

UCLA

American Indian Culture and Research Journal

Title

A Comparison of the Community Roles of Indigenous-Operated Criminal Justice Organizations in Canada, the United States, and Australia

Permalink

<https://escholarship.org/uc/item/1z69v8h8>

Journal

American Indian Culture and Research Journal , 28(3)

ISSN

0161-6463

Author

Nielsen, Marianne O.

Publication Date

2004-06-01

DOI

10.17953

Copyright Information

This work is made available under the terms of a Creative Commons Attribution-NonCommercial License, available at <https://creativecommons.org/licenses/by-nc/4.0/>

Peer reviewed

A Comparison of the Community Roles of Indigenous-Operated Criminal Justice Organizations in Canada, the United States, and Australia

MARIANNE O. NIELSEN

INTRODUCTION

Criminal justice organizations that are operated by indigenous peoples play many important roles beyond simply providing services for indigenous people involved with the criminal justice system or at risk of such involvement. Service provision is their explicit role, but these organizations also have important implicit roles in the community and, in some cases, regionally, nationally, and internationally. It is important to understand the full contributions that these (and other indigenous service) organizations make to indigenous and nonindigenous society because of their often precarious existence within the criminal justice systems of countries that were historically invaded and settled by European powers. The dominant society within these countries continues to marginalize indigenous inhabitants through a variety of economic, political, and legal processes that contribute to the overrepresentation of the indigenous population in crime statistics.¹

Previous research has identified six general roles played in communities by any organization;² however, because of the special needs and history of indigenous communities, these roles take on unusual characteristics. In this essay I describe and analyze the explicit and implicit roles of five organizations. Explicit roles include providing a variety of programs—directly related,

Marianne O. Nielsen is an associate professor in the Department of Criminal Justice at Northern Arizona University in Flagstaff. She is the coeditor, with Robert A. Silverman, of *Native Americans, Crime, and Justice* (Boulder, CO: Westview Press, 1996) and *Aboriginal Peoples and Canadian Criminal Justice* (Toronto: Butterworths, 1992). Her current work focuses on the structures, processes, survival, and success of indigenous-operated justice organizations.

indirectly related, and not related at all to criminal justice. As important as these explicit roles are, the implicit roles of the organizations are of more interest because they are seldom discussed in the literature and not always utilized to their full potential for the benefit of indigenous organizations and communities alike.

Before I explore these implicit roles, I want to put them into a social-historical context. The next few sections describe why these organizations exist, their developmental history, and their explicit roles.

METHODOLOGY

The community roles of these organizations were investigated as part of in-depth, ongoing research on indigenous-operated criminal justice organizations.³ Included in this study are two organizations in Canada, two in the United States, and one in Australia. Because indigenous justice organizations have been the subject of very little scholarly research, I did qualitative exploratory research that collected a wide range of rich data. This was done through longitudinal case studies in which I collected data that the literature and preliminary interviews suggested should relate to organizational survival and success. Organizational environment was of particular concern because colonial theory suggests that political, economic, cultural, and other outside conditions influence indigenous organizations.

Each organization was chosen for the case study based on its accessibility. Indigenous organizations are extremely difficult to access because of the history of exploitation and misrepresentation of indigenous people by academic researchers.⁴ Using employment and personal contacts, I was able to initiate and develop relationships of trust and reciprocity with these organizations, all of which are nonprofit. None of them used volunteers except in unusual circumstances such as special events.

The methodology relied on three strategies: face-to-face interviews, supplemented with telephone, mail, and email interviews when distance was an issue; observation; and the content analysis of documents. Interviewees were chosen based on the recommendations of key informants in conjunction with snowball sampling (see Table 1 for a summary of interviews and Appendix A for a list of the standardized questions used for interviews at each agency). Eligibility criteria included the interviewee's role in the organization's history, length of employment, key roles in present programs, recommendations by other respondents, and availability. Organizational staff administrators, board members, and community members (as appropriate) were interviewed using standardized interview schedules concerning major events, changes, and challenges in the organization's history. Senior administrators and key informants were interviewed on an ongoing basis for information updates. Where possible and allowed, interviews were tape-recorded; otherwise, I wrote detailed notes. Open-ended questions focused on mission/mandate, locations, programs, structure, funding and resources, relationships with other organizations (state, federal, community), personnel, clients, community participation, management/administration, effectiveness of services, and future

challenges. Respondents were also asked basic demographic questions about their position, length of contact with the organization, and indigenous status, as well as for referrals to additional respondents and resources. Interview schedule wording varied slightly based on the structure and function of the organization, the role of the interviewee, and language usage appropriate to the organization. For example, a question concerning relations with indigenous governing bodies used the term *First Nations* in Canada, *Native American* in the United States, and *Aboriginal* in Australia. For ethical reasons respondents were given the option of preserving their anonymity and, with few exceptions, chose this consideration.

