

# Community Sentencing Circles: Forging New Partnerships And Empowering Communities

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His Honour Judge Barry STUART<sup>1</sup>

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<sup>1</sup> Territorial Court of Yukon, Whitehorse, Yukon.

In Arizona a crackdown on crime in the past decade relied primarily upon increasing investments on police, jails and upon a widespread use of mandatory sentences. After 10 years of this approach, Arizona can claim one of the highest per capita incarceration rates and stands among the leading States in per capita rates of drive-by shootings. Despite a 400% increase in Justice expenditures over the past 10 years, crime in Arizona continue to rise at alarming rates.

How can any government afford such stunning yet ineffective increased justice expenditures? In part by reducing other social investments. In the same period Arizona's public education budgets decreased by 14%. Pouring more and more funds into processing crime and punishing offenders, while decreasing expenditures on the underlying causes of crime, secures State investment in justice but will it make communities safe?

This pattern of expenditures, becoming common in all Western jurisdictions, relies primarily upon investing in professional resources to carry out Justice strategies that principally employ punitive sanctions to keep communities safe. Despite knowing for many years that we cannot remove crime from communities solely by removing criminals from the community, we still desperately try to do so.

## **I. COMMUNITY CIRCLE SENTENCING**

Community Circle Sentencing offers another approach - not a complete alternative to the current professionally dominated criminal justice system - but an alternative that can be combined with the existing justice process. Involving the community significantly enhances the range of options available to cope with the inordinate diversity of crime and offenders.

Community Circle Sentencing forges an invaluable partnership between community and professional justice resources, and promotes desperately needed co-ordination among professional

justice resources as well as fostering a better working relationship between justice professionals and all other relevant professionals.

Community Circle Sentencing is not a new fad - nor the latest in a long line of sure cures. The procedures, philosophies and practices of Community Circle Sentencing pre-date the current professional justice system. Before communities were enticed to relinquish responsibility to professionals for resolving community conflict, the communities handled their own problems. Community Sentencing Circles are not a rose-tinted, romantic search to restore ancient rituals. They offer an opportunity to take the best of what we had, combine it with the best of what we have - and through this combination build a more effective and flexible response to conflict and crime within communities.

The numerous facets and advantages of Circles are just being discovered in numerous Yukon communities. Much work is yet to be done, much more to be learned. Yet it is clear that Circle Sentencing, by empowering the community, generates invaluable new options that stem the sad, seemingly irrepressible rising tide of crime, and of social expenditures on regressive punitive measures. In this presentation, I will touch on several important changes stimulated by Community Circle Sentencing that warrant further examination and discussion. Ten years from now - if the professional justice system has the wisdom to support and encourage a partnership that genuinely shares powers and resources with communities, all of us will immensely benefit. If nothing else, we will share an enhanced awareness of what causes and what cures criminal behaviour, and will evolve the skills to work co-operatively in responding to crime and conflict within our communities.

## **II. UNDERLYING CAUSES OF CRIME**

In sentencing, courts mainly target the crime or criminal. Rarely can a sentencing court explore the underlying causes of the crime. The court process is neither designed nor resourced to do so. In failing to appreciate the causes of crime, and specifically the causes of the offender's

conduct, the sentence may foster recidivism by worsening the very conditions generating dysfunctional behaviour, and may exacerbate conflicts within the community generally, and specifically between the victim and offender.

A sentencing court does not pause to assess what constructive change a specific sentence has on the conditions causing crime, or the specific conflict or problems within communities. Jail sentences, fines, or probation orders are hurled at offenders by the courts without knowing what ultimate effect the use of any particular sentencing tool has on offenders, victims or communities.

Would anyone in the medical profession survive a malpractice claim if they diagnosed and prescribed with as little information about cause and effect as judges regularly do!

The causal linkage between the offender's criminal activity and the relevant social, economic, emotional and domestic circumstances are, if examined at all, only superficially addressed and then solely to assess what mitigating or aggravating influence the offender's personal history might have in imposing punishment. In failing to examine the underlying conditions causing criminal behaviour or in assessing what specific needs must be addressed to rehabilitate the offender, there can be but little wonder why the courts do a booming business in repeat customers. In the Yukon, estimates range from 65 to 85% recidivism for Federal offences. (Given our high recidivist rates, someone ought to wonder if the justice system has not found a simple minded method of job creation that survives both up and down swings in the economy).

