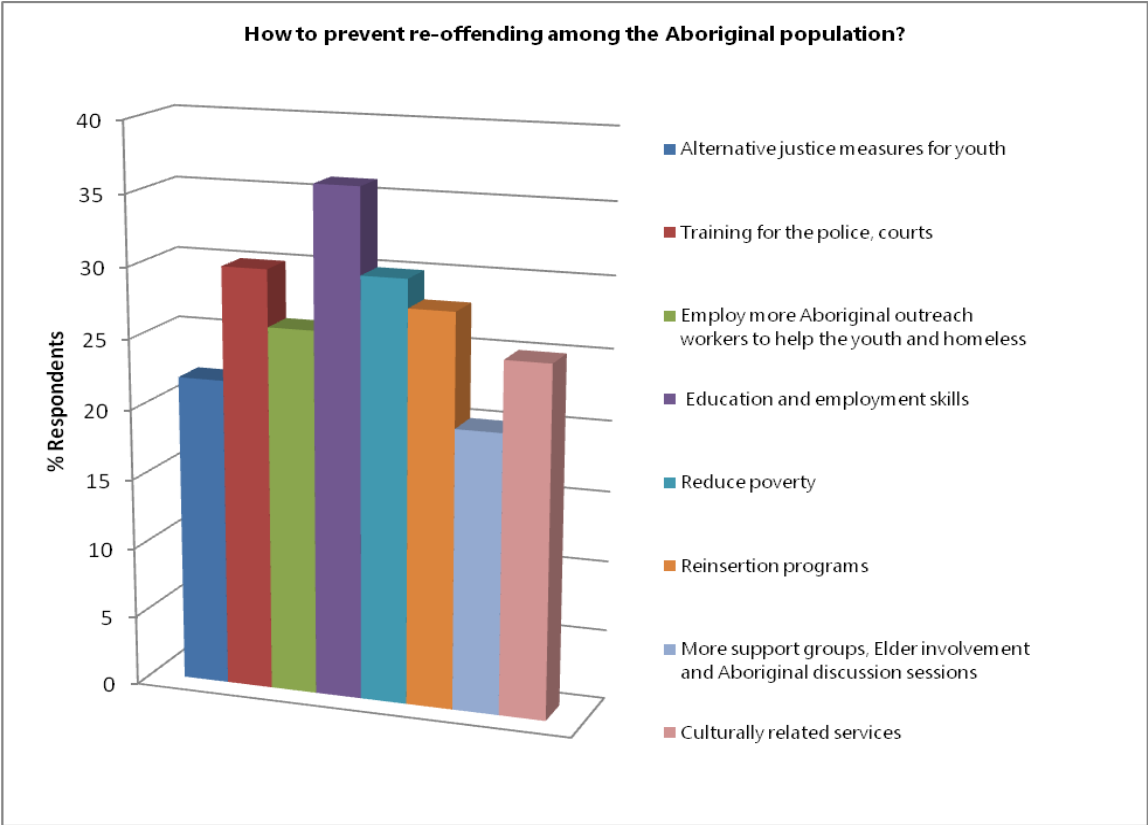
Out of 44%, 22% claimed that the support services they accessed were Aboriginal-specific, which suggested that an Aboriginal person provided the service. Most (66%) were not satisfied with the service they received as it was short and did not offer them much. Therefore, the respondents highlighted some recommendations such as long-term transitional support upon release (44%). Some other recommendations are provided below.



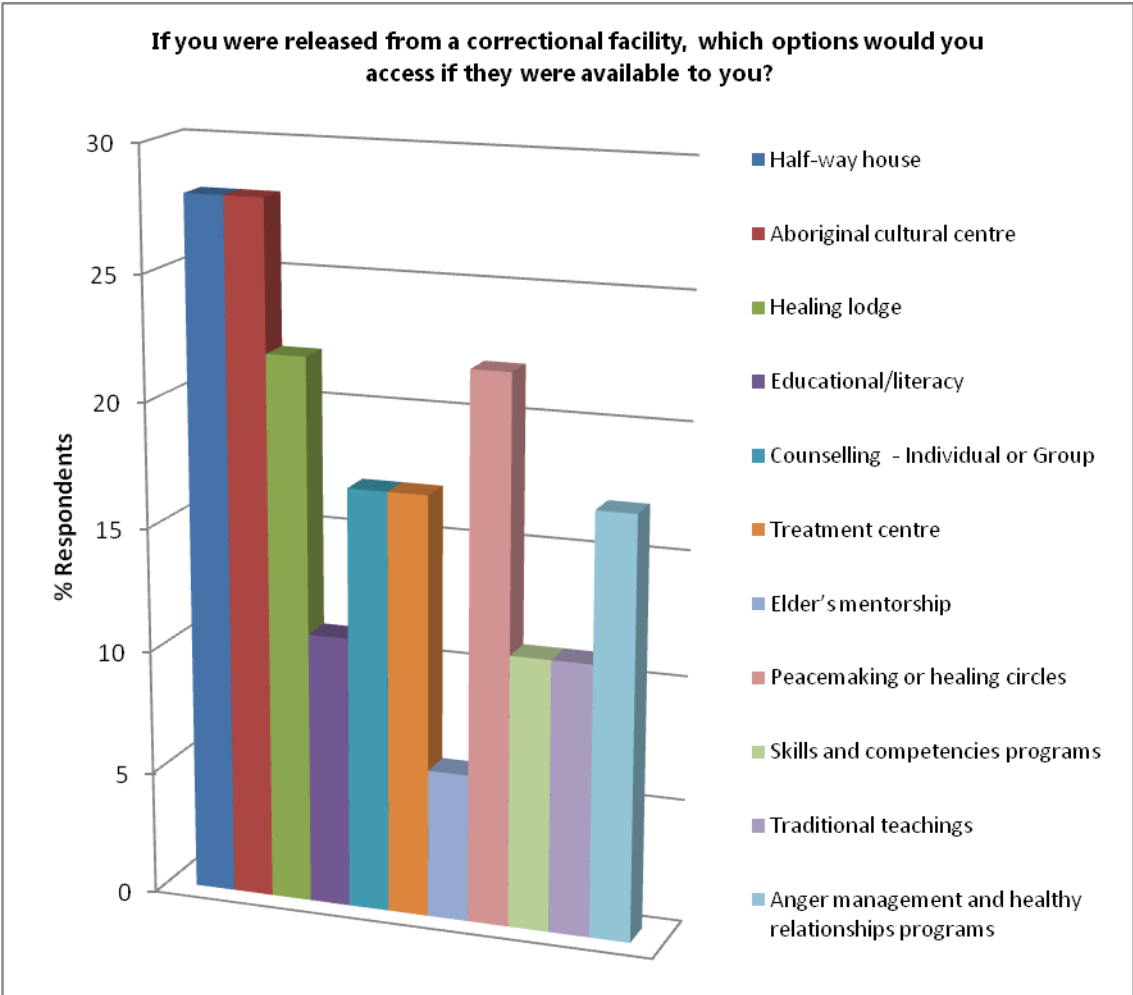
The respondents offered some ideas on how to prevent offending among the Aboriginal population. Several respondents proposed improving employability (35%) or offering more one-to-one assistance (31%). Other suggestions are provided below.



As for preventing reoffending, the respondents for the most part suggested building capacity through education and employment skills (36%), as well as providing training for the police and courts, and implementing strategies to reduce poverty (30%). Additional suggestions are outlined below.



On the issue of which services an offender would access if they were available, most respondents (28%) suggested that they would probably access a half-way house and/or an Aboriginal cultural centre. Other options are provided below.



Recommendations from the interviews

The research results ultimately reveal that safety is a major issue for long-term and new Aboriginal residents in Montreal, which is being perpetuated by the significant lack of Aboriginal-focused services and programs available in the city. A series of targeted recommendations are provided below, which are essentially a summarized version of the results.

General – social issues

- To address two major problems:
 - i. To improve living conditions as a first step to dealing with the growing numbers of homeless Aboriginal people and those living in poverty;
 - ii. To enhance the well-being of Aboriginal people in the city – empowerment, building identity, understanding one’s rights, dealing with mental health issues.
- To attend to profiling and discrimination against Aboriginal people in Montreal;
- To improve the situation of Aboriginal children going into foster care;
- To spread awareness on the history and current issues facing Aboriginal people;
- To address the specific issues regarding the Inuit population in Montreal;

General – Justice

- To build a common vision of Aboriginal justice for the Montreal community (to mobilize the community);
- To address the criminalization of poverty [non-payment of fines leading to incarceration];
- To move away from the compartmentalization of criminal justice processes and develop a space for alternatives that embody a holistic approach, flexibility and long-term vision:
 - i. To develop an urban multi-purpose centre/Aboriginal cultural centre that offers various integrated services and support for Aboriginal people in general (centralized treatment and counselling services for offenders and ex-offenders, prevention initiatives, parenting programs).
- To address the growing urbanization of Aboriginal people and improve communication with the police and judicial system -> To integrate urban

Aboriginal community involvement in the courts, corrections services and Aboriginal community development initiatives⁶⁴, and transitional / reintegration processes. This could be in part achieved in Montreal by:

- i. To set up a Montreal Aboriginal Justice Committee that acts as a link of communication and a body of agency for Aboriginal people who have been in contact with the police or charged with a crime, for police services, judges and lawyers; to centralize efforts to assist those in contact with the system;
 - ii. To create a Justice Commission within the Assembly of First Nations of Quebec and Labrador.
- To engage in research to collect data from the courts, correctional services and shelters in order to have a better picture/concrete idea of the situation in Montreal.

Similarities and differences between Aboriginal and non-Aboriginal

- To identify similarities and differences for programming/services purposes;
- To ensure that some key differences are being recognized: language barriers, mental health issues (trauma), FASD, long term substance abuse and addiction, anger management.

Assessment and classification

- To carry out proper assessment of Aboriginal people who have come into contact with the police, at the court, while serving a sentence and/or after release/termination of the sentence;
- To assess Aboriginal people for FASD, mental health problems, addictions.

Aboriginal-specific programming/services before/during/after contact

- To offer more culturally appropriate programming/services before/during/after contact with the system:
 - i. Mental health and substance abuse (traditional) treatment, Elders, ceremony, healing circles, community work.
- To train/employ more Aboriginal street/social workers;
- To develop specialized programs for Aboriginal people living in urban areas.

⁶⁴ Highlighted in CSC's *Strategic Plan for Aboriginal Corrections, Innovation, Learning & Adjustment 2006-7 & 2010-11*.

Before

- To empower by providing information on the legal processes and options;
- To provide more options at court - better access to resources (Native court worker), and counselling and treatment services, as well as diversion programs.

During

- To train/employ Aboriginal staff to work within the judicial system;
- To have more Aboriginal outreach services for offenders who can also provide follow-ups;
- To provide language interpreters;
- To ensure cultural and spiritual relevancy as the foundation of programs and services, and for training staff in correctional facilities;
- To explore possibilities of developing alternative forms of justice and diversion programs – Gladue court and reports, healing lodges, Aboriginal sentencing and drug courts.

After

- To enhance culturally appropriate transitional support and extend services for those leaving detention/correctional facilities:
 - i. Harm reduction: To offer long term treatment/counselling, job skills training, housing, employment, educational opportunities, access to social services;
- To build a stronger awareness and sensitivity for reintegration into the larger society;
- To reassess services and programs, and keep up-to-date information.

Prevention

- To advocate for prevention so to avoid incarceration and reoffending;
- To work more closely with the communities outside of Montreal:
 - i. To provide more resources and services for Aboriginal people on their way to Montreal (airport, bus terminal) and in their communities to enhance awareness of their vulnerabilities and offer information on available services;

- ii. To build links with the Assembly of First Nations of Quebec and Labrador, Makivik, etc. (provincial Aboriginal organizations) to ensure engagement with the communities.
- To work with the police as a prevention strategy – training on the history and current issues facing Aboriginal people and on available resources and services in Montreal as a means of preventing fines, arrest and incarceration:
 - i. To provide the training to court workers, criminal defence lawyers, prosecutors and judges, and to enhance relations with Native court workers.
- To create prevention programs that aim to: a) help families and children in order to prevent foster care, poverty and conflict with the law later on in life; b) assist those at-risk [especially youth] through treatment and counselling, and projects geared at learning languages (French, English), capacity building, job skills development and finding a job, education, and improving self-esteem; and c) offer culturally appropriate teachings on responsibility, consequences and responsibility on substance abuse and breaking the law.

Lessons learned

- The importance and effectiveness of outreach and Native court workers, which both enable one-on-one attention;
- Centralized and coordinated effort is a means to success;
- Keeping the Aboriginal community busy (jobs, school, sports) is key to prevention;
- Re-assessing services and programs;
- Giving alternate opportunities, such as restorative justice, is beneficial to the individuals who use them;
- Interventions that mix Aboriginal and non-Aboriginal are crucial as they reflect the urban reality;
- Enhancing public knowledge on the issues which leads to better reintegration of offenders;
- Identifying the flexibility of justice system and building community leadership are essential for change;
- The role of research in mobilizing and promoting small scale to large scale improvements.

1. Limitations of the research

The research project faced several limitations. The most evident limitation was the condensed period of time to conduct the research. This shortened timeline was considered in the project. It unfortunately did not allow for more interviews as well as access to other data sources (Ministry of Public Security, municipal courts and Correctional Services - Quebec) which may have provided better analysis of the issue. In addition, there were limitations to the interviews since the nature of interviews with stakeholders that follow an open-ended format must be taken into consideration as well as the fact that the respondent may not necessarily cooperate fully when answering the questions (Yin 2003: 72). There is also the potential for error and bias by the interviewer, whose characteristic questioning techniques may obstruct proper communication of the question (Fontana & Frey 2005: 702). Further, it was noted that qualitative analysis of the interviews provides the opportunity for interpretation from the orientation of the researchers.

