

Evaluating Restorative Justice in Alaska: The Kake Circle

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Abstract

Before the influence of Western civilization, aboriginal cultures dealt with disputes in a restorative and reparative manner. Over the course of time, the indigenous way of dealing with problems was superseded by the adversarial process. Though the modern justice system has been around for several hundred years, the past couple of decades have seen a resurgence by indigenous cultures to resurrect their traditional ways. The purpose of this paper is to examine one such model: the restorative justice Circle in the Native village of Kake, Alaska.

Kake revived the Circle concept in 1999, primarily as a means to address the rising number of juveniles charged with alcohol-related offenses. After three years of existence, the Kake Circle claimed a success rate of 95%. To verify the veracity of the Kake report, data covering the first ten years of the Kake Circle were reviewed.

Archival data were examined for recidivism rates. In addition, data from a control group from another Native community were analyzed and compared against the Kake Circle. Cases were closely compared for offense, age, sex and recidivism. Stakeholder surveys were also used to identify community perceptions about the Circle process and whether or not it was an appropriate method for handling offenders.

The findings from the archival data were lower than the statewide recidivism rate of 66% but they did not support the 5% recidivism rate that was reported by the Circle. In addition, the recidivism rate of Circle offenders was slightly higher than the control group offenders. Despite these findings, the community in Kake overwhelmingly supports the Circle concept.

The study concludes with recommendations for improving the services available in Kake, as well as the Circle process itself. The ultimate goal is to ensure that aboriginal cultures have a voice in the legal system; that the Circle be a diversion mechanism for prosecutors in appropriate cases; that communities who utilize Circles have adequate treatment services and resources; and that offenders come out of the process with a better understanding of the implications of their actions.

Introduction

The wheel that turns the North American criminal justice system is broken. It is broken because the spokes, cogs and gears that make up punishment, deterrence and rehabilitation have been neglected and simply do not work. Too much time and effort have been spent on the adversarial process where the defendant does not admit any wrong-doing, where there is virtually no community involvement and where there is hardly any focus repairing the harm to the victim. Instead, the legal system is set up so that the primary answer to criminal activity is incarceration.

The purpose of this project is to examine two models of justice: retribution and restoration. The retributive paradigm will be lightly dusted. The crux of the paper will focus on restorative justice, its fundamental concepts and five programs being used today: Victim-Offender Reconciliation Programs, Reparative Boards, Family Group Conferencing, Ubuntu (*pronounced uu-Boon-too*) and Circles.

Of particular interest is the Circle that has been operating in the village of Kake, Alaska since 1999. The citizen who started the Circle is also the local magistrate and it is reported that less than five percent of the people who go through the Circle re-offend afterwards. With a success rate of over 95%, it is imperative to look at the Kake model and ask some important questions. For example, what is the history of the Circle concept and how did it develop? Second, what are the perceptions of the people who participated in the Circles and do they think the Circle is the appropriate method for handling offenders? Third, does the data truly reveal that recidivism is less than five percent and how do the Circle statistics compare to a non-Circle court? And lastly, what recommendations are suggested for this Circle and others that are similarly operated?

Background on Kake, Alaska¹

To understand Kake, it is important to look at the culture and history of this community. The first people to settle present-day North America, Central America and South America did so after crossing the Bering Sea Land Bridge before the last Ice Age some 10,000 years ago. Those that settled along the forests of Southeast Alaska called themselves the Eyak, Tlingit, Haida and Tsimshian.

The Tlingit people, including those from Kake, settled along the productive waterways in the central part of Southeast Alaska. Abundant and seasonal food existed around the ocean, streams, and estuaries throughout the many islands. Some food preservation was accomplished through smokehouses or through drying in the open air. For other foods, such as potatoes and turnips, food preservation took the form of root cellars. And for berries, meats and half-smoked fish, these edibles were stored and preserved in seal oil. The Tlingit people did not consider this to be subsistence but instead called it *Haa Kusteeyi* "Our way of Living."

Houses, which typically held 20-50 people, were made from red cedar, spruce and hemlock that grew on the land. The tools that were used to create the houses included adzes, mauls and wedges that were made from shaped rocks and bones, beaver teeth and shells. Wood was used for transportation in the form of canoes and wood was also used to create utensils, various types of boxes, fish weirs (fences), totem poles, hats and clothing.

¹ Some of the information contained here is from conversations with the Kake magistrate, Mike Jackson.

In traditional Alaska Native culture, there was no central government and no formal type of policy-making. Instead, each village, which typically consisted of 300-500 people, had a hierarchy that included a Chief, high-ranking families, knowledgeable Elders and commoners. Each Tribal House/Clan was responsible for each other and the Tribe. Disputes were settled by each Clan and Peacemakers – often Elders - were called upon to be mediators. If the victim and offender’s Clan could not settle their differences then the head of each House had a say on how to settle a dispute. In traditional Native culture, any broken relationship affected the whole Kwaan (Village). Each Kwaan was tied together by Core Community Values, known as the “Law of the Land”, and has existed for thousands of years. Each Kwaan in Tlingit country had similar Core Community Values that tied the Tlingit Nation together.

In Tlingit culture there was a great emphasis on passing traditions and customs down from one generation to another through oral history. Fathers were often away from the Village for long periods of time so uncles raised the nephews the Clan values while the grandmothers, aunties and mothers raised the nieces. Elders told grandchildren the stories of their grandfathers, only to have the same stories passed on to the next generation of grandchildren.

It is no surprise that many of Kake’s customs and traditions continue today. The latest census shows Kake with a population of about 450 people. The community is located near its originally-settled village and is nestled on the coast of Kupreanof Island. Access to the community is only by sea or air. Because of its remoteness, it is expensive to ship goods and supplies. As a result, the community still relies on *Haa Kusteeyi* “Our way of Living.” Government, fishing and tourism help fuel the local

economy and the Alaska Court System employs a part-time magistrate and a part-time clerk.

One interesting feature about modern-day Kake is its liquor store. It is owned and operated by the village (City of Kake) and the profits from the sale of alcohol help fund local programs. Though the village raises a significant amount of money through alcohol sales, there is an adverse cost to the community: underage possession, consumption and driving under the influence.

In 1999, Kake undertook efforts to address the negative consequences of alcohol in the community and hosted an alternative dispute resolution program that was taught by two speakers from Carcross, Canada: Mark Wedge and Harold Gatensby. Gatensby is a DaaKa Tlingit of the Xooxataan clan and was one of the first defendants to appear before Judge Barry Stuart, the Canadian Yukon Territorial judge who was credited with bringing the traditional Circle process back into the justice system. After Gatensby and Wedge made their presentation, the community of Kake adopted the Circle concept and has been handling adult and youthful offenders ever since. Alcohol use and abuse is being addressed through accountability and the community is reaping the benefits of the Circle by restoring its traditional Tlingit culture.

Kake and the Alaska Court System²

The Alaska Court System is a unified, centrally administered, and mostly state-funded judicial system. Although the Supreme Court is charged with the responsibility of administering the statewide system, by and large this responsibility is delegated to the administrative director, which is equivalent to a state court administrator in other states.

Alaska has four levels of court, each with different powers, duties and responsibilities. The Supreme Court is the appellate court of final authority and consists of a panel of five justices. The Court of Appeals hears appeals only from criminal and quasi-criminal (e.g., delinquency) cases. This panel has three judges. The Superior Court is the trial court of general jurisdiction and has appellate authority over cases that originated in the district court. There are 40 superior court judges statewide. The District Court has limited civil and criminal jurisdiction. There are 21 district court judges, 53 magistrates, roughly 14 deputy magistrates (clerks who have judicial training), and 8 committing magistrates (in Anchorage and Fairbanks only).

Of the 53 magistrates in Alaska, more than 40% are not law trained. Instead, applicants hired as magistrates complete a correspondence course that is 19 chapters long and incorporates general concepts of law, legal research and boundaries of authority. Upon completion of the correspondence course, most magistrates spend a week with a training judge who certifies that the magistrate is competent to handle cases on their own.

² Information specific to the Alaska Court System structure was taken from the *Alaska Court System Annual Report*, pp. 1-2 (2007)

In Southeast Alaska there are 12 magistrates. Of those, 25% are Alaska Native and all magistrates were hired, in part, because of their local ties to their respective communities. In Kake, the magistrate was hired in the mid-1990s and has been a stalwart example of trust and respect since his appointment. His active involvement with restorative justice, for example, has led to workshops across the country to teach others to think outside the traditional box of criminal justice and address crime and recidivism from a traditional approach.

Given the inspiration of the Kake Circle, this paper looks at our existing legal system and examines the promising efforts of restorative justice. This paper will attempt to further explain why Western society needs to acknowledge aboriginal justice and exclude these people from the retributive process, including the quagmire of unrealistic fines, penalties and sanctions.

Literature Review

Models of Justice

In North America, two predominant models of justice exist. The first is an accusatorial model that is based on the principles of retribution and deterrence.³ Under this paradigm, complex rules and procedures regulate a judicial system that is adversarial and punitive.⁴ Law is built around hierarchy, authority and obedience⁵ and when a person commits a crime, the offense is against the government. The government, therefore, has the responsibility to prove the offender guilty and when it does, the courts impose consequences, which are typically outlined by systematic rules⁶ that are defined by the legislature. Ultimately, courts impose liability through punitive sanctions⁷ such as incapacitation, deterrence and retribution⁸, with the thinking that, because the victim has suffered, so should the offender.⁹ With such an emphasis on punishment and incarceration, it would seem logical that the United States and Canada

³ Zehr, Howard. *Changing Lenses: A New Focus for Crime and Justice*. Herald Press. pp. 104-06, 123. See also Lilles, Heino and Stuart, Barry. *Creative Justice: The Role of the Community in Sentencing*, Canadian Criminal Justice Association, Justice Report, Volume 8, No. 4. Spring 1992

⁴ <http://www.ojp.usdoj.gov/nij/topics/courts/restorative-justice/perspectives/indigenous-tribal.htm> June 2009

⁵ Yazzie, Robert, *Healing as Justice: The Navajo Response to Crime*, in *Justice as Healing: Indigenous Ways*. Living Justice Press, McCaslin, Wanda (ed.) 2005. p. 130

⁶ See Note 3. Zehr, H. p. 181

⁷ Pranis, K., Stuart, B. and Wedge, M., *Peacemaking Circles: From Crime to Community*, Living Justice Press (2003). p. 67

⁸ Lemley, E. and Russell, G. *Implementing Restorative Justice by "Groping Along": A Case Study in Program Evolutionary Implementation*. The Justice System Journal, Volume 23, Number 2 (2002)

⁹ See Note 4.

would have the lowest crime rates in the world.¹⁰ Instead, the United States has the highest incarceration rate in the world and Canada is not too far behind.¹¹

The biggest problem with the retribution model is that, because it is adversarial, the offender has too many rights and does not have to admit the unlawful act. Under this model there is no accountability and without accountability, the offender and the victim cannot be made whole again.¹²

The second model of North American justice is based on the values of restoration. Unlike the retributive model, restorative justice focuses on repairing the harm that has been caused by a crime.¹³ Since crime is viewed as a breach of people and their relationships,¹⁴ the restorative model removes the barriers of the adversarial process by ensuring that there is direct participation by the victim, offender and the community.¹⁵

¹⁰ Mauer, Marc and Coyle, Michael. *The Social Cost of America's Race to Incarcerate*. In *Criminal Justice: Retribution vs. Restoration*. Judah, E. and Bryant, M. (eds.), Hawthorne Press (2004), p. 14.

