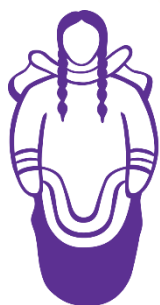




Meeting Survivors' Needs:

Gender-Based Violence against
Inuit Women and the Criminal Justice
System Response

Phase II-Final Report



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PAUKTUUTIT

INUIT WOMEN OF CANADA

Meeting Survivors' Needs:
Gender-Based Violence Against Inuit Women and the
Criminal Justice Response

Phase II - Final Report

Pauktuutit Inuit Women of Canada

and

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Readers should be aware that parts of this report may trigger traumatic responses, especially for those who have experienced gender-based violence in their lives. Inuit women bravely shared their poignant stories in the hope that talking about their experiences of gender-based violence and the criminal justice response would help to inspire change. Frontline workers also shared their concerns about how the criminal justice system responds to gender-based violence in Inuit Nunagat, including particular stories of women who have been harmed by gender-based violence.

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GENDER-BASED VIOLENCE AGAINST INUIT WOMEN

Gender-based violence — “violence perpetrated against someone based on their gender expression, gender identity, or perceived gender”¹ — is a serious global problem that produces massive negative consequences, especially for women. The World Health Organization estimates one in three women worldwide has been beaten, coerced into sex, or abused in some other way, and most often by someone she knows.² Gender-based violence not only can have life-altering impacts on a woman’s health and wellbeing, it proves costly to her family, community, and wider society. Yet, only in recent decades has a concerted effort been made on the part of governments to address the reality of gender-based violence.

In Canada, the violence women experienced from their intimate partners was historically considered to be a private trouble. It was not the law’s business. If police were called upon to intervene, they were very reluctant to lay charges, deeming the matter to be a “private quarrel” between the couple.³ The law was also complicit in condoning a husband’s physical and sexual violence against his wife. Under British common law, husbands were granted both the right to chastise their wives and the right to consortium. Wives were considered the “property” of their husbands, and so husbands could physically “discipline” their wives without reprimand from the legal authorities. In signing a marriage contract, a woman was essentially signing a generic consent form to having sexual relations with her husband.⁴ Under Canadian law prior to 1983, husbands had spousal immunity when they raped their wives.⁵

Responses to other forms of gender-based violence were governed by myths and misconceptions about the nature of the violence, and stereotypical images of “real” victims: a woman who was raped was “asking for it” by her dress or behaviour; women are inherently untrustworthy and will make false accusations against innocent men; the act of rape has little long-term impact on the woman who experiences it; women will say “no” to sex when they really mean “yes.”⁶ These myths and misconceptions essentially blamed women for the violence they encountered and minimized the impact of that violence. They also found their way into legal doctrine and practice when cases of sexual assault were adjudicated by the criminal justice system.⁷

In the 1970s, the Violence Against Women movement, a diverse coalition of women’s groups and advocates, began mobilizing to break the silence around this gender-based violence and to provide counselling and supports for women in the form of shelters, rape crisis centres, and other resources. They also called upon the criminal justice system to do a better job of meeting women’s needs for protection and safety and to bring an end to the violence.⁸ Since that time, numerous initiatives have been undertaken within the Canadian criminal justice system to address gender-based violence, including: legislative reforms regarding the processing of sexual violence cases by the courts; mandatory charging policies to ensure violence occurring in the home was treated as seriously by police as violence occurring in public; specialized domestic violence courts with judges and Crown prosecutors trained to understand the dynamics of intimate partner violence; and correctional programs designed to alter the behaviour of abusive men.⁹

Despite these efforts, gender-based violence continues to be a pressing issue. Women are still being physically and sexually assaulted — and killed — by men. The persistence of gender-based

violence raises questions about the ability of the Canadian criminal justice system to meet the needs of victims and survivors.

Nowhere is the issue of gender-based violence more critical than with regard to its impact on the lives of Indigenous women in Canada:

- More than six in ten (63%) Indigenous women have experienced physical or sexual assault in their lifetime. In comparison, about one-third of non-Indigenous women have experienced physical (34%) or sexual assault (33%) in their lifetime.¹⁰
- In 2018, police-reported data showed that the homicide rate for Indigenous women and girls was nearly seven times higher than that of their non-Indigenous counterparts (4.54 per 100,000 population versus 0.67, respectively).¹¹
- Indigenous women are at high risk of intimate partner violence. They are almost twice as likely as non-Indigenous women to experience physical violence by an intimate partner in their lifetime (42% versus 22%) and to experience violence of a more serious nature (e.g. threatened with a weapon, choked, beaten, shaken, pushed, grabbed or thrown, hit with a fist or object, kicked or bit). One in five Indigenous women have experienced sexual violence by an intimate partner in their lifetime, almost twice the proportion of non-Indigenous women (11%). They are also more likely to experience repeated trauma through victimization by multiple partners.¹²
- Police-reported violent crime against young women and girls (aged 24 and under) in the Provincial North and Territories is nearly three times higher than it is in the Provincial South and nearly four times higher than for Canadians overall. Young women and girls in the Provincial North and Territories are also more likely to be victims of more severe violent crimes and to be physically injured by their assailant. Homicide rates from 2009 to 2017 for young women and girls were more than three times higher in the Provincial North and Territories than in the Provincial South.¹³

The rates of gender-based violence in Inuit Nunangat (the land, water, and ice inhabited by Inuit) are especially troubling.

- In 2019, Nunavut had the highest rate of female victims of police-reported intimate partner violence in Canada (8,118). The Northwest Territories (which includes Inuvialuit) had the second highest rate (8,242). The overall rate for Canada in 2019 was 771 per 100,000 population.¹⁴
- In 2019, the Northwest Territories had the highest rate of police-reported sexual assault in Canada (573 per 100,000). Nunavut had the second highest rate (521 per 100,000). Comparatively, the national rate of sexual assault in 2019 was 82 per 100,000.¹⁵
- Nunavut has the highest rate of domestic homicide in the country, and by a wide margin. A study of the 662 domestic homicides that occurred between 2010 and 2018 in Canada

showed that Nunavut had a rate of 36.85 compared to 1.58 in Ontario and 1.62 in British Columbia.¹⁶

- The 2007-2008 Inuit Health Survey found that over half (52%) of Inuit women in Nunavut reported experiencing severe sexual abuse during childhood. Over one-quarter (27%) of Inuit women reported experiencing sexual violence during adulthood.¹⁷
- Saturviit Women's Association of Nunavik and Université Laval researchers found that 74% of 108 women surveyed in seven Nunavik (Northern Québec) communities had experienced violence in the home and almost half (46%) had experienced sexual assault.¹⁸

As citizens of Canada, every Inuk woman and girl has the right to live free from the threat and reality of gender-based violence. The Canadian criminal justice system is expected to “promote public safety and respect for the law, and deal with crime in a just, fair, efficient, and compassionate manner.”¹⁹ Legal interventions in gender-based violence should therefore serve a multitude of purposes, including: protecting women, preventing violence, holding perpetrators accountable, and providing victims with meaningful redress. Ultimately, an effective criminal justice system response is one that realizes victims' needs.

Yet, the inordinate levels of gender-based violence against Inuit women suggest these objectives are not being met in Inuit Nunangat. What, then, are the challenges and barriers encountered in the criminal justice response to gender-based violence against Inuit women? How can the criminal justice system be made more responsive to meeting the needs of Inuit women who experience gender-based violence?

Outlining the Report

Section One situates the issue of gender-based violence against Inuit women in its colonial context. The discussion considers the ways in which Inuit lived prior to contact with *qallunaat* (non-Inuit people), how they resolved conflicts and disputes, and what happened with the arrival of the colonizers, including the role of the RCMP in ushering colonialism into the North and the imposition of a colonial justice system. Colonialism in the present is also considered in terms of current social and economic conditions in Inuit communities, and how colonial trauma has manifested in high rates of suicide, alcohol use, and gender-based violence.

Section Two examines the administration of criminal justice in three of the four regions of Inuit Nunangat — Nunavut, Inuvialuit, and Nunavik²⁰ — and the extent to which the delivery of justice is attentive to the unique needs and circumstances of Inuit, especially Inuit women who experience gender-based violence. This environmental scan exposes a litany of problems and challenges encountered in the operation of the criminal justice system in the three Inuit Regions. In particular, high turnover of police officers, lack of integration of officers into communities, slow response times, and language differences affect the quality of policing. Overflowing Circuit Court dockets, problems with recruitment, training, and retention of court personnel, the delivery of justice from a distance via telephone, and the shortage of community resources and programming have raised concerns about justice services offered in the North compared to the rest of the country. As well,

systemic discrimination against Indigenous peoples and the fundamental incompatibility between the Canadian criminal justice system and Indigenous conceptions of justice have been raised.

With specific regard to gender-based violence, a climate of mistrust inhibits Inuit women from reporting experiences of gender-based violence. While holding the promise of integrating Inuit customary practices into criminal justice decision making, Community Justice Committees do not typically consider gender-based violence offences. Protection Orders are under-utilized and difficult to implement in small communities. And Inuit have restricted access to specialized domestic violence courts.

To explore these problems and challenges in more depth, interviews were conducted with 38 Inuit women who have lived experience of gender-based violence and 35 individuals working on or close to the front lines of the criminal justice system in Nunavut, Inuvialuit, and Nunavik (see: Appendix).

Section Three reports on the interviews with the Inuit women, who bravely shared their experiences of gender-based violence. Those experiences often started in childhood and continued into their adulthood, creating layer upon layer of trauma in the women's lives. Not all of those experiences, however, were reported to authorities. Many of the women were silenced by blaming and shaming. Some were afraid to tell because of threats from their abusers. Others were afraid of losing their children to the child welfare system or not having their experiences validated by police and the courts.

For women who did turn to the criminal justice system for help, police were often slow to respond or failed to validate the women's experiences. Protection Orders did little to keep the women safe, and police intervention sometimes led to the women being the ones arrested and charged. Testifying in a courtroom full of other community members was a "scary" experience, and court outcomes left women believing there was no justice. These experiences left the women with little faith in the ability of the criminal justice system to meet their needs.

Section Four draws on the knowledge and insights of the front-line workers who were interviewed. All of the front-line workers recognized violence against Inuit women to be a pervasive problem in the North. Workers understood gender-based violence to be the result of a "melting pot of so many problems" and connected those problems (housing, economic insecurity, alcohol use, and trauma) to their colonial context. While cases of physical and sexual assault made up the bulk of their work, many of the front-line workers believed the criminal justice system was failing to meet the needs of victims.

The failure of the criminal justice system is the result of systemic factors, such as the foundational rules on which the system rests (innocent until proven guilty, proof beyond a reasonable doubt, and the right of an accused person to a full answer and defence to the charges against them) that marginalize victims and limit the ability of the criminal justice system to meet victims' needs. Workers were aware that Inuit women are often reluctant to report gender-based violence because of their lack of trust in police. That lack of trust also has a systemic basis, originating from the history of colonial policing in the regions, the regular turnover of officers, the small size of detachments, and the inexperience of new recruits. They understood, as well, that the itinerant or

circuit court system, in both its design and operation, is poorly equipped to meet the needs of Inuit women. Overloaded court dockets, postponements and delays, challenges in maintaining the continuity of a Crown's file, lack of witness preparation to testify in court, the inevitability of re-traumatization when victims testify in a courtroom full of other community members, and reliance on incarceration to deter perpetrators contributed to the failure of the criminal justice system in meeting victims' needs.

Section Five draws on the interviews with the Inuit women and front-line workers, as well as initiatives undertaken in other jurisdictions (such as, Australia and New Zealand) to map pathways forward that could better meet the needs of Inuit women who experience gender-based violence.

Recognition of the systemic limits of the criminal justice system in responding to gender-based violence, in combination with calls to decolonize structures and institutions, provide the basis for fashioning responses to gender-based violence that are: endorsed by Inuit and informed by Inuit ways of knowing and conflict resolution; holistic in nature and attentive to the multiple issues that generate and perpetuate gender-based violence; and place women's needs at the centre of change-making efforts. Inuit women's needs are multi-faceted. As such, pathways forward will necessarily involve change making on several fronts, not just within but also outside of the criminal justice system.

Front-line workers offered several recommendations for mitigating the barriers encountered in meeting women's needs within the criminal justice system, including: practicing trauma-informed care, ensuring files are managed in a way that victims are well-informed of the process, more direct outreach to women, better coordination of services, and more timely interventions to respond to women's needs. However, significant changes are required to attend to the root causes of gender-based violence, to reinvigorate Inuit methods of conflict resolution and problem solving, and to enable Inuit to heal from the trauma that colonialism generates. Realizing these changes requires de-centring the criminal justice system as the primary site for responding to gender-based violence and directing efforts and resources to change-making strategies in support of Inuit community development and capacity building.

Alternative justice strategies adopted in other jurisdictions (Indigenous Sentencing Courts, Restorative Justice, Justice Reinvestment, and Healing Circles) offer promising pathways forward. Each one holds unique benefits in terms of re-envisioning what justice could look like: a more victim-centred justice that is attentive to the social context and conditions in which gender-based violence occurs, acknowledges the role and importance of community in addressing and repairing harms, and promotes the healing of victims, perpetrators, and their communities. Nevertheless, there is no generic or "one-size-fits-all" strategy that would apply to all Indigenous communities. The most germane paths forward *must* be determined by the Inuit regions and communities in which they are to be implemented, and with meaningful input from the Inuit women who are being harmed by gender-based violence. On that score, the Inuit women interviewed for this project were very clear on what they needed to heal from the trauma of gender-based violence and move forward in their lives: someone to listen to them, someone they could trust, and someone who would be available to them over an extended period of time as they undertook their healing journey.

I. SITUATING GENDER-BASED VIOLENCE IN ITS COLONIAL CONTEXT

The National Inquiry into Missing and Murdered Indigenous Women and Girls (NIMMIWG) has named violence against Indigenous women and girls as genocide, declaring, “This violence is rooted in systemic factors, like economic, social and political marginalization, as well as racism, discrimination, and misogyny, woven into the fabric of Canadian society.”²¹ Addressing the criminal justice response to gender-based violence in Nunavut, Inuvialuit, and Nunavik therefore requires attention to these systemic factors. Doing so involves acknowledging the ongoing impacts of colonialism on the lives of Inuit in Canada.

Colonialism — “a system in which one people claim sovereignty over another and assert social, political, economic, and spiritual domination over the colonized”²² — has led to considerable upheaval in the lives of Inuit. This upheaval has been manifested in: the erosion of Inuit customary ways of conflict resolution and the imposition of a foreign system of justice; the deterioration of social and economic conditions and lack of community infrastructure in Inuit communities; the lived experience of trauma reflected in high rates of alcohol and drug abuse, and suicide; and the inordinate levels of gender-based violence against Inuit women.

Canada is a nation that was born out of a colonial encounter between the Indigenous peoples who inhabited the land and British and French colonizers. The colonization of Indigenous peoples occurred in different ways in different regions, often changing in form over time. While First Nations peoples were displaced onto reserves to make way for the arrival of settlers to populate the southern regions, the experience of Inuit in the North followed a different historical trajectory. Rather than seeing the North for its possibilities for settlement by newcomers, the colonial encounter with Inuit was defined more in relation to the potential for resource extraction and establishing Canadian sovereignty over the territory. Inuit ways of living and being were dramatically disrupted by the colonization process.

Pre-Contact

Before the arrival of the *qallunaat*, Inuit lived a nomadic lifestyle, travelling in small family-based groups along traditional migratory routes using sled dogs in winter and on foot or small boat in summer in search of food (caribou, fish, and sea mammals). The Inuit family during this time period was self-sufficient, as their subsistence hunting economy produced food, clothing, heat, and light. Given the adverse climate conditions, however, “it was a continual struggle to keep family (and dogs) warm and fed, requiring constant travel to locations where the animal life was most abundant.”²³

As with most hunting societies, a distinct sexual division of labour prevailed in traditional Inuit society. “The husband had primary authority outside the home and had responsibility for being the primary provider of food, making tools and weapons, constructing shelters, tending to dogs, and looking after the general welfare and safety of the family.”²⁴ Wives, on the other hand, “had primary authority within the home.” In addition to assuming responsibility for childrearing, women were tasked with domestic duties such as food preparation and making boots and clothing.²⁵ Relations between men and women were therefore highly interdependent. “Marriage

was not an option, but a matter of life and death, the union of a hunter and a seamstress. Neither could live without the contribution of the other.”²⁶

Inuit culture was founded on a knowledge base of *Qaujimaqatuqangit* (“that which Inuit have always known to be true”). It is “an ethical framework and detailed plan for having a good life. It is a way of thinking, connecting all aspects of life in a coherent way.”²⁷ This holistic approach revolves around four main cultural prescriptions: working for the common good and not being motivated by personal interest or gain; living in respectful relationships with every person and thing that one encounters; maintaining harmony and balance; and planning and preparing for the future. As Joe Karetak and Frank Tester explain: “For Inuit, the ultimate goal of becoming a human being is to be as capable as possible in every area of life, but to also know the importance of respectful relationships and to value reliance on and support for others.”²⁸ Karetak and Tester also make the point that Inuit *Qaujimaqatuqangit* is at odds with Western ways of knowing and being. The disconnect between the two knowledges became more and more evident as colonial contact persisted.

Early Contact

Colonial contact with *qallunaat* varied according to region. Labradormiut (Labrador Inuit), for instance, came into limited contact with Spanish whalers in Southern Labrador in the late sixteenth century and then with French fishers during the seventeenth and eighteenth centuries.²⁹ Colonial contact did not begin to have its first real effects in what is now the Nunavut region until the mid-1800s with the arrival of whaling boats.³⁰ Despite the differing time periods, the pattern of contact was similar between regions.

Whalers were typically the first to arrive, establishing whaling stations where Inuit were hired as seasonal ship-hands that performed menial tasks or as guides and hunters to keep the ships’ crews supplied with meat. They also bartered with the whalers, trading meat and clothing for European goods such as rifles, knives, sewing needles, flour, tea, and tobacco.³¹ As the whaling industry went into decline in the late 1800s, fur traders replaced whalers and began trading European goods with Inuit for furs, shifting the Inuit economy from subsistence hunting to one split between hunting and trapping. The increasing presence of *qallunaat* meant that the “traditional long-distance migratory routes were altered as families oriented themselves to the location of trap lines and trading posts.”³²

As Inuit became more reliant on the fur trade and *qallunaat* goods to provide their families with basic necessities, they began moving closer to coastal settlements where Hudson’s Bay Company (HBC) trading posts were located. That move had several consequences. One was that traditional food sources — especially caribou — became scarce since Inuit were no longer following their traditional migratory routes in search of game. Another was that their ability to provide for their families was dependent on the price paid for the furs they trapped. Arctic fox was in high demand in Europe in the 1920s. By the late 1940s, fox fur trim was no longer in fashion and the price paid for the pelts fell drastically.³³ Both of these developments left many Inuit families in dire circumstances.

Contact with *qallunaat* intensified into the 1950s. During World War II thousands of American were brought to the North to build the Frobisher Bay airfield. In 1954, driven by Cold War fears of a Russian invasion, the American military began construction of the Distance Early Warning (DEW) Line, a series of radar installations and airstrips stretching along the Arctic mainland coast. Thousands of military personnel and civilian engineers were brought in to work on the project. Also significant was the Canadian government's "expansionist mood" in the 1950s.³⁴ The federal government established the Department of Northern Affairs and Natural Resources in 1953, which "set up a branch with direct responsibility for northern economic development in the broad realm of the extractive industries."³⁵ As R. G. Williamson asserts, "the mineral wealth of the Arctic was then and remains a powerful motivating force in the Canadianising of the north."³⁶

From the government's standpoint, relocation of Inuit to permanent settlements was seen as a way to incorporate Inuit into the modernizing project. Since Inuit ostensibly could no longer sustain their traditional lifestyle — given the shortage of game and the disruption of their traditional economy — they needed to somehow be integrated into the wage economy that was developing in the North. Relocation to permanent settlements was in some cases forced upon Inuit. During the 1950s, for instance, Labradormiut residents of Okak and Hebron were compelled to resettle to other communities when officials "decided that their social and economic welfare would be improved by living in larger centres."³⁷

Another factor encouraging the relocation of Inuit families — and severely impacting their way of life — was the government's move to provide education for Inuit children via residential schools. Protestant missionaries of the German-based Moravian Church had begun establishing mission stations along the coast of Labrador in the late 1700s with the intention of converting Inuit to Christianity. Anglican and Catholic churches established a presence in the Arctic in the late 1800s. Church-run residential schools began to emerge in the Arctic in the 1920s. In 1955 the federal government took control of education from missionary organizations.³⁸ By 1969 the government had established a network of schools that included eight large residences and a series of some twelve smaller hostels spread throughout the North.

Like other residential schools set up to educate Indigenous students, the intention behind these schools was to "civilize" Inuit children. Historian John Milloy quotes from a 1954 review of educational plans by the Department of Northern Affairs and Natural Resources. The review noted that the "residential school is perhaps the most effective way of giving children from primitive environments experience in education along the lines of civilization leading to vocational training to fit them for occupations in the white man's economy."³⁹ As the Truth and Reconciliation Commission notes:

The impact of the schools on the Inuit was complex. Some children were sent to schools thousands of kilometres from their homes, and went years without seeing their parents. In other cases, parents who had previously been supporting themselves by following a seasonal cycle of land- and marine-based resource harvesting began settling in communities with hostels so as not to be separated from their children.⁴⁰

As well, the federal government had implemented the national Family Allowance program in 1945 to assist families in supporting their children. Inuit were eligible for this support. They were given credit at HBC stores where they traded and could only spend it on an approved list of items.⁴¹ However, “the use of Family Allowances to coerce families to send their children to residential schools became commonplace.... If children were not sent to school, a land-based family was threatened with cessation of the allowance.”⁴²

Similar to the experience of other Indigenous peoples,⁴³ the residential schools created intergenerational trauma for Inuit families and tore at the fabric of Inuit life. Williamson explains:

Children were taken unwillingly from their families, often against the wishes of their parents, and usually they were deprived of their family clothing, given severe haircuts, given numbers and dormitory positions, and commonly forbidden to speak Inuktitut. Punishment of any breach was often severe (and terrifying to children whose culture never used shouting or physical beatings for discipline), and hostel workers and teachers often forthrightly condemned all native people as inferior specimens of creation. The school curriculum staunchly excluded any reference to the existence, let alone the value of their culture, and the Christian belief in their inborn guilt was heavily thrust upon them. This was done sometimes by people who at the same time were abusing them physically, psychologically and sexually.⁴⁴

Life in the Settlements

While Inuit were encouraged — and often coerced — to move to the settlements, the conditions they confronted there were challenging. Accustomed to living in much smaller camps of some 40 to 50 people, Inuit were now finding themselves in much larger communities that ranged from 250 to a few thousand in number, with people they no longer knew intimately and who often spoke differing Inuktitut dialects.

The government provided small, “matchbox” houses for Inuit families. The houses “were built in single-unit tent style and made from scrap materials from the supply-pallets and packaging materials of the new arrivals. They were cold (and insufficiently insulated with paper or cardboard, usually), seriously over-crowded and lacking in any organised water supply or waste disposal.”⁴⁵ As well, with the move to the settlements, families became less able to hunt. Since the location of the settlements was determined by the *qallunaat*, access to migratory routes of caribou and other game was at issue. Drawn into the casual labour cycle and cash economy of the settlements, Inuit dog teams were left to run loose to scavenge their own food — and were often shot by the local control officers. Families that had traditionally relied on a diet of country food (seal meat, muktuk, caribou meat, fish) came to depend on the unhealthier products from the Company store.⁴⁶

The overcrowded housing conditions and poor diet were “recipe for colds, influenza, diarrhea, dysentery and a long list of other infectious diseases.”⁴⁷ Prior to colonial contact, Inuit were “virtually free from the contagions which raked the rest of the world, so remote was their habitat.”⁴⁸ When the *qallunaat* arrived, however, bringing with them infections like influenza and measles, the results were often lethal. One of the worst influenza epidemics occurred in 1918 at

Okak and Hebron, which led to the death of two-thirds of the total Labradormiut population.⁴⁹ When a tuberculosis epidemic broke out in the Eastern Arctic in the late 1940s-early 1950s, the government's response was to send those affected to the South for treatment in sanitariums, which added to the disruption of Inuit life and generated further trauma. Before the epidemic was brought under control in the mid-1960s, an estimated one-third of the Inuit population had spent time in southern sanitariums.⁵⁰ As the NIMMIWG notes, "Like other interventions, the delivery of government health care was an aspect of colonization." The government's response to tuberculosis epidemics is one notorious example of "an externally imposed system that caused extreme social suffering."⁵¹

As the settlements developed, the previous reliance on subsistence hunting and trapping was being overtaken by a dependence on wage labour. Traditional roles of men and women were disrupted as a result. Men's traditional role of provider for the family through hunting was affected (especially with the loss of their sled dogs), while women were "no longer responsible for clothing the family with skins or tending to the qullik, the seal-oil lamp."⁵² Resettlement, therefore, "stripped away the relative balance between 'the home and the hunt.'"⁵³ In addition, "Southern values and lifestyles became increasingly popularized with the introduction of television, the southern curriculum taught in the schools, and the attitudes and behaviour of many non-natives in the settlement."⁵⁴

Relocation to the settlements therefore "brought massive changes to Inuit economic, political, and social life. It caused a drastic reduction in Inuit autonomy and self-determination, because government power was more firmly established in the settlements than in the camps."⁵⁵ Correspondingly, relocation "caused a decline in Inuit systems of leadership and authority, as traditional methods of social control lost their effectiveness."⁵⁶

Traditional Inuit Customs

Approaching the matter of how Inuit society resolved conflicts and disputes through *qallunaat* eyes is highly problematic. As Natalia Loukacheva points out, "there was no Inuit legal system or law as understood in 'western' societies."⁵⁷ In fact, "there is no word for 'crime,' 'justice,' or 'law' in the Inuit language."⁵⁸ That is not to say that Inuit did not have ways and means for ensuring conformity and maintaining social order. Prior to colonial contact, Inuit practiced customs and traditions that were designed to safeguard the stability and harmony of Inuit society.

The customs and traditions that prevailed were very much in keeping with the nature of Inuit life. Since traditional Inuit communities consisted of a relatively small number of families, everyone knew each other and were attentive to the opinions of others. As well, life on the land "demanded a great deal of cooperation and co-ordination among members of the community, and reliance on one another. Their nomadic lifestyle, the culture of hunting, and the harsh climate added to the importance of this interdependency."⁵⁹

Given the interdependence between members of the community, a strong consensus prevailed. "Within the community there was general agreement on what was expected of individuals in terms of their behaviour, how they conducted their lives and what the commonly held values of the community were." That interdependence extended to the natural and supernatural worlds since

“the spiritual beliefs of the people also clearly outlined how people should behave with other people as well as with the natural and supernatural world.” Consequently, “everyone within the group knew that certain behaviours would not be tolerated, particularly if that behaviour threatened the peace, security and stability of the group.”⁶⁰

Nevertheless, given the close living quarters and high degree of social interaction within the camps, conflicts and tensions between community members were unavoidable. When conflicts did arise, the focus was on community safety and ensuring the survival of its members. As such, the prevailing belief was that “reactions to an offence should not cause more problems for the community than the initial infraction.”⁶¹

Rather than relying on a codified system of law (such as the Canadian *Criminal Code*), Inuit — similar to other Indigenous cultures — relied on the oral transmission of norms for behaviour. Written laws were simply not needed given the importance of oral history. These norms for behaviour were reflected in three elements of *Qaujimajatuqangit*: *tirigusuusiit* (things that have to be avoided); *maligait* (things that have to be followed); and *piqujait* (things that have to be done).⁶² All three of these elements emphasized the relational nature of Inuit ways of being. They brought together the human, the natural, and the supernatural into a holistic understanding of the world. For instance, “transgressions were not so much sanctioned by the community as by spiritual ‘agencies’ such as the weather or game. Stingy people would catch less game. Sins would evoke bad weather.”⁶³ Inuit social order was therefore intimately tied to the relationship to game and spirits. If a member of the community went against the *tirigusuusiit*, *maligait* and *piqujait*, the intervention of elders and shaman would be called upon to redress the consequences of these acts.

When a transgression occurred, elders would meet with the person causing problems. “It allowed for one-on-one counselling with an elder in order for someone to not feel ashamed over a minor wrong; it also allowed counselling by groups of elders over more serious affairs. Elders could tailor the counselling to the needs of the individual, rather than treating everyone alike.”⁶⁴ Investigations would be conducted, not to place blame, but to seek information about the infraction and to better craft an appropriate response. Shamans “played special roles in uncovering truth and obtaining confessions.”⁶⁵

The response to an infraction depended on the circumstances in which it occurred, the infraction itself, and the wrongdoer involved. “The first instance of wrongdoing by a person would be responded to by showing care to them as valued members in the community. These efforts were made in order to reintegrate them back amongst the community to restore harmony and balance, and not cause emotional trauma that would prevent their return.”⁶⁶ As well, “confidentiality was taken seriously, so it was primarily done in private, possibly with immediate family members, to preserve the integrity and avoid gossip.”⁶⁷ If the problem persisted, elders would meet again with the violator, increasing the severity and intensity of the response. If private counselling was ineffective, or the infraction was a serious one (such as murder), the whole community would become involved. More serious infractions were met with shaming and ostracism and, in extreme cases, banishment from the community or death of the wrongdoer. As the Nunavut Tunngavik Incorporated explains:

Punishment was typically handed out only if wrongdoers continued to offend. Repeat and dangerous offenders could be forced to live alone for a time to gain an appreciation for the community; sometimes this was accomplished by simply moving camp without notifying the offender. Murderers who did not show remorse or who posed a threat to the community could be killed in order to maintain community safety and cohesion.⁶⁸

The response was tailored not only to the circumstances of the infraction but also the social status and skills of the wrongdoer within the community. For instance, “the punishment of a group’s most experienced and successful hunter, whose knowledge and experience were almost indispensable, might well have been less serious than for someone else.”⁶⁹

The form of justice practiced in traditional Inuit culture, therefore, was holistic, relational, and restorative in nature. While geared toward the interests of the collective (especially given the challenges encountered living in a harsh climate), justice was also tailored to meet the needs of the individual who was causing problems.

Gender-Based Violence “wasn’t ‘traditional’”

Reports from elders suggest that gender-based violence was not a prevalent issue in Inuit society prior to colonial contact. Janet Billson conducted interviews with residents of Pangnirtung in the late 1990s. The elder participants she interviewed “insisted” that domestic violence prior to the establishment of the permanent settlements “did not come close to post-settlement proportions.” Men “disciplined” their wives, and rivalry over women occasionally led to wife stealing, fighting, and killing. But as one woman said, “If you look back at our culture, assault wasn’t ‘traditional.’ There wasn’t much wife beating out on the land, because there weren’t all the social pressures.”⁷⁰

The women Billson interviewed who were old enough to remember life in the camps said, “people considered family violence despicable and that it was rare compared to present rates.”⁷¹ The low incidence of family violence was in part a reflection of Inuit child-rearing practices. Rather than strict discipline and corporal punishment, Inuit methods of child-rearing involved “a preference for indirect means of guiding a child’s behaviour; teaching by example and observation; patience; consistency; and using humour to distract a child from poor behaviour.”⁷² As well, the rarity of intimate partner violence was due to the interdependent roles performed by men and women. “The gender calculus was simple. If the Inuit woman did not make clothing from seal and caribou skins, the man would freeze to death as he hunted. If he could not hunt well, the woman could not make clothing that the family required for survival.” As one of the women interviewed said, “Everybody got along, working with each other.”⁷³ In keeping with Inuit customs, if a husband did exert control over his wife, he would be subject to chastisement by other members of the camp. “The husband would have to change or leave.” If the woman was violating the norms, she would be told by the elders: “You’re not being a good wife.”⁷⁴

Traditional marriages were often arranged for the couple. “Marriages were usually arranged by the parents of the couple and often reflected a desire to strengthen the bonds between two families. It was not uncommon for people to arrange marriages for their babies, sometimes even before they were born.”⁷⁵ In that regard, “disagreements over women” were sometimes the cause of conflicts that occurred in the community.⁷⁶ “The outright theft of a wife or unmarried daughter warranted

formal intervention” since such an act could threaten the economic wellbeing of the entire group. Sanctions could also be applied against “the errant wife or unmarried daughter who left the family for a non-arranged relationship.”⁷⁷

In his discussion of Inuit forms of conflict resolution in the Northwest Territories, Allan Patenaude notes, “sexual behaviour within traditional Inuit society was overt rather than hidden or separated from the daily routines,” which was likely due to the “physical openness and close proximity” of members of the camp. Because of this openness, “the concept of sexual activity is difficult to translate or discern within Inuktitut.”⁷⁸

In the late 1990s, students at the Inuit Studies program at the Arctic College in Iqaluit interviewed a group of elders to learn about their perspectives on a range of topics, including how justice was practiced prior to the arrival of *qallunaat*.⁷⁹ When asked what was done to a person who committed rape, one of the elders replied: “There was no rape in the old days.” The elder went on to explain:

We were strictly forbidden to have sex with anything that was not human. That was a strict piquaq. If a person did this, it would shorten the person’s life and could even cause death. We were allowed to have sex with other humans, except for our anivik, the person whose body you came out of [mother] and our aniqati, a person who came out of the same body [sister]. This was also a strict piquaq. Sex with female in-laws was also unacceptable. There was no rape. Even if a woman was screaming and crying because she didn’t want a husband, she would be taken away for an arranged marriage. The wishes of her parents had to be followed.⁸⁰

The elder went on to comment that if a man forced a woman to have sex and was hurting her, “he would be committing a wrong-doing. If he was physically hurting you he would be doing wrong and he could have to face the elders.”⁸¹ However, if the woman was not being physically hurt, “Probably people would not be pleased about what was happening to her” but “there was no need to come to her defence.”⁸²

As Jeanette Gevikoglu notes, the elder’s statement that “There was no rape in the old days” should not be taken to mean that unwanted sex did not occur in the traditional camps.⁸³ Much like how *qallunaat* wives did not have legal protection from spousal rape under Canadian law prior to 1983,⁸⁴ sexual relations in the camps were governed by a different conception of consent than prevails in more contemporary times.

Colonial Justice

Inuit methods of dispensing justice and ensuring conformity in keeping with *Qaujimaqatuqangit* were undermined once Inuit began interacting with and living among the *qallunaat*. As one elder recalled:

I became a Christian after the missionaries arrived. The missionaries reached the other communities long before us. When the *iksirarjuaq*, the Catholic priest came, we were baptized and became Christians. He told us that our Inuit traditions were not good and we had to stop using them. It felt like we had to stop listening to our parents. It was like we entered a void.⁸⁵

In addition to the influence of Christian missionaries, the Canadian criminal justice system was used “as a tool to extend Ottawa’s reach into the Inuit regions of Canada (Inuit Nunangat) and lay sovereignty claims to this vast region.”⁸⁶ In the process, “pre-contact self-sufficiency was ripped out and replaced with a system that neither integrated nor took into consideration the pre-existing values, norms and concepts of justice of the Inuit.”⁸⁷

The North West Mounted Police (NWMP), which later became the Royal Canadian Mounted Police (RCMP) in 1920, played an important role in ushering colonialism into the North. The police force established its first Arctic post in Fort McPherson in 1903. With increased pressures to establish Canadian sovereignty in the North, more detachments were established in the 1920s. Officially, the force’s role was law enforcement, but they were also involved in “collecting taxes and duties, delivering mail, and distributing first-aid supplies and other necessities to Inuit and traders.”⁸⁸ Given that recruits were sent North with virtually no training in northern survival, navigation, and travelling, they had to rely heavily on Inuit to stay alive.

Initially the RCMP took on the role of benefactors and protectors of Inuit — assisting with medical emergencies, collecting people for medical checkups, inoculating sled dogs, and registering births and adoptions.⁸⁹ As well, officers utilized their discretion in the application and enforcement of colonial law since “Inuit actions that contravened Canadian law were often directly related to survival.” As such, “individual officers frequently overlooked the violation of game laws to obtain meat; theft from caches to feed starving family members; and even marriage customs where a man took two wives, one of whom bore children and the other whom supported him through cooking, cleaning skins, or preparing clothing. To fine, prosecute, or incarcerate Inuit for these transgressions could apply undue pressure to a small Inuit kin group that depended on all of its members for survival.”⁹⁰

The Canadian criminal justice system, however, gradually extended its reach into the North. One of the first cases involving Inuit prosecuted in a Canadian courtroom were two men, Sinnisiak and Uluksuk, who confessed to the murder of two Roman Catholic missionaries in 1913. The men were tried in Edmonton in 1917, 5,000 km from their home at the mouth of the Coppermine River in the Northwest Territories (NWT). As the Nunavut Tunngavik Incorporated noted, “The trial was a spectacle.” It was designed to not only bring British justice to the North but to teach Inuit — whom the trial judge regarded as “uncivilized, prehistoric savages” — the illegitimacy of Inuit forms of conflict resolution.⁹¹

Other trials followed. In 1922 an Inuk named Alikomiak murdered an RCMP corporal and a HBC trader while in custody at Tree River. As the only representatives of Canada in the Arctic, the attack on the two men was seen as an attack on Canadian sovereignty. The trial was held in 1923 in front of a *qallunaat* jury. The judge instructed the jury as to the importance of a guilty verdict:

It is your duty as jurymen who have taken the oath as such to decide according to the evidence and make these tribes understand that the stern but at the same time just hand of British justice extends also to these northern shores. We want it plainly understood in the minds of these people that one of our most important laws is for the protection of human life which flows from the Divine command “Thou shalt not kill.”⁹²

In 1920, at a hunting camp on the ice near Pond Inlet in what is now Nunavut, a *qallunaat* fur trader named Robert Janes was killed. Janes had apparently run out of trade goods and threatened to kill the Inuit he was living with unless they handed over their fox skins. In accordance with Inuit customary tradition, the families in the camp decided that Janes would have to be killed before he killed them. Janes was then lured out onto the ice by two Inuit men, Ululijarnaat and Aatitaaq, and shot and killed by Nuqallaq, a respected leader in the community.

A RCMP staff sergeant was sent to Pond Inlet to investigate. The same officer acted as coroner at an inquest that led to the arrest of the three Inuit men and then as the magistrate who conducted hearings that led to the men being charged with murder. In 1923, a court party was sent on the *CGS Arctic* to conduct the trial of Aatitaaq, Naqallaq, and Ululijarnaat for the murder of Robert Janes. According to Shelagh Grant, the trial had two main political objectives. One was to demonstrate the Canadian government's sovereignty in the region. To that end, "an experienced cinematographer from Fox Century studio went along to produce the kind of show Canada could give the world."⁹³ Another objective was "to show the Inuit the firmness and fairness of Canadian justice."⁹⁴

The jury (consisting of six crewmen from the *CGS Arctic*) acquitted Aatitaaq but found both Ululijarnaat and Naqallaq guilty. Ululijarnaat was given a sentence of two years hard labour at Pond Inlet while Naqallaq was sentenced to 10 years imprisonment and sent to Stony Mountain Penitentiary in Manitoba. While in prison, Naqallaq contracted tuberculosis. In 1925, he was returned to Pond Inlet, "sleeping on the deck so as not to infect the white folks below."⁹⁵ Naqallaq died from the disease soon after his return. Having brought the infection back to his community, a tuberculosis outbreak took the lives of many more Inuit in the surrounding area — an epidemic the Canadian government tried to cover up rather than treat.⁹⁶ As Peter Russell notes, "Such was justice in the Arctic."⁹⁷

As more and more *qallunaat* populated the North, the RCMP took on the role of policing relations between *qallunaat* and Inuit. One concern was the sexual exploitation of Inuit women by DEW Line employees and military personnel in the 1950s.⁹⁸ But the RCMP were also actively involved in ushering colonialism into the North and ensuring that Inuit abided by the new regime.

During the 1950s, the RCMP played an integral role in relocating Inuit families to the settlements, including "choosing families who would move, choosing their destinations, gathering them for the move, accompanying them, acquiring goods for them, and even managing money on their behalf."⁹⁹ The RCMP were also involved in ensuring that Inuit children attended school. "If parents did not voluntarily bring their children into the settlement at the end of the summer to attend school for the year, school officials and RCMP would make trips to the various camps by boat to pick up the children."¹⁰⁰ As well, RCMP officers became more actively involved with the enforcement of colonial laws, including those relating to game hunting and dogs. Life in the settlements also exposed Inuit to the availability of alcohol — and Liquor Ordinance infractions.

The Council of the North West Territory's 1949 game laws imposed serious restrictions on Inuit hunting. Such laws, "especially as they applied to the Inuit, made almost no sense in the Arctic context."¹⁰¹ As Tester explains, the legislation "restricted the number of caribou that could be

taken by someone holding a hunting license to five per year. No family living on the land could survive for a month — let alone a year — on five caribou.”¹⁰² In Tester’s view, the law and its enforcement were “colonial, racist and punitive” and “a recipe for starvation.”¹⁰³

Sled dogs were an essential part of Inuit life, especially as travel for hunting. With the move to the settlements, however, traditional Inuit ways of handling dogs came into conflict with the new colonial order.

Inuit were instructed to tie up their dogs by RCMP officers who didn’t speak Inuktitut. Doing so meant having money for a chain, often not in stock in HBC stores. It also meant having to find food for dogs used to scrounging when Inuit lived in land-based camps. Inuit were reluctant to chain them. At the same time loose dogs, firmly attached to adults and families in small hunting camps, were often a hazard to young children with whom they had no experience in communities where Inuit were now living.¹⁰⁴

Under the *Dog Ordinance of the Northwest Territories*, RCMP officers had the authority to destroy any dogs that they considered to be “running at large or contrary to the provisions of this Ordinance.”¹⁰⁵ A 2005 RCMP investigation indicated that some 20,000 dogs were killed between 1950 and 1970.¹⁰⁶ Mass shootings of dogs — in some cases upwards of 250 animals — occurred on several occasions. As the Qikiqtani Truth Commission’s report on the RCMP dog slaughters notes, 200 dogs represented 14 to 25 teams, which could support hunting for 70 to 100 people.¹⁰⁷ The Commission also notes, “For many Inuit, the RCMP officers shooting dogs was representative of their broader disrespect for Inuit.”¹⁰⁸

By the 1960s many of the tasks historically designated to the RCMP had been taken over by civil servants.¹⁰⁹ Subsequently, the RCMP’s role shifted from “benefactor and protector” to more conventional, southern-style policing.