2. Rethinking the hypotheses

The research findings are highly reflective of the discussions in the existing literature. In this sense, there is a strong aversion to the criminal justice system, and the findings show that there is preference for alternative measures and prevention strategies to avoid interaction with the system altogether. The system was seen as punitive and unable to improve the situation affecting Aboriginal people. Moreover, there was a dominant interest in increasing the responsibility and resources of the Aboriginal community in order to deal with the challenges. At the same time, there was consensus on the significant lack of appropriate services and programming for Aboriginal people before, during and after contact, and also that existing services need reassessment. Therefore, the hypothesis "high offending and recidivism rates among Aboriginal populations are related to the over-reliance on the use of imprisonment which is compounded with the lack of appropriate services and programming for Aboriginal people", was not necessarily proved. Instead it appears that there are two situations occurring simultaneously: high offending and recidivism/reoffending rates among Aboriginal populations are related to the over-reliance on the use of imprisonment; and there is a lack of appropriate services and programming for Aboriginal people which in turn perpetuates offending and reoffending. The research also brought this hypothesis to another level as there was recognition for rethinking about the formalization of programming and the conceptualization of "Aboriginal programming/services".

The link between underlying issues and high rates of offending and reoffending was oftentimes outlined in the interviews, as well as the recognition that Aboriginal people are more so vulnerable. The hypothesis "high offending and recidivism/reoffending

rates among Aboriginal populations are related to the lack of a targeted prevention approach, considering that more of the Aboriginal than the non-Aboriginal population fall into the socioeconomic group most vulnerable to involvement in the criminal justice system” was verified. In addition, the need for prevention as an approach and strategy to deal with the challenges was addressed and very much present in the recommendations.

Recommendations from the literature

The recommendations from the literature review mainly focus on Canada in order to provide easily transferable and adaptable practices for Montreal and Quebec, yet international initiatives are also provided (Annex IX). It is interesting to note that throughout the years, the recommendations have been similar perhaps showing that there is a growing concern that the strategies in place are inappropriate, ignore the underlying issues, and are in fact perpetuating the cycle of incarceration of Aboriginal people. In the same sense, there is a deeper apprehension that there is an *aboriginalization* of the criminal justice system which necessitates a complete reassessment of the way the system functions, how it assesses and classifies Aboriginal offenders, what it serves to achieve, and why there has been little to no improvement. Despite the challenges, there are many promising initiatives across Canada and internationally developed by and for Aboriginal people, which can be of use for Montreal and Quebec.

Box 11 – Summarizing the recommendations from Section “Reviewing the literature – exploring the research hypotheses”

- Ensure a different kind of justice which does not use the criminal justice system to deal with social problems;
- Change the philosophy about alternatives to incarceration;
- Prohibit the use of incarceration for certain offences;
- Build understanding of the offender’s needs;
- Adapt the needs with institutional programming and community resources;
- Emphasize community corrections as a re-integrative tool;
- Deal with discriminatory attitudes toward Aboriginal offenders;
- Training for corrections staff;
- Offer some services in different languages or provide access to an interpreter;
- Address the racialization of classification and assessment tools;
- Offer more Aboriginal-specific programming and services for those coming into contact with the criminal justice system in urban areas;
- Develop an integrated network of services across urban Aboriginal organizations;
- Institute an integrated structure within CSC for urban Aboriginal offenders;

- Conduct more research on urban Aboriginal offenders;
- Develop objective and comprehensive evaluations and do constant monitoring of services;
- Expand rehabilitative programming and transitional service to support reintegration (employment, education, treatment);
- Recognize ongoing inconsistency in the use of section 84 - limited use of legislative provisions;
- Rethink the formalization of programming and conception of 'Aboriginal programming';
- Focus on prevention as an approach;
- Develop programs for family and domestic violence, and anger management, initiatives for drug and alcohol treatment, and youth crime prevention programs;
- Move towards prevention and providing cultural programming to Aboriginal communities;

Sources: Brassard et al. (2011); La Prairie (1996); Martel et al. (2011); Thérèse Lajeunesse & Associates Ltd. (1994); PSC (1998); Kennedy (2000); Mann (2009); CSC (2006-7 & 2010-11); Linden (2001); Dickson-Gilmore & La Prairie (2005); Monchalin (2012); Trevethan (2003); La Prairie & Stenning (2003).

General reforms and changes

The Aboriginal Justice Implementation Commission was created in 1988 by the Manitoba government in response to two incidents regarding Aboriginal victims. The Commission provided a series of recommendations on the relationship between the administration of justice and Aboriginal people of Manitoba. Though the recommendations extend back two decades and were specific for Manitoba, they are still relevant for today's situation, especially for Montreal and other areas of Quebec. The recommendations selected (Box 12) are based on what has worked in Manitoba to reduce and prevent Aboriginal offending and reoffending: the development of Aboriginal courts and justice systems; Aboriginal policing services or Aboriginal police officers; and court processes and dispositions.

Other key elements outlined in the report that could be useful for Montreal include: addressing the criminalization of poverty (Box 13); removing dependence on the use of incarceration and strengthening of (urban) community sanctions and reconciliation programs; ensuring the diversion and alternative measures to keep young people out of the courts and establishing Aboriginal youth justice committees, and setting up an Aboriginal Justice Commission to report to the government, judicial system, police, and to monitor implementation and progress of initiatives;

establishing proper measures to produce more Aboriginal lawyers; setting up mechanisms to ensure Aboriginal people in contact with the justice system have access to all information regarding their rights, the processes and procedures; and developing and implementing a data collection system to provide detailed information to analyze, compare, explore impact on and treatment of Aboriginal persons by the justice system and evaluate success of programs dealing with offenders.

Box 12 - The Aboriginal Justice Implementation Commission

Aboriginal justice systems

- Consider the establishment of local or regional Aboriginal justice systems;
- Enact legislation that recognizes the right of Aboriginal people to establish their own justice systems and recognizes their jurisdiction and authority to enact their own laws.

Policing

- Make provincial grants for the cities and beyond for police services conditional upon employment equity programs for hiring Aboriginal personnel;
- In conjunction with Aboriginal communities, create a provincial Aboriginal Police Commission and Commissioner to develop standards for all aspects of Aboriginal policing.

Court processes, court dispositions

- Amend legislation to remove the authority of judges or magistrates to impose incarceration for failure to pay fines, except where the individual wilfully refuses to do so after a show cause hearing;
- Abolish the Fine Option Program;
- Gather statistical information on an ongoing basis on the impacts of particular sentences so that a judge can be provided with a report on the results of a particular sentence, and the judiciary at large can see the effectiveness of various types of sentences.

Source: <http://www.ajic.mb.ca/volumel/toc.html>

Box 13 – Preventing the criminalization of poverty

Building Better Relationships between Police and Youth: The Kelowna R.E.S.P.E.C.T. Program

Many groups believe that the negative relationship that exists between youth and police services can be positively transformed through alternative means. One example is the R.E.S.P.E.C.T. (Recognizing Every Strategy Promoting Excellent Community Trust) program. This is a partnership between the Regional District of Central Okanagan (Parks & Recreation and Crime Prevention), the RCMP and the Westside Youth Centre. A main objective is to strengthen the relationship between youth and the police through “positive tickets” (coupons). The RCMP will hand out “positive tickets” to any youth they see who are not engaged in any negative or destructive behaviour. The approach is based on the recognition of the positive potential and actual contributions of youth.

Addressing the Roots of By-law Infractions: The Need for Social Housing

Montreal can benefit from the approaches taken by Canada's other large urban centers, such as Toronto. The City of Toronto's policies and practices regarding the issue of youth homelessness have been directed towards encouraging youth to access the network of existing street youth services and discourage them from living outside of the shelter system. The "Streets to Homes" program uses a 'housing first' approach to move young people from the streets directly into housing. It is an integrated preventive approach which offers affordable housing for youth and has joint efforts by the health/mental health sectors, the education system, corrections and child welfare services to assist the prevention of homelessness.

Source: Douglas (2011), p.61-3.

Since 1993, the Aboriginal Justice Initiatives unit offers support to the Alberta Solicitor General and Public Security and Justice divisions concerning Aboriginal justice issues. It aims to coordinate all initiatives related to Aboriginal justice in Alberta and fully integrate Aboriginal communities as key players at all levels of justice system. The unit published a resource document outlining the ways in which Aboriginal communities work and engage with the various components of the justice system, such as Crown Prosecutor initiatives, court services, community initiatives, and First Nation policing and law enforcement initiatives. Some interesting and relevant initiatives for Montreal and Quebec are outlined in Box 14.

Box 14 – Aboriginal Justice Initiatives in Alberta

Aboriginal Liaison Crown Prosecutor Program

The role of the Aboriginal Liaison Crown prosecutor is to develop relationships and work with local First Nations and Métis communities to identify local criminal justice needs, to participate in developing community-based Aboriginal justice initiatives and to act as a resource to other Crown prosecutors on Aboriginal justice issues.

Cultural training for Crown Prosecutors

Crown Prosecutors receive Aboriginal cultural awareness training and visit various sites. They can also receive an advanced Aboriginal training component specifically designed to meet the working needs of Crown prosecutors involved with Aboriginal witnesses or accused.

Aboriginal Justice Committee

The justice committee acts as a sentencing resource that augments pre-disposition or pre-sentence reports by identifying cultural and social resources available at the Reserve. It also assists the probation officer in monitoring the probation of some offenders, and in providing the court with community reviews of the probationer's compliance. There is also a *Native Youth Justice Committee*.

Piikani Family Violence Initiative

The initiative involves the implementation of a specialized domestic violence court. The program provides support and services to victims of domestic violence and attempts to "fast-track" these cases through the courts. It aims to hold offenders accountable for their actions and aims to address the root causes of family violence through formalized offender treatment programming.

Métis Settlements General Council Justice program

The program provides support to communities to establish justice committees, operate youth and adult diversion programs, and to further alternative programs for community members. Justice committees, involving Elders and community members, use mediation and family group conferencing to address criminal, family and civil matters. It strengthens traditional justice values and traditional approaches to practicing justice in the community and support community wellness. The program also provides conflict resolution and communication skills.

Source: Aboriginal Justice Programs and Initiatives (Alberta Justice and Attorney General and Alberta Solicitor General and Public Security 2006)

Box 15 – Reintegration, employment and the role of the private sector

Successful reintegration of offenders into society requires community acceptance, support, involvement, and opportunities for offenders to be productive citizens. One important part is the need for employment, which integrates the private sector as an important actor to contribute to the safety and welfare of communities (ICPC 2011):

- *CORCAN*, a special operating agency established by CSC to foster inmate employment, has developed a number of private sector partnerships with Aboriginal businesses to employ and train offenders, including Aboriginal offenders. For example, female offenders are being trained to develop websites for Aboriginal companies seeking business opportunities with the federal government.
- The *Work Placement Scheme* was developed out of from the Boys from the Bush Program in Australia. This initiative shows that Aboriginal youth in conflict with the law can take up employment and cope with the demands of mainstream private sector employment in spite of intergenerational welfare dependency. The initiative created partnerships with private firms.
- Based in New York (U.S.), the *Center for Employment Opportunities (CEO) Prisoner Re-entry Program* is a partnership between the government and local private sector. Participants are placed in paid transitional jobs; they are supervised by CEO staff and receive a range of supports. Once participants show good performance, they receive help finding a permanent job and additional support after placement.
- *Regresso Project* (Offender Re-entry Project) is based in Brazil. The project aims to create jobs in firms for former prisoners, and to provide professional and other training by institutions within the Minas Gerais Federation of Industries. Firms are called upon to set aside at least one job to former inmates. In exchange, the firms receive quarterly payments equivalent to two minimum wages for two years, for each such employee hired.

For more initiatives, see ICPC's *Public-Private Partnerships and Community Safety: Guide to Action* (2011): http://www.crime-prevention-intl.org/fileadmin/user_upload/Publications/Guide-Public-Private_Partnerships-FINAL.pdf

The role of prevention: The growth of prevention programs

According to the Community Well-Being⁶⁵ index (CWB) Aboriginal people have poorer outcomes of well-being than non-Aboriginal populations. The gap in well-being between urban and rural Aboriginal communities and urban and rural non-Aboriginal communities in the rest of Canada has widened since 1996 (Graham 2010).

In response to the discouraging realities facing Aboriginal people in Canada, promising crime and violence prevention practices focused on Aboriginal people have been evolving and growing over the last decade. Across Canada and in other countries such as New Zealand and Australia, prevention has been more so integrated into programs, intervention projects and research by academic, civil society, non-governmental organizations, and governmental agencies. Governments have been eager to fund prevention evidence-based initiatives as a means of finding solutions to the overrepresentation of Aboriginal people in correctional facilities and high rates of victimization (child abuse, domestic violence, youth violence, gangs). This has been supported through Public Safety Canada's National Crime Prevention Strategy (NCPS), launched in 1998 to assist communities in developing and implementing community-based solutions to problems that contribute to crime and victimization. There is a particular focus which includes First Nations, Métis and Inuit people⁶⁶. In 2003, a Policy on Crime Prevention through Social Development for First Nations, Métis and Inuit communities on and off Reserve was developed with national and provincial Aboriginal groups (ICPC 2006). The Strategy supports a number of crime prevention initiatives and one of its outputs is to "foster prevention in Aboriginal communities and in the North"⁶⁷. The Strategy has a strong focus on Northern and rural communities however NCPS supports urban-based projects (i.e. prevention of gang violence and involvement, youth at-risk). Another government-led support and implementation scheme is the First Nations Policing and Crime Prevention program. It is a component of the Crime Prevention and Public Safety Initiative (CCPSI) and an expansion of the National Strategy on Community Safety and Crime Prevention. The program supports First Nations police services and organizations in encouraging safer, healthier and more sustainable communities through crime prevention initiatives that address local crime and victimization issues (ICPC 2006). Within the National Strategy on Community Safety and Crime Prevention - the Aboriginal Community Corrections and Crime Prevention is

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Instead of relying only on a system which locks up Aboriginal people then delivers cultural programming, the focus should also be to deliver the programming before people end up in the correctional system in the first place (Monchalin 2012: 68).