TABLE 1
Summary of Research Methodology

	Organizations				
	NCSA	YJC	NACA	PM	ALRM
Number of interviews					
Staff	22	3	12	0	9
Administration	2	n/a	2	2	2
Board	1	n/a	4	n/a	2
Community ^a	8	22	0	0	5
Funders	10	0	0	n/a	0
Total	43	25	18	2	18
Type of interview					
Face-to-face	43	15	17	2	16
Phone/email	0	10	1	0	2
Year research began	1987	1994	1999	1995	2000
Latest data collection	2003	2003	2003	2003	2001
Latest site visits	2003	2003	2003	2002	2001

Note: n/a = not applicable

^aIncludes criminal justice system members

Observation was carried out at the site of each organization. Because of the differences in organizational structures and locations, as well as funding and time considerations, the length of visits varied, ranging from intensive daily and weekly visits at the beginning of the research to semiannual visits later. Documents that were subjected to content analyses included pamphlets, newsletters, annual reports, organizational charts, policy manuals, budgets, program reviews, meeting minutes, government inquiries, strategic plans, staff lists, organizational histories, training materials, newspaper articles, conference materials, videos, letters and memos, internal research reports, discussion papers, and legal statutes.

The overall objective of this long-term research project is to analyze the impact of colonization on indigenous-operated criminal justice organizations in countries colonized by European powers.

WHY THESE ORGANIZATIONS EXIST: INDIGENOUS INVOLVEMENT IN THE CRIMINAL JUSTICE SYSTEMS OF CANADA, THE UNITED STATES, AND AUSTRALIA

There is little doubt that nonindigenous justice systems are ineffective in providing justice services to indigenous peoples.⁵ In Canada, the United States, and Australia indigenous peoples are overrepresented as offenders in the criminal justice systems. In all three countries they constitute a minority of the general population: .9 percent in the United States, 3.9 percent in Canada,⁶ and 2.1 percent in Australia,⁷ yet they are found in much larger proportions in correctional facilities in some regions. It is not possible to get comparable statistics for each country because of their different data collection and reporting systems, but the following figures are indicative of the overrepresentation of indigenous prisoners in each country.⁸ In Canada, First Nations⁹ inmates make up 17 percent of the federal and provincial prison population.¹⁰ They constitute 3 to 91 percent of all inmates in provincial and territorial prisons, and 1 to 94 percent of all inmates in federal prisons.¹¹ In American correctional facilities they constitute 1.1 percent of all adults under correctional care, custody, or control¹² but as much as 31 percent (Alaska), 25 percent (South Dakota), and 18 percent (Montana and North Dakota) of state correctional institutional populations.¹³ In Australian correctional facilities, indigenous offenders comprise 19 percent of the prison population. There is a great deal of variation by state, with the Northern Territory having the highest proportion at 60 percent. Western Australia and South Australia have the highest ratios of indigenous to nonindigenous prisoners, with indigenous rates of imprisonment at twenty times and sixteen times the nonindigenous rates respectively.¹⁴

This indigenous overrepresentation in prisons has been used by decision makers as the main explanation for the development of a wide variety of indigenous-run and indigenous-staffed criminal justice services in colonial and neocolonial countries, including police forces and police programs, indigenous courts, court workers, legal aid and legal services, correctional institutions and correctional programs, and community corrections services. Not all of these types of services exist in every country.

THE ORGANIZATIONS AND THEIR EXPLICIT ROLES

The organizations in this study were all initiated and designed by indigenous peoples (often with the assistance of a few nonindigenous criminal justice personnel). Each organization was structured to meet different indigenous community needs, but all had the objective of assisting indigenous people being unfairly and ineffectively handled by the criminal justice system and preventing their involvement or further involvement.¹⁵ The provision of their specific programs fulfills the first of the six general roles suggested by Chaskin et al., "producing needed goods and services."¹⁶ A general perception of unfairness and ineffectiveness in each country is supported by evidence documented by government task forces and other researchers.¹⁷ It should be noted that their

programs were developed to meet the areas of greatest need but were also limited by available funding and support.

The youth justice committees of Alberta, Canada, play one of two formal roles: either (1) they are community-based sentencing advisory bodies to youth court, or (2) they offer alternative measures to young people referred to them by the police. A very few committees do both. In indigenous communities (where the committees started), the committees are overwhelmingly sentencing advisory bodies. The Aboriginal committees primarily serve young offenders, although a few assist adults.

Native Counselling Services of Alberta (NCSA) is a Canadian nonprofit organization that provides a wide variety of justice-related services, including information services at all levels of provincial court (court-worker services), youth crime prevention programs, parole and probation supervision in several communities, correctional facilities (including a halfway house for youth, a forestry camp, and a healing center [prison] for adults), and a variety of community development, family wellness, and youth programs located in specific communities. It provides services in large urban areas, small communities, and on and off reserves. Its head office is in Edmonton, and it has twenty-two branch offices scattered around the province in areas of high indigenous population density.

The Navajo Nation Peacemakers of Arizona, New Mexico, and Utah provide dispute resolution services on a part-time basis throughout the reservation. The peacemakers are brought in by disputants to help them arrive at a harmonious settlement. Most cases are civil disputes, but criminal offenses up to and including sexual assault have also been addressed. The majority of disputants are adult members of the Navajo Nation.