Similar developments occurred in other segments of the criminal justice system. In addition to establishing RCMP detachments, Circuit Courts provided a way of maintaining the presence of the Canadian criminal justice system — and Canadian sovereignty — in the Arctic. From 1905 to 1955 the Stipendiary Magistrate’s Court operated criminal circuits in the NWT, including the Arctic, although the magistrates came from outside the region and travelled North on a limited basis. During the 1930s the Northwest Territorial court circuit evolved from part-time, non-resident judges into a resident judge sitting in Yellowknife. With the creation of the Northwest Territories Supreme Court in 1955, Justice John Sissons was appointed as the first judge of the court. Sissons adopted the position of taking justice “to every man’s door,” and so Circuit Courts became a more regular feature in the administration of justice in the NWT.¹¹⁰ In Northern Québec, Circuit (or Itinerant) Courts began travelling in the Nunavik region in 1974.¹¹¹ However, as Zebedee Nungak notes, the implementation of the Circuit Courts meant “justice was now dispensed by people who showed up so infrequently that it was difficult to maintain a sense of who these remote authorities really were.”¹¹²

With the establishment of permanent settlements, Inuit life underwent a profound transformation. The mixture of people from various regions, often speaking different Inuktitut dialects, affected the close bonds and mutual dependence that had characterized life in the camps. Inuit became less

dependent on a small circle of extended kin for both social interaction and economic security. Traditional customary methods of ensuring conformity — gossip, shaming or embarrassing, ridicule, and social ostracism — were less effective in the larger settlements. The threat of physical ostracism was no longer a matter of life and death as it was out on the land.¹¹³

Nevertheless, the colonial justice system was imposed on Inuit “without any consultation or evaluation as to whether it was appropriate or required any modification to fit the cultural milieu.”¹¹⁴ In many respects, the new system “clashed violently” with traditional Inuit customs and means of conflict resolution.¹¹⁵

Whereas Inuit dispute resolution was based on the well-being of the collective and dispensed by those who were respected by the community, “it was now handled by foreigners who spoke a strange language.”¹¹⁶ Not only were proceedings conducted in English, they incorporated alien legal concepts, such as “guilty,” which had no equivalent in Inuktitut.¹¹⁷ As well, the Inuit way was focused on avoiding emotional trauma and restoring peace and harmony to the community, while the Canadian criminal justice system is focused on the punishment of offenders to deter further criminal activity.¹¹⁸ Instead of private counselling with elders, the Canadian court system involves public confrontations in which lawyers engage in an adversarial contest to establish guilt or innocence. Rather than mediation and restitution, the end result for those held accountable is more often than not incarceration. As an Iqaluit elder noted: “One thing we know for sure is that there were no jails in the old days. Everything was dealt with through counselling, the offenders were never sent to jail.”¹¹⁹

Colonialism in the Present

The relocation of Inuit families to the settlements was completed by the mid-1970s. In just a few decades, Inuit underwent a dramatic transformation of their lives and livelihoods — a transformation that was orchestrated by colonial forces largely outside of their control.

Inuit now represent 5% of the Indigenous population of Canada. Most Inuit — 65,025 in number according to the 2016 Census — live in 51 communities spread across Inuit Nunangat. The territory is comprised of four regions: Nunatsiavut (Northern Coastal Labrador), Nunavik (Northern Quebec), Inuvialuit (Northwest Territories), and the Territory of Nunavut (founded in 1999). About one-quarter of Inuit live in urban spaces in southern Canada. Of those living in Inuit Nunangat, 64% lived in Nunavut, 25% in Nunavik, 7% in Inuvialuit, and 4% in Nunatsiavut in 2016.¹²⁰

Inuit are a young and growing population. The average age of the population is 27.7 years, significantly younger than the non-Indigenous population (at 40.9 years).¹²¹ “Between 2006 and 2016, the Inuit population in Canada grew at a rate nearly three times that of the total Canadian population (29% versus 11%).”¹²²

Inuktitut dialects continue to be a vibrant feature of Inuit communities: 64% of Inuit of all ages in Canada report being able to speak Inuktitut well enough to have a conversation, 45% report Inuktitut as the most often used language at home, and 57% report Inuktitut to be the first language they learned at home in childhood.¹²³ Fluency in Inuktitut, however, varies according to region.

For instance, the vast majority of residents of Nunavik (99%) and Nunavut (89%) are able to converse in Inuktitut, while only 21% of those in Nunatsiavut and 22% of those living in Inuvialuit region are able to do so. As the Inuit Tapiriit Kanatami notes, this difference is “largely because of their different histories and experiences with colonialism, including the residential school system, that have contributed to language decline.”¹²⁴

Nevertheless, social and economic issues have continued to plague families in Inuit Nunangat as they endeavour to manage the profound effects that colonialism has imposed on their ways of being and living.

Economic insecurity is one of those issues. Like other Indigenous peoples, Inuit experience lower employment and participation rates in the wage economy, and higher unemployment in comparison to the non-Indigenous population.¹²⁵ According to the Aboriginal Peoples Survey, in 2017 only 52% of Inuit aged 15 or older living in Inuit Nunangat were working for wages; 79% of those employed had a permanent job while 24% worked part-time (less than 30 hours per week). The vast majority (83%) of unemployed Inuit cited a “shortage of jobs” as a barrier, while almost half (46%) of Inuit who worked part-time did so because full-time work was not available.¹²⁶

Significantly, in 2017 the majority (85%) of Inuit aged 25 to 54 living in Inuit Nunangat participated in land-based activities (hunting, gathering wild plants, making clothing and footwear or artwork), and the majority participated frequently (for instance, 46% of those who hunted, fished or trapped did so at least a few times a week during the season).¹²⁷ Over one-quarter (27%) of Inuit participating in land-based activities do so to supplement their waged labour.¹²⁸ In 2015, the median income for Inuit aged 15 years and over was only \$23,485 compared to \$92,011 for *qallunaat* living in Inuit Nunangat.¹²⁹

Tied to economic insecurity, Inuit experience poor living conditions. Just as housing was inadequate in the early years of the settlements, a housing crisis continues to affect Inuit families.¹³⁰ According to the 2016 Census, 31.5% of Inuit in Inuit Nunangat compared to only 6% of non-Indigenous people in Canada live in dwellings that need major repairs. Over half (52%) of Inuit in Inuit Nunangat live in overcrowded housing, a situation that occurs for only 3% for other Canadians.¹³¹

Inuit families are also more likely to experience food insecurity. While 92% of all Canadian households are food secure, only 48% of adults living in Inuit Nunangat are food secure.¹³² One factor is the high cost of goods in the North. “According to the Northern Food Basket, it costs \$260 to \$450 a week to provide healthy diet to a family of four living in northern regions, whereas the same basket of goods would cost \$200 to \$250 in southern Canada.”¹³³

Another profound effect of the colonial encounter has been the change in relations between Inuit men and women, which has generated familial tensions and trauma. The traditional hunting economy necessitated a tightly integrated sexual division of labour with distinct but integral gender roles: husbands as economic providers and wives as domestic mainstays. Values of cooperation, sharing, and reciprocity and an ethic of egalitarianism predominated as Inuit families worked together for the common good.¹³⁴ Those roles — and the balance between them — were undermined with relocation to the permanent settlements, as husbands faced increasing barriers to

practicing traditional methods of food harvesting. While many men took up wage labour jobs in the settlements with the intention of alternating with periods of hunting, new technologies — gas-powered motorized canoes and snowmobiles — were prohibitively expensive to acquire and maintain. As well, many of the better paid jobs “tended to go to white ‘southern’ Canadian males, who had more formal education and training.”¹³⁵

Women’s role and position within the family were similarly affected. By the late 1990s, many Inuit women were working outside the home at paid employment. In some cases, they took on the role as primary economic provider for the family.¹³⁶ “Perceived by government officials as possibly more sedentary, possibly more ‘responsible’ than their male counterparts, women were often judged as being less likely to leave a job for hunting excursions on the land. As this prototype took shape, women became steady wage earners for their families and came to occupy many of the prominent positions around town.”¹³⁷

Nevertheless, very few Inuit women are employed in the extractive industries: less than 2.5% of employed Inuit women are in trades and only .3% are in natural resource production.¹³⁸ The majority of Inuit women work in the public sector, and are less likely than men to hold managerial positions. As such, Inuit women earn less than Inuit men, even though they tend to have higher levels of education.¹³⁹

While excluded from participation in resource extraction industries, Inuit women are still affected by their presence. The NIMMIWG heard testimony and evidence that because of issues relating to transient workers and substance abuse and addictions, “resource extraction projects can lead to increased violence against Indigenous women at the hands of non-Indigenous men, as well as increased violence within Indigenous communities.”¹⁴⁰

Settlement has arguably been more disruptive to Inuit men than women, given that “men’s primary role as hunter and provider was severely curtailed ... whereas women’s roles in the household and in raising children continued.”¹⁴¹ Those families who have not been able to access paid employment have had to rely on government assistance in order to get by. Some 42% of Nunavummiut, for instance, rely on social assistance to meet their basic needs.¹⁴² In these terms, “dependency on government transfer payments replaced [the] economic self-sufficiency [of earlier times] ... which contributed to the erosion of the male role and an imbalanced gender regime.”¹⁴³

The shift in gender roles that accompanied the colonial encounter is one factor in the generation of trauma in the lives of Inuit.

Colonial Trauma

Colonial practices such as residential schools and the relocation to permanent settlements have been the source of considerable trauma in the lives of Inuit, disrupting and restructuring relationships between Inuit men and women, and between parents and children, with an intergenerational impact.¹⁴⁴ Contemporary manifestations of this trauma abound in Inuit communities.

One manifestation of trauma is the prevalence of alcohol and drug abuse. Janet Billson, for instance, notes that “rates of alcohol and drug abuse have skyrocketed in Baffin communities since

resettlement.”¹⁴⁵ According to the 2012 Aboriginal Peoples Survey, 35% of Inuit women and 41% of Inuit men reported heavy drinking (having 5 or more drinks on a single occasion at least once a month).¹⁴⁶ More often than not, turning to alcohol and drugs is a coping strategy to deal with deep distress. Speaking to the high rates of alcohol and drug abuse in Indigenous communities in Manitoba, Aboriginal Justice Inquiry commissioners Alan Hamilton and Murray Sinclair asserted: “Ultimately, it must be recognized that the presence and influence of alcohol and substance abuse in Aboriginal communities and among Aboriginal people are a direct reflection of the nature and level of despair which permeates that population.”¹⁴⁷ For Inuit, as with other Indigenous peoples, despair has been generated by colonialism.

Another manifestation of trauma is the suicide crisis. The four regions of Inuit Nunangat have rates of suicide between 5 to 25 times the rate for Canada as a whole.¹⁴⁸ The 2007-2008 Inuit Health Survey revealed that 48% of Inuit surveyed reported having had suicidal thoughts at some point in their lives; 14% in the previous 12 months.¹⁴⁹ Some 29% (31% women and 25% men) reported having attempted suicide at some point in their lives; 5% during the previous 12 months.¹⁵⁰ The rate of suicide amongst Inuit children is 30 times the rate for children in the rest of Canada.¹⁵¹ Janet Billson and Kyra Mancini note that while alcohol and drug abuse may be a factor in the high rates of youth suicide, a stronger explanation is their marginalization and social exclusion. Louis-Jacques Dorais puts it in these terms: “Caught between life on the land, about which they do not know enough, and the modern labour market, whose doors seem reluctant to open up to them, many young people have developed a feeling of being totally useless.”¹⁵²

Gender-based violence against Inuit women — reflected in the exceedingly high rates of sexual assault and intimate partner violence against Inuit women — is also a manifestation of the trauma created by colonialism. As Larry Chartrand and Celeste McKay note, “Explanations for such high rates of victimization are varied but the predominant view links high victimization to the overall impact of colonization and the resultant collective and individual ‘trauma’ and its impacts that flows from cultural disruption.”¹⁵³ Phil Lane and his colleagues also draw the connection between colonial trauma and intimate partner violence:

Domestic violence and abuse are almost always linked to trauma in several ways. Certainly, abuse causes trauma in victims, as well as in children witnessing violence. But, domestic abuse is also and most often the result of intergenerational trauma. So, trauma is both one of the primary causes and principle outcomes of domestic violence and abuse.¹⁵⁴

Similarly, the NIMMIWG asserts that the intergenerational trauma caused by government interventions from the 1940s to the 1960s “is the root cause of a great deal of the violence Inuit women are exposed to today.”¹⁵⁵

Acknowledging the Colonial Context

Colonialism has profoundly impacted Inuit ways of living and being, an impact that is continuing into the present. While economic insecurity, poor living conditions, food insecurity, and disrupted relations between Inuit men and women are some of the more obvious manifestations of the colonial encounter with *qallunaat*, the trauma that colonialism generates is also a key factor. This trauma manifests in high rates of alcohol and drug abuse, suicide — and gender-based violence

against Inuit women. Meeting the needs of Inuit women, therefore, requires acknowledging and attending to the colonial context in which gender-based violence occurs.

II. THE CRIMINAL JUSTICE SYSTEM IN NUNAVUT, INUVIALUIT, AND NUNAVIK

Inuit never relinquished sovereignty over their homelands¹⁵⁶ and Inuit culture “remains strong and permeates all activities of northern life.”¹⁵⁷ As colonialism advanced in the North, especially with oil, gas, and mineral companies moving into Inuit Nunangat to develop mega projects aimed at extracting the natural resources, Inuit organized to assert their right to influence decision making and negotiations surrounding these projects. Several land claim agreements were settled as a result: the James Bay and Northern Québec Agreement (1975); the Inuvialuit Final Agreement (1984); the Nunavut Final Agreement (1993); and the Labrador Inuit Final Agreement (2005). These agreements reinforced the rights of Inuit to land stewardship and self-determination.

Nevertheless, colonialism continues to generate considerable upheaval in the lives of Inuit, reflected in part in the high rates of crime and violence experienced in the regions. Inuit Nunangat has an overall crime rate that is six times higher and a violent crime rate that is nine times higher than the rest of Canada.¹⁵⁸ According to police-reported data, women in Inuit Nunangat are 11 times more likely to be victims of violent crime compared with other Canadian women.¹⁵⁹ The Canadian criminal justice system has been tasked with responding to these high rates of crime and violence.

The history of the criminal justice system in Inuit Nunangat is a colonial one. Both the police (RCMP) and the courts played a key role in ushering colonialism into the North. In the process, the colonial justice system was imposed on Inuit and “clashed violently” with traditional Inuit customs and means of conflict resolution.¹⁶⁰ But what form does the administration of criminal justice in Inuit Nunangat take in contemporary times? To what extent is the delivery of justice attentive to the unique needs and circumstances of Inuit, especially Inuit women who experience gender-based violence?

The three regions of Inuit Nunangat considered here — Nunavut, Inuvialuit, and Nunavik — share similarities in terms of how the criminal justice system operates. For instance, all three regions are governed by the Canadian *Criminal Code* and police, lawyers, and judges are actively involved in administering its provisions. As well, there is a similarity in the concerns and challenges encountered, especially given the language and cultural differences that prevail and the remoteness of so many Inuit communities. Nevertheless, how criminal justice is activated in each region is specific, featuring a complex interplay of criminal justice actors and agencies geared toward responding to crime and violence.

Criminal Justice in Nunavut

Covering an area of over 2 million kilometres, Nunavut is geographically the largest territory in Canada, representing 20% of the country’s land mass. Comprised of a population of just over 38,000 people, it is also the most sparsely populated area in the country. Nunavummiut (residents of Nunavut) are located in 25 communities, none of which are accessible by road; with the exception of some summer access by ship, air travel is the only way to reach them. The largest community is Iqaluit, the territory’s capital, with a population of 7,000. The vast majority (85%) of Nunavummiut identify as Inuit; Inuktitut is the first language for 70% of the residents.¹⁶¹

Nunavut came into being as a distinct, legally constituted jurisdiction in 1999. In addition to addressing “the imposition of Canadian sovereignty over Inuit people, waters, and land,”¹⁶² a primary motivator in the creation of Nunavut was “to provide better justice outcomes for Inuit by approaching crime and addressing its root causes in a manner consistent with Inuit world views.”¹⁶³ While policing is carried out by the RCMP, the Nunavut Department of Justice oversees the administration of justice in the territory. The Department’s Divisions include the Court Services Division, the Community Justice Division, and the Corrections Division.¹⁶⁴

Policing

Nationally, the RCMP promotes a commitment to upholding justice and the safety and security of all citizens by adhering to their core values of honesty, professionalism, compassion, respect, and accountability.¹⁶⁵ In particular, contributing to safer and healthier Indigenous communities is one of the RCMP’s five strategic priorities.¹⁶⁶ This priority is actualized in several ways, including: promoting and encouraging the recruitment of Indigenous people as employees and police officers; working collaboratively with Indigenous communities; developing culturally competent police services; and promoting alternative, community justice initiatives for Indigenous people. The implementation of this strategic priority is overseen by the RCMP-Indigenous Relations Services and involves several programs and initiatives, including cultural competency training of RCMP officers.¹⁶⁷

In Nunavut, the RCMP’s V Division has 25 detachments that employ 131 regular members, three of whom are Inuit.¹⁶⁸ In keeping with RCMP policy, most officer postings in the territory are for a period of two to four years.¹⁶⁹ To address the force’s commitment to developing culturally competent police services, V Division runs “Inuit Perceptions,” a one-day cultural awareness seminar designed to orient officers to Inuit culture, customs, and beliefs.¹⁷⁰

Despite the RCMP’s commitment and initiatives to address safety and security in Indigenous communities, concerns have been raised with respect to policing in Nunavut, particularly in relation to the police response to gender-based violence.

One concern pertains to the cultural divide that exists between *qallunaat* officers and the communities they are mandated to serve. Addressing the provision of seminars such as “Inuit Perceptions,” the NIMMIWG noted that the matter of cultural competency of police officers is not simply “the completion of a course that one takes and then forgets, but, rather, the requirement for the development of a deeper understanding and knowledge of Indigenous history and contemporary challenges that is always evolving.”¹⁷¹ But the concerns that have been raised are even more extensive than just a matter of the cultural competency of police officers.

In February, 2017 the *Globe & Mail* began a series of reports on the issue of unfounded sexual assaults — those cases where women report to the police, but no charges are laid because the police do not believe a crime has occurred. In addition to publishing many of the women’s stories, the *Globe* reported on data it had collected from police services across the country, including the RCMP. These data showed that police in Canada dismiss one out of every five sexual assault reports as unfounded, and that sexual assaults are nearly twice as likely as physical assaults to be designated as unfounded. While larger cities in southern Canada tended to have lower than average

unfounded rates, communities in the North were above the average. In Iqaluit, RCMP deemed 37% of sexual assault cases reported to them as unfounded (Yellowknife, Northwest Territories (NWT) was also high, with an unfounded rate of 36%).¹⁷²

The RCMP responded to the *Globe* series by undertaking a review of all sexual assault files from 2016 classified as unfounded and determined that “the results made it clear that changes are necessary.”¹⁷³ Of 2,225 files, 1,260 (57%) were deemed to be misclassified and 284 (13%) were identified for further investigation. A sample review of 93 sexual assault cases from 2015 also found, “investigators consistently misinterpreted the unfounded category.”¹⁷⁴ As well, the review team found issues with some investigations, including: “insufficient documentation of how a case was pursued or why it was classified as unfounded; inconsistent oversight to ensure investigations were conducted, documented and classified properly; and little knowledge of consent law by investigators.”¹⁷⁵ The review indicated that stereotypes police held about how victims of sexual violence should act were reflected in the files: “some members equated inconsistencies in victims’ statements with dishonesty, and demonstrated a general lack of awareness regarding how trauma might affect a victim’s ability to recount events, or how instinctual and unconscious coping strategies may change or mask emotions.”¹⁷⁶

Several actions were proposed in light of these findings, including implementing a sexual assault training curriculum for officers that addresses the legal element of consent, focuses on trauma-informed investigative tools and approaches to gender-based violence, highlights common myths and stereotypes, reinforces victim rights and support services, and bolsters supervisory oversight and review.¹⁷⁷

In addition to these concerns about the RCMP’s response to sexual assault cases, other concerns have been raised that are more specific to policing in Nunavut. In an 18-page letter to the Civilian Review and Complaints Commission for the RCMP sent in June 2019, the Legal Services Board of Nunavut (LSBN) raised “significant concerns about systemic issues regarding the RCMP policing of communities in Nunavut.”¹⁷⁸ In addition to the lack of officer training to ensure their cultural competency, the letter called attention to the quality of the service provided, the conduct of RCMP officers, repeated instances of unnecessary violence, and the lack of oversight in relation to maintaining RCMP conduct requirements and service standards.

The LSBN letter detailed numerous incidents, including ones that reflected a “particular pattern of poor service when it comes to women in domestic and sexual assault matters.”¹⁷⁹ Several incidents were cited of Inuit women who called on police to respond to violence from their intimate partners, but to no avail. In one case, a woman was told to stop calling the RCMP. She was subsequently sexually assaulted by her partner.

The letter goes on to assert that RCMP officers in Nunavut “have not received adequate training in dealing with Inuit, particularly Inuit women, who have been victims of sexual assault”¹⁸⁰ and that “the force lacks sufficient policies or oversight to prevent the ongoing re-victimization and re-traumatization of sexual assault survivors by the officers whose job it is to serve and protect our communities and residents.”¹⁸¹

RCMP officers were also alleged to have engaged in “unnecessary and often gratuitous” violence against Inuit,¹⁸² which “perpetuates an ‘us vs. them’ mentality both among Nunavummiut and police officers. Attitudes of hostility toward community members appear to be inherited by newer members of a detachment from the more senior members. Positive interactions and relationship building between the RCMP and the communities they serve is infrequent.” The Legal Services Board maintained that, “The police cannot do their jobs properly in the face of such distrust and fear. And the communities suffer from having reduced access to police services.”¹⁸³

Moreover, the Legal Services Board noted that the law “places very strict limits on the power of police to enter a person’s residence and arrest an individual when they are in their private dwelling,”¹⁸⁴ yet RCMP officers frequently breach Nunavummiut’s rights under the *Charter*. There is also a pattern of RCMP officers “demonstrating an indifference to following their policies in respect of ensuring the health and well-being of Inuit detainees.”¹⁸⁵ The letter cited several examples of Inuit held in custody who did not receive required medical assistance, despite an RCMP policy “that immediate medical assistance must be sought when a person exhibits any signs of illness or injury.”¹⁸⁶

The letter pointed out that the vast majority of RCMP officers in Nunavut are “white southerners who do not speak Inuktitut and do not have a knowledge of – or history of living in – Inuit or indigenous or northern and remote communities.”¹⁸⁷ This lack of cultural awareness and understanding has prompted “racist comments, attitudes and actions” on the part of police.¹⁸⁸

In a follow-up letter sent in January, 2020, the Legal Services Board highlighted its ongoing concerns with regard to the RCMP’s treatment of people in their custody, particularly Inuit women.¹⁸⁹ The letter cited two cases involving Inuit women. One woman was forcibly strip-searched by three male officers and then left naked on the cell floor. The other woman was told that police policy required her to wear a suicide gown while in custody. She refused to do so. After being strip-searched, she was required to walk naked to her cell where she was left in that state. The letter stated, “while the practice around strip-searching especially involving women by male officers is egregious it reflects a larger more systematic disregard for the rights and dignity of the people, especially women, of Nunavut by the RCMP.”¹⁹⁰

In March, 2020 the Civilian Review and Complaints Commission for the RCMP responded to the Legal Services Board by indicating that a review of the RCMP’s Policies and Procedures regarding Strip Searches was underway, and that the Commission was committed to conducting a systemic review of RCMP policing activities in Nunavut.¹⁹¹

Similar concerns were revealed in a study conducted by Pauktuutit Inuit Women of Canada that included interviews with 11 Inuit women and nine service providers in Nunavut.¹⁹² Respondents expressed concerns about the slow response time of RCMP officers, especially in smaller communities given that all of the calls are diverted to the police dispatch in Iqaluit. Others talked about the racialized assumptions that are often made about Inuit by officers and how the colonial history of police-Inuit relations has left a legacy of tension. This tension has created fear and distrust of the RCMP, and a reluctance of women to call on them when gender-based violence occurs. According to many of the participants, gender-based violence against Inuit women has

been “normalized” by police officers — as “the way the Inuit are” — and is therefore not taken seriously.¹⁹³ The lack of integration of officers into the community (complicated by the short duration of their postings), the limited policing experience of new recruits, and officers’ lack of knowledge about Inuit culture and language were also prominent themes in the participants’ accounts of the police response to gender-based violence in Nunavut.

The RCMP’s V Division has been active in responding to these concerns. In 2021, the Division released a statement detailing reconciliation strategies and activities designed to “establish and build mutually respectful and beneficial relations within the territory.”¹⁹⁴ Five strategic initiatives were spelled out:

1. Recruitment: specialized efforts to attract and recruit Inuit personnel;
2. Modernizing police services through programs and support: such as training Inuktitut speakers to work as operators in the Operational Communication Center;
3. Improving trust and promoting reconciliation: including a two-week, pre-deployment training session for all non-Inuit members transferring to the region to educate them in Inuit history, culture, and language and the establishment of a Family Violence Coordinator to provide support and network building with external partners in order to enhance the RCMP’s capacity to assess and conduct domestic violence investigations in Nunavut;
4. Special constables: undertaking several art initiatives to honour the contributions that special constables have played in the RCMP’s history in the North; and
5. Participation at cultural events and celebrations: documenting and enhancing the involvements of the 25 RCMP detachments in community engagement activities.

The Nunavut Court of Justice

The Nunavut Court of Justice (NCJ) is the only single-level or unified court in Canada. The Court was established in 1999 in conjunction with the creation of Nunavut. As a single-level court, the normally distinct functions of the superior court and provincial or territorial court are combined into one court. Justices of the NCJ are federally appointed and the court of appeal comprises a panel of judges drawn from the Nunavut Court and the courts of appeal of other jurisdictions who meet as required.¹⁹⁵ While the court hears family and civil matters, most of its work involves criminal cases.¹⁹⁶

The overall intentions behind the Nunavut Court of Justice were to: (a) to provide substantive and procedural rights equivalent to those enjoyed elsewhere in Canada; (b) to provide court-based justice services in a fair and inclusive manner; and (c) to provide an efficient and accessible court structure capable of responding to the unique needs of Nunavut.¹⁹⁷

With regard to the latter intention, several initiatives have been made to attend to the specific circumstances of Nunavummiut, including their geographically dispersed population and their Inuit culture and language. Circuit Courts, Justices of the Peace (JPs), Crown Witness Coordinators (CWCs), Community Justice Committees (CJC), and the use of Inuit court workers, elders, and interpreters reflect this intention. With specific regard to gender-based violence, *Family*

Abuse Intervention Act of 2006 marked an effort to fashion an Inuit-specific response to the problem. Nevertheless, each of these initiatives has been subject to challenges and concerns with regard to the delivery of justice for Nunavummiut.

Circuit Courts

Nunavut is divided into three regions: Qikiqtaaluk (Baffin Region) where Iqaluit is located; Kitikmeot (western Nunavut); and Kivalliq (central Nunavut). The Nunavut Justice Centre, which features three courtrooms, is located in Iqaluit. A Remand Court is held monthly via videoconferencing with persons detained in the Kivalliq and Kitikmeot regions. Videoconferencing is also available in 37 other locations for the purposes of entering an election or plea and sentencing hearings of Kivalliq and Kitikmeot prisoners where it is anticipated the accused will be sentenced to additional time in custody.¹⁹⁸

Outside of Iqaluit, the other 24 Nunavut communities are served by “fly-in” Circuit Courts, the frequency of which depends upon the volume of charges and the size of the community. The dates for Circuit Courts are finalized a year in advance; however, the schedule is adjusted to address the volume and/or severity of charges to be considered. In 2017, for instance, there were 88 weeks of scheduled non-jury sittings of regular circuits into the communities of Nunavut (excluding Iqaluit).¹⁹⁹ According to the Nunavut Court of Justice website,

Court is held in community halls, school gyms, and in other conference facilities as available. All court proceedings in the communities are interpreted for the public. Elders sit with the Judge in the courtroom and are given the opportunity to speak with the accused following sentencing submissions and prior to the passing of sentence.²⁰⁰

Evidence of cultural sensitivity by the Court is reflected in the provision of interpretation services, the large number of bilingual Inuit staff working with the Court (e.g. court workers and CWCs), and the involvement of elders in sentencing. The Department of Justice Canada (2007) evaluation of the Nunavut Court of Justice found, “the use of elders’ panels in sentencing was considered an important way for Court decision making to reflect community norms.”²⁰¹ As well, the majority of counsel interviewed by the Department of Justice Canada evaluators indicated that the Court is “very aware of the life history of individuals, their ties to community and culture, and the rapid cultural changes which are affecting Inuit in Nunavut.”²⁰²

Nevertheless, concerns have been raised with respect to the operation of the Circuit Courts. One concern is that the Circuit Courts are both time and travel sensitive. In order for a court to sit, a court party consisting of a judge, a clerk, a court reporter, a prosecutor, and at least one defence attorney must travel to a community. “Witnesses and court workers might also travel, as may interpreters, if they cannot be hired locally.”²⁰³ While court officials “may feel like they are constantly travelling, the feeling for those in many communities may be that they are constantly waiting.”²⁰⁴

A Circuit Court may arrive in a community “as frequently as every 6 weeks, or as infrequently as every 2 years.”²⁰⁵ Infrequent circuits and repeated adjournments of cases can create considerable stress for victims, witnesses, the accused, and their families. As Scott Clark notes, “Waiting for closure from the court is stressful, especially in view of the fact that most communities are very

small, making avoidance of individuals involved in an incident difficult for victims and offenders alike.”²⁰⁶

This stressful situation is especially evident when domestic violence is involved. As the Nunavut Tunngavik Incorporated notes,

The gaps in time between circuits can mean that a couple involved in a domestic abuse situation may have to wait up to six months for the court to arrive and address the case in a first hearing and sentencing may not take place until a later circuit. In the interim, couples may have little choice but to endure the stress of remaining together in a potentially explosive and violent situation, typically with little or no counselling or other supportive programming.²⁰⁷

Stress may also be created when the couple has reconciled by the time their case is heard. “Re-visiting the incident in the stressful context of Court can be a negative experience for all participants. Remands to custody can also affect the family of the accused in that the accused is often held far from home and unable to provide economically and in other ways for the family.”²⁰⁸

According to the Department of Justice Canada, common reasons for adjournment cited in case files include: lack of time on the court circuit; a not guilty plea has been entered and the case set over for trial; the Crown elects for a preliminary inquiry or trial; inclement weather; individuals (both accused and witnesses) not appearing for Court; or the defence requests an adjournment (e.g. unable to speak with client).²⁰⁹ Key informants also cited other reasons, including: a shortage of defence counsel; travel logistics (especially with court party members coming from different locations); too few and inadequately trained court workers to prepare for trials; too few JPs to prepare for trials; too few JPs trained to conduct trials of summary conviction offences; and lack of resources for offenders (treatment facilities, community supervision, and alternative programs).²¹⁰ Added to the mix, frequent RCMP rotations can be a problem “as the arresting officer must often fly to the site of a trial.”²¹¹

Language and cultural barriers are also a concern. Proceedings of the court are conducted primarily in English, despite many unilingual court participants, especially accused and victims. While the courts try to overcome this barrier with interpreters and court workers, “when interpreters are present but of low proficiency, the effectiveness of the provision of justice may be called into question.”²¹² As well as a language disparity, there are also cultural gaps, especially since particular English words (such as “guilty”) do not have direct conceptual equivalents in Inuktitut.²¹³

Another concern is the staffing complement of justices. While there are six positions on the Bench of the Nunavut Court of Justice, vacancies created by retirements meant that there were only four resident judges in 2017. Deputy Judges from southern Superior Courts may be called upon to assist the Court. In 2017, 60 Deputy Judges were called upon to assist the NCJ.²¹⁴ The Department of Justice Canada found that every lawyer interviewed for their evaluation was of the view that communities were better served by resident, as opposed to deputy, judges: “Factors commonly mentioned included resident judges’ stronger understanding of Inuit culture, community

expectations, and the background of individuals appearing before the Court (e.g. experiences of trauma, serious disabilities and so forth).”²¹⁵

Justices of the Peace

In planning the Nunavut Court of Justice, the intention was to utilize resident Justices of the Peace (ideally Inuit) to have a prominent role in the administration of justice. They were to handle summary conviction matters that had previously been managed by the NWT Territorial Court, thereby freeing up Nunavut judges to deal with more serious criminal cases, along with family and civil cases.²¹⁶ As well, “these locally-based JPs would reduce wait times for matters to be resolved during the circuit court, and improve accessibility (particularly linguistic).”²¹⁷ JPs were therefore seen as having the benefit of expanding community participation in the administration of justice and, in their capacity as mediators of conflict, of playing “an important role in infusing traditional Inuit justice practices into their work.”²¹⁸

Primarily employed on a part-time basis, JPs preside over “summary conviction matters arising out of territorial statutes, municipal bylaws, and selected criminal matters. The JPs regularly conduct first appearance and bail hearings and also issue warrants and summonses. In addition, they carry out various public functions such as conducting marriage ceremonies.”²¹⁹

The initial plan was also to have four different levels of JPs in Nunavut: carrying out relatively straightforward administrative functions (such as administering oaths); conducting bail hearings and issuing search warrants; holding trials on summary matters, Nunavut statutes, and by-laws and hearings on breaches of conditional sentences, peace bond applications, and adjournment of child welfare hearings; and acting as Youth Court judges and issuing tele-warrants.²²⁰ By holding JP court the day before the arrival of the Circuit Court, many matters could be cleared that would otherwise need to be addressed by the NCJ judges.²²¹

Despite the initial intentions, problems have emerged in executing the Justice of the Peace program. The Department of Justice Canada evaluation found, “while the JP program continues to improve, it is still not meeting expectations.”²²² Court personnel interviewed for the evaluation cited problems with the recruitment and training of JPs. Several cited the need for more than one JP in a community in order to prevent conflicts of interest; others expressed concerns about the need for better training on legal matters (such as bail hearings). JPs were also experiencing a lack of administrative support (the assistance of a clerk to help maintain Court records and prepared documents for the NCJ). As well, Clark noted that in order for the system to work as envisioned, “JPs would have to be trained and qualified to at least level three, so they could conduct summary conviction trials in every community.”²²³ In 2011, however, JPs with level three or higher authority were only resident in three communities (Arviat, Rankin Inlet, and Pond Inlet).

Crown Prosecutors

Unlike the provinces, where *Criminal Code* offences are prosecuted by the Attorney General of the province through the provincial Crown Attorney, in Nunavut (as well as the NWT and The Yukon) *Criminal Code* offences are prosecuted by federal prosecutors of the Public Prosecution Service of Canada (PPSC) on behalf of the Attorney General of Canada. As of March 2021, there

were 45 PPSC employees working in the Nunavut Crown's office. In 2020-2021, they worked on 3,165 files, the vast majority of which involved *Criminal Code* offences (3,110).²²⁴

Given that participating in criminal justice proceedings can be re-traumatizing for victims, the *Criminal Code* specifies several testimonial aids that Crown attorneys can request to accommodate victims' needs, including:

- some or all members of the public may be excluded during all or part of the court proceedings (section 486);
- victims and witnesses may have a support person close by when they testify (section 486.1);
- victims and witnesses may testify outside the courtroom by closed-circuit television or behind a screen so that they do not have to see the accused (section 486.2);
- upon application, the court shall appoint counsel to conduct the cross-examination of a victim of a sexual offence when the accused is self-represented (section 486.3); and,
- upon application, a publication ban must be ordered on any information that could identify victims of sexual offences (section 486.4).²²⁵

These testimonial aids were enhanced with the enactment of the *Canadian Victims Bill of Rights* in 2015, which established certain rights for victims of crime in four areas:

- **Information:** the right to request information about the criminal justice system and the services and programs available to them; the status and outcome of the investigation into the offence, where and when the proceedings will take place and their progress and outcome; and reviews and hearings relating to the conditional release of the accused.
- **Protection:** the right to have their security considered, to be protected from intimidation and retaliation, to have their privacy considered, to request that their identity be protected, and to request testimonial aids when appearing as a witness in proceedings.
- **Participation:** the right to convey their views about the decisions to be made that affect their rights and to present a victim impact statement and have it considered.
- **Restitution:** the right to have the court consider making a restitution order against the offender and to have that order enforced.²²⁶

Testimonial aids are especially pertinent in court proceedings that are held in small communities. Giving testimony in cases involving gender-based violence in a room filled with community members who are known to the victim and/or the accused can be a daunting experience. One option is to exclude the public from the court proceedings. However, interviews with Crown prosecutors in the territories found that applications to have the public excluded are quite rare. Several Crown prosecutors indicated that they were reluctant to make an application unless all other alternatives had been exhausted (such as the use of screens to shield the victim from the accused during her testimony or when the case could be heard later in the day when most of the community members would have left). Judges also appeared to be reluctant to order the exclusion of the public, as it runs counter to the common law principle of an accessible and open court. One testimonial aid is closed-circuit television (CCTV) or videoconferencing, where the victim/witness testifies in another room. This alternative, however, is only available in larger centres and even then,

technology challenges are often encountered (e.g. the quality of the video), which can potentially have an impact on how the testimony is perceived by the judge or jury.²²⁷

The Crown Witness Coordinator Program

The Crown Witness Coordinator Program was developed in 1991 to bridge the gap between Crown prosecutors and victims/witnesses as well as to address the divide between Indigenous cultures and the Canadian criminal justice system. There are eight CWC positions in the Crown's office in Iqaluit.²²⁸

CWCs act as a liaison between the Crown counsel and victims/witnesses of a crime. In keeping with the *Canadian Victims Bill of Rights*, they work to ensure that victims/witnesses understand the court process, their rights, and responsibilities, and provide them with court updates and information on court outcomes. The CWCs travel with the Circuit Court, locating victims/witnesses in the community, assisting them in trial preparation, and providing support both during and after court. CWCs, for instance, will assess the requirements for testimonial aids during a victim's testimony. They will also provide translation services in Inuit languages to assist non-English speaking victims in communicating with the Crown. CWCs also refer victims/witnesses to supportive community services such as counselling, shelter, and travel assistance.²²⁹

An evaluation of the CWC Program found that one of the biggest challenges encountered by CWCs is in dealing with the trauma that most crime victims and witnesses have experienced. "Because the focus of traumatized individuals is on physical survival they are often afraid to testify against the accused. This instinct is reinforced by their own family, and the family of the accused, who often blame the victim for the abusive treatment they have endured." The CWC, therefore, "must deal with the victim's traumatic symptoms as well as the family dynamics of blaming and denial that surround and influence the victim."²³⁰ The evaluation also pointed to challenges encountered with the Circuit Courts, given the limited amount of time spent in a community and the lack of physical resources for CWCs to meet confidentially with victims to prepare them for their testimony.²³¹ Nevertheless, respondents were of the view that the CWC Program has "humanized" the criminal justice process for victims and made it easier for them to participate in the proceedings, especially since CWCs "speak the same language as the victims and witnesses, and know the community dynamics and local family connections."²³²

One constraint that both Crown prosecutors and CWCs confront in meeting the needs of victims of gender-based violence is their legal obligation to disclose to the defence any additional relevant information they receive from a Crown witness during interviews or other contacts (e.g. information inconsistent with prior statements, such as a recantation, or a reluctance to proceed with the case).²³³ For this reason, the role of the CWC includes providing victims with referrals to community supports where they can access confidential counselling.

Community Justice Committees

Operated through the Community Justice Division, CJsCs consist of local volunteers in each community who generally deal with low-level cases of violence and low-level crimes such as property offences; youth cases are diverted whenever possible. CJsCs are intended to take a

restorative justice approach — “an approach to sentencing for criminal offences that takes victim input into account; victims and offenders meet face-to-face in a community setting instead of in a conventional court setting, and some form of restitution and (ideally) reconciliation occurs between the victim and offender.”²³⁴

The RCMP can divert cases to a CJC before a person has been charged with a crime. Cases diverted to the CJs do not come before the Nunavut Court of Justice or Youth Court unless the diversion has been unsuccessful. In 2012/13, 137 cases were diverted to CJs; of those, 92 were completed, 29 were pending, and 12 were referred back to court.²³⁵ Cases can also be diverted to CJs by Crown prosecutors on a post-charge basis.²³⁶

Evaluations of the CJs conducted in Nunavut have found considerable support on the part of criminal justice personnel and community members alike for the essential role they play.²³⁷ In large part, support for CJs stems from their role as “a cultural bridge between a largely foreign Court and the communities in which they work.”²³⁸ Nonetheless, these committees have encountered several problems.

While CJs operate in every Nunavut community, there is variation in the capacity of committees to handle cases.²³⁹ Some committees have had difficulties in recruiting and retaining members, and there is also burn-out among committed community members. CJC members only receive an honorarium of \$100 for their volunteer work, which the Nunavut Tunngavik Incorporated points out, “potentially saves the territory millions of dollars.”²⁴⁰ Another ongoing problem pertains to the lack of administrative support for the committees.²⁴¹

While CJs “are now one of the few channels through which Inuit participate in the administration of justice,”²⁴² Nunavut Tunngavik Incorporated has raised the issue of whether or not victims benefit from this process and receive the reconciliation they need:

CJC members are supposed to help victims and offenders develop consensus-based plans that meet victim-identified needs in the wake of a crime. However, in traditional Inuit community justice practices, the offender was the only party usually given counselling. CJs have followed this practice, only involving the victim when he or she agreed to participate.²⁴³

Significantly, in relation to gender-based violence, CJs “deal with summary offences only; they do not have the federally derived legal authority to deal with sexual assaults, spousal violence, and any cases involving children.”²⁴⁴

Despite their significant economic and social benefits, CJs “continue to lack the support they need to grow into a more formal apparatus of the criminal justice system. Perhaps the clearest sign of this is the fact that the Community Justice division has been wrestling with the same training, support, recruitment, and retention issues for more than a decade.”²⁴⁵

Inuit Court Workers

The Nunavut Court of Justice was also designed to include locally based Inuit Court Workers who would provide a strong Inuit presence in the legal system, working to support defence lawyers in

communicating with clients (as they would be versed in Inuktitut or Inuinnaqtun) and case preparation and follow-up, as well as representing accused persons in bail hearings and trials and delivering legal education and information to the general public.²⁴⁶

Despite their potentially significant role in the administration of justice, the Court Worker Program appears to be continually plagued with problems. Two Department of Justice Canada evaluations found that court workers received inadequate training, were provided with inadequate resources (office space, telephones, file storage), and were not being fairly and reasonably compensated for their work.²⁴⁷ These problems have led to a shortage of court workers throughout the territory. Although, in its 2016/17 Annual Report, the Legal Services Board of Nunavut indicated that there were 24 court workers working in the 25 Nunavut communities. Nevertheless, a recent assessment raised several concerns, including: the need for clearer roles and responsibilities of the court worker; adequate office space; the development and delivery of training to increase capacity; and a review of pay scales to ensure equitable salary and benefits.²⁴⁸

Legal Aid

The justice system in Nunavut relies heavily on legal aid lawyers to function. The Legal Services Board of Nunavut operates a legal aid clinic in each of the three regions (located in Cambridge Bay, Rankin Inlet, and Iqaluit). The Board also runs the Inuit Court Worker Program.

The Legal Services Board operates under the principle of presumed eligibility, “which means that individuals do not have to complete a legal aid application in order to receive the services of a duty counsel while in court.”²⁴⁹ Given the high levels of poverty in the territory, virtually all criminal cases are dealt with by legal aid (and some private bar lawyers operating under legal aid certificates).