¹¹ *Ibid*, p. 10. See also, Note 3. Lilles, H. and Stuart, B.

¹² Strang, H. *Is Restorative Justice Imposing Its Agenda on Victims?* In: *Critical Issues in Restorative Justice*. Zehr, H. and Toews, B. (eds.) Williams Publishing (2004) pp. 95-102

¹³ Bazemore, G. and Walgrave, L. *Restorative Justice: In Search of Fundamentals* in *Restorative Juvenile Justice: Repairing the Harm of Youth Crime*. G. Bazemore and L. Walgrave (eds.). Monsey, NY: Criminal Justice Press (1999), p. 48.

¹⁴ Zehr, H. *The Little Book of Restorative Justice*, Good Books (2002). p. 19

¹⁵ See Note 3. Zehr, H. pp. 194, 203 and 261

To better understand the restorative model, it is necessary to look at the fundamental concepts that were developed by one of the early founders, Howard Zehr. Along with co-author Harry Mika, Zehr offers the following:¹⁶

◆ **Crime is fundamentally a violation of people and interpersonal relationships.**

- Victim and the community have been harmed and need restoration
 - The primary victims are those most directly affected by the offense but others, such as family members of victims and offenders, witnesses and members of the affected community are also victims.
 - The relationships affected (and reflected) by crime must be addressed.

- Victims, offenders and the affected communities are the key stakeholders in justice
 - A restorative justice process maximizes the input and participation of these parties – but especially primary victims as well as offenders – in search for restoration, healing, responsibility and prevention.
 - The roles of these parties will vary according to the nature of the offense as well as the capacities and preferences of the parties.
 - The state has circumscribed roles, such as investigating the facts, facilitating processes and ensuring safety, but the state is not the primary victim.

◆ **Violations create obligations and liabilities.**

- Offender's obligations are to make things right as much as possible.
 - Since the primary obligation is to victims, a restorative justice process empowers victims to effectively participate in defining obligations.
 - Offenders are provided opportunities and encouragement to understand the harm they have caused to victims and the community and to develop plans for taking appropriate responsibility.

¹⁶ Zehr, H., and Mika, H., *Fundamental Principles of Restorative Justice*. The Contemporary Justice Review, Vol. 1, No. 1 (1998), pp. 47-55

- Voluntary participation by offenders is maximized; coercion and exclusion are minimized. However, offenders may be required to accept obligations if they do not do so voluntarily.
 - Obligations that follow from the harm inflicted by crime should be related to making things right.
 - Obligations may be experienced as difficult, even painful, but are not intended as pain, vengeance or revenge.
 - Obligations to victims such as restitution take priority over other sanctions and obligations to the state such as fines.
 - Offenders have an obligation to be active participants in addressing their own needs.
- The community's obligations are to victims and offenders and for the general welfare of its members.
 - The community has a responsibility to support and help victims of crime to meet their needs.
 - The community bears a responsibility for the welfare of its members and the social conditions and relationships which promote both crime and community peace.
 - The community has responsibilities to support efforts to integrate offenders into the community, to be actively involved in the definitions of offender obligations and to ensure opportunities for offenders to make amends.

◆ Restorative justice seeks to heal and put right the wrongs.

- The needs of victims for information, validation, vindication, restitution, testimony, safety and support are the starting points of justice.
 - The safety of victims is an immediate priority.
 - The justice process provides a framework that promotes the work of recovery and healing that is ultimately the domain of the individual victim.
 - Victims are empowered by maximizing their input and participation in determining needs and outcomes.
 - Offenders are involved in repair of the harm insofar as possible.
- The process of justice maximizes opportunities for exchange of information, participation, dialogue and mutual consent between victim and offender.
 - Face-to-face encounters are appropriate for some instances while alternative forms of exchange are more appropriate in others.
 - Victims have the principal role in defining and directing the terms and conditions of the exchange.
 - Mutual agreement takes precedence over imposed outcomes.

- Opportunities are provided for remorse, forgiveness and reconciliation.
- Offenders' needs and competences are addressed.
 - Recognizing that offenders themselves have often been harmed, healing and integration of offenders into the community are emphasized.
 - Offenders are supported and treated respectfully in the justice process.
 - Removal from the community and severe restrictions of offenders is limited to the minimum necessary.
 - Justice values personal change above compliant behavior.
- The justice process belongs to the community.
 - Community members are actively involved in doing justice.
 - The justice process draws from community resources and, in turn, contributes to the building and strengthening of community.
 - The justice process attempts to promote changes in the community to prevent similar harms from happening to others.
- Justice is mindful of the outcomes, intended and unintended, or its responses to crime and victimization.
 - Justice monitors and encourages follow-through since healing, recovery, accountability and change are maximized when agreements are kept.
 - Fairness is assured, not by uniformity of outcomes, but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class and sex.
 - Outcomes which are predominately deterrent or incapacitative should be implemented as a last resort, involving the least restrictive intervention while seeking restoration of the parties involved.
 - Unintended consequences such as the coaptation of restorative processes for coercive or punitive ends, undue offender orientation, or the expansion of social control are resisted.

Restorative Justice Across the Globe

Restorative justice is an international movement with numerous variations. The Afghani observe *jirga*;¹⁷ the Navajo apply *Hozhooji Naat'aanii*;¹⁸ the New Zealand Maori follow *Pono* and *Tika*;¹⁹ the Haudenosaunee (Iroquois) honor the *Tekanawita*;²⁰ and Africans practice *Ubuntu*²¹, which is known as customary or traditional law. Presently, there are restorative justice programs or developments in the following parts of the world:²²

- Asia (Hong Kong, Indonesia, Japan, Malaysia, Philippines, Singapore, Taiwan, and Thailand);
- Africa (Gambia, Ghana, Malawi, Namibia, Nigeria, Rwanda, South Africa, Tanzania, Uganda and Zimbabwe);
- Europe (Armenia, Austria, Belgium, Bulgaria, Czech Republic, Denmark, England and Wales, Finland, Germany, Hungary, Iceland, Ireland, Italy, Jersey, Luxembourg, Northern Ireland, Norway, Poland, Portugal, Russia, Scotland, Serbia, Spain and Sweden);
- Middle East (Israel and Lebanon);

¹⁷ See Note 14, p. 62

¹⁸ See Note 5. See also, Note 14, pp. 19-20

¹⁹ Tomas, Nin. *Maori Justice – The Marae as a Forum for Justice*. In *Justice as Healing: Indigenous Ways*. McCaslin, W. (ed.), Living Justice Press (2005), p. 135. See also Hakiha, Matt. *What is the State's Role in Indigenous Justice Processes?* In *Critical Issues in Restorative Justice*, Zehr, H. and Toews, B. (eds.), Willan Publishing (2004), pp. 356 and 363

²⁰ Cousins, Michael. *Aboriginal Justice: A Haudenosaunee Approach*. In *Justice as Healing: Indigenous Ways*. McCaslin, W. (ed.), Living Justice Press (2005), p. 145

²¹ See Note 14, p.20

²² <http://restorativejustice.org/> August 2009

- Pacific Rim (Australia, Fiji, Guam, New Zealand, Palau, Papua New Guinea, and Tonga);
- Latin America (Argentina, Brazil, Chile, Colombia, Guatemala, Mexico, Nicaragua and Peru); and
- North America and the Caribbean (Canada, Jamaica and the United States).

Restorative Justice Programs

Victim-Offender Reconciliation Program

For the non-indigenous²³ people of North America, restorative justice began to emerge in the 1970's with Victim-Offender Reconciliation Programs (VORPs).²⁴ The first VORP experiment started in Ontario, Canada in 1974 and then in the United States in 1977-78 in Indiana.²⁵

The purpose of this program is to bring offenders and victims together in a safe environment and to make things right through mediation.²⁶ These were the first programs in our modern justice system that brought the offender and the victim face-to-face and where the offender admitted wrong-doing.²⁷ This is an important milestone in restorative justice because it is the first time where offenders acknowledged their

²³ Non-indigenous people are typically referred to as Anglo-Americans, or people who settled North America from other countries.

²⁴ See Note 14. p. 42

²⁵ See Note 3. Zehr, H. pp. 158-59

²⁶ <http://vorp.org/> July 2009

²⁷ See Note 3. Zehr, H. p. 161

actions and it is the first time where victims got to express themselves by describing the crime's physical, emotional and financial impact.²⁸ While many of the early VORPs were diversions from incarceration, most are now treated as post-conviction solutions.²⁹ The use of these programs is still popular and today there are currently more than 1,500 VORPs worldwide.³⁰

Community Reparative Boards

In the 1920's, youth panels, neighborhood boards and community diversion groups were created to address juvenile delinquency.³¹ These early programs were not labeled as restorative justice but they did lay the foundation for future ideas. In 1995, the state of Vermont began using a modified version of the 1920s' programs that is now called Community Reparative Boards.³² And in 2000, the Vermont General Assembly labeled the Community Reparative Boards as restorative justice programs.³³

Under this model, when a minor has been convicted of a non-violent offense, they may be sentenced to probation and appear before the Community Reparative

²⁸ Bazemore, Gordon and Umbreit, Mark. *A Comparison of Four Restorative Conferencing Models* at http://www.ncjrs.gov/html/ojdp/2001_2_1/contents.html June 2009

²⁹ Immarigeion, Russ, *What Is The Place Of Punishment And Imprisonment in Restorative Justice?* Critical Issues in Restorative Justice, Zehr, H. and Toews, Barb (eds), Willan Publishing (2004), pp. 147-48

³⁰ <http://vorp.org/history.shtml> July 2009

³¹ See Note 21.

