

Justice on Trial

Report of the Task Force
on the Criminal Justice System and its Impact
on the Indian and Metis People of Alberta



Volume II Summary Report

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Volume II

SUMMARY REPORT

March, 1991



Summary Report

Preamble

The overall objective of the Task Force was to complete a review of the impact of the criminal justice system in Alberta as it relates to Aboriginal people. The review included examination of the criminal justice system as it effects Aboriginal people according to their demographics for the purpose of identifying the areas in and the extent to which Aboriginal people are treated differently from non-Aboriginal people, and to assess whether that different treatment is desirable or detrimental. Further to that, the Task Force attempted to identify areas where, and to what extent, Aboriginal people *should* be treated differently from non-Aboriginals within the system. Having done so, the Task Force then considered alternative methods of approaching justice for Aboriginal people.

In reference to these broad objectives, the Task Force carried out a literature review and an in-depth consultation that encompassed the areas of Policing, Legal Aid, Courts, Court Personnel, Corrections, Native Counselling Services of Alberta, Socio-economic Factors, Jurisdiction, Government Departments, Cross Cultural Training, Aboriginal Youth and Aboriginal Women, Ongoing Process, and Aboriginal Perspectives on Justice, aimed at identifying problems and proposing

solutions to ensure that that the Aboriginal people receive fair, just and equitable treatment at all stages of the criminal justice process in Alberta.

The purpose of this document is to summarize the recommendations offered by the Task Force in fulfillment of the mandate as set out in the Terms of Reference. The recommendations are numbered according to the system adopted for the main report, where the first digit of the number refers to the chapter in which the recommendation appears (along with the findings that support it); and the numbers following - to the specific recommendation within the chapter. It should be noted that the chapter number and the term of reference numbers do *not* always correspond, and for that reason, the appropriate terms of reference have been provided as a preamble to each set of recommendations.

The Task Force has made its recommendations with regard for present constitutional and legal frameworks in Canada and Alberta, and offers them in a spirit of progress toward a fair, just and equitable system of justice for all Canadians.

2.0 Policing

Term of Reference:

Policing 2 (a)

To review the delivery of policing services to Indian and Metis communities and more specifically, regarding indentifiable Indian and Metis communities, the Task Force will:

- i) Examine the existing relationship between members of the Indian and Metis communities and the R.C.M.P.*

The Task Force Recommends:

- 2.1 That the police, in consultation with Aboriginal leaders, respond to the policing priorities and needs as defined by Aboriginal communities. At present, the R.C.M.P. and Aboriginal communities are establishing non-political aboriginal advisory committees which are consulted about community needs. We encourage this development and recommend that this activity include Indian Reserves, Metis Settlements, and communities with a significant Aboriginal population.
- 2.2 That the R.C.M.P. in the field receive Aboriginal awareness training geared to sensitizing front-line officers to local Aboriginal culture. We have been advised that the R.C.M.P. is currently in the planning stages of providing such training to "K" Division front-line officers.

- 2.3 That an external system be established for the auditing of the R.C.M.P.'s relationship with the Aboriginal community. This audit must include Aboriginal people and be geared to determining the level of user and community satisfaction.
- 2.4 That the R.C.M.P. accelerate efforts to recruit Aboriginals. This measure is important to attain credibility in the eyes of the community while providing a culturally-sensitive police service. At the same time, it is acknowledged that the R.C.M.P. has recruited significantly greater numbers of Aboriginals than its municipal counterparts in Edmonton, Calgary, and particularly Lethbridge.
- 2.5 That the R.C.M.P. be involved in any community workshops or legal education sessions for Aboriginal people which address police practices, policies, and other relevant matters, and that this involvement continue to be a responsibility of R.C.M.P. officers to the community. Legal education is required for residents of Aboriginal communities so that they will be less vulnerable to the abuse of their rights and will know the law and understand it. While this is a matter of community crime prevention and lies outside of the police role proper, R.C.M.P. involvement in such community sessions is critical to the development of a good relationship with the community.

- 2.6 That an overall crime prevention program be initiated by communities, with community members to co-ordinate and deliver services. This program should not be confused with the role of the police.
- 2.7 That the federal and provincial governments direct crime prevention funds to Aboriginal communities, and that community members co-ordinate and deliver these prevention services in consultation with the police. Crime prevention funds should be directed to community members and/or Aboriginal organizations in a position to deliver this service.
- 2.9 That the government of Alberta, in consultation with Aboriginal organizations, develop a process to ensure the ongoing input from and participation by Aboriginal organizations in the development of policing policy and initiatives.
- 2.10 That R.C.M.P. detachments together with Aboriginal communities develop a forum or process for ensuring that local communities have input into the identification of problems and the development of solutions.
- 2.11 That the current trend to establish sub-detachments and workstations in remote and rural areas, or on lands reserved for Indian and Metis people continue when and where requested by the community and when and where feasible.

Term of Reference:

Policing 2(a)(ii)

Examine the existing lines of communication between the R.C.M.P. and municipal police forces and Indian and Metis leaders to determine if existing police practices are responsive to Indian and Metis concerns, in particular the degree of Indian and Metis input into the identification of enforcement problems and the development of solutions.

The Task Force Recommends:

- 2.8 That at minimum, the R.C.M.P. and municipal police services in Alberta establish and maintain liaison and communications with Indian and Metis organizations of Alberta at the corresponding level of jurisdiction.
- 2.12 That, if the Detachment provides service to an Aboriginal community, the R.C.M.P. recruit local Aboriginal people to non-police positions in the detachment area.
- 2.13 That R.C.M.P. detachments work with Aboriginal communities to improve existing policies or practices by developing acceptable methods or practices to communicate information back to the community.
- 2.14 That when and where possible, R.C.M.P. members spend time in Aboriginal communities in a non-enforcement police capacity.

- 2.15 That R.C.M.P. members be encouraged to participate in non-police activities and community events in Aboriginal communities, and that Aboriginal communities actively invite the R.C.M.P. to participate.
- 2.16 That when and where a municipality has a significant number of Aboriginal residents, or a disproportionate amount of police workload involves Aboriginals, they be represented on the Police Commission.
- 2.17 That municipal policing agencies become involved in and respond to invitations to social and cultural events hosted by Aboriginal communities located in or near the municipalities, and that Aboriginal people extend invitations to police agencies when hosting community events.
- 2.18 That Aboriginal communities be encouraged to develop local advisory groups to address policing issues in municipalities.
- 2.19 That municipal police agencies work with Aboriginal communities to improve existing policies or practices by developing acceptable methods or practices to communicate information back to the community.
- 2.20 That when and where a disproportionate amount of police workload involves Aboriginals, the municipal police in consultation with Aboriginal organizations develop a process to allow them input into, or participation in the development of programs and other initiatives, as well as in planning and service delivery.
- 2.21 That when and where a large number of Aboriginal people reside in a municipality or a disproportionate amount of the police workload involves Aboriginals, a municipal police service actively and affirmatively recruit Aboriginal people to policing and non-policing positions in the police service.
- 2.22 That a position be established for liaison with Aboriginal communities by municipal police services which do not currently have such a position and have a workload which involves Aboriginals disproportionately, or serve a community with a large Aboriginal population.
- 2.23 That, when and where possible, Aboriginal members of municipal police services be involved in policing activities related to the Aboriginal community.
- 2.24 That municipal police who have a disproportionate workload of Aboriginals or serve a community with a significant Aboriginal population, be in regular contact with local and provincial levels of Aboriginal leadership, without being limited to the boundaries of the municipality. It is important that municipal police services establish and maintain liaison with surrounding Aboriginal communities.

Term of Reference:

Policing 2 (a) (iii)

Examine the existing level of police service in the Indian and Metis communities, the working relationship between the R.C.M.P. personnel and band special constables, and the effectiveness of special programs such as crime prevention initiatives and other forms of police/community involvement.

The Task Force Recommends:

- 2.25 That the provision of policing service to rural and remote Alberta be reviewed by the parties who provide and receive the police service in order to address service delivery issues and options.
- 2.26 That, at the request of an Aboriginal community, a detachment, satellite detachment, or workstation be established in the community where feasible. Use of these facilities should be made an efficient and effective component of police duties.
- 2.27 That police training programs emphasize the exercise of discretion and the development of alternative problem-solving approaches to conducting police work, which are more in tune with expectations of Aboriginals of the role of a police officer in their communities.
- 2.28 That the current process of taking complaints, or call diverter system, be altered and made sensitive to the needs of Aboriginal communities.
- 2.29 That crime prevention and other pro-active police initiatives in Aboriginal communities be given the same weight as other activities in the assessment of detachment workload.
- 2.30 That foot patrol programs be established in urban centres with districts with large Aboriginal populations.
- 2.31 That foot patrol officers receive extensive and on-going Aboriginal awareness training.
- 2.32 That municipal police agencies in co-operation with urban Aboriginal service agencies establish an inter-agency working group to co-ordinate service delivery to Aboriginal people. This group should have as many representatives from Aboriginal service providers as possible.
- 2.33 That Aboriginal spokesgroups in urban centres, for example, Canadian Native Friendship Centres or Metis Locals, be approached by municipal police agencies on an on-going basis for the purpose of identifying the concerns or needs for service of the Aboriginal community.
- 2.34 That Indian Bands and the R.C.M.P. meet for the purpose of resolving jurisdiction disputes related to enforcement of Band By-law prosecutions.