In 2016/17, 16 staff lawyers and 30 private lawyers (four of whom were residents of Nunavut) handled criminal defence work in the territory, attending 269 Circuit Court weeks and 38 special sitting weeks (jury and judge alone trials) of the Nunavut Court of Justice. In addition to its regular hours of operation, the Legal Services Board answered 503 after-hours calls of individuals who had been arrested and 88 after-hours bail hearings.²⁵⁰

Concerns have been raised regarding the heavy caseloads carried by legal aid lawyers, the lack of administrative support, the stress associated with the constant travel involved with the Circuit Courts, and the challenge of working in a different cultural and linguistic setting.²⁵¹ The high turnover of lawyers is also a concern. Jessi Casebeer, a lawyer with several years’ experience working in Nunavut, observes, “professionals move to the northern territories as a way of gathering work experience to bolster their careers, in order to secure better employment in the south.”²⁵² As such, “The average turnover of a lawyer in Iqaluit is around two years with people staying at most three to five years; lawyers filter in and out.” For Nunavummiut, this means encountering “qallunaat removed from the community, unable to speak the language(s), mispronouncing names, and swooping in and out of their lives in the middle of episodes of trauma and violence.”²⁵³

Another factor that has had an impact on the work of legal aid lawyers is the Supreme Court decision in *R v. Gladue*.²⁵⁴

In 1996 the Canadian Parliament added a new section to the sentencing principles outlined in the *Criminal Code*. Section 718.2(e) states that “all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.” The primary intention behind this addition was to address the over-incarceration of Indigenous peoples by reducing the use of incarceration as a response to crime. The *Gladue* case of 1999 was the first opportunity of the Supreme Court to consider s. 718.2(e). The case involved an Indigenous woman from British Columbia named Jamie Gladue who was charged with manslaughter in the death of her common law partner. In hearing an appeal on the case, the Court affirmed that s. 718.2(e) was remedial in nature and not simply a codification of existing sentencing principles. As such, it alters the method of analysis that judges are to use in sentencing an Indigenous offender.

In sentencing an Indigenous offender, judges must consider the unique systemic or background factors which may have played a role in bringing the person to court and the types of sentencing procedures and sanctions which may be appropriate in the circumstances because of their Indigenous heritage. This directive from the Supreme Court meant that sentencing judges would require extensive background information about the person (e.g. a history of residential school experience, child welfare removal, physical and sexual abuse, and other forms of trauma) as well as what an appropriate sentence might be. Subsequent to the Supreme Court decision, the courts have come to rely on “Gladue Reports” to provide this information.²⁵⁵

Gladue applies to virtually all cases in Nunavut, which has added to the lawyers’ workload as detailed reports need to be compiled requiring extensive preparation time. As well, the passage of the *Family Abuse Intervention Act* (2006) led to more reporting of domestic violence and therefore more cases for the courts to deal with.²⁵⁶

Family Abuse Intervention Act

Over the past two decades, the Government of Nunavut has implemented legislation that is Nunavut-specific and founded on Inuit *Qaujimajatuqangit*. One of those pieces of legislation is the *Family Abuse Intervention Act* (FAIA), which was passed in 2006 and came into effect in March, 2008.

The intent of the FAIA is “to provide Nunavummiut with the tools to holistically intervene and to prevent abuse by focusing on the immediate need for safety, with simple and efficient processes that are consistent with Inuit values. The spirit and intent of FAIA is to prevent abuse and decrease the escalation of violence.”²⁵⁷ The Act provides for four different types of orders to protect against domestic violence and prevent the escalation of violence:

Emergency Protection Order (EPO): can be applied for through a Justice of the Peace and involves ordering an abusive family member to be removed from the home within short notice. The EPO may also grant the applicant custody of children and possession of the family home. The Order requires a reasonable likelihood that the abuse will be repeated or resume.

Community Intervention Order (CIO): can be applied for through a Justice of the Peace in order to restrain an abusive family member from committing abuse and directing the couple to attend traditional Inuit counselling with a specified traditional counsellor.

Assistance Order: is granted by Nunavut Court of Justice judges in cases in which family violence has occurred and there is a reasonable likelihood it will continue. These are restraining orders that impose different levels of restraint on the abusive family member (such as no communication or contact with the abused person).

Compensation Order: is granted through a Nunavut Court of Justice judge and requires the abusive family member to reimburse the applicant or any specified person for any monetary loss suffered or expense incurred as a result of family violence, including loss of income, damage to personal property, and expenses relating to new accommodation.²⁵⁸

The Community Justice Division of the Nunavut Department of Justice is responsible for implementing the Act, including ensuring access to two of the four orders available: Emergency Protection Orders and Community Intervention Orders. Justices of the Peace specifically designated as FAIA JPs hold the initial hearings and applications to vary the provisions.

The FAIA program is organized into five regions, each with a Justice Specialist that oversees the program and the work of 25 Community Justice Outreach Workers (CJOWs), one in each community. Contribution agreements are forged with the communities, which are responsible for hiring CJOWs.

Community Justice Specialists are responsible for supervising, monitoring, and supporting the delivery of the FAIA program in each region. They organize and facilitate training events and workshops for the CJOWs and train RCMP members to assist community members with EPOs if a CJOW is unavailable. As well, Community Justice Specialists provide presentations to community groups and service providers regarding the FAIA. They also operate a 24/7 on-call number to assist with after-hours EPO applications.²⁵⁹

CJOWs are full-time, paid positions that are funded through the federal government's Aboriginal Justice Strategy on a cost-sharing basis with the Government of Nunavut. They assist with the EPO and CIO application process (filling out forms, facilitating hearings with a designated FAIA JP, and assisting with applications to vary, revoke, or challenge orders). They also "connect respondents with referrals for counselling services and provide safety planning, after-care and other referrals to health centres, Family Services, and the Victim Services Division as needed."²⁶⁰ In addition, the CJOWs are responsible for coordinating the work of Community Justice Committees.

Emergency Protection Orders are more applicable when an applicant requires immediate protection. The applicant contacts the CJOW, who then assists in completing the application. If granted by the JP, the RCMP would serve the EPO (which usually applies for up to 90 days) to the perpetrator. If the order is violated the RCMP can lay a Failure to Comply charge.

Community Protection Orders can be applied for by people who are experiencing family violence “but wish to remain in the relationship. CIOs are applied for in non-emergency situations so people can address the root causes of the abuse, and undergo counselling and/or education. Both the applicant and respondent will see their chosen respective counsellor as outlined in the CIO.”²⁶¹ Each party has the discretion to choose a traditional counsellor, elder, family member, professional counsellor, or a Community Justice Committee member.

Community Intervention Orders are a novel aspect of the Act. CJOWs connect with family members to discuss counselling plans, which becomes part of the formal plan presented to JPs, who then decide whether or not to grant an order. An evaluation carried out in 2009, however, deemed the law to be “failing” since CJOWs were considered unqualified and unable to carry out their duties.²⁶²

A subsequent evaluation in 2013 indicated that gaps remained in the training of CJOWs and in public education about the provisions under the law, which have led to underutilization of the Act’s provisions, especially of intervention orders. In 2015-2016, for instance, there were 62 EPO applications; 59 were granted. There were *no* CIO applications that year.²⁶³ The Community Justice Division’s 2015-2016 Annual Report on the FAIA noted that the Division “recognizes that the number of CIOs have been very low and need to be increased. Community Justice Specialists and CJOWs continue to promote and encourage CIOs.”²⁶⁴ However, data from a subsequent report indicate that the use of CIOs continues to be troublesome; *no* CIO applications were recorded in 2017-18.²⁶⁵ The Division cited several factors to account for this situation:

- As a voluntary process, both the applicant and respondent must be willing to attend counselling; respondents often decline to participate. If a counseling plan is in place both partners may decline to attend a hearing and proceed with a Community Intervention Order.
- Community Justice Outreach Workers often do not receive referrals for families experiencing abuse until it has become a crisis situation; as such, an Emergency Protection Order is required.
- The FAIA working group had been dormant and the Division had experienced a high level of staff turnover, including vacancies in the Community Justice Specialist positions and the FAIA manager position.
- Technological problems with the recorded phone line that facilitates the FAIA hearings also occurred, resulting in delays.²⁶⁶

In 2020, the Law Society of Nunavut and Pauktuutit Inuit Women of Canada conducted interviews with 38 women in seven Nunavut communities who have lived experience of gender-based violence to assess the effectiveness of the FAIA in responding to family violence, especially with regard to EPOs and CIOs. While some of the women indicated that an EPO had provided them with safety and protection, at least in the short term, other women believed that EPOs were only meaningful if the perpetrator obeyed the order and the RCMP responded quickly when an order was breached. Several women were unaware that CIOs were available (which might explain their lack of use). Others were hesitant to turn to the legal system when gender-based violence occurred

because of their lack of trust in that system and their belief that it favours perpetrators over victims.²⁶⁷

CIOs are intended to help keep families together and incorporate traditional Inuit values. “With a CIO, both partners come together and, over a series of sessions, plan a course of action that could include addictions treatment, anger management or other such counselling with local elders or other qualified community members. The CIO is then approved by a justice of the peace which binds both parties to complying with the order.”²⁶⁸ However, as Pauktuutit President Rebecca Kudloo has noted: “It’s often impossible to access mental health treatment programs for addictions and trauma in small communities, so community intervention orders might be an ineffective tool to stop violence.”²⁶⁹ Nunavut Tunngavik Incorporated also makes the point that individual counselling alone is not sufficient to address family violence: “Violence prevention ultimately requires deeper healing in the population through intentional, long-term services and supports.”²⁷⁰

Nunavut Victim Services

Operated through the Community Justice Division, a team of four Victim Care workers offer support to victims of crime, providing general information about the criminal justice system, information about the victim’s case, assistance in completing a Victim Impact Statement, emotional support in preparing to go to court, and referrals to community resources.²⁷¹ In addition to an email address and a toll-free help line (offered in both English and Inuktitut), victims are referred to the service by police, mental health workers, or Family Services. Gender-based violence — sexual and domestic assaults — represent the most common offences against Nunavummiut who seek support.²⁷²

Victim Services also engages in public education and awareness of victim issues and offers skills training to service providers and front-line workers (nurses, mental health workers, and police officers) who work with victims of crime.²⁷³

In addition, the *Victims of Crime Act*²⁷⁴ established a Victims Assistance Fund, which is overseen by a Victim Services Coordinator and a Victims Assistance Committee. The fund supports community-based projects and activities that provide services and assistance to victims of crime, including: training of community resource workers; direct services that assist victims; public awareness and information relating to victims and the criminal justice system; and research relating to services to victims and their needs and concerns.²⁷⁵ In 2015-2016, the fund supported a Women’s Group in Coral Harbour, a Peer Victim Support Leader Training Program in Iqaluit, a Healthy Relationships program in Pangnirtung, and a Youth Cultural Healing Journey program for boys and for girls in Cambridge Bay.²⁷⁶

As well, the Nunavut Victim Travel Support Program provides funds for those impacted by violent crime (including victims, family members, and support persons) to travel and participate in court proceedings that are held outside their home communities.²⁷⁷

Crime Prevention Initiatives

In March, 2017 the Nunavut Department of Justice released its plan for a five-year crime prevention strategy. The plan is based on a public engagement that involved meetings in each of

the 25 Nunavut communities in 2013 and 2014.²⁷⁸ The strategy rests on a Crime Prevention through Social Development (CPSD) approach, which “focuses on building the skills in individuals and addressing the underlying factors in communities that lead to crime.”²⁷⁹ The CPSD approach is seen as being consistent with Inuit values: *Inuuqatigiitsiarniq* (respecting others, relationships, and caring for people); *Tunnganarniq* (fostering good spirit by being open, welcoming, and inclusive); *Pijitsirniq* (serving and providing for family and/or community); *Aajiqatigiinni* (decision making through discussion and consensus); *Pilimmaksarniq/Pijariuqsarniq* (development of skills through observation, mentoring, practice, and effort); *Piliriqatigiinni/Ikajuqtigiinni* (working together for a common cause); and *Qanuqtuurniq* (being innovative and resourceful).²⁸⁰ The strategy is also guided by the principle of being culturally relevant and responsive to community needs and a trauma-informed principle that recognizes the ongoing impacts of colonization.²⁸¹

Several “target groups” are identified as being most at risk of “becoming involved with or being affected by crime”: children and youth, elders, victims of crime, and individuals convicted of a criminal offence.²⁸² However, while the plan recognizes females as being at a higher risk of violent victimization than males (for example, the document cites a victimization rate of 7,236 for females and 4,734 for males for police-reported violent crime in the territories²⁸³) specific attention to addressing gender-based violence is absent.

Funding the Nunavut Justice System

Funding the delivery of justice in Nunavut is a joint responsibility of the Government of Nunavut and the Government of Canada. The Justice of the Peace Program is included in the annual budget of the Nunavut Department of Justice, while the Legal Services Board is funded through a cost sharing agreement between the Nunavut Department of Justice and the federal Department of Justice through an Access to Justice Services Agreement. Similar to the other provinces and territories, the cost share is divided 70% and 30% respectively.²⁸⁴ However, the cost of service delivery is much higher in the North. For instance, Clark notes that the per capita expenditure for legal aid is 12.9 times higher in Nunavut than for Canada as a whole.²⁸⁵

The Department of Justice Canada’s evaluation of the Nunavut Court of Justice found that a major concern expressed unanimously by all those interviewed was the serious shortages of community resources and programming, “specifically probation officers, social workers, mental health and addictions services, youth programs, and consistently strong Community Justice Committees.”²⁸⁶ Clark notes, “the annual funds transferred from Canada to the Government of Nunavut — 91% of the territory’s total annual revenue — are never adequate to meet the increasing needs for justice, health, housing, education, and other social programs.”²⁸⁷ According to Clarke, “It is not unreasonable to say that Nunavummiut, especially those living in communities outside Iqaluit, do not receive the same level of justice services generally expected in Canada, nor are they being included fairly in the justice process.”²⁸⁸

Criminal Justice in Inuvialuit

The Inuvialuit Settlement Region covers over 90,000 square kilometres of land that ranges from the shores of the Beaufort Sea to the Mackenzie River delta, the northern portion of Yukon, and the northwest portion of the NWT. According to the 2016 Census, the Inuvialuit population was 5,335 people, 62% of whom are Inuit.²⁸⁹ The region is made up of six communities: Aklavik (630), Inuvik (3,400), Paulatuk (300), Ikaahuk/Sachs Harbour (125), Tuktoyaktuk (1,000), and Ulukhaktok (500). Inuvik is the regional centre of Inuvialuit. Three of those communities (Paulatuk, Sachs Harbour, and Ulukhaktok) do not have road access.²⁹⁰ The percentage of residents in these communities who speak an Inuktitut dialect ranges from 11.6% in Inuvik to 64.8% in Ulukhaktok, for an average of 28.5%.²⁹¹

The Inuvialuit region negotiated a comprehensive land claim agreement with the Canadian government in 1984 that involved giving up exclusive use of their ancestral lands in exchange for rights in relation to the preservation of Inuit values and culture, equal and meaningful participation in the northern and national economy and society, and preservation of Arctic wildlife and environment.²⁹² The Inuvialuit Regional Corporation, headquartered in Inuvik, is charged with representing the collective interests of the population.²⁹³

All six of the Inuvialuit communities are located in the NWT. Policing is carried out by the RCMP's G Division. The Government of the NWT Department of Justice also has its headquarters in Yellowknife. Criminal justice is administered via the Courts of the NWT. As in the other Inuit Nunangat regions, Circuit Courts, Justices of the Peace, Court Workers, and Community Justice Committees are utilized. As well, several initiatives have been undertaken to respond to gender-based violence, including the *Protection Against Family Violence Act*, the Domestic Violence Treatment Options Program, and the NWT Victim Services Programs.

Policing

The RCMP's G Division in the Northwest Territories is divided into two districts, North and South, with 21 detachments (plus headquarters in Yellowknife). The Inuvialuit communities of Aklavik, Inuvik, Paulatuk, Sachs Harbour, Tuktoyaktuk, and Ulukhaktok each have an RCMP detachment.

Interviews conducted with 12 Inuit women and 16 service providers (including two RCMP officers) showcased some of the problems and challenges encountered with policing in Inuvialuit communities.²⁹⁴ According to the study participants, the RCMP's G Division encourages a community policing approach by which officers are encouraged to go beyond their law enforcement mandate and become more actively involved in the community. This approach, according to one of the officers interviewed, was especially relevant in smaller communities where police become a "one-stop shop." However, participants pointed out that a community policing model is difficult to implement because of the short duration of officer postings. Given the time it takes to establish relationships within the community, officers have only just begun to forge these relationships as their posting is coming to an end. In addition to the continual rotation of officers, participants noted that a spatial divide exists, since officers and their families live separate and apart from the rest of the community. As well, participants commented on the inexperience of new

recruits and their lack of knowledge of Inuit and the colonial history of the region, which led to charges that police officers are racist in their dealings with Inuit. This divide between the police and the community was seen to create a lack of trust of police on the part of community members.

In terms of the police response to gender-based violence, Inuit women shared their experiences of police not responding in a timely manner when domestic violence breaks out, of being removed from their homes instead of the abuser, and of not being taken seriously when they express fears for their safety. Service providers also pointed to the need for police to undergo trauma-informed training to better understand how trauma affects those who are victimized by gender-based violence.²⁹⁵

In 2021, the RCMP's G Division released a statement describing its reconciliation strategy, which aims to "foster an environment of accountability and trust through collaboration and open communication with Indigenous peoples" as well as to "acknowledge and understand past events" that have had a bearing on police-Indigenous relations.²⁹⁶ The strategy is embedded within an Annual Performance Plan framework that sets the direction and identifies initiatives aligned with the Truth and Reconciliation Commission's call to establish and maintain a mutually respectful relation between Indigenous and non-Indigenous people.²⁹⁷ Activities included in the plan involve: exploring and defining the meaning of Reconciliation; exploring opportunities to understand Indigenous culture and historical impacts; practicing culturally-based activities focused on enhancing police-Indigenous relationships; and assessing information, data, and activities to identify where improvements can be made.

Courts of the Northwest Territories

The NWT has five separate courts that operate independently from the federal and territorial governments:

- *The Court of Appeal* involves a quorum of three judges that primarily sits in Yellowknife and hears appeals arising from judgments or decisions from the lower courts.
- *The Supreme Court* has jurisdiction over all civil and criminal matters. While the court is located in Yellowknife, it may also travel to other communities to hold trials.
- *The Territorial Court* deals with civil matters for claims of up to \$35,000 and non-jury trials for most criminal charges as well as preliminary hearings on serious criminal offences. The Court has registries in Yellowknife, Hay River, and Inuvik and travels to many communities for court.
- *Youth Justice Court* hears criminal and summary conviction matters involving youth (aged 12 to 18 years). The Court has registries in Yellowknife, Hay River, and Inuvik and travels to other communities to hear cases.
- *Justice of the Peace Court* is the normal court of first appearance on all criminal matters and holds trials on offences under territorial statutes and municipal bylaws. The court may be held in any community and sits regularly in Yellowknife, Hay River, and Inuvik.²⁹⁸

Circuit Courts

Similar to the other regions of Inuit Nunangat, several of the NWT courts travel to outlying communities to hold Circuit Court. The Territorial Court, for instance, was scheduled to sit in all six Inuvialuit communities during 2020. Proceedings of the Court are interpreted into an Indigenous language “where required for an accused person or a witness, or where the judge considers that the public would benefit.”²⁹⁹

A study of legal aid provision in the NWT conducted by the Department of Justice Canada found, “delays are not a significant factor in circuit cases. Even though, when clients plead not guilty in a circuit court, the case is usually adjourned to the next circuit date, most respondents felt that the court’s policy is to minimize adjournments.”³⁰⁰ However, this policy was seen as creating pressure to complete all the cases in one sitting. In some small communities the dockets were 20 to 30 cases (including trials) that had to be completed in one day. With such a compressed schedule, lawyers had less time to speak with their clients and prepare their cases. Those interviewed believed that, “clients receive less support and explanation about the process, and their experience is often one of alienation and loss of confidence in a system they can’t understand.”³⁰¹ Most respondents in the study “felt that the main cause of a lack of confidence in the justice system is the lack of time its representatives spend in the communities.”³⁰²

Justices of the Peace

Justice of the Peace Court is seen as “a way of making the courts accessible to smaller communities throughout the territory, and of ensuring timely processing of cases.”³⁰³ There are 36 JPs; 29 live and work in communities outside of Yellowknife. Many JPs are able to conduct proceedings in the language of the particular community in which they serve.³⁰⁴

JPs deal with summary criminal matters, especially when there are guilty pleas. Data gathered by the Department of Justice Canada showed that the vast majority of cases dealt with in the three registries where the court sits regularly entered a guilty plea: 100% in Inuvik; 96% in Hay River; and 44% in Yellowknife; 32% of the charges were for offences against the person.³⁰⁵ Lawyers are typically not present in JP Court (save for bail hearings), which has raised concerns about the adequate representation of those who appear before the court.³⁰⁶

Crown Prosecutors

Similar to Nunavut, *Criminal Code* offences in the NWT are prosecuted by federal prosecutors of the Public Prosecution Service of Canada on behalf of the Attorney General of Canada. As of March 2021, there were 53 PPSC employees working in the NWT Crown’s office. In 2020-2021, they worked on 3,916 files, the vast majority of which involved *Criminal Code* offences (3,750).³⁰⁷

The Crown Witness Coordinator Program

The NWT Regional Office has 7 CWC positions.³⁰⁸ CWCs carry out a similar role as in Nunavut, including: acting as a liaison between the Crown prosecutor and the victims/witnesses; ensuring that victims/witnesses understand the court process, their rights, and responsibilities; preparing victims/witness to testify in court and supporting them during the court process; providing them

with court updates and information on court outcomes; and referring victims/witnesses to supportive community services.³⁰⁹

A CWC's description of his workload during one day of a five-day court circuit in the Inuvialuit region that occurred in February 2007 offers a window into the nature of the work carried out by the CWCs:

I arrive at the Inuvik airport at 7:30 am to catch the 8 am court charter to Alkavik, NWT. We arrive in Alkavik and make our way to the Community Center, which will serve as the court house for the day. I spend the next hour meeting with witnesses on the day's trials. These meetings take place in the kitchen area of the center, or if that is being used by defence, a bench in an out of the way corner of the hall. I find the Crown witnesses by asking those I have just finished meeting with to point them out.

At 10:30 am, Territorial Court is called to order. While the Court is running through the docket matters, I am prepping our witnesses. I meet with the son of the elderly complainant in a sexual assault prelim. He is also a Crown witness in this matter. He provided me with information regarding his mother's upbringing and culture and how having her testify in public against a male goes against her cultural and personal beliefs. We try to brainstorm different approaches we may be able to use. However, we still must have the elder describe the sexual assault in detail in front of her community.

I met with the complainant in a spousal assault file who indicated that she and the accused are still in a relationship. She was very emotional and did not want to proceed with the charges. I met with another of the Crown witnesses in this matter. He was incredibly upset that he had been subpoenaed. He indicated he was missing work and he had nothing of importance to say, though he was able to volunteer the information needed in his testimony. He advised that he would no longer cooperate with the RCMP or the Crown in the future. The other Crown witnesses were the parents of the accused. They appeared to be cooperative, though were very hesitant to "make things worse" for the accused.

I met with the four Crown witnesses, all youth, in an uttering threats file. We reviewed the trial process and the importance of their candid, truthful testimony. I described to each the available testimonial aids available to youthful witnesses. I met one on one with the youthful witnesses. They were very nervous about having to testify but seemed more confident once they understood the trial procedures and knew who would be asking the questions and the types of questions they would likely face (i.e. open-ended vs. leading).

During the lunch hour, I met with the elderly complainant in the sexual assault preliminary inquiry at her home (RCMP presence was necessary for safety reasons). She was very nervous and did not want to have to face the accused, a man she had helped raise from childhood. We focused on the differences between the preliminary inquiry and the trial. She was not happy to discover that she would have to testify twice. I escorted her to the community center, where court was being held in the auditorium. As there were no private rooms available in the community center

I sat with her in her vehicle until the file was called for the prelim. While we were waiting in the vehicle, I described the types of questions she could expect from the two different lawyers. As this was a sexual assault file, I described the importance of using the names of the body parts involved. At this she became very upset, and indicated she would not use those words in front of her children and community, as they were considered dirty words. I explained the reasons why the court needed to know exactly what happened during the assault. However, she was still not willing to use those words. When the file was called, we proceeded from her vehicle into the community center. The elderly complainant testified well and was able to clearly recall the incident. She refused to say the words of the body parts used, but the accused was still committed to stand trial. In total, there were 6 scheduled trials, 2 preliminary inquiries, and 19 witnesses prepared.

When court closed for the day, the court party were driven to the Aklavik airstrip, where the court charter was waiting to take us to Fort MacPherson. We arrived in Fort MacPherson at 4:30 pm and checked into a bed and breakfast for the night. I had arranged to meet with the Victims Services Coordinator at his office at 7 pm for the evening's meetings. During the course of the evening, I met with a complainant in a spousal assault file, a young complainant in a sexual assault file and with the complainant in a spousal sexual assault file.

At 9 pm, the day is done and I return to the bed and breakfast where I brief the Crown Prosecutor on the witness meetings.³¹⁰

Legal Aid

The Legal Aid Commission of the NWT provides legal aid services to eligible persons as well as public education about the law. Under the *Legal Aid Act*, at least one lawyer must “accompany the Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid.”³¹¹ Presumed eligibility services constitute the majority of the legal aid services provided on the court circuits.³¹²

In addition to providing legal representation in court, legal aid is delivered via a weekly Outreach Legal Aid Clinic in Yellowknife as well as mobile clinics to remote Inuvialuit communities.³¹³ Legal support to people who are in custody, under arrest, or the subject of an investigation is also offered by Brydges Service, a 24-hour telephone service. Translation services are available on this service.³¹⁴

Court Workers

The Legal Aid Commission runs a Court Worker Program (funded by the Aboriginal Court Work Program) in seven NWT communities, including Inuvik.³¹⁵ Court workers also accompany the Circuit Court to the outlying communities, such as Ulukhaktok and Paulatuk.³¹⁶

Court Workers are seen as providing “a cultural and social bridge”³¹⁷ as they work “closely with accused persons, community justice committees, lawyers, probation officers, court staff, police, clients, the public at large, and other stakeholders within the justice system.”³¹⁸ In criminal matters, their activities include: locating and maintaining contact with accused and witnesses; interpreting

cultural, community, and family dynamics pertinent to a case; and assisting clients in completing legal aid applications.³¹⁹ Since Court Workers “have a strong knowledge of the resources available within the community” they are in a good position to refer clients to an appropriate agency.³²⁰

Court Workers have been found to play a key role in the Justice of the Peace Courts since “under most circumstances, lawyers do not appear in JP courts.”³²¹ They provide information to the court relevant to sentencing, and in some cases have done trial work on behalf of clients. On circuit, “there is less of a requirement to do work in court on behalf of the client as a lawyer is always present.”³²² However, lack of Court Worker resources has been raised as an issue. For instance, they “often have no privacy in which to interview clients and, in some instances, have used their hotel rooms, where it was feasible.”³²³

As in other Inuit Nunangat regions, concerns have been raised for more clearly defined and delimited roles for Court Workers and providing appropriate training to support them in their work.³²⁴

Community Justice Committees

Operated via the Community Justice and Policing Division of the NWT Department of Justice, CJs made up of local volunteers handle matters involving minor criminal offences that are diverted from the court system on the recommendation of Crown Counsel or the RCMP. The committees are intended to “empower communities to find solutions to the crimes that affect them, and provide a means by which youth and individuals accused of minor offences can avoid a permanent criminal record.”³²⁵

While jurisdiction over criminal prosecutions in the provinces rests with the provincial Crown, in the NWT all *Criminal Code* offences are prosecuted by the federal Public Prosecution Service of Canada, which means that the Government of the NWT “cannot directly inform policies about what types of offences should be considered for referral to a community justice forum.”³²⁶ Most of the offences dealt with by CJs, therefore, involve theft, mischief, breaking and entering, alcohol and drug offences, vandalism, and minor assaults — and not those relating to gender-based violence.

When a matter is diverted to a CJC, the perpetrator does not receive a criminal record. Factors such as “the seriousness of the offence, the impact to and feelings of the victims, and the offender’s criminal history and attitude towards the charges” are considered in deciding whether to divert a case.³²⁷ The perpetrator must also accept responsibility for the offence and be willing to participate in the community justice process. CJs typically will hear from all persons involved with the offence and attempt to arrive at a resolution satisfactory to all parties. A restorative approach is adopted that can include: community service work; restitution to repair damaged or loss of property; counselling for drug, alcohol, or relationship problems; apologies to those victimized; curfews; and avoiding contact with the victims or certain places. Failing to comply with these measures can result in the case being sent back to the courts.³²⁸

CJs operate in each of the six communities in Inuvialuit. The Inuvik Justice Committee, for instance, has been in operation since 1992. Like other CJs, the committee deals with less serious offences, and adopts a restorative justice approach in which “the offender and victim meet to

acknowledge the harms cause by the actions of one against the other in a supportive setting.” The wrongdoer then “makes amends to the victim and community by a variety of means decided upon by the board and the justice coordinator.”³²⁹

Protection Against Family Violence Act

In 2003 the Government of the NWT passed the *Protection Against Family Violence Act*, which came into force in 2005.³³⁰ The Act makes provision for Emergency Protection Orders and Protection Orders (POs) for victims of family violence, defined as abuse that is physical, sexual, emotional, or financial that causes harm or fear of harm to a person or their child(ren).

EPOs are granted when family violence has occurred and there is an immediate danger to persons and property. An EPO can be issued by a JP in an *ex parte* hearing (i.e. only the applicant gives evidence). The Order can contain several provisions, including: restraining the abusive person from communicating with the applicant or other specified persons; granting the applicant exclusive right to occupy a residence; and instructing police to remove the abusive person from the residence. Emergency Protection Orders are in place for up to 90 days.

POs apply when family violence has occurred, the situation is not an emergency, and protection is required for longer than 90 days. A PO is granted only after a hearing in front of a judge and can include a wider range of provisions than an EPO. For instance, the judge can order the respondent to attend counselling, to cover the costs of repairing the damage caused by the violence, or medical, dental, and counselling costs incurred by the applicant.³³¹ Failure to comply with the provisions outlined in an EPO or PO can result in a fine of up to \$10,000 and/or imprisonment of up to six months.

In addition to these provisions under the *Protection Against Family Violence Act*, those experiencing family violence can apply for a Peace Bond (in criminal court) or a Restraining order (in family court). While a Peace Bond order requiring an abusive person to have no contact with the victim can apply to non-family intimate partner relationships, a Restraining Order applies to married or common-law relationships.³³²

EPOs are typically initiated in the NWT by an applicant contacting the local RCMP detachment or phoning the toll-free line of the Allison McAteer House, a women’s shelter in Yellowknife. On average, about 65 EPO cases are confirmed by a JP each year.³³³

In a study conducted by Pertice Moffitt and colleagues on the nature of EPOs in the NWT, women who had gone through the process of applying for an EPO said that they found it to be “arduous,” although the support from shelter staff helped to facilitate that process. The study found that most of the women reported “that the EPOs had positive outcomes in terms of providing relief from the violence and abuse that was occurring.” However, EPOs did not act as a deterrent in cases where women experienced more severe and frequent violence from their partners.³³⁴

Domestic Violence Treatment Options Program

The Northwest Territories court system also features two alternative court processes. The Wellness Court, which sits only in Yellowknife, “aims to deal with the issues behind the offending behaviour” by providing “monitored treatment and community service support for chronic

offenders with mental health issues, addictions, or cognitive challenges.”³³⁵ The Domestic Violence Treatment Options (DVTO) Court, which was first implemented in Yellowknife in 2011, is part of a program that “integrates counselling and therapy opportunities with the court process for individuals who have used violence in their relationships, and recognize the need to change their behaviour.”³³⁶

When a charge involving domestic violence is laid by police, the first hearing of the matter is scheduled in DVTO Court. Crown and defence counsel can also recommend cases for referral to the program. The accused is released on an undertaking and directed to report to Probation Services to undergo a risk assessment to determine their suitability for the program. In order to participate in the DVTO program, however, the offender must first accept responsibility by pleading guilty before the DVTO Court.

If accepted, Probation Services oversees the participant as they complete an eight-week group program (involving a two-hour group session) to learn about the dynamics of intimate partner relationships and skills and tools to assist in maintaining non-violent relationships. Participants may also access additional counselling to work on other factors impacting their relationships, such as alcohol and drug addiction. If the participant fails to comply with the program requirements or chooses to withdraw, they are sent back to the DVTO Court. On successful completion of the program, the participant must still appear before the court for sentencing, albeit with the judge considering the progress they have made in completing the program, often resulting in a reduced sentence.

Access to the DVTO Program, however, is limited. In 2020, for instance, the DVTO Court was scheduled to sit only in Yellowknife and Hay River.

NWT Victim Services Programs

The NWT Victim Services Programs provide “referrals, information, assistance and support to victims of crime—both report and unreported.”³³⁷ Eight programs exist in the NWT, one of which is located in Inuvik and operated out of the Inuvik Justice Committee office. The Inuvik program has two full-time Victim Services Providers that provide outreach (usually by telephone) to the other Inuvialuit communities. These staff “help victims with safety planning, are connected to local supports, and refer clients to culturally appropriate services.”³³⁸

Under a Memorandum of Understanding between the RCMP G Division and the NWT Department of Justice, RCMP officers are directed to refer all victims to Victim Services, including contacting Victim Services to attend if the victim requires immediate assistance. Victim Services then provides support in relation to “information about the court process and shelters; referrals to counselling and other community services; assistance with Victim Impact Statements and property issues; and court accompaniment and support.”³³⁹

While the programs offer a community-based service delivered by community organizations (as opposed to government agencies) and offer victims of crime “person-centred emotional support, practical assistant and referrals” that is “based on the needs of the individual, and is not ‘incident-specific,’”³⁴⁰ concerns have been raised as to the provision of services to remote Inuvialuit

communities. As told to the NIMMIWG, “Program funding levels are not sufficient to allow travel by air. Road and ice road travel is not always possible when victims’ calls for support are received, given safety considerations. It is an ongoing challenge to provide a consistent level of victim services regionally, especially in the most remote Beaufort Delta region communities of the NWT.”³⁴¹

Another program that provides emergency financial assistance to NWT victims of serious violent crime is the Victims of Crime Emergency Fund. The fund covers the cost of emergency travel, food, clothing, childcare, accommodation, counselling, medical expenses (such as eyeglass replacement), and repairs to secure the safety of the victim’s residence. Family violence and assault are two of the most common referrals received by the NWT Victims Services.³⁴² Between 2015 and 2020, the fund provided a total of nearly \$240,000 to 330 victims.³⁴³

A 2020 evaluation of the NWT Victim Services Program found that it was generally responsive to victims’ needs by helping them to navigate the justice system and referring them to appropriate services, providing information relating to their rights and the legal system, responding to their safety concerns and safety planning, and providing emotional support.³⁴⁴ The evaluation, however, also highlighted the limited capacity of the program to support victims in more remote communities and to provide timely access to supports. Some of the Victim Services workers who were interviewed, for instance, spoke of the challenge in providing emotional support over the phone during a time of crisis. RCMP officers who were interviewed believed that emotional support was most needed immediately after incidents of intimate partner violence had occurred, when the victim was most anxious and in a state of shock.³⁴⁵

Criminal Justice in Nunavik

Nunavik (meaning “great land” in Inuktitut) covers a territory of some 507,000 square kilometres that is bordered by Hudson Bay to the west, Hudson Strait to the north, and Ungava Bay and Labrador to the east. The region makes up one-third of the province of Québec. Of the 12,090 inhabitants of the region, 90% are Inuit who live in 14 villages: Kuujjuarapik, Umiujaq, Inukjuaq, Puvirnituq, Akulivik, Ivujivik, Salluit, Kangirsujuaq, Quartaq, Kangirsuk, Aupaluk, Tasiujaq, Kuujjuaq, and Kangirsualujjuaq. There are no road links between the communities or with southern Québec.³⁴⁶ Almost all Nunavimmiut (99%) are able to converse in Inuktitut; 98% indicate Inuktitut as their mother tongue.³⁴⁷

As a political entity, Nunavik came into being with the signing of the James Bay Northern Quebec Agreement in 1975. The Kativik Regional Government was created in 1978 to deliver public services to Nunavimmiut, with each of the 14 villages providing services in relation to health and hygiene, town planning and land development, public services, traffic and transportation, recreation, and culture. Makivik Corporation, located in Kuujjuaq, the administrative capital of the region, represents Inuit of Northern Québec and is responsible for managing the financial compensation from the Agreement on behalf of the Inuit beneficiaries.³⁴⁸ The Corporation’s mandate includes operating business enterprises and generating jobs, engaging in social economic development, improving housing conditions, and protecting Inuit language and culture.³⁴⁹

Policing in Nunavik is carried out by the Nunavik Police Service (formerly the Kativik Regional Police Force) and the Sûreté du Québec. Justice services are delivered via an itinerant court model. Court Workers, local Justice Committees, and the Sapummijiit Crime Victim Support Centre provide support to Nunavimmiut who are impacted by crime and violence. In 2019 the *Commission on Relations between Indigenous Peoples and Certain Public Services in Québec* released its report.³⁵⁰ While the report is useful for documenting the criminal justice services provided to Indigenous communities in Québec, including Nunavik, it also provides evidence of systemic discrimination in the criminal justice system, including its response to gender-based violence.

Policing

Following the signing of the James Bay and Northern Quebec Agreement, an agreement was made between the Sûreté du Québec (SQ) and Indigenous communities to implement an Aboriginal police program. Indigenous applicants who successfully completed the program became special constables within the SQ. In 1996, following on the implementation of the First Nations Policing Policy (administered by Public Safety Canada), the Kativik Regional Police Force (KRPF) was created. Renamed the Nunavik Police Service (NPS) in 2021, the NPS delivers regular policing services to the 14 villages of the region (KRPF n.d.). The SQ continues to hold responsibility for intervening in crisis situations (such as an armed person) and investigating major crimes (such as murder). It has a station in Kuujuaq, which houses SQ investigators and an Aboriginal Liaison Officer, both of whom work closely with the NPS.³⁵¹

Policing in Nunavik has come under scrutiny from several sources. As part of the investigations conducted in relation to the NIMMIWG, Saturviit Inuit Women's Association of Nunavik organized a gathering of victim's families and regional representatives in April 2016. During the gathering, concerns were raised that police were disrespectful and judgmental and that "most officers come to the North with negative preconceived ideas about Inuit, and thus show racist behaviour that affects their ability to serve the community."³⁵² Participants also believed, "police officers coming to Nunavik lack the appropriate skills and knowledge to work in the North. Most of them are very young and thus do not have the life and work experience they need to work with communities that face serious social issues."³⁵³ High staff turnover, lack of integration of officers into the communities, slow response times, and language differences were also seen to affect the quality of police service being provided. These same concerns were raised in a study conducted by Pauktutit Inuit Women of Canada that included interviews with 11 Inuit women and six service providers in Nunavik.³⁵⁴

One promising initiative in which the NPS has been participating is the Puvirnituk Mobile Intervention Team (MIT). Started in May 2019, the project is an initiative of *Saqijjuq* (meaning "a change in wind direction" in Inuktitut), which is endeavouring to create collaborative interventions between community and criminal justice services to curb alcohol and drug use in Nunavik with a view to reducing crime and violence and the resulting over-criminalization of Nunavimmiut.

The MIT pairs a police officer and psychosocial support worker to intervene in crisis situations that have a high risk of violence, using de-escalation and pacifying techniques to handle the situation. In addition to reducing the use of detention and the need for institutional services, the MIT has the benefit of improving the effectiveness of NPS officers by drawing on the expertise of

the support workers in resolving crisis situations in a non-violent way. An evaluation of the program found three main grounds for intervention: suicide crisis situations (35%); domestic or family violence (14%); and children at risk (11%). Some 7 out of 10 clients (69%) are women. Respondents were of the view that the MIT has improved the quality of policing services and increased the levels of trust and cooperation in the community.³⁵⁵

The Québec Court System

The Court of Québec is broken down into three divisions: civil, criminal and penal, and youth. The Criminal and Penal Division of the Court hears all criminal proceedings — excluding cases tried before a judge and jury and more serious offences (such as murder) that are considered by the Superior Court — and penal proceedings for offences under municipal and provincial statutes.

In the Nunavik region, the courts function using the “itinerant court model.”³⁵⁶ The seat of the judicial district is Amos. The court visits nine Nunavik communities. While Kuujuaq and Puvirnituk have permanent facilities in which to hold court, the Itinerant Court is held in rented facilities in the other villages. The Superior Court may also hold trials with judge and jury in Kuujuaq, Kuujuaq, and Puvirnituk.³⁵⁷

Judges of the Court of Québec provide the services of the Itinerant Court. In 2016/17, 16 judges were assigned to cover Nunavik.³⁵⁸ Typically, the Itinerant Court travels to each region for a period of one week, sitting for one or two days in a community before it moves to other communities in the same territory.

The James Bay and Northern Quebec Agreement had implications for the administration of criminal justice in the region. The Agreement specified that judges and all other persons designated to dispense justice on their territory must be cognizant of Inuit customs, as well as their way of life. Rules of procedure and sentencing must also take these factors into account, as well as facilitate access to interpretation and document translations services in Inuktitut.³⁵⁹ As such, during the Itinerant Court, “interpreters translate proceedings into the language of those involved, either systematically or at the request of a party.”³⁶⁰

A report by the Québec Bar Association on the Itinerant Court, however, found “overflowing court dockets and insufficient staff and resources to process cases.”³⁶¹ Despite an increase in the court calendar from 36 to 47 weeks a year, hearing delays continued to be an issue. Weather conditions account for some of the delay. “In some Nunavik communities, it’s not uncommon for weather to prevent the travelling court from visiting communities for months, even years, at a time.” The report also noted an insufficient number of court interpreters and Court Workers.³⁶²

Crown Prosecutors

The prosecution of *Criminal Code* offences in Québec is the responsibility of the Director of Criminal and Penal Prosecutions (DCPP), which acts under the authority of the Québec Attorney General and Minister of Justice. In 2016/2017, 11 prosecuting attorneys were assigned to cover Nunavik as well as the Eeyou (Cree) territory.³⁶³ The Québec Commission, however, raised the issue of high turnover and lack of experience of prosecutors. Between 2005 and 2018, 116 prosecutors worked in the Itinerant Courts in Northern Québec. They were on the job for an

average of 16.5 months, each visiting the territory less than six times. The majority of prosecutors had been members of the Bar for less than five years.³⁶⁴ In December 2018 the decision was made to remove the only prosecutor position based in Nunavik. Three prosecutors based in the Abitibi region now provide those services.³⁶⁵

Legal Aid

The Community Legal Centre of Abitibi-Témiscamingue covers the territory of Northern Québec. While the Centre had an office in Kuujuaq, it was closed in March, 2019 when the one staff lawyer left and the position could not be filled. Legal aid is therefore provided by staff located in Val-d'Or, some 1300 kilometres away, who visit the region and can be contacted by telephone. Legal aid lawyers also accompany the itinerant court when it travels to Nunavik.³⁶⁶

Defence lawyers surveyed by the Québec Commission deemed the process of obtaining legal aid to be problematic for Indigenous peoples, especially given the language barriers, the distance that a potential beneficiary must travel for an eligibility appointment, and difficulties in providing the documentation required to justify support.³⁶⁷

Services parajudiciaires autochtones du Québec (Native Para-Judicial Services of Québec)

Services parajudiciaires autochtones du Québec (SPAQ) was established following negotiations between the Québec government, First Nations, Métis, and Inuit over 35 years ago.³⁶⁸ The organization is made up of nine associations, including the Kativik Regional Government in Nunavik. SPAQ runs two programs: Native Court Workers and Native Community Reintegration Officers.