³² Humphrey, John, Burford, Gale and Huey, Meredith. *Reparative Versus Standard Probation: Community Justice Outcomes* at <http://www.doc.state.vt.us/about/reports/reparative-v-probation/view> August 2009

³³ Added 1999, No 148 (Adj. Sess), § 68, eff. May 24, 2000

Board, which is a group of trained volunteers.³⁴ The goal here is to convey to the minor the importance of consequences, to repair the harm done to the victim and to restore the community. The Community Reparative Boards are gaining popularity³⁵ and will likely maintain a foothold in restorative justice.

Family Group Conferencing

For the indigenous³⁶ cultures around the world and for the First Nation People³⁷ of North America, restorative justice has been around for generations³⁸ and has been argued to be as old as human history.³⁹ For example, in New Zealand, the indigenous Maori people have historically used conflict resolution practices to resolve disputes.⁴⁰ Maori culture is strongly influenced by relationships, *whakapapa*, and obligations to other people.⁴¹ Thus, when a conflict (e.g., crime) occurred, the Maori leaders got all affected parties together, including the victim, the offender and their families, in a

³⁴ See Note 32.

³⁵ Lanni, Adriaan. *The Future of Community Justice* at http://www.law.harvard.edu/students/orgs/crcl/vol40_2/lanni.pdf July 2009

³⁶ Refers to any aboriginal people whose culture existed before Western cultures arrived. See Note 7.

³⁷ First Nation People are aboriginals in Canada and Alaska. Ibid.

³⁸ *Circle Sentencing*, in The Osgood File (CBS Radio Network) (2000) at www.acfnews.org/religion/circle_sentencing.html June 2009

³⁹ See Note 14. p.12

⁴⁰ Strang, Heather. Director, Centre for Restorative Justice, Research School of Social Sciences. Australian National University. *Restorative Justice Programs in Australia: A Report to the Criminology Research Council* (2001)

⁴¹ See Note 18, Tomas, N. pp. 134-35. See also Note 14.

traditional meeting place, a *Marae*, to discuss the issues and to come to a reparative resolution.⁴²

After the British settled Australia and New Zealand, however, the indigenous cultures were assimilated and forced to adopt a new and different form of justice.⁴³ Unlike the Maori system, Western justice focused more on punishment rather than solutions.⁴⁴ After decades of unsuccessfully dealing with the Maori people, New Zealand passed the *Children, Young Persons and Their Families Act* in 1989. The Act intentionally included time-honored Maori practices and the blend between traditional and modern justice resulted in the Family Group Conference. Since its implementation, it is the Family Group Conference, through a social services facilitator, that provides the forum for victims, offenders, and their families to come together to resolve the conflict. The participants in the Family Group Conference are responsible for developing a plan that includes reparation and prevention and it is imperative that a consensus be reached by all those involved.⁴⁵

Under this model, the goal is to support the offender in taking responsibility for their actions and to change their behavior⁴⁶ through a theory called “reintegrative shaming.”⁴⁷ Reintegrative shaming was developed by Australian criminologist John

⁴² Ibid., Tomas, N. pp. 136-138

⁴³ See Note 19, Hakiha, M. pp. 355-56

⁴⁴ See Note 3, Zehr. H. p. 257

⁴⁵ See Note 14. p. 30

⁴⁶ Ibid. p. 48

⁴⁷ Braithwaite, John. *Crime, Shame and Reintegration*, Cambridge University Press (1989), specifically see pp. 44, 55, 101, 108-23

Braithwaite and is restorative because it is the offense that is shunned rather than the offender.⁴⁸ In addition, the practice is *reintegrative* because, once the offender acknowledges the wrongdoing, they can begin to reconnect with the community and rebuild their character.⁴⁹

New Zealand is now using Family Group Conferencing in all of their juvenile delinquency cases except homicides⁵⁰ and there is at least one study where judges report an 80% drop in their case loads.⁵¹ Family Group Conferencing is becoming so popular and effective that is now used in Australia, the United States and it is also being considered in parts of Canada.⁵²

Ubuntu

In some African countries, restorative principles are more than a model of justice, they are a way of life.⁵³ The indigenous people of Rwanda, Burundi, Uganda, Tanzania,

⁴⁸ See Note 3, Zehr, H. p. 259

⁴⁹ Ibid. See also, Note 3, Lilles, H. and Stuart, B.

⁵⁰ Umbreit, Mark, *Family Group Conferencing: Implications for Crime Victims*, at http://www.ovc.gov/publications/infores/restorative_justice/96523-family_group/family6.html September 2009

⁵¹ See Judge Fred McElrea's essays in Jonathan Burnside and Nicola Baker (eds.) *Relational Justice: Repairing the Breach*, Winchester, UK: Waterside Press (1994), pp. 104-113. See also B.J. Brown and F.W.M. McElrea (eds.), *The Youth Court in New Zealand: A New Model of Justice*, Legal Research Foundation, Publication No. 34 (1993)

⁵² Lee, Gloria. *The Newest Old Gem: Family Group Conferencing*. In Justice as Healing: Indigenous Ways, McCaslin, W. (ed.), Living Justice Press (2005), p. 135

⁵³ Mokgoro, Yvonne, Judge of the Constitutional Court of South Africa. *Ubuntu and the Law in South Africa*. August 2009 from: <http://epf.ecoport.org/appendix3.html> , See also Louw, Dirk, *Ubuntu: An African Assessment of the Religious Other*, at <http://www.bu.edu/wcp/Papers/Afri/AfriLouw.htm> August 2009

Zimbabwe and South Africa have been living the spiritual philosophy of Ubuntu⁵⁴ for generations. Ubuntu comes from a Zulu concept of *umuntu ngumuntu ngabantu*, which translates to “a person is only a person through their relationship to others.”⁵⁵ To put it another way, humanity in our society is affirmed only when we acknowledge the humanity of others.⁵⁶

When put into the context of restorative justice, Ubuntu is all about the interconnectedness of relationships – the relationship between people to people and the relationship between people and the community. The idea is rather straightforward: if the individual is strong, the individual and the community prosper. If the individual becomes ill, so will the community.⁵⁷ Thus, if a person commits a crime against another, the whole community suffers. The punishment and remedy is to bring the two parties closer together thereby improving the well-being of the community.⁵⁸ The crime of assault, for example, would require a bond (e.g., marriage, living together) between the accuser’s family and the victim’s family. The accuser and his or her family would be sanctioned privately and publicly and the stigma could only be removed after many years of practicing and living Ubuntu.⁵⁹ Because the stigma of criminal activity is so strong, indigenous Africans often treat Ubuntu as a religious mantra with the belief that,

⁵⁴ http://en.wikipedia.org/wiki/Ubuntu_%28ideology%29 August 2009

⁵⁵ Coughlan, Sean. *All You Need is Ubuntu*, BBC News Magazine, September 28, 2006 at http://news.bbc.co.uk/2/hi/uk_news/magazine/5388182.stm August 2009

⁵⁶ <http://www.buzzle.com/editorials/7-22-2006-103206.asp> August 2009

⁵⁷ Bird, Arwen. *Restorative Justice in Action: The Words and Work of Dennis Maloney*, at <http://www.safetyandjustice.org> August 2009.

⁵⁸ See Note 54.

⁵⁹ Ibid.

if you live your life through the principles of Ubuntu, in death your spirit will achieve unity with those still living.⁶⁰

Ubuntu has become so well-known that it has been a catalyst for speakers and writers such as former U.S. President Bill Clinton,⁶¹ Nobel Prize recipient Desmond Tutu⁶² and former President of South Africa, Nelson Mandela.⁶³ It was also the inspiration for John Boorman's 2004 film, *In My Country*,⁶⁴ and has been the huddle-breaking yell for basketball's Boston Celtics since the start of their 2007 season.⁶⁵

Circles

Every indigenous culture that has ever been studied had the practice of sitting in a circle and talking.⁶⁶ For peacemaking cultures that utilize Circles and resolving disputes by talking things out, the concept of law is based on healing.⁶⁷ Like all indigenous practices mentioned in this project, in order for healing to occur the problem

⁶⁰ See Note 54 and Note 53, Mokgoro, Y.

⁶¹ See Note 54.

⁶² Tutu, Desmond. *No Future Without Forgiveness*, Image (1999). pp. 31-32, 45, 54, 101, 166, 264

⁶³ See Note 54.

⁶⁴ Holden, Stephen. Truth, Justice and Law in South Africa, NY Times (2005) at http://movies.nytimes.com/2005/03/11/movies/11coun.html?_r=1&scp=3&sq=John%20Boorman%20+%20In%20My%20Country&st=cse August 2009

⁶⁵ Kiszla, Mark. *New Big 3 Dream in Green*, at http://www.denverpost.com/nuggets/ci_7389312 August 2009

⁶⁶ Isaacs, William. *Dialogue and the Art of Thinking Together: A Pioneering Approach to Communicating in Business and in Life*. New York: Doubleday Currency. (1999). p. xvi. See also Note 38.

⁶⁷ Zion, James. *Punishment Versus Healing: How Does Traditional Indian Law Work? Justice as Healing: Indigenous Ways*, McCaslin, W. (ed.), Living Justice Press (2005), pp. 69-70

must be dealt with in its entirety.⁶⁸ This means that the victim be healed, that the victim and offender's interpersonal relationship be healed and that the community be healed.⁶⁹ As one author describes it, "not simply justice, but the *experience* of justice must occur."⁷⁰

The modern Circle was galvanized in Canada in the early 1990s when Yukon Territorial Judge Barry Stuart was asked by a First Nation defendant to resurrect traditional healing and sanctioning practices.⁷¹ With statistics showing that aboriginal people in Canada were being incarcerated at a rate of eight times the national rate,⁷² Stuart concluded that it was time to look at an alternative approach to justice in order to reshape aboriginal offenders.⁷³ In 1996, the Circle concept was piloted in Minnesota⁷⁴ and quickly spread to other states, including Alaska.

In the criminal justice arena, before a case can be referred to a Circle, most offenders are required to enter a guilty plea early on in the case.⁷⁵ The reason for this is so that the offender acknowledges responsibility of the wrongful act and is willing to

⁶⁸ See Note 4.

⁶⁹ See Note 3, Zehr. H. pp. 186-88

⁷⁰ Ibid, p. 203

⁷¹ See Note 28.