Practices within the criminal justice system treat crime as if it was a simple problem calling for simple answers. Breaking the law is the problem, punishment the solution. No one disputes that crime arises from a myriad of causes and defies any singular solution, yet we continue to invest in simple, punitive responses. Locked into our patterned responses and roles, despite knowing better, no one within the justice system seems capable of acting on what is universally acknowledged that multi-faceted causes of crime must be addressed by more than expensive, often

counter-productive, punitive responses. People within communities, primarily those who become involved, acutely appreciate that something other than punitive responses are required.

Circles shift the focus in searching for solutions, from symptoms to causes. The discussion in Circles unlike courts does not isolate the criminal act from the social, economic and family environment fostering crime. Further, unlike courts, the Circle does not exclusively focus on the offender, but also examines the interests and concerns of offenders, families, of the victim and of the community. Consequently a sentencing plan, which includes elements of punishment, rehabilitation, healing and reconciliation with the victim and community, is derived from greater knowledge of the offender, victim and community.

In each case, community members in the Circle explore what factors contributed to the specific crime, and what factors cause similar behaviour within the community. These considerations influence the Circle Sentence which attempts to redress the causes of crime generally within the community and specifically those conditions prompting criminal conduct by the offender.

A shocking percentage of crime in the Yukon involves substance abuse.<sup>1</sup> The Circle Sentencing process addresses not only alcoholism, but develops plans to heal the underlying wounds causing offenders to retreat to alcohol, and to attack the community circumstances fostering alcohol abuse. For example, an offender sentenced for impaired driving, in addition to other probationary terms, was required to start a men's Healing Circle. In the offender's community, no means existed for men to engage in alcohol free recreational activities or to work together in healing and in keeping alcohol free. Others in the Circle agreed to work with the offender to achieve these changes within the community.

Community Sentencing Circles defy the prevailing perception that "nothing works". Circle sentences "do work" as they are individually designed to fit the circumstances of each case, and are built by the community on information and knowledge rarely available to a court.

## **II. PERSONAL INVOLVEMENT IN SENTENCING**

In Circle Sentencing, unlike the court process, a sentence evolves through a process that actively engages offenders, victims and the community. This involvement encompasses the full range of emotional responses within the community to the offender, to the crime and to conditions causing crime within the community. It is much more productive to air hate, anger and fear in the Circle than have these feelings loose and festering in the community. The Circle can often mitigate destructive, negative emotions, and accentuate positive, constructive responses. Until it is experienced, it is difficult to appreciate the ability of people to search for the higher ground in a Circle. The overwhelming energy of a Circle is positive. Equally the value of expressing anger, frustration, hate or fear cannot be discounted. These emotions reveal to offenders the deeply felt responses of a community or a victim to their crime. These feelings force offenders to deal with the human dynamics of their actions.

The rigidly structured, anaesthetic and professionally dominated court process often contains or hinders emotional or personal involvement, and can significantly restrict the development of trust, esteem, respect, and understanding. Rarely can a court inspire the community commitment to a sentencing plan often found in Circle Sentencing. This commitment arises from direct involvement with the issues and in the ownership each participant acquires in building plans for the future of others within their community. They readily recognize that the future of the offender will directly impact on the future of all who live in the community. This recognition lies at the core of their motivation to be constructive in sentencing all offenders.

## **IV. REDUCING DEPENDENCE UPON EXPERTS**

The Circle is a vital step in weaning the community away from an unrealistic and destructive dependence upon professionals. As professional resources increasingly dominate responses to crime, the interest and ability of community members to participate decreases. A professional justice system, by its structure, language, process and focus, encourages excessive

community dependence, generates unrealistic expectations of professional justice officials, and severely diminishes participatory skills within communities.

The tragically long criminal records of most offenders eloquently underscores what excessive community dependence upon the justice system can achieve.

It is difficult to imagine a better design for a process to exclude the public and bestow a radical monopoly over conflict resolution into the hands of professionals. Examples of how the community is excluded are rife throughout the judicial process. One example can be taken from the courtroom. The public, sitting in the back, view only the backside of lawyers and strain to hear proceedings as they peer up from a distance at the judge on his dias. The language and procedures are foreign and irrational to most of the public. The parties do not participate directly. Evidentiary rules deny admission of facts the community knows and believes are critical to the decision making process. Decisions are encompassed in language that confuses and confounds. Sentences fail to encompass the full range of issues raised by the crime.

