

**REPORT TO
THE ROYAL COMMISSION ON
ABORIGINAL PEOPLES**

Submitted by

THE TESLIN TLINGIT COUNCIL

**TESLIN TLINGIT FIRST NATION
TESLIN, YUKON**

February 1995

**REPORT TO
THE ROYAL COMMISSION ON
ABORIGINAL PEOPLES**

Submitted by

THE TESLIN TLINGIT COUNCIL

Written and Prepared by

SHEILA CLARK, L.L.B.

With assistance from

DARRYL BECKETT, L.L.B.

Research Coordinator

TINA JULES, Ba.Ed.

Research Assistant

KRISTYNE GEDDES

Summer Students

**RIEL SIDNEY
ROSEANNA BOB
CHRISTINE GRANT**

TABLE OF CONTENTS

CHAPTER ONE: INTRODUCTION AND METHODOLOGY

- 1.1 Introduction
- 1.2 Methodology

CHAPTER TWO: THE COMMUNITY OF TESLIN AND THE TESLIN TLINGIT

- 2.1 History of the Teslin Tlingit
- 2.2 The Community of Teslin

CHAPTER THREE: TESLIN TLINGIT SELF-GOVERNMENT -- JURISDICTION, STRUCTURES, AND POWERS

- 3.1 Introduction
- 3.2 The Government-to-Government Agreements
- 3.3 The Teslin Tlingit Constitution
- 3.4 The Teslin Tlingit Council
- 3.5 Guiding Principles and Objectives of Self-Government
- 3.6 The Clan System
- 3.7 Citizenship Rights
- 3.8 Self-Government Structures
- 3.9 Administrative Offices
- 3.10 Legislative Powers of the Teslin Tlingit Council
- 3.11 Taxation
- 3.12 Other Financial Matters
- 3.13 Implementation
- 3.14 Dispute Resolution

- 3.15 Economic Development Measures
- 3.16 Programs and Services
- 3.17 Review of the Self-Government Agreement
- 3.18 Public Register of Laws and Notification Provisions
- 3.19 Transboundary Agreements
- 3.20 Land Tenure and Management
- 3.21 Resource Use and Management

CHAPTER FOUR: TESLIN TLINGIT TRIBAL JUSTICE -- THE PROPOSED SYSTEM

- 4.1 Introduction
- 4.2 Current Status
- 4.3 The Constitution
- 4.4 Philosophy of the Proposed Tribal Justice System
- 4.5 Jurisdiction of the Proposed Tribal Justice System
- 4.6 Tribal Justice Bodies and Their Specific Responsibilities

CHAPTER FIVE: PRINCIPAL FINDINGS -- SELF-GOVERNMENT

- 5.1 Introduction
- 5.2 Description of Respondents
- 5.3 Knowledge of Traditional Tlingit Governance
- 5.4 Knowledge of Contemporary Negotiated Self-Government
- 5.5 Traditional, Spiritual, and Historical Foundations of Teslin Tlingit Governance
- 5.6 The Canadian Constitution
- 5.7 Political and Economic Self-Sufficiency
- 5.8 Institutions and Processes
- 5.9 Women, Youth, and Elders

- 5.10 Best Features of Self-Government Arrangements
- 5.11 Worst Features of Self-Government Arrangements

CHAPTER SIX: PRINCIPAL FINDINGS -- TRIBAL JUSTICE

- 6.1 Introduction
- 6.2 The Mainstream Justice System -- The Teslin Tlingit Viewpoint
- 6.3 The Teslin Tlingit Tribal Justice System: Structures, Processes, and Spiritual Foundations
- 6.4 The Clan Leaders in a "Judicial" Capacity
- 6.5 Women, Youth, and Elders
- 6.6 Powers

CHAPTER SEVEN: PRINCIPAL FINDINGS -- FOCUS GROUPS

- 7.1 Introduction
- 7.2 Youth
- 7.3 Women

CHAPTER EIGHT: RESEARCH REPORT CONCLUSION

- 8.1 Introduction
- 8.2 Barriers to Self-Governance
- 8.3 Concluding Remarks
- 8.4 Executive Summary

APPENDIX A: QUESTIONNAIRE

APPENDIX B: LISTING OF RECOMMENDATIONS

CHAPTER ONE

INTRODUCTION AND METHODOLOGY

1.1 Introduction

On April 6, 1993 the Teslin Tlingit First Nation expressed interest in participating in the Royal Commission study on Aboriginal Peoples. The following month of that year, the Teslin Tlingit First Nation agreed to participate in the research project on Aboriginal Self-Government and Judicial Systems with the Royal Commission on Aboriginal Peoples. The purpose of this study is for the following:

- To inform other governments (including other First Nations), policy makers, the Royal Commission, and the public, on issues and matters of significance to Aboriginal people in Canada and the needs and aspirations of the Teslin Tlingit concerning self-governance.
- To make recommendations that would help to improve the lives of Aboriginal people in Canada and the Teslin Tlingit by providing information that will assist Aboriginal people in Canada and the Teslin Tlingit in determining their vision of future governance and their process of self-determination.
- To assist the Royal Commission by contributing to the holistic understanding of emerging models of Aboriginal governments in Canada.