- 2.35 That Canada, Alberta and Indian organizations meet for the purpose of resolving jurisdiction disputes related to Band By-law prosecutions.
- 2.36 That the R.C.M.P. and Band Constables develop a protocol for liaison and communication to deal with matters pertaining to reserves, while recognizing that there are overlapping areas of jurisdiction.
- 2.37 That Indian Bands consider making Band Constables accountable to a body external to and independent of the Band Council.
- 2.38 That R.C.M.P. conferences or meetings about Aboriginal policing issues involve Band Constables as participants or presenters where appropriate.
- 2.39 That Band Constables be invited to participate in interagency committees of service providers where such committees exist.
- 2.40 That police services continue to be involved in pro-active and preventative policing endeavours, only limited by their resources. In developing initiatives, police should have meaningful input from the Aboriginal community to ensure the initiatives are relevant and culturally sensitive.
- 2.41 That service providers, for example, social services, Solicitor General personnel, police, health personnel,
- and the Aboriginal communities form an inter-agency working group which includes local Aboriginal community members as representatives.
- 2.42 That, when and where possible, resources for prevention programming be transferred to Aboriginal communities, and that programs be delivered by community members.
- 2.43 That funding agencies acknowledge that programs initiated by Aboriginal communities cannot be assessed or funded based on a segmented urban style of service delivery. Innovation, flexibility, and co-operation or joint funding between agencies is imperative to ensure that good initiatives receive proper support and resources.
- 2.44 That service providers engage in a pro-active approach to service delivery in Aboriginal communities. That is, that service agencies address the needs and try to develop solutions in co-operation with the Aboriginal community.
- 2.45 That Aboriginal communities acknowledge that criminal justice is an important issue to all community members, and that they place a higher priority on criminal justice issues, especially crime prevention.

Term of Reference:

Policing 2(a)(iv)

Review the impact of the R.C.M.P. Special Constable program in relation to the original objectives of the program in light of current needs.

The Task Force Recommends:

- 2.46 That the R.C.M.P., the Department of the Alberta Solicitor General, and the Department of Indian Affairs and Northern Development articulate clearly their intent with respect to the policing of Aboriginal people in Alberta, particularly in light of the recent change made in the status of the Special Constables.
- 2.47 That the 3(B) program be changed to an affirmative action program geared to accelerating the recruitment of Aboriginals.
- 2.48 That Aboriginal Constables be re-oriented or that their mandate be re-adjusted to the task of community relations and pro-active policing. The Task Force has been told that this initiative may already be under-way.
- 2.49 That the R.C.M.P. build upon the successes of the 3(B) program with respect to Aboriginal recruitment. The program is the most successful of the Aboriginal recruitment initiatives which have come to the attention of the Task Force. We conclude that, in spite of its drawbacks, the program contains some ingredients of success.

Term of Reference:

Policing 2(b)

As it relates to Indian and Metis people in urban and isolated settings, to review existing relationships between Indian and Metis people and municipal police forces and the R.C.M.P.

The Task Force Recommends:

- 2.50 That the R.C.M.P. and municipal police force Chiefs establish formal communication channels with leaders or representatives of the respective Aboriginal communities. We are encouraged by the initiative of the R.C.M.P. "K" Division which has recently formed an Elders' Advisory Committee to the Commanding Officer.
- 2.51 That the Indian Association of Alberta and the Metis Association of Alberta take a leadership role in relation to the problem of urban Aboriginal people in conflict with the Criminal Justice system.
- 2.52 That community policing and police prevention programs be Aboriginal-specific in identifiable Aboriginal communities in urban areas.
- 2.53 That Aboriginal Constables be stationed in identifiable communities with high Aboriginal populations.
- 2.54 That Native Friendship Centres and other local Aboriginal service agencies in urban and rural areas

be used as channels for liaison between the Aboriginal community and the police officer working at the "zone" level. The Task Force encourages the establishment of this relationship where it is not currently in place.

- 2.55 That municipal police services place a high priority on the establishment of good working relationships with the Aboriginal communities and that this relationship be reflected in Aboriginal-specific community outreach and liaison programs, with activity levels and resources proportionate to the Aboriginal workload.
- 2.56 That Native Counselling Services of Alberta and other Aboriginal service organizations be recognized and used as appropriate resources in the absence of an organized community group which can represent urban Aboriginal people with respect to Criminal Justice issues.
- 2.57 That all sizable municipalities with a significant Aboriginal population form Urban Aboriginal Affairs Committees to include among general concerns, Aboriginal Justice/Police issues. The Task Force has been advised by the Mayor of Edmonton that plans are being developed for an Aboriginal Advisory Committee. The Task Force applauds this move and urges the City to give this committee a high profile in civic affairs.

- 2.58 That urban police services establish an effective liaison with reserves and surrounding communities. The Task Force was impressed by the effort in this respect made by the Calgary Police Service.

Term of Reference:

Policing 2(c)

To review and assess the current recruit training and other in-service training programs of the R.C.M.P. and municipal police forces in so far as this training relates to Indian and Metis cultural awareness and understanding.

The Task Force Recommends:

- 2.59 That all police services, when they deal with a significant number of local Aboriginals, establish a specific awareness program geared to sensitizing their members and staff to Aboriginal issues.
- 2.60 That Aboriginal people not be defined as a member group of the multicultural mosaic, but as members of society with First Nation status and Aboriginal status.
- 2.61 That Aboriginal people, during the course of Aboriginal awareness training, be identified as a group which requires remedial measures and assistance to be able to be represented on Alberta's police forces in proportion to their numbers in the respective communities.

- 2.62 That police officers be required to take Aboriginal awareness refresher training after experience in the field. This recommendation is made because training during induction may be viewed somewhat academically by recruits during their first exposure to the Aboriginal community.
- 2.63 That Aboriginal people be utilized to deliver Aboriginal awareness training.
- 2.64 That Aboriginal recruits and staff take awareness training as well as non-Aboriginal staff, so that a cross-cultural dimension can be added to group discussions.
- 2.65 That delivery of Aboriginal awareness training include a significant amount of group discussion, and not consist of lectures only. This is important since the content and substance of Aboriginal awareness training deals with learned and ingrained attitudes on the part of the participants. Differing views and reactions must be allowed to be worked through in the sensitization process.
- 2.66 That Aboriginal awareness programs and sessions include as a central theme that Aboriginal people have special rights and that the relationship between the Government of Canada and Aboriginal people as defined in Section 35 of the Constitution Act is the starting point for the contemporary nature of this relationship.
- 2.67 That the Solicitor General of Alberta provide leadership in establishing a co-operative Provincial Aboriginal Awareness program for non-R.C.M.P. provincial police officers, and that Aboriginals have input in the development of this program.
- R.C.M.P.:
- 2.68 That the generic or central Aboriginal awareness training at the Training Academy be supplemented at the local and field level with a program to sensitize detachment staff to the particular cultures of the communities which they serve, and that this program include a visit to a local Indian or Metis community.
- 2.69 That the Aboriginal-specific component of multi-cultural training be enhanced both in quality and in time allocated. Given the size of the Aboriginal population as a client group of the R.C.M.P., the allocation of seven hours during a six-month program can probably be increased.
- 2.70 That the Aboriginal-specific component of multi-cultural training at the Training Academy distinguish more adequately between the Indian and Metis cultures of Canada. Leaders in the Indian and Metis communities should be consulted for this purpose.

- 2.71 That Aboriginal spirituality be included as part of the Aboriginal-specific training program at the Training Academy and that the Aboriginal community be consulted in the determination of appropriate learning materials.
- 2.72 That Aboriginals be engaged in the presentation of the Aboriginal-specific component of multi-cultural training.
- 2.73 That an extensive Aboriginal awareness program or exposure to the Aboriginal community be made mandatory for senior R.C.M.P. personnel and supervisors. This recommendation acknowledges that supervisors and managers require this exposure in order to provide the appropriate leadership to field staff.
- 2.74 That the civilian staff of the R.C.M.P. also receive Aboriginal awareness training.
- 2.76 That the police services of Alberta, including the R.C.M.P., commit themselves to an affirmative action plan designed to increase significantly the level of Aboriginal recruitment. The pre-employment up-grading program under consideration by the Edmonton City Police Service is a positive affirmative action response to the recruitment problem. The Head Report suggests that a similar approach is under consideration by the R.C.M.P. The Task Force commends these initiatives.
- 2.77 That affirmative action programs allow Aboriginal applicants to be up-graded to meet realistic uniform standards for all police officers at the recruitment level. This would ensure that Aboriginal and non-Aboriginal officers, once recruited, would be on a level playing field with police officers.
- 2.78 That police forces express commitment and adopt a long-term plan for Aboriginal recruitment and that they begin immediately to educate young people in the communities about the positive aspects of policing and policing careers so that, in future, potential Aboriginal recruits will not have a negative and reactive view of policing. The newly implemented Calgary Police Service outreach program is commended as a positive example of such an approach.

Term of Reference:

Policing 2(d)

To review and assess the recruitment and selection programs of the R.C.M.P. and municipal police forces that are designed to attract Indian and Metis people into the respective police forces.

