

## The Wet'suwet'en Unlocking Aboriginal Justice Program: Restorative Practices in British Columbia, Canada

BY LAURA MIRSKY

The Wet'suwet'en Unlocking Aboriginal Justice Program (WUAJ) is a community-driven restorative justice project initiated and operated by members of the Wet'suwet'en First Nation, in northwest British Columbia, Canada. The WUAJ was first developed in 1992, in response to the Wet'suwet'en people's dissatisfaction with the Canadian judicial system and the disproportionate number of Aboriginal people involved in the federal and provincial court systems. The population of the Wet'suwet'en Nation is approximately 5,000. A matrilineal descent group, the Wet'suwet'en is made up of five clans: Laksilyu—Small Frog, Gilseyhu—Frog, Tsayu—Beaver, Gitdumden—Bear and Laksamishu—Fireweed, which are subdivided into 13 houses.

WUAJ Justice Coordinator Bonnie George and Youth Victim Advocate Lucy Glaim made a presentation about the program at the IIRP's 4th International Conference on Conferencing, Circles and other Restorative Practices in August 2003, in Veldhoven, Netherlands. George and Glaim work with a community of about 650 people. George articulated the program's mission: "WUAJ means to achieve the alternative that will allow our traditional laws and practices as Aboriginal people to combine with the existing Canadian justice system." She stressed that Aboriginal laws and practices had been in

use "for thousands and thousands of years before contact" with non-natives. "For the Aboriginal people, justice is part of our life," she said, adding, "Problems that occur are looked at holistically."

WUAJ works with a board of elders, including hereditary chiefs, that meets on a regular monthly basis. "What we intend with their guidance," said George, "is to build a healthy support network and reconnect our young people back to their culture and heritage—



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build their identity." Continued George, "It's not a matter of creating a new system, we're not reinventing the wheel." Instead, the goal is to uncover long-standing laws and practices and have them recognized.

The WUAJ is funded jointly by the federal government of Canada and the provincial government of British Columbia. "They gave us an opportunity 12 years ago to do research and development, but because of the demand we went to implementation right away. So we're developing as we go along," said George, adding, "We don't sit back and wait for the government to provide services. We want self-sufficiency and that's where our program comes in."

Before helping to found WUAJ, George was a secretary-receptionist in the Smithers Legal Aid Office. (Smithers is the largest town within the Wet'suwet'en Territory.) She said that the experience helped her set up the WUAJ office. She obtained a certificate in human social services with a law component and did her practicum at a law firm in Smithers, then completed a probation officer course at the University of Northern British Columbia. "That helped me put everything in perspective," said George. Previous to working with WUAJ, Glaim was an accountant. "I haven't left my skills behind," she said. It helps her when working with statistical data and analysis and writing proposals. She is now taking classes in developmental psychology.

George described the differences between the Wet'suwet'en and the Canadian (or Western) justice systems. In the Wet'suwet'en system, both the offender and the victim are drawn into the process.

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The Western justice system concentrates on the offender; usually the only victim involvement consists of providing a victim impact statement. In the Wet'suwet'en approach, decisions are made by consensus, aiming to restore balance and harmony in a fair, just way. The Western system is adversarial; strangers make decisions on behalf of others, without emotional involvement. "With our system," said George, "because of our relationships and our kinship, we're all connected to each other one way or another, and those are the people that are making the decisions. They know our strengths and weaknesses, and they know the dynamics of the families and what the issues are without trying to analyze it by justice system reports—criminal records, police reports and so on."

The WUAJ's focus on restoring balance and harmony within the community contrasts with the Western system's crisis orientation. "They don't act unless there's criminal activity," said George. "But we focus on support and prevention before an offense is committed. Lucy does a lot of work within the schools with children, building self-esteem and identity." Other prevention initiatives include workshops addressing spousal abuse and traditional activities aimed at revitalizing Wet'suwet'en culture.

Within the 13 Wet'suwet'en houses are house chiefs—leaders groomed from childhood by the father clan. "They're not just elected—that's compared to the federal election system," said George, adding, "Our board consists of members from each of the clans and houses, to ensure that everyone that we deal with is represented. Depending on the severity of the case, like if we're dealing with a domestic violence situation and there's a spouse involved, Lucy would take the victim and I would work with the offender and when we come to the table to try to develop a plan of action or a contract agreement all parties are involved. We'll draw on all the individuals, and everyone knows what their role is."

The majority of WUAJ files are related to family violence, alcohol or drugs.

WUAJ accepts self-referrals, as well as referrals from Royal Canadian Mounted Police (RCMP), lawyers and Legal Aid, Crown Council and probation. Diversion referrals from RCMP include first-time offenses from youths or adults with no prior criminal record—minor offenses like shoplifting. If clients don't meet the criteria for diversion, i.e., if they have a prior criminal record, the RCMP will



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recommend them to the Crown for alternative measures. Self-referrals may occur at any stage. Glaim said that the sooner a referral comes in after the problem occurs the better "because the significance tends to wear away. And it's very important that the one who has caused the problem realize the consequences of their actions."