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⁶⁵ See Graham (2010). 'Well-being' is defined by four components: education, labour force, housing and income

⁶⁶ Aboriginal people are considered a priority groups for the NCPS

⁶⁷ See <http://www.publicsafety.gc.ca/res/cp/res/fl/ssincps-amosnpc-eng.pdf>

a policy-driven component looking at prevention of reoffending across generations by working with Aboriginal offenders, their children and families⁶⁸.

Through its Aboriginal Justice Strategy, Justice Canada is an active player in promoting prevention and improving justice systems regarding Aboriginal communities across Canada. This is seen through two funds which the Strategy supports: Community-Based Justice Programs Fund; and the Capacity Building Fund. The Community-based fund provides support to “help reduce the rates of crime and incarceration...with cost-shared programs” and “allow Aboriginal people the opportunity to assume greater responsibility for the administration of justice in their communities”⁶⁹. The Capacity Building fund pertains to enhancing knowledge and skills for developing community-based justice systems as a means of better meeting the justice-based needs of Aboriginal communities.

In terms of promising prevention initiatives, numerous core components were found the same for Aboriginal and non-Aboriginal populations (Monchalin 2012). These include providing prevention programming that is targeted to at-risk children and youth, and to parents and families of at-risk youth and children (Mushquash, Comeau and Stewart 2007; Turner et al. 2007; Totten and Dunn 2010). Some examples of programs include skills and educational based intervention which seeks to build positive relationships for youth, provides educational enhancement through a variety of learning techniques, mobilizes positive youth involvement, fosters pro-social values and behaviour, provides positive social support networks, supports and enhances personal development, parenting and fathering education, asset building, literacy instruction, problem solving education, personal awareness instruction and role models and cultural/spiritual practices (Monchalin 2012: 107)⁷⁰. These elements reveal the importance of empowerment, healing and building capacity as a means of preventing social problems later on, which can lead to victimization and involvement in crime.

While the growth of a prevention focus is positive, there has been much debate about the real effectiveness (Braithwaite 1998). It has been argued that considering the numerous Aboriginal focused crime prevention projects across Canada, the rates of incarceration, offending and victimization should have reduced. Prevention has been criticized as failing to address and deal with the underlying issues that have led to crime and violence, which may include trauma/traumatic experiences and severe conditions that many Aboriginal people are living every day. Further, prevention programs lack

⁶⁸ Administered through the Aboriginal Corrections Policy Unit

⁶⁹ See <http://www.justice.gc.ca/eng/pi/ajs-sja/>

⁷⁰ This report will later outline some prevention initiatives in Canada, Australia and New Zealand that are showing promising results of reducing the disproportionate number of Aboriginal people in correctional facilities, preventing reoffending and assisting those that are at-risk.

follow-through, fail to encompass the diversity of Aboriginal cultures and to adapt to those living in urban areas, assert the stereotype that Aboriginal people are high risk and have criminogenic behaviours, do not offer a broader level of support, are too brief and unsustainable, and evidence-based prevention can mislead the degree of effectiveness and non-effectiveness of initiatives and lack an appropriate cultural method of evaluation (Braithwaite 1998).

Keeping in mind these reflections, projects looking only at crime prevention will miss the significant contribution of initiatives that integrate many actors [social services, education, health, police, courts, local government, private sector, civil society] (ICPC 2003:6). While prevention can take many forms, strategies that focus on social development and that recognize the cross-cutting nature of the causes of crime and victimization have much potential for developing the capacities of individuals and communities to tackle those causes. Therefore, promising initiatives are those which assume a broader approach; recognizing the multiplicity of causal factors and the need for an integrated and participatory approach (ICPC 2003; ICPC 2006). This includes community involvement, self-determination, empowerment and restorative justice, which sees crime prevention as dependent upon improving the overall quality of life of Aboriginal people and their communities.

Some examples of promising practices have been outlined in the report. They highlight the importance of having a structure of support that is ongoing, adaptable to the individual's circumstances and needs, and not only based in Aboriginal cultural values, especially for those from urban settings who are disconnected from their cultural identity.

Bill C-10 and the impact on the Aboriginal population

On September 20, 2011, the Government of Canada introduced Bill C-10, the *Safe Streets and Communities Act*. The bill contains several amendments to the *Controlled Drugs and Substances Act*. These amendments include the introduction of mandatory minimum penalties for some drug offences and increased penalties for other drug offences⁷¹, for example. Despite strong opposition and debate, on March 12, 2012 the bill was passed by a vote of 154 to 129⁷². The bill is now waiting royal assent or an order in council to become law. The bill is highly controversial for many associations, organizations, civil society groups and human rights commissions in Canada, who have expressed their opinions publicly. For these groups, the bill fails to take into consideration some major social issues; the neglect of offenders with mental illness, the punitive nature of the system, and the existing severe strains on the system. The bill will ultimately change the nature of the justice system by increasing the use of punitive measures – incarceration and reducing judicial discretion by preventing judges from considering the underlying factors affecting certain offenders. The Assembly of First Nations, among other Aboriginal groups in Canada foresee the bill as on the one hand a setback to present efforts preventing and reducing Aboriginal offending and victimization, and on the other it compounds on the deeper issues of the over-incarceration of Aboriginal people and living conditions.

We may not know the exact impact of the bill until only after a few years. In the meantime the immediate effects will be seen in offences regarding drug possession, production and trafficking, and those committed by youth. These offences will reduce judicial discretion and diminish access to alternative justice measures, diversion programs and conditional sentencing. Mandatory minimum sentences will be increasingly imposed, suggesting more individuals incarcerated and for longer periods of time without the possibility for parole or pardon. The effects may be severe, necessitating strong prevention efforts for those at-risk, and transitional and rehabilitative/reintegration initiatives for ex-offenders (which are currently being cut) which will need to be adaptable, appealing, innovative and long-term.

⁷¹ See <http://www.cfdp.ca/>

⁷² See Globe and Mail - <http://www.theglobeandmail.com/news/politics/ottawa-notebook/harpers-promise-fulfilled-as-house-passes-crime-bill/article2367157/>

Conclusion

While this specific portion of the research has concluded, the process towards improvement and change is just beginning. Instead of providing an overview, which is offered by the Executive Summary, the conclusion provides a preliminary action plan which will be the basis for discussions within the Justice sub-Committee, key partners involved in the research project as well as strategic partners of sub-Committee members, and the larger Montreal Aboriginal community (through the NETWORK).

The goal is to: a) Spread awareness on the purpose and outcomes of the research; and to b) consolidate the action plan.

The action plan aims to bring to the table the City of Montreal, the provincial government (Quebec Ministry of Justice and Ministry of Public Security) and key stakeholders who can assist in moving forward the plan. It is intended to stimulate dialogue between the Montreal Aboriginal community, the government and other partners on enhancing prevention as a means of offering solutions to safety challenges that are impacting on the Aboriginal community in Montreal, as well as all city residents.

1. Action plan – Montreal Aboriginal Community

Dealing with the immediate issues - Why an action plan

The research and the literature reveal an ongoing crisis that requires urgent attention. This crisis is the overrepresentation of Aboriginal people in the criminal justice system as offenders and victims, as well as the disproportionate rates of reoffending⁷³. The result is a desperate situation that exposes underlying historical trauma and discrimination facing this population. Several provinces and territories are working hard to remedy these issues, and as the report has highlighted there are countless promising practices which are improving the well-being of Aboriginal people. In this sense, prevention can play a key role in reversing the complex challenges.

At the same time, the Aboriginal community in Montreal is facing two imminent crises with the possible closure of NFCM and PAQ. If solutions are not found, the repercussions may ultimately prove severe. As the research results have indicated; the community may want to begin a process of thinking about future steps to potentially fill the gap and avoid repercussions.

.....

In order to reduce crime affecting urban Aboriginal people....Evidence driven [action] plan must be set into motion. Funding must be expanded to support the community based organizations that are tackling established risk factors (Monchalin 2012: 329)

.....

⁷³ This is also an international issue.

The goal and objectives

The goal of the action plan is to provide information and tools in order to set in motion the execution of the plan on Aboriginal justice and safety by the Montreal Aboriginal community.

The objectives are to clarify the needs and recommendations regarding the safety of Aboriginal people in Montreal - as those outlined in the research and literature review, and to identify the next steps.



Starting with smaller steps

It is inspiring to think about the larger picture – the ultimate end result - however one cannot disregard the smaller steps which can be instrumental for consolidating the bigger goal. These steps allow for reflection on the basic elements which require attention, for testing, reworking and improving ideas, and for engaging different actors.

Presenting and discussing the research

A crucial first step will be to formally present the research and the outcomes to the Justice sub-Committee (April 30, 2012), which will lead to discussion on the recommendations and consolidating the action plan. Following this meeting, the Justice sub-Committee will present the research and plan to key partners (contacts from networks of the sub-Committee, main NETWORK members) with the possibility of involving the City of Montreal, provincial government and political representatives. There may be interest in then presenting the information to the media to ensure greater awareness to the general public.

The action plan and building partnerships/collaborative solutions

Depending on the outcomes of this first process, the community may begin developing the steps to consolidate the action plan, which would involve a meeting with key stakeholders to set in motion a cooperation/collaboration agreement.

The bigger picture – The research recommendations and addressing the issues

Creating the foundation, which includes securing the plan and identifying partners, is a crucial and oftentimes lengthy process. In doing so, the recommendations from the research provide some key points:

Co-existence and social cohesion

The recommendations from the research reflect a growing interest in working in collaboration with other partners (Aboriginal, non-Aboriginal, government, private sector, civil society etc) so to enhance co-existence. The action plan by the Aboriginal community in Montreal may want to draw attention to the interest in cooperation and social cohesion as a means of achieving co-existence. Therefore, improving safety for Aboriginal people in fact involves creating a safer environment for all Montreal residents.

A common vision

A key step in moving forward would be to define a common vision of Aboriginal justice for the Montreal community. This vision would have to reflect the merging of Aboriginal traditional values (keeping in mind the multiplicity of values across nations) and the urban context. It would also have to include the voices of Aboriginal youth, who are often struggling between these two facets of their identity. At the same time, it may manifest flexibility, foresight and distinctiveness from an institutionalized, compartmentalized approach. The vision would explore possible alternative forms of justice and diversion programs and could advise the use of certain measures such as Gladue reports, healing lodges, and Aboriginal sentencing and drug courts. It will also have to review how to better inform the homeless and those most marginalized about the processes, their rights, and responsibility.

Communication strategy

A recurring issue is the lack of awareness of the general public concerning the history and current issues facing Aboriginal people. An awareness campaign may be an interesting starting point. This could include developing a 'communication strategy' involving advertisement around the city on small facts about Aboriginal people, and discussions on the radio and television, as well as integrating a program in the

schools⁷⁴. This could build on existing Aboriginal events that already take place in Montreal. The strategy could foster and create partnerships with the communities outside of Montreal, and with the Assembly of First Nations of Quebec and Labrador, Makivik, etc. (provincial Aboriginal organizations).

Cooperation between nations

The Inuit community has noted a sense of isolation from the larger Aboriginal community in Montreal. It was also suggested that the differences between Inuit and other Aboriginal groups should be noted. Considering the growing number of Inuit coming to Montreal, cooperation and better integration must be consolidated to ensure for a concerted way forward.

Aboriginal Justice Committee

An important step would be to create some sort of an Aboriginal Justice Committee for Montreal, which would act as a centralized decision-making body, and a direct link to the police, courts and corrections (and other affected public institutions – City of Montreal), to the shelters, and to all services/programs regarding Aboriginal people at-risk or in conflict with the law. It was suggested that similar to other justice committees across Canada, the members would include Elders, Aboriginal and non-Aboriginal people working on justice issues, youth and potentially ex-offenders, and anyone interested in getting involved. The challenges in the creation of the committee would include ensuring that it is not seen as an ‘exclusive’ entity and hierarchal. It would have to be a fluid group that is in constant contact with the community at large. In addition, as it is a voluntary role, maintaining sustainability and preventing burn-out would have to be considered. This initiative could be supported through the creation of a Justice Commission for the Assembly of First Nations of Quebec and Labrador, which currently does not exist.

New arrivals

Aboriginal people coming to Montreal also need adequate support and assistance to prevent victimization and involvement in criminality. There needs to be improved communication between the communities and/or other cities and Montreal. One idea is developing a resource guide (adapt the existing “Learning about Quebec: Guide for my successful integration”⁷⁵) for the communities and in public transport spaces. The guide would offer information on available services and programs, and processes involved in accessing healthcare, housing, education, etc. It could also include information on rights and legal procedures, and legal aid services. This could be accompanied by the

⁷⁴Such as developing an Aboriginal-focused Speaking Rights Toolkit, see: <http://equitas.org/en/what-we-do/children-and-youth/speaking-rights/speaking-rights-toolkit/>

⁷⁵ See <http://www.immigration-quebec.gouv.qc.ca/en/informations/learning-quebec.html>

upcoming video produced by the Montreal Police on safety issues for Aboriginal people.

The importance of research

It is extremely challenging to propose solutions when there is a lack of information. As this research revealed, there is a significant absence of data regarding the situation for Aboriginal people in Montreal who are coming into contact with the police, the courts and/or correctional services, as well as those terminating their sentence. In this sense, there needs to be an extended research so to access data from the municipal courts, correctional services and police services.

Building strong partnerships - Working with the police, the courts, civil society and the City

A fair number of respondents had been in contact with the police to some degree. As was highlighted, there were numerous complaints concerning the police in terms of discrimination, ignorance of their living conditions, lack of knowledge on available services (treatment, shelters, counselling) and failure to help those individuals access or locate services. The police, in fact, can play a key role in prevention especially for the Aboriginal population in Montreal. The police have expressed interest in having training, and therefore another step could be to provide yearly training for the police to build awareness and sensitivity, and to offer support and updated information on available services and programs. The training could also be provided to lawyers, judges, the Bar Association of Quebec, the City of Montreal, and organizations working directly or indirectly with the Aboriginal population in the city.