The Task Force Recommends:

- 2.75 That all Alberta police services, including the R.C.M.P., streamline and shorten the recruitment process for Aboriginal applicants.

- 2.79 That police forces dedicate staff and resources to their efforts to recruit Aboriginals. This process must be Aboriginal-specific and tailored to Aboriginal culture and the needs of police as well as of Aboriginal communities.
- 2.80 That recruiters be Aboriginal recruitment specialists who have considerable knowledge of Aboriginal culture and that these recruiters be Aboriginal themselves.
- 2.81 That recruitment goals for Aboriginal police be set ideally to reach levels of recruitment which correspond to the proportion of Aboriginal people in the community.
- 2.82 That the Task Force adopt recommendation No. 52 of the Head Report, which reads as follows: *"That the Force re-examine the application processes and change where necessary to ensure they are not culturally biased against Native persons."*⁹⁷
- 2.83 That all municipal police forces in Alberta review their application process and criteria for the purpose of eliminating cultural bias, and identify other recruitment barriers such as physical fitness, eyesight requirements, and education.
- 2.84 That police forces apply cluster hiring as a recruitment strategy.
- 2.85 That police forces retain the services of one or more Indian or Metis Elders as a method of providing support to Aboriginal police officers.
- 2.86 That Aboriginals with criminal records not be excluded necessarily from the recruitment process and that the respective police forces and R.C.M.P. articulate policy with respect to the recruitment of Aboriginals with criminal records.
- 2.87 That the R.C.M.P. Native Special Constable Program be examined by Alberta police recruiters to determine the factors contributing to success so that these factors can be applied in recruitment processes and programs.

Term of Reference:

Policing 2(e)

To review operational policies and practices of the R.C.M.P. and municipal police forces as they relate to the exercise of police powers as between Indian and Metis people and non-Indian and non-Metis people to determine if there are differences in treatment and whether those differences are desirable or detrimental.

The Task Force Recommends:

- 2.88 That policing organizations together with Aboriginal organizations and communities enter into on-going discussions to examine policies and practices used by policing services which, by their nature or application, have a

- disproportionately harsh or inequitable impact on Aboriginal people.
- 2.89 That police services, in addition to the usual factors, take into consideration the residence of an Aboriginal person when determining the option of release with a Notice to Appear or arrest, to ensure that undue hardship does not result.
- 2.90 That when Aboriginal persons are arrested, removed from a community and transported to another community, and then are released from custody, the police agency assume the responsibility for making arrangements for their return to the community in which they were arrested.
- 2.91 That police organizations, the Indian Association of Alberta, and the Metis Association of Alberta examine programs and initiatives of police agencies that have a significant impact on Aboriginal people so that viable solutions and alternatives can be developed.
- 2.92 That Canada and Alberta, and Aboriginals, develop educational materials about Indian and Metis people to educate the public about Aboriginal issues, history, rights, and culture.
- 2.93 That the Indian and Metis organizations of Alberta and Alberta Aboriginal communities become involved in the issue of
- differential policing for the purpose of identifying and reporting it.
- 2.94 That all police organizations in Alberta maintain statistics which would allow for the identification of Aboriginal workload or contact.
- 2.95 That Aboriginal communities, police agencies and service providers at the local level enter into discussions to determine formal and informal resources and programs in the community, for the purposes of diversion and co-ordination to address the issue of Aboriginal people in conflict with the law.
- 2.96 That police services ensure that multiple charges resulting from a one fact situation is discouraged or eliminated.
- 2.97 That, where police have doubts or are unsure about the appropriate charge to lay, they seek advice with respect to the appropriate charge. Advice may be sought from, for example, a senior officer, prosecutor or lawyer before the charge is laid.
- 2.98 That Aboriginal communities be provided with education and information about proper police conduct, individual rights, including the right to lodge a complaint, and about the mechanisms for lodging complaints.

- 2.99 That a position of Aboriginal Advocate be established within the Aboriginal Justice Commission, independent from the police and that this position have a mandate to accept and advance police complaints on behalf of Aboriginal people.
- 2.100 That all complaints against police lodged by Aboriginal people and received by an R.C.M.P. detachment or police service be forwarded annually to the Aboriginal Advocate.
- 2.101 That the policing services of Alberta, the Indian Association of Alberta, and the Metis Association of Alberta enter into discussions to identify Aboriginal people who will assist in the review of police complaint investigations.
- 2.102 That the results of any investigations resulting from a complaint advanced by the Aboriginal Advocate be forwarded to the Aboriginal Advocate, so that the results can be given to the complainant. Accompanying this feedback to the complainant should be explanations regarding appeals processes should the complainant want to proceed further.
- 2.103 That all Criminal Justice personnel be provided with information about the role of the Aboriginal Advocate. In addition, a policy should be developed to ensure that, if information surfaces about police impropriety, Criminal Justice personnel forward their concerns to the Advocate's office.
- 2.104 That the Aboriginal Advocate's office be given a toll free line for the lodging of complaints to ensure that the office is accessible from anywhere in the province.
- 2.105 That police complaint appeal bodies include Aboriginal representation.
- 2.106 That the Anunga Rules be endorsed and adopted.
- 2.107 That police agencies review agency policies on the taking of statements to ensure that they reflect the Anunga Rules; and that where this is not the case, steps be taken to incorporate these Rules in a culturally sensitive way.
- 2.108 That Canada and Alberta meet formally to outline a comprehensive policy framework to guide the development of policing programs, and that the respective Aboriginal communities be consulted in the process. Given the increasing Indian population on reserves and the high crime rate, it is clear that these communities will demand more policing program services. A Federal Inter-Departmental Task Force on Indian Policing Policy (1990) has stated that the jurisdiction of on-reserve policing is shared by the federal and provincial

- governments. However, the exact measure of the respective responsibilities has not been defined.
- 2.109 That funding responsibilities by the federal and provincial governments be identified clearly in relation to policing programs and in accordance with the overall policy. Clarification of funding responsibilities will enable Aboriginal communities to plan more easily for the administration of their programs.
- 2.110 That federal and provincial governments continue to support community-based, community-managed, and community-controlled programming as a legitimate way for Aboriginal people to gain greater control over their communities and programs, and that policing services be recognized as a component of the community program.
- 2.111 That where Aboriginal communities assume the responsibility for policing themselves, they be given the full benefit of the experience and expertise of established police forces such as the R.C.M.P. as well as support and guidance from the provincial Solicitor General's Department. Without this support, promising initiatives such as the Louis Bull and Blood Tribe policing programs will likely fail.
- 2.112 That police services in Alberta reflect, at minimum, the cultural make-up of the community it polices.
- 2.113 That Aboriginal style policing or peace-keeping be formally recognized in government policy as the police service required on Indian Reserves and Metis Settlements/communities of Alberta.
- 2.114 That, where practical and feasible, the responsibility for regional policing arrangements and police forces with Aboriginal Police Commissions be assumed by Aboriginal communities requesting this service.
- 2.115 That, in the context of federal-provincial funding arrangements, the provincial government develop a policing policy which outlines short and long-term policing strategies and associated funding responsibilities in relation to the various policing models and options available.
- 2.116 That the provincial government policing policy serve as a framework for the evolution of provincial policing arrangements over the next decade, and that this policy also address a Provincial Aboriginal Police Service as a contingency.

3.0 Legal Aid

Term of Reference:

Legal Aid 3(a)

to determine the extent to which Indian and Metis people involved with the criminal justice system are aware of the availability of legal aid, how to obtain legal aid and the extent to which legal aid is presently provided following arrest, when appearing before a Justice of the Peace, or when first appearing in Court.

Term of Reference:

Legal Aid 3(b)

To identify the deficiencies that exist between the present system of legal aid respecting the needs of Indian and Metis people involved with the criminal justice system, and to determine how these deficiencies can be effectively addressed.

The Task Force Recommends:

- 3.1 That the Legal Aid Society include in its mandate a requirement to educate the Aboriginal people of Alberta about the services offered by the Society.
- 3.2 That the Legal Aid Society translate into Cree, Blackfoot and Dene Tha', informational pamphlets on services offered by the Society.
- 3.3 That the Government of Alberta develop standardized signs to be posted in Alberta gaols,

penitentiaries and police lock-ups with respect to the availability of Legal Aid, and a method for including and keeping current the names and phones numbers of lawyers funded by Legal Aid.

- 3.4 That Legal Aid coverage of summary conviction offences be extended, as a necessary affirmative action program, to all accused Aboriginals who are eligible.
- 3.5 That Legal Aid only take bail money from Aboriginal clients to cover fees when written consent has been received from the person who posted the bail.
- 3.6 That lawyers funded by Legal Aid who serve Aboriginal clients be required to take cross-cultural training.
- 3.7 That the final account paid by the Legal Aid Society to the lawyer funded by Legal Aid be provided to Legal Aid recipients, and that recipients be informed that they have the right to review and question the account.
- 3.8 That Aboriginal communities, the Governments of Alberta and Canada, and the Legal Aid Society work together to consider alternative methods of providing legal service. Examples are: a public defender or hybrid system for areas in the province where significant numbers of Aboriginal people reside.