Our justice system extols its value as a process that protects the public and reinforces community values yet its primary participants, especially in Circuit Court communities, are strangers to the community. They approach community problems with a minimal appreciation of community values yet feel confident in acting on behalf of the community, based upon unchallenged assumptions of what will best protect the community.

The Circle Sentencing process, by bringing all justice officials and community members together as equals in searching for solutions, breaks down the detrimental effects of isolation, excessive public dependence and unrealistic public expectations.

## **V. BUILDING A SENSE OF COMMUNITY**

The value of Circle Sentencing extends beyond its impact upon victims and offenders. The most important value of the Circle lies in its impact upon the community.

In allowing community members to assume ownership for resolving their own issues, Circle Sentencing restores a sense of collective responsibility - of being a community.

Many underlying causes of crime are community based. In the long term, the success of prevention and rehabilitation initiatives will depend upon community involvement. No magic formula of people and resources will make crime disappear without active community participation.

The health of a family, of any relationship, and of a community directly relates to how extensively people participate in making decisions that govern the life of their relationship. When community members fail to assume responsibility for decisions affecting their community, community life suffers from the absence of a collective sense of caring, of respect for diverse values, and of any sense of belonging. Many of these factors within communities cause or contribute to crime, and certainly diminish the inherent ability of a community to prevent crime or redress underlying causes of crime.

When members of any relationship fail to invest time and resources in resolving conflicts within a relationship, the relationship deteriorates. While the consequence of failing to participate may be vividly appreciated in marriages and within families, it is less acutely appreciated within organizations and almost completely ignored in communities. In failing to invest time and resources in addressing crucial issues or in resolving conflict surrounding crime, communities lose a vital opportunity to improve their well-being and the overall well-being of their community.

Conflict, if resolved through a process that constructively engages the parties involved, can be a fundamental building ingredient of any relationship. Communities, through Circle Sentencing, are directly engaged in resolving community-based conflict and in making critical



decisions about the community's future. Currently, the professional justice system, by monopolizing the process of resolving conflict, robs communities of this vital building block of a healthy community.

A conflict resolution process principally designed by, run by, and guided by community members will develop participatory skills, instill pride of ownership, foster a feeling of belonging and inject a crucial sense within each member that they "can make a difference".

The Circle generates opportunities for all members in the community to understand community-based causes of crime, and to work collectively in developing realistic plans to remove conditions fostering criminal behaviour. In working together community members gain a better appreciation of others, and through contributing to their community, improve their self-esteem.

## **VI. VICTIM'S PARTICIPATION**

Before the advent of a professional justice system, when members of the community resolved conflicts surrounding crime, the maintaining of community harmony held sway over all other objectives. While punitive sanctions were used, the community placed greater reliance upon reconciliation, mediation and restitution. In the aftermath of a crime, community harmony could only be restored by resolving the conflict between the victim and the offender as well as the conflict between the community and the offender. In resolving these conflicts, the interests of community, offender and victim were accorded equal prominence.

As communities retreated from dealing with crime, allowing, and encouraging professionals to assume almost exclusive responsibility and control, profound shifts occurred in the methods and objectives in responding to crime. The evolving dominance of a professional justice system shifted the central objective from maintaining community harmony to maintaining "the law". This shift dramatically reduced the attention accorded to victims and intensified the attention accorded offenders. This shift in objectives necessitated a change in the methods and

tools used. As concern focused on enforcing the law, attention concentrated on "the law breaker". To ensure "lawbreakers" would obey the law, severe punishments were invoked to achieve specific and general deterrence.

We have moved a long way from communities of concerned people who collectively assumed responsibility for community based conflict and whose concern centred upon maintaining harmony within the community. Today it is not uncommon for a professionally dominated justice system to function in virtual exclusion of the community, and in the name of justice impose punishments that exacerbate disharmony within the community, worsen the plight of victims and isolate offenders from the curative resources within communities. Our tenacious embrace of the mythology surrounding the socially utilitarian value of punishment concentrates our attention on offenders.

A focus on offenders and punishment gave rise to the growth of protective measures against arbitrary or unjustified violation of offender rights. Consequently, the justice system became a contest between the State and the individual, played with inordinately complex rules. Currently, so much of the justice system's energy, resources, and concern is absorbed in processing offenders through the myriad of complex safeguards to legally sanction the State's perceived need to punish, that victims have been inadvertently ignored.