Native Americans for Community Action (NACA) of Flagstaff, Arizona, is a nonprofit organization that provides a variety of services, only some of which are related to issues of criminal justice. Its justice programs include a youth crime prevention program and substance abuse counseling. It offers three other programs that have many offenders among their clientele: a job training program, an adult education program, and a mental health counseling program. Its largest program is the Family Health Center, which provides general medical services and affiliated programs such as diabetes education, health education, and tobacco education. The agency is restricted to providing services to indigenous people in Flagstaff and the surrounding county. Some of its programs, such as the Adult Education Program, have contracts that also allow the NACA to assist nonindigenous people.

The Aboriginal Legal Rights Movement, Inc. (ALRM), of South Australia is a nonprofit organization that provides legal representation and information in criminal and civil courts and other venues for Aboriginal people in South Australia. Its head office is in Adelaide, and it has four "country offices" in communities with high Aboriginal population densities. The first point of contact for Aboriginal clients is the Aboriginal field officers, who provide informational services twenty-four hours a day, seven days a week and gather information for the solicitors (lawyers). In addition to its legal services the ALRM's Information and Monitoring Unit produces educational materials for

Aboriginal people and provides annual reports, pamphlets, and other documents on the organization. ALRM also acts as the host organization for four programs. The Aboriginal Visitors Scheme provides volunteers to visit accused Aboriginals in police cells as a means of ensuring that their medical needs are being met and as a means of reducing deaths in custody. The Aboriginal Justice Advocacy Committee monitors the involvement of Aboriginal people in the criminal justice system and acts as an advocacy and lobbying group for Aboriginal people. The Low Income Support Program is a community development program that provides financial counseling to Aboriginal people in Adelaide. It also recently initiated a permaculture program, which teaches people to grow their own food. The Native Title Unit provides the legal and other resources needed by Aboriginal communities to pursue a claim for land use, for example, for hunting and fishing or for ceremonial usage.¹⁸ It provides the only legally recognized means of pursuing such claims in the state.

In summary, each organization provides valuable services to its client communities. These are explicit services that assist clients in court, in jails, or in prisons; in preventing criminal involvement (for example, by way of legal education programs and parenting programs); or in preventing reinvolvement (by way of mental health counseling, stopping substance abuse, and job skills training programs). They are “humanistic” (as one key respondent termed it) in that staff often identify with clients, have a caring attitude toward clients, and serve the whole family in addition to the individual client. One of the characteristics of this general role that may differ from that of other non-indigenous organizations is that programs tend to be holistic, that is, aimed at providing a range of services that are more likely to solve the underlying problems that contributed to a client’s coming into conflict with the law. As well, they are culturally sensitive in that they are provided by indigenous people or by nonindigenous people with a sensitivity to indigenous issues and values. Last, they are culturally appropriate in that they tend to incorporate indigenous practices such as counseling by elders, performing spiritual ceremonies, providing meals, and using informal communication networks.

It is important to note, once again, that each organization is different. While this study generalizes about explicit and implicit organizational roles, it must be remembered that each organization fulfills these roles in various ways, and not each organization fulfills the roles to the same degree.

THE IMPLICIT ROLES OF THE ORGANIZATIONS

Provision of specific programs was the first role suggested by Chaskin et al.; the other five roles are (1) providing access to resources and opportunities, (2) providing leverage and brokering external resources, (3) fostering development of human capital, (4) creating or reinforcing community identity and commitment, and (5) supporting community advocacy and exertion of power. I have used this model to organize the twelve roles that emerged from the data. I have also labeled these “implicit roles” because they were not always part of the organizational consciousness. Occasionally, references to these roles were made in the job descriptions of organizational personnel. In some

organizations administrative and (occasionally) other personnel were aware of these roles, although the organization did not acknowledge them formally. Some of these roles were derived from the descriptions of work and attitudes toward work provided by respondents during interviews.

Because of the unique characteristics of indigenous organizations, some of these roles fit into Chaskin et al.'s categories better than others, and there was some overlap among categories. Based on my data, "providing access to resources and opportunities" included assisting in the flow of financial resources into indigenous communities; acting as a resource in a wide variety of areas to indigenous communities, organizations, and individuals; and contributing to networks with other indigenous communities, organizations, and individuals. "Providing leverage and brokering external resources" included acting as a proving ground for indigenous culturally based programs. "Creating or reinforcing community identity and commitment" included providing satisfying work for people wanting to assist indigenous peoples and acting as an agent of social cohesion within indigenous communities. "Fostering the development of human resources" included serving as a training ground for future leaders, program developers, and service staff and acting as a role model for future generations. "Supporting community advocacy and exertion of power" included acting as a counteragent in breaking stereotypes of indigenous peoples; acting as a legitimization agent for indigenous values and practices; acting as an advocate for indigenous individuals, communities, and peoples; and acting as a resource in a wide variety of areas to nonindigenous communities, organizations, and individuals.

Please note that not every organization played all of these roles. The descriptions that follow apply only to the organizations over the last ten years, unless stated otherwise.