- 3.9 That Aboriginal communities work together with the Legal Aid Society, the Governments of Alberta and Canada, and the Indigenous Bar Association to establish a public defender/staff lawyer program to serve the needs of poor Aboriginal people in the Slave Lake district.
- 3.10 That the Legal Aid Society ensure that there is a culturally sensitive complaint process for Aboriginals who are not able to express themselves effectively in written or spoken English.
- 3.11 That the Criminal Trial Lawyers Association reassess the importance of adjusting to the changing needs of Aboriginal communities in Alberta who utilize their services through the Legal Aid plan.
- 3.12 That the Legal Aid Society invite lay Aboriginal community members in preference to Native Counselling Services of Alberta staff to represent Aboriginal concerns on regional committees.

4.0 The Courts

Term of Reference:

Courts 4(c)

to examine existing levels of community input and assess the feasibility of permitting a greater degree of participation by knowledgeable and respected Indian and Metis people in the sentencing process.

The Task Force Recommends:

- 4.1 That the supervising Queen's Bench Justice for every Judicial District in Alberta establish a committee of Judges composed of Queen's Bench Justices and Provincial Court Judge(s) to establish and monitor liaison between the judiciary and Aboriginals.
- 4.2 That Alberta Judges respond actively to opportunities to attend Aboriginal social and cultural events.
- 4.3 That Aboriginal communities invite Judges to attend social and cultural events.
- 4.4 That Judges participate in and provide input into inter-disciplinary committees when Aboriginal issues are discussed.
- 4.5 That Chief Justices and the Chief Provincial Court Judge establish a channel of communication with leaders of the Indian and Metis Associations.

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- 4.3 That Aboriginal communities invite Judges to attend social and cultural events.
- 4.4 That Judges participate in and provide input into inter-disciplinary committees when Aboriginal issues are discussed.
- 4.5 That Chief Justices and the Chief Provincial Court Judge establish a channel of communication with leaders of the Indian and Metis Associations.

- 4.6 That government support the Lesser Slave Lake Indian Regional Council initiative for the training of Indian Justices of the Peace through a certification program, developed in collaboration with the Faculty of Law, University of Alberta, that will apply province-wide.
- 4.7 That a review of lay Judges and their value in remote areas be undertaken to determine if a program of appointments and training of Aboriginal lay Judges for these areas is warranted.
- 4.8 That, when Aboriginal lay persons are considered for appointments as Justices of the Peace, they be fully trained and empowered to hear summary conviction offences in the communities in which they live and serve.
- 4.9 That Justices of the Peace be appointed in the same manner as Provincial Court Judges, with the added input from Indian and Metis Associations and/or communities.
- 4.10 That the Chief Judge of the Provincial Court be given the power to supervise Aboriginal Justices of the Peace.
- 4.11 That Aboriginal people be appointed to fill all positions necessary to operate an Aboriginal Provincial Court (Criminal Division) to go on circuit, for example, in the Slave Lake District of Alberta.

- 4.12 That Aboriginal people be appointed to fill all positions necessary to operate an Aboriginal Provincial Court (Criminal Division) in a large urban centre.

Terms of Reference

Courts 4(a)

to examine the extent to which Indian and Metis people currently experience difficulty when appearing in Court as a result of their unique languages and culture.

Courts 4(f)

to determine to what extent Indian and Metis people appearing in a court are presently provided with interpreters/translators and to determine if there are tangible benefits to permitting Indian and Metis people to using their own language in the courts.

The Task Force Recommends:

- 4.13 That interpretation and translation services for criminal court be provided at public expense to all Aboriginals for whom English is a second language and who require assistance.
- 4.14 That the Government of Alberta together with the Aboriginal community develop interpreting and translation courses for the main Aboriginal language groups in the province, and find uniform ways for the interpretation of legal concepts in the Aboriginal languages.

4.15 That the right of Aboriginal people to be heard in their first language be recognized. Translation and interpretive services exist for the benefit of the court and should be paid for at public expense.

persons, witnesses and jurors, and that allowable expenses to get to court be increased, or transportation be made available.

4.22 That the Alberta Government, through Legal Aid or a public defenders' system, ensure that legal representation is provided to Aboriginal people at every stage in the criminal justice system, from arrest through trial, and that this service be made available on a 24-hour basis and be culturally sensitive.

Term of Reference:

Courts (4d)

to assess the desirability and the extent to which Court sittings should be routinely and/or selectively held in identifiable Indian and Metis communities.

The Task Force Recommends:

4.16 That regular sittings of the Court of Queen's Bench be held in High Level.

4.17 That all court sittings be held closer to Aboriginal communities.

4.18 That all court sittings be reviewed and located on Indian Reserves, and in Metis Settlements and Metis communities throughout the province, with the concurrence of the community.

4.19 That, when elections are made for a Court of Queen's Bench Judge to sit alone, the Court sit wherever a circuit provincial court would sit.

4.20 That all courts sit at any Aboriginal community in the province at the request of the parties and the community.

4.21 That the Government of Alberta review the process of court attendance of Aboriginal accused

Term of Reference:

Courts 4(b)

to determine whether and to what extent differences exist in sentencing practices as between Indian and Metis people and non-Indian and non-Metis people in the sentencing process.

The Task Force Recommends:

4.23 That, when imposing a custodial sentence or a fine, the Judge should always take into account time spent in custody.

Term of Reference

Courts 4 (h)

to determine the extent to which Indian and Metis people are imprisoned due specifically to their inability to pay a fine or use a fine option program.

Term of Reference

Courts 4(e)

to determine whether alternatives to imprisonment that may be available to non-Indian and non-Metis people are also available to Indian and Metis people and whether there are any barriers to their having access to those programs.

The Task Force Recommends:

- 4.24 That the Province of Alberta establish Elder sentencing panels to assist Judges in the sentencing of convicted Aboriginal persons.
- 4.25 That alternatives to incarceration for fine default be explored specifically for poor Aboriginal offenders, and most specifically for female Aboriginal offenders.
- 4.26 That Judges refrain from keeping "black books" on poor Aboriginal offenders in the determination of allowing for time to pay fine defaulters.
- 4.27 That more pre-sentence and pre-disposition reports be ordered by Judges for Aboriginal adult and young offenders, and that these reports be culturally sensitive and reflective of the community sentiment.
- 4.28 That accused Aboriginal persons with alcohol and drug addictions be recommended for treatment at the time of sentence, and that such recommendations be endorsed on the warrant of committal.
- 4.29 That, when and where appropriate, the Judge adjourn the passing of sentence to allow the accused person to obtain treatment, and that when it is demonstrated that the accused has received treatment, the Judge take this information into consideration when imposing sentence.
- 4.30 That pre-sentence reports on Aboriginal offenders with an apparent alcohol or drug problem include information about the accused person's problem and treatment that may be available.
- 4.31 That an adequate number of treatment facilities for Aboriginal offenders with alcohol and drug addictions be established in Alberta.
- 4.32 That more Aboriginal probation officers be recruited and trained to enable the criminal justice system to respond to the provision of culturally sensitive information in pre-sentence and pre-disposition reports.
- 4.33 That the Government of Alberta address the problem of the unavailability of appropriate facilities in rural and remote Alberta, to permit the carrying out of intermittent sentences which have a disproportionate impact on Aboriginals.

Term of Reference

Courts 4(g)

to examine whether and the extent to which differences exist in the provision of bail, release on own recognizance or other forms of conditional release prior to trial or adjudication between Indian and Metis people and non-Indian and non-Metis people.

The Task Force Recommends:

- 4.34 That the suggestion of the Elizabeth Fry Society of Calgary be adopted to reinstate the Bail Assistance Program, and that it be modified to one specific to Aboriginals because of their specific problems with respect to bail.
- 4.35 That culturally sensitive bail criteria be developed for Aboriginal accused persons.
- 4.36 That an Elder sponsorship alternative to bail be studied and developed.
- 4.37 That cash bail requirements not be applied to poor Aboriginal accused persons, in particular not to those who are living on welfare.
- 4.38 That, where cash bail is appropriate, Band Councils establish a fund for assistance to Reserve residents.
- 4.39 That Aboriginal people be summonsed regularly for jury duty throughout Alberta.
- 4.40 That courtrooms serving Aboriginal communities be sensitized physically to Aboriginal culture, and be arranged in a less intimidating manner.
- 4.41 That Aboriginal persons giving evidence in court be permitted to swear an oath in a traditional way by, for example, by swearing an oath on a pipe or being cleansed with sweet grass.

5.0 Judges, Prosecutors and Lawyers

Term of Reference:

Judges, Prosecutors and Lawyers 5.0

to determine whether and the extent to which differences exist in the exercise of prosecutorial discretion between Indian and Metis people and non-Indian and non-Metis people.

The Task Force Recommends:

- 5.1 That, in view of their apparent lack of knowledge about Aboriginal culture, Judges, lawyers, and Prosecutors receive cross-cultural education immediately, intensively, and on an on-going basis. The person in charge of education for each group should be given this responsibility.
- 5.2 That throughout the legal process, Judges be more sensitive and take into consideration cultural and socio-economic factors when Aboriginal people appear before them.
- 5.3 That Judges ensure that Aboriginal accused persons have been advised of all their rights and fully understand the legal process when they appear in court.