The Court Workers offer legal assistance to Indigenous adults and youth in their dealings with the criminal justice system as victims, witnesses, or accused. Counsellors provide advice and assistance “to ensure their just and fair treatment in a judicial process unfamiliar with the ways and customs of Native people.”³⁶⁹ They network with prosecuting attorneys and defence lawyers and may also be called on to provide judges with information on the resources available in communities. Staff may also draft Gladue Reports and help train and supervise paralegal workers on how to draft the reports.³⁷⁰ In the Nunavik region, Court Workers are located in Kuujuaq and Kuujuarapik.³⁷¹

Community Reintegration Officers work with Indigenous people who are serving their sentence in the community, assisting them to ensure they fulfill their correctional plan.³⁷² In the Nunavik region, Reintegration Officers are located in Kuujuaq, Salluit, Puvirnituk, and Kuujuaapik.³⁷³

Local Justice Committees

Since 2000, the Makivik Corporation has promoted the development of local Justice Committees in the region. The number of committees has grown from an initial six—in the communities of Kuujuaapik, Salluit, Puvirnituk, Quaqtaq, Kangirsuk, and Aupaluk—to ten—with Inukjuak, Kuujuaq, Kangisualujuaq, Kangisujuaq, and Akulivik signing on. The Makivik Justice Program oversees these 10 local Justice Committees, which are made up of between five and eight locally-appointed members, and one coordinator “who is responsible for the intake of cases, case

management, relations with the court and local resources, and the organization of all activities by the committee.”³⁷⁴

The objectives of the Makivik Justice Program are:

- Helping administer justice using culturally adapted approaches, which put emphasis on healing individuals, families, and the community and dealing with the underlying causes of crimes (for both youth and adults);
- Responding to crimes and conflicts in a way that recognizes the Inuit culture, values, ways, and knowledge;
- Empowering Inuit that have been affected by a crime or conflict (victims, families, offenders, community) in offering help and solutions which build their resilience, increase their sense of dignity, and consider the safety of the community.³⁷⁵

The justice committees are “the only justice interveners in Nunavik that work with all parties involved in a crime or conflict (victims, offenders, families and surrounding resources).”³⁷⁶ While the roles and responsibilities of a justice committee may vary depending on the needs and priorities of each community, “their goal is to offer an alternative to or complement the structures of the existing system.”³⁷⁷

The committees are involved at several points along the criminal justice continuum:

Diversion: The Alternative Measures Program (AMP) was introduced in 2001 and then revised in 2015.³⁷⁸ “This program is exclusively for Indigenous people in Québec and gives people who have been accused of a criminal offence an opportunity to take part, if they agree, in a supervised reconciliation and reparation process.” The objectives of the program are to “promote greater community involvement in the administration of justice” and to “allow communities to re-establish the required traditional intervention practices for their members.”³⁷⁹

The Nunavik Justice Committees play an important role in implementing this diversion program. Their goal is “to address the crime with the participation of the victim if possible to offer guidance and non-formal counselling by justice committee members and to involve the offender in community events to repair harm cause to the victim and community.”³⁸⁰

In order to be eligible for diversion, an accused must accept responsibility for their actions and show a willingness to receive help to address the causes of the crime. Justice Committees organize a variety of different activities to assist the person in this process, including sewing circles, activities on the land, fishing and berry picking to support community members, meeting with the victim to discuss the event and apologize, and traditional guidance to deal with the cause of their actions.³⁸¹ The charges are suspended by the Crown Prosecutor while this process is underway. Once the accused has completed the measures recommended by the Justice Committee, charges are withdrawn.

While those accused of sexual offences are excluded from the program, some provisions have been made to include domestic violence offences.³⁸² For instance, “If a couple is struggling with violence in their relationship and they don’t want to go through the system, they can approach the justice committee to work with them.”³⁸³

One concern is that the diversion program relies on referrals received from the criminal justice system; “it is the DCPD that decides whether to send an accused to the AMP and whether to accept measures proposed by the justice committee.”³⁸⁴ In 2016-17, for instance, only 39 cases out of some 13,000 charges filed were referred to the Justice Committees in Nunavik. The low number of referrals has been explained by the limited list of offences that can be referred to the Committees (e.g. administration of justice offences, which are numerous in Nunavik, are not subject to referral) and the high level of turnover of Justice Committee members.³⁸⁵

Sentencing: Justice Committees normally meet with the accused and with the victim before sentencing. In some communities (Inukjuak and Aupaluk) the committee has been asked to make sentencing recommendations, which typically focus on “rehabilitation, reparation and healing and considers the community’s safety.”³⁸⁶ Justice Committees are also involved in the preparation of Gladue Reports to assist at the sentencing stage. Makivik Corporation is contracted by Justice Québec to prepare Gladue Reports for Nunavik offenders, enabling Inuktitut-speaking writers to be hired and trained.³⁸⁷ According to Lyne St. Louis and Vivien Carli:

Gladue reports are crucial as they allow the justice committees to identify resources that would help the accused deal with the underlying causes of his/her crimes, it encourages judges to consider the social issues related to the criminal behaviours and to search for ‘creative’ sentences that could help the accused deal with his/her past and avoid reoffending. It increases knowledge and understanding about the history of the Inuit and the impact of policies of assimilation.³⁸⁸

In 2016 Gladue Reports were ordered in 60 Nunavik cases. In 90% of those reports, “offenders recall sexual assaults or abuse in their pasts. In about 85 percent of reports, it’s the first time that person has disclosed abuse.”³⁸⁹

The Québec Commission, however, raised the issue of the under-use of Gladue Reports in the province. It takes two to four months to compile the report, so they are not ordered unless the sentence is likely to be more than four months. Because the vast majority of Indigenous offenders are repeatedly sentenced for minor offences that carry shorter sentences, “Gladue reports are of no use” to them.³⁹⁰ Witnesses before the Commission also raised the concerns that report writers are under-paid and inadequately trained.³⁹¹

Post Sentencing: The Justice Committees are involved after sentencing in terms of offering “non-formal counselling, traditional activities and guidance” to those on probation or house arrest.³⁹² They also offer support to those released from detention. “Offenders are asked to establish a life plan that will help them live a healthier life and to address the issues that brought them in front of the justice system.”³⁹³

Justice Committees are seen as playing an important role in community mobilization and crime prevention in that their purpose is “to restore a greater sense of responsibility by bringing back traditional ways of dealing with crime and conflict that connects people.”³⁹⁴ Lyne St. Louis and Phoebe Atagotaaluk elaborate on some of the elements that make Justice Committees more

successful in guiding Inuit community members who have come into conflict with the law onto a better path:

- They are not in a position of power. They are seen as equal. Inuit are often intimidated by authority figures.
- They are naturally trauma-informed, having gone through collective traumas.
- They create an environment of trust and safety.
- They offer counselling in their own language (Inuktitut).
- They are guiding and directing, but not ordering. They give their words of wisdom but respect the independence and encourage the autonomy of the client.
- They let clients talk about themselves and listen deeply without interrupting, so individuals can hear their own story and start identifying needs.
- They listen without judging or blaming.
- They accompany the individual in a quest for long-lasting solutions, they don't find the solutions for them.
- They believe that relapse is not failing. It is a temporary step back to move forward with more assurance. They believe that by helping them to get back up on their feet and learn from their fall, they will recover and gain more strengths.
- They use stories and metaphors to teach.
- They share their time and country food with individuals, out on the land. They are generous.
- They remain present, available whether the Court case is on or over.³⁹⁵

Nevertheless, the Committees are not without their challenges. For one, they “continuously have to prove to the criminal justice system that it [sic] is worthy of its trust.”³⁹⁶ This challenge is complicated by the high turnover of staff in judicial and correctional systems in the province as well as the lack of communication that often occurs between the Itinerant Courts (with their busy schedules) and the Committees.³⁹⁷

Another challenge encountered is underfunding of the Committees. According to data obtained by the Québec Commission, the total budget allocated by the Québec Minister of Justice to the 26 existing Justice Committees in the province, not including those of the Eeyou (Cree) Nation, remained unchanged between 2008–2009 and 2014–2015. It was then reduced slightly before being raised to \$734,500 in 2017–2018.³⁹⁸ The Justice Committees also receive an additional budget from the Department of Justice Canada. In 2017–2018, the budget allocated by both levels of government totalled \$2.4 million. Nunavik's 10 Justice Committees shared a total annual budget of \$1.35 million in 2017–2018. This budget had to cover the coordinators' salaries and all of the Committees' activities, which amounted to \$134,800 per Justice Committee.³⁹⁹

Saturviit Inuit Women's Association has also cautioned that the local Justice Committees should not become “mere facilitators of Western legal practice” and that “Inuit women have a significant role to play in maintaining social harmony, so their knowledge and skills must be recognized, valued, and mobilized.”⁴⁰⁰

Crime Victims Assistance Centres

Crime Victims Assistance Centres (CAVACs) are non-profit organizations that are governed by the *Act Respecting Assistance for Victims of Crime*.⁴⁰¹ Their free, confidential services are provided to victims of any crime and their close relations, whether or not the victimization has been dealt with by the criminal justice system. Witnesses of a crime can also benefit from assistance provided by these organizations.⁴⁰²

The Nunavik Sapummijiit Crime Victims Assistance Centre is a CVAC with offices in Kuujuaq, Salluit, Kuujuarapik, Inukjuak, and Puvirnituk. Agents also travel to other communities in the region and attend Circuit Court. The role of these victim support agents is to:

- Inform victims of their rights, recourses, and available compensation programs;
- Accompany victims throughout the judicial process and prepare them to testify in court;
- Provide technical assistance for completing forms and make referrals to specialized and local community resources;
- Attend the sitting of the itinerant court;
- Assist in cancellation of a residential lease due to violence or sexual assault.⁴⁰³

All of the Sapummijiit agents are Inuit and services are provided in Inuktitut and English. In October 2017 the KRPF (now the NPS) signed an agreement with the Centre to ensure that police officers make victims aware of the services it provides.⁴⁰⁴

Systemic Discrimination

The Commission on Relations between Indigenous Peoples and Certain Public Services in Québec was triggered by reports by several Indigenous women in Val D'Or, Québec that they had been subject to physical and sexual assault by members of the Sûreté du Québec.⁴⁰⁵ The mandate of the Commission was to shed light on the issues that characterize relations between Indigenous peoples and the providers of certain public services, including the criminal justice system, throughout Québec.⁴⁰⁶ As Commissioner Viens noted:

In concrete terms, the mandate consisted of assessing whether the treatment of Indigenous peoples in the delivery of public services was marked by violence or discriminatory practices. The underlying question was to determine whether Indigenous peoples were treated differently by public services due to their distinctive characteristics, and whether this generated injustices, particularly with respect to the services provided, and hindered them in exercising their rights.⁴⁰⁷

In his 488-page report, the Commissioner made the point of distinguishing between direct, indirect, and systemic discrimination. **Direct discrimination** is “the negative treatment of a person on the basis of his or her belonging to a particular societal group, and the bias, prejudice or stereotyping that are directed, consciously or unconsciously, toward this group.” **Indirect discrimination** refers to “the inequitable effects that may result from the application of apparently ‘neutral’ laws, policies, norms and institutional practices on a person or group of people.” **Systemic discrimination** combines both direct and indirect discrimination and “is characterized as being widespread and institutionalized in a society’s practices, policies and culture.” Moreover,

“Systemic discrimination can impede individuals throughout their entire lives and its effects can persist over multiple generations.”⁴⁰⁸

Based on an investigation that heard testimony from 765 witnesses, Commissioner Viens concluded that “the justice system has failed in its dealings with Indigenous peoples”; it “discriminates against Indigenous peoples in a systemic way, whether they are victims or accused.”⁴⁰⁹

Systemic discrimination was evident at several points along the criminal justice continuum, including:

Access to justice: “Inherent language barriers, limited access to interpreters, and the flagrant ignorance of the main actors in the judicial system as to the history and culture of Indigenous peoples” constitute major obstacles to the accessibility of services for Indigenous peoples.⁴¹⁰

Pre-trial detention: While the release of an accused pending trial is the rule rather than the exception in Canadian law, Indigenous people are more likely to remain incarcerated at the appearance stage or following a bail hearing. They are also overrepresented in pre-trial detention and generally held for a longer period before trial. In Nunavik, the pre-trial detention rate reaches 30% compared to 10.5% for non-Indigenous accused in the province.⁴¹¹ Those who are detained are transported from Nunavik to Amos, which “could easily take eight to ten days” from the time of arrest. The *Criminal Code*, however, specifies that a bail hearing should be held within three days.⁴¹²

Making bail and release conditions: When a person is accused of a criminal offence, the judge may decide to release them pending trial on certain conditions, such as a curfew or a ban on consuming alcohol. If the accused breaches the conditions, they may be incarcerated for the rest of the proceedings, charged with another criminal offence, or forfeit the money that was posted as bail. Inuit are less likely to be released on bail (54% versus 68% for non-Indigenous people) and the conditions of release are often “unreasonable, even unrealistic.” For instance, forbidding the accused to be in the presence of the victim is nearly impossible to respect in small communities, as is abiding by drug and alcohol consumption restrictions with few resources in the accused’s community.⁴¹³ As a consequence, administration of justice offences made up 35% of charges against Indigenous people in Québec in 2016; breach of conditions involving Inuit accounted for 52% of those charges.⁴¹⁴

Guilty pleas: According to several Commission witnesses, Indigenous people often feel forced to plead guilty. “A number of systemic elements prompt them to act in this way; the leading one being ignorance of their rights.”⁴¹⁵ Wanting to be released from detention, lawyers suggesting a guilty plea would be easiest, and misinterpretation of what pleading guilty means (did you do it?) are other factors.⁴¹⁶

Correctional Services: Indigenous offenders are usually incarcerated thousands of kilometres away from their family and community and face significant cultural and language barriers, and limited programs and services. The situation is of particular concern for Inuit. The ratio of Inuit prisoners was 64 per 1,000 residents in 2015–2016, which is 16 times higher than the ratio for the

non-Indigenous group (4 per 1,000) during the same period. Inuit also accounted for more than half (59.4%) of the average Indigenous daily population in Québec institutions in 2015–2016.⁴¹⁷ The situation is especially dire for Inuit women. At the LeClerc Correctional Facility for Women, “most Inuit women speak neither English nor French. Unable to communicate in anything but Inuktitut, they experience an immense solitude that weighs heavily on their mental health.” Of the 10 suicides that occurred at Le Clerc in a three-year period, half involved Inuit women.⁴¹⁸

Intermittent sentences: Imposing sentences that are served on weekends enables the offender to remain in their community and maintain contact with family and children. Given the absence of an adequate facility in which to serve their weekend sentence, however, “it is almost impossible for Nunavik residents to benefit from this measure.”⁴¹⁹

Transfers: Indigenous inmates undergo a considerably higher number of transfers from institution to institution than non-Indigenous inmates during the time they are detained; 19% of Inuit prisoners are transferred four or more times during their time within the correctional system.⁴²⁰ Transfer to another correctional facility means undergoing a strip search on leaving the first facility and another when entering the second one, transportation in a patrol wagon during which both hands and feet are manacled, a high risk of losing personal effects during the move, and then having to adapt to a new place, new correctional personnel, new rules and methods, as well as new cellmates.⁴²¹

Gender-based violence: In the course of documenting evidence of systemic discrimination in the criminal justice system in Québec, the Commission addressed the issue of gender-based violence, which was presented by witnesses before the Commission as a “complex and widespread problem” in Indigenous communities.⁴²² Commissioner Viens noted, however, “there are no recent data on the prevalence of family violence in Indigenous communities in Québec.”⁴²³ As well, “there is a significant gap between the number of actual sexual abuse cases and the number of cases reported.”⁴²⁴

Several reasons were cited for the under-reporting of gender-based violence, one of which is the “climate of mistrust” in the justice system that prevails. “To Indigenous eyes, the system is defined by a failure to solve issues and support victims. This is particularly so when it comes to domestic violence and sexual assault.”⁴²⁵ Even when a case is reported to police, “the system does not meet needs or provide a sustainable solution. Worse, the system causes further trauma due to lengthy court delays, several hearing date postponements and geographical distance from services.”⁴²⁶ At bottom, Commissioner Viens maintained that victims of gender-based violence “do not feel safe testifying in a system that they do not understand and that is foreign to them.”⁴²⁷

The Commissioner also pointed to the “fundamental incompatibility” between the Canadian criminal justice system and Indigenous conceptions of justice. For instance, Indigenous methods for resolving disputes are based on a holistic understanding that is “centred on accountability, reparation and healing rather than punishment, which seems to be the thrust of the government’s justice system.” As well, Indigenous dispute resolution focuses on “dialogue, respect, consensus and non-judgment” and elders, family, and other community members are critical to the process. Moreover, while Indigenous conceptions of justice are focused on “individual and collective

accountability,” the Canadian criminal justice system “is concerned only with individual responsibility.”⁴²⁸

Taking Stock

The Canadian criminal justice system has been tasked with responding to the inordinate rates of crime and violence in Inuit Nunangat, rates that are symptomatic of the much deeper social and economic issues generated by the colonial encounter with *qallunaat*. While much of the operation of the criminal justice system in the North is a replication of what transpires in southern Canada, gestures have been made towards attending to the unique circumstances and needs of Inuit, particularly in the form of Inuit Court Workers, Justices of the Peace, Crown Witness Coordinators, and Community Justice Committees. Those initiatives, however, have been subject to a host of problems and challenges.

High staff turnover, lack of integration of officers into the communities, slow response times, and language differences affect the quality of police services being provided. Circuit or Itinerant Courts are confronted with the challenge of reaching isolated communities and overcoming language and cultural barriers while completing an overflowing court docket in a compressed schedule. Problems with the recruitment and retention of court personnel (judges, prosecutors, and defence lawyers) compromise the ability of the courts to offer culturally informed supports and services. Justices of the Peace, Court Workers, and Community Justice Committees are under-trained, under-resourced, and under-utilized. Justice is often served “from a distance” as legal aid lawyers, Court Workers, and Victims Services agents provide support via telephone rather than in-person. Added to the mix, the costs of justice delivery are much higher in the North and there is a serious shortage of community resources and programming, leading some writers to conclude that residents of Inuit Nunangat “do not receive the same level of justice services” compared to the rest of the country⁴²⁹ and that Indigenous peoples encounter systemic discrimination from the Canadian criminal justice system.⁴³⁰ Moreover, while efforts have been made to introduce Inuit *Qaujimajatuqangit* into criminal justice processes and practices, concerns have been raised about the “fundamental incompatibility” between the Canadian criminal justice system and Indigenous conceptions of justice.⁴³¹

These problems and challenges become even more pronounced when the issue of gender-based violence is brought to the fore. Several of the criminal justice initiatives—such as Gladue Reports and Wellness Courts—have been focused on addressing the circumstances of offenders as opposed to victims of crime. Local Justice Committees, while promising to integrate Inuit customary practices into criminal justice decision making, do not typically consider offences associated with gender-based violence, such as sexual and domestic assaults. Several jurisdictions have passed specific legislation, instituted specialized domestic violence courts, and established Victims Services to address gender-based violence. However, access to the specialized courts is restricted for Inuit women, Emergency Protection Orders and Community Intervention Orders are under-utilized and difficult to implement in small communities, and women living in remote communities face the challenge of accessing Victims Services when they need them. The lack of community-

based resources and trauma-informed practices within the criminal justice system has also been cited as a problem, as has the “climate of mistrust” that prevails, inhibiting Inuit women from reporting experiences of gender-based violence.⁴³²

While this environmental scan exposes some of the problems and challenges encountered in the operation of the criminal justice system in Nunavut, Inuvialuit, and Nunavik, we need to know more. In particular, we need to learn the standpoints of Inuit women who turn to the criminal justice system when they experience gender-based violence. What are their needs in that regard? What challenges or barriers have they encountered? What do they need to heal from the trauma and move forward in their lives?

III. LEARNING FROM INUIT WOMEN

Thirty-eight Inuit women from Inuvialuit, Nunavut, and Nunavik shared their experiences of gender-based violence. Their stories give us insight into the nature and depth of this problem and the resulting trauma that has so affected these women's lives. The women also talked about what they needed in the aftermath of the violence, and whether the criminal justice response was able to meet those needs.

For so many of the women, multiple experiences of gender-based violence created layer upon layer of trauma. The trauma was starkly evident in their voices as they talked about what happened and its impact on their lives and identities. However, not all events were reported to authorities. Some women were afraid to tell because of threats from their abusers. When some women did tell, the police either did not believe them or no formal action was taken. In some cases, it was the women who ended up being arrested and charged with assault.

While some of the women were satisfied with the criminal justice response, many others were quite critical. In too many cases, the system's response seemed woefully inadequate. It failed to keep the women safe — and in one case failed to prevent a woman's death at the hands of her abusive partner.

Experiences of Sexual Violence as Children and Teenagers

I wish to forget these things that hurt me. I want to let them go. I don't want them to be a part of me anymore. I want to stand up and have a better life.

For many of the women, the sexual abuse they experienced started at a very early age, sometimes before they were even out of diapers. The perpetrators were most often family members: fathers, brothers, uncles, and cousins. The sexual abuse continued into their teenage years. Some of the women experienced sexual abuse while students at residential school; others were raped by boys and men in their communities.

Two of the women who were sexually abused as children told of how they were able to forgive their abusers. One woman said, "When we were children, my brother used to try and molest me when I was sleeping. And my sister's boyfriend did that to me as well. It was when I was home alone as my parents used to go out camping a lot. But I have forgiven them both. That's the only way." The other woman was raped by her 13-year-old brother when she was 12. Her grandmother came to her aid, chastising the brother and moving her to her bedroom so that she could be protected. "I would sleep in her room, behind her bed. I would wake up and shower. After breakfast my grandmother would ask me, 'Will I walk you to school?' She made sure I was not alone. And I used to say to her, 'Grandmother thank you for taking good care of me.' I used to thank her and she would say, 'You are my daughter. I love you very much.'" Her brother was never reported or charged for the rape. When she was 23 years old, he apologized for what he did. "My brother came to me and he asked for forgiveness from me. And I'd asked him, 'Why did you do that to me?' And he said, 'I am sorry for raping you. I was wrong. And I did not make good choices. I am so sorry my little sister.' And I replied back to him that, 'I forgive you my brother. Let us move on

and forget that. They are in the past and I do not want to keep going back to the past.’ And so, I told him after he apologized to stop talking about it anymore.”

Other women, however, have had a difficult time forgiving their abusers and recovering from the trauma, which has left a lasting imprint on them. One woman was raped by her father at the age of five. She didn’t tell anyone at the time because “I was afraid of being beaten.” She did try to tell her mother when she was seven years old, “but she became mad at me.” The abuse and her mother’s response left her feeling alienated from her family. “I feel like I grew up feeling like I don’t really belong.” She also has “a hard time forgiving. I struggle in life and tried to commit suicide in the past.... I am so angry at my father because he raped me at age five. And today I still don’t know who I am.” Asked what she needed, she replied: “Love. I needed love. And I still want it. I still struggle with the feeling like I am unlovable.”

Another woman also talked about the long-term impact of the abuse she experienced as a child. “My brother and my two cousins, they done something to me when I was a little girl.” She recalled waking up in the night with one of them having intercourse with her. “I tried to charge them, but I got told to drop the charge so I did.” Those childhood experiences have left her feeling “very angry and very bitter. All that I ever want to do is fight.” And, so, she lashes out at other people. “I have been arrested when I get angry at other people and start beating them up.” The woman was determined to overcome that lasting trauma. “I wish to forget these things that hurt me. I want to let them go. I don’t want them to be a part of me anymore. I want to stand up and have a better life.”

A woman who is now in her sixties had experienced sexual abuse from her father growing up. It happened “quite a few times that I remember, laying down and being held and trying to move. I can’t move because he’s holding me and trying to like hug.” But she “blacked it all out. I don’t really remember. And I never did call the cops on him. Never told anybody, really.” Her father had an important position in the community “He’s supposed to be a man of the town. Didn’t want to bring him down or whatever. So, just never said anything.” The woman was not able to turn to her mother for support. Her mother was also subject to her father’s abuse. “I remember mom getting pulled around by her hair, punched out, everything.” Her siblings were also abused by her father. The abuse has had a life-altering impact on the children. “Except for one, we’re chronic alcoholics or drug abusers today because of what we went through. We never dealt with it. So, we just drink and smoke it up and try to forget, I guess.”

Another woman was sexually assaulted at the age of nine. “There was a man who used his wife and his kids to lure young girls. ‘Cause Hudson’s Bay used to be down there, so any girl walking by, ‘Come, come have tea and cake.’ We’d go and we’d be locked in. They had seven kids, really scared kids, really scared wife, beaten up. He brought me to the room and raped me.” She said that ever incident, “I’ve been scared of men.”

Blaming and Shaming — and Disbelief

Many of my family were blaming me and they supported or defended the man. I did not even try to go to the police. I was so ashamed or felt really small.

Several of the women were blamed and shamed in the aftermath of the violence. One woman told of how she was raped by an uncle when she was 14. She explained what happened: “We used to hang around the dance hall but too young to go inside so we would be just outside listening to music. He ran towards me. He was drunk, my blood relative. He ran after me. I was running but I fell on the ground. And when I fell he raped me right at the spot.” She told her family what had happened but “no one believed me. They kept saying that I was teasing him.” She became pregnant after the rape. “It was a while to realize because I had no idea how women get pregnant. But I was not getting my periods anymore, so I told my aunt. And she said, ‘I think you might be pregnant.’ And I had no idea how women get pregnant. Many of my family were blaming me and they supported or defended the man. I did not even try to go to the police. I was so ashamed or felt really small.” The baby was adopted: “My grandfather took her. Families were arguing as to who will have the child, but my grandfather adopted her.” Asked what she needed at the time she replied: “I wish I was supported. I wish someone told me where to go for emotional support. But instead I became shy, embarrassed. So, I just let go of whatever.”

A woman now in her fifties told about what happened when she was a teenager. She was waiting for her sister outside a community drop-in centre, “and this man suddenly appeared.” He asked her, “Would you like to go babysit so you can have money?” She replied, “Yeah, sure.” They began walking and when they reached a stack of large crates, “he stopped me and he pushed me towards those things that are stacked.” The man pinned her to the ground and began trying to have sex with her. “It was scary. I was only 14 and I didn’t know anything about men, their private parts. And I was still a virgin.” She struggled with him and “as soon as I had a chance to run away from him, I did. And I ran and when I looked back his hands almost grabbed me from behind. And I was running.” Even though the assault happened several decades ago, she said, “I still get teary eyed from it when I think about it.” Over the years, “I tried to block it but once in a while it will pop in my head.” She never disclosed the assault. “I was too ashamed to tell, even to my relatives. ‘Cause I thought it was my fault. If I didn’t follow him. And shame.”

Other women tried to tell family members about what happened to them but were met with disbelief. One woman who is now in her late twenties said that when she was a teenager she was staying at her grandmother’s house, sleeping in her uncle’s room with her baby daughter. “‘Cause he said I could stay in there. And but he was in the living room, drinking with my other relatives and people. And me and [the baby] were just sleeping. And he just went in the room and took his pants off and bothered me. He told me not to tell anyone.” But she did tell her mother. “And she said she didn’t believe me.” She also told her father. “And he said he didn’t believe me, too.” As well, “I reported it to the Social Service. But they didn’t do anything.”

A woman in her forties was physically and sexually assaulted by an uncle and cousin when she was a young teenager. They had tied her up and locked her in a house, torturing her for ten days. In addition to being repeatedly raped, she was “pound up so badly, my face was so I couldn’t even see.” When she tried to tell other family members, they said, “That never happened to you.” They’d just say that she fell down the stairs to explain all of her bruises. The woman said, “It was suicidal for me because I was so hurt. Nobody believed me. Nobody would listen to me.” That experience had a lasting impact. “I started getting into so much trouble because of my sexual abuse.” She

hadn't been drinking for a long time, "but before when I drank, I was always in trouble. I was always in jail."

Two of the women talked about the abuse they experienced at residential school. One of the women was sent to a residential school at the age of 14 after her mother had died. "And there were about, oh, 400 students at that residence along with supervisors, administrators. It was tough because at a very young age we were introduced to alcohol, yeah. And, also, some of us were sexually abused. I don't know if it was all of the students, but some of us we experienced that." The other woman was sexually abused between the ages of 13 and 15 by boys at residential school. "They used to put their hands on my breasts and try to go to my privacy and all that." The main culprit, however, was one of the teachers at the school. "I know that they were abused by a teacher and then they were abusing me too. I was an innocent girl at home ... and yet at school I was abused by boys, all the boys who were abused in school." The children would shower together. "And I used to see kids crying, coming to the shower room crying, hurt. They got raped. I seen them crying but I didn't know they were raped by this teacher, all these guys. I seen it, I seen guys crying, hurting. I don't know why he let the girls and boys shower together, this teacher."

For so many of the women, the sexual abuse they experienced in their early years had a long-lasting impact on their lives and identities. Even though, in most cases, the abuse had happened many years ago, it was still upsetting for the women to recount what had happened to them. While a few of the women received the support and validation they needed at the time, too many were met with disbelief that anything had happened or claims that it was all their fault. The violence, however, did not end in childhood but continued into their adult years.

Experiences of Violence as Adults

I have lived a lot of trauma. I am tired of being a punching bag. Women are not meant for hurting. When I relive it, the shock is felt again so I drink, feeling helpless.

As adults, the women experienced physical and sexual violence from their boyfriends, common law partners, and husbands. While older women told of events that happened decades ago, these events were still very fresh in their memory. Younger women told of domestic violence that had happened more recently or was still ongoing. In addition to domestic violence, women were also physically and sexually attacked by men in their community.

When violence broke out in their intimate relationships, the women were often prevented by their abusers in reaching out for help. Several women talked about how they were afraid to seek medical assistance or call the police because of the threats from their abusers. One woman in her forties had experienced physical violence from her common law partner in the 1990s. "In the beginning of our relationship everything was fine. But later on, we would start drinking to have fun but it was not so. When he gets drunk he would beat me up. Both of my eyes have been swollen, both upper thighs bruised. I used to use the wall to feel on my way to the bathroom when my eyes were bad. I could not go to work or go out when I was in that state." The beatings happened "many times, even with a gun. He used a gun too. He used to beat me bad." However, she said she was "never allowed to go for medical help. He used to say, 'If you go to the clinic they will call the police.' So, I would heal by myself at home. He made sure I would not go to the clinic."

Another woman had been in two violent relationships, both in the 1980s. She described the first relationship: “When he was sober I liked him. But when he was intoxicated he would change. He would become scary. He would beat me up with his fist and he would have sex with me. He would chase me outside whenever I would try to run away. He would catch up and drag me back by my hair.” She never called the police. “I was too afraid of my abuser.” The second relationship was also abusive. “He was a great hunter, a great worker, real man. But when he was consuming alcohol, like the first one he would become violent and scary, but even more than the first one.” After one beating, “I had a one-year-old at that time and I left her. I left the house and left her with my abuser, not knowing what can happen. I was like, ‘Should I go back to my child?’ That was the most memorable terrifying moment for me, trying to decide if and how to get back inside.” She eventually did go back into the house but “only after he left the house. I was watching from a distance. Otherwise he would beat me up if he saw me.” Again, she didn’t call the police. “I was too afraid.”

A third woman did try to seek help from police when her boyfriend assaulted her. “I would charge but then remove the charge because I was told to do so by my abuser. He has two kids and so they had no one to take care of them.” When he continued to beat her up, she would try to get away. “I would go in hiding but he always found me fast.” She said she was “too afraid” to reach out to Social Services. Given her dire circumstances, the one option she turned to was to “do things to go to jail myself so I can get away from him. I would purposely keep driving when I know I shouldn’t. And so, I was sent down south to a women’s prison. But that was my only way out of that relationship.” The woman said, “I have lived a lot of trauma. I am tired of being a punching bag. Women are not meant for hurting. When I relive it, the shock is felt again so I drink, feeling helpless.”

In some cases, the women did not report the violence to police because their abusers threatened to commit suicide if they did. As one woman said, “He kept threatening to kill himself if I press charges. To me that was so horrible. I know many others are given this same threat today.” Women also did not report the violence for fear that they would lose custody of their children. “And I for myself I never like the Social Services because I was afraid they would take my children away. And that is what I think they do is to take the children away.”

One option for women to escape domestic violence is to just leave the relationship. That option presumes that they have a place to go in a small community where housing it at a premium. As one woman said, she stayed in the relationship because “I wanted to have hope and I wanted my children to have their father. And I didn’t have anywhere to really go to.” Another significant reason why women stayed was because of threats from their abuser. One woman had been beaten by her partner many times. “And he always has a weapon all the time.” If she tries to leave him “he says he’ll hunt me down.” Suicide was also threatened if a woman tried to leave the relationship. One of the participants told about a young woman she knows who was badly beaten by her boyfriend. “Her boyfriend says if she breaks up with him, he will kill himself and says it so often to her. So, the woman said that ‘I cannot break up with him because I do not want him to kill himself.’ She mentioned that. ‘So, I will not do anything for now’ because of her fear of him killing himself.” According to this participant, “I am aware of many women in such situations today.”

The Layering of Trauma

I needed their trust. I needed them to believe me. I needed them to tell me they would back me up. I needed to feel safe. And they didn't make me feel safe. It's like they victimized me too.

For so many of the women, the abuse that started in childhood continued to pervade their lives as adults, creating layer upon layer of trauma. One Inuk woman's story stands as a stark example of such layering — and women's need for validation when they reach out for help.

The woman's trauma began in childhood with physical abuse from her father. Her father was a residential school survivor “who was raped and beaten by two Catholic ministers. So, we lived like we were in a school environment. When he would beat us, we would have to line up, me, my brother, and my two younger sisters, and we would have to kiss him and thank him. He would sit there after giving us a brutal beating and we would have to thank him and say [what] we learned. To today, I still don't know what I learnt. I just learnt that abuse is alive and well.”

Attending a meeting of the Truth and Reconciliation Commission held in her community gave the woman insights into her father's history. She wasn't sure why she decided to attend the meeting. “‘Cause I've never went to residential school. But something kept nagging me to ‘Go to the meeting. Go to the meeting.’” She went on the last day and listened to the proceedings. “These people I never met in my life were telling my story. It was like they were looking in our window. They were telling exactly what my father had inflicted on us as children.” Feeling that she couldn't stay silent anymore, she addressed the meeting, telling those present: “I don't know what brought me here. But after listening to an hour or two, these people are strangers but they're telling my story. Now I understand. My father committed suicide. I refused to go to his funeral because of the abuse I lived growing up from him.” She told the officials who were present: “You guys took a little boy from my grandmother, and you brought home a monster who married my white mother and treated her the way that he was treated. And there was nothing for us. No one to turn to. My mother committed suicide first and then he did it ten years later.”

Abuse continued to invade her life as a teenager. At thirteen she was sexually assaulted by her sister's friend. “It was on my birthday. I never had sex before then. He raped me. I think that's why I don't, I'm not intimate with guys because of that, my first experience. And it took me many years to tell because I was ashamed.” When she finally did find the courage to tell, “other women that were the same age of me in the same community came forward and told on him too. It took us many years ‘cause we were younger than him.”

The trauma persisted into her adult life. In her thirties, she was in a relationship that lasted for twelve years, “and it was a very toxic relationship.” On one occasion, “He came home very high on drugs and alcohol, and we got into a fight and he started beating the hell out of me. And he told me, I never understood this word till I hear it [says in Inuktitut], ‘I am going to kill you and then I will commit suicide.’ And I was beaten so bad. And he was pulling my hair, pulling me on the floor to the washroom where I would have no escape. You know in those houses? I would have no escape. He was bringing me to my death.” Somehow, she managed to grab a knife, “and I stabbed him once and he stopped.” She got him to the hospital. “I didn't know I was so badly beaten. I was

only focused on him.” Once the doctors tended to his injuries, they looked at her and said, “You need help too.” She had also called the police and told them what had happened. But the police arrested her, and she was charged with attempted murder. “And the police who arrested me, my baby was a little boy at that time, he told me I would never see my baby again.” She spent three months in custody while the investigation was underway, which eventually led to the charges being dropped when it became evident that she had been acting in self-defence.

Not long after her release from jail she was in the local general store, buying groceries, when she met up with her abuser. He forced her out of the store “and he brought me where he was staying, and he raped me for three whole days and nights. He kept me in a room, no shower, dirty bed, no food, no nothing. When he finally fell asleep, I escaped through the upstairs window, half nude. And that’s when they finally arrested him.” But the criminal justice system, she said, “was a joke” because she “spent more time in prison as a victim than he did as someone who tried to kill me.”

Those trauma experiences left her feeling depressed and alone. “I isolate myself. I have anxiety. I have panic attacks. There are days I won’t go out of my house. There’s days I won’t open my curtains.” She had not been with a man for fifteen years because of abuse. But two years ago, she decided to open her world and attend a Christmas party, “and I asked my girlfriend not to leave me. It was my first time going out in public. You know at a party, things don’t go as planned. I should not have gone there.” She was raped by a man she didn’t know who was also at the party. “He’s not someone I hang out with. He’s a young kid, like around I would say my daughter’s age, so to me that’s a kid.” Charges were laid against the man, “and we’re still going through the court system.” But she doesn’t want to testify in court. “I’m 54 and a grandmother and I don’t want to let the world know I’ve been raped again.”

After the rape, a female police officer put her in contact with a social worker. “At the time I was angry. I resented everyone. I didn’t want to be talked to. I didn’t want, I was ashamed. So, I told them I was not going to relive my rapes and my abuse. I wanted to be just left alone. Fifty-four, still getting raped. How embarrassing is that? So, I’m trying to deal with it on my own. But it’s not the easiest road.” Trying to deal with it on her own means, “Every day I live in shame. These past two years I’ve slowly been, it’s like I’m getting ready to give up on life. I’ve given everything of value to me away to family and friends. All I have at home are the basics I need to survive now. I don’t have no more materialistic things.” She has even tried to alter her appearance in an effort to avoid further abuse:

Look at my hair. I chopped it off so the guys won’t look at me, so I look ugly. I stopped wearing nice clothes because if I wear nice clothes, I get their attention and it’s my fault. So, I started dressing like a bum and looking like one. Even people who know me, they’ve seen my change. They’re like, “You used to dress up so beautiful. You used to wear high heels. You used to fix your hair. You used to wear makeup.” I used to be [her name]. Now I’m just, I don’t know what I am, just another rapeable cunt, excuse my word, but that’s really how I feel.

Adding yet another layer to her trauma, “a month ago I stopped a man from trying to rape my friend. And he beat the hell out of me. He choked me and put me up on a wall and punched me in

my face and then he threw me down fourteen stairs and I blacked out. And then he started kicking me in the head I was told. When I woke up I had a head concussion.” She reported the assault to the police. “I asked the police for help and they didn’t even help. They took no statement, no nothing.” After that assault she was unable to work. “I lived off of \$60 for two months. There were days I was so hungry but I was too ashamed to go out. Even the job I really, really liked I couldn’t go back. I couldn’t go back with a broken face and sit in the front office. That’s why I did nothing for a while.”

But she was not safe in her own home. One night a man “tried to break into my home at 1:30 in the morning.” She called the police for help. “It took them over an hour to come, which would have taken them 10, 15 minutes.” All that while, she was thinking about an event that had occurred two summers ago. “This lady was killed and raped after this kid killed her. He raped her deceased body. And here I am home alone. That was the first thing that came to my mind. He’s probably on drugs and he’s going to kill me and I’m going to be raped again.” When the police finally arrived “I told them which way the guy walked. And they told me the next day — because I kept calling like, ‘Did you guys arrest him? Did you guys arrest him?’ — they brought him home! They gave him a free ticket for the next woman to be raped.”

Adding to her burden, she was facing charges for a DUI. She explained what happened:

That night when that guy came to break into my house I ran away from home for four days, five days. And I gave someone my car so he wouldn’t find me. But then I finally wanted to go home. So, I went to go get my car. And I had been drinking a little bit, but I wasn’t drunk. I just wanted my life back. Someone called the police and they were there in two seconds and arrested me, put me in handcuffs, brought me to the police station.

She saw the irony in that situation. The police, she said, “never ever help me when I call for help, but as soon as I do something wrong” the police are quick to act. It’s come to the point where, “I’m more afraid of the police than I am of the abuser.” She believed she would end up with a jail sentence for the DUI charge. “I told them I want to go to prison. I don’t want to fight anymore. Nothing’s going to make a difference. Just put me in prison and leave me alone.”

Meanwhile, she lives her life in fear. “There are days when I’m so afraid I have panic attacks. I’m afraid to go out in public sometimes. There are days I can’t get out of bed because of my panic attacks and because of my fear.” She has two friends who are “my only support line.” They check up on her every day. “‘Cause they know what I’m going through and they know I get suicidal thoughts. I get really scared because they’re bigger than me. And I try to turn to the Bible. I try to be busy. Sometimes you’ll see me walking around and I have no direction where I’m walking. Or I don’t even know where I’m going myself. And then I wake up and I’m like, ‘Where the hell am I going?’ So, I just walk home. And I’m ashamed, you know, ‘cause it’s not me. I feel like a zombie.” Feeling so lost, she said, “I don’t even know who I am or what was I ever meant to be. Who was I in the beginning? What did I do to deserve this? I just got mad at God two days ago, asking him the same things. What did I do that was so bad that I have a life like this? And it’s not only once. It’s been years.”

When asked what she needed from the police she replied: “I needed their trust. I needed them to believe me. I needed them to tell me they would back me up. I needed to feel safe. And they didn’t make me feel safe. It’s like they victimized me too.” Given her experiences, she has a lot of resentment towards the police now. “They’re really the last people I would ask for help.”

Similar to this woman’s account, other women who turned to the criminal justice system were seeking validation — that what happened to them did occur; that they have been harmed. They also needed to be supported and to feel safe. But those needs were not always met.

Calling the Police for Help

Instead of looking at me like I’m hurt and I was afraid, they just looked at me like I was just a drunk and that I wasn’t a valuable enough person for them to take seriously.

Several women talked about calling on the police for help, but then not being believed. One woman in her early fifties told of a harrowing experience of being forcibly confined and raped in her home. The man had held her there for three days.

He locked me in the house. I couldn’t get away. He was making sure, he kept me from going to my door. I only managed to get away because I told him I wouldn’t run away, that I’d just sit and drink with him. And the only way I got away was I told him, “Let’s just get drunk and I’m not going to go.” And I made it look like I was drinking as much as he was. I had my tongue on the spout where it looked like I was drinking the alcohol straight up. And he had his own bottle and I kept telling him, “Bottoms up, bottoms up.” And I waited until he was so intoxicated that he couldn’t chase me out the door.

Once she had managed to escape, the police were called. “At first, they didn’t seem like, they didn’t believe me. And then I told them I’m going to go to the hospital myself if I have to and report it to them. And only then the RCMP took me serious when I told them I’d go through a doctor.” She figured that the police officers “probably thought I was drunk because of the alcohol that they seen at the time.” She was upset about the way the police treated her. “Instead of looking at me like I’m hurt and I was afraid, they just looked at me like I was just a drunk and that I wasn’t a valuable enough person for them to take seriously.”

Women who experienced domestic violence also had difficulties in getting help from the police. One woman talked about a time when her partner had gone to the bar for happy hour. “I thought, ‘Ooh, he will be happy in an hour.’ Because he used to come home mad a lot, accuse me of cheating. But he was the one who was cheating.” She was giving the baby a bath. “He came home and took my hair from the back and put my face under the water. And when he did that I thought I was going to die! I was struggling to breathe. And my son watching. I never forget that one.” When she called the police, “They treated me like they did not believe me even though I was bruised black and blue.” Another woman had a similar experience with police. Her partner would physically assault her “every friggin’ night.” While she had tried to have him charged for hitting her, she was told by police that there wasn’t enough evidence. “Even if I tried and showed the bruises, they won’t believe me.”