The sentencing process, through victim impact statements, and their testimony in an adversarial setting, offers few constructive or attractive opportunities for victim participation. Our sentencing tools, compensation, restitution, and probation orders, are often ineffective and do little to rebuild the victim's life. Victims of crime compensation funds, when they do exist, may help, but only minimally by addressing some of the financial impacts of crime upon a victim.

These mechanisms never satisfactorily repair the emotional, spiritual and physical havoc which crime imposes upon victims.

In several different ways, Circle Sentencing reinstates some of the attention once accorded victims and rectifies some of the deficiencies in the professional justice system's intolerable treatment of victims:

**A. Empowers victims**

Victims are currently perversely empowered to significantly determine the use of justice resources. By deciding not to report crime, they can often exclude the justice process, and their lack of co-operation can significantly influence whether the justice process continues.

In most cases the factors affecting a victim's decision to become involved in the justice process deny the basis for victims to make reasonable choices. The emotional strain of a trial traumatizes victims and often underlies their decision not to become involved.

Particularly in crimes involving the family, spousal or child assault, the victim faces a difficult choice. In some cases they perceive their best interests are served by living with the risk of reoffending conduct, rather than face the prospect of losing the sole family provider to a long jail sentence; a jail sentence that may severely deteriorate the living conditions of the victim. The consequent anger and hostility of the offender, once released from jail, may either render victims more vulnerable to violence or destroy a fragile relationship, precipitating a permanent family breakdown. Without diminishing the seriousness of family violence, the Circle Sentencing process, by taking a broader perspective of the problem, balances the need to harshly denounce such conduct through punitive sanctions with the need to heal the offender and secure the best long term interests of the victim and the family.

With a focus on healing and an offer of extensive community support to offenders genuinely motivated to change their lives, Circle Sentencing generates a greater number of guilty pleas. These same characteristics of Circle Sentencing have influenced some victims to report offences knowing that the offender will get help, not simply be punished.

The Circle, with input from all sectors of the community and from the professional justice system, has a broader-based and more effective means of determining when punishment or healing is appropriate, and what will and will not serve the long term interests of victims and their families. The Circle, by generating guilty pleas and by offering constructive help to victims, improves the basis upon which a victim can decide to become involved in the justice system.

**B. Improve victims' ability to participate**

The options for victims to participate in court remain available in Circle Sentencing. The victim may testify on the stand, and have that testimony introduced later in the Circle, or may file a victim impact statement. The Circle offers an opportunity to speak directly without the trauma of testifying from the stand. A Victim Support Group can accompany the victim to provide support and speak on behalf of the victim.

In a much more constructive fashion, victims have a primary influence in shaping a sentence within the Circle. The informal, supportive environment of Circle Sentencing has immeasurably improved victim participation. But much more must be done.

**C. Promotes assistance for victims**

The Sentencing Circle's emphasis on healing, encompasses the healing needs of the victim. The impact of a sentence upon the victim is assessed, and changes are made to minimize any adverse impact.

**D. Assists similar victims**

The Circle induces others to share their experiences as victims in similar circumstances. The victim's input and the input of others who have suffered similar experiences sparks a search for community-based initiatives to redress conditions causing crime, and to develop options for

emergency relief and long-term curative programs for victims. The Circle Sentencing process serves as a catalyst for community action.

## **VII. IMPACT UPON THE OFFENDER**

By the time most offenders stand before the court to be sentenced, six months, often a year or more has passed since their offence. At the moment of sentencing, despite convincing assertions of remorse, offenders are rarely genuinely remorseful over the plight of the victims and quite often fail to appreciate the impact of their crime on the victim. Expressions of remorse can be a hollow ritual to secure a lighter sentence.

Offenders often view the criminal justice process as a game - one in which they win if they have the right lawyer, the right judge and the fortuitous revelation of only the good side of their circumstances. Winning is achieving a lighter sentence than they expected or that other offenders for similar offences received. In the aftermath of a court process, offenders complain about the inequities in the process and discuss their luck, good or bad. Thoughts of remorse, of the victim, or of a just or deserving sentence are rarely induced by ordinary court sentencing processes.

The offender's stocktaking of how the justice system treated him, includes little if any accounting for injuries to victim. The Circle changes this perspective.