Helping young people, foster care

Many Aboriginal youth in Montreal are homeless or at risk of being homeless. These individuals have oftentimes been adopted or were in foster care. There is a need to focus on strengthening families, parental education based on their Aboriginal values; hiring and training Aboriginal social workers to monitor and follow-up with families; therapy and support for the youth; and raising public awareness in and out of communities about foster care issues and violence.

Prevention [Underlying challenges - foster care, mental health, homelessness]

There is a strong desire for long-term prevention programs that help families and children, and those at-risk through treatment and counselling. Considering the high number of Aboriginal youth from foster care who end up homeless and being conflict with the law, a prevention approach for youth is required; a transitional home for foster care youth, treatment, assistance for employment and education. Also, general

programs such as learning languages, job skills development and improving self-esteem are useful, and the existing service Projet Ka Mamukanit could be expanded.

The really big picture: Addressing the lack of Aboriginal-specific services/programming – Multi-purpose centre / Aboriginal cultural centre

Aboriginal values have a lot to teach in terms of community participation, guidance, collaboration and partnership, as well as working across sectors and breaking down institutional barriers. These elements have been addressed through the research in terms of the development of a multi-purpose centre for the Aboriginal community in Montreal. This centre would be a space embodying Aboriginal values adapted to the urban context; providing a range of interconnected services and programs and offering a communal place to gather, exchange, share and learn.

Challenges to face

In the process of developing ideas and plans, one must be aware of the challenges. It appears that there are three major challenges that the Aboriginal community in Montreal needs to address. The first is how to work independently of the government, confined to its institutional structure and agenda when it is considered a 'life line'. In order to propose and enact major changes to the interaction between Aboriginal people and the justice system, this independence is crucial. The second significant challenge is how to integrate both Aboriginal values and the urban context, especially for those lacking identity and links with their community of origin. The third challenge concerns cooperation and developing a culture of partnership. This entails ensuring that there is recognition of Aboriginal-specific needs and issues, there is cooperation with Inuit community, and that there is a desire to work with government and other partners to improve the overall safety for Montreal.

2. Suggestions – Working with the Government of Quebec and the City of Montreal

As outlined in the report, the Government of Quebec has over the years made provisions and changes to the criminal justice system with the aim of meeting the needs of Aboriginal people living in the province, and addressing the challenges particular to this population. Unfortunately, the situation has not improved and perhaps it is time to begin a process of reflection and restructuring of ideas and strategies.

The Montreal Aboriginal community is open to working with the province and the City to engage in this process as a means of making a safer Montreal for all its residents; enhancing co-existence in which Aboriginal people should be recognized and have an equal right to the city. Montreal is not an isolated place and thus safety issues in the city affect other communities and cities across Quebec and vice versa.

While the province of Quebec and Montreal have particular contexts compared to the rest of Canada, we can learn a lot from promising practices in other cities and provinces. Safety is a key concern of the provincial and local government and therefore there are several initiatives that could be adapted to improve the situation for Aboriginal people and the greater society.

Information from the research and literature have been applied to offer some suggestions to set in motion 'the process of reflection and restructuring of ideas and strategies' about the system and its interaction with Aboriginal people (Box 16). The suggestions are not envisioned as approaches on how the government and Aboriginal community can better work together.

Box 16

Integrating Aboriginal justice systems

- Provide cultural training for prosecutors, court workers and judges and providing information on available services for Aboriginal people;
- Work with the system to assess and improve existing diversion programs and alternative measures;
- Address the 'criminalization of poverty' - Ensuring that non-payment of fines do not result in incarceration (especially homeless);
- Expand court services and offer up to date information on available services for Aboriginal people;
- Consider the establishment of Gladue court / reports or other Aboriginal justice concepts;
- Ensure the courts and corrections gather statistical information on an ongoing basis;

Policing

- Make provincial grants for the cities and beyond for police services conditional upon employment equity programs for hiring Aboriginal personnel;
- Expand sensitization programs for police services on the needs of Aboriginal people;
- Work in conjunction with the Aboriginal community in the city;
- Build relations with Aboriginal youth;
- Assessing existing policing practices and identifying areas for improvement;
- Cultural training and providing information on available services for Aboriginal people;
- Gather statistical information on an ongoing basis;

Programming/services

- Assess available programs/services before, during and after contact with the system – identify the need for expansion, improvement and/or revision;
- Recognize and integrate different needs for urban Aboriginal people;
- Develop a stronger prevention focus (at-risk and rehabilitative) with a particular focus on homelessness;

Awareness

- Engage in an awareness campaign on the importance of co-existence / recognition / integration of Aboriginal people as a means of making a better and safer place for everyone;
- Address issues of discrimination in the larger context (housing, employment, education, access to services).

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Annex I - Key questions guiding the research

The urban question

- How many Aboriginals live in Montreal? (men, women, youth)
 - Specify nation
- What is the situation of urbanization of Aboriginals in Canadian cities – increasing?
 - Who is moving to cities, reasons why?
- What is the situation for Aboriginals in cities in Canada?
 - Rates for poverty, employment, educational attainment, income, life expectancy, health status, number in child care
- What is the situation for safety/security for Aboriginals in cities in Canada?
 - Rates of urban Aboriginal victimization (youth, men, women)
 - Rates of urban Aboriginals being charged with a crime (offending)
 - Rates of urban Aboriginals incarcerated (provincial and federal institutions)
- Rates of Aboriginals being charged with a crime in Montreal and Quebec
- Rates of Aboriginals being incarcerated in Montreal and Quebec

The underlying issues

- Reasons why high rates of Aboriginal offending, re-offending and recidivism

Services – access

- (Before) What programs/services are available for Aboriginals at risk of getting involved in crime and violence?
- (During) What programs/services are available in the criminal justice system for incarcerated Aboriginals, in Montreal and all other Canadian cities?
- (After) What programs/services are available for Aboriginals after prison or detention? (rehabilitation)
- Is there a lack of Aboriginal-specific programming/services for this population? If so, why?
- Are there some 'lessons learned' from the Canadian experience of Aboriginal justice issues?
- What are some promising international practices and how could we apply them to Montreal?
- What kind of needs do Aboriginal offenders have?

The prevention question

- What are some key government (local and national) policies, action plans or strategies for preventing and reducing Aboriginals offending and recidivism?
- What are some key civil society action plans or strategies for preventing and reducing Aboriginals offending and recidivism?
- How can we better integrate prevention as a strategy and mind-set to improve the security issue for urban Aboriginals? Where should we focus our efforts (before, during, after contact with the system, or at all stages)?

Annex II – Questionnaires

PARTICIPANT QUESTIONNAIRE 1 (FOR THOSE WHO HAVE ACCESSED THE CRIMINAL JUSTICE SYSTEM) ABORIGINAL JUSTICE RESEARCH PROJECT

1. General information:

a. Age

b. Gender (circle an answer)

Female Male

c. Nation/Reserve

d. Language (circle an answer)

English French Other: _____

e. Location of current residence

f. Where did you spend most of your life (circle an answer)

Mainly aboriginal community (including reserve) _____

Mainly rural community _____

Mainly small town _____

Mainly city _____

Combination _____

g. Employment status (circle an answer)

Employed : Part-time Full-time Occasional

Unemployed

Other: _____

h. Level of education (circle an answer)

Primary Secondary CEGEP Vocational degree University

i. Do you currently have family in Montreal (circle an answer)?

Yes No

j. Are you adopted or were you placed in foster care (circle an answer)?

Yes No

2. Criminal record:

a. Are you currently charged with a criminal offence (circle an answer)?

Yes No

i. If yes, what crime have you been charged for?

b. Are you currently bond by a probation order or a conditional sentence?

Yes No

i. If yes, what crime have you been charged for?

c. How did you first come into contact with the criminal justice system? At what age?

d. Do you have any previous convictions (circle an answer)?

Yes No

i. How many previous convictions do you have?

ii. What were they? Please outline if they were for the same offence.

iii.

iv. Why have you experienced several convictions?

v. Were you ever incarcerated (circle an answer)?

Yes No

vi. If yes, where did you serve your sentence(s) (circle an answer)?

Federal institution _____

Provincial institution _____

Youth facility _____

e. Have any of your convictions been alcohol or drug related (circle an answer)?

Yes No

f. Have any of your convictions been related to an anger/violence problem?

Yes No

g. If you have answered 'yes' to the previous 2 questions: have you received help, treatment or support for any of these issues (circle an answer)?

Yes No

i. If yes, when?

ii. If yes, where?

h. Currently, where are you in the process of your latest conviction (circle an answer)?

Before plea or trial

Acquitted

Awaiting the sentence

After the sentence

In a correctional facility and time served

Released from a correctional facility and on parole

i. If you have responded 'after the sentence', what was the outcome (circle an answer)?

Conditional sentence (house arrest)

Probation

Fine

Served time in a correctional facility

i. If you have responded 'conditional sentence', what are the conditions?

ii. If you have responded 'probation', what are the conditions?

iii. Were there any planned programs or support offered to you to help obey these conditions, or deal with the issues that were related to the offence?

Yes No

1. If yes, write down what they were.

iv. If serving or have served your sentence, what is or was the sentence (circle an answer)?

Yes No

1. If yes, please explain.

v. If serving or have served a jail sentence, what is or was the sentence?

Under 2 years

Over 2 years

vi. Where are you serving a jail sentence?

vii. If you were detained before the sentencing, where were you detained?

viii. If you had a conditional sentence or probation, where was your designed residence?

3. Services

a. In relation to being in contact with the criminal justice system, please identify which need(s) you have (circle the answers):

education

employment skills

reading

cultural

spiritual

life skills

alcohol problem

family problems

other (describe): _____

b. What do you consider your greatest need? _____

c. Have you been assessed for these needs (circle an answer)?

Yes No

d. If yes, do you agree with the assessment? What were the needs identified in your assessment?

Yes No

e. During the process of being in contact with the criminal justice system in Montreal, did you access any support services (circle an answer)?

Yes No

i. If yes, what was the service(s)?

ii. If yes, at what point of your contact with the criminal justice system did you access the service(s)?

iii. Where did you access the service(s)?

iv. For how long did you access the service(s)?

v. Were any of these services Aboriginal-specific (circle an answer)?

Yes No

vi. If yes, please explain how were they Aboriginal-specific?

vii. What services, support or guidance do you feel would have been helpful for you?

f. If you were released from a correctional facility, did you access any support services

(circle an answer)?

Yes No

i. If yes, what was the service(s)?

ii. When did you access the service(s)?

iii. Where did you access the service(s)?

iv. For how long did you access the service?

v. Were any of these services Aboriginal-specific? (circle an answer)

Yes No

vi. If yes, please explain how it was Aboriginal-specific?

g. Were you satisfied with the service(s) you received? (circle an answer).

Yes No

i. Please explain why or why not.

h. If you were not satisfied or did not receive any services, what would have helped?

i. What would help to prevent further offending for Aboriginals?

ii. What would be useful to prevent Aboriginals from coming into contact with the criminal justice system in the first place?

i. If you were released from a correctional facility, would you have accessed any of these options if they were available to you? (circle an answer)

Half-way house

Aboriginal cultural center

Healing lodge

Educational/literacy

Counselling - Individual or Group

Treatment center

Elder's mentorship

Peacemaking or healing circles

Skills and competencies programs

Traditional teachings

Anger management and healthy relationships programs

Other suggestions: _____

PARTICIPANT QUESTIONNAIRE 2
(FOR THOSE WORKING ON ISSUES RELATED TO ABORIGINALS AND CRIMINAL JUSTICE)
ABORIGINAL JUSTICE RESEARCH PROJECT

General information:

1.

a. Job title

b. Institution

c. Location of institution

d. Number of years working on Aboriginal justice issues

2. Please outline how you work with Aboriginal people who have come into contact with the criminal justice system in Montreal, or Aboriginal corrections issues.

3. Have you worked primarily with?

Inuit

Other Aboriginal

All Aboriginal including Inuit

Non-Aboriginal

All Aboriginal and non-Aboriginal

Inuit and non-Aboriginal

4. Have you worked primarily with?

Males

Females

Both males and females

Youth

Similarities and differences:

1. What are the greatest problems/issues facing Aboriginal people coming into contact with the criminal justice system? (personal, social, education, etc.)

2. What are the similarities (personal, offenses, etc.) between Aboriginal people and non-Aboriginal people coming into contact with the criminal justice system?

3. What are the differences (personal, offenses, etc.) between Aboriginal people and non-Aboriginal people coming into contact with the criminal justice system?

a. Are these similarities/differences important to know for programming/services purposes?

Yes No

i. If yes, please explain.

b. Are these similarities/differences being identified for purposes of treatment/support services before/during after their contact with the system?

Yes No

i. If no, what would be the best way to do so?

Assessment and Classification:

1. Are Aboriginal people coming into contact with the criminal justice system accurately assessed in order to identify a specific service/support?

a. If no, explain what practice might ensure better assessment?

2. Are Aboriginal offenders convicted for more serious offenses than non-Aboriginal offenders?

Yes No

a. If yes, why is this and how can it be improved?

b. If no, please explain.

Programs, Services and Needs:

1. In your opinion, what is the current situation for Aboriginal people who have come into contact with the criminal justice system in Montreal?

2. How well are such individuals serviced before, during and/or after entering the criminal justice system in terms of Aboriginal-specific programming/services? Please provide reasons if not well serviced (ex. legislation, discrimination, lack of information).

3. What are the services that you know of that are available for Aboriginal people in the urban Montreal area? (before, during, after)

4. Do you think there is appropriate access to Aboriginal-specific services for these individuals?

Yes No

a. If no, what would help to rectify this situation? What would be pertinent and useful services for Aboriginal people within the judicial system or after sentence or at reintegration? You may provide specific examples.

5. Do you think services should be offered/delivered (if exist) differently to Aboriginal people and non-Aboriginal people in contact with the system? Please explain.

Yes No

6. In your experience, which services/programs work well for Aboriginal people as prevention strategies?

7. In your opinion, are services/programs which focus on culture, traditional values effective?

How important is it to have staff members in these programs/services with adequate training and skills?