In addition to seeking validation, women called the police because they were seeking protection: they wanted the police to intervene and stop the violence when it was happening. Several women, however, commented on how slow the police were to respond. One woman remarked, “The police take forever to come when you need them so quickly.” A second woman said that police “were very slow to respond, like, come to my house and stop him from fighting me. It was like I wasn’t taken serious because it happened so many times.” She also said that when she called the police, “I didn’t care for their tone of voice on the phone.” She would be asked questions “that they didn’t need to know. I wanted them to come to my house while the violence was happening. I was either phoning from the bathroom or from outside and trying to get them as fast as I can. But they’d have me on the phone asking questions. And it’s like, ‘Could you just hurry up and get here please? Why do you need to know all this?’ But I always felt like they just didn’t care.” They’d ask her questions like “who’s all in the home, when did this happen, are you physically injured?” The slow response made her think that police are “obviously not concerned about our wellbeing.” A third woman said that when she would call the police, “It took them many hours before they came.” She believes the violence was worse because of that. “He would have not done it with a knife if they came quicker.” A woman in her late forties had a similar experience. The violence from her common law partner went on for twenty years. “I used to get dragged around by the hair and pounded up a lot. It was hard.” The police would be called. “By the time they came I would have got beaten up more. They took their time a lot.”

Keeping Women Safe?

What is it going to take for me to get help? Is he going to have to kill me first?

In addition to charging an abuser with a criminal offence, a key strategy employed by the criminal justice system to keep women safe is to impose an Emergency Protection Order (EPO), No Contact Order (NCO), or Peace Bond that prohibits the abuser from contacting his partner.

One woman said that the EPO was “good for me because I felt safe.” However, “a few times after charges were laid they were released till their court date. And I felt unsafe then because I knew they’d come and knock at my door when they start drinking.” She only learned from other community members who happened to be in court that her partner had been released.

They don’t even phone me, the police, and say, “We released so-and-so. We just want to let you know that they will be in the community” so I could be aware instead of walking to the store and seeing them there. They could be more, they could contact us and let us know. “We released so-and-so. We just want to let you know. And they’re not to be around you. And if they attempt, please call us.” Stuff like that to reassure that we’re safe. ‘Cause not all women are vocal and reach out for help. They’ll just let them come back home because they’re scared.

Other women believed that protection orders had little effect on deterring their abusers. As one woman said, “Those Protection Orders never do work” because her partner would “always force their way back home.” Another woman’s abuser was charged and an NCO was issued, but he still came to her house. “He is not allowed in my place for a year but he does. He just walks in.” And

so, the violence continued: “Recently I was bruised all over on here, left side of the face, and it’s finally healing from this awful man. I think he almost paralyzed half my body that time.”

Women were also critical of the police for not enforcing the orders. One woman’s partner was charged with assault and an NCO was imposed. “He’s not supposed to be around me but the cops don’t even do nothing.” A woman in her early fifties told about her partner being charged with aggravated assault. Several release conditions were also imposed, including an NCO. “He broke every condition there was on there. He approached me on the street. Where I was trying to hideout, he came there knocking. He tried to phone many a times.” Each time he violated the NCO, she would write down the time and date and call the RCMP to inform them of the breach. ,

The RCMP turned around and told me that they’re waiting for him to do something furthermore than what he was doing. They wanted to catch him on a bigger charge. I told the RCMP, “What is it going to take for me to get help? Is he going to have to kill me first?” I told that to the RCMP. And then they said they can’t just pick him up for something as little as that. And to me it wasn’t little. It was my life and my wellbeing. And then they told me this and I had, I lost all my faith in the justice system when the RCMP can’t even help me.

She believed the RCMP “could have taken me seriously. They could have approached him. They could have put it out there that it was serious, that he wasn’t supposed to be trying to contact me or around me at all.” The lack of action on the part of police made her feel “like I was just a nobody. That I wasn’t even worth their time to acknowledge me or my fears. They never acknowledged me at all. So, I felt like a nobody.” A third woman shared a similar experience. Her partner had been charged with breaking and entering, assault, and harassment. He was also given a NCO, but had been violating the order. She went to the police station. “I said, ‘I want to make a statement because he came to me three times.’ And they didn’t want to take my statement. ‘Cause it wasn’t an emergency.”

Victim or Offender?

They wouldn’t listen. I was trying, “He hit me first.” And they don’t care about that part. The part they were concerned about was I stabbed him.

The criminal justice system is premised on a binary of victim and offender. In other words, when a criminal wrong has been committed, police determine who is the victim of that wrongdoing and who is the offender to be held responsible for the wrongdoing. In cases of domestic violence, however, the line between victim and offender is not always so obvious or clear cut. In some cases, it was the women who were charged when police became aware of the violence in a domestic relationship.

A 42-year-old woman was in an abusive relationship ten years ago. The abuse went on for “about three months. I got scars all over my head.” During one violent incident, her husband was the one to call the RCMP. The police handcuffed her, charged her with assault, and put her in lock up. “‘I’m not even drinking,’ I said. So, they just threw me [in the cell] anyway. So, I stayed in there for about sixteen hours. No mat, no blanket. Yeah, that’s hard too. And it made you feel like

nothing. There was no support.” She was sentenced to 30 hours of community work for the assault charge. But she “couldn’t find a job. Couldn’t do my hours. So, I spent 20 days in jail.” The second time police were involved, it was her husband who ended up being charged with assault. “It went reverse. So, I called them instead of him calling them.” On that occasion, “They treated me a lot better. ‘Cause he was drunk and I was sober. Now he got charged.” Although, her partner “never went to court. He just took off out of town.”

Another woman also ended up being charged for domestic assault. The relationship was an abusive one from the beginning. “Right from day one he started pushing me around.” But she “never called the cops. Never reported him. Never charged him. I don’t know why. Maybe it’s I thought I was stupid in love.” On one occasion, “He just, Whoa, backhanded me and caught my cheekbone. Just smashed it.” She was sent south for surgery to repair the broken cheekbone. The doctors encouraged her to report the assault to police. “But by then it was three, four months after. So, I just left it alone. I never charged him.”

The abuse in the relationship continued and the police eventually became involved. But she was deemed to be the offender in the relationship, as she was charged with aggravated assault against her partner. She had been drinking, so her memory of what happened is unclear. “From what I could remember, he hit me and my glasses went flying. And I must have ran downstairs and grabbed a knife and ran back upstairs and stabbed him.” She tried to tell the police and her lawyer her account of what had happened. “They wouldn’t listen. I was trying, ‘He hit me first.’ And they don’t care about that part. The part they were concerned about was I stabbed him.” A No Contact Order had been imposed on her. “But he come to me right away after I got out of jail.” The police knew that he was visiting her home, “but they never do nothing about it.”

It had been almost two years since she was charged. She was told that she would likely receive an 18-month jail sentence for the assault. “And I’m still waiting to go to court. And they keep putting it off, putting it off, which is great, keeps me out of jail. But it’s still hanging over my head. And it’s really stressful.”

Because, in this instance, she was the one who had been charged when the violence broke out, her partner was cast as the victim and received support from Victim Services. “They were giving him counselling, they were giving him cell phones in case I go there again and try to — they were doing everything for him.” As the one deemed to be the offender in the relationship, she received little support. “Nobody come to me, ‘You need help,’ anything. It’s just me on my own. It’s a good thing I have a little bit of knowledge up here about counselling and stuff like that and the court system. Otherwise, I’d be going like this [motions] in the water, drowning.” Left on her own, she had reached out to find her own support. “And the elders and the counsellors, that’s where my help is now, that’s who I reached out to and they’re reaching back to me and talking to me and trying to help me get, I am getting counselling.” Meanwhile, she was waiting to find out whether or not she would be sent to jail for the assault charge.

Making Matters Worse

From the cops not taking me seriously five years ago I was almost pretty much killed.

Sometimes, calling the police for help when gender-based violence occurs can only make matters worse. One woman told the story of how “I called for help one night to the cops because I was afraid for my life. And then I was arrested.”

The woman had been out for the evening with her partner, “and he had been drinking a lot of liquor.” On the way home, he started to “act up” in her vehicle, pushing and poking her. So, she told him to get out. She then dropped him off near the police station. “I went home and I asked my babysitter to go home, like, ‘Thank you for babysitting.’” Soon after that, her partner “walks in with the police.” She asked him, “Why are you here with the police?” He answered: “Well, you dropped me off at the cop station, so I wanted them to escort me home.” She told him, “The reason why I got you out of my vehicle was for you to not come back home.” When she asked the police why they were there they replied, “Well, we just wanted to make sure he’s safe.” Angry and frustrated, she told the officers to “Get the fuck out of my house.” The officers left, but refused to take her partner with them.

Once the police left, her partner “starting pacing up and down the hallway, punching the walls, making holes. My kids were sleeping. So, then I got really scared so I called the cops.” When the police arrived she told them, “I want him out of my house. I’m afraid for myself and my kids.” The officers replied, “Well, he seems to be really calm right now. We can’t do nothing about it.” She told them, “Well, of course he’s calm, you guys just walked in. Of course, he’s going to calm down, drinking his glass of juice like nothing ever happened.”

When the officers again refused to remove her partner from the home, she “got frustrated.” Sitting on the couch, she pointed her finger at the officer and said “Get the fuck out of my house.” The officer then twisted her arm and slammed her face into an end table. “He turned me around, smashed my face, broke my tooth, my tooth fell out. And he was on top of me with his knee on my neck, his other knee on my lower back, and twisting my arms. I couldn’t look up. I couldn’t do nothing. I didn’t even know what the hell was going on. It was so fast.” She was then handcuffed and taken out of the house. It was minus 35 degrees Celsius. She was dressed in a short-sleeved shirt and had bare feet. “He fuckin’ shoved me out the door without my boots on, without socks, and without a jacket. And you know metal stairs? We have fuckin’ metal stairs. My foot got stuck. I peeled my whole bottom of my sole off. ‘Cause you know when you put your tongue on metal it’s going to stick? Same thing. My foot stuck to the metal.” She was taken to the police station and placed in a jail cell. “I was starting to hurt. Everything started to feel, even my hair. My hair was falling out. I’m not sure if he was, he must have been pulling my hair. ‘Cause there was hair everywhere. And then I was still trying to figure out what the hell happened to me in this jail cell. Oh, it was horrible.” She said that she started feeling suicidal. “It’s the first time I wanted to die. I was trying to find something to kill myself. I never experienced that in my whole entire life, suicidal thoughts. That was so very quick and could have been very easy because the thought came and I could not control it.”

The police report stated that she was resisting arrest. “I molested a cop. I guess pointing a finger is called molestation. They were saying something in the lines of I was verbally violent in the vehicle.” She recalled that when she was put in the back seat of the police car she sarcastically said to the other officer: “You guys are really professional, hey.” She was released the next morning

with conditions “not to drink, do drugs, or go near a cop or molest a cop, harass police.” Feeling “too exhausted,” she spent the day in bed. But the following day she “went to the hospital, got the medical report and my physical and dental. And then I got the strength to Google how to report police brutality.” She contacted the Police Ethics Commission and began the process of submitting a complaint, along with photos of her injuries.

While the woman described the event as “the most traumatic experience of my whole entire life,” her trauma did not end there. “That particular police officer for the next few years was harassing me. He was following me around” because “he knew I had made a complaint to the commission.” The officer “would turn on his cop lights, stop me, and ask me if I had been drinking that day, claiming that somebody told him that I had been drinking that day” even though she had “not a drop of alcohol.” On one of those occasions, “This was Mother’s Day. I remember clearly. I had a goose in my vehicle. I was trying to bring it to my mom.” When the officer stopped her car and accused her of drinking, she called him a liar. “And then when he realized I caught him lying, he said to me. ‘Well, you better not be drinking and driving, hey.’” Once the officer went on his way, she “went into a convulsion. For the first time in my life I’d never felt rage at this level. It changed me. It changed everything who I am. I had to see a psychologist, psychiatrist, occupational therapist. I was on sick leave. Any lights, any noise, freaked the shit out of me. Any kind of siren sounds. ‘Cause he stopped me three times in one year. Three times.” It got to the point where “I was even afraid to go to the stores. And then I was afraid to bring my kids in the vehicle. ‘Cause I was afraid they were going to stop me with my kids in the vehicle. It was horrific.”

The woman had stayed in the relationship with her partner for the next two years. “I was living with my abuser. ‘Cause he was the one comforting me. And this is how low I was. ‘Cause I didn’t know who to trust anymore. But it took me a while to get to finally to end the relationship.” That happened one night. “I was trying to sleep and he started going crazy in the bed. And he beat the fuckin’ shit out of me. He was punching me so many times. I couldn’t see him in the dark. I couldn’t stop [him]. And then all of a sudden, his hands kept slipping off my face. ‘Cause I was full of blood. He split my forehead open. There was blood everywhere on my wall.” She had two black eyes, a broken nose, and her forehead was “so badly bruised I had migraines for two years.” Police were called and they arrested her partner. “So, from the cops not taking me seriously five years ago I was almost pretty much killed.”

The complaint against the police officer was still ongoing. “I’m going through court with the cops. So, I’m reliving everything. Every time I have to prepare for the court or update my lawyers, I have to talk about this whole thing over and over. It took five years. It’s been five years going.” In the meantime, her ex-partner was released with a No Contact Order. But he breached that condition. She had left her community to go char fishing. Her son and daughter stayed behind. Her son was in the bathroom when he heard someone come into the house. “So, he locked the door. Low and behold, it was [her ex-partner], drunk. He went to my place.” Her son could hear him “talking to himself drunk, going through my house, opening closets. I think he was looking for my booze, my wine or beer or whatever.” Her son text messaged his sister, who called the police. Her ex-partner was arrested and taken into custody. But she was told, “the only way to keep [her ex-partner] in jail was if my son testified.... Without my son being a witness, they couldn’t keep him

in jail.” She saw the danger in that: “I said, ‘He’s 12 years old. You think I’m going to bring my 12-year-old to testify against a 47-year-old adult? You want to traumatize my kid more than he was already?’”

Going to Court

When I was in court there was people watching. And it’s embarrassing. I got scared. And you just know everybody’s going to go and yap about what you say while you’re on the stand.

Several of the women talked about their experience of going to court to testify as a witness, and what supports they received during that process. One woman whose partner was charged with an assault against her said, “I had to show up in order for him to make that charge stick. If I never showed up he would have just got away with it. Yeah, so I had to show up.” But testifying in court, she said, was “scary.” “It’s a scary feeling when you have to go and have to appear in court with him there.” She was referred to Victim Services, “but they never explained what they could do for me. They never did explain how, what they could do for me and stuff like that. And that’s why I never did deal with Victim Services.” Instead, her family was her main source of support: “They let me stay with them a period of time where I could be safe. ‘Cause where my partner wouldn’t bother. So that was my big support was most of my family.”

Another woman also talked about how scary it was going to court to testify against her ex-partner. “I was scared because they were in the same courtroom as me and just being, feeling intimidated because you don’t want to be in the same room as them while you’re on the stand. And you could feel they were just glaring at you and they’re thinking, ‘Oh boy, she better, I can’t wait till I get out of jail, boy.’ Or that’s just bad thoughts going through my head.” She also found it difficult testifying in front of other community members. “When I was in court there was people watching. And it’s embarrassing. I got scared. And you just know everybody’s going to go and yap about what you say while you’re on the stand. You don’t even say what you really want to say. And then the next time you don’t even want to show up because you know there’s going to be other people.” She thinks that “there shouldn’t be anybody else in the courtroom but you and whoever you’re charging, and the judge and workers, whatever. But no other people that have nothing to do with it.”

Women who had been sexually assaulted also talked about how difficult it was to participate in the court process. Now in her sixties, one woman was raped at a party in the late 1980s. “I charged that guy. It became so ugly. He decided to have 12 jurors and those 12 jurors acquitted him. So that made me very mad.” Going through the trial, she said, “made you look ugly or some kind of a slut or something. That’s what I experienced.” Asked if she was provided with any supports at the time she replied, “I don’t think there were any. No. I felt so alone. Of course, I had support from some of my family, but that’s different. When you’re close to your family you don’t feel like, well, I didn’t feel like talking to them of what I experienced. We were too close. We were a close-knit family.... But they knew. They used to tell me, ‘We’re here for you.’ But I never opened up to them.”

A woman in her thirties was sexually assaulted in 2019. “We were having a ladies’ party and thought we were all going to be ladies and girls. And then we all got drunk. And I blacked out, too.” When she woke up, she was being raped by her cousin’s son. She went to the health centre where a rape kit was administered and the police were called. The case was heard by the Circuit Court. But the judge hearing the case was different each time. “When I was speaking to the judge it was a lady. And then a few months later she wanted to think about it again. Came back and it was a guy, not her. I was like, ‘I thought I was going to see the same judge again?’” She also talked about how difficult it was testifying about the rape in court. “I was asking for a private court and I don’t want to be talking with lots of people behind me. No privacy at all.” During the court hearing, “the girlfriend [of the accused] was there with her two-year-old daughter running around, screaming at me. And that was so, to me, unprofessional at that moment.”

A woman in her mid-forties was attacked on the street. “I was walking by the drugstore about nine, between nine and ten in the evening, I was walking around. And I was sober.” A young man started following her. “He grabbed me. He clubbed me with a two-by-four. He thought he was going to knock me out. I just fell over ... and my clothes were just torn off me. Just torn apart.... And when that happened he sexually assaulted me right there.” She was screaming for help, “and somebody heard me.” A man came out of a nearby building. “He phoned the cops.” But the police were slow to respond. “The cops never came ‘til 45 minutes later.” It was wintertime. “I was lucky I didn’t get frostbite.” The officers put her in their vehicle and took her to the hospital. “And then they went to go look for that person that did that to me.” The young man was arrested and charged. When the case went to court, she testified as a Crown witness. Testifying in court was a challenge for her.

I had to go to the hospital to go get pills just to calm my nerves down. ‘Cause I was so, just anxious and can’t keep still. Didn’t want to look and try not to look at that person. And I was like, “Oh, my God. I can’t believe I’m in this courthouse.” But as soon as I opened the door to go in I just went and I just took a deep breath. ‘Cause he was sitting there. But he never looked at me. And there was something in front of him that he could see me but I couldn’t see him. So, I was good.

In addition to the testimonial aid of the screen, she had asked the judge to have someone sit with her as a support person. “They were there with me the whole time.” The case took two years to be dealt with by the court. The young man was convicted and sentenced to six-and-a-half years in prison. During that process, Victim Services, she said, “really helped me good. They were there [during court] and then I phoned them when I was so scared, to talk to them about what happened to me.” They have also kept in touch with her since then. “They’ll let me know when he gets out and then where he’ll be located.... I have all that information so and then I have those 1-800 numbers and stuff like that, for the parole board and all that. So, yeah, I don’t have to worry about that now. ‘Cause I feel safe now that he can’t be around me. He can’t be in the same community as me.” She has also received counsel from elders. “They understand how you feel, how you explain it, stuff like that. But it’s really good, yeah.”

A 37-year-old woman was raped when she was in her late twenties. “We were drinking and I passed out and this guy, I woke up and this guy was on top of me and got up, pushed him off,

phoned the cops.” The police “came right away.” She told them where he was and they arrested him. “And I gave them a statement and then he got charged and it went to court.” When the case was heard in court, “I had to go on the stand and tell them what happened in front of all these people. And that was weird, though. ‘Cause I felt like, ‘Gee, why do these people have to know?’” Although she was reluctant to testify she believed “I just had to ‘cause what he did. People shouldn’t be doing that to other people. That’s wrong.” She doesn’t know the outcome of the trial. “I didn’t even want to know or anything. After I went on the stand I asked to go and they said ‘Yeah.’” She was given a referral card to Victim Services. “But me, I just never bothered to go. I just didn’t want to talk about it. It was too much. But I know there’s support out there, I’d just rather handle it on my own.” Handling it on her own involves turning to alcohol. “I just drink for a couple of days and after that I’m good. I talk about it once in a while but, no, I just don’t like talking about it.... That’s why I drink so much.”

The woman who had been sexually assaulted and forcibly confined also appeared in court. “And during the whole court procedure I was too ashamed to ask my family members. I was beating myself up as well because I was so consumed in alcohol and around alcohol at the time. So, I had just gone forward through Victim Services.” But the Victim Services worker didn’t seem qualified to help her. “She wasn’t a person who was trained to help deal with someone in my situation because I was so traumatized with what happened and she had no idea how to deal with me at all. She just kept saying, ‘Mm huh.’ And that’s all I got out of her. No feedback, no anything.” Since the assault, she has managed to quit drinking. “I’ve been off alcohol now on my own for about a little over ten months. And I’m still finding the ways to support myself, mainly through family.” She had been looking into other healing alternatives, “like maybe on the land or something like that.” The perpetrator was convicted and received a sentence of three years’ incarceration for the sexual assault and two years for the forcible confinement. She is afraid of what will happen when he is released: “I’m very afraid. I was going to up and leave even if I had to leave everything. I was just going to leave town. ‘Cause I’m so afraid of this person and my life was threatened. And I have no idea what I’m going to do in the future if and when he ever gets released.”

No Justice for Inuit Women

There’s absolutely no justice here. Nothing has ever come out of people charging somebody for crimes against them. They always get away with it.

Several of the women were not happy with the response of the criminal justice system when the case went to court. A woman in her sixties talked about her cousin, who was a sexual predator, and how scared she was of him. “I was always in fear. I cannot be alone. And if I do, I make sure every window and all the doors is just locked.” She took him to court one time. “And I lost. And I’d never go back there again. Never, never. I just deal with this shit all by myself.” She had given a statement to police, but the woman said she was “very forgetful. And so, when the time came for court, apparently my story didn’t match, and they said not good.” Because of the inconsistencies in her testimony, the cousin was acquitted. She told the court officials: “I’ll never go to you guys again, never. I’m going to deal with it on my own. I thought you guys were there to help me.” For this woman, “dealing with it on my own” involves forgiving her abusers for what they’ve done to her. “Because when you forgive, your healing starts.”

One woman's partner had been charged with aggravated assault against her. When the case was heard in court, he received a sentence of probation. "I was not happy with the outcome at all, all he got. Because he went on the stand himself. He lied about a job position. He lied about his living arrangements. And there was so much he lied about that all he got out of that was probation." The response of the criminal justice system left her feeling "totally helpless. I felt I had no help from the justice system whatsoever.... I felt alone."

A woman in her early forties was physically assaulted by her partner five years ago. The abuse had been going on for a while. "I didn't report him for a very long time, thinking that he's going to get better. But he was getting worse, so I started reporting him." Her partner was arrested and taken into custody. The woman believed the RCMP "assisted very well." But she also believed that "court system doesn't seem to be very good here" because "although he did something bad, they would release him without any counselling and he would return here still angry."

Another woman told about a man who was known to be a sexual predator in the community. "He's raped probably 20 percent of the women in [community name]. He's probably raped about 40 ladies, the youngest was five, the oldest was 69. I was on the list. And they do nothing. He never goes to jail for a long time. And that really frustrates me, and I get angry." She said that the man, "tries to break my doors and my windows, trying to get in." When she calls the police they tell her, "'Oh, call us if he's done something.' That's always their response. 'We can't do anything until he touches you.' 'Or kills me?' 'Yeah.' 'Or rapes me?' 'Yeah.'" She appeared in court to testify against him.

As soon as I gave my statement in front of the judge, I went. And later on, they called, and they said, "He's got eight months." And they let him go to [another community]. There's a place there they can stay. They let him out on weekends. And he's a habitual sexual offender. They let him out from Friday to Sunday night. When I heard about that I was so mad. They didn't do anything.

Such outcomes have left many of the women feeling like there is no justice for Inuit women who experience gender-based violence. As one woman said:

There's absolutely no justice here. Nothing has ever come out of people charging somebody for crimes against them. They always get away with it. And I know many women with many stories where their perpetrators, their assaulters, their rapists, their, you know, a, b, and c, walking away like nothing happened.

Failure to Protect

Before she was murdered, she went through a lot of physical abuse from her husband.

One woman participated in the study because she wanted to talk about what happened to her sister. In November 2015, her sister was found lying unconscious outdoors in her small community. Given the severity of her injuries, she was medivacked to a southern hospital. She died eight days later, never regaining consciousness.

Six months later, in May 2016, RCMP officers arrested and charged her husband with second-degree murder. He was remanded into custody. In June 2018 he entered a plea of guilty to manslaughter. The sentencing hearing was held in November 2018. A statement of facts was presented at the hearing that laid out the disturbing details of what happened the night she died.

The couple had been at a party that evening and had left to attend another party sometime in the early morning hours. At that point, the woman had called a friend, saying that she was afraid her husband was going to hurt her. After they left the party, the husband became violent with his wife, striking her in the head multiple times until she was unconscious and bleeding. She suffered multiple injuries, including bones fractures and extensive bleeding and bruising on her brain. He then dragged her some 200 feet to a snowmobile trail and left her there in minus 15-degree Celsius weather.

Her family members submitted eleven Victim Impact Statements to the court, two of which raised concerns that the husband could do this again to another woman.

During the sentencing hearing, the judge noted that the region had the highest rate of domestic violence in the country. She also said this would not change “until people in communities ... stop accepting that consuming alcohol and beating your spouse is just an unfortunate side effect of getting drunk.” Taking into consideration previous case law, Section 718.2 (e) of the Criminal Code (the Gladue factors), his guilty plea as well as his remorse, the judge sentenced the husband to six years’ incarceration (a sentence that had been jointly proposed by the Crown and defence). With 1.5 credit for the time spent in remand custody, he had 28 months of incarceration left to serve. The only conditions imposed during sentencing were to provide a DNA sample and a 10-year ban from possessing firearms.

According to her sister, “Her husband was always jealous. She couldn’t keep a job because he was jealous. She tried to work at a daycare or Northern [Store] or somewhere, but her husband was so jealous of her. Talking to other men, he’ll get mad.” Their twenty-year relationship was also fraught with violence. Her sister said, “Before she was murdered, she went through a lot of physical abuse from her husband.” On one occasion, she was visiting family in another community and “He really pound her up when he was drinking.... She had black eyes and a bleeding nose and bruises here and there. And very scared. She took off from him after he passed out and she managed to escape.” But she said that her sister “liked to keep that quiet and just talk to me or close friends or aunties or someone that will be there for her and help support her.” Part of the reason for her silence, however, was that she was threatened by her husband to not report the violence to authorities.

Nevertheless, the criminal justice system was aware of the violence. According to legal documents and news reports, the husband had been convicted three times for assaulting his partner. In 2002, he received a suspended sentence. In 2007, he was sentenced to 21 days of imprisonment. In August 2015, three months before her death, he had again been charged with assault. During that incident, he “pulled her hair and punched her four or five times. He also shook his wife and pushed her to the ground.” He was given an undertaking that prohibited contact with his wife, a condition that was amended one week before her death (contact was permitted with her consent and only if

he was completely sober). In January 2016 (two months after her death and four months before he was charged with her murder), the husband entered a guilty plea for the August 2015 assault. The judge sentenced him to 60 days of house arrest and two years' probation. While a lengthier prison term could have been imposed, the judge justified the lesser sentence by citing the fact that the husband had accepted responsibility for the assault. He also took into consideration the husband's statement that he was grieving the death of his wife and was now a single father of five children.

Still mourning the loss of her sister, the woman was intent on making sure that the same thing didn't happen to other women. "I'll be sure to be someone's eyes and ears to help any girl or woman or anyone that's going through this.... I'm more than happy to help anyone to not go through this violence against women. And especially all those young girls out there that are getting victimized from their partner."

Meeting Women's Needs?

I don't have any faith in the system. As a woman, an Indigenous woman in Inuit Nunangat, I know that I am second to last class citizen in my own home.

Inuit women have the right to be safe from gender-based violence. They also have the right to have their experiences of physical and sexual assault acknowledged and validated. The criminal justice system has a responsibility to meet those needs by offering protection and affirming the harms that have been caused by gender-based violence. Nevertheless, many of the women we interviewed did not even take the first step of reporting the violence to police. They didn't turn to the criminal justice system for help because they were afraid. Afraid that they would be blamed and shamed for their victimization. Afraid of threats from their abusers if they did tell. Afraid of losing their children to the child welfare system. Afraid of not having their experiences validated by police and the courts.

These barriers to calling on the criminal justice system to respond to gender-based violence were also cited by respondents in an on-line survey conducted by Pauktuutit Inuit Women of Canada.⁴³³ Sixty-four Inuit women from Nunavut, Inuvialuit, and Nunavik responded to the survey. Stigma and feelings of shame (65% of responses), fear of the perpetrator (79%), fear of losing their children to child welfare services (65%), and lack of trust in the police (48%) and court system (59%) were cited by these respondents as reasons why women would not report intimate partner violence. Similar reasons were cited for why women would not report sexual violence. Fear of the perpetrator (65%), stigma and feelings of shame (59%), and lack of trust in the court system (59%) were frequent responses. But so too was family pressure to not report the violence (56%), suggesting that "stigma and feelings of shame extend beyond the victim to wider family networks and inhibits reporting."⁴³⁴

Those women we interviewed who did turn to the criminal justice system for help said the police were often slow to respond and, when they did appear, officers did not always validate the women's experiences of victimization. Protection Orders failed to keep the women safe from further violence. And police intervention sometimes led to the women being the ones arrested and charged with offences. Going to court to testify in front of their abusers and other community members was a "scary" experience. And the court outcomes left many women believing there was

no justice. These experiences have generated a lack of faith in the criminal justice system. As one woman remarked, “I don’t have any faith in the system. As a woman, an Indigenous woman in Inuit Nunangat, I know that I am second to last class citizen in my own home. If I died tomorrow I know for a very fact my murderer would be let free and my death would be for nothing. And I know that for a very fact. I would not be worth anything.”

IV. HEARING FROM FRONT-LINE WORKERS

Individuals working on or close to the front lines of the criminal justice system — police officers, judges, Crown attorneys, defence lawyers, Crown Witness Coordinators (CWCs), Victim Services workers, Community Justice Outreach Workers (CJOWs), and social service providers — offer an invaluable standpoint on the criminal justice response to gender-based violence.

Without exception, all of the 35 front-line workers who were interviewed recognized violence against Inuit women to be a pervasive problem in the North. “Absolutely” was the reply offered many times when asked if gender-based violence was a problem in their region. One police officer added, “From my understanding, the rates of intimate partner violence in the North surpass pretty much any other jurisdiction. And I would even go one step further and I would say it’s a whole other level of violence that you just don’t see in other places.” Another worker commented on how the violence is more visible in the North than in the South: “The number of times that you go into a grocery store or a client, someone comes in, and I don’t know, just seeing these bruises. You don’t see that in the South. You don’t see bruised and battered women right in front of you.” Participants also indicated that gender-based violence made up the majority of cases dealt with by police and the courts in all three regions. A Nunavut police officer noted, “I’ve responded to hundreds and hundreds of calls for assaults and sexual assaults against women.” A CWC in Inuvialuit commented, “Most of our calls are domestic violence victims or sexual assault victims and almost, a very high percentage Indigenous, very, very high percent female.” A Crown attorney in Nunavik said, “We can easily see that there is an overrepresentation of conjugal violence and sexual assault and that they are mostly against women.... It is quite common that every day we are dealing with that kind of file.”

However, many of the frontline workers were of the view that the criminal justice system was failing to meet the needs of victims of gender-based violence. As one worker noted, “The criminal justice system is broken, as we all know, I think, and it just is not working well.” Another worker commented, “I don’t think that the system is working as we’ve done it. The violence in both Nunavut and the NWT isn’t going down. We just kind of cycle people in and out of the court system.”

The failure of the system is not a matter of a lack of individual will or commitment on the part of criminal justice actors. It was clear many dedicated people are working hard to stem the tide of gender-based violence in all three regions. As one police officer commented, “I found no matter what agency we were working with, everybody was working so hard every day to do the best they could and obviously the workload was pretty heavy, I think, no matter what facet that you were kind of working in.” Similarly, a Crown attorney noted, “We do the best we can with the tools and the resources that we have available to us.”

Rather, the problems are systemic in nature, pertaining to built-in features of the criminal justice system (including its stated purposes and principles) which, when coupled with the lack of resources and support in the communities (economic insecurity and the housing crisis being two prime examples), work to exacerbate rather than resolve the issue of gender-based violence against Inuit women.

Drawing on the knowledge and insights of front-line workers, therefore, this section maps out the various challenges encountered in the criminal justice response to gender-based violence in Nunavut, Inuvialuit, and Nunavik. In the process, particular attention will be paid to the systemic factors that come to bear on limiting the ability of the criminal justice system to meet the needs of Inuit women who are victims of gender-based violence.

Making Sense of Gender-Based Violence

The reality is women come to shelter to heal and wait for the swelling to go down. Because there's no other choice than going back.

Front-line workers understand gender-based violence to be the result of a “melting pot of so many problems” in the regions. One key issue is the housing crisis and the toll that overcrowded homes takes on families, creating the conditions for intimate partner violence to occur. As one worker explained, “People can only as individuals handle so much stress and pressure. And if you're living in an overcrowded, very stressful situation I think the chances are that may bubble up into violence or greater than if you're very comfortably housed. And so, we probably see more violence stem from that situation because of a housing crisis.”

Lack of adequate housing puts pressure on women to stay in abusive relationships. As one service provider noted, “The reality is women come to shelter to heal and wait for the swelling to go down. Because there's no other choice than going back. ‘Cause it's not a three-month waiting list, it's a six-year waiting list for public housing.” The housing crisis also feeds into other forms of gender-based violence. As one worker observed, “We're seeing an increase of women in the community that are doing unmentionable things in order to find themselves a place to stay for the night. And I also include that in gender-based violence. I think any woman that has to trade sexual favours to have a place to sleep for the night is definitely being violated. And that's violence.” The stresses caused by dire economic circumstances also play a role. “A lot of it has to do with money, money that families need. In the past I know a lot of people used to go out on the land. But now it's very tough. They can't go out on the land because they need money to buy their supplies. And it's tough times.”

Several workers talked about the role of alcohol in fomenting gender-based violence. According to a police officer, “Maybe 90, 99 percent of the files that we are involved in alcohol is involved.” Alcohol acts as a fuel for the violence. As another police officer noted:

The interactions between the people when there is no alcohol compared to when there is alcohol, there's a big difference. There's a lot of violence that comes out of those situations. But, in the end, what we see is this brings out stories and emotions and things that happened in the past that surface again. So, there's a lot of past incidents that come to light. So, when people have less restraint and less control let's say over their faculties at the time, well, it brings all that back to the foreground and brings on often enough an element of violence in there.

Referencing the “things that happened in the past” points to the role that colonialism has played in generating the conditions for gender-based violence. One officer pointed to the impact of residential schools:

It’s very rare for me to go to a disturbance or domestic violence complaint where the parties are sober. But then why are these individuals using substances? And it depends. Some people I speak with here, and I ask, “Why do you drink?” “Well, I’m a residential school survivor.” That’s one I get quite frequently here. And they drink and they get bad memories. And then when they drink the rest kind of unfolds, I guess, and they become angry or upset.

Other front-line workers also pointed to the trauma that colonialism has generated. One of the service providers grew up in a small Inuit village. “There was a residential school there. So, there’s a lot of survivors who grew up in [the village] and had many children. And the children, which is the second generation, which is us, have seen so much horror within the homes, the violence and rape, yeah, emotional abuse coming out of the pain of the survivors.” Another worker pointed to the historical role of the churches in the colonial project. “If you looked at a community’s history, sometimes there are certain experiences that have occurred that have led to trauma in an individual’s history. So, there were certain priests that kind of went around the North and sexually assaulted children, for example. And then you’re going to see that play out over and over again until the trauma has been dealt with.” The impact of colonialism on men’s role in the traditional Inuit economy was cited by a third worker: “A lot of the men are trying to gain back what they feel they’ve lost, like with the dog slaughter and things like that. They lost or they feel they lost their, I’m going to say manhood, but it’s not their manhood but they felt less of a man in some ways. So, they want to try to get that back and they’re unsure how. And you say the wrong thing while you’re having a few drinks with people and things happen, unfortunately.” A community justice worker summed up the impacts of colonialism: “It seems almost consistently so much violence and alcohol-fueled problems, unfortunately, dealing with the background trauma that everyone has experienced over the colonization process, the dog slaughters, the residential school systems. It’s all still very affecting the population today even through multigenerational trauma.”

Normalization of Violence?

I don’t think it’s normalized. I don’t think no one likes a black eye. It hurts.

Some of the frontline workers believed that gender-based violence is so prevalent in the North that it has become normalized or accepted as “just the way things are.” One worker thought that this normalization was especially the case for younger people, who are unaware of colonial history. “They absolutely believe things are the way they are, they’ve always been like that, this is just the way things are. There’s a normalized everything, the violence, the drinking, the drug use, the jealousy, all of it is so, the lateral violence, it’s so normalized now that the younger generation born into it just have never known anything else. And they blame themselves for, they’re not a good person, they just do bad things, they don’t know how to drink.”

Other workers, however, pushed back against the idea that gender-based violence has become normalized. As one worker said, “I don’t think it’s normalized. I don’t think no one likes a black eye. It hurts.” This worker put the onus on the system for creating the problem. They explained:

The system made it, the criminal system and the youth protection system, made it that if you’re stuck with violence, well you have a choice to make. You could lose that person who’s nice to you when he’s sober, but you could also lose your children, because the youth protection will tell you that if you don’t kick him out and you expose your children to the violence, then you’re not a responsible — that’s called neglect and you’re neglecting your children. So, it’s what, you shut up, I think. So, normalized? No. But the system has forced a silence upon people.... So, I think that’s one of the reasons people keep the abuse secret, whether it’s sexual or physical, because the consequences are sometimes, it’s when the price is higher to pay, like, it hurts but it’s going to be gone in five days, whatever. So, the price to pay to disclose is higher than the gain.

A worker from a different region took a similar position: “It’s not a matter of normalizing. It’s just a matter of thinking there’s no choice out there.” They too put the onus on the systems for creating the problem. “Is it normalized or is it like ‘I guess I deserve this because the police didn’t do anything. I guess I deserve this because the judge didn’t do anything. I guess I asked for it because’ — you know what I mean? Like, it’s the other system, the housing says I have to live with him. All these systems that are foreign systems are all sending that message that she has no choice. And if she’s going to be upset about the way that she’s getting treated, it’s going to make the person hurting her angry and hurt her even worse.” The worker also pointed out that abusers are sent a message when no formal action is taken by police: “See, even they think I’m right, even they think you shouldn’t talk back to me, even they think’ — you know what I mean?”

The Marginalization of Victims in the Criminal Justice Process

It’s all offender focused and that is the nature of the criminal justice system is that it’s offender focused. And by design, of course.

As this Crown attorney notes, the focus of the criminal justice system in Canada is on the accused and not the victim of a criminal offence. That focus comes from the presumption of innocence, one of the key foundational rules that apply in all criminal cases. A judge explained:

It’s the state who decides if a person is accused or not, is accused of committing a crime or not. And that person is presumed innocent and that will always be the case, whether we like it or not. And because of that presumption of innocence, the goal of the justice system, the criminal system, is not to convict everyone who committed a crime. It’s to make sure that we don’t convict someone who did not commit a crime. That’s the focus. We try to weed out every possibility of conviction of an innocent person, that’s the main focus of the criminal system. So, that’s why often the victims will feel left out. They will feel as if they don’t have the same weight in the process as the accused. And it is true. They are right to think so.

The fact that victims do not have the “same weight in the process” is reflected in their relationship with the Crown attorney who is pursuing the charge against an accused. More specifically, the victim is not the Crown’s client in the same way that the accused is a client of the defence, which means they do not have a say in whether charges will proceed through the court system, even in cases where that is their desire. A Crown attorney explained the difference:

An accused can instruct their defence lawyer, “We are going to do A, we’re going to do B, we’re going to do C.” We will take a victim’s views into consideration and place significant weight on them. We will weigh it very heavily. But, ultimately, they do not make the decision about what’s going to happen in a prosecution. We do. And so, say for example a victim did want a prosecution to proceed, but we concluded that there was no reasonable prospect of conviction, for whatever reason we feel that the evidence that we could present in front of a court would not render a conviction, we will not prosecute that case. And so, the victim isn’t able to tell us to do so otherwise. That’s a discretion that rests with us.

A second foundational rule is proof beyond a reasonable doubt. The onus is on the Crown to make the case that an accused person is guilty of the offence beyond a reasonable doubt. Nevertheless, as a Crown Attorney noted, “But the only way for us to prove that is with our witnesses and our victims and our complainants. So, at some point, it’s like we are saying that the pressure is again on them to prove that an accused is guilty.” In other words, while victims occupy a more marginal position in this offender-centred process, they are at the same time instrumental in making the Crown’s case against an accused. Another worker put it more bluntly: “They’re only useful if they’re going to be a witness to testify in court. That’s when we care, really.”

In this adversarial system, the defence has an ethical obligation to challenge the evidence put forward against their client to raise reasonable doubt, which involves cross examining a Crown’s witness to expose any inconsistencies or omissions in their testimony. As one Crown attorney described it, “the process is long and the process is difficult. To bring them in front of a perfect stranger, accompanied by a perfect stranger to ask them questions, being confronted in their version all the time, it’s enough to break something, you break someone again.” Another Crown attorney went as far as to say, “There’s no way to avoid re-traumatization in the criminal justice system. It’s not possible.... I have never been like, ‘I am going to be able to prosecute this file without potentially retraumatizing the person.’ It’s definitely going to happen.”

A third foundational rule upheld by the courts is the right of an accused person to a full answer and defence to the criminal charges against them. In upholding that rule, the law requires that the Crown Prosecution office disclose all information relevant to the case to the defence. That requirement has implications for victims of gender-based violence. For instance, in preparing a victim to act as a witness in a prosecution, anything that is said to the Crown attorney or the CWC that might have a bearing on the case must be disclosed to the accused and their lawyer. As a CWC noted, “anything that the Crown Prosecution has we have to disclose to defence.” Those rules of disclosure, therefore, put limits on the ability of those working in the Crown’s office to provide support for victims of gender-based violence.

In various ways, then, the foundational rules place systemic limits on the ability of the criminal justice system to attend to the needs of women who are victimized by gender-based violence. But those limits manifest in other ways. As one Crown attorney noted, there is a tension between the needs of the victim and the intended function of the criminal justice system, “which is to deal with the societal implications of an accused person’s behaviour. The societal implications involve the victim but they are not exclusive to the victim.” This same attorney added: “The criminal justice system, the court part of it, is completely responsive and not proactive. And we’re not in the business of crime prevention.” Another Crown attorney made a similar point, noting that the criminal justice system “has a role to play in terms of accountability, in terms of safety of the public. We try our very best to have a role to play in terms of restoring relationships and repairing relationships and rehabilitating offenders. But it is not best suited for that.” The attorney went on to clarify: “The criminal justice system is not going to solve issues of trauma and issues of alcoholism that, at least in my experience, underlie so much of the crime that we prosecute. And we don’t have the tools. This is not our purpose. We are not social workers, we are not addictions counsellors, that’s not what we’re here for. But because we get involved at what I would call the tipping point when an offence has, is alleged to have occurred and so we’re often left trying our very best to deal within a system that’s not really designed for that.”

The problems encountered in the criminal justice response to gender-based violence, therefore, are rooted in the very nature of the criminal justice system. Those problems, however, play out in other ways at the various stages of the criminal justice process.

Policing Gender-Based Violence

You’re coming to the detachment to sit in a sterile room across from somebody who’s usually wearing body armour with a handgun. And they’re the white person who’s been there for six months. So, frankly, it’s miraculous that anybody reports anything.