Providing Access to Resources and Opportunities

1. Assisting financial resource flow. This is an obvious but very important point. These organizations (with the exception of the youth justice committees) employed indigenous staff, and these staff members brought money into the indigenous communities. Even peacemakers who are not paid by the organization are paid by their clients, and the money stays within the Navajo community. In all three countries indigenous people were among the poorest members of the population.¹⁹ In the case of the NACA, the NCSA, and the ALRM, the organizations hired a substantial number of indigenous people. The NCSA was the largest indigenous-run justice organization in Canada. The ALRM was the largest employer of indigenous people in South Australia. The NACA was not the largest employer of indigenous people in the community (this honor went to the local university), but it was the largest social service employer of indigenous people.

2. A resource to indigenous communities. Many of these organizations focused on legal education, as described previously, but they extended this role to include education materials and presentations on matters not directly part of their mandates, such as financial management, choice-making for youth,

domestic violence, or indigenous culture. The NCSA operated an information resource center (library) available to the public and over the years had staff seconded to reserves to assist them in the development of new programs. On a smaller scale all organizations except the youth justice committees trained their receptionists to make referrals to other organizations that could provide services not available at the organization. The NACA office had a bulletin board in the client waiting room covered with notices of services available for Native Americans. The ALRM published two newsletters, one specific to Native Title information, the other providing information on the agency as well as on issues, new Aboriginal services, and other matters of interest to the Aboriginal community in the state.

The organizations also acted as a resource for community and program development. For example, the NCSA (in addition to the Royal Canadian Mounted Police) was a major organizer for youth justice committees in indigenous communities. While funding allowed, it even designated one staff position as a youth justice committee development coordinator. As another example, the peacemaker coordinator and senior Navajo Nation judicial branch staff traveled all over the United States and the world, providing information on the program and helping other groups begin dispute-resolution programs.

3. Networking. These associations contributed to networks of indigenous organizations in a number of ways. Staff members were on the boards of other organizations or participated in regional interagency groups. Staff members at the NACA, for example, belonged to boards and committees in the child welfare area. One NACA worker mentioned belonging to several community and regionally based child crisis networks. Staff members of all the organizations, particularly at the senior management level, were active members of regional, national, and international associations. Members of the judicial branch of the Navajo Nation, for example, belonged to the United Nations Working Group on Indigenous Rights and the International Commission on Folk Law and Legal Pluralism, among other bodies, and brought information on peacemaking to all of their presentations.

As part of these networks, staff members made available information about their organization, indigenous issues, and ideas for reform. Some NCSA staff members, for example, participated in major international conferences such as the "Conference on Racism against Indigenous Peoples," in Sydney, Australia, in 2001. Three members of the ALRM board and the ALRM CEO were also at the same conference. Youth justice committee volunteers had little opportunity to travel because of financial restraints, but they were occasionally invited to conferences; however, information was spread in other ways about the committees. For example, an NCSA youth court worker who coordinated the local committee made a presentation to a youth justice conference in western Canada in 2000, and the provincial department, Alberta Justice, published a newsletter.

Providing Leverage and Brokering External Resources

A program proving ground. The organizations developed and proved the effectiveness of a wide variety of programs that were later adopted in other indigenous communities inside and outside their home countries and in nonindigenous communities, thereby helping these groups bring needed resources into the communities. The success of the youth justice committees in nonindigenous communities has already been mentioned. The court-worker programs and forestry camps first established by the NCSA have been adopted (sometimes directly taken over) by Canadian First Nations. Special training sessions in peacemaking have been taught periodically for visitors from outside the Navajo Nation and outside the United States. The ALRM was voted the best Aboriginal organization in Australia in 1998 and has been used by other Aboriginal groups as a model, according to ALRM staff members. The NACA staff did not focus on this point.

Creating or Reinforcing Community Identity and Commitment

1. Job satisfaction. Members of all the organizations indicated that one of the main reasons they worked for their organization was the opportunity it gave them to assist people, particularly indigenous people. As one ALRM staff member said, "You get a good feeling when you've done something for someone." One staff member at the NACA, for example, talked about the excitement of meeting up with clients who have "made it." For indigenous staff members this was a particularly important point. They talked about the satisfaction of finding a job where they could work with indigenous people and put their skills and expertise to use in serving their own people. One ALRM staff member, for example, talked about how "useless" she felt in a previous job in a nonindigenous organization.

2. Assisting social cohesion. In some communities the organizations provided a neutral meeting ground for communities and individuals in conflict. They also acted to encourage previously competing groups to work together for a common cause. The Native Title Unit of the ALRM, for example, had worked with community groups to consolidate a number of overlapping and therefore counterproductive title claims into a smaller number of claims that stood an excellent chance of resolution. The peacemakers, by the very nature of their work, assisted to resolve disputes that put families and clans into conflict and restored harmony to the community. The youth justice committees also worked to increase community harmony in the kinds of sentences they recommended. One sentence might involve an apology to a victimized community member or group. Another might involve offenders in some community activity that had the potential to integrate them into the community, such as assisting with the preparations for a spiritual ceremony. The NCSA, through its community development activities, assisted communities with programs that kept offenders in the community and therefore gave members an opportunity to work together to solve the community's own problems. The NACA staff did not focus on this.