### **A. About the victim**

The victim's input, especially if made directly in the Circle and echoed by others, dramatically changes the offender's perspective. Confronting the pain and suffering they have inflicted upon victims and fearing the harsh disapproval of their friends, family and community, challenges their perception that the process is a game, significantly removes justification for self-pity and diminishes the importance of their grievances against "the system". The offender is forced to respond to the consequences of their actions as well as to the condemnation of their

community. An awareness of the victim's circumstances and feelings has a fundamentally greater salutary impact in jolting offenders into genuine remorse and in provoking a lasting commitment to rehabilitation, than the most scathing drumming by any judge.

## **B. About the crime**

The victim's input detailing the misery, pain, suffering and disruption, imposed by the offender's criminal behaviour, leaves the offender little scope to employ perverse rationalizations that excuse or transfer responsibility for their conduct. An awareness of how others lives are adversely affected challenges an offender's perception that "it was no big thing" or a "so what" attitude.

## **C. About their community**

Despite the harsh condemnation of the offender's acts, community members offer extensive support. Community members make a clear distinction between "bad" conduct and a "bad" person. In addition to condemning the offender's "bad" behaviour, community participants stress the "good" qualities of offenders, and underline their belief in the offender's reformation. Community members in the Circle express concern, love and commitment to help offenders through a healing journey. Bringing love, genuine concern, support and a willingness to forgive into the sentencing process, profoundly influences the attitude and actions of many offenders. As one offender stated:

*I never heard that before - not that people cared for me. I didn't know that - for me it was always you know a bad guy doing bad stuff, so I became good at doing bad stuff. Why not eh? I was angry about how they acted towards me, now I find out they really do care - want to help. I feel different - makes me want to be different.*

Most offenders are stunned by statements from their community in the Circle. They have never heard before that people do care, do see their positive features, and are willing to commit their time to supporting and carrying out a healing plan. It is not just a lawyer fighting against a jail sentence on their behalf, but the community willing to stake their reputation and time on the prospect the offender can change - and will change if the community and offender are given a chance to work together.

#### **D. About themselves**

The community, in reaching out a helping hand, in publicly committing to support the offender, and in openly expressing their confidence in the offender, communicate a collective caring never before experienced by most offenders.

For many it is the first time in a very long time that their self-esteem and self-confidence rises to the point of inducing a belief that they **can** change their life.

#### **E. About their future**

Among the professionals in the justice system - the people enforcing the laws, adjudicating, passing sentence, carrying out sentences - among all of us who daily make numerous decisions affecting the lives of the offenders who pass through our justice system, very, very few of us have any real sense of what life is like without hope - without any prospect of living beyond abject despair. Yet very, very few of us are without ideas of what should be done. We make life-shaping decisions about people whose lives are beyond our experience, beyond our comprehension.

The Circle allows offenders to take back a measure of control over their lives. They actively participate in shaping their own sentence. With community support, they reach past a dismal perception of the future that has kept them in the grasp of the justice system. The Circle

Sentencing process, by recognizing the difference between "bad" conduct and potentially "good" people, by offering support, motivates offenders to pursue a healing plan, and assume responsibility over their life.

Finally, there is nothing more effective in changing an offender's view of their future than seeing in the Circle other offenders who are now constructively involved in their community. Successful graduates of Circle Sentencing demonstrate convincingly that it can be done. Their example inspires others. In the Circle Sentencing process communities speak with enthusiasm, affection and respect for offenders who have turned to being a positive contributing force within their community. These ex-offenders represent the hope of the community that others, and ultimately the community, can be healed. These people are the heroes, the heroines, and the leaders in a desperate struggle to build a community. To other offenders, their example alters the perception of what the future can be.

## **VIII. THE PERSPECTIVE OF JUSTICE OFFICIALS**

Although just at the beginning stages of a true community based justice system, most professionals have begun to view what must be done about crime, about offenders, and about victims in a fundamentally different way.

Rigidly defined roles and procedures within the justice system immunize and segregate most justice professionals, especially lawyers and judges, from the full force of the pain, suffering and emotions of the people processed through the system. The Circle breaks down many of these barriers, forcing justice professionals to respond to a broader range of the human dynamics surrounding crime. For many justice professionals, this exposure has been an awakening, challenging experience.