Front-line workers were well aware of the reluctance of Inuit women to report gender-based violence to police. One Crown attorney pointed to the estimate that only 5 to 10 percent of the sexual assaults that have happened in their region are reported to authorities. “So, the only assumption that can be made from that is that there is a huge impact of the silencing mechanism and that it’s so pervasive that it’s sort of not even surprising when, for example, someone does finally come forward and an allegation is made and then streams of other people come forward, making the same or similar allegations about this person. That’s not even surprising anymore.” Victims remained silent “because they felt that there was no one who was ever going to be able to believe them, there was no reason to, I don’t know, to come forward, no reason to, on some level, to subject the community or their family to what would happen as a result of that.” Under those circumstances, where “everyone around you is experiencing the same feeling of powerlessness, the same feeling of being unable to do anything, and at the same time everyone on some level, well, not everyone, but a large proportion of the population on some level knowing that this has happened and/or is happening and is not doing anything about it,” it was understandable why women would not report a sexual assault: “I can’t imagine ever thinking I should tell someone that I was sexually assaulted if that’s what was happening around me. That would be impossible to navigate.”

A police officer attributed Inuit people's reluctance to report to cultural factors. "We deal with people who are very proud of their culture, of the way they live, the way they are. And it's very hard for them to go and get help." Because of that reluctance, "we'll deal with people on a day-to-day basis who do not want to involve themselves. They don't want to see their loved ones be involved in the justice system. They don't want to have to go through the justice system. It's something that's very regular for us of people telling us that the court is something they don't understand. It's very heavy of a process and they don't want to have to be put all through that. So, instead of trying to bring the situation forward often they'll just keep it to themselves and endure rather than go and get the help that they could get."

Frontline workers were also aware of the various social and economic reasons why women would be reluctant to report conjugal violence to the police. "I've heard over the years many reasons. Most often than not it is because they still need him, they want him in their life, either for financial reasons, for family support reasons. So, there are many reasons that they didn't wish to involve, they are scared that he would go to jail for what they did, because again it's a matter of need." But workers were also mindful of the disconnect that exists between Inuit communities and the police, most of whom are *qallunaat*. "You're coming to the detachment to sit in a sterile room across from somebody who's usually wearing body armour with a handgun. And they're the white person who's been there for six months. So, frankly, it's miraculous that anybody reports anything."

Lack of Trust in Police

A lot of people, especially if we're going to talk about Indigenous communities, they don't trust the police. So, sometimes we're not the first call.

A primary reason cited for women's reluctance to report gender-based violence is their lack of trust in police officers. As one officer noted, "Once the people in a community get to know you as their police officers, how it's often referred to, they build a rapport or more of a trust with the police." But that trust is difficult to foster due to the constant turnover of officers. As a community justice worker noted, "In a little community like this, we have new police officers every few months and they don't know, either they're young and they don't know how to be community police officers, which kind of just look at the bigger picture of what is urgent and important and what really matters for the safety of people and what can wait. And that's one thing is that we have a constant turnover of police and there's a mistrust of police." A police officer also remarked:

I understand also that the people living in those small communities, they're saying that they're not trusting us. But it takes a bit of time for them to know us, to get comfortable and wanting to talk to us or come forward with some information or feel comfortable enough that they want to disclose that they were a victim of a sex assault or that they've been assaulted by their husband or anything like that or vice versa. But I find they finally get comfortable with us and want to disclose information, well, we're transferred out.

The constant rotation of officers creates a systemic issue in the policing of Northern communities in all three regions. An added factor, however, is the lack of integration of officers into the community. "When you're a white person coming up and you don't speak the language, you don't understand the community, you don't know anyone you're going in with. So, the RCMP tend to

create a little bubble that they exist in the community, just because that's what's familiar and comfortable to them." The small number of officers posted to a detachment contributes to the divide between the police and the community. Working long hours means little opportunity to engage in cultural activities that would better integrate officers into the community. As one officer explained:

We work eight hours a day Monday to Friday and we do 16 hours of on-call Monday to Friday and then 24 hours of on-call on the weekends. So, you're never really off, which that takes its mental toll on members. Plus, it doesn't give us the break or the opportunity to go out on the land with the locals, to partake in a lot of the cultural stuff here would be out on the land trips, hunting, fishing, whale hunts, things like that. But we're not able to partake in any of that because we can't go too far from town in the event something happens and we have to come back.

The size of a detachment also has implications for the ability of officers to respond to gender-based violence. As a Crown attorney noted, "When there are only three or four members to a detachment it is a lot to ask of one person to be an expert in everything that they may face." Nevertheless, workers were concerned about the lack of specialized training of officers to deal with gender-based violence cases. As a Crown attorney noted, "One thing that I notice in terms of police work in the North, and I found it shocking when I came here first, was there is no specialized unit, there are no specialized units. These are very small RCMP divisions, small detachments with a couple of constables, very junior officers overall, I think." While southern police services will have a more senior officer take the lead on a sexual assault investigation, "Here you can have a constable who's been a police officer for six months who's the lead on a major sex assault. And so, I think that there's a lot of good intentions, a lot of motivated officers, especially young officers, they come in, they want to help, but I don't know if they have the resources, like, they're thrown into these complex cases. Same thing with intimate partner violence, very, very difficult complex dynamics, especially in small communities and probably not a lot of, I don't know if they have adequate training, but even just the lack of experience at being a police officer." An officer also commented on the importance of adequate police training:

A lot of this goes back to how we train our members because I've had members actually look at me and say things like, "Well, from what she was saying and how she was walking or moving, it didn't appear like she was being assaulted." There's no cookie cutter way that a victim is going to act or respond. And just because you think they should respond a certain way doesn't mean that's the way they're going to respond or that's how they're going to say something. 'Cause then there's that whole cultural piece too about, well, how do Indigenous victims, how do they disclose things to us? And it might be different as far as their body language, what they're saying. Sometimes what they say actually means something different if we actually have again that cultural piece. So just something, for example, a common phrase, "Well, he was bothering me."

For many Inuit women, "bothering" translates to mean "sexually assaulting." Without knowing that cultural context, officers will be poorly equipped to respond to gender-based violence.

Given that gender-based violence makes up the lion's share of police work in Inuit communities, concerns were raised that officers will become desensitized over time. "Some of them I think burnout, some of them end up not taking files quite as seriously as they could because 'It's just her again. She's not going to come to court so we shouldn't take this file seriously.'" How police officers treat victims of gender-based violence was also raised as a matter of concern.

A defence lawyer cited two cases in which police attended after Inuit women had been sexually assaulted. In one case, police arrested the accused and left the naked victim on the couch. "They just gave her a blanket and they were like, 'Here.' No victim assistance, they didn't bring her to the health centre to get any type of support, didn't say, 'Hey, is there anybody that we could look into, like, could come stay with you?'" In the second case, a woman had been sexually assaulted while she was intoxicated. "And when the police came to the scene, she's so intoxicated that she's passed out." According to the evidence presented in court, the police "just sort of stepped over her to go arrest the client and then take the client out. Like, that was the priority at that point, not this young woman who was so intoxicated she's just sprawled out on a floor in the front entrance. They step over her and just move her aside so that they can go arrest the client." For this worker, such cases explain why Inuit women do not turn to the criminal justice system for help. "Why would they trust the system? Why would they trust to call the RCMP or to then be involved when from the second, from the very first interaction, they are just a lesser person and just not worthy of any type of protection?"

Finally, front-line workers were aware of the colonial history of police-Inuit relations. "We have to also be mindful of the history of the RCMP with Indigenous communities and there's some trust issues that are very understandable. And many victims even, for example, will refuse to meet with the Crown at the police station. Like, they just won't go there."

Calling on the Police to Stop Conjugal Violence

From a police perspective, one of the biggest challenges encountered in responding to gender-based violence is the lack of cooperation from the victim. One officer was aware that in many cases where a woman experiences conjugal violence, "her only weapon of defence is sometimes just to call the police and it stops the violence." Once the police arrive, however, "the victim refuses to speak to you because what she wanted has been done, where the violence has stopped because she called the police. So, we tend to be used in that way quite often." Unless there is obvious physical evidence of the assault, police will not be able to lay a charge without a statement from the victim. This same officer cited the case of a woman who repeatedly called on the police to stop the violence but would not provide a statement. "And she was one of those that would just call and just to stop the violence from occurring or from starting that night. But she would never provide more details. She would never give anything. And I would try and make referrals for her and stuff. And one day I told her, 'You're going to be killed. Like, this is unacceptable.' She is unfortunately dead now. And she was killed by her spouse."

While women call on the police for their safety and protection when gender-based violence breaks out, they may not want to see a prosecution proceed through the criminal justice system. Under Canadian law, however, that is not their choice. As a Crown prosecutor explained:

That person may not want to see a prosecution continue, but the police have laid a charge and, in Canada, an individual doesn't make the choice about whether a prosecution continues, the Prosecution Service does, applying our tests. And so, a victim may feel understandably challenged that they are now in a system that they don't necessarily want to be in, when what they were looking for was safety in the moment.

A CWC described a typical scenario of a woman who calls police for protection and doesn't want charges to proceed:

So, we'll get, like the RCMP will get a call, let's say it's a drunken incident and husband assaulted his wife, the wife will call the RCMP and be like, "Can you please come to my place and get my husband out of here because he's drunk." And then when they come, when they go to this call, the RCMP asks questions and then the wife then explains what happened. Then the RCMP have no choice but to lay charges and then the wife ends up being like, "This is not the reason why I asked you guys to come here. I asked you guys to come here just to remove him for the night or put him in the drunk tank so that we can cool down, cool off." And then so once the RCMP then press charges against the husband, when it comes time for us as Crown Witness Coordinators to reach out to the victim, which is the wife in this example, she'll be like, "I don't want anything to do with this process because I'm not the one who pressed charges. The RCMP were the ones who pressed charges. Everything's going better. We haven't drank since the incident. And I want nothing to do with the process."

According to this worker, "it happens more often than not, which is unfortunate."

No Contact Orders

In those cases where assault charges have been laid, No Contact Orders (NCOs) are typically imposed as a condition for the release of the abusive partner while they await their court date. As a Community Justice worker explained, however, NCOs run into conflict with the Inuit way of resolving conflicts:

This is a basic Inuit tenet is that you apologize when you are sorry, right away. And yet most times there's conjugal violence, they immediately cannot communicate with each other. They know that. The man knows if he's assaulted his partner, if he even tries to contact her in any way, he could be arrested and charged with more charges of breach. So, how are they supposed to apologize? How are they supposed to make up in the Inuit way and then work out their stuff?

NCOs are a complicated matter. Some victims of conjugal violence want them to be upheld for their own safety, but they are regularly breached. Other victims want to continue having contact with their partner, but judges are averse to not issuing the order and, once imposed, there is little in the provisions for revoking an NCO. As well, NCOs are often put in place as a release condition while the case works its way through the courts, which can take a long time. Meanwhile, families may have devised their own ways to manage the situation and resolve the conflict.

Police are responsible for enforcing release and probation conditions, including abstaining from drugs and alcohol and no contact with the victim. Breaches of those conditions are common. As one officer noted, “Breaches are something that we deal with daily.” A Justice Committee member commented:

The breaches make over 30, 40 percent of all court cases.... Everyone has conditions, not to drink, not to use marijuana even now that it’s legal, like alcohol’s always been legal, but so many people who are not causing any serious problem at all, they’re just continuing to drink or use marijuana. If they happen to be at the wrong place in the wrong time and the police show up, the hotshot cops arrest them for breach of conditions, even though they weren’t disturbing the peace.

Rigorous enforcement of those conditions can act also as a deterrent for women to call the police. One worker told of a client whose husband was beating her up. She called police, but she had a condition not to drink. “So, she was the one getting arrested.” Women come to understand, “If I call then they’re going to arrest me.”

A police officer made the point that NCOs are really “just a piece of paper” because “if that person wants to breach, he’ll breach,” which can turn into a “vicious cycle for the victim.” Women will “call on their spouse that they beat them up and we go there, we try to help them. We’ll do what we can to arrest the person. We put them through the justice system.” When the man is released on conditions and breaches, “We arrest them again, put them in front of a judge, judge releases him again, the victim is again a victim.” As this cycle repeats itself, the officer says, “I can see the victim getting discouraged and sometime just not calling us anymore.”

In some cases, women will want to have contact with their partners, even when there has been serious violence. A defence lawyer told of a case where the husband had been convicted of assault with a weapon against his wife. “It was a pretty terrifying incident where it was very clear there was a lot of psychological abuse and trauma during this event and had occurred previously.” The couple had several children together. “He was the breadwinner and she needed help from him, she needed him to be there to help with the number of the young kids and to provide for the family. And I think we do see that often, especially here where there’s no other options for housing or there’s very limited access to other income.” Given the seriousness of the case, the judge ruled against allowing contact between the couple. Nevertheless, “at the end of the day, as the defence lawyer, you know that they’re going to have contact. It doesn’t matter what the order says. It’s going to happen.” In this situation, the likelihood “is that will become criminalized and, given his history, that inevitably will be a further jail sentence for him, just given the context. It doesn’t matter if there’s no threatening behaviour associated with any of the contact. That would likely be a jail sentence if he were charged with a breach.”

Another worker took issue with how the courts impose NCOs, especially as a condition of release while the matter is making its way through the court. “And it’s supposed to just be until it’s resolved in court. Well, court generally take one to two years. And you expect married couples with children to be separated within the same community, or often sent away when it’s a violent crime, even if the partner doesn’t want them sent away and legitimately doesn’t feel afraid. Even

though it was a very serious assault, they do want to continue being with their partner, the father of their children. Often the partner is sent away against the victim's wishes. And the victim has no recourse if there's no revocable clause for these conditions." For this worker, "This is a huge problem, that the court is not respecting the wishes and the values of the women, of the Inuit women that are being forcibly separated from their partners and the father of their children often.... Their safety is paramount but it's not necessarily the issue that the court believes it is."

In some cases, families have been able to resolve the matter without the help of the court. "What we'll see a lot is in a file the victim will say, 'Well, we talked about it, and he apologized.' And forgiveness from my understanding, and I'm certainly not an expert on this, but forgiveness is a very big piece in Inuit culture. And so, there's often a considerable amount of confusion as to why something is in court when it's like, 'But we've dealt with this matter as a family.'" This lawyer gave the example of a case where their client was on a probation order and had an NCO with the family of his partner for an incident that had happened in their home. "He was in a relationship with a sister and the brother lived in the home and they had gotten into an altercation. So, my client was not allowed to go to that house. But what happened was outside of the criminal justice system this family had all met together and talked through what the issues were. And so, they had determined that the client was welcome in the home so long as the brother wasn't there. So, he could come and be with the family and be with his partner." The man was visiting at the home when the police arrived and arrested him for breaching the NCO. "So, the client goes, 'Well I don't understand. They said I could be there.' And the family even says, 'We don't understand. We said he could be here.' So, there's this real confusion as to why is the system now interfering in something that the family has felt that they've remedied and they've come up with a solution as to what the issue is."

The Circuit Courts

It's so stretched as a system right now. It's just not working at all. It's completely broken and wasting its time.

Circuit or itinerant courts are inherently problematic in both their design and operation. A matter long recognized in other jurisdictions in Canada,⁴³⁵ front-line workers in Inuit Nunangat were also well-aware of the problems with the circuit courts, referring to them as a "travelling circus" or "flying circus."

The circuit courts are seen by many Inuit as a foreign, southern system that is not a part of their community. "They come to Inuit territory and then they go in and they don't engage with people. They're always in the courthouse. They don't get to know the community, and which is sad." In some of the smaller communities, "the court comes in maybe twice a year sometimes. So, it's really not part of the community, not part of how conflict is normally dealt with." As another worker commented, "when we fly in even just on the day of court and we don't spend one night in the community, we're showing that so blatantly to everyone that we are coming from elsewhere and we are imposing something that is foreign to them, to the community. It's really, not even spending a night that's pretty, that's a big message."

The circuit court is described by front-line workers as a “whirlwind.” As one police officer noted, “When the Circuit Court comes to town it is a whirlwind for however many days they’re there because I think they no sooner touch the ground with their team and they’re off running.... But in the scramble, in the chaos, who’s taking that quiet time to do the trauma-informed approach and make sure the victim has all the support they require?”

One of the key issues confronting the Circuit Courts is the size of their dockets. “It’s completely overloaded.” In recent years, the COVID pandemic had only worsened that situation as the court had to be put on hold. As one worker explained, “We had a 22-page docket with 396 charges which we had to deal with from Monday morning from 9:30 to 12, 1:30 to 5, every day. But Friday we sat from 9 to 11 because we had to be at the airport for 12. That’s not enough time. It’s very unfortunate. It feels like sometimes the court process is kind of rushed.” Another commented, “We had a week not too long ago where there were 800 files, although we all agree that’s ridiculous ... When we have 800 files, we don’t have time to do anything else than to call the file and do something quick and postpone them.”

Even without the interruptions caused by COVID, the scheduling of the circuit courts creates challenges, one of which is maintaining the continuity of the Crown prosecution’s file. As a Crown attorney explained:

Ideally, especially for every sexual assault file, we would have one Crown and one CWC assigned from the beginning, and those would be the people who work with the victim through the whole court process. They would meet you at the first court appearance, they would meet you at the preliminary inquiry if there is one, they would be the people working with you at the trial and so that there would be able to be a relationship of trust that’s established. Our employees would get to know that person so they wouldn’t have to ask a bunch of questions over and over again. And the victim would get to know us.

As another Crown explained, maintaining the continuity of a file is important for victims.

Once you’ve met with someone and you’ve established a rapport, it’s easier the next time when you meet with them.... Even if you’ve only met with them once or twice, just the minimal rapport you’ve established with someone, I think it has a huge impact in terms also of managing stress for victims. The more they know about what to expect I think the better they can manage their stress. So, not knowing who’s going to be there on the day is just, must be, who’s going to question them about probably sometimes the worst day of their lives. That’s what we’re asking people to do. To come and in public tell everyone about all the details of the worst thing that ever happened to them.

The pragmatics of court scheduling, however, make it difficult to maintain that continuity, given that the Crown’s office travels to a variety of circuits in the regions. “We’re not always able to send the same people because we have three circuits going on at once and two of the circuits are, that lawyer went to the last two in two different communities, and now we can’t split that person in half so we have to pick.” This lack of continuity has implications for victims:

What that means is that a victim might meet with a particular CWC on the first appearance or speak to someone and then the next time court comes to town two months later it may be new people. And then maybe it's the preliminary inquiry and they're meeting with the Crown Witness Coordinator and a lawyer. And then when the trial is set it may be a different, even if it's the same Crown Witness Coordinator it may be a different lawyer, or it may be the same lawyer and different Crown Witness Coordinator. And that means that there hasn't been an opportunity to build that relationship. Their relationship is interrupted and victims and witnesses ... are required to tell their stories again and again. And to find and to try to build relationships of trust again and again.

Maintaining the continuity of a file is made even more difficult with the regular turnover of Crown prosecutors. As one attorney explained:

A lot of our younger Crowns come to the North to get training, like, it's the first job they can get. They always know they want to go back home. They do two, three years and then they leave. So that has a huge impact on, you can have a file and there was a trial set and for some reason it doesn't go ahead, but you've met with the victim, you've had all these meetings and whatnot, and then let's say the accused doesn't show up and there's a warrant and it's adjourned. Well, then the Crown leaves the office and then the new Crown comes in. And that's something that victims voice so often, that there's no continuity of, no what you call it, like file ownership. There's no continuity of officers, Crown Witness Coordinators and Crowns.

Court Postponements and Delays

Some cases are postponed a year later. So, they keep coming back to court just to be told, "We're going to postpone."

Postponements appear to be a regular feature of the Circuit Courts. As one worker noted, "A lot of things get adjourned, adjourned, adjourned to the next court, to the next court, to the next court." One community had twenty trials scheduled in two days. "And you're looking at, for victims, now it's been two going on three years before some of these are dealt with. And a lot of the time they're just, they don't want to bother anymore or it's just been too much of a go." Another worker said,

Justice is not fast.... It often takes time, especially with the Itinerant Court.... There was one community that hadn't had court in three or four years because whenever it was time to go there was weather, whatever. So, you know that's hard, too. I mean, if someone comes forward and makes a complaint, does everything they have to do, the person gets released with conditions that are supposed to be until the next court, which would normally be a relatively short time, that goes for years. It's hard to explain to them that it's just.

The fact that "justice is not fast" can have life-altering consequences for victims. One front-line worker told about a sexual assault case involving an 11-year-old girl. "This took place, this hundred percent took place. All the evidence collected shows that even more than what she said in the statement took place. So, it's unquestionable. And she's not at the age of any kind of consent with an adult, like, it doesn't matter. It's not a possibility." The girl, who was in grade six at the

time of the offence, was not prepared to return to school until the case had been dealt with by the courts because of the “gossip and whatever else” she would have to endure. “What that kid needed was enough validation that, ‘You know what, this took place, this adult did this to you.’ ... This is what this kid needs to move forward, that validation that she wasn’t just lying. She wasn’t just making some guy’s life horrible. She wasn’t just bringing down somebody. This took place to her.”

While the case was slowly moving its way through the courts, the girl was struggling to keep up with her school work at home. Meanwhile, “Her friends and cohort are moving forward year by year.” The worker was also worried for the girl’s emotional wellbeing. “I really worry for when this kid is finally put on a stand and what that looks like, sounds like. God Almighty, like, her emotional wellbeing is so fragile. And every time she has just shut down.” The girl was offered counselling, but “her offer of counselling was through the school counsellor.” That meant “a phone conversation in the school administrative office where everybody will hear her business. That seems reasonable? For an 11-year-old? That’s the best you can offer? I don’t know anybody on this planet who would think that that was acceptable anywhere else.”

The case went into its second year. “So, her friends from that year of grade six are in grade eight.” The Supreme Court was going to hear the case. So, “that’s going to be another year, year and a half. So, now we have this child with cohorts who are now going to be in grade nine by that point in time.” The worker speculated on what was likely to happen to the young victim:

Is she going to go back to school to grade six? Been out of school since that point in time and even losing some of those skills that she had, not able to keep up, not with her cohorts at all. What are the chances she ends up a grade six dropout? I’m going to weigh in on this and I think it’s almost a certainty. And then where does that put her? She’s even more vulnerable. What kind of work is she going to get with a grade six education? What kind of future is she going to have in terms of who she ends up partnering up with? Like, all of those factors that I can think for this kid.

Given the situation, the worker believed, “We’ve almost just put her on a course of absolute failure for life, based on the way the justice system is doling out that justice.”

Postponements and court delays can also take their toll on couples. As one worker noted, “Literally, files are taking two, three years to resolve and the main thing is most people have already apologized right away. They’ve gotten over it, they’ve forgiven each other. And yet they have to keep getting re-exposed to the trauma of the initial event going to court together or as witness at trial.” The time lag in the criminal justice process, however, can also contribute to the cycle of violence. As one worker explained: “Just because somebody’s been charged doesn’t mean then that cycle has stopped. That cycle continues. So, it may even, I say, sometimes ramps up in terms of the, ‘I’m sorry’s, I didn’t mean to, I’m going to change, I’ll go to counseling. This is going to make this so much worse if you do this. You follow through in doing this then I’m going to lose my job. There’s a potential we could lose our housing.’” Court postponements and delays enable that cycle to continue. A victim who initially reached out for help will begin to have second thoughts. “And they’re like, ‘You know what, I’m left here holding the bag myself. I have to figure

out a new income source. I don't have the person here, they've provided childcare,' a myriad of different things where they might be, they need immediate assistance. And then as that time passes and there's opportunity for some contact, there's children, there's going to be access to those children, there's going to be other, and it allows for that cycle to unfold again. And then you might have another episode take place of violence." This worker talked about a file they had of three domestic assault cases involving the same couple. "And it's that there's no swift legal action taking place and that cycle just continues."

As another worker noted, the court postponements and delays leave victims feeling further marginalized by the system. "For victims of sexual assault and victims of the domestic violence, I think that can end up being either so much time passes that they just go, 'Well, forget it. No one cares about me and what happened to me because this has taken so long.' So, I think that understandably just that built-in time just creates that."

Preparation of Witnesses

Good preparation has a huge impact on the outcome, usually. So, people don't do very well on the stand if they don't even have a chance to get explanations about what to expect from the Crown, from the defence. And it's very stressful, I'm sure.

Providing witnesses with adequate preparation for their testimony in court was a challenge cited by front-line workers that was exacerbated by the circuit court. As one Crown attorney explained: "I think it's starting to change now but in the past the Crown's office, they wouldn't even send the prosecutor in advance to the community to meet with the victim, even for a jury trial, like, a major sexual assault with intercourse, for example, on a young victim. I've had that on more than one occasion and they won't allow travel for preparation."

Crown Witness Coordinators play an important role in preparing victims for their testimony. As one CWC explained: "We work directly with victims of crime, providing them with information about the court system, doing a bit of support, like, we support them in court physically, emotionally to a small degree. But we are not counsellors and we're not social workers. Well, maybe some of us are but we're not supposed to do that work. We're supposed to just give them information and listen to them and make sure they know what's going on in any case that they're involved in. There's twenty of us in the three territories altogether."

In many instances, contact with a witness ahead of their court appearance by a Crown prosecutor or CWC only happens over the phone, at least in those cases where victims have a phone. "Or they're in a crowded house and they may have a phone but it's the family phone so you can do some talking but you need to talk in a private place and people don't always have private places to talk." In one case, a Crown attorney met with a woman over the phone in preparation for her testimony, but the circumstances were far less than ideal.

The prosecutor told me, "We could hear children just behind her crying" or it was evident that the victim was in her house among her family and she would have to discuss over the phone the sexual assault that she had been victim of. And when we started the trial maybe the week after, it was clear that the victim was not prepared to the challenges of testifying

in court. And I'm not putting the blame on her, of course. I'm blaming the fact that the Crown could not properly interact with their witnesses or their victims in a good context. It's not a good context to have to take care of your kids while you're doing supper and over the phone, you're discussing your sexual assault.

More often than not, witness preparation happens once the court party arrives in the community. A Crown attorney explained:

Because of the way it's set up there's very little chance of meeting with witnesses and victims in advance. You get in on the day of court and you have ten minutes to meet with people and then they have to testify. So, it's really, we try to talk to them on the phone before but it's not the same as meeting someone in person, especially when you're expecting, for example, in an intimate partner violence case to speak in front of the community about an assault, for example, from your spouse. This is a very intimate matter. This is very stressful. And having this type of preparation on the phone is really not ideal. But, that's the way the system is set up, that prosecutors only go to the community on the day of court. And it's the same in all the fly-in communities.

Victims' lack of preparation to give their testimony negatively impacts the outcome of a case. "Most often it led to an acquittal because the victim did not understand the process. She did not understand what was going on and would get frustrated and she would leave. And I saw that myself on a few occasions where the victim said, 'Well, I told you over the phone the other day, why are you asking me questions about that?' And the cross examination, of course, they were not prepared for that. So, it was simply horrible."

Testifying in Court

Inuit culturally tend to be quite quiet, like, you're not there to rock the boat, you're not there to cause a stink, generally.... And so, the idea of going to court and facing your community, a room full of people, and having to face the accused is just horrific to many people.

The court process is an unfamiliar experience for most people. "It's foreign even for people in a southern criminal justice system, never mind this cultural divide. But you walk into a courthouse, there's all these formalities, bowing, the language that we use, rhyming off sections of the Code or referring to the prosecutor as 'my friend,' all of these things." Being cross-examined as a witness is also an "incredibly unpleasant" experience.

It's not like anything else you do in life. It's not the way we talk to one another. And even testifying, it's not the way you normally tell a story. It's not the way you normally interact with people. It's very formal. The Crown prosecutor has to ask questions in a very specific way that don't sound natural. And everybody's from somewhere else and they're coming in and if you're going through a trauma in a way that's really tough.

Testifying in court becomes even more challenging when there are cultural and language barriers. One worker noted that in Inuvialuit, "Inuit people seem to know English well enough that they don't need translators at court." However, the worker also noted, "In terms of the message

and the process and listening, it would still be beneficial if they could have someone to speak to in their own language, despite their strong understanding of English.” The worker pointed to how cultural differences can lead to poor communication, suggesting that “Inuit women are very agreeable if somebody is interviewing them.” They gave the example of an Inuit woman who was being interviewed by a child protection worker. The child protection worker was asking the woman: “You love your children, you want them to be in a stable, sober home, right?” The woman would “lift the eyebrows to say, ‘Yes.’ Just agree to that. So, a very leading question.” The woman was then asked: “So you do agree for them to stay in foster care?” And the woman would “nod and agree.” Afterward, however, the woman was “all upset that she wants her kids back.” So, instead of posing such leading questions, “you need to ask questions in different ways” that are “more open-ended.”

Language barriers are prominent in the other regions. In Nunavik, for instance, everyone is speaking in their second language:

Most of the workers inside the itinerant court are French speaking. And there are very few Inuit that speak French, most often than not their first language will be Inuktitut. And a second language would be English for everyone. So most of the people are working with their second language.” While court translators are available, the language barrier “complicates the course of the work. So, a file that you do in the south will take way more time to do it in the North.... If we say we’re going to do a trial of three hours, that is going to be a trial of six hours with the interpretation.

One front-line worker was aware of the power imbalance that can emerge for Inuit women whose first language is not English.

So, for instance, you have let’s say a young Inuk woman coming to testify at a trial. Everyone in that courtroom is from the South. No one looks like her. And then the judge sitting up on the dais says, “Oh, do you need an interpreter? Would you like an interpreter?” She’s on this stage and often it’s like, “Well, I don’t want to do anything that’s going to interrupt this.” And we have to be so cognizant of already the power imbalance between southerners and Inuit, especially in this context.

Court interpreters will be made available, but the language of the court is not always easy to translate. “It’s often legal terms so you need to do more than just translate the term, you have to translate the idea to make sure the person understands.” As well, misinterpretation can happen when there is translation. One worker offered an example:

I’ll use a police officer as an example and a person trying to press charges. This person hardly speaks English and somebody punched her once, but she says, “He was punching me.” So, right then and there just the plural made a huge difference. ‘Cause it made it more of a bigger situation than it actually was. And then when somebody asked this person in Inuktitut, “So, what happened to you?” And she goes, “He punched me once.” And she said it perfectly in Inuktitut. But when she would say it in English she said multiple times just by the language barrier.

Another worker commented, “I’ve seen some files being dropped because of the missed interpretation.”

Moreover, Inuktitut is not a linear language, which can have an impact on the perceived credibility of a witness who is testifying in court.

Many times, the words are concepts as opposed to just “the word is just the word,” right.... So, even when you have an interpreter and a concept is put to someone, in Inuktitut sometimes there’s still that room for interpretation in terms of what that means and how that applies. So, the language is not linear but yet we still want to sort of put a square peg in a round hole. And then we then turn around and then use that as a system to say, “Well, this person is not reliable,” whether it’s the accused who testifies or it’s a victim.

According to this same worker, the issue becomes even more complicated when traumatic stories are being told.

So, for instance, you have a female victim come to court and explain let’s say a timeline of what happened. And then the system then says, “Well, you’re not reliable. You didn’t tell us in the colonials’ perspective what the first event was and what the last event was.” But we know that’s not always how stories are told. And we know now through a lot of this trauma research that the traumatic event and the trauma brain will not always recall the incident like that.

Even the physical set-up of the court can pose a challenge for victims when giving their testimony. One worker drew a comparison between how the court room is arranged in the NWT compared to Quebec: “In the NWT, the way people are, the judge is facing the audience, the gallery or like the public, the lawyers have their back to the public, just looking at the judge, and we put the witness just beside the judge, facing the public. That’s how court is set up in every single circuit court. And I don’t think that that’s the best way. To be facing the entire community when you’re testifying is probably not the most comfortable position for a witness.” In Quebec, on the other hand, “The courtrooms are set up such that the witness is in-between the lawyers, facing the judge with the public to their back.” This arrangement makes it easier for witnesses because “you don’t see them so you can try to block them out or just be in your focused situation of just having the people who are involved in the proceedings.”

Giving testimony during circuit court in a small community is an especially challenging experience for victims. “If you were at any other courthouse it’s unlikely for the most part that there’s going to be anyone in the gallery watching the trial or the prelim. If you were in a southern courthouse, unless it was a really high-profile case, there’s no one there. Maybe another lawyer will pop in to watch it or a high school class comes in for 20 minutes and then leaves.” However, when circuit court is held in a small community, the court becomes a community event, and “everyone knows everyone. And so, then you get these women that are on full display in front of their entire community having to share some of the most intimate details about either a sexual assault or intimate partner violence or other family violence.” Under these conditions, “in and of itself, just participating is trauma.” As one defence lawyer commented, “I can’t imagine doing that. I can’t

imagine being that woman having to sit there in front of everybody and share this trauma and be dissected about it.”

Exposing victims in court also extends to jury selection. “If you were living in Toronto and you had to go downtown to testify, the chances of anyone on the jury panel knowing you are very low. And, frankly, a juror would probably be excused if they knew you there. Whereas here we have to apply a different test. We can’t have a test, ‘You don’t know each other,’ because no one would ever have a jury trial in their own community. It just wouldn’t work. And so, the balance is people will know each other and they can still sit on the jury.” For victims, this presents yet another challenge as they will likely have to “testify in a room filled with people” that they would “see at the store the next day or who go fishing with another family member of mine.”

A CWC talked about one Circuit Court that heard three files involving different accused who had been charged with sexual assault against a 16-year-old girl. “She was sexually assaulted by a couple of men over a period of time, and then a female.” The worker described going into the courtroom:

I don’t know her ‘cause I don’t do that community usually. So, we were late, but we walk into the community hall and it’s packed and everybody’s quiet, nobody’s talking. And we all roll in. I’m like, “Oh, my God.” I feel like we’re in a theatre now. Because they’re sitting there watching us. And then I have to say to our police officer, “I’m looking for” — and I don’t remember her name. “Oh, that’s her over there.” He points to her. I’m like, “Okay, you didn’t have to do that.” So, now I got to go across the hall where everybody’s staring at me, bring [the victim] out to meet her. Anyways, that was an awful moment, I think. ‘Cause it’s so clear in my mind.

During her testimony, the victim was “so angry. She was swearing at the judge. But then the judge was mad at her.” At the same time, “all the community’s around watching. And they’re laughing when things are being said. And then they clapped when he was found not guilty.”

In some cases, the pressure on the victim to testify in court becomes too overwhelming, to the point where victims do not want to proceed. One worker told about a case where the accused was “one hell of a violent man. And the victim has to testify. She’s the only one there. He’s so good at it, he does it always behind closed door.” The case had been “postponed, postponed, postponed. She doesn’t show up or this and that happens.” When the case was again before the circuit court, the Crown attorney announced that the victim was not in a position to testify because she came to court intoxicated. “So, then the defence says, ‘Okay, well, it’s mistrial.’ It’s been like over and over and over. And the judge was stuck. Because it’s been too many times, because the main witness is not coming. So, case closed, guy released, the charges are like, it just ends there.” Two weeks later, however, the woman was dead. “He killed her.” When that happened, the response of the Crown Attorney was, “I’m going to make all witness victims testify in the future.” The worker responded, “Don’t you realize the reason she wasn’t testifying is because you won’t be able to protect her after? You say you protect her the week you’re there, you leave on Friday. She testifies, she’s not protected by you. Look, she wasn’t protected now. So, you send them to jail, six months later or a year later he’s back. Do you seriously think she thinks you’re there to protect her for her

safety? Like, come on.” According to the worker, the woman’s death was evidence of the limits of the criminal justice system. “This is exactly what you were supposed to learn from this, is that your system is not working, not that you should force them to testify.”

Testimonial Aids

One option for making the experience of testifying in court easier for victims is to close the courtroom to the public. However, “excluding people from the courtroom rarely happens because of the open court principle. And judges are pretty reticent to ever do that.” The open court principle is based on the notion that “justice is not being dispensed behind closed doors so the public cannot access it and ensure that it is fair.” A Crown attorney commented, “I am a very firm believer in the open court principle for all of the safety features that it provides.” At the same time, they were aware of the implications for victims.

I am sure for a victim, very hard to understand, like, “Why do all these people get to be here while I’m telling my story and how is that responsive to my needs as a victim having gone through this traumatic experience?” And I can understand that question and critique from a victim. And while we can explain to them the open court principle, and they can understand it intellectually, understanding something intellectually and reconciling that with the traumatic experience that you have and are about to go through are two very different things.

Closing the courtroom to the public is “usually granted” for a child testifying about a sexual assault. For adults, however, “it’s generally not granted. Not because judges don’t want to.... It’s really a legal limit.” As a CWC noted, “More often than not the judge, if it’s a young person, will grant that request. But when it’s an adult, the judge will be like, ‘This is part of the justice process that it’s a public open courtroom. So, we’re going to have to unfortunately try for the victim to take the stand and see how it goes.’ Then if there’s too many breakdowns or it’s not working out the way it should be then they’ll look into it.” As a consequence, “It’s horrible because you wind up with ... very, very vulnerable women testifying in front of a crowd of the accused’s family who have come out to intimidate them.”

While judges are reluctant to close the courtroom to the public, the *Canadian Victims Bill of Rights* expanded the accessibility of other testimonial aids for victims when it was passed in 2015. According to a Crown attorney, “That has been a huge, huge, huge improvement in my opinion because in the past we were really stuck with, almost only successful for children and very rarely for adults. This has completely changed with the amendments.” They added, however,

There’s a but. I feel sometimes the court is very, very stuck with traditions. They’re resistant to changing anything. So, although these tools are available, sometimes some judges will not grant them, not because the legal test is not met but because it’s not convenient or they’re going to try to convince the parties to do things differently just because it’s more convenient or that’s what has been done in the past. So, I don’t want to put all the judges in the same category because we have some judges who are very, very flexible, and very accommodating, really, but other judges are a bit more resistant.

One testimonial aid is the use of a screen to block the accused from being able to see the witness while giving her testimony. Screens are “almost guaranteed” if you’re a minor. But as one Crown attorney noted, for adults, “it’s an uphill battle for the Crown to be granted those kinds of orders, in my experience.” Part of the reason for that is the resistance from defence lawyers. According to a CWC, “Screens are not always available for adults because we have to argue to the court. ‘Cause the defence will say, ‘No, no, no, we don’t want a screen.’ So, then the Crown has to bring an application and judge is like, ‘Yeah okay.’” Although, as a defence lawyer noted, “Sure, putting a screen up protects her from maybe having to have the accused looking at her. But her whole community is still looking at her.”

In some cases, the use of a screen is “not enough for them. They [witnesses] want the security of sitting in a different room.” That option involves the use of video technology. While Closed Circuit Television (CCTV) is more readily available in the larger centres (Kuujuaq, Iqaluit, Inuvik), more remote communities encounter technological barriers in using video during a circuit court sitting. As one worker commented, “CCTV, Closed Circuit Television, seems to be a problem up here and I don’t know why. ‘Cause I can Facetime anybody. I can Skype people. And the courts can’t seem to figure out how they can do this from a room behind them. They’re just like, it’s a bit of a battle to get that equipment in operation in every small community.” Another front-line worker also described the problems encountered in using video conferencing to hold court:

It’s usually a small screen somewhere in the courtroom and the camera is not pointed at the right direction. There’s only one microphone. If it’s not at a good place we don’t hear quite well. If the translators talk over the witness we cannot hear anything. The sound is horrible. And where there is an objection to a question usually it becomes very noisy and everybody talks at the same time.... It’s like we’re working with candles on our desk. It’s improvised. It’s not efficient. It’s old technology. It’s not adapted.

Another testimonial aid is to have a support person sit with the witness while they are giving their testimony. However, that option can run into legal restrictions. One young woman wanted her mother as a support person while she testified during a sexual assault trial. But the defence lawyer objected as the mother was also going to be a witness at the trial. The young woman’s testimony ended up being a “disaster” because the victim “was just very reluctant and angry. And it came across in her testimony. She was angry at the whole system. Her mom wasn’t there with her. She ended up not having a support person and she was just angry.” The lawyer believed a compromise could have been reached that would not have interfered with the accused’s right to a fair trial. “Couldn’t we just then all acknowledge that the mom sat through the testimony, so any testimony the mom gives we just have to look at it through that lens?” They were also concerned about the long-term impact of that decision on the victim. “If this is her experience do you think she’s going to involve the criminal justice system, God forbid this happened to her again or something happened to her where she needs assistance? We’ve just shown her that she’s the least important person in this process. And I think that’s problematic.”

Like CWCs, Victim Services workers make it clear, “We are not counsellors.” Nonetheless, these workers play a key role in supporting victims through the court process. As one police officer noted, “If they weren’t there, I’m not so sure that the Victims Bill of Rights was being met. And

what I mean by that is was there adequate time spent with the victim, prepping the victim, keeping the victim safe, keeping the victim separate from the offender, offering the victim different ways of testifying?” Victim Services receives “hundreds of referrals” to support victims. Yet, with only four positions in all of Nunavut, they are not able to attend all circuit courts. As one front-line worker commented, “Their plates are full and they just, it’s a resource issue that they only have so much capacity. So, they have to pick and choose kind of where they do get involved. And that’s unfortunate.”

Sentencing

It’s almost like the court is in favour of the criminal.... It’s never in the favour of the victim.

Several of the frontline workers were critical of what they deemed leniency of the courts in sentencing gender-based violence offenders. As one worker said, “I’ve never seen injuries with the frequency and to the degree that I’ve seen here with no jail time. It is shocking.... Women can be held for three or four days in a house naked, choked unconscious several times, repeatedly. And that guy gets no jail time. None.” Another worker talked about how conditional sentence orders that allow an offender to remain in the community are regularly breached. “They always break them. I would almost 99.9% guarantee that they break those conditions every single time and then revictimize and then it escalates.” Women, therefore, “are just giving up of reporting until it gets really bad. Just because it’s the idea of, ‘Well, they’re not going to be able to do anything anyways.’ I’ve heard it multiple times, multiple, multiple, multiple times. Just, ‘Well, why bother? They’re just going to get off or they don’t pay attention to the conditions.’”

One factor that has generated this perception of leniency is the addition of section 718.2 (e) to the sentencing provisions of the *Criminal Code* and its affirmation by the Supreme Court in the *Gladue* decision, which requires judges to take into consideration the circumstances of an Aboriginal offender when determining the sentence. Gladue Reports have become the means by which that requirement is met in many Canadian jurisdictions.

Gladue Reports

While Gladue Reports are produced in Quebec, they are not produced with any regularity in Nunavut or the NWT. In the NWT, for instance, pre-sentence reports will “always include a cultural component, what one may characterize as a Gladue component to an extent. It won’t necessarily provide for the history of the given community or Aboriginal group with whom the offender identifies. But there will be an exploration of the intergenerational effects of residential school, things like this, the status of their parents during their upbringing and what their lives entailed is always canvassed in these pre-sentence reports.” As such, while Gladue Reports may not be ordered, “the person’s status as an Aboriginal offender is always discussed in submissions by a defence counsel, is addressed by the judges in their decision making, and is factored into the Crown’s certainly sentencing positions.”

One police officer believed that the use of Gladue Reports puts the focus too much on the offender to the neglect of the victim.

A Gladue Report, which is obviously very important, we have to acknowledge the things that were done, the wrongdoings that were done before, but at the same time when using that means that a person who has caused severe violence and fear towards the victim will be released sooner, will put the victim in a position where they'll be confronted to that person before they're even ready, that's where we start having problems with that.... I wouldn't go to say that it's a double standard, I wouldn't go that far. But there's obviously a severe consideration for a person who's a suspect, who's detained, who's going through the judicial process, but a lot less consideration for the victim of that same person.