Fostering the Development of Human Resources

1. A training ground. All five organizations served as a training ground for their staff and, in the cases of the NCSA, the NACA, and the ALRM, their board members. The most common skills acquired were organizational skills and job-specific skills for working in the criminal justice system. The NCSA, for example, periodically operated its own training department that offered courses internally and externally, such as report writing, financial management, supervisory skills, Native awareness, and assertiveness training, as well as courses on providing court work in family and criminal courts. The NCSA also instituted an Educational Bursary Fund to assist NCSA staff and their children in pursuing their education. A few youth justice committees arranged for training for their members, but the main contribution to members' skills occurred through their "on-the-job" learning about the operation of the youth justice system. The NACA provided its staff members primarily with on-the-job learning of organizational and job-specific skills; however, some staff had received training to become certified in specialized skill areas such as substance abuse counseling. The peacemakers were chosen for their knowledge of Navajo values and practices, as well as their respectability, but they were also provided with sixteen hours of training about the court system, documentation, ethics, and other job-specific skills. In addition, many worked with an experienced peacemaker until they were ready. The ALRM provided on-the-job training for its clerical staff, field officers, and other staff. Aboriginal Awareness courses were available for non-Aboriginal staff (such as the solicitors), and many of its staff members had taken paralegal training.

Staff at the NCSA, the NACA, and the ALRM remarked on the tendency of these organizations to lose good personnel because other organizations could pay them more. Once staff members were trained at the organization, they were seen as desirable workers by other indigenous and nonindigenous service, political, and business organizations. It was not possible to obtain statistics on this trend, but anecdotal evidence is suggestive: when I located former staff members to interview, I found them working in an equivalent or higher position. Former staff would occasionally go into the entrepreneurial arena, but continued employment in public service was more likely. Senior managers were very aware of this pattern. As an example, in the early 1980s, the (now former) head of the NCSA said (with a laugh) that the chief and 80 percent of the tribal council on a specific reserve were former NCSA staff. This same pattern of advancement within indigenous and nonindigenous organizations was evident with former NACA and ALRM staff.

2. A role model. Staff members were very conscious of their responsibility to act as role models, particularly to indigenous youth. Many spoke in schools as part of their jobs or on their own time. Their presentations covered a variety of topics, but their very presence as an indigenous criminal justice professional was also important. Some interviewees were not only parents but formal or informal foster parents and made an effort to bring their own or foster children to organizational events so that they would become familiar not only with their parents' work but also with the reality of indigenous people as

successful and respected service providers. As an NACA staff member commented, seeing Native Americans with good jobs and helping people can be an incentive to their clients to finish their education and also get good jobs.

Supporting Community Advocacy and Exertion of Power

1. Debunking stereotypes. Staff at both the NCSA and the NACA commented that they believed they had to succeed in their job to counteract stereotypes about the incompetence or unworthiness of indigenous people. Several respondents reported on specific incidents where they thought they had finally achieved acceptance as an indigenous person from specific criminal justice system members. One NACA staff member commented that NACA personnel needed to show that Native American people go to school and can succeed in their jobs. One of the strongest reactions to the stereotyping of indigenous workers came from the NCSA, when the organization instituted five-, ten-, and fifteen-year service awards. At the first award presentation the head of the organization commented with satisfaction that “these awards put a lie to the stereotype of Native people only working from paycheck to paycheck.” Nonindigenous staff members at NCSA mentioned having been asked by other nonindigenous people, “What’s it like working for them?” Staff at the ALRM also expressed a sense of pride in being able to help change how the “broader community” saw Aboriginal people.

The peacemakers also had to combat a stereotype, though one unlike that faced by the three previous organizations. This stereotype was that Navajo culture is not dynamic or adaptable. The coordinator reported running into opposition from people in the Navajo community who believed that Navajo cultural practices were no longer relevant or effective, or, alternatively, that peacemaking sessions based on other spiritual systems such as the Native American Church or Christianity were not appropriate. Youth justice committees members did not focus on this point.

2. Legitimization agent. All five organizations incorporated aspects of indigenous culture into their programs and work environment. The NCSA, for example, had elders working in the prison; used spiritual ceremonies as part of its correctional programs; had indigenous paintings, posters, and other art located around its offices; and used Aboriginal names for some of its programs or named them in memory of respected Aboriginal community members. The youth justice committees invited elders to serve on the committees and often incorporated learning about Aboriginal spirituality and practices as part of its recommended sentences. The NACA offered one program based specifically on traditional Navajo counseling techniques, incorporated cultural knowledge into its youth crime prevention program, hosted Native American cultural events in the community as part of its cultural awareness initiatives, and displayed Native American arts and crafts at its office. The great majority of peacemakers based their dispute resolution methodology in Navajo values and practices.²⁰ The ALRM did not use specifically Aboriginal practices in its programs but did emphasize the indigenous knowledge and communication skills of its staff in dealing with indigenous people. It also displayed Aboriginal

artwork and posters throughout the offices and had an enormous Aboriginal flag painted on the exterior second-story wall of the building.