Many WUAJ clients have fetal alcohol syndrome (FAS) and have difficulty understanding consequences, said Glaim. Fortunately, the WUAJ program provides the opportunity to track and follow up behavioral patterns. Glaim talked about a case where the client was involved first at a diversion level, then at an alternative measures level. The first time was a mischief case; the

next one was a little more serious. After the first incident—throwing rocks—a circle was conducted. Glaim was the facilitator. The victim was the school principal, who acted on behalf of the school. The offender attended with his mother. The offender had FAS, said Glaim, "so the circle was effective and meaningful, and he understood the consequences because we acted upon it quickly. But he was 10 years old then. Now he's 16 and he got into a bit more trouble." It was important to recognize the boy's patterns and needs and help him develop behaviors that will become habit rather than something that he has to remember, said Glaim, "like brushing your teeth at night is a habit rather than something you have to remember." Added Glaim, "We were able to see his pattern develop and focus in on it. We're just so lucky that we're within the community and can recognize these things." This circumstance, she said, is unlike the situation in the Canadian justice system, where the RCMP and the Crown are so separate that they know nothing about each other's files.

All clients must be involved in the WUAJ program by voluntary consent and be willing to take responsibility for their actions. When all parties have accepted the referral, a house group meeting is scheduled for the development of adequate support and construction of a rehabilitation plan, or contract. All parties (offender, victim, clan and family) must reach a consensus as to the terms of the contract. An agreement for services is drawn and signed by all parties. Copies of the contract agreement of services are distributed to the members involved. If the participant is sentenced to serve a term of probation, the WUAJ justice worker supervises the court order. If the client re-offends, a house group meeting is scheduled to address the concerns, either by redesigning the plan of action or terminating the file. The advisory board determines if the file is closed and referred back to the referring agency.

The contract may require that the offender participate in a culture camp.

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Culture camps educate children, youth and adults about Wet'suwet'en culture and traditions through guidance and counsel by elders and hereditary chiefs, including instruction in legends, songs and dancing, as well as traditional hunting and food preparation.

Camps often have a therapeutic component, and George and Glaim can tailor-make men's and women's culture camps to accommodate clients' needs. "Two years ago there was a murder in our

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community," said George, "and Lucy and I focused on working with the families that were affected by the murder: the accused's side of the family and the victim's side of the family." George and Glaim worked to eliminate the divisions that were developing in the community due to the murder. "It wasn't healthy for the children," said George. "Lucy worked with the victim's family, looking at the stages of grief, and we found that very helpful, especially when it came down to the court's decision, when they dismissed the charges. That was overwhelming for the family members. Both Lucy and I were in the courtroom the day the decision was handed down. Looking around the room that day at the family members that we had prepared, that we had invested the time and energy in, compared to some of the family members that didn't participate, there was a huge difference. We helped them build their coping skills for what was going to happen on that day."

An important component of Wet'suwet'en justice is the denii ne'aas, or potlatch (feast), "a powerful traditional governing system for us," said George. At a potlatch, which is sometimes attended by hundreds of people, all the clans and chiefs come together and a public apology

is made. "It's a time-consuming process and there's a lot of work that leads up to it," said George, "working with the elders and learning about your culture and your traditions and your identity as a Wet'suwet'en person. This is where the camp comes in. Once we accomplish that, everything else comes easy. That's where we come to a healthy conclusion and everyone agrees with it." George contrasted this process to the Western justice system, in which some form of punishment is imposed—jail, fines or probation.

The Wet'suwet'en justice system is decentralized, addressing all individuals—male and female, chiefs and children, said George. This is unlike the centralized Canadian system, which is controlled by RCMP, Crown Council, lawyers and judges. Moreover, said George, Wet'suwet'en laws can't be codified. Decisions are made according to the nature of the offense, the relationship between the victim and the offender and the ties and kinship connection. "What I do affects my family, affects Lucy," said George. "Because she's my father clan and I'm her father clan, we have a responsibility to each other. If I get into trouble, I'm not only shaming myself, I'm shaming my family. It's my family that's going to come together at a feast, and where it's going to hit people the hardest is their pocket book. When you have a feast you have to feed your guests, and you're feeding 200 people. You have to make sure everyone is fed and comfortable, and then the business starts. And you also have to have gifts to give to everyone, and when you're doing it for 200 people it costs an awful lot."

Asked to tell a WUAJ success story, Glaim talked about a family violence case—a self-referral by a woman who stabbed her husband after a night of drinking and fighting. At first the woman wouldn't accept responsibility for her actions, minimized the situation and denied her problems with alcohol, anger and past unresolved issues. She came to the elders' advisory board to make an oral application, still in denial. One board member was able to share a

story of a similar problem in his past and relate how he overcame it. He confronted her denial, and, said Glaim, "at the end of the day, she was ready and willing to work on her issues because they became reality. The elder, without a Ph.D. in counseling, just broke through that wall that she was hiding behind. He related how he had been in denial and shared his experience. He didn't look at her like she was a bad person; he recognized her victimhood. That's when she broke down and accepted that she was a victim as well and realized that she had to work on it and go on from there."