- 5.4 That prosecutors strictly adhere to principles of fairness and justice and before proceeding, the Prosecutor be satisfied that proceeding with a case is in the interest of the public.
- 5.5 That the concept of plea bargaining be reviewed by Crown Prosecutors and defence lawyers to establish ground rules on which plea bargaining may be based.
- 5.6 That no plea bargain be concluded without the informed consent of the Aboriginal accused person.
- 5.7 That the Attorney General of Alberta establish policy for the diversion of Aboriginal adults and that multiple charges be closely scrutinized and discouraged by Crown prosecutors.
- 5.8 That defence counsel always act in the best interest of Aboriginal clients by familiarizing themselves with the total situation of the accused person, by guarding against spurious charges, by educating clients about the legal process, by considering only legitimate plea bargain offers, and by refraining from raising expectations about reduction of charges and/or sentences.

6.0 Corrections

The Task Force Recommends:

- 6.1 That the number of meetings be increased between agents of the criminal justice system (defence counsel, Crown Prosecutor, Judges) and those agents of the criminal justice system who are involved in implementing a sentence (for example, federal and provincial Solicitor General Departments), and that participation in these meetings be broadened.
- 6.2 That there be regular meetings between service providers (for example, Native Counselling Service of Alberta, Poundmaker's Lodge, the Elizabeth Fry Society) involved in the criminal justice system before sentence, and corrections and community corrections/supervision personnel to discuss problems and other matters related to the person in conflict with the law.
- 6.3 That ways be found to provide information and feedback to Prosecutors, Judges, and defence lawyers regarding viable and effective sentencing options for Aboriginals. Possible resources could be sentencing "experts", sentencing panels, and community groups.
- 6.4 That there be regular meetings between the National Parole Board, the Correctional Service of Canada and the provincial Solicitor General's Department specifically with respect to Aboriginal issues,

to ensure uniformity and consistency in the application of programs and standards.

Term of Reference:

Corrections 6 (a)

to examine the current admission rates/numbers, incarceration rates/numbers, average sentence and average length of time served in prison by Indian and Metis people in comparison to non-Indian and non-Metis people.

Term of Reference:

Corrections 6 (b)

To examine existing policies and practices to determine whether there are any discrepancies between Indian and Metis and non-Indian and non-Metis people respecting

- (i) *prisoner classification, case management techniques, release criteria and the availability of programs to Indian and Metis people while in custody, and*
- (ii) *the criteria for entry to community release programs and the rate of early release of Indian and Metis people.*

The Task Force Recommends:

- 6.5 That all Aboriginal accused persons who are subject to lengthy remands (in excess of three months) be given access, at their request, to the same programming as sentenced offenders in the same security level.

- 6.6 That short term remanded accused persons be given access to urban life-skills programming.
- 6.7 That remand facilities such as the Edmonton Remand Centre not be used for individuals who require less than medium security control.
- 6.8 That the Solicitor General's Department review innovative remand procedures, for example, electronic monitoring and other restraint procedures that would allow an Aboriginal person to remain at home or in the home community.
- 6.9 That reporting centres throughout the province be used in lieu of "in custody remands" for minimum security offenders or that more extensive use be made of existing reporting centres.
- 6.10 That Aboriginal persons on remand in correctional facilities be given adequate access to their community support system of family and friends while awaiting trial.
- 6.11 That Aboriginal communities be involved in bail release programs (see recommendation 6.91).
- 6.12 That a maximum time be established within which trials must be held during which people may be detained in custody pending final disposition of their charges.
- 6.13 That the Correctional Service of Canada reassess the concept of reception programs in Alberta to allow for a more informal and personal evaluation and assessment of new Aboriginal inmates. Security designation should be based not only on written documentation but also on information obtained from staff-inmate interaction. Staff members should be oriented towards obtaining first-hand information based on their observations when they confirm the appropriate security designation. The time during which this is done can also be used to provide inmates with factual information about the Correctional Service of Canada and the institution. It is not possible to achieve this goal if inmates are not housed in a specifically designated reception area.
- 6.14 That Aboriginal inmates be classified as minimum to medium security unless it has been demonstrated that a higher security level is warranted.
- 6.15 That assessment criteria be reviewed to eliminate gender bias and bias against Aboriginals.
- 6.16 That the provincial Solicitor General's Department and the Correctional Service of Canada make a concerted effort to ensure that assessment opportunities with Aboriginal cultural content or reflecting an Aboriginal world

- view (both Indian and Metis) are available to Aboriginal inmates who wish to undergo Aboriginal culturally appropriate assessments, and that these assessments be conducted by Aboriginal assessors.
- 6.17 That the National Parole Board and Temporary Absence Committees review criteria for release and discuss the practical implications of these criteria with respect to Aboriginal lifestyles and culture.
- 6.18 That documents used in the case management process be examined for cultural sensitivity and amended where necessary.
- 6.19 That the case management procedure be reviewed to give Aboriginal inmates more time and more effective participation in the process.
- 6.20 That the the Correctional Service of Canada and provincial Solicitor General's Department establish liaison with Aboriginal community groups who have indicated an interest and are willing to become involved in the parole or temporary absence program, to facilitate the involvement of Aboriginal communities in, for example, supervision or sponsorship of release.
- 6.21 That the Correctional Service of Canada and the provincial Solicitor General's Department establish liaison with Aboriginal community-based agencies to provide information about the parole or temporary absence program and to facilitate the Aboriginal community's involvement with Aboriginal correction facilities and with community correction facilities.
- 6.22 That more Aboriginal individuals be appointed to the National Parole Board.
- 6.23 That hearings of the National Parole Board be held in public.
- 6.24 That the National Parole Board advise Aboriginal inmates at least seven days in advance of the date and time of their hearing.
- 6.25 That the National Parole Board advise Aboriginal inmates that a translator will be made available at their request.
- 6.26 That National Parole Board members receive initial and regularly recurring cross-cultural training relating to Aboriginal culture and society.
- 6.27 That the National Parole Board sitting in Alberta have Alberta members and sit in all facilities that house Aboriginal inmates.
- 6.28 That the National Parole Board adopt the goal of ensuring that Aboriginal residents of Alberta be heard by Alberta members of the Board.

- 6.29 That Aboriginal spirituality be formally recognized as one of the criteria in the release policies of the National Parole Board.
- 6.30 That National Parole Board hearings involving Aboriginal individuals be informal, and apply Aboriginal spiritual practices, both Indian and Metis, where appropriate. A sweet grass ceremony, Aboriginal art on the walls, seating in a circle, and allowance for informal dress may assist the information-gathering process.
- 6.31 That the National Parole Board, Temporary Absence Committees, and the provincial and federal Solicitor General's Departments, recognize in policy that the Aboriginal concept of family is not the same as that of non-Aboriginals, and that the concept of extended family be included in all programming and decision making.
- 6.32 That the recommendations regarding the urgent need for half-way houses in Alberta for Aboriginal women, made by the Task Force on Federally Sentenced Women (page 149), be adopted.
- 6.33 That assistance be given to local communities to develop and involve local residents in the provision of appropriate supervision of parole and temporary absence, and that supervisors be paid reasonably for their services.
- 6.34 That training be provided to members of the National Parole Board and Temporary Absence Committees to sensitize them to the nature of Aboriginal communities, norms, and Aboriginal spiritual healing practices.
- 6.35 That the National Parole Board and Temporary Absence Committees view an Aboriginal's participation in Aboriginal cultural and spiritual activities as an important contributor to change.
- 6.36 That, when applications are reviewed, made by Aboriginal inmates from Alberta whose intention it is to return to a reserve or Metis Settlement or predominantly Aboriginal community, the National Parole Board and Temporary Absence Committees be composed of Aboriginal members from Alberta where possible.
- 6.37 That the temporary absence process be reviewed by the Government of Alberta to ensure that an applicant receives due process.

Term of Reference: Corrections 6(c)

To review existing correctional centre programs for both men and women to determine:

- i. the nature and content of programs for both young offenders and adult offenders,*

- ii. *whether there is sufficient attention being given to the general needs and concerns of Indian and Metis People, including educational, personal development, drug and alcohol abuse and other programs of importance to the Indian and Metis people who are seeking to become more productive on release from prison, and*
- iii. *whether there is sufficient attention being given to the special needs and concerns of Indian and Metis people in view of their cultural and spiritual heritage.*

The Task Force Recommends:

- 6.38 That the government consider enacting legislation which provides for actual incarceration of Aboriginals only when incarceration sentences total six months or more.
- 6.39 That every major correctional institution in Alberta have an alcohol and substance abuse treatment program aimed at Aboriginal inmates and designed to attract participation by Aboriginal inmates. These programs should be of sufficient duration and be offered regularly so that they are available to all inmates serving substantial sentences within the correctional institution.
- 6.40 That correctional facilities provide culturally sensitive programming including programs such as alcohol and substance abuse treatment, employment readiness, physical and sexual abuse survival, life-skills and other relevant training.
- 6.41 That the provincial Solicitor General's Department and the Correctional Service of Canada identify programming required specifically for Aboriginal women and that such programming be implemented in all Alberta facilities housing Aboriginal women.
- 6.42 That the federal and provincial governments establish funding for programming as a priority, and direct its attention to community release programs and prevention programs.
- 6.43 That the feasibility of evaluating the effectiveness of current alcohol and treatment methods be reviewed.
- 6.44 That correctional facilities provide live-in arrangements for infant children of new mothers incarcerated in provincial correctional institutions.
- 6.45 That the provincial and federal Solicitor General Departments ensure that the position of Native Liaison Worker or Program Coordinator allows the individual in that role both sufficient access to policy makers, and an opportunity to advocate on behalf on individual Aboriginal inmates in an effective manner.