Each organization worked from the premise that the nonindigenous criminal justice system was ineffective in dealing with indigenous people and that the incorporation of traditional values and practices was necessary to prevent criminal involvement or reinvolvement and in effectively providing justice to indigenous people already in the system. As James W. Zion wrote, the Navajo Nation judges were “searching for ways to give lasting legitimacy to the persistence of Navajo common law by bringing it into the court system.”²¹

3. *An advocate.* The organizations acted as advocates for indigenous individuals, communities, and peoples. In some cases this is explicit, as with the ALRM’s Aboriginal Justice Advocacy Committee, which monitored the implementation of the recommendations of various government reports, especially the report on Aboriginal deaths in custody. The other four organizations acted as more informal advocates by assisting individuals with legal and other kinds of information, assisting communities by putting forward their issues and needs at meetings with influential government decision makers, and assisting indigenous peoples in general through speaking up for changes in law and policies, supporting sympathetic politicians and other decision makers, and making presentations at meetings, conferences, and educational events about indigenous issues.

4. *A resource for nonindigenous communities.* This advocacy also occurred at a more bureaucratic level. As part of their responsibilities while serving on boards and as parts of networks, organizational staff often provided information and expertise to nonindigenous organizations and individuals. The NACA staff, for example, mentioned that the Flagstaff Police Department had consulted with them about a suitable new police chief. The former director of the NCSA served and still serves on the Law Enforcement Review Board for the province. The directors of all the organizations served as resources to a wide variety of government and other bodies; for example, the CEO of the ALRM was a member of the Better Business Bureau of Adelaide and provided it with information about indigenous issues that affected business interests. The ALRM staff members also assisted in training South Australia police cadets and provided other diverse services, such as identifying deceased Aboriginal individuals, interceding in prison riots, and assisting with placement of Aboriginal homeless individuals who had mental problems. Indigenous members of the youth justice committees provided information on indigenous issues, culture, and practices to any nonindigenous members of the committees. The development resources provided by peacemaker staff to nonindigenous communities have already been mentioned.

These services to nonindigenous communities were identified by respondents as not only a way of being good colleagues in the criminal justice system but of improving relations between indigenous and nonindigenous peoples.

DISCUSSION

An analysis of these six categories and twelve points leads to two main findings. The first is that these organizations contributed to a wider world than just their mandated indigenous communities. They had implicit roles at the regional, national, and international levels. The degree to which they were able to contribute depended on the capability of each organization to disseminate information, specifically resources for producing documentation, staff able to participate, and funding for staff travel. This finding points to the importance of these organizations being well-funded to provide informational services.

The second finding is that all the implicit roles of these organizations serve to further the self-determination efforts of indigenous peoples. The organizations share expertise and information, develop the skills of community members, bring resources into the communities, develop nonindigenous knowledge and support, and debunk biases that could hinder self-determination. These functions may be unintended or unacknowledged officially by the organization, but many individual staff were well aware of these roles.

In each country there are political organizations dedicated to regaining self-determination for indigenous peoples. Canada has the Assembly of First Nations at the national level and many provincial-level bodies, such as the Metis Nations, the Yellowhead Tribal Council, and the Union of B.C. Indian Chiefs. In the United States there are the Indian Rights Association, the Congress of American Indians, and the Tribal Chairmen's Association, as well as local level representative organizations such as the Navajo Nation Tribal Council. In Australia there is the Aboriginal and Torres Strait Islander Commission (ATSIC) at the national level. All of these organizations provide a valuable service in the larger political arena. At the local and regional levels, however, indigenous service organizations are doing much of the practical work in paving the way to reassume self-determination. Despite the avowed nonpolitical status of four of the five justice organizations, they, too, provide valuable assistance in furthering efforts for self-determination of indigenous peoples.²² As we have seen reflected in the mandates and missions of the organizations, these efforts are not meant to be political; nevertheless, they are political in that they have political effects: new leaders are developed; more workers are trained with skills needed in service, political, and economic development organizations; nonindigenous political decision makers are better informed about indigenous needs; the communities have more resources with which to wage the fight; the communities are less divided than they otherwise might be; and the communities have models of successful indigenous-operated institutions.

Other indigenous service organizations in the areas of education, medical and health services, social services, and politics can and do, no doubt, also play the same implicit roles in addition to their service provision mandates. This would be an excellent area for further research.

CONCLUSION

Indigenous-operated criminal justice organizations need to be aware of the full range of roles they play. Organizations that are not aware of a particular role have one less resource to use in fighting for more funding. For example, some of the implicit roles could be articulated in program descriptions. They also could be used in public relations material and as part of the definition of relationships between organizations or between organizations and communities.

As well, organizations might not be living up to their full potential. They may not be encouraging their staff, for example, to participate in school and community events as role models or to share their expertise on boards and committees.

Finally, organizations may not realize that some of these roles could lead to resistance from some sectors of their environment. This is especially true if the organization is recognized as furthering indigenous self-determination. Increased indigenous autonomy is not a goal shared by many government funding agencies and some private foundations.

The existence of these implicit roles also has profound implications for tribal governments and states that are concerned with the overrepresentation of indigenous offenders in their criminal justice systems and with the development of indigenous communities. These five organizations provide excellent models of unified efforts that are improving services to these populations. Their implicit roles have also contributed greatly to developing the communities in ways that have supported them in becoming more economically self-sufficient, politically powerful, and effective in a wide range of areas. Not least of all, by doing all of these, they have contributed to increasing self-determination.