Prevention:

1. Which factors (institutional) do you think reduce reoffending for Aboriginal people this can be before, during or/and after coming into contact with the criminal justice system?

2. In general, do you feel that Aboriginal-specific programming/services are a prevention strategy for reoffending and reintegration?

Yes No

a. If yes, please explain and provide some examples.

3. Are there any particular alternatives to incarceration that you feel might be better for Aboriginal people?

4. In your opinion, what are the most valuable lessons learned over the years considering Aboriginal-specific services and programming for the criminal justice system?

5. Do you know of useful written material which may not have come to our attention?

Annex III – Consent form

PARTICIPANT INFORMATION STATEMENT AND CONSENT FORM

Title of Research: Aboriginal Justice Research project
Researcher: Vivien Carli and Taylor Goodleaf, Justice sub-Committee - the Montreal Urban Aboriginal Community Strategy Network
Contact Information: vcarli@crime-prevention-intl.org, taylorgoodleaf@gmail.com

Purpose of the Research

The Justice sub-committee within the Montreal Urban Aboriginal Community Strategy Network is conducting this research project. The purpose of the study is to explore the need to expand Aboriginal-specific programming for Aboriginals coming into contact with the criminal justice system in Montreal, and for Aboriginal offenders and ex-offenders in Montreal. It will also look at the larger need for crime prevention in criminal justice services as means of reducing and preventing recidivism among the Aboriginal population in Montreal. The research is the first of its kind and aims to address the challenges concerning the growing numbers of Aboriginal offenders and recidivists in Montreal, and the disproportionate number of Aboriginals coming into contact with the criminal justice system in Montreal.

What is involved in participation

You are under no obligation to participate, however if you decide to do so you will receive a gift certificate. You will be interviewed or asked to fill out a questionnaire in English or French.

Confidentiality and disclosure of information

There should be a relatively low level of expected discomfort or risks involved during the interview. Information gathered in the research will be kept strictly confidential. Your name or identity will be kept confidential. If upon filling out the questionnaire you require help, the interviewer will assist you. Any information or sensitive issues that may arise will remain with the interviewer and researchers. If you feel discomfort or at risk at any time, you may choose to decline to answer any question or stop the interview without penalty.

The information gathered from the interviews will be used in a report that will be: sent to the Aboriginal Affairs and Northern Development Canada (AANDC); be distributed on members of the Justice sub-Committee (Montreal Urban Aboriginal Community Strategy Network) websites; and potentially used for future publications and research.

Consent:

- Check here if you accept to be involved in the research.
- Check here if you do not accept to be involved in the research.

.....
Signature of Research Participant

.....
(Please PRINT name)

.....
Signature of Investigator

.....
Date

Annex IV

ABORIGINAL-LED PROGRAMS / RESOURCES / SERVICES IN MONTREAL (AND SURROUNDING AREAS) FOR AT-RISK ABORIGINAL PEOPLE, ABORIGINAL OFFENDERS AND EX-OFFENDERS

Native Women's Shelter of Montreal: Provides shelter and support in a safe environment where Aboriginal, Inuit and Métis women and their children can focus on their various challenges and rebuild their lives. Offers in-house programs and services as well as outreach services that help in the healing process of the women while assisting them in re-establishing a balanced lifestyle. NWSM incorporates different teachings from the various cultures of First Nations, Inuit and Métis. They combine traditional techniques with contemporary approaches to give the women a multitude of options to address their immediate needs and issues.

First Nations Human Resources Development Services of Montreal: Their mission is to offer employment and training programs and services to First Nations, Inuit and Métis urban clients, to assist and support their integration to the labour market. They offer support guidance; return to work action plan; documentation and computer room; job board; job search techniques; funding assistance for high school and vocational training; and salary subsidy for employability.

Association of Montreal Inuit: Non-profit organization that operates as a resource for the Urban Inuit of Montreal and surrounding areas. Various programs and activities are provided throughout the year.

Projet Ka Mamukanit: A socio-professional insertion project in Montreal for the Aboriginal youth (15-35 years of age) in Montreal, as well as other young people, single parents, homeless or at-risk of homelessness, and people with little or no work experience. The project offers 24 weeks of exploring basic skills, and building personal and professional self-esteem, and an integration component in which participants can choose various insertion formulas.

Avataq Cultural Centre: Avataq Cultural Centre promotes the Inuit culture and language and serves Inuit from Nunavik and Montreal. They have a library with publications in three languages, for Inuit clients upon reservation. They also have old pictures for clients to try to identify their relatives.

Native Friendship Center of Montreal: Non-profit organization, non-sectarian, autonomous community development agency whose principal mission is to promote, develop and enhance the quality of life for the 11 nations of Quebec in the urban Aboriginal community of Montreal. NFCM serves as a reference point for other Aboriginal organizations. *At risk of closing.

Quebec Native Women: Non-profit organization with the mandate to advocate on behalf of the rights of Aboriginal women, status and non-status, and their families. QNW is dedicated to defending and promoting their interests of all social, political and economic dimensions. QNW's priorities are the promotion of non-violence and women's shelters; justice and public security; youth; international relations; health; employment and training.

Northern Module: Inuit healthcare services.

Mike Standup, Traditional Healer: Healing illness comes from being aware and the root of the illness is to be aware of your emotions. This will facilitate the healing process. Helping people understand that the illness is not the germs in the body it's the emotional and psychological "dis-ease" that creates the fertile ground for the disease to take root.

Cree Patient Services (CPS): CPS acts as the link between the North and the patients that come to Montreal for medical appointments.

First Nations and Inuit Crisis Intervention Counselling: The service offers counselling for First Nations and Inuit in crisis.

Nunavik House: A boarding home for Inuit patients and their escorts who are coming from Nunavik to Montreal and are awaiting medical services such as surgeries, check-ups and tests.

Waskahegen/Habitat Metis Du Nord: Non-profit organization offering housing services for off-reserve Natives.

First Nations and Inuit Suicide Prevention Association of Quebec and Labrador: Their mission is to participate in the group efforts aimed at contributing to the well-being and balance of the lives of Aboriginal people of Quebec. It aims at attaining the mission through activities of community awareness, prevention and education as well as actively supporting the development of psychosocial interventions made accessible in the language and the cultural context of each nation and community.

Projet Autochtones du Quebec (PAQ): A drop-in center and referral for First Nation, Métis and Inuit homeless or at risk for homelessness, offering food, telephones, showers, emergency overnight shelter with 8 beds, computers, emergency clothing exchange, laundry, and 1 on 1 emergency counselling.

Makivik Corporation is a non-profit organization representing Nunavik Inuit in economic, social and cultural matters and oversees the implementation of the James Bay and Northern Quebec Agreement and the Nunavik Inuit Land Claims. The organization has offices in Montreal. It also aims to provide services to the Inuit that aim to relieve poverty, to promote the welfare, advancement, and education of the Inuit and to foster, promote, protect and assist in preserving the Inuit way of life, values and traditions.

Onento:kon Treatment Services (Kanehsatake, QC): 16 bed residential facility located near the town of Oka and the city of Montreal that has been serving men and women with drug and alcohol addictions since 1978. Applicants must be over 18 and be of Native heritage which is recognized by a Band, Treaty, Benefit number or recognized as being of Native status in their community.

Wanaki Treatment Center (Maniwaki, QC): Treatment center for Algonquin and other First Nations people with alcohol and/or drug abuse problems. It is Located in the Kitigan-Zibi Anishinabeg Community near Maniwaki, Quebec. The mission is to provide treatment for substance abuse and to promote the physical, social, spiritual and mental well-being of its clients.

Waseskun Healing Center (Saint-Alphonse-Rodriguez, QC): Treatment Center/Halfway House dedicated to assisting Aboriginal men on their healing journeys. Not all men come from the courts or prison system. Many are referred directly from social or community services for long-term intensive treatment related to drug and alcohol abuse, family violence, sexual abuse issues, anger and stress management, and other community or family concerns. Programs offered include: drug and alcohol addiction, family violence, sexuality and healthy relationships, healing circles, sweat lodges, individual counselling, anger management, conflict resolution, physical and spiritual balance, grieving and life skills.

Native Para-Judicial Services: Native Court Workers provide legal aid to Aboriginal people who have been charged with an offence. The Native Court Worker is not a lawyer, though they are Aboriginal people trained to advise on bail, obtaining lawyers, court procedures, treatment and counselling programs, receiving a summons or a subpoena, and obtaining a pardon.

The Société Elizabeth Fry du Québec is a community organization that aims to help women (including Aboriginal women) who have problems with the criminal justice system and require assistance. For Montreal, the organization offers a variety of services, such as a shelter (Maison Thérèse-Casgrain), assistance for those in conflict with the law through the program Entraide Vol à l'Étalage, which is a dejudicialization measure for first offences and alternatives to incarceration for recidivists, the Prison Services program which runs programs in Maison Tanguay and Joliette Institution that help women find resources necessary to assist them at the time of their release from prison, the Legal Advice Service that assists women awaiting trial as well as inmates of Maison Tanguay, Joliette Institution and Pinel benefit from the services and advice of a lawyer mandated by the Société to help them deal with their legal problems, the Community Supervision program that monitors women on parole, suspended sentence and probation and works with them in the community to develop a positive social network and to prevent recidivism.

Chez Doris is a non-profit organization that offers educational and recreational activities, social services and professional services for women in need. Aboriginal women also access the services. The organization has outreach workers, including one female Inuit worker who assists those in need as well as the homeless located in the west end of downtown Montreal.

The Ulluriaq Adolescent Center, located in Rivières de Prairies, is a residential program housing 8 Inuit girls and 8 Inuit boys, ages 13-17. The youth reside at the Center for a period of time before they return to their communities.

Annex V

STRATEGIC PLAN FOR ABORIGINAL CORRECTIONS, INNOVATION, LEARNING & ADJUSTMENT 2006-7 & 2010-11⁷⁶

What has worked:

- Aboriginal offenders who participated in Pathways units had a significantly lower rate of reoffending after release (17% compared to 35% for Aboriginal offenders who have not resided on those units);
- Similar results have been reflected for healing lodges;
- Risk of re-offending can be reduced through culturally appropriate programs / services.

Areas for improvement:

- Culturally appropriate programs / services are not yet universally available to Aboriginal offenders;
- Ongoing evaluation and adjustment is needed to ensure the effectiveness of such programs;
- Fully integrate correctional initiatives with Aboriginal communities and other levels of government;
- Increasing Aboriginal involvement at all levels and across CSC will respond to the needs of the individual offenders once in the community;
- Better responding to the community's needs;
- To build acceptance of the offender back in the community;
- To support the individual to continue their healing journey.

Initiatives that CSC will undertake over the next five years:

- Culturally appropriate interventions that address the specific criminogenic needs of First Nations, Métis and Inuit men and women offenders by focusing on:
 - a. *Aboriginal Correctional Program*: Enhance the delivery of Aboriginal correctional programs to meet the specific criminogenic needs of Aboriginal offenders.
 - b. *Population Management*: Expand Pathways healing units to all regions in both men's and women's institutions; complete the implementation

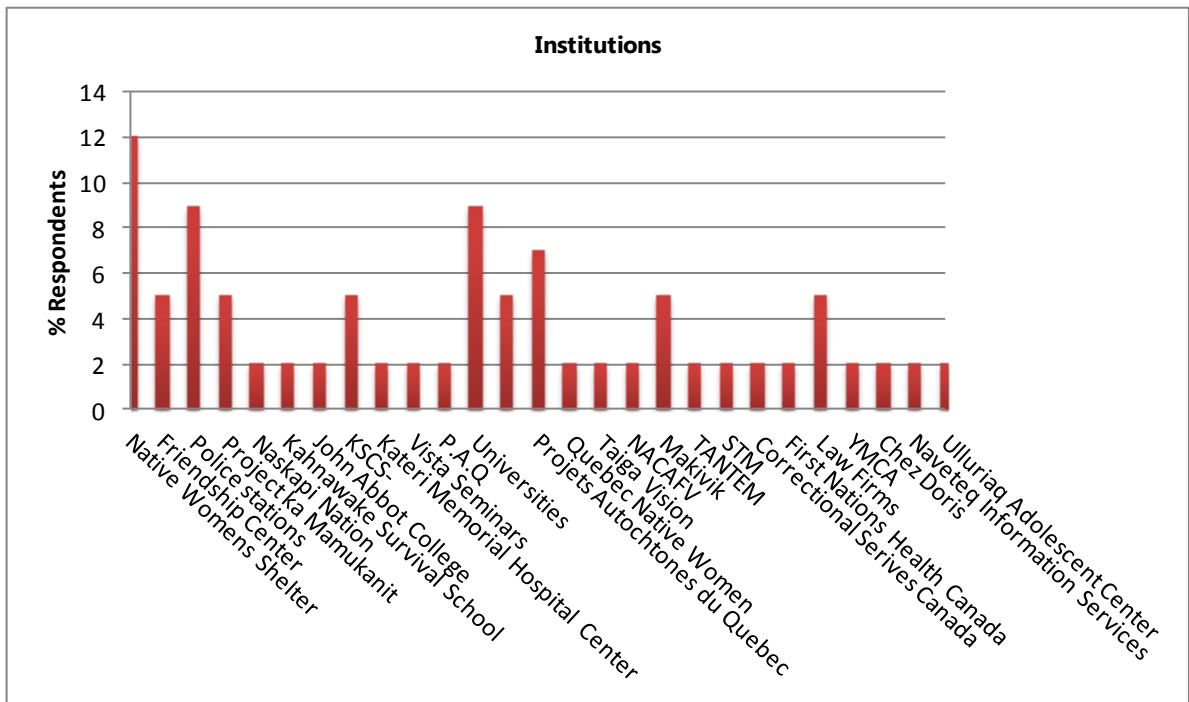
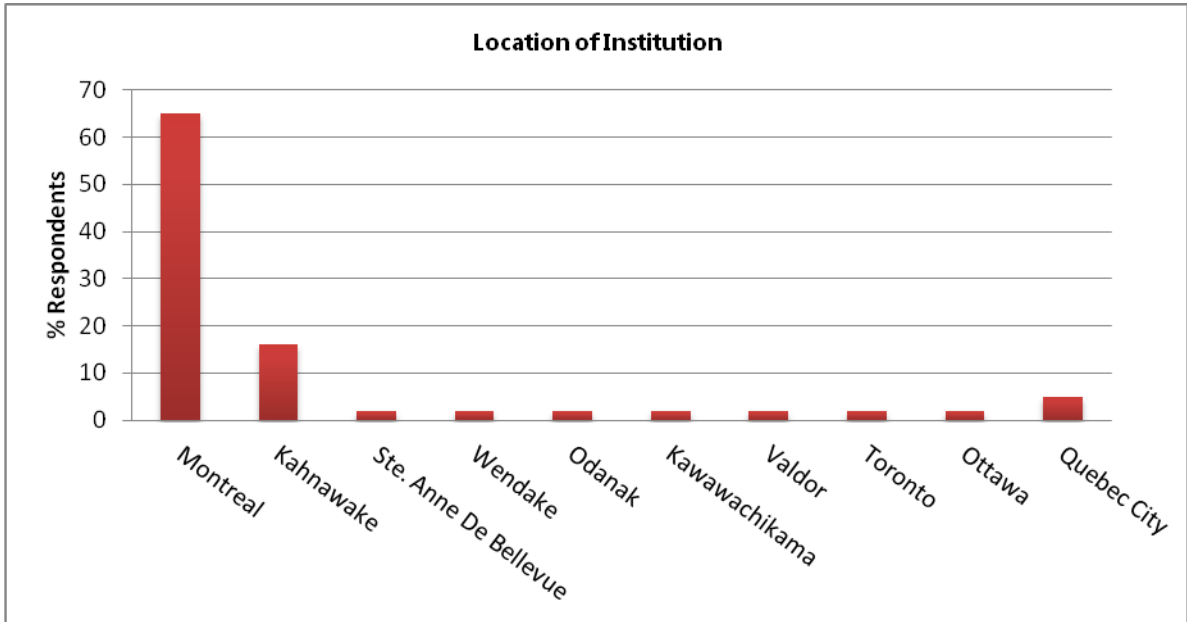
⁷⁶ See <http://www.csc-scc.gc.ca/text/prgrm/abinit/plan06-eng.shtml>