- 6.46 That every institution in the province which houses Aboriginal people, including remand and young offender facilities, should have the services of at least one full-time equivalent Elder. Where numbers warrant, there should be two Elders with pay.
- 6.47 That Aboriginal Elders within correctional institutions be provided the same status, freedom and independence that is granted Christian and other religious service providers.
- 6.48 That institutional administrators be open to a broader concept of Aboriginal spirituality and culture and be more receptive to the expression of Aboriginal heritage by Aboriginal inmates in terms of religion, dress and cultural activities.
- 6.49 That Aboriginal community-based release facilities involve in their program development and delivery male and female Elders who are community members.
- 6.50 That a space within institutions be designated as a cultural centre for exclusive use by Aboriginal inmates.
- 6.51 That funding for contracts for the specific provision of services for Aboriginals be reviewed. Many programs currently provided on an annual basis do not allow for sufficient time for the service providers to become familiar enough with the clientele and the institution to provide a consistent and effective service.
- 6.52 That a budget be allocated within the corrections budget, specifically for Aboriginal activities and programs. It is desirable that Native Brotherhoods be actively involved in the process of developing institutional priorities for Aboriginal programming and that they have input into the expenditure of resources allocated for these programs.
- 6.53 That the number of half-way houses, community minimum security facilities, open custody facilities and secure custody facilities be increased throughout the province.
- 6.54 That these facilities be designed for use as multi-purpose community-based facilities with, for example, a program to allow accused persons on remand to report to a designated facility.
- 6.55 That the goal be adopted of placing all minimum security serving prisoners in facilities in their home community for their entire sentence.
- 6.56 That representatives of the federal and provincial corrections services work with Aboriginal communities to explain the role of release-oriented correctional facilities and invite input from the communities with respect to program development and delivery.

6.57 That an urban cultural program centre for multi-purpose community programs be established in urban centres, which would encourage Aboriginals in conflict with the law and Aboriginals in general to become involved in their spiritual and cultural heritage. We suggest that this be a community initiative supported by the Correctional Service of Canada and the provincial Department of the Solicitor General.

6.58 That the provincial government strengthen the existence and advocate the use of home placement custody and mixed group housing custody as alternatives to traditional correctional facilities.

6.59 That the provincial Correctional Services Division review the internal disciplinary procedure governing institutions, and provide for an independent chairperson to determine disciplinary conduct. We suggest that the independent chairperson be a person who is familiar with the concept of due process.

6.60 That the internal disciplinary procedure in federal and provincial correctional institutions be explained clearly to inmates in terms of offences and procedure.

6.61 That disciplinary hearings be conducted in accordance with the principles of due process.

6.62 That Aboriginal inmates be allowed the assistance of advisors whenever they are a complainant or accused person in disciplinary procedures.

Term of Reference:

Corrections 6(d)

To determine the extent to which Indian and Metis Elders and other respected Indian and Metis leaders, organizations, and associations are presently involved in program development and delivery and in providing advice to senior correctional officials, and to determine how Indian and Metis people can become more involved in the correctional system in a productive and positive manner.

The Task Force Recommends:

6.63 That more Aboriginal employees be hired in all aspects of corrections including management and administration.

6.64 That the provincial government initiate the development of innovative and effective recruitment programs and policies to target Aboriginal individuals specifically, and that agencies enlist the assistance of Indian and Metis organizations in the development and implementation of such programs.

6.65 That programs be developed to provide upgrading and orientation programs to potential Aboriginal employees.

- 6.66 That managers educate themselves about the many roles an Aboriginal employee can play, and enter into discussions with Aboriginal staff members.
- 6.67 That management establish liaison with the Union and with employees to educate them about Aboriginal employment programs, so that objectives are understood.
- 6.68 That correctional administrators ensure that the work environment is receptive to Aboriginal employees from a non-Aboriginal perspective as well as from the Aboriginal employee's perspective, and encourage appropriate support groups or support mechanisms, including making Elders available to staff.
- 6.69 That regular meetings be held between representatives of the Indian Association of Alberta and Metis Association of Alberta, Chiefs, Band Councils, Metis Settlement Councils and Metis locals, and representatives of the Solicitor General's department and the Correctional Service of Canada. Meetings should be held in various geographic areas of Alberta, to discuss correctional facilities, to exchange information, and to establish and maintain liaison between community and institution.
- 6.70 That federal and provincial Corrections make a concerted and sustained effort to encourage Aboriginal community involvement in correctional institutions. This may require a re-evaluation of screening criteria for security clearance.
- 6.71 That federal and provincial Corrections Services encourage community involvement in the delivery of correctional programs and services including closed and open custody facilities for young offenders, minimum security facilities for adults, and treatment and diversion programs. Different groups may be interested in or capable of assuming responsibilities for different programs or services. Community efforts in this aspect of corrections must be reviewed in a supportive manner. Diversion and after-release programs, particularly directed at young offenders, should be encouraged.
- 6.72 That the federal government review the pardon procedure for Aboriginal persons for the purpose of speeding up the process.
- 6.73 That federal and provincial corrections develop clear policy on the impact of a criminal record on the limiting of visitor access to inmates and inmate access to prison programs. This policy must be culturally sensitive and not limit access because of minor offences or system-related offences such as "failure to appear."
- 6.74 That correction staff members who work or have contact with or make decisions about Metis and Indian

inmates receive Aboriginal awareness training when they begin employment, and on a regular basis thereafter. All staff members, from frontline staff to the most senior administrators, should be included.

community at large to interact with participating staff members.

Term of Reference: Corrections 6(e)

6.75 That content of a training program be designed for providing an understanding of Indian and Metis culture, history, heritage, religion and current situations.

To examine the level of interest in Indian and Metis Communities and among Indian and Metis Leaders and organizations in taking on a more active role in the delivery of community based correctional programs and crime prevention initiatives.

6.76 That the program be provided where possible by Aboriginal instructors in an Aboriginal context, and that, where appropriate, Indian and Metis inmates and staff members who are knowledgeable and willing to participate be involved in delivery.

The Task Force Recommends:

6.79 That the Fine Option program be reviewed to ensure that work is available in the Aboriginal community which has the approval of the community and is sensitive to the needs of the community.

6.77 That the cross-cultural training program address issues and concerns specific to the work of correctional staff members. For example, if the institution houses Cree people primarily, the program should emphasize Cree customs, language, culture, and values. If the institution houses primarily Metis people, the emphasis should be on Metis culture and spirituality. Issues of relevance to the work place should be discussed, for example, the handling of sacred bundles, or appropriate behaviour when escorting an Aboriginal inmate to a funeral.

6.80 That the work be done in the Aboriginal offender's community or if not possible, in another Aboriginal community. In urban centres, local native organizations should be consulted for appropriate assignments, beneficiaries, and supervision.

6.78 That the Aboriginal Awareness Training Program involve an Elder and members of the Aboriginal

6.81 That the work be broadened to include some rehabilitative merit. Examples may be: working with an Elder or providing service to the band, band council or settlement council.

6.82 That the supervision of Fine Option programs be made more effective.

- 6.83 That Fine Option programs involve community members in the supervision of work. For example, local people could be designated as assistant probation officers. peoples the criteria currently used for release, and ensure that conditions imposed are culturally sensitive and realistic.
- 6.84 That some provision be made for the participation of the community or the extended family in the discharge of work commitments if the community or family considers it appropriate to do so.
- 6.85 That local probation officers or assistant probation officers be employed.
- 6.86 That probation officers and assistant probation officers work closely with Elders and community groups who have shown interest in the criminal justice system.
- 6.87 That the court demand and receive adequate information to make a probation order that is general enough to allow latitude but specific enough to provide a firm structure within which the offender may operate.
- 6.88 That resources be pooled and coordinated to provide decentralized facilities and counselling particularly with respect to alcohol and drug abuse, parenting skills, job readiness programs, physical and sexual abuse survivor programs, anger management, and life-skills.
- 6.89 That Justices of the Peace and Judges review with Aboriginal
- 6.90 That Aboriginal communities become involved in assisting accused Aboriginals in satisfying the court that they will keep the peace, be of good behaviour, and return to the court for their appearance dates. This could be accomplished, for example, by providing minimum security custody homes or participating in bail option schemes such as the John Howard Society's program.
- 6.91 That conditions such as posting a bond, promising to refrain from associating with individuals with a criminal background, refraining absolutely from the use of alcohol, maintaining suitable employment, or maintaining a fixed address be recognized as being culturally insensitive and possibly unnecessary.
- 6.92 That a review be done of the concept of the bail program formerly operated by the John Howard Society, and that it be reinstated at the initiative of an Aboriginal service provider.
- 6.93 That a program be developed with the assistance of the Aboriginal community to provide assistance and support to the police, the Justice of the Peace, and the Aboriginal accused person before a Judicial Interim Release hearing is held.