This essay briefly outlines how these organizations have accomplished these roles; for more information readers are encouraged to contact the organizations directly. As we have seen, these organizations are able and willing to share their expertise and experience (see Appendix B for contact information).

Indigenous peoples around the world share a very similar experience of colonization: loss of land, loss of life, and loss of self-determination. Some peoples are regaining a little of their land through land claims and outright purchase; others are regaining access, if not ownership, through Native Title claims. The loss of life can never be regained. Regaining self-determination is the third outstanding goal, and indigenous criminal justice organizations have a vital role to play in achieving this objective. Menno Boldt once concluded that indigenous interests will always be put second to “the national interest.”²³ The national interest, which more and more these days can be relabeled “nonindigenous corporate interests,” would suffer financially if self-determination led to the economic, political, and social demarginalization of indigenous peoples. It is therefore essential that indigenous service organizations and indigenous governments understand the full contribution that these organizations can make to the future of indigenous communities.

ACKNOWLEDGMENTS

Grateful acknowledgments are made to the staff and managers of Native Counselling Services of Alberta; Native Americans for Community Action; the Peacemaker Division of the Navajo Nation Courts; the youth justice committees of Alberta, Canada; the Department of Justice, Alberta; and the Aboriginal Legal Rights Movement, Inc., of South Australia for their cooperation, information, suggestions, and insights. Gratitude is also expressed to David Berg and two anonymous reviewers for their excellent suggestions. An earlier version of this paper was presented at the "Modern Native America: Thoughts from the Past and Paths toward the Future" Conference, Flagstaff, Arizona, 16–18 August 2001.

NOTES

1. The forms of marginalization vary from country to country. For example, in Canada and the United States legal processes have forbidden indigenous peoples from holding religious ceremonies. In all three countries educational processes restricted many indigenous children to poorly resourced residential/boarding schools, making them marginally unemployable; in all three countries political processes have forbidden indigenous peoples from voting and in Canada and the United States from forming political lobby groups; in all three countries economic processes made it illegal for indigenous people to work off their reservation, reserve, or mission without giving up their indigenous status. Any attempt to go against these processes was defined as criminal behavior. These processes also contributed to individual dysfunctional behavior such as family violence, drug abuse, and suicide. See Marianne O. Nielsen, "Contextualization for Native American Crime and Criminal Justice Involvement," in *Native Americans, Crime, and Justice*, ed. Marianne O. Nielsen and Robert A. Silverman (Boulder, CO: Westview Press, 1996), 10–19.

2. See Robert J. Chaskin, Prudence Brown, Sudhir Venkatesh, and Avis Vidal, *Building Community Capacity* (New York: Aldine de Gruyter, 2001).

3. This discussion of research methodology overlaps out of necessity with other writings by Nielsen.

4. See Marie Battiste and James (Sa'ke'j) Youngblood Henderson, *Protecting Indigenous Knowledge and Heritage* (Saskatoon, SK: Purich Publishing, 2000); Susan Guyette, *Community-Based Research: A Handbook for Native Americans* (Los Angeles: American Indian Studies Center, UCLA, 1983); Devon A. Mihesuah, *American Indians: Stereotypes and Realities* (Atlanta, GA: Clarity Press, 1996).

5. Since appropriate and respectful terminology varies in the United States, Canada, and Australia, I use the term *indigenous peoples* when referring to the indigenous peoples of all three countries.

6. This is the population estimate for 2001. The total Aboriginal inmate population for 1991 was 3.6 percent. For purposes of crime comparisons the percentage used is usually 3 percent. For a discussion of the problems in calculating crime rates for indigenous peoples see Robert A. Silverman, "Patterns of Native American Crime," in *Native Americans, Crime, and Justice*, ed. Marianne O. Nielsen and Robert A. Silverman (Boulder, CO: Westview Press, 1996), 58–74.

7. Lawrence A. Greenfield and Steven K. Smith, *American Indians and Crime* (Washington: US Department of Justice [cat. no. NCJ 173386], 1999); James S. Frideres and Rene Gadacz, *Aboriginal Peoples in Canada: Contemporary Conflicts*, 6th ed. (Toronto: Prentice-Hall, 2001); W. McLennan and Richard Madden, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples* (Canberra: Australian Bureau of Statistics, 1999).

8. Unfortunately, for this kind of comparative research denominators and numerators used in the calculation of rates vary from country to country to reflect the differences in definitions of, for example, who is an indigenous person (denominator) and who is a prisoner (numerator).

9. First Nations people have been defined as "people who trace their ancestors in these lands to time immemorial" (Bradford W. Morse, *Aboriginal Peoples and the Law: Indian, Metis, and Inuit Rights in Canada* [Ottawa, ON: Carleton University Press, 1985], 1).

10. Anne Finn, Shelley Treveltham, Gisèle Carrière, and Melanie Kowalski, "Female Inmates, Aboriginal Inmates and Inmates Serving Life Sentences: A One Day Snapshot," *Juristat* 19, no. 5 (1999): 5.