## **IX. CHANGING THE COMMUNITY PERSPECTIVE**



Few people appreciate that they cannot avoid responsibility for the crazy, violent, angry, desperate, sick and disenfranchised members of their community without ultimately and unavoidably experiencing a significant deterioration in the quality of life of their family, neighbourhood and community.

In an important, but minor way, Circle Sentencing breaks down some of the forbidding barriers to engaging communities in dealing with crime, in redressing the causal conditions of crime, in confronting uncontrollable anger and violence, and in coping with despair, misery, tragedy and incredulous suffering!

Nothing cripples appropriate new Justice initiatives more than public misconceptions about how the justice system functions, and about what should be done about crime.

In demanding harsh responses to crime, the public fails to appreciate how punitive sanctions will be utilized and fails to see, within their communities, what causes crime. In fear and frustration, the public demands the very State actions that foster the criminal activity they fear.

The changes fostered by Circles on community perspectives about justice, about offenders, about victims, and about their responsibility for justice is a complex and challenging topic that defies adequate coverage in this paper. Each community is profoundly different, and their ability to accept responsibility through the Circle dramatically differs. However, two changes in perspective common to all communities are worth noting.

Through the Circle Sentencing process, communities quickly learn to appreciate the limitations of the professional justice process, and acknowledge their unrealistic expectations that somehow the justice process can remove crime from the community. This change in perspective precipitates an awareness that they need to become involved, and that their involvement can make

a difference. These new perspectives provide the foundation for building a partnership between the community and the justice system, and for gaining an appreciation that;

- i) the justice system cannot by itself offer an effective solution;
- ii) the community can contribute in a significant manner in sentencing the offender, in assisting the victim, and in preventing similar crime in the future;
- iii) solutions are not simple;
- iv) there must be a solution uniquely tailored to the needs of the victim and the offender;
- v) punishing the offender is not sufficient to prevent crime;
- vi) exclusive reliance upon jail will not serve the community interests in healing their members, or in creating safe neighbourhoods. (Almost everyone in the Circle changes their perspective about the utility of jail sentences.)

Speeches, statistics and fancy public education programs do not measure up to the impact which direct involvement in sentencing decisions has in promoting an enlightened public perspective about criminal justice.

An enormous amount of patience, information and training must be invested to overcome the public's reluctance to assume responsibility for crime within their communities, and to provide appropriate skills for effectively undertaking these responsibilities.

## **X. REDUCING COSTS**

A 12-year old stealing a chocolate bar can trigger the entire justice system into action and complicate or unduly restrict the involvement of the victim, the family and the immediate community - the very resources that offer the best means of an effective, practical resolution.

An adult, committing a serious offence, can be swept up into an adversarial process that spends considerable public funds in a contest which further victimizes victims, can often be determined by factors and influences irrelevant to justice, and which may exacerbate the very problems the justice process was mandated to resolve. The justice systems spends inordinate public funds, either unnecessarily or in ways that are indisputably counter-productive. An unjustifiable portion of justice expenditures are spent on processing and incarcerating, far too little is invested in rehabilitation, reconciliation, healing or prevention. In justice, we have perfected the institutional version of the perpetual motion machine. The justice system is primarily engaged in recycling the same criminals within the system, rarely allowing escape, but always open to new recruits.

In an era of a limited and declining public treasury, the greater the increases in justice expenditures, the greater the diversion of funds from social programs designed to remove underlying causes of crime. As investments in removing the conditions causing crime decrease, crime increases. As crime increases, the greater the public demand for additional justice expenditures. Public demands for action force politicians to act expediently to remove crime. Expedient responses favour sweeping criminals off the streets into the justice system. Long range preventive programs are sacrificed as high profile, punitive sanctions engender a public sense that "something is being done". The more that the "something is being done" relies upon punitive solutions, the greater the investment in professional justice responses, and thereby the less will be done to reduce the flow of criminals into the system, or to increase the flow of criminals out of the system back into productive lives.

The more the justice system fails to achieve its stated purposes, the more this system will be rewarded with additional funding. Except for the community, no single justice official or agency has an institutional budgetary incentive to reduce crime. As crime increases, the arguments for increased police, courts, corrections, crowns, legal aid, probations and other justice agency budgets become irresistibly compelling.