- 6.94 That Aboriginal-specific cross-cultural training be incorporated as an integral part of initial training for Justices of the Peace, and be repeated periodically during the course of their careers. Training should be developed and delivered by Aboriginal people.
- 6.95 That the length of time it takes to finally resolve a matter in youth court be corrected by the Province of Alberta. At present, the delays are intolerable and deplorable.
- 6.96 That young offenders be detained in detention centres only as a last resort.
- 6.97 That efforts be expanded to develop or locate appropriate facilities to house young offenders who have no place to go, and that these facilities not be correctional facilities.
- 6.98 That alternative measures programs be expanded to be more available to Aboriginal offenders.
- 6.99 That the Department of the Attorney General review alternative measures programs to expand them to include re-offenders and a broader range of offences.
- 6.100 That Aboriginal awareness programs and culturally appropriate programs be more widely available in young offenders' centres.
- 6.101 That formal alcohol and substance abuse treatment programs for Aboriginal youth such as the St. Paul facility be extended and expanded throughout the province.
- 6.102 That the number of Aboriginal staff members within the Young Offender centres be increased.
- 6.103 That alternative measures programs be instituted and administered by the community at the encouragement of the Department of the Attorney General.

7.0 Native Counselling Services of Alberta

Term of Reference:

Native Counselling Services of Alberta 7(a)

To examine the effectiveness of the working relationships between Native Counselling Services of Alberta (N.C.S.A.) and the police community, the courts, the correctional systems, both federal and provincial, the Indian and Metis communities and individuals and the Indian and Metis leadership, organizations and associations.

Term of Reference:

Native Counselling Services of Alberta 7(b)

to identify to the extent possible methods of improving services through the N.C.S.A. or through other organizations or service delivery options.

The Task Force Recommends:

- 7.1 That Native Counselling Services of Alberta attempt to employ local people in community service positions who speak the local Aboriginal language.
- 7.2 That Native Counselling Services of Alberta focus on training and assisting community-based organizations which provide services in the criminal justice system.
- 7.3 That representatives of Native Counselling Services of Alberta or Aboriginal liaison officers be provided at city cells, lock-up facilities, and remand facilities.
- 7.4 That the government and the criminal justice system view Native Counselling Services of Alberta as only one of many potential sources of information, assistance, and service to Aboriginal people.

8.0 Additional Considerations

Term of Reference:

Additional Considerations 8(a)

to identify and describe other areas of concern that contribute to Indian and Metis people becoming involved in the criminal justice system in the first instance, and to recommend other steps that can be taken to more effectively address those areas of concern.

The Task Force Recommends:

- 8.1 That the Department of Education and the Indian and Metis communities develop curricula to include instruction on Indian and Metis history, culture and traditions. Such instruction should begin in the lowest possible grade in all schools in Alberta.
- 8.2 That Aboriginal children be educated about the history, culture, and religions of the dominant society.
- 8.3 That Aboriginal children be instructed in urban life-skills.
- 8.4 That community legal education programs be developed for Aboriginal communities, and that Judges, Prosecutors and defence counsel be encouraged to instruct these programs.
- 8.5 That there be adequate treatment centres and sufficient beds in treatment centres to accommodate Aboriginals who require treatment or are recommended for treatment.
- 8.6 That Correctional Services Canada and the Correctional Services Division in Alberta enter into contract with Aboriginal treatment centres, and pay for more beds for inmates of the federal penitentiaries and provincial correction centres.
- 8.7 That the Government establish regional alcohol treatment centres for young offenders, similar to Poundmaker's Lodge and St. Paul.
- 8.8 That the Government recognize and be prepared to fund the treatment and counselling of families of alcoholics.
- 8.9 That Aboriginal communities be assisted in establishing a viable economic base to provide employment and that incentives be provided to Aboriginals for remaining in the community.
- 8.10 That, because many Aboriginal communities have an inadequate resource and economic base, the resources available be allocated equitably and without favour.
- 8.11 That urban centres recognize and be prepared for a continuing influx of Aboriginals.

- 8.12 That Aboriginal awareness seminars and programs be provided to sensitize all criminal justice personnel to Aboriginal culture and the issues and problems faced by Aboriginal people. Public education of society at large about these matters is also needed.
- 8.13 That the criminal justice system employ Aboriginals to ensure fair and equitable representation of Aboriginal people.
- 8.14 That criminal justice agencies in Alberta establish a firm position to discourage and penalize discriminatory or racist actions or expressions at any level of the criminal justice system.

Term of Reference

Additional Considerations 8(b)

to identify areas of jurisdictional interaction or overlap between the federal and provincial governments that tend to impede actions and decisions within the corrections system to the detriment of Indian and Metis offenders.

Term of Reference:

Additional Considerations 8(c)

to determine how the various departments of the Government of Alberta that provide services to Indian and Metis people can more effectively coordinate various services and programs to the benefit of the Indian and Metis people in such a manner as to reduce the number of Indian and Metis people coming into contact with the criminal justice system.

The Task Force Recommends:

- 8.15 That a clear policy statement be developed by Government on the purpose of the criminal justice system in Alberta and that such a statement be accompanied by co-ordinated action from various components of the system to achieve the stated goal.
- 8.16 That a Minister of Indian and Metis Affairs be appointed.

The Task Force Recommends as Alternatives:

- 8.17 (a1) That a Cabinet Committee on Indian and Metis Affairs be established.
- 8.18 (a2) That, as a last alternative, a Commission, Board, or Committee of senior representatives of Government, Indians, and Metis be established to address the concerns of Indian and Metis.

Term of Reference

Additional Considerations 8(d)

to review the cross-cultural training provided to the Judiciary, Crown Prosecutors, Legal Aid personnel and Correctional personnel to determine if existing training is adequate and to make any recommendations necessary to ensure the development of comprehensive and effective programs.

The Task Force Recommends:

- 8.19 That the Attorney General's Department prepare a policy statement on Aboriginal awareness training specifically recognizing the need for extensive Aboriginal awareness training for all personnel including: Crown Prosecutors, Justices of the Peace and the Judiciary.
- 8.20 That induction and regular Aboriginal awareness training be provided to all Alberta Government personnel working in the criminal justice system.
- 8.21 That the Government of Alberta investigate the feasibility of establishing a comprehensive and effective Aboriginal awareness training program for provincial government employees. The development of any centralized training program should include extensive consultation between the Aboriginal community, educational facilities, and service agencies.

- 8.22 That all Aboriginal awareness training programs be comprehensive and interactional in format, be delivered by Aboriginal people, and contain a component which is offered on an Indian Reserve or Metis Settlement.
- 8.23 That Judges at all levels of Court receive Aboriginal awareness training on appointment, and that all Judges who deal with Aboriginal people receive additional Aboriginal awareness training.
- 8.24 That all Aboriginal awareness training programs recognize and address the distinctiveness of Indian people and Metis people.

Term of Reference:

Additional Considerations 8(e)

to determine to what extent Indian and Metis people are presently employed in the various components of the Criminal Justice System in Alberta and to propose policy changes that would result in a higher level of employment.

The Task Force Recommends:

- 8.25 That Section X of the Alberta Government Recruitment and Selection Manual be amended to create an affirmative action or preferential hiring policy for Aboriginal people. In addition, the "Personnel Policies and Procedures Manual" should be updated to

- reflect the substance of the affirmative action policy.
- 8.26 That Aboriginal people be consulted in the process of the development of an affirmative action policy. Such consultation serves to ensure that the policy is developed in partnership, that Aboriginal people understand and support the policy, and, most importantly, that they will participate in any resulting program.
- 8.27 That affirmative action policy include defined targets for Aboriginal employment and established deadlines to reach these targets.
- 8.28 That the Personnel Administration Office of the Government of Alberta, in conjunction with the office recommended under this report, be responsible for developing affirmative action policy and for monitoring the compliance of government departments with that.
- 8.29 That departments which develop Aboriginal recruitment initiatives include in these initiatives:
- (i) more culturally sensitive and appropriate recruitment techniques;
 - (ii) cluster or group hiring strategies, where appropriate;
 - (iii) recognition and use of
- existing Aboriginal organizations to assist in recruitment;
- (iv) pre-application training programs, where appropriate;
 - (v) a more imaginative and flexible approach in assessing the qualities, experience, and skills of Aboriginal people as alternatives to formal educational qualifications.
- 8.30 That recruitment initiatives be developed to hire Aboriginal people into management, supervisory, professional, and administrative positions as well as entry level positions.
- 8.31 That when Aboriginal staff have been recruited, government departments ensure that substantial support mechanisms are in place. Support mechanisms should include:
- (i) support groups for Aboriginal employees;
 - (ii) resource individual(s) for Aboriginal employees;
 - (iii) Aboriginal-specific induction training;
 - (iv) a specific formal process for dealing with complaints from Aboriginal employees;
 - (v) making Aboriginal Elders available for support to Aboriginal staff.

8.32 That executive managers of government departments create a receptive work environment for Aboriginal employees. Activities which can contribute to a positive work environment for Aboriginal people include:

- (i) ensuring that all levels of management are educated and informed about the objectives of affirmative action initiatives and about the potential roles for Aboriginal employees;
- (ii) ensuring that management maintain liaison with unions and non-Aboriginal employees to educate them about the objectives of Aboriginal employment programs;
- (iii) ensuring that a mechanism exists for management and supervisory staff to enter into a dialogue with Aboriginal staff;
- (iv) encouraging Aboriginal people to express their culture;
- (v) establishing a firm position on discouraging and penalizing, at any level in the organization, actions or expressions of a discriminatory or racist nature.