11. Frideres and Gadacz, *Aboriginal Peoples in Canada*, 131.

12. Greenfield and Smith, *American Indians and Crime*, 26.

13. US Department of Justice, *Sourcebook of Criminal Justice Statistics, 1992* (Washington: GPO, 1993). It should be noted that American Indians make up much smaller proportions of the general population in these states: 15.6 percent (Alaska), 7.3 percent (South Dakota), 6 percent (Montana), and 4.1 percent (North Dakota). (Jack Utter, *American Indians: Answers to Today's Questions* [Lake Ann, MI: National Woodlands Publishing, 1993], 18–19).

14. Australian Bureau of Statistics, Corrective Services Australia, *June Quarter 2000* (Melbourne: Commonwealth of Australia, 2000), 5.

15. For contact information for each organization see Appendix B.

16. Chaskin et al., *Building Community Capacity*, 63.

17. See, e.g., the (Canadian) Royal Commission on Aboriginal Peoples, *Aboriginal Peoples and the Justice System* (Ottawa: Canada Communication Group Publishing, 1993); for the United States see Vine Deloria Jr. and Clifford M. Lytle, *American Indians, American Justice* (Austin: University of Texas Press, 1983); and for Australia see Rick Sarre, "Indigenous Australians and the Administration of Criminal Justice," in *Considering Crime and Justice: Realities and Responses*, ed. Rick Sarre and John Tomaino (Adelaide, SA: Crawford House, 2000), 211–41.

18. "Native Title" refers to the rights of Aboriginal families to have access to traditional lands to perform ceremonies, for example. This is not the same as making a "land claim," which is for the actual possession of the land.

19. C. Matthew Snipp, *American Indians: The First of this Land* (New York: Russell Sage Foundation, 1989), 249; Frideres and Gadacz, *Aboriginal Peoples in Canada*, 91; Australian Bureau of Statistics, *The Health and Welfare of Australia's Aboriginal and Torres Strait Islander Peoples* (Canberra: Australian Bureau of Statistics, 1999).

20. See, e.g., Marianne O. Nielsen, "A Comparison of Canadian Native Youth Justice Committees and Navajo Peacemakers: A Summary of Research Results," *Journal of Contemporary Criminal Justice* 14, no. 1 (Feb. 1998): 6–25.

21. James W. Zion, "The Navajo Peacemaker Court: Deference to the Old and Accommodation to the New," *American Indian Law Review* 11 (1983): 92.

22. The ALRM has political advocacy as one objective because of the dearth of indigenous political organizations in South Australia and the great need for advocacy in a continuing hostile political climate.

23. Menno Boldt, *Surviving as Indians: The Challenge of Self-Government* (Toronto: University of Toronto Press, 1993), 116.

APPENDIX A

SAMPLE INTERVIEW SCHEDULE

[These questions are taken from the questionnaire for the Aboriginal Legal Rights Movement, Inc.]

Date: _____

Name: _____

Position: _____

Phone Number: _____

When began contact with ALRM: _____

1. Please describe the work you do or did with ALRM.
2. What programs did ALRM offer then, and what programs are new since then?
3. What is the philosophy of ALRM?
4. What would you describe as the significant events in ALRM's history? (location, programs, funding, traumatic events, special events)
-When begun? _____
5. Who were important people in ALRM's history? Position? Why important?
6. In your opinion, what makes ALRM unique?
7. Has ALRM experienced any developmental challenges that you know of? And what solutions did it come up with?
-Funding and resources?
-Target group?
-Jurisdiction?
-Community participation?
-Criminal justice system/social services/other relations?
-Government relations (Aboriginal, state, federal)?
-Effectiveness of services?
-Management/administration?
-Other?
8. What challenges do you see facing ALRM in the future?
9. Names and phone numbers/addresses of other people who might have info about ALRM's history?
10. Do you know of any documents about or by ALRM or that mention ALRM?
11. Other comments?

Thank you!!

APPENDIX B

CONTACT INFORMATION FOR THE CASE STUDY ORGANIZATIONS

Aboriginal Legal Rights Movement, Inc.
321–325 King William Street
Adelaide SA 5000
Australia
Telephone: 011-8-8211-8824
Website: http://www.onkapingacity.com/services/doc-aboriginal_legal_rights_movement_inc.html

Alberta Youth Justice Committees
c/o Alberta Solicitor General, Communications
10th floor, John E. Brownlee Building
10365 97 Street
Edmonton, Alberta, T5J 3W7
Telephone: 780-427-2745, 8:15 a.m.–4:30 p.m., Monday–Friday
Website: <http://www.solgen.gov.ab.ca/yjc/default.aspx>

Native Americans for Community Action
2717 N. Steves Blvd.
Flagstaff, AZ 86004 USA
Telephone: 928-526-2968
Website: <http://www.nacainc.org/>

Native Counselling Services of Alberta
12527 129 St.
Edmonton, AB Canada
T5L 1H7
Website: <http://www.ncsa.ca/>

Navajo Nation Peacemaker Division
P.O. Box 520
Window Rock, AZ 86515 USA
Telephone: 928-871-6118