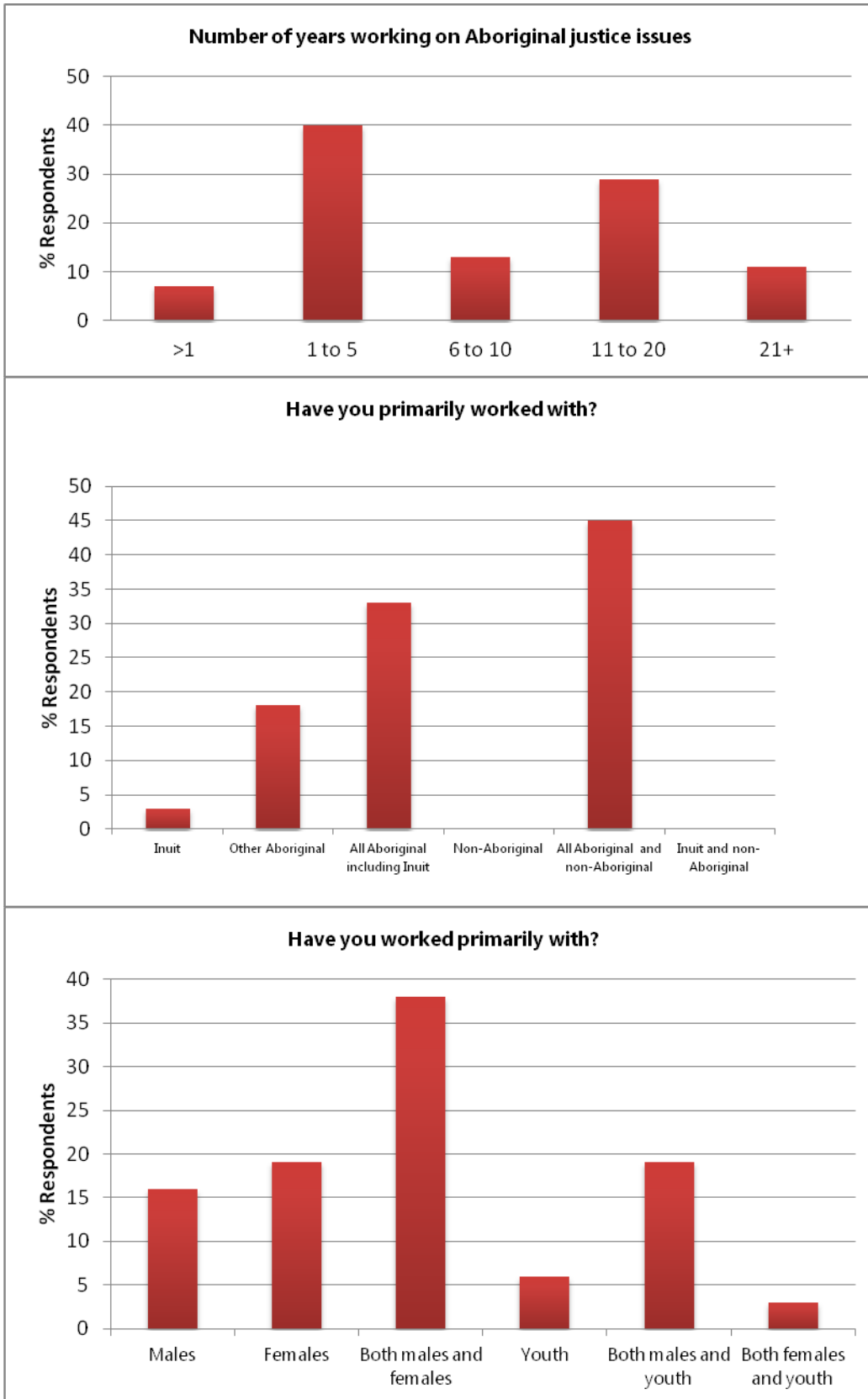
of the Healing Lodge Action Plan; develop a strategy to address the needs of Northern offenders, including the Inuit.

- Innovation, Learning and Adjustment by focusing on:
 - c. Reintegrating urban Aboriginal community involvement and continue Aboriginal community development initiatives through existing community development officers.
 - d. Developing and implementing culturally sensitive classification and assessment tools for Aboriginal women.
 - e. Developing and implementing targeted interventions for Aboriginal women.
 - f. Enhancing knowledge of Aboriginal women and effective corrections.
- Enhance Collaboration by focusing on:
 - g. Enhancing horizontal collaboration and coordination within CSC, within the Public Safety portfolio, and with other levels of government, Aboriginal organizations and stakeholders.
 - h. Ensuring that planning, reporting and accountability mechanisms integrate Aboriginal dimension.
 - i. Addressing the gaps in external collaborative capacity through a more coordinated approach within the Public Safety Portfolio, with other federal departments and agencies.
 - j. Engaging Aboriginal communities in the further development and implementation of new programs and approaches that will contribute to safe and healthy communities.
- Addressing systemic barriers internally and increasing CSC cultural competence by focusing on:
 - k. Enhancing cultural competence to permit identification and removal of systemic barriers so Aboriginal offenders can be successfully and safely reintegrated:
 - i. *Systemic Barriers*: Monitor and identify systemic correctional barriers to Aboriginal offenders on an ongoing basis;
 - ii. *Aboriginal Employee Representation*: Enhance recruitment, development and retention of Aboriginal employees at all levels of the organization;
 - iii. *CSC Cultural Competence*: Develop cultural competence throughout CSC to facilitate culturally-relevant operations.

Annex VI

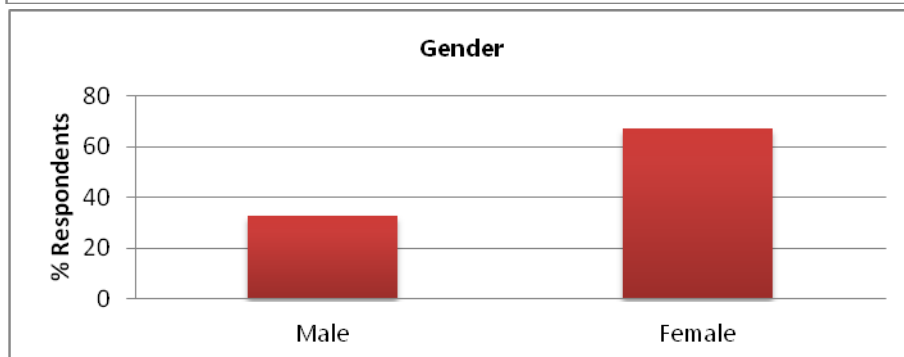
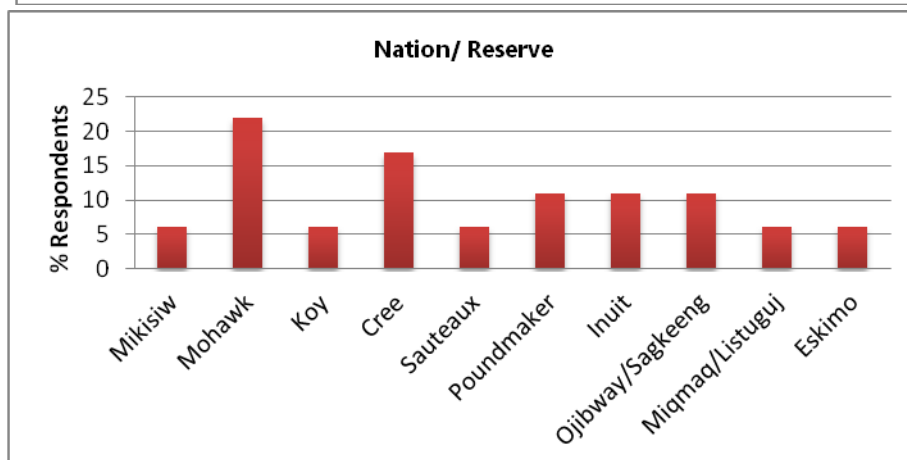
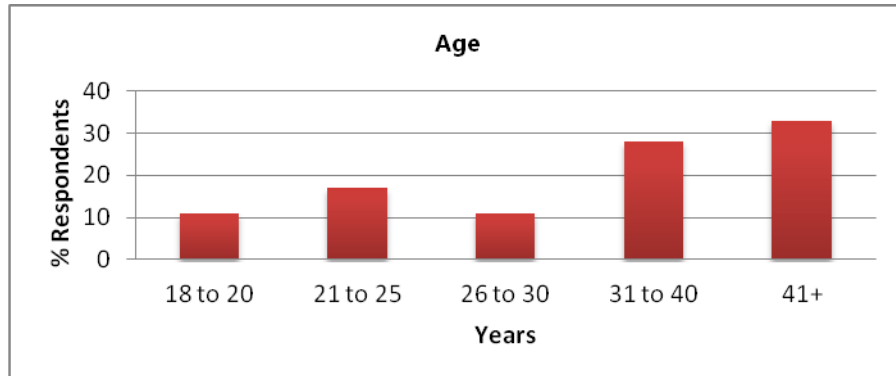
CHARACTERISTICS OF RESPONDENTS WORKING ON ISSUES RELATED TO ABORIGINAL JUSTICE

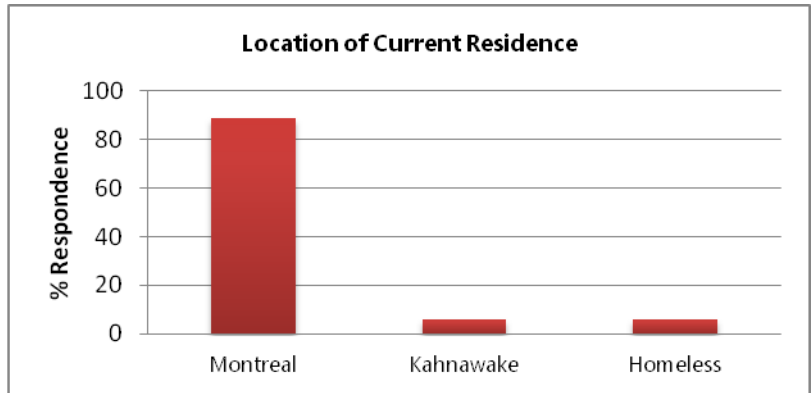
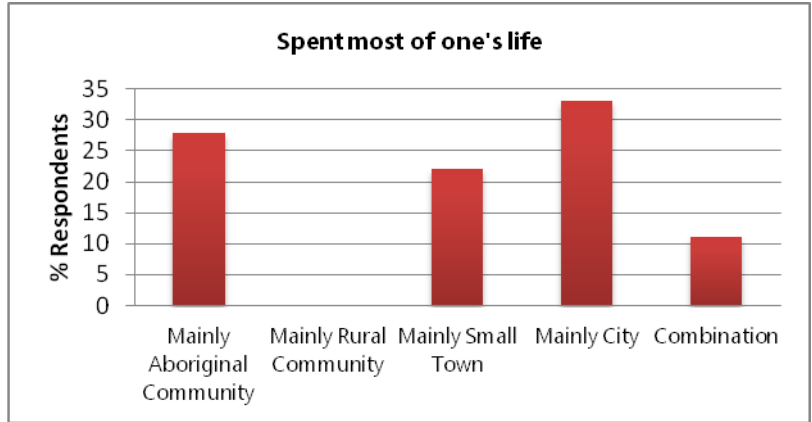
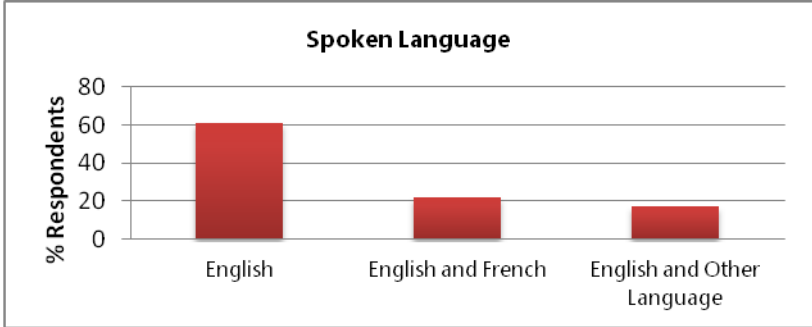