A plan of action was developed, based on consensus. The victim and offender had to agree to each condition. The biggest stipulation was that the offender had to publicly apologize in a feast, hosted by



**Youth activities at a Wet'suwet'en culture camp.**

her clan. The couple still lived together. "Rather than having a no-contact order," said Glaim, "the couple wanted to work it out and we were there to guide the process. They just needed the support."

The feast was really emotional and opened up the community, said Glaim. "A lot of people in the community still don't know what WUAJ is about, but seeing that part of the process in a public forum ... The offender was walked back in by her father clan, and her father clan spoke about how she was working to better herself and make the positive changes in the past year-and-a-half. So her work bettering herself was validated publicly, and she

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presented the gift to her father clan. Then she presented the gift to her husband as well and publicly apologized to him. It was really emotional.”

Said George, “You saw a lot of tears, but they were happy tears, because they had witnessed a public apology. That’s a perfect example of taking full responsibility for her actions and understanding their severity. She talked about being that close to taking her husband’s life and how it could have ended differently. Even his mother, who was reluctant about the process—I was watching her, because that’s the same clan I belong to—Small Frog—even she was in tears. After she went to present her gifts, everyone was huddled in the corner holding one another, so grateful about what had just happened, taking a look at life differently. It was a very powerful experience.”

Asked how the community as a whole feels about their work, George said that there’s a misconception that WUAJ selects and favors certain clients. But, said George, “We accept clients who will take responsibility for their actions.” Also, some offenders at first might regard the WUAJ program as an easy way out, “so we make sure they figure out what they want out of it and why they’re coming there,” said Glaim. Offenders meet with the advisory board and make oral application to go through the screening process to see if they’re eligible. Usually, said Glaim, due to their wide-ranging life experiences, the chiefs can tell what’s really at issue for the person. “Even though the offender may come there with the notion that we’re an easy way out, they often get turned around and see the benefits of the program.”

In fact, said George, the program is the opposite of an easy way out, because it doesn’t enable self-destructive behavior. “People are used to having that enabler,” she said, “because of the dysfunction of the community and the limited resources that we do have: support workers in the community with limited training, hired by the Canadian government’s Department of Indian Affairs. Those workers end up

enabling, keeping the level of denial where it is.”

A long-term WUAJ goal is to help reverse the damage done to the Wet’suwet’en people by the residential school program. Residential schools were the primary mechanism by which non-native Canadians

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sought to assimilate First Nation people. The Anglican Church administered 26 such schools between 1820 and 1969. Children were taken from their parents and virtually enslaved at the schools, forced to renounce their language and customs and often sexually abused. People who came out of these schools need to be helped to articulate their feelings, said Glaim. “There’s a whole set of skills we have to learn for that. It’s a difficult process, but it has to be done.” WUAJ, she said, recently had a proposal accepted for a parenting and life skills program. “Because of the residential schools, we’ve lost our parenting skills,” she said, adding, “We’ll be working with parents, relearning skills and teaching the teens so the next generation will have a stepping stone up.” Said George: “It’s going to take us multi-generations to undo what was done in one generation as a result of those residential schools.”

George stressed that any program needs to be community-driven. “You can’t look at it as a cookie cutter approach,” she said. “You can’t take a Wet’suwet’en program into Mohawk Territory and expect it to work, because that’s like fitting a circle into a square. When your community members feel like there’s something being

imposed on them, there’s going to be some reluctance and they’re going to feel that the residential school era has repeated itself. So the advice that I would give to any kind of restorative approach is to keep that in mind, especially with First Nations communities. They have their guards up all the time because we’re overcoming that residential school era, and we are the only ones to say how much it impacted us. People can be empathetic to it, but we are the ones that are living in the community and see the harm that was done.”

Asked about the future of the WUAJ, George said that funding now comes from both the federal and the provincial government, but added, “Who knows what’s going to happen? We used to have multi-year agreements; now it’s just year-by-year.” George said that according to her experience working with the federal government, this is their way of weaning or cutting programs. “So we’re always working with our guard up,” she said, “wondering if we’re going to be funded for the following year.” But, she added, “I strongly feel that with our existing board the work’s not going to stop. If the funding stops, the work’s going to carry on. Because we’re clan and community members, we’re still going to carry on the work. It will come from my volunteer work and my obedience and respect as a hereditary chief and from my responsibility to the other members of my father clan. Family is very important to me—my father clan and the whole culture and tradition.” Added Glaim, “I think it’s all a community initiative. We’re the facilitators of the process, but we’re giving back to the community the skills they need to do it on their own. It’s going to take a few generations, but hopefully we’ll work ourselves out of a job.”

The Restorative Practices eForum will feature more information about First Nation and Native American justice practices in the coming months. ☉