⁷² Lilles, Heino. *Circle Sentencing: Part of the Restorative Justice Continuum*, From "Dreaming of a New Reality," the Third International Conference on Conferencing, Circles and other Restorative Practices, August 8-10, 2002, Minneapolis, Minnesota at http://www.iirp.org/library/mn02/mn02_lilles.html September 2009

⁷³ Stuart, Barry. *Community Sentencing Circles: Forging New Partnerships And Empowering Communities*.

⁷⁴ Pranis, Kay. *Restoring Community: The Process of Circle Sentencing* at <http://www.corr.state.mn.us/rj/publications/circle.htm> September 2009. See also Note 28.

⁷⁵ See Note 72.

participate in the process.⁷⁶ Once a case is referred to and accepted by the Circle, the next step is to notify the offender's family, the victim's family and the community as a whole of the date and time that the Circle will be convened. Many Circles are held in a community building rather than a court building because the proceedings shift from a professional/legal process to a community-driven process. As Judge Stuart described in his first Circle, "the objective is to...meaningfully engage the community in sharing responsibility for decisions."⁷⁷

On the day of the Circle, the room that is used for the gathering is carefully arranged by a person known as a Keeper. The Keeper is much like a facilitator and is someone who is especially trained to create a space that is safe, welcoming and fosters an environment for dialogue.⁷⁸ Much like the name suggests, chairs are set up in the room in the form of a circle to produce the feeling of equality and the distance between each chair is carefully considered so as to create an ambience of connection between participants.⁷⁹ Depending on the number of people affected by the offender's actions, Circles generally have 15 to 50 people in attendance⁸⁰ but could have more if there are

⁷⁶Handel, Miriam Beverly at http://esask.uregina.ca/entry/aboriginal_justice.html retrieved July 2009. See also Note 70.

⁷⁷ Stuart, Terr. Cr. J. in *R v Moses*, (1992) 71 CCC (3d) 347 (Yukon Territorial Court), reprinted in <http://www.shepherdsforpeace.com/writings/PHILIP.php> August 2009.

⁷⁸ Haldeman, Don. *So Why Circles?* At <http://circledialogue.com/whycircles.html> July 2009

⁷⁹ See Note 7, p. 131

⁸⁰ See Note 72.

extenuating circumstances. Offenders and victims generally sit opposite each other and the victim is typically seated next to a group of supporters.⁸¹

The Keeper starts the Circle by explaining the general guidelines. In Kake, those guidelines include.⁸²

- The Keeper of the Circle will announce the guidelines and begin by assuring everyone that the Circle is a safe place to share one's life experiences and how one feels;
- Everyone is Equal. All titles are left at the door;
- Prayer or Silence: We begin the Circle in a good way; we end the Circle in a good way;
- One person talks at a time. Talk from the heart – one's life experience, for example. We even respect one's choice not to share, but we are at the Circle to show support;
- A time limit on sharing is usually 5 minutes maximum and even shorter if there are many participants;
- We respect each other; Keeper can call a point of order;
- We Do Not Point the Blame;
- Timely Breaks are announced by the Keeper of the Circle;
- Everyone is Inclusive; no one should be sitting outside the Circle; and
- Everything said in the Circle is confidential.

⁸¹ See Note 7, p. 179

⁸² Jackson, Mike. *Guidelines for Circle Peacemaking*. (Unpublished) Obtained via email, August 2009

The Keeper sets the tone of the Circle by making introductions, conveying news about local births and wedding announcements and may even tell a story relevant to the Circle.⁸³ Next, a respected Elder of the community will open the Circle with a prayer and those who are not religious can reflect in silence.

Because of the formality of the Circle and of the culture of the First Nation People, the selection of the “talking piece” is nearly as important and powerful as the Circle itself. Talking pieces often have a spiritual connection and is respected by all in the community.⁸⁴ While many communities select feathers – as numerous clans come from the Eagle or Raven moiety – in Kake, the talking piece is a diamond willow stick. As explained by Magistrate Jackson, “the willow’s brown, diamond-shaped pattern represents the eyes of elders who watch to see if their community members aid one another through their comments.”⁸⁵

When the talking piece moves around the room, certain traditions are followed. In Kake, as in many northern First Nation communities, it is customary for the talking piece to move clockwise, imitating the path of the sun.⁸⁶ In addition, after one person has had a chance to talk, it is handed off to the next person in the circle so that all are given the opportunity to participate. Only the person holding the talking piece speaks. This

⁸³ See Note 7, p. 182

⁸⁴ Ibid, p. 98

⁸⁵ Jackson, Mike. *Kake Circle Peacemaking*. In <http://www.innovations.harvard.edu/awards.html?id=6164> July 2009

⁸⁶ See Note 7, p. 96

encourages active listening as participants listen, speak and then listen again.⁸⁷

Participants are not required to speak and in some circumstances, silence may be a more powerful voice for the Circle than any spoken word.⁸⁸

As mentioned earlier, under traditional Native culture, any broken relationship affects the whole Kwaan (Village). Accordingly, when an offender commits a harmful act, the whole village suffers. In order to repair the village and make the community whole again, Circles rely on commitments from the families, community members and the offender.⁸⁹ Success from this type of restorative justice comes from the consistent presence of the Circle. Thus, the offender has a constant support group that identifies concerns, provides on-going supervision and ensures that each Circle requirement is measured against individual, family and community information.⁹⁰ With so many people involved in the Circle process, the odds of repairing the Kwaan increase substantially.

Since the process is directed by community, there can be a Circle for the victim, a Circle to address the offender's behavior, a consensus-driven Circle to address the obligations of the offender, a circle to address the community's needs, as well as follow-up Circles to monitor the progress of the agreed upon terms. If, at any time, the offender does not complete any or all of the requirements, the Circle may convene and the offender may be referred back to the courts and prosecuted by the government.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ See Note 74.

⁹⁰ See Note 3, Lilles, H. and Stuart, B.

Circles were initially used to aid judges in fashioning a sentence for the offender, hence the term "Circle Sentencing."⁹¹ Nowadays, however, the Circle is used as a way for the community to come to a consensus on how best to repair the harm the offender has caused to the victim and the community.⁹² Modern Circles have many names, including Circle Peacemaking, Healing Heart Circles, Support Circles, Dialogue Circles - just to name a few. Circles are prevalent throughout Canada and the United States and they are being utilized as a restorative alternative to Family Group Conferencing in New Zealand and Australia.⁹³

Recidivism Studies on Circles

Limited research has been conducted on the effectiveness of restorative justice, particularly Circles. In 1996, Judge Barry Stuart noted that offenders who went through the Circle recidivated less than those who went through the Western criminal justice process.⁹⁴ In 2002, Minnesota researchers Mark Umbreit, Robert Coates and Betty Vos reported that, "restorative justice conferencing approaches are at least as viable at recidivism reduction as traditional approaches."⁹⁵ And in 2005, two articles from Australia noted a significant reduction in aboriginal offenders. Aboriginal people in New

⁹¹ See Note 72.

⁹² See Note 89.

⁹³ McNamara, Luke. *Indigenous Community Participation in the Sentencing of Criminal Offenders: Circle Sentencing*, Indigenous Law Bulletin (2000) at <http://www.austlii.edu.au/au/journals/ILB/2000/29.html> July 2009

⁹⁴ <http://www.ibarji.org/circlesentence.htm> retrieved July 2009

⁹⁵ Umbreit, Mark, Coates, Robert and Vos, Betty, *The Impact of Restorative Justice Conferencing: A Review of 63 Empirical Studies in 5 Countries*, Center for Restorative Justice & Peacemaking, (2002), p. 15

South Wales, for example, only made up 2% of the general population but comprised 20% of the prison population.⁹⁶ After Circle Sentencing was introduced in Nowra, Dubbo and Brewarrina in 2002,⁹⁷ the recidivism rate went from 50% down to 10%.⁹⁸

Empirical evidence emerged in 2008 that contradicts the New South Wales findings. The report indicates that, while Circle Sentencing participants “offended less in the 15 months following their Circle, the same was also true of aboriginal people sentenced in a traditional court setting (the control group).”⁹⁹ The report goes on to say that “there was no difference between the Circle Sentencing group and the control group in the percentage of offenders whose next offense date was less serious than the reference offense.”¹⁰⁰

Recidivism in Alaska: A Non-Restorative Look

In 2007, the Alaska Judicial Council published a study on recidivism in Alaska.¹⁰¹ The study looked at 1,798 cases across the state where defendants were convicted in 1999 and the offenders had been out of custody for at least three years. The study

⁹⁶ Bell, Janet. Curator, *Four Corners – Inside the Circle*, Australian Broadcasting Corporation (2005) at <http://australianscreen.com.au/titles/four-corners-inside-circle/> September 2009

⁹⁷ O’Dwyer, Erin. *Court Circle of Shame Helps Beat Black Crime*, The Sydney Morning Herald, October 16, 2005 at <http://www.smh.com.au/news/national/court-circle-of-shame-helps-beat-black-crime/2005/10/15/1128796748221.html#> September 2009

⁹⁸ See Note 96.

⁹⁹ Fitzgerald, Jacqueline. *Does Circle Sentencing Reduce Aboriginal Offending?* Crime and Justice Bulletin, Contemporary Issues in Crime and Justice, NSW Bureau of Crime Statistics and Research, Number 115. (May 2008)

¹⁰⁰ Ibid.

¹⁰¹ Alaska Judicial Council, *Criminal Recidivism in Alaska*, January 2007 at <http://www.ajc.state.ak.us/Reports/1-07CriminalRecidivism.pdf> February 2010

noted that recidivism was based upon a new arrest, a new conviction or a probation/parole violation.

The findings from the Council study found that 20% of all defendants came into contact with the justice system again while on probation or while released pending disposition of their case. In addition, 66% had been rearrested at least once following their initial conviction.

The study also noted certain characteristics on alcohol use and age. Defendants who had an alcohol problem in 1999 had a 24% increased chance of getting another conviction over those defendants who did not have an alcohol problem. And after the end of three years, 57% of all offenders who had an alcohol problem were reconvicted of another offense. Lastly, the Council study found that the younger the offender, the higher the rate of recidivism. The study noted, for example, that 18 year-olds were 81% more likely to be rearrested and reconvicted than 45 year-old defendants.