A defence lawyer, however, disputed that understanding, saying that there is "disinformation really about how it goes and the work of the court and even the Gladue thing.... He's not getting away with everything. We're just going to consider his past and how it affected what he became today and what happened and what he did."

Another front-line worker saw Gladue Reports as a benefit to victims: "If I work at making sure these offenders are getting the help they need to never do these things again, I think I'm working more for victims than the system is working for victims as they're just, sending them to jail has never changed anything. They just come back over and over." The worker also clarified the process of constructing a Gladue Report: "I'd like to make it very clear that when we do the Gladue Report, in Nunavik anyway, we include the victim." In a conjugal violence case, for instance,

You do the interview with the partner as a partner, "How is he as a —" And this partner will talk about the strengths that he has and the skills and how he is as a father and how he is as a husband. And the person will also talk about the night of the incident. "He did this." "And what was the impact for you? And are you afraid of him?" That's one of the questions. Or, "If he comes in the community are you feeling safe or are you feeling unsafe?" "Well, I'll feel safe if he does that and this and that." So, she's not against the guy, which is different. And so, it's rarely counterproductive because, in fact, often even the accused will see that the person they've hurt would just like them to get help, and does not necessarily think they're a bad person.

Another worker saw the process of completing the Gladue Report as an opportunity to engage in some healing and to put the victim in contact with supports that they may need. "If there's a victim involved we do reach out to the victim to get their side of it, and to be sure that they're well supported and everything. So, a Gladue Report I feel is very important and crucial within a situation of especially conjugal violence, sexual violence and so on, because it supports both victim and offender and more so a little on the offender but we try and balance it out as much as we can."

One front-line worker believed the application of section 718.2 (e) and the Gladue provisions has become too much of a "mechanical calculation" for the courts.

They are just applying those factors saying, "I need to take that into consideration" without maybe weighting them the right way. Because at some point this is what the Supreme Court said. They are not saying, "Well, just apply that and make a mathematical calculation with that and don't lower the sentence." That's not how it works. It needs to be weighted properly into the sentence to that individual. But I believe it became maybe mechanical

and, at some point, we forgot the weight that victims must have in the sentence process as well. And I believe we were reminded of that lately by the change that there was inside the *Criminal Code* regarding an Aboriginal woman.

The change referred to by this worker was the addition of section 718.201 to the sentencing provisions in the *Criminal Code*, which provided for the additional consideration that in an offence involving the abuse of an intimate partner, the judge “shall consider the increased vulnerability of female persons who are victims, giving particular attention to the circumstances of Aboriginal female victims.”

Some workers believed recognizing gender-based violence as an aggravating factor at sentencing was already being practiced by the Northern courts. As one worker noted, “In the North the courts have always been very mindful even before the amendments of how prevalent intimate partner violence and sexual violence against women was and they already took that into consideration.” Another worker pointed to how “Everything is intertwined, all of the same factors that lead to Indigenous women facing greater incidents of violence in that context, like in the context where you’re living in your community or with other Indigenous people, really lead to the violence on the other side often, too.” As such, “It’s tough to try and figure that out in a sentencing and kind of balance those two factors together.” A Crown attorney believed it was a matter of giving proper weight to both offenders and victims. “We need to give that the proper weight because they are over represented, yes, Inuit accused are overrepresented in prison, but there is also an overrepresentation of the victim in the system, Inuit women are everywhere as a victim. And we need to acknowledge that and weight that properly in a sentence as well.”

As an aggravating factor in sentencing, section 718.201 is seen to encourage judges in imposing lengthier incarceration sentences. As one worker noted, “It’s complicated I think in my view because that’s very focused on the only answer, really, in the *Criminal Code* and in the criminal system is sending people to jail for longer, that’s kind of what’s recognized. It’s serious and so because it’s gender-based violence in this context we’re going to send you to jail for longer. And that’s really the only option that the court system has.” Another worker questioned whether lengthier jail sentences for perpetrators of gender-based violence serve a benefit to women, especially if offenders are not receiving the help they need while incarcerated. “Even if you make it harsher and you send them now to jail, whoever is the perpetrator of an Aboriginal woman, but if there’s nothing in jail, are you really helping Aboriginal women? Seriously? You’re just keeping them away for a little bit. But when they come back they’re often worse or still the same. So, then there’s a new victim, eventually.”

Victim Impact Statements

Under the *Canadian Victims Bill of Rights*, victims have the right to submit a victim impact statement to the court. As a CWC noted, “It’s their only voice. It’s their only opportunity to tell how they feel, of how it affected them. Otherwise, you can’t speak. I always say that to them, you can’t get on the stand and say, ‘Oh, wait, I just wanted to add this one part. Remember how you sexually assaulted me? What that did to me? No. Nobody ever asks that question.’”

Front-line workers indicated that judges do pay attention to the statements. As one noted, “I do think they take it seriously because they read them and they read them out loud if the victim wants it read out loud.” A Crown attorney commented, “Judges will question the Crowns if we don’t have a victim impact statement. They will grant adjournments if no steps were taken to get one, for example. Like, in a case, sometimes the case resolves very quickly, we haven’t had time to contact the victim, they will adjourn the proceedings. And in my experience, judges have been very respectful, taking time to hear victims who want to read out loud their victim impact statements.”

However, one worker explained that victims will often not submit a statement, “Because they don’t want to talk about impact. They want to talk about their emotions. They want to talk about what they would like. And that’s not what the victim impact statement is. It doesn’t give you that voice.” Another worker explained why that reluctance was notably present in cases of conjugal violence. “Generally, no one fills those out. And they don’t feel that they are listened to at all anyway because they didn’t press the charges to begin with and they didn’t want those charges to go through. And they’re very upset that their partner goes away to jail for months anyway.”

One factor that makes a difference for victims, according to one worker, is “when the judge takes the time to explain that decision. Sometimes when there’s been an acquittal and the judge has literally turned and said, ‘It’s not because I didn’t believe you. It’s because the Crown didn’t manage to provide enough evidence to prove beyond reasonable doubt. It is not that I didn’t believe you.’ And that made an *incredible* difference.” Yet, the worker also talked about the impact of a lengthy court process on victims.

Imagine that this is your life. And so first, we’re going to have the first appearance, and then we’re going to have an election, then we’re going to have a plea, and then after the plea then we’ll decide whether it’s going to go to trial or not. Okay, now we finally get to there’s going to be a trial and we’ll set a date court appearance. So, it’s now one, two, three, four different times you’re going to come, four different circuits that where a party’s going to fly up here, before we ever get to there’s going to be a trial, like, when the court party only travels there every eight weeks, whatever it is that’s happening, sometimes longer than that ... And then sometimes you’ll get to the very end of it and even if the person’s pled guilty, they’ll say, “Oh, the time that that person has spent in presentence custody is now accounted for whatever their sentence would have been given.” So, for the victim it just feels like, literally, “What the fuck was that for?” But that’s not a response, right.

The Limits of the Criminal Justice System

There’s only so much that the criminal justice system can do, frankly. We’re extremely limited. And we always will be. There’s not much that we can do.

Front-line workers in Nunavut, Nunavik, and Inuvialuit were acutely aware of the enormity of the problem of gender-based violence against Inuit women. Responding to that issue has very much fallen to the criminal justice system, since cases of physical and sexual assault make up the bulk

of the work they do. Nevertheless, as a Crown attorney notes above, the criminal justice system is inherently limited in its ability to meet the needs of women who are victimized by gender-based violence.

The foundational rules on which the criminal justice system rests — innocent until proven guilty, proof beyond a reasonable doubt, and the right of an accused person to a full answer and defence to the charges against them — marginalize victims of gender-based violence and erect systemic barriers to meeting their needs. Those and other systemic barriers play out during the various stages of the criminal justice process.

Women are often reluctant to report gender-based violence to police, in large part because of their lack of trust in police. That lack of trust has a systemic basis, originating from the history of colonial policing in the regions. But even in present times, police officers are *qallunaat* outsiders not posted in a community long enough to develop and maintain trusting relationships with Inuit. The small size of police detachments coupled with the inexperience of new recruits also poses systemic challenges in investigations of gender-based violence cases. While police are charged with enforcing No Contact Orders designed to protect women from gender-based violence, those orders are viewed as “just pieces of paper” that are regularly breached. They may also not align with a victim’s pressing needs for financial, childcare, food security, housing, and other supports from her partner. Significantly, NCOs do not align with the Inuit tenet of apology and can undermine the conflict resolution and solution-focused efforts of Inuit families.

The itinerant or circuit court system, in both its design and operation, is poorly equipped to meet the needs of Inuit women who have been victimized by gender-based violence. Overloaded court dockets and the pressure to “clean up” files, the impact of court scheduling and staff retention on maintaining continuity of a Crown’s file, the frequency of postponements and delays — all these factors leave victims more marginalized by the criminal justice system. Added to the mix, victims are often not provided with adequate preparation for providing their testimony in court. Often, preparation happens over the phone or only once the court party arrives in the community, during the few minutes before the court is to hear the case. Language and cultural barriers pose added difficulties in giving testimony. While interpretation is available, there is still the potential for mistranslation, and differences in the structure of Inuktitut and the way in which trauma stories are told can lead to a questioning of a victim’s credibility in the eyes of the court. Significantly, a victim is asked to share her trauma and be scrutinized about it during cross-examination in front of a courtroom full of other community members. While closing the courtroom to the public may occur for child witnesses, it is generally not granted for adults given the open court principle. Screens, CCTV, and the presence of a support person may be employed to mitigate the trauma of that experience, but the re-traumatization of victims during the court process is unavoidable. As one worker said, re-traumatization is “definitely going to happen.” The sentencing of gender-based violence offenders has also come under scrutiny in terms of a perception the courts are too lenient. While *Criminal Code* amendments have obliged judges to attend to systemic factors that have heightened the vulnerability of Inuit women to gender-based violence in their sentencing of offenders, some front-line workers question whether lengthier jail sentences will do anything to remedy the problem.

V. FINDING PATHWAYS FORWARD

Researchers have highlighted several needs expressed by victims of gender-based violence who turn to the criminal justice system for help: to have their harm acknowledged, to participate in the process, and to have an opportunity to tell their story. In cases involving domestic violence, women's need for safety is also paramount.⁴³⁶ However, the structure and design of the criminal justice system pose fundamental barriers to meeting these needs.

The foundational rules of the criminal justice system — the presumption of innocence, proof beyond a reasonable doubt, the right to a full answer and defense to the charges — put the emphasis squarely on the accused. Given the punitive consequences (incarceration and stigmatization) that can result from a finding of guilt in this adversarial process, most accused are advised by their lawyers to plead not guilty to the charge. In other words, the system, by its very design, encourages those individuals who commit a criminal offence to not acknowledge or accept responsibility for the harms they have caused.

Moreover, victims have a secondary role in the legal process. At best, they are a witness for the prosecution and may be called upon to testify at trial as to the “legally relevant facts” of the case.⁴³⁷ Rather than an opportunity to tell her story, a woman who testifies at a criminal trial encounters a process whereby her experiences are translated into legal issues to extract those facts of the case that are relevant to the determination of guilt or innocence of the accused. During her testimony, her recounting of the event that led to the charge must be entirely consistent with what she said in her statement to police, and she will be expected to speak in a language that is precise and exact, with times and dates attached.⁴³⁸

In sexual assault cases, the key legal element in establishing the guilt of the accused is the issue of consent: did the complainant consent to the sexual activity that forms the basis of the charge? If there is reasonable doubt about the complainant's assertion of lack of consent, the accused cannot be held criminally responsible.⁴³⁹ Given this legal requirement, complainants in sexual assault cases undergo intensive questioning — first by police officers and the Crown prosecutor to determine if there is a legal basis for a charge and later at the trial by the defence lawyer, who is ethically mandated to vigorously cross-examine Crown witnesses, challenging their credibility and reliability to raise reasonable doubt. As feminist scholars have long-argued, this process opens the way for rape myths to invade the practice of law, as a woman's character and behaviour come under close scrutiny, all within a sexualized context.⁴⁴⁰

Rather than acknowledging the harms of gender-based violence, “the adversarial process of a criminal trial coupled with attacks on the victims' credibility is inherently retraumatizing for women who have already been harmed by an experience of rape, sexual assault, or domestic violence.”⁴⁴¹ While the criminal justice system has been described as a “failed model” and “profoundly deficient” in providing adequate remedies to victims of gender-based violence,⁴⁴² the limitations of the system are even more pronounced in a colonial context.

Criminologists have pointed to the ways in which the criminal justice system operates as an engine of inequality; it does not simply respond to inequality but is part of its production.⁴⁴³ In addition

to reproducing inequalities of gender and class, “the justice system is one means by which colonialism wreaks its destructive force on Indigenous peoples and cultures.”⁴⁴⁴

Over two decades ago, the Royal Commission on Aboriginal Peoples identified colonialism as the primary cause of the over-representation of Indigenous peoples in the criminal justice system.⁴⁴⁵ Systemic and interpersonal racism continue to be present in all aspects of Canada’s justice system, “causing Indigenous people to experience disproportionate and unjustified levels of police contact; a greater likelihood of being denied bail and, thus, more time spent in pre-trial custody; more and longer prison sentences; and more time served before being granted parole.”⁴⁴⁶ Similarly, the Truth and Reconciliation Commission (TRC) noted, “the justice system continues to fail Aboriginal victims of crime.”⁴⁴⁷

With its focus on case-by-case decision making, the criminal justice system is an individualized process in which recognition of the broader social determinants that produce victimization and offending behaviours, including their colonial roots, is minimized. Moreover, communities are placed on the sidelines, with limited input into the process, a feature that is exacerbated in remote communities where access to justice is compromised.⁴⁴⁸ The punishment-oriented nature of the criminal justice system also detracts from its ability to repair the harms created by an infraction.

The *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), to which Canada is a signatory, provides a framework and mechanism to support and improve access to justice for Indigenous peoples. Article 40 of UNDRIP states:

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.⁴⁴⁹

Similarly, the TRC argued,

Any strategy aimed at reducing Aboriginal offending and victimization must also include recognition of the rights of Aboriginal communities to develop their own justice systems as part of a larger commitment to Aboriginal self-determination and self-government.⁴⁵⁰

What both the UNDRIP and the TRC are recommending, in other words, is decolonization.

Decolonization means “unravelling and reversing colonialism and its associated structures, institutions, and discourses.”⁴⁵¹ Harsha Walia describes decolonization as both a process and a goal that requires re-centring Indigenous worldviews.⁴⁵² Syed Hussan notes decolonization is “a dramatic reimagining of relationships with land, people and the state.... It is a practice; it is an unlearning.”⁴⁵³ For instance, a decolonizing practice would “give credit to Indigenous strength,” especially in terms of recognizing that “the cultural knowledges and practices of Indigenous Peoples serve as an important counterweight to Western ways of thinking and behaving.”⁴⁵⁴ The National Inquiry on Missing and Murdered Indigenous Women and Girls explained decolonizing as “a social and political process aimed at resisting and undoing the multi-faceted impacts of

colonization and re-establishing strong contemporary Indigenous Peoples, Nations, and institutions based on traditional values, philosophies, and knowledge systems.”⁴⁵⁵

Recognition of the systemic limits of the criminal justice system for responding to gender-based violence, in combination with the calls to decolonize structures and institutions, provide a basis for thinking about change making strategies to meet the needs of Inuit women victimized by gender-based violence. Inuit women’s needs are multi-faceted. As such, pathways forward will involve change making on several fronts, inside and outside the criminal justice system.

Some of this change making work is already underway. Front-line workers interviewed for this project spoke about specific programs and initiatives intended to repair damage that colonialism has wrought on Inuit communities. Workers also shared their insights on what could be done in the short term to make the criminal justice system more responsive to Inuit women’s needs. As well, decolonizing initiatives undertaken in Australia and New Zealand, countries that share similar colonial histories with Canada, offer lessons that could have relevance for Inuit communities. Just as significant as these sources of information, the Inuit women interviewed for this project voiced strong ideas about what they needed to heal from the trauma of gender-based violence and move forward in their lives. It is imperative their voices are heard.

Drawing on these sources of knowledge provides a basis for mapping potential pathways that could better meet the needs of Inuit women who experience gender-based violence. This discussion is premised on a number of assumptions:

- change-making strategies should be endorsed by Inuit and informed by Inuit ways of knowing and conflict resolution;
- change must be holistic in nature, attentive to the multiple issues that come to bear on the generation and perpetuation of gender-based violence; and
- women’s needs should be at the centre and not the periphery of efforts to address gender-based violence.

Making Change within the Criminal Justice System

I think as a whole system if we slowed down and really dealt with people, took the time to connect and deal with people on a more individual level instead of processing them through like we’re at Walmart or something when we’re doing sentencing.

Front-line workers were aware victims were not being heard during the criminal justice process. As a Crown Witness Coordinator said,

Well, what I’d like to see is us listening to victims. We listen to them but are we actually listening? Like, we’re not doing what they say often. They say they don’t want to go ahead, they don’t want to go ahead.... I wish we could, we being the Crown and the CWC, be sitting with victims and really trying to understand where they come from. Because they want charges dropped for reasons that are very valid. And it’s not usually “Just ‘cause I love him.” It’s usually because they want help, his help, back home.

This worker recognized the importance of adopting a trauma-informed approach. “From what I’ve read, trauma-informed care is really just really listening and connecting.”

Other frontline workers were also mindful of how important it was for workers in all sectors to adopt a trauma-informed approach. As one Nunavik worker commented, “All of the police, all of the health workers, all of the teachers, everyone needs to be trauma informed when it comes to this region of Nunavik or any other Indigenous setting, I would say.”

The participation of victims in the court process was also raised as a matter of concern by several of the front-line workers. More specifically, workers were aware the marginalization of victims was exacerbated by the poor communication they received about the nature of the criminal justice process and inadequate preparation for testifying in court. According to one Crown attorney, “Most of the issues we encounter are the result of a file, it’s horrible to refer to it as a file, but a file from our perspective not being shepherded from the beginning.” If a file was properly managed, with communication with the victim ongoing throughout the process, then women would be better prepared to participate in that process. The attorney mapped out a “best case scenario”:

Victim Services coordinates with the Crown, the Crown coordinates with the police, the Crown Witness Coordinator acts as the organizer and the boots-on-the-ground for everything. Every stage of the way, the victim is kept informed of what’s happening. The victim knows who the Crown assigned to the file is on a regular basis. Hopefully, there’s an assigned person from Victim Services or there’s an assigned CWC. They meet with that person. They know what’s happening. They’re able to develop a relationship. There’s clear communication about expectations for what’s going to happen to court. Is there going to be an application for a CCTV? Is there going to be an application for the screen? Have there been appropriate resources for helping you get to the point of being able to go to court? Are you fully informed?

While better file management “is not going to solve all of the problems,” it would go a long way to ensuring that the victim “doesn’t feel completely excluded by the process.” As the Crown attorney noted, “The person’s interaction with the system is never going to be super positive. It’s never going to be something that they look back at and go, ‘Those were good times.’ But it will be managed in such a way that there isn’t a feeling of helplessness, there isn’t a feeling of powerlessness.”

Other front-line workers spoke to this issue in relation to the need for better coordination of services and the use of a team approach. As one defence lawyer said:

Instead of all of us working in silos, which we seem to be doing right now, I think there’s a real need for all of these organizations to just sit down and go, “Okay, what are you working on? What are you doing?” And so, having a little bit more of an understanding that instead of just sending the victims all over the place, like “Oh, actually we don’t do that, but this person does,” I think we need to have better channels of communication and a team sort of approach to some of this as opposed to just sort of saying, “Oh, no, not my problem.” Because I think there’s a lot of that right now. And I think a big part of it is just resources and time and how much work goes into a number of other things. But I think we

have a long way to go in terms of the actual support of the victims in the criminal justice system. I think we're still really lacking in that, for sure."

A Crown attorney also pointed out, "there is a very limited mechanism for proactive support for victims," defining it as an "organizational flaw" in the system. Victims are entitled to receive support from Victim Services, and police will typically provide women with a pamphlet or a verbal explanation of the service. But then "nothing is done" in the form of direct outreach to the women. Given their social circumstances, "it makes it impossible to imagine that most of these women would be going out of their way to try to contact Victim Services or whatever other resource is available to them and then to proactively be hunting down other resources. Some of them may, but there are women up here who don't have access to phones and who don't have access to the Internet. So, how is anyone anticipating that these women are going to be accessing these resources when it's incumbent on them to access them?"

To address this issue, the attorney proposed the need for "an organization that would provide any complainant with a contact person, not a social worker, not someone who is necessarily going to be your counsellor or anything like that, but someone who will reach out to them and who will try and engage them in a conversation about it. And they may not be willing to do it right away, but this person's role would be to continue trying throughout the process and to try and work with the various organizations that this person is automatically going to have contact with to try and offer them as much support as possible. And that person would preferably be Inuk if the victim is Inuk and bilingual if the person is not comfortable in English." The intention would be to engage with women on a "proactive basis and about the essentials of their life as well as the complaint."

Another Crown attorney offered a similar proposal, suggesting that employing a support person would help in building trust:

I don't believe we can build trust in the few meetings we have over the course of a file. It takes a long time. So, if other intervening persons would build that trust, it will be easier for us after, because that person will say, "Okay, I'm bringing you to her, you can trust her, she's here to help you." So, if someone she trusts would say, "Well, trust her," it will be easier to build on that. But we don't have this first step at the beginning of a file where there is a trust relationship that is built with someone. Either it would be the Victim Support Agent or a social worker working for the court.

According to a service provider, building trust is facilitated by more timely interventions when domestic violence occurs. "I always find especially with family violence and working with women over the years, if we have the ability to get involved right at the crystalizing moment, like, right when it happens, we have a much better ability to get the woman to build this sort of trust and rapport with us and start making changes. And we can also right at that time work with them to develop a safety plan before it gets to the point where they sort of get themselves back into that honeymoon stage."

Practicing trauma-informed care, ensuring files are managed in a way that victims are well-informed of the process, more direct outreach to women, better coordination of services, more timely interventions to respond to women's needs — these recommendations would go a long way

toward improving the criminal justice response to gender-based violence and mitigating some of the barriers encountered in meeting women's needs.

Nevertheless, issues still remain with regard to the way justice is being delivered in the North. As one defence lawyer commented, "I know all of us really, I can safely say, in the Criminal Defence Bar here don't think Circuit Courts are working the way they are right now." Problems with the design and structure of the Circuit Courts prompt the need to consider alternative justice pathways.

Indigenous Sentencing Courts

Even the law is not so precise that it doesn't leave room for imagination and adaptation.

One alternative justice strategy is the Indigenous Sentencing Courts, which were established in Australia with the purpose of changing the relationship between "white (non-Indigenous) justice" and Indigenous people."⁴⁵⁶ Established in Port Adelaide, South Australia in 1999, the Nunga Court was the first Indigenous Sentencing Court in Australia. The Nunga Court emerged from the recognition that Indigenous people "mistrusted the justice system, including the courts, ... had limited input into the judicial process generally and sentencing deliberations specifically, ... and saw the courts as culturally alienating, isolating and unwelcoming to community and family groups."⁴⁵⁷ The aim of the Nunga Court, therefore, was to provide a more culturally appropriate sentencing process than mainstream courts, a process more meaningful for offenders and thus improve on their participation in the court process and break the cycle of reoffending. The Court was also intended "to involve victims and the community as far as possible" and "to ensure that the court process is open and transparent to victims and the community at large."⁴⁵⁸

Since the implementation of the Nunga Court, some 50 Indigenous Sentencing Courts have been developed in the other Australian states and territories (except for Tasmania). The Queensland Murri Courts, the Victoria Koori Courts, and the Western Australia Aboriginal Community Courts follow a model like the Nunga Courts. New South Wales (NSW) and the Australian Capital Territory utilize a Circle Court model that features sentencing circles, while the Northern Territory has adopted a hybrid model that combines the Nunga Court model and circle sentencing.⁴⁵⁹

For a case to be heard in these courts, an offender must be Indigenous, must have entered a guilty plea or have been found guilty in a summary hearing, and consent to having the matter heard in the Indigenous court. Although practices vary between the courts, they share the effort "to hear the views of a particular community in relation to matters such as whether the offender should return to the community, the seriousness of the offence, the offender's character and the nature of the appropriate penalty."⁴⁶⁰ Nevertheless, the courts do not practice Indigenous customary law. Rather, they are using Australian criminal laws and procedures when sentencing Indigenous people. As well, "the magistrate retains the ultimate power in sentencing the offender."⁴⁶¹

The courts, however, differ from the conventional criminal justice system in several important respects. For one, the courtroom setting is different. Indigenous flags, art, and other cultural objects feature prominently in the courts.⁴⁶² Instead of using a traditional courtroom layout (with the magistrate separate from and physically above the rest of the court), all of the participants, including the magistrate, sit at eye level in a circle or at an oval table.⁴⁶³ While the Nunga Court

operates a few days a month in the Magistrate Court, the NSW Circle Sentencing Court is held at a location that is more appropriate for the Indigenous community.⁴⁶⁴

For another, the process is more informal than the traditional court, and encourages dialogue and the use of plain language between the magistrate and the offender.⁴⁶⁵ As well, “considerably more time is taken for each matter than would be the case in a regular court.”⁴⁶⁶ While a standard court proceeding may hear more than 50 matters in a sitting, an Indigenous Sentencing Court may only hear five to ten cases.⁴⁶⁷ Family members and support persons are encouraged to attend and participate in the proceedings, especially in the Circle Courts.

Also significant is the key role played by Elders or Respected Persons. Their role varies by jurisdiction. In the Nunga Court model, Elders or Respected Persons advise the magistrate on an appropriate sentence and “will speak frankly with the offender” about their wrongdoing. “There is often a reliance on their own experiences and on their knowledge of an offender’s upbringing and family, which is expressed through sharing stories about their own lives or the lives of the offender’s parents or carers if they were known to the Elder or Community Representative.”⁴⁶⁸ Elders and Community Representatives have even more involvement in the Circle Court model. In addition to participating in framing the penalty to be imposed, they also encourage offenders (and their partners) to maintain contact with them after the hearing.⁴⁶⁹

In general, the Indigenous Sentencing Courts are considered to have several benefits: they encourage a more open and honest level of communication between the offender and magistrate; they place greater reliance on Indigenous knowledge in the sentencing process that includes informal modes of social control inside and outside the courtroom; and they may fashion more appropriate penalties better suited to the offender’s situation.⁴⁷⁰

Addressing Gender-Based Violence

The Indigenous Sentencing Courts are offender-centred. Despite the aim of the Nunga Court model to increase the participation and support of victims, “In most hearings, victims do not attend and when they do, they often receive little or no support.”⁴⁷¹ The NSW Circle Courts, however, encourage victims to attend and participate in the proceedings.⁴⁷²

As well, the courts are restricted in their consideration of gender-based violence offences. None of the courts deal with sexual violence offences against children. The Victoria Koori Courts exclude offences pertaining to breaches of family violence intervention orders, although domestic violence offences charged as assaults or other violence-related offences are heard by that court. The Northern Territory’s guidelines suggest caution when dealing with family violence matters. The NSW Circle Courts exclude all sexual violence offences. However, there are no such restrictions or warnings in other states and territories.⁴⁷³

Elena Marchetti has done extensive research involving the NSW Circle Courts and the Queensland Murri Courts to determine the extent to which these courts can address victims’ needs and victim safety in cases of intimate partner violence (IPV).⁴⁷⁴ She points to competing concerns expressed in relation to the criminal justice system’s handling of gender-based violence cases. On one hand, feminist scholars and women’s advocates raise the issue of protecting victims from the power

imbalances that can occur during the court process (for instance, by intimidating language or behaviour on the part of the offender or by trivializing the harms experienced by the victim and their resulting needs). On the other hand, those who take an Indigenous standpoint focus their attention on the ongoing and negative impact of colonization and institutional racism on communities, victims, and offenders.⁴⁷⁵

Based on her interviews with magistrates, Elders, family violence support workers, and others involved in the courts, Marchetti found, “gendered power imbalances are often present and are not always addressed in an Indigenous sentencing court hearing.”⁴⁷⁶ Interview participants indicated that neither Elders nor magistrates have the necessary training needed to identify and deal with power imbalances and that there was also limited time during the court process to recognize and understand the dynamics of any power imbalance.

Nevertheless, participants thought the presence of Elders and giving the victim an opportunity to tell their story in a culturally appropriate environment mitigated power imbalances — factors seldom present in normal court processes. In addition, court participants were more likely to view the violence as relational rather than an individualized issue, given the importance of family unity within Australian Indigenous cultures and the recognition that both Indigenous males and females have a shared colonial history of racial oppression. As such, according to Marchetti, “The presence of culturally appropriate authority figures and the focus on harms caused by colonization subjects the offender to a forum that is more meaningful and, therefore, more humbling than a mainstream court hearing.”⁴⁷⁷

Marchetti explored this issue further by interviewing 30 IPV offenders who had gone through the Indigenous sentencing court process. All but one of the participants thought that this process was fairer than a mainstream sentencing court process, “either because of the sentence outcome or because of the manner in which the sentencing process was conducted.” By drawing on elements of the local Indigenous culture, the process “either changed the sentence outcome so that it better reflected the particular needs of an IPV offender or validated the penalty imposed by the magistrate because the sentences imposed had been decided together with, and therefore sanctioned by, the panel of Elders or Community Representatives.”⁴⁷⁸ Significantly, she also found, “there was no indication that the collaborative nature of the Indigenous sentencing court process would be disrupted or put at risk as a result of the complex relational and behavioural issues surrounding IPV offending.”⁴⁷⁹

Potential for Transformative Change

Marchetti and colleague Kathleen Daly have argued Indigenous Sentencing Courts have potential to produce transformative change in the criminal justice system. In most cases, the courts emerged as a result of Indigenous activism. In this respect, the courts “have political aspirations to rebuild and empower Indigenous communities by engendering greater trust and co-operation between Indigenous communities, court staff and Indigenous offenders, and by changing the way justice is achieved in the ‘white’ court system to better reflect Indigenous knowledge and values.”⁴⁸⁰

Given the important role Elders and Community Representatives play in the courts, culture can provide a “hook for change” by “rekindling Indigenous values, and of being reminded of one’s

cultural heritage and identity, which requires respecting not only one's Elders, but also family, kin, and partners."⁴⁸¹ However, the authors caution the courts alone cannot remedy the ongoing impacts of colonialism on Indigenous communities. "Additional forms of intervention and structural change are required. These include increased economic development and capacity building, and better educational and health outcomes, all of which need to be forged in a context of Indigenous self-determination."⁴⁸²

Indigenous sentencing courts in Australia represent an effort to acknowledge and integrate Indigenous ways of knowing and conflict resolution into the criminal justice system. For that reason, they have relevance for the Canadian North and potential for greater recognition and application of Inuit customs and forms of conflict resolution in the operation of the Northern courts. As one Nunavut worker noted, "It's not enough just to know the list of IQs and ISV [Inuit Social Values]. And it's not enough to just put them on the first page of any document. They need to be integrated in everything we do." However, other alternative justice pathways are also possible, one being Restorative Justice.

Restorative Justice

I think that the real answer to a lot of this is to try and build capacity in communities, to start conflict resolution on their own terms.

Given its focus on determining the guilt or innocence of an accused person, the criminal justice system is not well-designed to address harms caused to victims. The criminal trial format leaves little space for victims to tell their story and, as many observers have argued, often re-traumatizes victims. Similarly, the court process does little to encourage offenders to understand consequences of their actions or to empathize with victims. Restorative Justice is an alternative justice pathway that has emerged to remedy these problems with the criminal justice process.

Restorative Justice, however, is a term that has come to refer to a wide variety of practices, and not all appropriately fall under that heading. As Melanie Randall clarifies, "Restorative Justice does not describe just any kind of alternative approach to settling a legal problem or dispute, and it is not a catch-all phrase for every alternative legal approach."⁴⁸³ Similarly, Jennifer Llewelyn notes restorative justice has most commonly been viewed as "an option to divert cases from the criminal justice system and into other processes" but "this limited use of restorative justice as diversion fails to realize its greatest potential" and "leaves intact the current criminal justice system, with its hardboiled logic, as the standard-bearer for justice against which restorative justice appears to be a soft option."⁴⁸⁴ For Llewelyn, restorative justice is "more than just another path to the goals of the current criminal justice system — it is a different way of thinking that offers a new roadmap for justice."⁴⁸⁵

Rather than one fixed model or practice, Llewelyn defines restorative justice as a set of principles used to guide practices, including:

- Relationship-centred: focused on understanding and promoting just interconnections between individuals, groups, and communities;
- Comprehensive and holistic: considering the contexts and causes of harm and its impacts;

- Inclusive and participatory: culturally appropriate and trauma-informed; attentive to the safety and well-being of participants;
- Responsive: contextual, flexible in practice;
- Focused on individual and collective responsibility;
- Collaborative and non-adversarial;
- Forward focused: educative, not punitive; problem-solving, preventative, and proactive.⁴⁸⁶

Kathleen Daly has defined Restorative Justice as a mechanism of justice that falls under the umbrella of what she calls “innovative justice.”⁴⁸⁷ In contrast to conventional justice mechanisms (i.e. standard approaches to criminal prosecution, trial, sentencing, and post-sentence), Restorative Justice is considered more victim-centred and relational since “the view of crime is predicated not so much on transgressions against the state, but on a violation of other people, specifically of relationships between those people on an individual and communal level.”⁴⁸⁸ Unlike court hearings, Restorative Justice practices “are not about fact finding to determine fault and impose sanctions.”⁴⁸⁹ Rather, the focus is more on repairing harms and relationships than on punishment and retribution.⁴⁹⁰ As well, the community is assigned a central role, given the recognition that “the harms inflicted by individual crimes extend to the broader community, and that the crime itself is a product of community conditions.”⁴⁹¹

Restorative Justice typically involves the offender and victim meeting with support people, community members, and trained facilitators. A key prerequisite is acknowledgement by the offender of responsibility for harm suffered by the victim. Restorative Justice mechanisms can be employed at various points in the criminal justice process: pre-trial diversion, pre-sentencing, during time in prison, and after release from prison.⁴⁹²

New Zealand Family Group Conferencing

Like Canada, the criminal justice system in New Zealand has been criticized for its fundamental differences with the views of justice held by Indigenous peoples. Within traditional Māori society, the offender and the victim, together with their whānau (extended family), are inextricably linked. From a Māori perspective, the terms “victim” and “offender” are problematic as they imply an individualized experience. “In Māori society, whakapapa [genealogy] links mean that a transgression (or crime) will affect the whānau of both the ‘victim’ and the ‘perpetrator’ and their wider communities.... In a traditional Māori system, an offender was never regarded as solely to blame for their crimes. Rather the offender’s whānau was deemed equally liable for the offender’s actions, which were held to have aggrieved not just another individual but another whānau.”⁴⁹³ As well, rather than seeking revenge or retribution, “restoration and the need to get on with life and to restore balance are key aims of Māori justice.”⁴⁹⁴

The Family Group Conferencing model was developed in New Zealand in the 1980s. Drawing on the traditional Māori system of justice, the intent was “to widen the circle of supports and protections around family members, based on their cultural traditions.”⁴⁹⁵ While the model was initially designed for youth, court referrals of adults to Restorative Justice conferencing began in 2001. In this model, the family, and not the criminal justice system, is the key decision maker.

The conference “brings together family support networks — parents, children, aunts, uncles, grandparents, neighbors and close family friends — to make important decisions that might otherwise be made by professionals.”⁴⁹⁶ The idea is that “engaging and empowering families to make decisions and plans for their own family members’ well-being leads to better outcomes, less conflict with professionals, more informal support and improved family functioning.”⁴⁹⁷ Ted Wachtel describes the conferencing process:

An independent coordinator facilitates the conference and refrains from offering preconceived ideas of the outcome. The family, after hearing information about the case, is left alone to arrive at their own plan for the future of the child, youth or adult. Professionals evaluate the plan with respect to safety and legal issues and may procure resources to help implement the plan. Professionals and family members monitor the plan’s progress, and often follow-up meetings are held.⁴⁹⁸

Like the New Zealand experience, Canadian Restorative Justice programs have focused on youth. The Department of Justice Directory of Restorative Justice, for instance, features 450 programs; 94% of them serve youth.⁴⁹⁹

Nova Scotia Restorative Justice Program

Nova Scotia implemented one of the earliest and most comprehensive Restorative Justice programs in Canada in the early 2000s. The program was initially designed for youth and expanded in 2016 to include adults after a charge or conviction. In 2019, the program further expanded to include cases in the pre-charge and pre-trial stage.

The Nova Scotia Restorative Justice Program is premised on several goals and objectives:

- Respond to needs of individuals and communities affected by crime: with particular attention to the needs of victims and those harmed by crime (individuals and communities)
- Harm reduction: reduce cycle of harm and injustice, prevent further harms to vulnerable individuals and communities and reduce over-representation of marginalized individuals in the justice system
- Support individual and collective taking of responsibility for harm and public safety
- Increase access to justice: more effective, timely, inclusive, equitable justice system
- Provide responsive justice: human-centred justice processes that consider root causes and seek meaningful outcomes and responses
- Increase public confidence and accountability in the administration of justice
- Build and support healthy, safe and strong communities⁵⁰⁰

Referrals to the program can be made by police, Crown prosecutors, judges, or victim services agencies, with protocols spelled out for each.⁵⁰¹ To be eligible, the referee must freely consent to participate and accept responsibility for the act that they are alleged or found to have committed. And, if a person identifies as Indigenous, “consideration must first be given to referral to the Mi’Kmaq Legal Support Network (MLSN) to assess whether the matter is appropriate for resolution under Customary Law according to policy and procedure.”⁵⁰²

Restorative Justice Regional Teams are responsible for implementing the program. The team members contact all the parties involved to understand the issues, needs, and impacts related to the incident. Team members then design a process to explore what happened, the nature of the harms and impacts, and ways to address them to ensure a just outcome and just relations going forward. The process typically involves one or more sessions with individuals connected to the case, including the offender, victim(s), and those who can support the process.⁵⁰³ In most cases, a formal contract is created that indicates what the offender must do to repair harm caused by their actions. For instance, the contract for a youth might include a variety of obligations: community service work, a formal apology, attending educational programs, or restitution or financial compensation to pay for damages.

While most criminal offences are included in the program, a moratorium was invoked in 2001 and remains in place on using Restorative Justice in cases involving domestic or sexual violence.

Applicability to Gender-Based Violence

Whether Restorative Justice is suitable for responding to gender-based violence has been a controversial issue. Like the Nova Scotia Restorative Justice Program, many jurisdictions explicitly exclude gender-based violence from conferencing schemes.⁵⁰⁴

The concerns and challenges voiced with respect to adopting Restorative Justice practices to respond to gender-based violence have included:

- There is a risk of coercing and re-victimizing the victim, especially in family violence cases where unequal and abusive power relations between partners may be reinforced.⁵⁰⁵
- It is assumed there exists a uniform set of community values that condemns gender-based violence, which may not be the case.⁵⁰⁶
- There may be pressure on the victim to accept an apology from the perpetrator. Many victims in Restorative Justice practices find apologies from the perpetrator to be insincere.⁵⁰⁷
- There is a perception Restorative Justice is “too soft” or lenient a response to a serious issue like gender-based violence.⁵⁰⁸

Drawing on her many years working with and in James Bay Cree communities in Northern Québec, Jane Dickson-Gilmore argues these problems with Restorative Justice take on even larger proportions in remote Indigenous communities.⁵⁰⁹

For one, the concern victims will feel coerced into participating in a Restorative Justice process is heightened in these communities, given the “intense, intimate nature” of community life in which “complex networks of cross-cutting ties and overlapping obligations and connections” prevail.⁵¹⁰ For Indigenous women who encounter intimate partner violence, “Feeling judged for one’s situation and choices is difficult and is made more so in small, intensively ‘face-to-face’ communities where the daily measure of life stress is already high.”⁵¹¹ Fear of this scrutiny may motivate victims to remain silent about abuse, “and it may also be one part of the motivations impelling family members to pressure those living with violence to keep quiet about it.” When

reports are made to police, “families may also press victims to engage in restorative processes in order to keep their abuser out of the courts and in the community.”⁵¹²

Histories of inter-generational trauma, poverty and unemployment, and overcrowded housing are the breeding grounds for gender-based violence, and they also create the conditions for community members to become ambivalent about addressing that violence. As Dickson-Gilmore points out, it is not so much violence has become “normalized” but rather a “normal” part of life in the community. “Knowing something is normal is not acceptance ... but it certainly makes it more difficult for communities to recognize the enemy and engage the fight against it.”⁵¹³

Other researchers, however, have pointed to potential benefits of using Restorative Justice in gender-based violence cases, including:

- It provides a venue for hearing and listening to the voices of women. Participation in the process can be empowering for women.⁵¹⁴
- In acknowledging the responsibility of the offender, the Restorative Justice process bypasses the adversarial nature of the criminal trial and its damaging effects on the victim.⁵¹⁵
- It can potentially change attitudes, viewpoints, and cultural elements that may contribute to gender-based violence, thereby altering the behaviour of perpetrators and strengthening a community-coordinated response.⁵¹⁶
- It has the potential to address domestic violence when the victim and offender want to repair and continue the relationship.⁵¹⁷

Significantly, researchers have found differences between Indigenous and non-Indigenous women on their views of adopting Restorative Justice practices to respond to gender-based violence. Heather Nancarrow found non-Indigenous women in Australia were critical of Restorative Justice practices applied to family violence, believing it “represented leniency for offenders and risks for victims of domestic violence.”⁵¹⁸ Indigenous women, on the other hand, were supportive of Restorative Justice. None of the Indigenous women Nancarrow interviewed preferred the conventional criminal justice system as a response to domestic and family violence. They saw the criminal justice system as “a tool of oppression and facilitator of increased violence against them and their communities.”⁵¹⁹ Rather than a “soft option,” Indigenous women believed “facing community elders and extended family would represent a harsher form of justice for Indigenous men than the criminal justice system.”⁵²⁰ Their acceptance of Restorative Justice was premised on it being “part of a holistic response, based on an assumption of Indigenous self-determination, built from the grassroots up and with control of the process in the hands of respected Indigenous elders, rather than criminal justice system officials.”⁵²¹

Restorative Justice in Indigenous Communities

Joan Pennell and Gale Burford have drawn on the Family Group Conferencing model initiated in New Zealand to develop a restorative approach to domestic violence and child abuse.⁵²² Their model was utilized in three regions of Newfoundland and Labrador in the 1990s. The conference participants included family members and service providers (police, child welfare workers, shelter workers, or teachers). After information about the case was presented and discussed by all

participants, the service providers left the room to enable the family to deliberate and develop a plan. Once invited back into the room, the service providers reviewed the plan to ensure it was comprehensive and included monitoring and evaluation of actions going forward.

An evaluation of the program found that two-thirds (66%) of families who participated in conferencing reported the family was “better off” as a result of the conference; there was increased safety, increased family dialogue, and no more violence after participating in the process. The program, however, is no longer available due to a lack of funding.⁵²³

Mi’kmaw Legal Support Network

The Mi’kmaw Legal Support Network (MLSN), which began operation in 2002, is an umbrella organization tasked with managing and delivering Mi’kmaw justice programs and services in Nova Scotia. The MLSN offers two main programs: the Mi’kmaw Court Worker Program and the Mi’kmaw Customary Law Program.