Our society in dealing with justice is much like the village in dealing each year with increasingly higher floods. The village each year builds larger dikes and invests more resources in sandbags, but never pauses to search upstream to discover the causes of increasing annual floods. If they did, they might find that a more sustainable timber practice in upstream forests would provide in the long run a vastly superior investment than dikes and sandbags against the annually increasing assaults of a flooding river. If we address the underlying conditions creating the virtual flood of criminals into our justice system, we might not need to build so many jails or hire so many professionals to run the justice processing machine.

We have yet to comprehend fully how extensively we squander expenditures within the justice system. Circle Sentencing cannot remedy all sources of wasteful expenditures. Directly or indirectly through reductions in unnecessary costs, through replacing and enhancing justice services with community resources, and by reallocating expenditures in a more purposeful manner, Circle Sentencing can induce a more effective public investment in preventing crime and in healing victims, communities and offenders.

Reducing the involvement of judges and lawyers and other professionals through Community Circles, reducing reliance upon jails, disengaging the use of expensive criminal justice resources in minor crimes by engaging the use of community resources, lowering recidivist rates through community support groups that maintain an offender's ability to persevere through tailor made rehabilitative sentencing plans, generating more guilty pleas by offering community support for healing; all these changes wrought by Circle Sentencing lower costs while improving the delivery of justice services.

The direct and indirect savings on many fronts flowing from a community-based justice system can be enormous. Certainly the potential for savings must be fully explored, because the potential for the existing budgets of a professional justice system to expand exponentially are well known in all jurisdictions, including the Yukon. Each year in many jurisdictions, the growth in

justice budgets diverts more funds away from social programs which tackle the underlying causes of crime.

Some transitional costs will be incurred. It is my belief that these extra costs will be readily offset by savings generated by a viable community justice process within a year.

A community based justice system must run primarily on the shoulders of unpaid volunteers. However, to effectively engage volunteers two investments must be made. Appropriate training must be provided to gain full value from volunteers. Further, some lay people must be hired on a part time or job sharing basis to provide logistical support and effective linkages for volunteer participation. Part-time lay people and volunteers will either replace or reduce the need for some full time professional resources.

The most important means of reducing costs in the long run will flow from building the ability of communities to take greater responsibilities for their own problems.

Thus far in the Yukon, Circle Sentencing is just beginning to engage communities in a significant manner. Once fully engaged, and the potential of communities to work in concert with a professional justice system is realized, the cumulative savings on many fronts will be enormous.

However, until the justice system fully supports and works to enhance community involvement, the inordinate potential of a community-based justice system to reduce processing costs cannot be realized. The rationalizations for clinging to power, found in any institutional setting, underlie most of the professional reluctance to devolve power and responsibility to communities. This reluctance persists, despite political mandates to devolve and overwhelming evidence that only folly can explain any further extensive reliance upon a professional justice system to heal, or make safe, individuals or communities.

## **CONCLUSION**

In closing, one thing must be clear. The criticism of our justice system is not that it does not work - but that it is given too much work to do, too much work that could be carried out more effectively by other processes. If the criminal justice system had less to do, it might then begin to make a much better job of doing what it is principally designed and best suited to do - focus on serious crime.

Circle Sentencing profoundly reshapes perspectives. Through the frank, often emotionally difficult sharing of information, feelings and thoughts, every one involved changes their perspective about people, about events surrounding the crime, and about what should be done.

The principal value of Community Sentencing Circles can not be measured by what happens to offenders, but rather by what happens to communities. In reinforcing and building a sense of community, Circle Sentencing improves the capacity of communities to heal individuals and families and ultimately to prevent crime. Sentencing Circles provide significant opportunities for people to enhance their self image by participating in a meaningful way in helping others to heal. A participation that is recognized and appreciated by the community.

An offender with a long record:

*"I've been at this now since the Circle - I can't wait to get up and into the day - because now I know I'm needed. People need me. That's never been before - so I've been sober since then (the Circle) almost two years eh - first time - no one thought I could do it - neither did I."*

An Elder:

*"Good to see all working together - one helping another - that's the way it should be you know - growing together..."*

Circle Sentencing and all parts of a community based justice system are not just short term solutions, but investments in the community's future.

## FOOTNOTES

1. From several years of records kept, from 1979 to 1985, in 81% of all Criminal Code offences either the offender, the victim or both were significantly under the influence of alcohol or drugs. In almost 95% of the cases, alcohol or drugs were involved to some degree.