Defining Recidivism for Circle Cases

Researchers and authors vary on the way recidivism is defined. For example, Oregon's 1998 – 2002 Statewide Report on Juvenile Recidivism purports "As a measure of public safety, recidivism is defined as a new criminal referral. A referral is a law enforcement report to a juvenile department alleging one or more felony and one or

more misdemeanor acts (offenses). Measurement of recidivism includes the rate and severity of new crimes and other relevant factors.”¹⁰²

The state of Maine takes a slightly different approach. For their 2007 executive summary, they define recidivism as “any individual who records a first adjudication date in Maine’s juvenile court system for offenses committed before the age of 18 and records a second adjudicated date for a new offense in Maine’s juvenile court system or Maine’s adult court system.”¹⁰³

Since recidivism can be based on the committal of a new crime, a new arrest, a new adjudication or, like Alaska, a combination of the three, for the purposes of this project, a participant in the Circle or the control group recidivates if, upon conviction of the underlying offense, commits a subsequent act **and is convicted of** another wrongful act within five years. For comparative purposes, this project examines recidivism at the one, three and five year benchmarks following the offender’s entrance into or completion of the Circle or upon conviction (for Control Group cases and Circle cases).

¹⁰² Oregon Youth Authority, Juvenile Recidivism: Oregon’s Statewide Report on Juvenile Recidivism 1998 – 2002. (2004) p. 2 at http://www.oregon.gov/OYA/docs/98_02_intro_recidivism.pdf October 2009

¹⁰³ Pate, Susan. Maine Department of Corrections Annual Juvenile Recidivism Report (March 2008) p. 1 at http://muskie.usm.maine.edu/justiceresearch/Publications/Juvenile/Annual_Juvenile_Recidivism_Cohort2005.pdf October 2009

Methodology

Given the limited amount of research available on the use and effectiveness of restorative justice Circles, coupled with Kake's self-reported recidivism rate of less than five percent, the spotlight of this study focuses on the need to generate statistical data on restorative justice and to conduct an independent review of the Kake Circle.

Because of the potential impact of this study, three main data collection areas were targeted: gathering and analyzing archival data from 1999 to early 2009, conducting stakeholder surveys on attendees and offenders who participated in one or more Circles during the same time period (1999 to 2009) and examining data from a control group in a community that has a similar ethnic population and case filings as Kake.

Archival (Circle) Data

The archival data form was written to glean as much information about Circle participants as possible. **See Appendix A**. The form was pretested by Magistrate Mike Jackson and two experienced clerks of court. The original form was approved by the pre-testers. The form contains pertinent information about each Circle participant, the requirements of the Circle and any post-Circle criminal activity.

In August 2009, a site visit to Kake was conducted. Archival data were obtained from the Kake Healing Heart Council. Some Circle files were held by Councilwoman Dinah Aceveda, some by Councilman Anthony Gastelum, and some by Councilman/Magistrate Mike Jackson. Of the reported 100+ case files on Circle participants, only 27 intact files were located. The 27 files were delivered to the Kake court and the files were reviewed on site over the course of two days. Pertinent

information was extrapolated from each Circle participant and documented on the archival data form. Photocopies of the 27 files were also made for future reference and brought back to Juneau for additional review. The archival data form was modified in September 2009 and all the data gathered in August were transferred to the new form.¹⁰⁴ Also in September 2009, a document was produced by Magistrate Mike Jackson listing all cases that were referred to the Circle since its 1999 inception. Although the total number of participants was slightly more than 60, it was clear from the documentation that several Circles were held for events other than restorative justice efforts.¹⁰⁵ As such, the total number of Circles cases used in the study was 46.

The post-Circle activity was used to document and measure recidivism. The data were put into a spreadsheet and the findings coded to binary information (e.g., 0=Female, 1=Male) where possible. The statistical package SPSS was used to compare the data and several variables were targeted. The results are listed in the Findings section.

The Healing Heart Council acknowledged the problem with different council members holding different case files. Because there was no central repository, more than half of the Circle files are missing. One other difficulty encountered while gathering archival data was that the quality and quantity of information changed between 1999

¹⁰⁴ Advisor Fred Cheesman noted that a couple questions needed to be separated as multiple variables could have been obtained. This would have tainted the data results, especially the recidivism rates.

¹⁰⁵ For example, some cases were celebration Circles that observed a successful inpatient alcohol treatment program for participants that had no criminal history. And there was at least one Circle that focused on suicide intervention.

and 2009. Specific information that was sought in the archival data form was not listed in the early case files. For example, many of the early cases did not list the number of Circles that were attended by each offender nor were the requirements of the Circles specified. Over the course of the ten years, the data got better, albeit incrementally.

Control Group Data

Two communities were considered as control groups for this project: Angoon (pronounced an-GOON) and Hoonah (pronounced HOO-nah), Alaska. Angoon is the Native village of the Kootznoowoo Tlingit tribe, located 70 miles south of Juneau on Admiralty Island. The term *Kootznoowoo* means “forest of the bears” and Admiralty Island lives up to that reputation with the largest concentration of brown bears in the world, with one bear per square mile. The population of Angoon is 430 (compared to Kake’s 450) and *Haa Kusteeyi* plays a major role for the community. Angoon employs a part-time, 30 hour per week magistrate but no clerk. Angoon was not chosen as the control group, however, because the community has historically banned the possession of alcohol. Since the vast majority of Circle cases from Kake involve minor consuming alcohol, the statistics from Angoon would not be a viable comparison.

The first Huna Tlingit tribe originally settled along the craggy precipices in the Glacier Bay area some 75 miles northwest of Juneau. But oral history indicates the village was destroyed by an advancing glacier nearly a thousand years ago and the community relocated. This explains why the term *Huna* means “village by the cliff.” Nowadays, Hoonah (as it is now called) is located 40 miles west of Juneau on the gentle, sloping shores of Chichagof Island. The population of Hoonah is just over 800

and most maintain a *Haa Kusteeyi* lifestyle. Hoonah employs a full-time magistrate and a seasonal (May through September) clerk. In addition, Hoonah has a comparable caseload to Kake and has an equitable number of young offenders that are charged with alcohol-related offenses.

In September and October of 2009, the Hoonah magistrate gathered data from the court's case management system, a Microsoft Access™ program that was specifically designed for the smallest court locations in Alaska. The data, which encompasses years 2000 through 2009, was then put into an Excel™ spreadsheet and eight categories were created: Name, DOB, Case #, Charge, Amended Charge/Agreement, Disposition, Sentence, and Compliance. From there, the data were put into another spreadsheet and the findings coded to binary information (e.g., 0=Female, 1=Male) where possible. This information, together with the archival data from Kake, were put into the statistical package SPSS and several variables were targeted. The results are listed in the Findings section.

Archival and Control Group Data

After the 46 Circle cases were entered into the spreadsheet, the data from Hoonah were examined. In order to effectively compare the Circle cases with the Control Group cases, it was important to study data where the offenders from both groups were of the same sex and approximately the same age. In all, a total of 26 Control Group cases were compared to 26 Circle cases between 2002 and 2006. Thus, a total of 56% of all Circle cases were compared against the Control Group cases for recidivism.

Stakeholder Surveys

Because restorative justice Circles rely on family members and the community for its success, a stakeholder survey was developed for those who attended one or more Circles. The intent was for the offender to fill out a survey as well as for those who took part in the Circle process. Open-ended questions were used to elicit as much information as possible about the use and effectiveness of the Circle concept. The stakeholder survey was pretested by Magistrate Mike Jackson and two experienced clerks of court. The form, which consisted of ten questions, was not changed. **See Appendix B.**

Initially, the surveys were going to be conducted in the community of Kake and performed in-person in August, at the same time the archival data were collected. Prior to the researcher's arrival, however, a 90 year-old Elder passed away. The community made funeral and service arrangements during the same day that the researcher was to interview Circle participants and attendees. In traditional Tlingit culture, memorial services are an all-day event with the younger, male generation digging a grave site on sacred land while the older generation of men and women prepared the ceremony. Out of respect for the community, the researcher did not attend the services and did not attempt any in-person surveys. The researcher left Kake the following morning.

On November 4, 2009, stakeholder surveys were mailed from Juneau to approximately twenty-two households and five community service agencies. In all, roughly 70 surveys were mailed out to Circle participants and attendees. A cover letter explained the purpose of the survey. **See Appendix C.**

On November 9, 2009, the postal service returned twenty surveys, or 29%, as undeliverable. In every case, the postal service noted that the resident had moved and left no forwarding address. By the end of December 2009, no stakeholder survey had been returned to the researcher. In January 2010, the local magistrate was contacted for assistance. With the help of the Healing Heart Council, twelve surveys, or 17% of the total surveys sent out, were collected and sent to the researcher.

Because of the open-ended nature of the questions, the data from the stakeholder surveys were not entered into SPSS. Instead, the researcher went through each survey and pulled out information and categorized the data into similar patterns.

Findings

Archival (Circle) Data

The data from the study revealed some very interesting patterns and findings. For example, of the 46 offenders in the Circle program, the vast majority were in the program for alcohol-related offenses. Over the course of the ten-year look-back, 28% of all Circle offenders recidivated. This is slightly higher than the Alaska Judicial Council's (hereinafter Council's) findings that found defendants who had an alcohol problem in 1999 had a 24% chance of getting another conviction. But the recidivism rate for Circle offenders was substantially lower than the statewide recidivism rate of 66% as portrayed by the Council's findings.

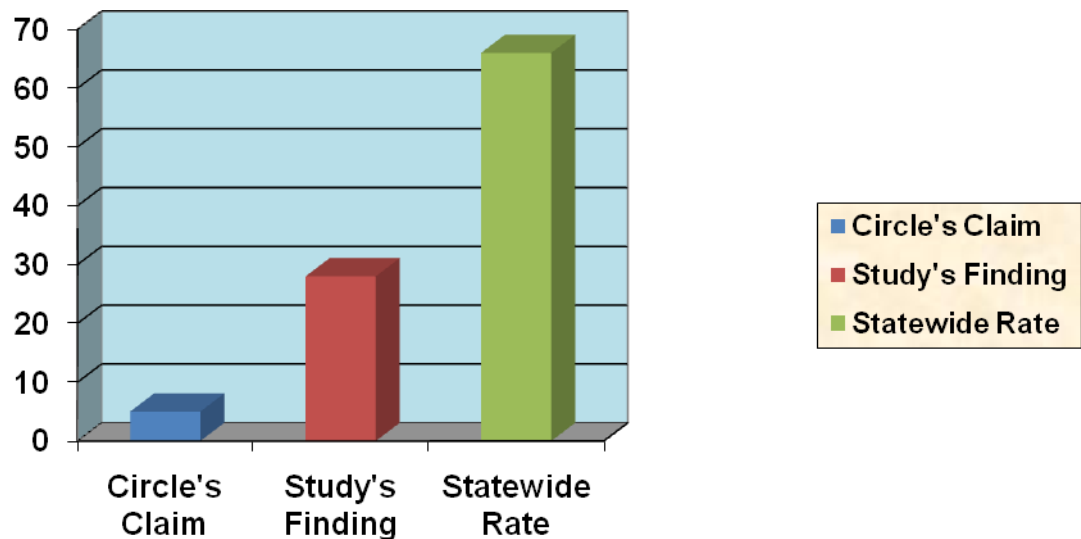


Figure 1. Comparing Recidivism in Alaska: The Circle's Claim, This Study and the Statewide Rate

Another pattern developed when examining the offenders who were going through the Circle program. Of the offenders who were actively involved the Circle process, 19% reoffended while still in the program. This finding was right in line with the Council's study that found that 20% of all defendants reoffended while on probation or while waiting for trial.