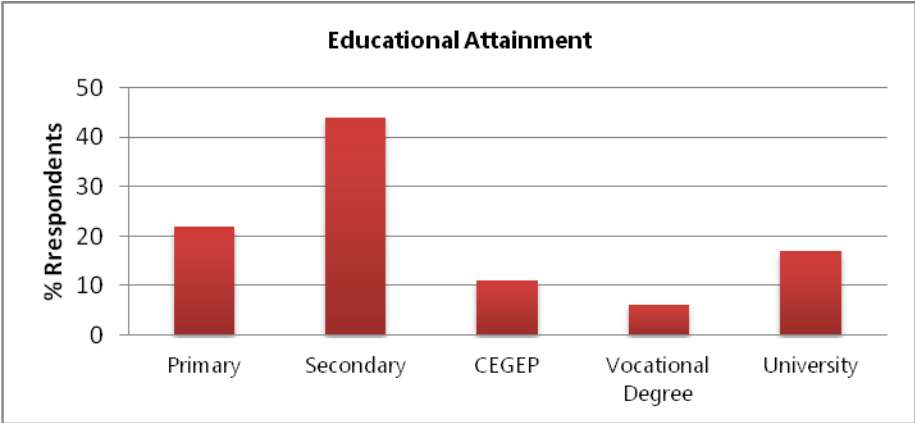


Annex VII

CHARACTERISTICS OF RESPONDENTS [ABORIGINAL PEOPLE] WHO HAVE BEEN IN CONTACT WITH THE CRIMINAL JUSTICE SYSTEM AND/OR POLICE IN MONTREAL







Annex VIII

INTERNATIONAL LAW AND RIGHTS PERSPECTIVE

I. The overrepresentation of Aboriginal people in the criminal justice system: International law perspective

The aim in preparing this section is not to underestimate the existing programs for Aboriginal offenders and ex-offenders, but to show that the concerns of this project are also shared by the international community and any inaction could hurt Canada's progressive position on Aboriginal rights and freedoms, at home and abroad.

The overrepresentation of Aboriginal people in the criminal justice system is not an isolated subject to be studied; it is the tip of an iceberg that began to form when "Aboriginal communities lost their independent self-determining powers and Aboriginal families lost authority and influence over their children".⁷⁷

Recall: Article 13 of United Nations Declaration on the Rights of Indigenous Peoples

Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

⁷⁷ Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, E/CN.4/2005/88/Add.3, 2 December 2004

1.1 Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of Aboriginal people

Due to the lobbying efforts of Aboriginal representatives over the past 30 years, the rights of Aboriginal people have received greater attention at the UN and internationally. In 1971, the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, presently integrated into Human Rights Council system, designed the first Special Rapporteur on the situation of human rights and fundamental freedoms of Aboriginal people. The Rapporteur conducted a comprehensive study on discrimination against Aboriginal populations and recommended national and international measures for eliminating such discrimination⁷⁸. Special Rapporteurs often conduct fact-finding missions to countries to investigate allegations of human rights violations. They can only visit countries that have agreed to invite them. Aside from fact-finding missions, Rapporteurs regularly assess and verify complaints from alleged victims of human rights violations. Once a complaint is verified as legitimate, an urgent appeal is sent to the government that has allegedly committed the violation. Any inaction may cause action by a Human Rights Council.



On December 2, 2004, the Special Rapporteur on the situation of human rights and fundamental freedoms of Aboriginal people presented a report related to his visit with Canadian authorities (federal and provincial) and Aboriginal communities. The Special Rapporteur confirmed that there is systemic discrimination in the criminal justice

⁷⁸ See 'Study of the problem of discrimination against indigenous populations', UN Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, by Special Rapporteur, Mr. Martinez Cobo, UN Doc. E/CN.4/Sub.2/1986/7 (1986)

system.⁷⁹ It further suggests that the issues facing Aboriginal people and the reasons they come into conflict with the justice system are rooted in failures in the areas of education, health and economic development⁸⁰. Whereas Aboriginal people argue that their own legal systems are recognized in the Constitution which has been affirmed by the Supreme Court, this recognition is not forthcoming in governmental policy or widespread practice, and it has not yet been implemented or recognized in ordinary legislation. The Special Rapporteur supports the Native Law Center in its proposition to create an Aboriginal Attorney-General.

Recall: Article 15 of United Nations Declaration on the Rights of Indigenous Peoples

States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

1.2 Aboriginal people and police brutality

A number of complaints concerning alleged incidents of police brutality against Aboriginal people were presented to the Special Rapporteur.

Recall: Article 7 of United Nations Declaration on the Rights of Indigenous Peoples

Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

The Special Rapporteur affirms that many Aboriginal people have lost confidence in the justice system. Despite some progress in this field, the high incarceration rates of Aboriginal people shows little sign of improvement. It was stated that racism in police services is a major contributor to the environment of mistrust and misunderstanding.

The Special Rapporteur has recommended that the mass media has an important role on improving awareness about Aboriginal people. This would involve providing a balanced and non-discriminatory view of the human rights needs and aspiration of Canada's Aboriginal people in order to help educate the general population on issues related to racism, discrimination, intolerance and social exclusion.

⁷⁹ Report to the Special Rapporteur, Native Law Center of Canada, College of Law, University of Saskatchewan, August 2002

⁸⁰ Legacy for Hope - An Agenda for Change, vol. I, June 2004, p. 1

1.3 Poverty and employability of Aboriginal people

Canada has not yet ratified Convention No. 169 of the International Labour Organization concerning Indigenous and Tribal Peoples in Independent Countries. According to this international instrument, some of the elements of Aboriginal people to be considered in their employability include: traditional life styles; culture and way of life different from the other segments of the national population, e.g. in their ways of making a living, language, customs, etc.; social organization and political institutions; and living in historical continuity in a certain area.

Recall: United Nations Declaration on the Rights of Indigenous Peoples, Preamble

[General Assembly of the United Nations is] concerned that indigenous peoples have suffered from historical injustices as a result of, *inter alia*, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests.

According to the report, poverty is one of the most pressing problems facing Aboriginal peoples, particularly in cities, where 60 per cent of Aboriginal children live below the poverty line.

1.4 Aboriginal people and health issues

According to the Special Rapporteur's observations, the overall health of the Inuit continues to lag far behind that of other Canadians. Life expectancy is 10 years lower than the rest of Canada. Many health indicators are getting worse. Arctic research shows that changes in traditional diets lead to increased health problems, particularly of mental health, characterized by increased rates of depression, seasonal affective disorder, anxiety and suicide. Inuit leaders are deeply concerned that the housing, education, health and suicide situation have reached crisis proportions and are not being addressed by the federal government.

Recall: Article 24 of United Nations Declaration on the Rights of Indigenous Peoples

Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

The health status of Aboriginal people in Canada has been described as both a tragedy and a crisis. The gap in life expectancy between Registered Aboriginal people and other Canadians is 6.4 years. A leading cause of death among Aboriginal children and youth is suicide. The suicide rate in Nunavut is 10 times higher than the national average.

II. The Universal Periodic Review, 4th session 2009⁸¹

The Universal Periodic Review (UPR) is a unique process which involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. As one of the main features of the Council, the UPR is designed to ensure equal treatment for every country when their human rights situations are assessed.⁸²

The UPR was created through the UN General Assembly on 15 March 2006 by resolution 60/251, which established the Human Rights Council. It is a cooperative process which by 2011 will have reviewed the human rights records of every country. The UPR is one of the key elements which reminds States of their responsibility to fully respect and implement all human rights and fundamental freedoms. The ultimate aim of this new mechanism is to improve the human rights situation in all countries and address human rights violations⁸³.

The UPR documents on which the reviews are based are: 1) information provided by the State under review, which can take the form of a “national report”; 2) information contained in the reports of independent human rights experts and groups, known as the Special Procedures, human rights treaty bodies, and other UN entities; 3) information from other stakeholders including non-governmental organizations and human rights institutions.

The UPR will assess the extent to which States respect their human rights obligations set out in: the UN Charter; the Universal Declaration of Human Rights; human rights instruments to which the State is party (human rights treaties ratified by the State concerned); voluntary pledges and commitments made by the State (e.g. national human rights policies and/or programs implemented); and, applicable international humanitarian law.

In 2004, the UPR held its 4th session on the human rights situation in Canada concerning Aboriginal people was one of the main issues of this review. In the final report, The Working Group on Arbitrary Detention, the Special Rapporteur on racism and The Committee on the Elimination of Racial Discrimination (CERD) noted that over-incarceration of Aboriginal people – particularly women, as highlighted by the Committee on the Elimination of Discrimination against Women (CEDAW) – is more marked than before.

⁸¹ A/HRC/11/17/Add.1, 8 June 2009

⁸² Universal Periodic Review, at <http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>

⁸³ *Ibid*

The Working Group recommended strengthening policies to address this over-representation, particularly by:

- Increasing Aboriginal participation in law enforcement;
- Increasing Aboriginal participation in the justice system;
- Sensitizing law enforcers about aboriginal issues;
- Giving preference to alternatives to imprisonment;
- Increasing efforts to address socio-economic marginalization and discriminatory approaches to law enforcement;
- Introducing a program facilitating reintegration of Aboriginal offenders into society.

Canada has the primary responsibility to implement the recommendations contained in the final outcome. When it comes time for the second review for Canada, the government must provide information on what has been done to implement the recommendations made during the first review. Canada's second review is scheduled for UPR 16th session (2013) by Human Rights Council and of course, in case of persistent non-cooperation by a State with the UPR, the Human Rights Council will decide on the measures it would need to take.

Annex IX

CANADIAN AND INTERNATIONAL PROMISING PRACTICES

Canada

There are several promising practices across Canada that have a strong focus on prevention in regards to helping those at-risk as well as reducing re-offending and victimization through Aboriginal-oriented justice processes and strategies based on diversion and rehabilitation/reintegration.

Public Education / Citizen Engagement

Speakers' Series was part of the Public Education/Citizen Engagement projects funded by Public Safety Canada (2005-6 and 2009-10). It involved a variety of presentations across the country by universities, government, police forces and non-governmental organizations. The aim was to enhance the level of debate about topical criminal justice issues in Canada to bridge the gap and encourage public engagement. Aboriginal justice issues were addressed in the series.

Inside-Out Prison Exchange Program was part of the Public Education/Citizen Engagement projects funded by Public Safety Canada (2005-6 and 2009-10). A partnership between institutions of higher learning and correctional systems, the objective was to help the community develop an understanding and acceptance of inmates and their ability to reintegrate. It aimed to dispel myths and fears related to prisoners.

In difficulty or at-risk

The *Maison communautaire Missinak* was erected in March 2010 in Quebec. It is a shelter for Aboriginal women and their children who are in difficulty and provides a series of services: lodging, Aboriginal women healing circle (Maniteshkueu), reference to other services, and a help line. The shelter encompasses a holistic approach, focusing on the integration of the mental, spiritual, emotional and physical. It acts as a protected space and support adapted to Aboriginal cultural needs.

Roots of Empathy is a charitable organization working with families and children to raise levels of empathy to build respectful and caring relationships, and to reduce bullying and aggression. This program includes classroom visits by a parent and infant, and school children observe the relationship and learn to identify and reflect on their own

thoughts / feelings, and those of others. The program has been shown to have long-term effects such as increased positive social behaviour and decreased aggression.

Walking the Prevention Circle is an intensive three-day workshop developed in collaboration with Aboriginal communities and the Red Cross. It acknowledges the history, challenges and potential of Aboriginal communities and individuals located in British Columbia. It explores issues of abuse, neglect and interpersonal violence. It is designed for adult community members and those working in social services, education, health, legal issues in the communities. It aims to empower participants the reclaim their past and transition from the cycle of violence to the circle of healing.

At-risk or have come in conflict with the law

Projet Ka Mamukanit, based in Montreal, is a socio-professional insertion project for Aboriginal youth (15-35 years of age) as well as other young people, single parents, homeless or at-risk of homelessness, and people with little or no work experience. Many of the Aboriginal youth have been in contact with the criminal justice system or police. The project offers 24 weeks of exploring basic skills, and building personal and professional self-esteem. This is followed by an integration component in which participants can choose various insertion formulas: return to school, workplace exploratory internship, workplace experience or integration into a pathway already offered at a socio-professional insertion enterprise in the city. It also offers referral to various treatment centers, counseling, and social services support. The project has been highly successful among Aboriginal youth in the city in need of assistance.

Saddle Lake Restorative Justice Project in Alberta is a comprehensive youth strategy that includes diversion, prevention and reintegration programming for the residents of the Saddle Lake First Nation. The Circle Hearing Tribunal investigates in a manner that is consistent with the traditional justice values. The program uses family group conferencing and other alternative dispute resolution techniques. It identifies causes of anti-social and quasi-criminal behavior through education and awareness. It aims to instill in youth a better sense of responsibility towards themselves, their peers, their families and their community. The program develops the tools to intervene early with children and families before a crisis occurs.

The *Calgary Aboriginal Youth Restorative Justice Committee (CAYRJC)* is a program funded by Alberta Justice. CAYRJC was developed under Section 18 of the Youth Criminal Justice Act and provides an opportunity for citizens to become directly involved in the administration of youth justice by forming Youth Justice Committees (YJCs). YJCs are an alternative to the court system that involves a panel of community members volunteering to work with young people in conflict with the law, their families, victims, the legal system, and the community to find appropriate and meaningful

consequences for the young person. The objective is to work with the Justice System in Calgary and in providing an alternative, independent and non-discriminatory cultural approach. It also empowers Aboriginal young offenders through mentoring and discussion with the committee members.