The Court Worker Program (funded under the national Indigenous Courtwork Program)⁵²⁴ provides support services to Mi’kmaq clients involved in the criminal justice system, “informing them of their charges, rights, options and requirements of the Criminal Courts,” “acting as a resource to aid in the process of seeking legal advice from a lawyer,” and offering other support services specific to the client’s needs.⁵²⁵

The Mi’kmaw Customary Law Program (funded through the national Indigenous Justice Strategy)⁵²⁶ aims to “develop and nurture a meaningful and culturally relevant delivery of culture specific justice to Mi’kmaq/Aboriginal people” and to “empower Mi’kmaq/Aboriginal communities by placing ownership and responsibility of service delivery to Mi’kmaq staff and volunteers.”⁵²⁷ Utilizing customary law, the program “operates on principles of inclusive processes whereby survivors, offenders and families and by extension the community, collaborate for remedies that hold people accountable in a timely manner.”⁵²⁸

Under this program, justice circles, sentencing circles, and healing circles are provided to youth and adults. These circles have different attributes and contexts and generally involve four phases: opening, storytelling, agreement building, and closure.⁵²⁹ In addition to a trained MLSN facilitator and the offender, participants can include victims, family, and community members who are tasked with “understanding the social conditions contributing to crime and developing an action plan to address the crime that is respectful and reflective of the Indigenous heritage of those involved.”⁵³⁰

These circles are based on Mi’kmaw customary law, which is based on principles of “taking responsibility for harmful actions, providing restitution to those harmed and encouraging empathy toward the harmed. Personal transformation is a key and desired response achieved by addressing the underlying causes of offending behaviour, collective facilitation of harm reduction and communal obligations to provide healing and support for the harmed and for the offender.”⁵³¹

Unlike the Nova Scotia Restorative Justice Program, which imposed a moratorium on the referral of cases related to sexual assault or intimate partner violence, the MLSN has conducted justice circles for gender-based violence offences.⁵³² As part of the Nova Scotia Domestic Violence Court program,⁵³³ the MLSN holds two circles for intimate partner violence: a sentencing circle (post-

conviction) and a healing circle (post-sentence). The offender must be willing to acknowledge responsibility and the community must be willing to support the re-integration plan for the offender. If the victim chooses not to participate a representative can attend on their behalf.⁵³⁴

Models for Utilizing Restorative Justice in Cases of Gender-Based Violence

Mindful of the concerns and challenges raised with respect to using Restorative Justice in gender-based violence cases, Australian researcher Bronwyn Naylor has proposed a framework for integrating a Restorative Justice pathway into the criminal justice process to deal with sexual assault cases. The intention is not to divert cases from the formal court process. Rather, “The goal is to achieve a more effective justice than that provided by the adversarial trial.”⁵³⁵

When a sexual assault was reported, the case would be referred to the prosecutor for consideration whether a criminal trial or a non-adversarial pathway involving a Restorative Justice conference would be most suitable. Procedures would be statute-based, with formal procedures and criteria for referral. The trial judge would also have the option of referring the case to a conference. However, the starting point for using the Restorative Justice pathway rests on the victim’s desire to take the alternative and the willingness of the offender to accept responsibility for the harm and process of the alternative pathway.

Key concerns of this process involve balancing the interests of victims and offenders, expectations of the community, and ensuring procedural fairness. Doing so requires:

- participants are fully informed about the options;
- trained facilitators are involved to ensure participants are treated respectfully, and power differentials are managed;
- clear guidelines as to outcomes and accountability of the process itself;
- the victim or offender must be able to decide not to continue with the conference but revert to the formal criminal justice process;
- the conference must incorporate community representation both to express disapproval for the behaviour *and* provide support to both the victim and offender.⁵³⁶

Similar to Naylor’s proposal, other jurisdictions have developed practice guides for developing Restorative Justice programs for cases involving gender-based violence. In Australia, the Victoria State Government has compiled a framework for offering Restorative Justice for victims/survivors of family violence.⁵³⁷ The framework, which incorporates principles, program, and process, emerged from a recommendation of the Victorian Royal Commission into Family Violence that an alternative to traditional justice approaches be provided that would “hold victim survivors at its centre, incorporates strong safeguards, is based on international best practice and is delivered by appropriately skilled and qualified people.”⁵³⁸ Similarly, the Leuven Institute of Criminology in Belgium has produced a practice guide for undertaking Restorative Justice in cases of sexual violence.⁵³⁹

However, as Verona Singer notes, “There is no one-size-fits-all restorative approach for gendered violence.” Instead, “Each model must be based on principles that are developed by the community, reflect the community, and uphold cultural values.”⁵⁴⁰ Similarly, Julie Stubbs argues in working

towards safe and more effective forms of justice for victims of gender-based violence, generic forms of Restorative Justice will not do, as they fail to attend sufficiently to the specific characteristics of gendered violence.⁵⁴¹

Dickson-Gilmore suggests if Restorative Justice is to take hold in Indigenous communities, two practical issues will need to be addressed: providing adequate supports and resources; and resolving the tension between community autonomy and the coercive oversight of community justice processes. Regarding the former, before any restorative effort to tackle intimate partner violence can be possible, “real, workable and sustainable resources and recourses must be in place and functioning.” These supports (shelters, crisis lines, and other resources) must be “creatures of community dialogue” and not “top-down initiatives” in order to be viable.⁵⁴² Regarding the latter, greater community education and understanding of gender-based violence and accountability on the part of the entire community and those who serve it would “go a long way, not only to enhancing safety in communities, but also to upholding and enhancing a core moral authority within the community that can — and must — stand against violence.”⁵⁴³ Dickson-Gilmore, therefore, proposes “restorative justice within reason” in which Restorative Justice processes are assisted and reinforced by court oversight. “Restorative and retributive processes and personnel must work co-operatively, respectfully, and meaningfully together, in a partnership that balances an imperative of restorative accountability and healing with the pressure of consequences for the breach of that imperative.”⁵⁴⁴

Inuit Community Justice Committees

I think really empowering the justice committee, giving them, how could I say, more latitude in their lines of work, really is the solution.

One of the appeals of Restorative Justice as an alternative justice pathway is its compatibility with Inuit cultural values, customs, and forms of conflict resolution and problem solving. In contrast to the individualized and punishment-oriented nature of the Canadian criminal justice system, the form of justice practiced in traditional Inuit culture was holistic, relational, and restorative in nature.

A version of Restorative Justice already exists in the three Inuit Nunangat regions as Community Justice Committees (CJCs). In Nunavik, for example, the CJCs are involved in the Alternative Measures Program, whereby a person accused or on probation will be referred to the committee by the court to undertake an alternative measure. The nature of the alternative measure is determined by the committee in consultation with the offender, and not by the court. As one front-line worker explained:

There’s no real way to do an alternative measure. It depends on the justice committee and the individual that is referred. ‘Cause we as a justice committee don’t want to fail the offender. We want this person to succeed to become healthy, to succeed in life and not go back to court. So, there are different ways. If this individual is able to heal in going out on the land and meeting with an elder, then that’s the alternative measure. If this person did something to an individual, there’s either a mediation amongst them, these two people, or this person will donate something. If it’s a woman, if she can sew she would donate sewing,

like a jacket or mitts. If it's a male, actually male and female pending their comfort, if they like to sew we can let them sew. If they like to go fetch ice for the elders or if they like to go camping and hunting, as long as there's an elder with them or a member of the justice committee, then that's more than welcome. It's the matter of finding the individual's desire and to find a way to get this person to talk and to open up and start healing is the main point of the alternative measure.

However, the justice committees "have very limited access to certain files that they can work on. For alternative measures, it's usually first offenders or very minimal charges that are referred." As such, the committees are not involved in gender-based violence cases.

Some of the front-line workers had reservations about the ability of the CJs to take on gender-based violence cases. One Crown attorney noted the committees were "probably maxed out" with cases they were already handling "without adding the complexity and challenge of sexual assault." A Community Justice Outreach Worker commented, "If we were to add more to their plate, it would become too much, I think. Because just with the referrals that they are given, I think that's already a lot to deal with." Both workers, however, did not discount the possibility. As the Crown attorney stated, "That's not to say it could never happen or it shouldn't happen, but questions of resourcing would play a role in the ability of everyone to go through a more restorative justice approach to sexual offending." The Outreach Worker added, "But if Community Justice was a much bigger division, if there was more manpower, they would be able to, I think. But right now, we're a small division doing lots of stuff already. And to be added on more stuff I think that would overwhelm Community Justice, including the committee members."

As the Community Justice Outreach Worker pointed out, Community Justice is a small division in Nunavut, and expends a small proportion of the Nunavut Department of Justice budget. Policing and Corrections make up the largest portions (42% and 41%, respectively) of the budget, followed by Court Services (12%) and then Community Justice (5%).⁵⁴⁵ Reallocation of monies to the Community Justice Division could reduce financial costs in the other areas. For instance, front-line workers in Nunavik noted the Alternative Measures Program was "shortening the court docket," thereby reducing the workload of the Itinerant Court. Referring cases to the CJs would reduce the reliance on incarceration, which is expensive. In 2015/16, for instance, it cost an average of \$558 per day to incarcerate someone in Nunavut. The average number of people in prison the same year was 136, so the government spent \$75,888 each day or \$27.7 million over the year to incarcerate Nunavummiut.⁵⁴⁶

One of the issues raised by front-line workers was that it is the offender and not the situation that is referred to the Justice Committees by the court. As one worker noted, "The system is offender driven first, not victim driven.... If it was a situation referred to them it would be different." Another worker explained that the criminal justice system operates

... in a very structural way where it's not really looking at the issues on hand of why that individual did such harm or why this person and the victim are always in conflict. They're not getting the support and assistance that requires them to be healthier individuals with each other. So, that's where we see a huge flaw in it, where it's just dealing with the file

and not the situation. ‘Cause I can say firsthand there’s a lot of people that are back and forth to go to court. Their file’s done and dealt with, and then they have another file. It’s always constant repeating in a circle.

To break that circle, the worker saw the need to “find a way to bring forward a culturally-based justice where things are dealt with right away, things are managed in a cultural manner and there’s mediation between the offender, the victim, or even two offenders that have conflict with each other, whatever the case may be, just to have a mediation and to figure out and have a resolution between the incident.”

Enhancing and supporting the mediation and conflict resolution work of CJs would be an important step toward fashioning a more restorative, culturally-based justice to respond to gender-based violence. Change making, however, requires attention to issues not just inside but also outside of the criminal justice system to meet Inuit women’s multi-faceted needs.

Community Capacity Building

You don’t want to impose more systems that are southern ways that don’t work in the first place.... We don’t need to just keep imposing more systems that aren’t helpful.

Making change to address gender-based violence requires the active participation of Inuit in setting and overseeing the course of that change. It requires a community development approach, which involves strategies by which people participate directly or through organizations they control in bottom-up planning and community action.⁵⁴⁷ Community development is “the continuous process of capacity-building: building upon and strengthening local resources to generate well-being among community members.”⁵⁴⁸

A community development approach aligns with decolonization. It recognizes the strengths of a community and values Indigenous knowledge and practices, including the contributions of community elders. As one front-line worker noted, “There is a large group of traditional Inuit people out there ... providing a lot of support. And they’re doing it unofficially under the radar at their kitchen table over a cup of tea. There’s a lot of them, a lot of helpers out there.” Another worker saw elders as the “little gems that are a wealth of support and kindness. And they offer very sound advice, and it’s around IQ principles, because they’ve lived it.” As such, elders and cultural helpers would occupy a central place in community development and capacity building.

Engaging in community capacity building requires access to resources. Front-line workers were acutely aware of the lack of resources available in Inuit communities to foster community development. As one worker commented, the resource shortfall “is in every sector everywhere in the North.” The most pressing resource issue flagged by the workers was housing. As one worker noted, “Housing is a huge issue in the North, of a shortage of places to live that really puts women in vulnerable situations.” Another worker agreed: “Housing is by far the biggest challenge, I think. When we look at family violence, unless we correct the housing situation that is happening up in the territory, we will not ever be able to adequately have this problem taken care of.... I mean, if a woman has no place to go then she’s going to go back to the relationship.”

In addition to housing, workers were aware of the need for safe spaces in the community where women could escape from gender-based violence. In many cases, Inuit women have to leave their community to seek shelter from the violence. As one worker said:

What do you do because there is no safe space? You have to leave your community and fly out and you uproot yourself and your kids. And many Inuit women have never left their community and everybody, their family is there. That's what they're comfortable with, that's their life, that's what they know. And then we move them to a shelter and then they, even situations where they were moved to Ottawa because shelters here were full. So, is there a surprise that they after a week say, "I want to go home." Because first of all there could be language barriers, many are not comfortable or confident speaking English. The culture is different. And then you don't have your social supports, you're completely among strangers. And then you have your children with you, which is great, but they're going through the same change and the same adjustments.

Another worker suggested the need for "one-stop-shop types of drop-in centres in the communities," where women could walk in and access a variety of resources. "A lot of people, they don't have cellphones, they don't have cable TV, I mean, they're living in quite dire straits and poverty and for some of them it's just not part of their culture. They've never had it, they don't want it, they don't know anything about it, whatever." As such, this worker suggested, "We need to go more old school and provide places where people could walk into and speak to someone face-to-face and get support for whatever their issue is, whether it's intimate partner violence or perhaps their spouse, they're just want some help with their drinking. Maybe they've got an aging parent that they're having a hard time caring for, whatever their issue is that they could walk in there, speak to somebody, and get some support."

One recent development in Nunavut is the creation of Community Coordinators for Women's Safety positions in each of the four jurisdictions (Kitikmeot, Kivalliq, North Baffin and South Baffin). Their purpose is to work closely with the communities, "bringing together community resources and partners" to develop better ways to support and address women's safety in the community. These positions offer the means to better coordinate the resources that are available, increase women's awareness of those resources, and advocate on behalf of Inuit women where resources are lacking.

Front-line workers also talked about the importance of providing "resources that make sense." Some of those resources are pragmatic in nature. For instance, one worker noted, "Often the best healing is out on the land" but individuals and families may encounter barriers, such as access to snowmobiles or money for gas and supplies. So, for this worker, "If that is the biggest healing place, that is where it happens the most, then what supports need to be in place for that to be occurring more?" Another worker noted that, unlike the abundance of coffee shops, malls, and libraries in the larger centres in the South where people can congregate outside of their homes, there were few such places in Inuit communities. "There's no place to gather, to get away. And so sometimes I think having that kind of a space where maybe you don't need to ask the person to leave the home, they just kind of know themselves, 'Okay I'm getting really kind of amped up. I need to leave. I need a break. And I have a place I can go. I can go sit and have a coffee.'"

Many Inuit women are under pressure to stay in an abusive relationship because they depend on their partners to meet basic needs, putting food on the table and helping with childcare. One front-line worker saw the need for “some type of an emergency financial program that could be available to victims during a time of crisis.” Such a program would at least “support them in their biggest time of need” and enable women to leave the relationship. However, more long-term strategies are needed to support women and enhance their economic security. To that end, this same worker identified the importance of providing “more childcare centres where young moms can drop their kids off to a safe place and they can attend some sort of adult learning or employee assistance, planned parenthood program. And that could include learning more Inuit child rearing traditions as well as preparing them maybe with some more skills on how they could find employment.”

While resources should be made more available and accessible, front-line workers were aware of the costs incurred in the provision of resources in the North. As one worker commented, “I think it needs to be recognized the level of resourcing if you are funding in different parts of Canada, if you’re funding services, it’s not the same cost here. It is unbelievably expensive. Just think about building a space for the shelter or a space for the services or additional homes so that people have an appropriate space to raise their children. The expense of the investment is huge. And I don’t think that’s been recognized here.” One pathway for accommodating community capacity building and access to resources is justice reinvestment.

Justice Reinvestment

If I was the person who was holding the money and deciding where the money should go to try to prevent gender-based violence, I wouldn’t put the money on the justice system. I would put the money on education and housing.... Health, mental health, trauma, and counselling, these are all things that I would put money on before putting money on the criminal justice system.

The criminal justice system is an expensive venture. In 2018/2019, operating expenditures for the Canadian adult correctional system alone totaled over \$5 billion. On average, it cost \$116,070 to keep an adult offender in federal custody and \$94,535 in provincial/territorial custody that year.⁵⁴⁹ At the same time, sufficient and stable funding is a key issue for many alternative justice programs. While the federal government’s Indigenous Justice Strategy funds some 197 community-based programs that serve over 650 communities,⁵⁵⁰ Gabe Boothroyd notes many of these programs “have experienced significant funding uncertainty, with commitments sometimes not made until a month before the program’s current funding would expire.”⁵⁵¹ Patricia Hughes and Mary-Jane Mossman have also noted that Restorative Justice programs “require significant resources if they are to be effective, particularly as an alternative approach to justice.”⁵⁵² One strategy for responding to this disconnect between the inordinate costs of incarceration and the under-resourcing of community-based alternatives is Justice Reinvestment.

Justice Reinvestment is an approach initially developed in the United States by the Open Society Institute.⁵⁵³ It emerged in response to both the heightened levels of imprisonment in the U.S. and the realization that incarceration was an expensive undertaking and not working as a response to crime, but was actually exacerbating public insecurity and damaging already fractured

communities. Imprisonment numbers in the U.S had risen from 200,000 in 1972 to over 2 million in the early 2000s. Two-thirds of those incarcerated ended up back in prison, most of whom were not committing new offences but had breached their parole conditions (e.g., missed appointments, curfew violations). In the early 2000s, prisons were costing the U.S. government \$54 billion each year. Economically and racially marginalized people were over-represented in the U.S. prison population, and their communities were being “weakened by their absence and burdened by their return.”⁵⁵⁴

The Open Society Institute maintained since the key mission statement of the correctional system was “to ensure the safety and protection of the public,” the focus of the system should be on strengthening communities to ensure public safety.⁵⁵⁵ The goal of Justice Reinvestment, therefore, was to redirect some portion of the money being spent on prisons “to rebuilding the human resources and physical infrastructure — the schools, healthcare facilities, parks, and public spaces — of neighborhoods devastated by high levels of incarceration.”⁵⁵⁶ A key component of Justice Reinvestment was to shift accountability and responsibility to the local level: “Justice reinvestment seeks community level solutions to community level problems.”⁵⁵⁷

One early example of Justice Reinvestment occurred in Oregon in the late 1990s. Legislation was passed to allow Deschutes County to divert criminal justice money to provide community-based supervision to youth who would otherwise be destined to state institutions (at a cost of \$50,000 per year per youth). The diverted funds enabled the county to create neighbourhood improvement projects to supervise the youth and to invest surplus funds in prevention programs. “Within one year, the community service program reduced youth incarceration in state facilities by 72 percent.”⁵⁵⁸

Justice Reinvestment has taken hold in other countries. In Australia, Justice Reinvestment projects have been implemented to address the over-incarceration of the Aboriginal and Torres Strait Islander population.

The Maranguka Justice Reinvestment Project

Bourke is a remote town located 800 km northwest of Sydney, New South Wales (NSW). Of the 2,465 people living in Bourke, 31% identify as Aboriginal and Torres Strait Islander. The Maranguka Justice Reinvestment Project emerged in 2016 out of a concern for high levels of social disadvantage experienced by Indigenous families in the community and rising levels of crime. In addition to high rates of long-term unemployment and low levels of education, the town had the highest rate of youth convictions in NSW.

Maranguka, meaning “caring for others” in the Ngemba language, “is a model of Indigenous self-governance which empowers community to coordinate the right mix and timing of services through an Aboriginal community owned and led, multidisciplinary team working in partnership with relevant government and non-government agencies.” Community-led teams work in partnership with existing service providers, and the community identifies strategies for reducing offending behaviours and making the community safer. A community profile consisting of data relating to justice and social and economic indicators was used to identify focus areas to reduce Indigenous youth’s contact with the justice system. Initiatives undertaken have included “circuit

breakers” to address breaches of bail conditions, outstanding warrants, and the need for a learner driver program for youth in the community.

An impact assessment conducted in 2018 found several improvements as a result of the project, including: a 23% reduction in police-recorded incidents of domestic violence; a 38% reduction in youth offence charges in the top five categories; and a 42% reduction in days spent in adult custody. The economic impact of these improvements was estimated to be \$3.1 million in 2017 alone.⁵⁵⁹

The Australian Law Reform Commission (ALRC) featured Justice Reinvestment in its report, *Pathways to Justice: An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Island Peoples*. Like the Canadian experience, Indigenous people are over-represented in the Australian criminal justice system. Although Aboriginal and Torres Strait Islander adults make up 2% of the national population, they constitute 27% of the national prison population. In 2016, Aboriginal and Torres Strait Islander people were 12.5 times more likely to be in prison than non-Indigenous people. The disparity was even more severe for women: Aboriginal and Torres Strait Islander women were 21.2 times more likely to be in prison than non-Indigenous women.⁵⁶⁰

The ALRC noted, “Incarceration is expensive.” In Australia, the annual cost per prisoner of providing correctional services in 2015/16 was \$103,295. The total justice system costs of Aboriginal and Torres Strait Islander incarceration in 2016 were estimated to be \$3.9 billion. When other economic costs (costs to victims, loss of productivity, etc.) are included that figure rises to \$7.9 billion.⁵⁶¹

According to the ALRC, Justice Reinvestment has the benefit of shifting away from the mindset that imprisonment is the only option. Instead, imprisonment becomes a last resort. Rather than dealing with problems “downstream” (policing, prisons), the focus is on tackling them “upstream” (family breakdown, poverty, mental health issues, drug and alcohol dependency). In this respect, Justice Reinvestment calls for reforms and alternatives *outside* the criminal justice system.

Justice Reinvestment is primarily place-based; “it involves working with a community to design localized solutions to identified local drivers of contact with the criminal justice system.”⁵⁶² In that respect, Justice Reinvestment aligns closely with a community development approach by “first, working in partnership with communities, rather than imposing justice reinvestment plans on them, and second, devising tailored strategies to address the particular drivers of incarceration in a community.”⁵⁶³ Government has a role to play in this process: “While community ownership of an initiative is important, success relies also on governmental willingness to support the implementation of justice reinvestment in identified sites. This support would include participation in working groups or steering committees for local sites, facilitating access to data, and resourcing reinvestment strategies.”⁵⁶⁴

Justice Reinvestment has special relevance for Indigenous communities impacted by colonialism. As Jill Guthrie and her colleagues note, “Within this approach, there is potential in an Indigenous context to realise principles of Indigenous self-determination and for application of Indigenous culture, authority and knowledge.”⁵⁶⁵ Indigenous people are empowered to lead local responses to crime, and government and service providers are required to work quite differently with

Indigenous communities, “in a way that places Indigenous people firmly at the centre of the design and implementation of Justice Reinvestment initiatives.”⁵⁶⁶

Trauma and Healing

I really think it’s time for Inuit to start healing. And I wish we had a healing centre. Because I find if there’s an Inuk who needs to see a mental health worker, the culture difference is very different. And I think if we had a healing centre operated by elders or somebody who knows our culture, I really think people would want to heal.

Colonial practices such as residential schools and relocation to permanent settlements generated inordinate trauma in the lives of Inuit, disrupting their way of life and restructuring relationships between Inuit men and women, and between parents and children, with a legacy of intergenerational suffering, injury, and other destructive impacts. That colonial trauma continues to be generated: it is both a primary cause and principle outcome of gender-based violence.

Making change therefore requires addressing the trauma colonialism engenders. As one worker said, meaningful change in the lives of Inuit will not happen “until we resolve trauma or help people be aware of multigenerational trauma, why their lives are the way they are, why their parents’ lives were the way they were and how it affected them, until that’s all, an awareness of that and resources for that and people knowing they can get the help they need when they’re ready.” The criminal justice system, however, is not a space for healing. As one front-line worker maintained,

We need not sell the justice system as a healing tool. It was never meant to deliver healing. And you will not feel a sense of healing or relief. I think that’s a misconception or a belief that it’s almost like, “Well, if you go through this process by the time you come out the other end you’re going to feel like —” You’re not going to feel healing. You’re not, no matter what the sentence is. I have, I think, never heard a client say, “Well, now I’m healed now. Now this is good. I can go on from here, now knowing this.” It’s not a reality.

Healing Circles

One pathway for addressing the trauma caused by gender-based violence is healing circles. The Hollow Water First Nation experience stands as an important example of the potential of healing circles.

The Hollow Water Holistic Circle Healing Program is a form of community-based justice started as a grassroots effort by the community “as opposed to a ‘parachute program’ developed externally by outside elites.”⁵⁶⁷ The program emerged in the early 1980s out of a recognition of the extent of sexual violence occurring in the Hollow Water First Nation, a community of fewer than 1,000 residents located in Manitoba on the east shore of Lake Winnipeg. It was speculated a majority of the community members had been victimized by sexual abuse, and many residents (including family members) had been victimizers. Skeptical of the criminal justice system’s ability to stop the cycle of abuse (abusers who were penalized came back to the community and abused again), social service providers initially came together to discuss a pathway forward, and their meetings soon extended to include elders, chiefs, and other community members.

Through these meetings, an approach was developed that drew heavily on traditional Indigenous ways of healing. Hollow Water is an Anishinaabe First Nation, and the approach adopted Anishinaabe traditions and teachings. Rupert Ross explains:

At Hollow Water they use a great many traditional processes and Teachings, including the talking feather in group discussions, the four directions of the medicine wheel, the mind-body-emotion-spirit dimensions of human beings, and ceremonies like the sweat lodge or vision quests. They also show allegiance to traditional teachings by insisting on healing instead of punishment, and on the engagement of everyone touched by a particular act, whether victim, offender, family member or close friend. They see their work as community building, and they engage as much of the community as they can. Following notions of embeddedness, they know that a single act touches — and can affect — a wide circle of people, and all of their relationships. A solid healing process must also do the same.⁵⁶⁸

The healing process they adopted involves a series of steps taken following a disclosure of sexual assault:

- establish safety for the victim;
- confront the victimizer;
- support the partner or parent of the victimizer;
- support the families that are affected;
- a meeting between the assessment team and the police;
- circles with the victimizer;
- circles with the victim and victimizer;
- prepare the victim's family for the sentencing circle;
- prepare the victimizers family for the sentencing circle;
- a special gathering for the sentencing circle;
- a sentencing review;
- a cleansing ceremony⁵⁶⁹

The circle, according to traditional Anishinaabe culture, is a “sacred place where everyone is equal.”⁵⁷⁰ Only victimizers who take responsibility and admit to their actions are accepted into the program. By participating in the circle, they are able to learn about being honest about themselves, their abuse, and the impact on their victims and their broader kin network.⁵⁷¹ Team members, who have their own histories of abuse and victimization, “confront abusers and coax them from the anger, denial, guilt, fear, self-loathing and hurt that surround sexual assault and must be faced.”⁵⁷² Victims are also helped in their healing process in a group setting, by assuring them the abuse was not their fault and emphasizing that it took considerable courage to come forward and break the silence. The process is a lengthy one, oftentimes taking three to five years to reach reconciliation between the victimizer, the victim, the family, and the wider community.

As Ross notes, one of the significant features of the Hollow Water program is that service providers in the community — who were often working in silos and at cross purposes — came together to create a healing team to share information and design a common training program focused on the

impacts that colonization, particularly residential schools, was having on the community. The result was training and processes “with special emphasis on holistic family and community healing.”⁵⁷³

Various Australian task forces and inquiries have recommended similar models and processes be considered for implementation in that country.⁵⁷⁴ Nevertheless, adopting such a model needs to be attentive to the social, cultural, political, and spiritual contexts of Indigenous communities. As well, sufficient funding, and staffing and community support are also essential to the program’s success.⁵⁷⁵

Healing circles have been conducted in some Nunavik communities. According to a front-line worker, one of the benefits of healing circles, especially in comparison with criminal justice referrals to Community Justice Committees, is their focus is more firmly placed on the situation rather than an offender, which makes sense given that “it’s rare that we have a situation where it’s 100 percent responsibility of one person.” As well, the holistic nature of a healing circle offers the potential to “reflect a meeting of all these people and being separately cared for and then eventually brought together to discuss what happened and the source of it.” In the process, everyone can be helped, “because we know it’s not just the victim. The offender, the parents who feel bad of what their son did, everyone needs something.” Healing circles can therefore be “part of the solution” because “at the same time, we’re giving power to these people around the table, not just the community but also the people around the table, to work things out when something else happens and to start talking more and not to stay in silence. Because the silence kills.”

Helping Men

Helping offenders is helping victims.

Front-line workers saw the benefit of developing ways to support men so they desist from engaging in gender-based violence. As one worker said, “I think men need support, too. I think there’s a lot of men, they don’t know what to do, they don’t feel worthy. I don’t know if they’ve lost their land skills or the language, and they feel inferior. And so often they take it out on their partner. I think it becomes this cycle of just poor self-esteem, feeling unworthy, and then it just comes out in anger and you get addictions.” Workers also pointed out that helping men is a way to ensure women’s safety. “Even the victims say, ‘I don’t think jail is the most helpful thing for him. The only way I’d feel safe is if he gets help. That’s what’s going to make me feel safe.’”

One pathway for helping Inuit men is on-the-land programs. As one worker said, “We need to be having more on-the-land programs, especially for men in the community.” *Saqijjuq* is one example. A front-line worker explained the program:

The easiest way to put it is a change in the way things are being done. So, we’re taking the power and putting it back in the hands of the people in the communities to find solutions or find different things that the community feel will help. We don’t say this program from the south works great down there so we’re going to bring it up. It’s pretty much all run by community members themselves.

Originally established as a pilot project in two Nunavik communities, Puvirnituq and Kangirsujuaq, a team of educators engages community members in cultural activities. “The men really do a lot of fishing, hunting, sealing, beluga hunting. They’ve done clean-ups on the shoreline, looking after dogs, and they’re teaching either youth or they’re having other people from the community join them in teaching and sharing.” During the times when participants are engaged in these activities with the educators and elders, “they tend to open up to them. So, it’s almost like a different kind of small group workshop.” The participants “know that they can trust them to speak with them.”

During the interviews with the Inuit women, one woman referred to the project: “I like that program, *Saqijuq*, because it’s giving that support to men that want to change.” However, she also believed that more needs to be done for men who engaged in gender-based violence. “They have to create a men’s shelter where you remove the abuser and leave the mother and the children at home.” Once the men are removed from the home, they would be supported. “Just because you’re the abuser, you don’t be shoved aside. You have some problems, you have issues. So, let’s start working on them before you go back home, if you are going to go back home.”

What the Women Say They Need

During the interviews, front-line workers focused their attention on the criminal justice response to gender-based violence and what could be done to better address women’s needs. However, Inuit women who were interviewed were much more focused on what they needed to heal from their trauma experiences and move forward in their lives. Their responses were straightforward:

Someone to talk with. Sometimes we are so afraid to talk, maybe ashamed, and we start thinking way more then.

I wish there was a helper, someone we can visit to talk, someone who asks like you do. I think we would talk more if there was a worker like yourself [the Inuk interviewer].

Some place where we can walk in, without appointment, without any reason. There is no one to go to who I can trust. Someone who is trustable. Someone we can go to without that person writing up all our discussion in a report.

I am worried about the younger generation today. They do not seem to have anyone to go to, just to talk without judgement. I wish someone would visit the communities to be available to listen. And same person each time.

If I could heal with other Inuit women, on a women’s daily basis, and not be afraid of a man being in that group and I would have to limit what I say because of a man, my God, that would probably make a difference.

Repeatedly, the women said that what they really needed was someone they could talk to, someone they could trust, someone they could rely on to be there over a period of time to support them in their healing. Too often, however, the waitlists are long and there is a constant turnover of counsellors and other support workers. One woman explained what that means for women who are seeking help:

You go, you open a file, and two months later that person quits. So, you got to start all over again. And then four months or six months later that other person leaves. And then you got to start all over again. So, it's like you never ever get to the end of what you've started. It's just a cycle that you keep going around and around and you're going nowhere and nowhere to the point where you say, "Just fuck off and leave me alone. I'll learn to deal with this on my own. Because I know in two months you won't be here. I would have opened up so damn much. I would have opened up my can of worms and then you're gone, shut my case, and I got to open up all over again." Where's the healing in that? There's no healing. There's nothing getting done. There's too much turnover, turnover, turnover. So, I've learned not to ask for help.

This Inuk woman is right. There is no healing in that. Inuit women should not be left to heal from the trauma of gender-based violence all on their own. They deserve access to a trustworthy and reliable person they can turn to for support.

Shifting the Focus

Colonialism has created considerable upheaval in the lives of Inuit. The relocation to permanent settlements, the disruption of the land-based economy, the exposure to illness and disease, the residential school system, the imposition of a foreign system of justice — these colonial practices are responsible for generating trauma for Inuit; individuals, families, and communities. One significant manifestation of that trauma is gender-based violence against Inuit women.

The criminal justice system has been called upon to respond to gender-based violence. However, interviews with Inuit women and front-line workers in Nunavut, Inuvialuit, and Nunavik have revealed deep fault lines in that response, not the least of which is the system, by its very design and structure, places victims on the margins.

Front-line workers offered suggestions for change within the criminal justice system to make it more responsive to meeting Inuit women's needs. However, it is evident significant changes are required beyond the criminal justice system, changes that would attend to the root causes of gender-based violence (such as, economic insecurity and inadequate housing), reinvigorate Inuit methods of conflict resolution and problem solving, and enable Inuit to heal from the trauma colonialism continues to generate. In other words, a dramatic shift in focus is required, one that de-centres the criminal justice system as a primary site for responding to gender-based violence and instead directs efforts and resources to change making strategies in support of Inuit community development and capacity building.

The limits of the criminal justice system in meeting the needs of victims of gender-based violence have been widely acknowledged in other jurisdictions. In response, several alternative justice pathways have been put forward. Those alternative pathways have been attentive to the colonial context in which gender-based violence occurs, and the imperative of engaging in decolonizing processes that would re-centre Indigenous knowledges and practices and repair the harms that colonialism generates in Indigenous communities. Indigenous Sentencing Courts, Restorative Justice, Justice Reinvestment, and Healing Circles are four such pathways. Each one offers unique benefits in terms of re-envisioning what justice could look like: a more victim-centred justice,

attentive to the social context and conditions in which gender-based violence occurs, acknowledges the role and importance of community in addressing and repairing harms, and promotes the healing of victims, perpetrators, and their communities. Nevertheless, there is no generic or “one-size-fits-all” strategy that would apply to all Indigenous communities. The most germane paths forward *must* be determined by the Inuit regions and communities in which they are to be implemented, with meaningful input from the Inuit women who are being harmed by gender-based violence.

APPENDIX: METHODOLOGY

This research was informed by a primary question: How can the criminal justice system be made more responsive to meeting the needs of Inuit women who experience gender-based violence? In addition to an extensive literature review, an environmental scan, and exploration of alternative justice strategies, qualitative interviews were conducted with two groups: Inuit women who had lived experience of gender-based violence; and individuals working on or close to the front lines of the criminal justice system.

Project Advisory Committee

To support the research, a Project Advisory Committee was formed, consisting of representatives from Inuit Regions. The Committee was tasked with providing guidance in selecting the communities to be included in the study where the interviews with the women would take place, vetting the interview schedules, and assisting in the identification of front-line workers to be invited to participate in the study. The Committee was also asked to provide feedback on various documents produced for the study, including: the literature review; the environmental scan; alternative justice strategies; an outline of the final report; and a draft of the final report.

Ethics Certificate and Research Licenses

Ethics approval for the project was granted from the Aurora College Research Ethics Committee and the Psychology/Sociology Research Ethics Board at University of Manitoba. To conduct research with Inuit or in Inuit Nunangat, research projects are also required to undergo a research vetting process. The process differs in each region. In the Inuvialuit Settlement Region, a research license for the study was granted by the Aurora Research Institute. In Nunavut, a research license was granted from the Nunavut Research Institute. In Nunavik, there is no formal approval process for conducting research in the region.

An application was also submitted to the Nunatsiavut Government Research Advisory Committee. However, given that the COVID-19 pandemic was ongoing at the time, staff in the Department of Health and Social Development were focused on the key priority areas of community wellness, consistent programming delivery, and pandemic response, and therefore were not in a position to devote their time to advising on the application. Since Nunatsiavut declined to participate, the project is focused on three of the four regions of Inuit Nunangat.

Data Collection

Qualitative interviews were conducted with two groups: 1. Inuit women with lived experience of gender-based violence; and 2. Individuals working on or close to the front lines of the criminal justice system. Semi-structured interview guides were developed for each of these groups and were designed to provide participants with ample opportunity to share their standpoints and experiences. This approach aligns well with Indigenous methodologies, enabling participants the space to tell their stories as they understand them.⁵⁷⁶

1. Interviews with Inuit Women

The Interviewers:

Three Inuit women from each of the regions were employed to conduct interviews with Inuit women. Prior to conducting interviews, the Project Manager and Researcher held an orientation session (via Zoom) with each of the Interviewers. Interviewers were provided with two documents ahead of the meeting: one discussed the nature of qualitative interviews (including the importance of active listening and adopting a strengths-based approach) and the other focused on the use of a trauma-informed approach in conducting the interviews. Interviewers were also provided with copies of the research materials, including: the Recruitment Poster, the Public Service Announcement, the script for prospective participants, the Receipt of Honourarium form, the Oath of Confidentiality form, the Consent Form, the Interview Schedule, the Resources and Self-Care Strategies documents, and a list of COVID protocols to be followed during meetings with participants. During the orientation session, the Project Manager and Researcher walked through each document to ensure the Interviewers had a clear understanding of the interview process and protocols to be followed. A second meeting was also scheduled with the Project Manager and Project Coordinator to discuss the logistics of conducting the interviews, such as travel to the communities, funds to purchase \$50 gift cards for participants, and other materials to be provided (such as, the audio recorder and batteries, hand sanitizers, masks, and wipes for cleaning surfaces, packaged snacks and drinks, and tissues).

Given the difficult subject matter of the interviews and the potential for vicarious trauma, several efforts were made to support the Interviewers in their work. For instance, Interviewers were given the phone numbers of the Project Manager and Project Coordinator, and encouraged to check in with them during the process of conducting the interviews. As well, after the interviews were completed, the Project Manager, Project Coordinator, and Researcher held a “de-briefing” meeting (via Zoom) with each of the Interviewers.

Recruitment of Participants:

In order to recruit women as participants, information about the study and an invitation to participate (in English and Inuktitut) were shared through several channels (posters, radio advertisements, and social media). In Nunavut, interviews took place in two communities. A Community Research Liaison was contracted to assist the interviewer in the recruitment process while she was visiting those communities. Due to COVID travel restrictions, interviews in Inuvialuit and Nunavik took place in one community. The Interviewers themselves were able to recruit women as they were residents of the communities where the interviews were conducted.

The Interview Process:

Prior to the start of the interview, each participant was provided with a detailed Consent Form that spelled out the purpose of the study, the kinds of questions to be asked, how confidentiality would be maintained, the potential risks and benefits in participating, and how the findings of the research would be disseminated. Participants were also asked if they wanted to receive a copy of the final

report. The participants' informed consent was confirmed with their signatures. Each participant was provided a copy of the Consent Form, while the interviewers kept a second copy.

With permission of participants, interviews were audio-recorded so that they could later be transcribed for analysis purposes. All of the Inuvialuit interviews were conducted in English. Both the Nunavut and Nunavik Interviewers were fluent in Inuktitut. As such, the participants were given the option of speaking in Inuktitut if they preferred. (Those interviews were later translated into English).

During the interviews, the Inuit women were asked about themselves (their age, whether they were in a relationship, and whether they have children). They were then asked about any experiences of physical and/or sexual violence they have had, whether that was reported to the police or not, and if reported what the nature of the police response involved. They were also asked about whether the case went to court and what that experience was like for them, as well as what services and supports they received in dealing with the violence. Finally, they were asked about what they thought could be done to better meet the needs of Inuit women who experience gender-based violence.

At the end of each interview, the women were asked how they were feeling and whether they needed support. A trained mental health worker/counsellor was made available either on-site or easily accessible during the period when the interviews were being conducted to provide support to the women if they wanted to follow-up after the interview. As well, participants were provided with a list of resources available in their community and Inuit-specific aftercare and self-care materials. Participants were given an honourarium of a \$50 gift card at the start of the meeting in recognition of their time and contribution. Interviews averaged 30 minutes in length (not including time spent before and after the questions were posed), with the shortest interview being 10 minutes and the longest 65 minutes.

Due to the sensitive and private nature of what was being discussed, several precautions were put in place to conduct the research in a confidential and respectful manner. For instance, the Project Manager, Researcher, Project Coordinator, Interviewers, and transcriptionist all signed a Confidentiality Agreement confirming that they would respect confidentiality. Interview recordings and transcripts were shared by the researcher and transcriptionist on a password-protected and encrypted website (Sync.com). Transcripts of the interviews were also anonymized. As well, the communities where the interviews with Inuit women occurred have not been named.

2. Interviews with Front-Line Workers

Interviews with the front-line workers were conducted by the Researcher via Zoom or telephone.

Recruitment of Participants:

To recruit a sample of front-line workers, the Project Coordinator compiled an initial list of 60 individuals working in various sectors of the criminal justice system in each of the three Inuit

Regions, as well as individuals whose work brought them into close contact with the criminal justice system. Members of the Project Advisory Committee were consulted to ensure the list was representative of the regions. The Researcher then began working through the list of potential participants, ensuring that the sample was balanced between regions and reflected a diversity of front-line positions. Emails were sent to explain the study and invite a worker's participation. Meetings were then arranged (via Zoom or telephone) with those who expressed a willingness to participate. Snowball sampling was also utilized. A participant would be asked during the interview whether there were others who could be invited to participate. In one instance, a Crown attorney offered to let their colleagues know about the project. To maintain confidentiality, however, prospective participants were to contact the Researcher directly via email.

Prior to the interview meeting, front-line workers were emailed a copy of the Consent Form, which detailed the purpose of the study, the kinds of questions to be asked, how confidentiality would be maintained, the potential risks and benefits in participating, and how the findings of the research would be disseminated. The Consent Form was reviewed at the start of the meeting, and a participant was asked to give their verbal consent (which was audio-recorded). Participants also indicated whether they wanted to receive a copy of the final report.

During the interview, front-line workers were asked about the nature of the work they do, and their thoughts on the successes and challenges that different criminal justice agencies and actors have encountered in meeting the needs of Inuit women who have experienced gender-based violence. They were also asked about what they think could be done to improve the criminal justice response to gender-based violence so as to better meet Inuit women's needs. Interviews averaged 62 minutes, with the shortest interview being 27 minutes and the longest 94 minutes.

The Study Sample

A total of 73 individuals participated in the study: 38 Inuit women and 35 front-line workers. The regional breakdown is as follows:

Region	Inuit Women	Front-Line Workers
Nunavik	12	12
Nunavut	11	13
Inuvialuit	15	10
Total	38	35

The frontline workers occupied a variety of positions, including: Police officer (6); Judge (1); Crown attorney (6); Defence lawyer (3); Crown Witness Coordinator (2); Court worker (2); Community Justice Outreach Worker (1); Victim Services worker (4); Program Manager (3); Justice Committee member (2); Community Justice worker (2); and Social Services provider (3).

Data Analysis:

All of the interviews were audio recorded then transcribed by a professional transcriptionist. The interview transcripts for the two groups, Inuit women and front-line workers, were analysed separately. Transcripts were initially grouped according to region and analysed to determine the themes that emerged from participants' responses. Because the themes and issues raised were similar across the regions, the findings were not presented according to region. Significantly, organizing the findings in this way enabled confidentiality to be maintained. As well, in reporting on what participants had to say, identifying information has been left out to maintain confidentiality.

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