When looking at the frequency at which male and female Circle offenders recidivated, 15% were convicted of a subsequent offense within one year; 28% were convicted of a subsequent offense within three years; and 30% were convicted within five years.

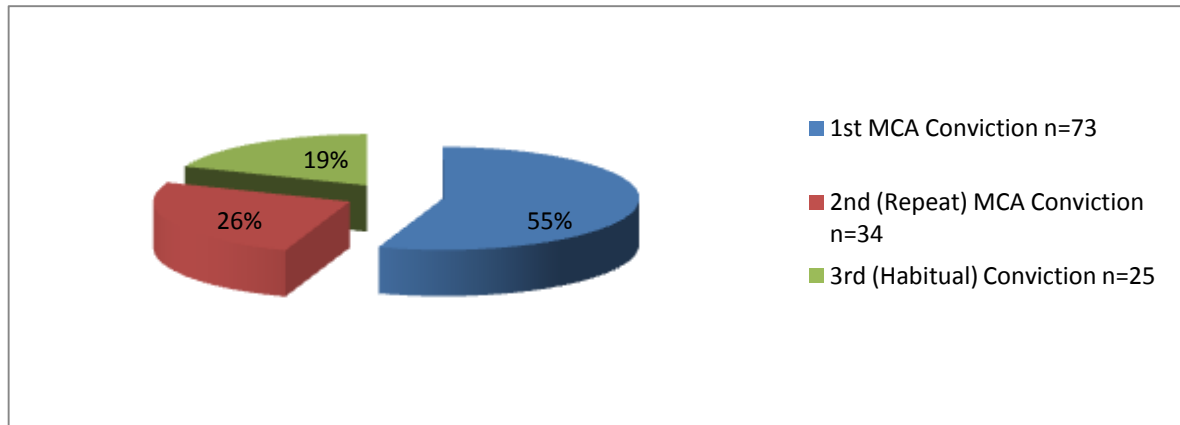
Of the offenders in the Circle program that recidivated, 61% were female. Of those, nearly half (45%) recidivated within five years. This percentage is slightly less than the Council's study that found 57% of offenders who had a prior alcohol problem were reconvicted of a subsequent offense. Refer to **Appendix D** for charts, graphs or tables relating to Circle offenders.

Control Group Data

Between 2000 and 2009, there were a total of 132 cases filed with the Hoonah court where the charge was minor consuming, repeat minor consuming – meaning a second charge following a conviction; or habitual minor consuming – meaning a third charge following two minor consuming convictions. Of the 132 cases reviewed, a total of 59 cases involved offenders who were convicted of a repeat or habitual offense. This finding reflects that, Hoonah offenders who were charged with similar offenses as their

Kake Circle counterparts, had a recidivism rate of 45%. The following chart shows the breakdown of cases in the Control Group.

Figure 2. Types of Minor Consuming Cases in the Control Group



Archival and Control Group Data

The most fascinating and telling comparison is between the Kake Circle cases and the Hoonah (Control Group) cases. When 26 Circle cases were compared against 26 Hoonah cases, the offenders from the Kake Circle had a recidivism rate of 48% as opposed to Hoonah's 42%.¹⁰⁶

Other similarities and differences emerged between the Circle group and the Control Group. Females, for example, were the predominant offenders in both communities. In the Circle, 63% of all offenders in the comparison study were female

¹⁰⁶ It is important to note that these results are provisional at best. Given the small sample size, it is entirely possible that the difference in recidivism between these two communities happened simply by chance.

while the Control Group revealed that 68% of all offenders were female. In the Council's study, only 27% were female.

The Council's study noted that younger offenders had the highest rates of recidivism. In fact, in their study, 18-year olds were 81% more likely to be re-incarcerated than offenders in their forties. Given the verity that nearly all the offenders in the comparison study were charged as minors in one shape or fashion (e.g., minor consuming, minor in possession of tobacco, etc.), it is not surprising to see offenders from both the Circle and the Control Group recidivate.

Although the Kake Circle had more offenders recidivate in the comparison than the Control Group, both males and females in the Control Group recidivated **faster** than the Circle group. All of the Control Group males in the comparison study who recidivated did so within the first year of their initial conviction. Similarly, of the women in the Control Group that recidivated, 89% did so within the first year. The Circle offenders fared better. Of the women in the comparison that recidivated, 60% reoffended within the first year while 40% reoffended within three years. For the male offenders in the Circle that recidivated, 25% recidivated within the first year, 50% recidivated within three years and 25% recidivated within five years. When looking at the recidivism rates at the one year, three year and five year benchmarks, the Control Group offenders that recidivated did so much faster than the Circle offenders. The following table on page 45 illustrates the recidivism rates by location.

Table 1. Benchmark Recidivism Rates by Location				
		1 Year	3 Years	5 Years
Kake Circle	<i>n</i> = 14	50%	92%	100%
Hoonah (Control Group)	<i>n</i> = 11	90%	100%	
Combined		68%	96%	100%

As for the offenders who recidivated in both the Circle and in the Control group, more than 70% were reconvicted for the same offense as their original charge – minor consuming alcohol.

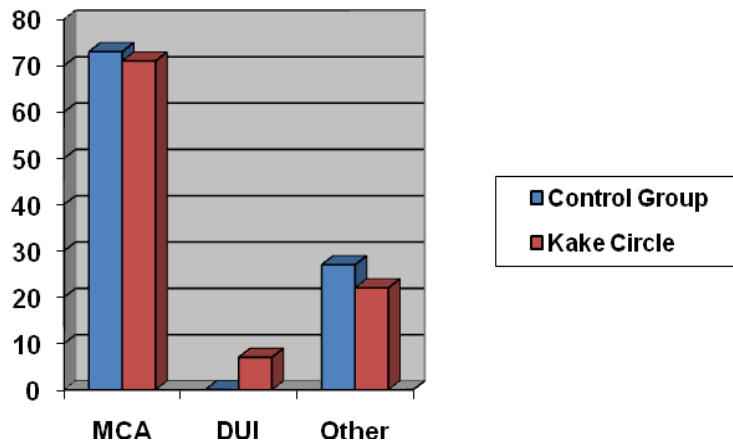


Figure 3. Reconviction Percentages by Case Type

The recidivists in the Control Group were reconvicted of minor consuming alcohol in 73% of the cases. And the Kake Circle recidivists were reconvicted of minor consuming alcohol in 71% of the cases. Driving under the influence only accounted for 7% in Kake,

while both communities experienced slightly more than 20% recidivism convictions for misdemeanor offenses like assault, theft and criminal mischief.

Stakeholder Survey Data

Of the twelve stakeholder surveys returned, only one was completed by a participant in the Circle.¹⁰⁷ Interestingly enough, when asked about what recommendations could be made to improve the effectiveness of the Circle, the participant noted “enforcement of the recommendations from the Circle.”

The majority (66%) of the responders to the stakeholder survey were parents or relatives of the Circle participant. In every survey (100%) the responder felt that the Circle approach was the best way to address the participant’s problem.

Six of the twelve responders (50%) indicated that they only attended one Circle. Of the six people who only attended one Circle, three of those people attended when the community treated two offenders for the same alcohol-related offense. When asked why they attended the Circle, they indicated that they did so to support the participants’ families and “for healing between the participants and the community.” These three went on to say that the strengths of the Circle process included “no blaming in the process; everyone had a chance to express themselves without judgment; and that the process focused on healing and mending relationships rather than punishment or

¹⁰⁷ The participant was in the Circle to address inpatient alcohol treatment and had no criminal history. This individual subsequently participated in many Circles for youthful offenders as a role model of the healing aspects of the Circle process.

judgment.” In addition, the Circle process “went to the heart of the issue and was resolved in a positive way.”

Five responders (41%) stated that they attended “many” or “several” Circles. When asked why they attended the Circles, four of those five people (80%) indicated that they wanted to help the *offender* or support the *offender*. This was a much different response from those who only attended one circle and participated primarily to support the family.

Responders who attended multiple Circles offered additional insight and challenges that they faced as well as those of the offender. One responder, for example, stated that, although the Circle process was the best way for the group to get to the root of the problem – as the more minds, eyes and voices in the group, the better the outcome – it was important to have more Follow-Up Circles in order to encourage the continued progress of the offender. Another responder noted that, while there sometimes needed to be a larger core group of Circle supporters, it was also important to have more informational meetings to find out if the offender completed all of the requirements mandated by the Circle. One other barrier that was noted by a responder was simply the fact that, because Kake was such a small community, some necessary resources were not available to the offender. Treatment for anger management, for instance, is only available in the larger communities. While talking in the Circle provides some outlet for the offender and gets them to open up, the clinical side of treatment for some offenders was lacking.

Conclusions and Recommendations

This was a fascinating topic that any researcher would find appealing. The subject matter was very interesting and having attended two Circles in two different communities, the experiences were extremely emotional. The Circle offered something that no court experience could ever provide – the tremendous influence that one person's actions has on family members, victims and the community. An outpouring of words and emotions that conveyed hurt, pain, suffering, shame, embarrassment, guilt, frustration, hope, inspiration and promise came out as one person after another described how the Circle participant's actions affected them. An attendee did not have to live in the community to know that the Circle process was a powerful experience and one that leaves a lasting impression.

As a non-resident of Kake, this project had some obvious challenges. The biggest obstacle was the fact that the archival data was nearly 100 miles away and only accessible by flying or boating into the community. Distance was also an issue for the collection of stakeholder surveys. This was an area where the information should be collected on site. People feel more comfortable answering personal questions in person rather than over the phone or by receiving something in the mail. It was extremely unfortunate that an Elder passed away and prevented any one-on-one communication. If more time were set aside to account for any unforeseen circumstances, the surveys would have been done on-site and the response rate would have been much higher.