8.33 That promotional opportunities for Aboriginal employees be addressed, including:

- (i) the development of training programs for promotional opportunities;
- (ii) the placement of Aboriginal employees for trial periods in promotional situations;

8.34 That none of the foregoing recommendations be used in any way to impede initiatives undertaken by Aboriginal communities and government departments aimed at giving Aboriginal people greater involvement in and control of the various components of the criminal justice system.

Women and Youth

Term of Reference:

Additional Considerations 8(f)

to identify areas of concern as they relate to the special needs of Indian and Metis youth and women as they are affected by the areas under review.

**The Task Force Further
Recommends:**

- 8.35 That the Government establish a sufficient number of half-way houses for Aboriginal women, and that these half-way houses be staffed by Aboriginal women.
- 8.36 That, when the police interview an Aboriginal woman, the examination be conducted preferably by a female officer, or if this is not possible, in the presence of an Aboriginal woman.
- 8.37 That when police find it necessary to arrest an Aboriginal for an incident involving family violence, the criminal justice system employ culturally sensitive diversion programs to attempt to resolve the family conflict.
- 8.38 That Canada, Alberta and Indian and Metis organizations develop holistic Aboriginal family-oriented counselling services and male-oriented counselling centres.
- 8.39 That the Aboriginal communities be encouraged and assisted in developing safe houses for Aboriginal women, especially in remote and rural communities.
- 8.40 That Indian and Metis organizations, together with reserves, settlements, and urban and rural communities, develop crises response teams.

The Task Force Recommends:

- 8.41 That alcohol and drug abuse treatment centres be de-centralized and be established where required.
- 8.42 That Aboriginal youths in a Correction Centre who require treatment for alcohol and drug abuse be given intensive drug and alcohol treatment in a Young Offender Centre if they are unable to be placed in a treatment centre.
- 8.43 That additional youth emergency centres, preferably community-based, be established to give the Courts an alternative to remanding youths in custody.
- 8.44 That private homes be contracted to accept, for a limited time, homeless Aboriginal youth released from Young Offender Centres.
- 8.45 That programs offered to Indian and Metis youth be Indian and Metis-specific, that these programs be delivered by Indian and Metis persons, and that such programming recognize the difference between Indians and Metis as well as the difference in needs between urban youth and youth from isolated rural areas.
- 8.46 That Indian and Metis leaders and Elders respond to the need for Indian and Metis youth to learn their history, culture, and traditions and their need for the guidance of Elders.

- 8.47 That Aboriginal communities in conjunction with the Alberta Department of Recreation and Parks, develop a comprehensive framework to address the barriers which prevent the establishment of recreational and leisure services for Aboriginal people.
- 8.48 That as part of their elementary or junior high education, Aboriginals be given instruction on urban life skills.
- 8.49 That Indian and Metis organizations, Bands, and Settlements be actively involved in child welfare matters, and that this involvement be facilitated by Canada and Alberta.
- 8.50 That the Task Force Implementation Committee and the Aboriginal Justice Committee monitor the operation of the protocol between the Solicitor General and the Department of Social Services to ensure an integrated approach to dealing with youth having status with social service who are involved with Youth Court or the Young Offender Centre.

10.0 Ongoing Process

Term of Reference:

Ongoing Process 9.0

to formulate a process for the ongoing monitoring and upgrading of programs and initiatives implemented pursuant to the recommendations of the Task Force.

The Task Force Recommends:

- 10.1 Short Term: This Task Force was created by an Alberta Order-In-Council. Consequently, we have been hesitant to place too heavy an onus on the Government of Canada for implementation of recommendations. We recommend that the Government of Alberta establish a committee which could be called the Task Force Monitoring Committee. One member would be appointed by Canada, one by Alberta, one member appointed by the Indians and one by the Metis. The Chairman should be chosen by the Committee and should not be one of the appointees. If the Committee cannot agree on the appointment of the Chairman, a Chairman could be appointed by the Government of Alberta. The Chairman would preferably be Aboriginal. The Task Force Monitoring Committee would meet as required. We do not see this Committee as requiring a full-time commitment from its members.

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The main objective of the Task Force Monitoring Committee would be the monitoring and up-grading of programs and initiatives implemented pursuant to the recommendations of the Task Force. The Committee should have the power to make enquiries of Government and the criminal justice system, and to investigate components of the criminal justice system, to ensure that the recommendations are implemented. The Committee must have ready access to Ministers, Deputy Ministers, and any other person, organization or institution responsible for the policy or the operation of the criminal justice system. The Committee would meet as required. It should send a quarterly report of its activities and findings to the federal Solicitor General, the federal Minister of Justice, the Solicitor General of Alberta, and the Attorney General of Alberta. Within a year after its establishment, the Committee would table a Report of its proceedings. Recommendations for implementation should be made at that time to the Speaker of the Legislative Assembly of Alberta, to be tabled before the Legislative Assembly. A copy of this Report would be forwarded to the federal Solicitor General, the federal Minister of Justice, the Indian Association of Alberta, and the Metis Association of Alberta.

10.2 Long Term: We recommend the establishment of an Aboriginal Justice Commission, which, within eighteen months of the filing of the Report of this Task Force with the Alberta Solicitor General, would assume all of the powers and duties of the Task Force Monitoring Committee. The broad mandate of the Aboriginal Justice Commission would be:

- i) To assume the duties and powers of the Task Force Monitoring Committee.
- ii) To facilitate communication between Indians, Metis, Government and components of the criminal justice system.
- iii) To negotiate a framework agreement between the Government of Canada, the Government of Alberta, the Indians, and the Metis which delineates the jurisdictional and financial responsibilities of the Government of Canada and the Government of Alberta toward Indians and Metis with respect to all components of the criminal justice system.
- iv) The Aboriginal Justice Commission would employ an Aboriginal Advocate who would accept all complaints against any person or component of the criminal justice system, and who would ensure that all

- complaints are processed by existing complaint mechanisms in the criminal justice systems. The Aboriginal Advocate would follow a complaint through the mechanisms until it is resolved and appeals, if necessary, are exhausted. The Aboriginal Advocate would keep the complainant informed of the progress of the complaint and advise the complainant the ultimate result. The Aboriginal Advocate would also compile statistical information and monitor the overall level and nature of complaints to identify required policy and procedural changes.
- v) The Aboriginal Justice Commission would act as an informed clearing house to assist Aboriginals in directing their concerns about the criminal justice system to the appropriate government department or agency. The Commission would also facilitate contact and communication between Government and Aboriginals. This process should reduce direct contact between Aboriginals and Ministers or Deputy Ministers. It should, however, not preclude Indians and Metis from dealing directly with Ministers and Deputy Ministers.
- vi) The Aboriginal Justice Commission would be an informed body which could assist governments and departments in developing policies related to Indians and Metis with respect to the Criminal Justice System.
- vii) The Aboriginal Justice Commission should have at least five members: one Metis, one Indian, one appointee of the Government of Canada and one appointee of the Government of Alberta. The Chairman (who should preferably be Aboriginal) should be independent of Government, and be chosen by the other four Commission members. In the event of a tie, the Government of Alberta should appoint the Chairman, who would preferably be an Aboriginal.
- viii) The Aboriginal Justice Commission would table a Report of its proceedings and recommendations for implementation to the Speaker of the Legislative Assembly of Alberta. This Report should be tabled before the Legislative Assembly within one year of the creation of the Commission and annually thereafter. Copies should be sent to the Solicitor General of Canada, the Indian Association of Alberta, and the Metis Association of Alberta.

11.0 Alternatives

The Task Force Recommends:

- 11.1 That we favour the view of the Canadian Bar Association Native Law Subsection. Whether an Aboriginal Justice System should exist and its scope and extent, is a matter for negotiation between the Indian and Metis people and the Governments of Canada and Alberta.
- 11.2 That the government develop a more streamlined process for entering appearances and pleas in court, perhaps by using the telephone, fax, or some other means of communication.
- 11.3 That Aboriginal communities become more involved in assisting the police, courts, and corrections in prioritizing resources and in using more traditional dispute resolution and healing techniques.
- 11.4 That the Government of Alberta consider a pilot diversion project involving representatives of the local Aboriginal community, the police, lawyers, Crown Prosecutors, and accused persons to review the circumstances surrounding a charge or proposed charge to determine whether some form of diversion or attempt at diversion is appropriate.

12.0 Review of the Blood Tribe Inquiry Report

Term of Reference

Research 1(b)

to review recent reports respecting Indian and Metis people and the criminal justice system to determine to what extent the findings and recommendations of other reports apply to the Alberta situation including but not limited to

- (i) *"Justice Behind the Walls" (report of the Canadian Bar Association)*
- (ii) *"Locking Up Natives in Canada" (report of the Canadian Bar Association)*
- (iii) *"Aboriginal People in Federal Corrections" (report of the Solicitor General of Canada)*
- (iv) *"R.C.M.P. Review into Native Policing in Alberta and Across Canada"*
- (v) *"Human Rights Commission Report" (Canada, 1989)*