In conflict with the law and diversion

*Drug Treatment Court (DTC)*⁸⁴. Under the Treatment Action Plan of the National Anti-Drug Strategy, the Government of Canada supports the Drug Treatment Court (DTC) Funding Program. There are 6 federally-funded DTC pilot sites operating in Canada: Toronto, Vancouver, Edmonton, Winnipeg, Ottawa and Regina. The goal of DTCs is to break the cycle of drug use and criminal recidivism. They facilitate treatment for drug-involved offenders and provide an alternative to incarceration by offering access to a drug treatment program. These special courts take a comprehensive approach intended to reduce the number of crimes committed to support drug dependence through judicial supervision, comprehensive substance abuse treatment, random and frequent drug testing, incentives and sanctions, clinical case management, and social services support. Evaluation of the courts have been completed, however there lacks an examination of the impact on re-offending, satisfaction with the program and long term effects,

The first Aboriginal court in Canada, the *Tsuu T'ina First Nation Court*, was established in October 2000 in Alberta. Other courts have opened, such as the Cree-speaking Court opened in Saskatchewan, the Gladue (Aboriginal Persons) Court in downtown Toronto, and the First Nations Court in New Westminster, British Columbia (Whonnock 2008). Aboriginal courts are culturally appropriate dispute resolution systems that are inclusive, respectful, and designed by Aboriginal people. They are part of the Provincial Court system and are given equal weight, respect, and enforcement powers as the regular Provincial Court. Traditional law or Aboriginal laws and cultures are included in most Aboriginal Courts. Whether family, criminal, and civil matters are included depend on the negotiations and jurisdiction of the court.

In custody

In Search of Your Warrior (ISOYW) is a violence prevention program, designed by the Native Counselling Services of Alberta (NCSA). It is developed for federally-incarcerated, male Aboriginal offenders with a history of violence. The program includes western and traditional based principles, and provides information, therapeutic sessions and suggested resources for facilitators to use over a 6 to 13 week period to help individuals break their cycle of violence. ISOYW applies an emphasis on self awareness and

⁸⁴ See <http://nationalantidrugstrategy.gc.ca/dtc-ttt.html>

developing cognitive skills to recognize behaviour patterns and manage aggression. An Aboriginal Elder offers assistance and forms the basis for the therapeutic interventions. Participants demonstrated lower need for intervention targeting personal distress, family issues, substance abuse, community functioning, employment, social interactions and pro-criminal attitudes. Participants were rated as having greater potential for successful reintegration, and of those released over two thirds were not re-admitted to a federal institution within a one-year follow-up.

Stan Daniels Healing Centre is operated and staffed by Native Counseling Services of Alberta (NCSA) and located in Edmonton, Alberta. The Healing Centre provides a range of spiritual and correctional programs to both offenders on conditional release and minimum-security inmates via Section 81 and 84 of the Corrections and Conditional Release Act through an agreement with the Minister of Public Safety. It focuses on integrating social, educational, emotional, physical and spiritual needs, and the recognition that cultural, familial, and social experiences contribute to the development of these needs. Residents of the Centre build their own goals, which are guided by the staff. The Centre also offers the In Search of Your Warrior Violent Offender Healing Program. While the Centre has shown positive results, its culture-specific correctional programs remain under the authority of the correctional system which has opened discussion on the degree of independence and flexibility.

In difficulty or after custody

Waseskun is located in Saint-Alphonse-Rodriguez (Quebec). It is a healing centre aimed to help Aboriginal men reintegrate. The activities are based on holistic education - mental, physical, spiritual and emotional development of individuals, to help them find balance in their lives. Elders and their caregivers are an integral part. Waseskun provides intensive therapy for residents, which is directly connected to spiritual indigenous values and traditions. Programs offered include alcohol and drug treatment, preventing domestic violence and other forms of violence, help for sexual offenders, healing circles, anger management, physical and spiritual balance and social skill development. The In Search Of Your Warrior program, Art Therapy and Waseya program for sexual offenders are offered in English and French. These programs are designed to facilitate the reintegration of the individual.

What we can learn from the international context

Canada, Australia and New Zealand present extremely similar cases regarding Aboriginal people and safety issues. Prevention oriented practices in these countries have been shared and exchanged over time. In all three countries⁸⁵, Aboriginal people were more likely to be victims of violence than other groups⁸⁶ and to be overrepresented in the justice system. At the same time, Aboriginal populations in main cities across Canada, Australia and New Zealand are relatively young. Youth gangs are on the rise in which Aboriginal youth are more likely to be detained than non-Aboriginal youth⁸⁷. Women's safety is also a growing concern in Canada⁸⁸, Australia⁸⁹ and New Zealand⁹⁰ as levels of physical and sexual abuse among Aboriginal women and girls are much higher than the norm.

Australia

Aboriginal people in Australia compose about 2.4% of the population (Australian Indigenous Health InfoNet 2005). Aboriginal people are overrepresented in the criminal justice system, in that Aboriginal inmates compose 20% of the prison population (Australian Bureau of Statistics 2003: 1). This is an imprisonment rate 15 times that of the non-Aboriginal population (Australian Bureau of Statistics 2003: 2). Recidivism rates are also disproportionately high. Considering the strong similarities between There are several initiatives in Australia that could be applied to the Canadian context as a means of providing unique and alternative means of dealing with the large Aboriginal prison population, elevated rates of recidivism and complex issues underlying this tragic situation.

At-risk or have come in conflict with the law

The Boys from the Bush Program is a socio-economic program for at-risk Aboriginal youth (aged 12-20) in Cape York and the Torres Strait, Australia that uses business enterprises as a means of tackling several risk factors including unemployment, previous offending, and substance abuse. The program operates in partnership with the Community Justice Groups under the auspices of the Cape York Land Council and Cape

⁸⁵ Brewin & Coggan 2002; see http://www.crime-prevention-intl.org/fileadmin/user_upload/Seminaire_Autochtone/Marilyn_Brewin.pdf

⁸⁶ See Ministry of Justice Briefing to Incoming Ministers on Crime Reduction Strategy 2002; Bryant & Wills 2008.

⁸⁷ See International Expert Group Meeting 2010;

<http://social.un.org/index/IndigenousPeoples/MeetingsandWorkshops.aspx>

⁸⁸ See NAFC and LCC 2010

⁸⁹ Mouzos, J. (2001). Indigenous and Non-Indigenous Homicides in Australia: A Comparative Analysis. *Trends & Issues* No. 210. Canberra: Australian Institute of Criminology

⁹⁰ NZS (2001). Statistics New Zealand, Demographic Trends, 2000, Wellington: Statistics New Zealand

York Partnerships. Local indigenous youths are referred to the diversionary program by the local community Justice Committee, the Courts or their families.

Aboriginal Urban Services - Koombah Jenn Kadadjiny Program works with Aboriginal youth to improve literacy, self-esteem, personal skills and reduce anti-social behaviour and offending. The project provides culturally relevant personal development activities and direct support to the Ministry of Justice Juvenile Justice Team at Wangara by working closely with young Aboriginal offenders and their families.

In conflict with the law, diversion or after custody

Aboriginal Justice Centre Inc. was incorporated in 2005. The Centre's Board is comprised of members of the Aboriginal and Torres Strait Islander Community. It offers Aboriginal sentencing courts, Criminal Justice Programs, and provides and coordinates support services to Aboriginal and Torres Strait Islander people in the criminal justice system. The Centre offers access to legal advice Solicitors in the Aboriginal Legal Service, preventative programs which involve delivering and managing prevention and case management programs to support 'at risk' and vulnerable persons. Another service is support programs that ensure assistance, support and advocacy on a range of social issues or problems.

Indigenous Sentencing courts have been set up since 1999. They do not practise or adopt Aboriginal customary laws, but use Australian criminal laws and procedures to sentence Aboriginal offenders who have either pleaded guilty or been found guilty. They allow Aboriginal Elders and Respected Persons to participate in the process, thereby creating a more culturally appropriate forum for sentencing Aboriginal offenders. There are over 50 adult and children's Indigenous sentencing courts in Australia. The purpose is to address the overrepresentation of Aboriginal people in the criminal justice system; increase the participation of Aboriginal people in the justice system; and complement Justice. The courts have both criminal justice aims (reducing recidivism, improving court appearance rates and reducing the over-representation of Aboriginal people in the criminal justice system) and community building aims (culturally appropriate process, increasing community participation and contributing to reconciliation).

The New South Wales *MERIT program* is a court-based pre-sentence diversion scheme which aims to intervene in the cycle of drug use and crime. A small number of courts also offer Alcohol MERIT to defendants that have identified their principal substance abuse problem as alcohol. Defendants assessed as suitable for MERIT can undertake supervised treatment as part of their bail conditions. A MERIT treatment program is typically three months in duration, reflecting the average Local Court bail period. At final sentencing, Magistrates are provided with a comprehensive report regarding the

defendant's participation in treatment. The primary goal of the MERIT program is to break the substance abuse-crime cycle by involving defendants in treatment and rehabilitation programs.

Since the early 1990's and the increased emphasis placed on securing new modes of governance and local justice, brought about by the Royal Commission report and the Report of the Queensland Legislative Review Committee, there have been several initiatives in community justice targeted at Aboriginal communities in Queensland. One promising initiative is the development of *Justice Groups*. The groups have no statutory authority, yet kinship position and personal respect provide the basis for authority (Ryan et al. 2006). Traditional structures and cultural principles are used to develop and apply community-specific systems of justice and social control. Justice Groups have come to be involved in family-related dispute settlement, crime prevention and community development projects (Ryan et al. 2006). They provide information to the judiciary, community corrections boards, and other government decision-making bodies. Early reviews and evaluations found that they had reduced familial disputes, reduced the level of violence in communities, increased community self-esteem, and contributed significantly to a reduction in crime and breaches of correctional orders, especially for juvenile offenders.

New Zealand

The Maori make up a significant part of the general population (14%) in comparison to Australia and Canada. However, they compose 51% of the prison population, are 3.3 times more likely to be apprehended for a criminal offence than non-Maori, Maori adults are 3.8 times more likely to be prosecuted than non-Maori and are 3.9 times more likely to be convicted of a crime. Considering the large presence of the Maori in the general population as well as the high representation in major political and economic institutions in New Zealand, there are several good examples of initiatives that are making a difference in advancing safety and well-being.

In difficulty or at-risk

Maori Community Initiatives For Youth At Risk are a series of programs designed specifically for Maori youth as a crime and violence prevention strategy. The programs are based on Maori cultural values and principles. They offer several activities, such as outdoor experiences, mentoring, building self-esteem, education, life skills, tikanga, personal development and Whānau support. It aims to reduce opportunities for using alcohol, cigarettes and other drugs as well as removing the youth from risk situations to commit offences. Peer support and ongoing mentor support also a dominant feature.

In conflict with the law, diversion and after custody

Te Whānau Āwhina (Community Managed Restorative Justice Program) is based in Waitakere. It acts as a restorative justice process for Maori and non-Maori adults and is a community panel for pre-trial diversion options. The community panel meetings are held in a traditional meeting house. Almost all the offenders referred are Maori. Offenders who appear before a panel are not necessarily diverted from further court appearances and sanctions. The panel consists of three or four members, including one who takes the role of the elder and chairs the proceedings. A coordinator attends and takes the role of providing support to the offender. Family members and friends of the offender can attend. The police do not attend the meetings. Outcomes usually include plans relating to obtaining employment or job training and participation in Maori-based programs and activities as well as responses to victims. Since victims rarely attend the meetings, it is not fully consistent with restorative processes. However, it focuses on reparation to victims and to the community and reintegration with family, the Maori and the wider community. Evaluation has shown that the environment is very conducive to influencing participants to change attitudes and behaviours, learning new skills and gaining a sense of their identity and history. Reconviction rates after 12 months for those undertaking the program were 33% compared with 47% for a control group, and re-offending which did occur was less serious than prior offending.

In New Zealand, the police have four options available to them when a young offender is apprehended: they may use an informal warning; they may use a written warning; they may arrange a diversionary plan; and they may make a direct referral for a *Family group conference (FGC)* in which they may lay charges in the Youth Court which will make a referral for a FGC before deciding on outcomes. FGC allows for the knowledge of the offender and the family background to be taken into account.

The court-referred restorative justice conference is a pilot scheme of court referred restorative justice conferences began operation in September 2001. Judges in the pilot courts are able to refer a range of cases for investigation with respect to whether or not a restorative justice conference is possible. All property offenses with maximum penalties of two years imprisonment or more and other offenses with maximum penalties of one to seven years are eligible. Domestic violence offenses and sexual offenses are excluded. The pilot is based on the referral by the judge, which takes place after a guilty plea. A coordinator meets the offender and victim to confirm their willingness to participate in the restorative justice process, which is mediated by facilitators. The intention is that the conference provides an opportunity for victims to have a say and for offenders to take responsibility, and to create a plan. The interaction is provided to the judge prior to sentencing. This allows for options to incarceration, and also aims to offer better outcomes to victims, to increase their satisfaction with the criminal justice system, and to reduce re-offending. The evaluation report on these pilot

projects shows that 81% of the offenders who took part felt that their participation would stop the reoffending.

In custody - for after custody

The Department of Corrections offers *Reintegration Programs* which provide offenders with the skills, knowledge and confidence to live successfully in the community, in order to reduce their chances of reoffending. Seven reintegration needs are identified: obtaining employment; finding somewhere suitable to live; managing money; managing relationships; developing positive community support; victim-related issues; and achieving and maintaining good health. Offenders on a custodial sentence will be assessed as part of the pre-release process. In prison, there are three levels of assistance within the Reintegration Services Framework, with all offenders receiving "level one" self-help -written material giving contact details of services relating to reintegration, and support and advice from their case officer. Offenders who need specialised assistance to meet their reintegration objectives are given "level two" support via referral to a social worker or parole worker. "Level three" refers to a range of reintegration programs: Living Skills - a broad-based program to give offenders skills and knowledge on how to function effectively in society on their release; Budgeting Skills - a group program aimed at offenders with specific budgeting and financial needs; and Parenting Skills; a group program designed to teach parenting/relationship skills.