Based on the totality of the evidence, the use of restorative justice Circles are just as effective, if not more effective, than the Western approach to crime and

punishment. In Kake, the Circle process has a substantially lower recidivism rate than the statewide rate where offenders are prosecuted in traditional courts. Although the findings do not support the self-reported recidivism rate of 5%, the Circle is clearly a good avenue to address certain cases, namely minor consuming alcohol. The community favors the Circle approach and is willing to put in the time and effort to address alcohol use and abuse when offenders are still young. Given this study, a number of conclusions and recommendations can be made.

CONCLUSION 1: ABORIGINAL CULTURES HAVE A HISTORY OF RESOLVING CONFLICTS THAT IS NON-ADVERSARIAL

Throughout history, small communities and cultures survived because the people looked out for one another. Small bands of hunters and gatherers would sit around a camp fire and tell stories, plan hunts and resolve skirmishes. As families grew or as smaller bands formed larger bands, the dynamics of the group changed slightly to include the leadership of a respected and trusted Chief. But the ultimate goal of survival remained relatively unchanged. The First Nation people of Canada and Alaska, for example, developed a hierarchy within their communities that fostered open lines of communication and addressed conflicts through the head of each household. Knowledgeable Elders who were experienced in the ways of life would typically preside over differences and help families come to restorative solutions.

RECOMMENDATION 1: WESTERN SOCIETY SHOULD PROMOTE MORE RESTORATIVE SOLUTIONS TO JUSTICE PROBLEMS, ESPECIALLY IN INDIGENOUS CULTURES THAT DO NOT RELY ON PUNITIVE SANCTIONS

All three indigenous cultures mentioned in this project – the Maori from New Zealand, the Ubuntu practitioners from South Africa and the First Nation people of Canada and Alaska – have a long-standing tradition of using restorative solutions in

their cultures. As Western civilization integrated with their cultures, the values of the Westerners often forced the indigenous groups to assume the same values.

Unfortunately, those Western values created more problems than they solved.

Each indigenous culture mentioned has a history and a track record of making things right between the offender, the victim and the community. Parties are brought together, the issues are discussed in a collaborative manner, obligations are created and the solution is to undo the harm and put things right with all those involved: the offender, the victim and the community.

With the rising cost of incarceration, it is recommended that prosecutors turn over minor offense and misdemeanor cases to communities that have a predominantly aboriginal population. Communities that have a say in the outcome of a case have more invested in the process. And the success or failure of an offender's actions is largely on the shoulders of the community rather than the government.

CONCLUSION 2: STAKEHOLDER PERCEPTIONS SUPPORT EARLY INVOLVEMENT AND CONTINUOUS INVOLVEMENT ON RESTORATIVE JUSTICE CASES.

Like judges handling a large caseload, the secret to staying on top of the workload is to have early control and continuous control. The Circle approach is no different. Regardless of whether the survey responders attended only one Circle or many Circles, the theme that was shared by everyone revealed that the Circle should be involved early on in the offender's case and that continued and regular Follow-up Circles be held to monitor the offender's progress. Both men and women agreed with this argument.

RECOMMENDATION 2: OFFENDERS THAT ARE DIVERTED TO THE CIRCLE PROCESS SHOULD BE MONITORED EXTENSIVELY FOR COMPLIANCE PURPOSES

As with any new paradigm, the strength and success of the program is only as good as the foundation of its members. The more dedicated the members, the better the chances of success for the offenders. Judge Barry Stuart noted that the Circle process took much longer than he anticipated. He pointed out that, while Western justice can resolve a case in a day, it can take several weeks to several months to resolve a Circle case.¹⁰⁸ The reason for this is simply because of the amount of time that is involved on behalf of the offenders and the attendees.

It is recommended that youthful offenders who are charged with similar offenses be involved in the same Circle. This generates a bit of peer pressure on the offenders to perform but it also adds a motivating factor as the success in one offender's progress encourages others to do the same. This would also allow Circle organizers to monitor several offenders simultaneously and be more efficient in their handling of like-offenders. And the goal of early control and continuous control is met through this approach.

CONCLUSION 3: THE EFFECTIVENESS OF THE KAKE CIRCLE IS CONTINGENT UPON COMMUNITY INVOLVEMENT AND PROVIDING LOCAL SERVICES TO THE OFFENDER

Given its remoteness and its population, it is not surprising to see that Kake has limited resources for its citizens. The community is not large enough to have a resident

¹⁰⁸ See Note 73.

physician, psychologist, psychiatrist or alcohol treatment center. But because of the amount of crime in the community, especially crime that involves alcohol, the community needs to have programs and services on-site to help people with mental illness, including alcohol use and abuse.

RECOMMENDATION 3: A CORE GROUP OF CIRCLE MEMBERS IS NEEDED TO ENCOURAGE PARENTS AND RELATIVES TO ATTEND CIRCLES. AND MORE TREATMENT SERVICES ARE NEEDED WITHIN THE COMMUNITY OF KAKE

Whenever you have a small community, it is imperative that you keep the younger citizens active and involved. Lecturing preteens and teens about the dangers of alcohol is not enough. It is crucial that role models – parents, grandparents, aunts and uncles - teach the youth to focus their energies on positive choices in life.

Perhaps even more important is realizing that, in this world of Fetal Alcohol Syndrome (FAS), Fetal Alcohol Effect (FAE), dual-diagnosis and special needs, communities should have the resources to refer, help and treat its citizens. The Circle was designed to help a wide variety of citizens and problems. Although the Circle is restorative in its approach, it cannot solve everything by itself. It is recommended that more services be offered within the community so that the Circle is one of many options that citizens can turn to for educational and emotional support.

CONCLUSION 4: IF A COMMUNITY IS GOING TO BE “WET” – MEANING THAT IT ALLOWS ALCOHOL TO BE SOLD OR KEPT – THERE WILL BE PROBLEMS WITH UNDERAGE POSSESSION AND DRINKING.

There are some communities in Alaska that have chosen to be “wet” and there are communities that have chosen to be “dry.” And there some communities that have alternated between wet and dry. Those that have gone from dry to wet always

experience an increase in their criminal case filings. And not surprisingly, when there is an increase in criminal case filings, alcohol is almost always an underlying factor.

It is important to note how alcohol affects children. Children are very observant. Many of the patterns they develop as adults were learned when they were minors. If a parent or relative drinks, chances are that the minor will experiment with alcohol before they become an adult. And in a small, isolated community that does not offer many outlets for teens and preteens, the propensity to drink is even more tempting.

RECOMMENDATION 4: BEFORE AN OFFENDER IS ACCEPTED INTO THE CIRCLE, THE CANDIDATE SHOULD BE PRESCREENED FOR ALCOHOL AND DRUG ABUSE PATTERNS. SUCH SCREENING COULD AFFECT THE SUCCESS RATE OF THE CIRCLE.

Communities that utilize the Circle concept should set stringent acceptance guidelines. One of the acceptance criteria should be an alcohol and drug assessment evaluation. The majority of the offenders in the Kake Circle, for example, were in the program because of alcohol possession or consumption. A few of the offenders, namely those 19% that committed a new offense while still in the program, obviously had serious alcohol addiction issues. If those offenders could have been prescreened and evaluated, and if it was determined that their alcohol issues were deeper than first anticipated, those offenders could have been diverted to another program other than the Circle.

By utilizing careful screening methods, the Circle can improve the success rate of its program. This Recommendation will only be effective if Kake has the resources as described in Recommendation 3.

CONCLUSION 5: EVEN THOUGH THERE WAS A LACK OF ARCHIVAL DATA, THERE WAS ENOUGH INFORMATION TO COMPARE CIRCLE CASES WITH NON-CIRCLE CASES.

At the start of this project it appeared that there were well over 100 people who went through the Kake Circle. As it turned out, the total number was less than half than expected. Despite this, there was enough archival data to accentuate the positives and negatives of the Circle process. In addition, court data from a non-Circle community – the Control Group – yielded comparable information for a decent-sized study.

Once the data were collected, it was interesting to break the information down further and look at certain demographics, namely age and sex. The fact that females were the prevalent offender in both communities was a surprise to say the least.

RECOMMENDATION 5: THE CIRCLE NEEDS A CENTRAL REPOSITORY TO STORE PAST, PRESENT AND FUTURE CASES. IN ADDITION, DATA MONITORING IS NEEDED TO ENSURE ACCURACY FOR FUTURE STUDIES.

Currently, three members of the Kake Healing Heart Council have the working files of the Circle participants. In order to streamline intake procedures and ensure data quality, it is recommended that all Circle files be stored in a central repository. Case management policies should be established so that each case file is set up the same way. Pertinent information from treatment providers as well as general correspondence can be on the left side of the file, while Circle requirements, Circle attendance records and case manager records can be on the right side of the case file.

It is further recommended that Circle files be stored electronically. Electronic files are not as susceptible to loss or damage as hard files and cases are searchable through a database. This makes data collection and retrieval more efficient.

CONCLUSION 6: GIVEN THE HIGH RECIDIVSM RATE FOR FEMALES, MORE NEEDS TO BE DONE TO ADDRESS THEIR NEEDS.

Girls, especially in smaller communities, try to emulate adults before they get to adult age. They mature sooner than boys and they are more social than boys. Yet, they often have more self-esteem issues and more peer pressure than boys.

This study has shown that young women experiment with alcohol more often than young men and that many continue to have problems with alcohol after they have gone through the Circle process. Clearly, young women need more gender-specific programs to help keep them away from the temptations and dangers of alcohol.

RECOMMENDATION 6: CULTURAL PROGRAMS SPECIFICALLY GEARED TOWARDS FEMALES SHOULD BE IMPLEMENTED IN KAKE AND IN HOONAH.

The communities of Kake and Hoonah should consider a program similar to the White Bison Wellbriety Movement.¹⁰⁹ Their unique *Wellbriety* phrase means be both spiritually and physically well and sober. Part of their philosophy involves believing in Elders and storytelling as a way of guiding individuals, families and communities. They also believe in interconnectedness, meaning that it takes everyone in the community to heal the community.

The White Bison program offers two programs specifically for young women. The first is called *Daughters of Tradition* and covers two age groups, 8-12 year olds and 13-

¹⁰⁹ Information about White Bison was obtained from their website: <http://whitebison.org>
February 2010

17 year-olds. Both programs take place during the school year as well as during the summer. The goal of this educational program is to help Native women develop their identity. The girls and young women meet with a facilitator two hours each week. They use Talking Circles and mind mapping as part of the training. Among other things, the younger girls learn about their heritage and their culture; they discuss how friendships influence behavior and attitudes and there is information specifically about alcohol, drugs, depression and suicide. As the younger girls transition to the older girl's group, they focus on maintaining their cultural values, their healthy lifestyles and how to avoid unsafe situations.

The second program is called *Medicine Wheel and 12 Steps for Youth*. It is designed for young women who are 13 to 21 years old. The program is about healthy choices and healthy behaviors. The medicine wheel involves finding the Creator, finding yourself, finding your relationship with others and finding the wisdom in Elders. The 12 steps focus on character development (honesty, hope, faith, courage, integrity, willingness, humility, forgiveness, justice, perseverance, spiritual awakening and service) and there is a component on developing important life skills. The section on life skills look at decision making, goal setting, analyzing personal strengths, self-talk, healthy conflict management, solution finding and creating a healthy self-image. Both programs appear to be great options for young Native women.

CONCLUSION 7: IMPROVED CHANGES TO THE DESIGN STUDY ARE NEEDED TO CAPTURE BETTER DATA AND MORE DATA.

When Kake started the Circle back in 1999, the amount of information they collected on Circle participants was limited. This is totally understandable and expected

since it was a new program. Referrals were typically informal and tracking an offender's progress was often casual. As the program matured, data capturing techniques developed as well. By 2006, several case files had some really good information in them. More, however, can be done to ensure that the Circle process operates more efficiently.

RECOMMENDATION 7: DESIGN STUDY TO BE PROSPECTIVE RATHER THAN RETROSPECTIVE

Before an offender is referred to the Circle, the Healing Heart Council should establish criteria for what it looks for in a candidate. Targeted should be young (under 21), first time, non-violent offenses, such as MCA, shoplifting or vandalism. And there should be a good alcohol/mental health prescreening program established. All of this data should be recorded on a referral form and the Healing Heart Council should screen applicants for suitability into the Circle.

Next, data should clearly record who is attending each Circle and what their role/relationship is to the offender. As the Circle develops, it is important to identify who is the victim (person or community). And it is important to identify who is responsible for what happens in the Circle. For example, is the uncle responsible for making sure that the offender helps pick and distribute berries to an Elder? Is the aunt responsible for making sure that the offender puts in an appropriate amount of time researching the dangers of alcohol before making posters for the school?

Third, are the requirements of the Circle appropriate for the offender? And, are there an appropriate number of requirements? If an offender was in the program for spray painting graffiti on a school wall, the obvious requirement is for the offender to

repaint the wall to make it whole again. But if there are other buildings in the community that are defaced and need to be repainted, those structures should be considered as well. The idea here is to repair what has been damaged and then pay it forward. Completions and milestones should be recorded.

Fourth, an apology should be mandatory in every case. If the school was vandalized, the apology should be made to the principal and all the teachers. And all the students should be gathered in the gym and the offender should apologize to them as well. Again, completions and milestones should be recorded.

Fifth, there should be at least three Circles (an Acceptance Circle, a Follow-up Circle and a Completion Circle) and the offender should attend the Circles of two other offenders after them. This keeps the participant involved in the Circle and they become a role model for others.

Sixth, after the parents and relatives attend the third Circle, a survey should be given to them to find out their perceptions of the Circle. This will help the Healing Heart Council modify and make changes to the Circle program as it evolves.

Seventh and last, before another study is done on the Kake Circle, there should be at least a sample size of 100 cases. This will ensure that there are enough cases to look at and that a comparison of all the data can be made.

APPENDIX A
Archival Data Form

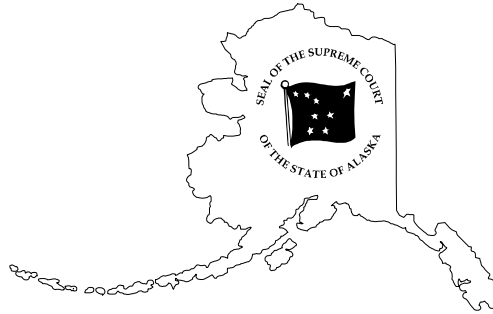
1. Participant's name: _____
2. Participant's age: _____
3. Offense: _____
4. Offense date: _____
5. Any prior charges?
 Yes No
6. If so, how many?
 One Two Three or more
7. Date referred to Circle: _____
8. Reason referred to Circle: _____
9. How was referral made? _____
10. Number of Circles attended? _____
11. Requirements of Circle (if applicable) _____
12. Were requirements fulfilled?
 Yes No
13. If No, did Participant
 Opt-out
 Get removed from Circle
 Stay in Circle
 Other (specify) _____
14. Was Participant charged of any new offense while in the Circle?
 Yes No
15. Was Participant convicted of any new offense after going through the Circle?
 Yes No
16. If Yes to either 14 or 15, describe offense or conviction _____

APPENDIX B
Stakeholder Survey
(CONFIDENTIAL)

1. Your Name _____
2. Circle Participant's Name _____
3. How would you describe your relationship to Circle participant (check only one that best describes you)
 - Parent
 - Sibling
 - Relative (aunt, uncle, cousin, niece, etc.)
 - Friend
 - Elder
 - Social Services Provider
 - Participant
 - Other (specify) _____
4. How many Circles did you attend for this participant?
5. Why did you attend the Circle?
6. Do you think the Circle was the best approach to address the problem?
 Yes No
7. Why?
8. What are the strengths of the Circle as a problem solving strategy?
9. What are the weaknesses of the Circle as a problem solving strategy?
10. What recommendations do you have to improve the effectiveness of the Circle?

NOTE: The information you provide will be kept strictly **confidential**. If you have any questions or concerns, please call Neil Nesheim at the Juneau Court: 463-4753.

APPENDIX C



ALASKA COURT SYSTEM

State of Alaska

Neil Nesheim
AREA COURT
ADMINISTRATOR

FIRST JUDICIAL DISTRICT
P. O. BOX 114100
JUNEAU, ALASKA 99811-4100

(907) 463-4753
Fax: (907) 463-4720

nnesheim@courts.state.ak.us

November 4, 2009

Kake City School District
P.O. Box 450
Kake, AK 99830

Re: Circle Peacemaking

Dear Kake City School District:

Thank you for taking a moment to open this letter. My name is Neil Nesheim and I work with Magistrate Jackson at the court system. Besides being a court employee, I am also a student at the National Center for State Courts and I am working on a research project on restorative justice. I would like your assistance in assessing Circle Peacemaking. This letter is only intended for those individuals/families that have been through one or more Circle. If you haven't attended any Circles in Kake, please disregard this letter.

For each teacher or school district employee who has participated in at least one Circle, please read through the enclosed survey and complete it at your earliest convenience. The survey asks you specific information regarding your experience with the Circle. The information you provide is completely confidential and your name will not be used or disclosed in any way.

I am enclosing a self-addressed stamped envelope so that you may send in this survey to me in a timely manner. I thank you in advance for your prompt attention in filling out the survey. If you have any questions at all, please call me at the number above or call Magistrate Jackson in Kake.

Sincerely,

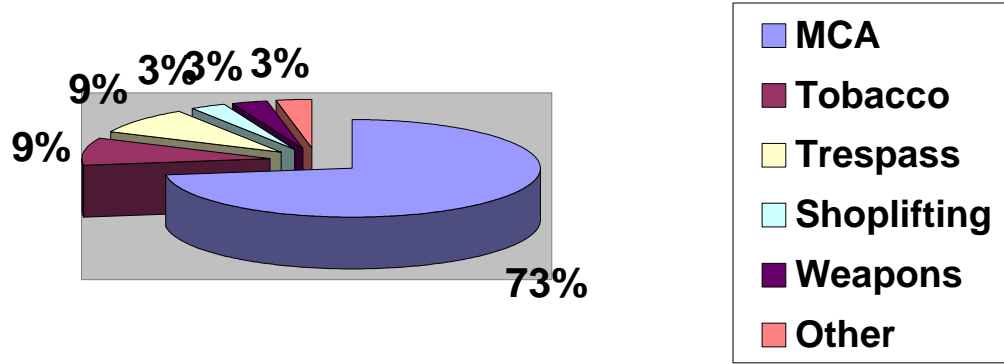
Neil Nesheim

Enclosures

APPENDIX D
Charts and Graphs on Archival Data

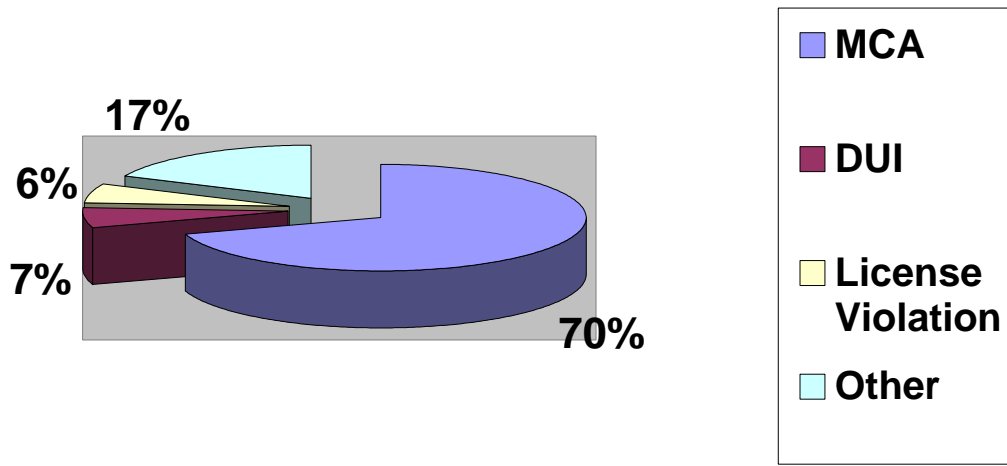
Types of Charges Referred to the Circle

n = 32



Types of Convictions Offenders Received After Going Through the Circle

n = 17



APPENDIX D
Comparing Circle Requirements and Subsequent Convictions

		Number of offenders referred for this requirement	Number of offenders who had a subsequent conviction	Percentage
Circle Requirement	Alcohol Assessment or Treatment	14	6	43%
	No Alcohol or Tobacco	6	1	17%
	Help Elders	3	2	67%
	Make Posters or Flyers	4	3	75%
	Apology	2	0	0%
	Curfew Imposed	4	3	75%
	Community Work Service (CWS)	11	5	46%
	Obey Laws	9	7	78%
	Work with Youth	6	3	50%
	Other	8	2	25%

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