The Teslin Tlingit Council Report to the Royal Commission on Aboriginal Peoples was planned, researched and written in a two and a half month time frame. The report was written by two lawyers, with the research data collected by four students. With the exception of one lawyer, all team members are of Teslin Tlingit ancestry.

For the purposes of this report Teslin Tlingit Council governance is viewed in the context of its comprehensive land claims agreement, its self-government agreement and its Constitution. In addition to these documents, Tlingit customary law and many informal traditional governmental conventions which influence Teslin Tlingit governance were taken into context as well.

The report is organized into eight chapters. The first chapter introduces the report and explains the methodology incorporated into the study. The second chapter provides a profile and history of the community of Teslin and documents the history of the Teslin Tlingit. Chapters three and four provide detailed information to assist in understanding the Teslin Tlingit Self-Government and Judicial systems. Chapters five and six report interview results focusing on Self-Governance and Tribal Justice. Chapter seven comments on the information collected from the two focus groups involved in the study. Chapter eight addresses the impediments to and the resources and strategies required for the Teslin Tlingits to achieve full self-governance.

1.2 Methodology

The research methodology consisted of three forms. A review of relevant documents was conducted. A survey of Teslin Tlingit citizens was conducted. Two focus groups were established to address issues specific to women and youth.

Survey respondents were selected from a list of Teslin Tlingit Council citizens. Respondents were categorized by age and gender. The number of participants selected from each group was decided by their representation in the overall population. For

example, if females between 15 and 24 years of age represented 10% of the population, then 10% of the interviews were from that group.

During the interview process, respondents were informed of the purpose, the importance, and the goals of the Royal Commission research project. Respondents were informed of their role in the project. Anonymity was offered and confidentiality was promised. Most interviews were recorded on tape and a hard copy completed. The hard copies were then presented to the respective respondent for verification. The majority of interviews were verified by participants.

There were many methodological challenges presented during the research process. The main challenge was accessing interviewees during a period when most Teslin Tlingit citizens are preoccupied with harvesting, and are away from the community or unavailable due to their harvest schedule.

Initially, 25% of the Teslin Tlingit Council population was targeted for interviews. Due to time constraints and the decision to go with quality as opposed to quantity, interviews were reduced to 14.4% of the population. When these numbers are combined with the number of focus group participants the percentage is raised to 20% of the population.

The random selection method initially planned was not achievable due to unavailability and refusal of respondents to participate. Participants were selected from individuals available in the community, with attention being paid to having an even number of participants from a number of different age categories.

The focus group for youth involved participants between the age of 15 and 24 with a gender balance. Both offenders and victims were involved in the same focus group.

In the womens' focus group every age group except 45 - 55 was represented. All participants were female. As with the youth group, both offenders and victims were involved in the group. Participants represented the following groups and occupations:

- elders
- health field
- cultural aspect
- education
- youth
- parents
- students

The participants in both focus groups gathered in traditional locations they were comfortable with and were informed of the purpose, importance, and the goals of the Royal Commission research project. Again, confidentiality and anonymity were promised. The researcher acted as facilitator and recorder, and promoted informal discussion. Respondents were provided with a copy of the recordings of the focus group, which they verified.

CHAPTER TWO

THE COMMUNITY OF TESLIN AND THE TESLIN TLINGIT

2.1 History of the Teslin Tlingit

The Tlingit people that currently inhabit the Teslin area are reported to have migrated from the coastal areas of Alaska. Thus, the Teslin Tlingits are descendants of the coastal Tlingit tribes from Juneau, Skagway, and Haines, Alaska. The earliest account of contact regarding coastal Tlingits was recorded in 1741. This occurred when a Russian ship under the command of a man known as Chirikof, was in the process of exploring the American continent, separated from another Russian ship under the command of Vitus Bering, while in the midst of a storm. Apparently days later, Chirikof sighted coastal Tlingits in two canoes, however the Tlingits quickly disappeared.¹

The coastal Tlingits were known for their superior lifestyles, as compared to the lifestyle of other coastal tribes and the interior Yukon people. The Tlingits thrived on the mild climate and the resources from the sea and the coast. However, the wealth of the sea were in demand by others as well. By the 1770's some trade relations were already established between various European and Russian explorers with the coastal Tlingits. The Tlingits traded furs and seal skins for items such as iron, copper, beads, trinkets, knives, hatchets, pots, axes, blankets, and tobacco. The artistic talents of the Tlingits was often noted by various explorers.

The trading activity between the Europeans and the coastal Tlingits led to changes in the lifestyle of Tlingit people. Diseases were introduced; the numbers of fur-bearing animals drastically fell; new tools, food, and other items were introduced; and the Tlingits took full advantage of the industry. Throughout the nineteenth century the Tlingits monopolized trade relations with the Interior Yukon tribes, now known as Athapaskans. The Tlingits controlled and protected their routes into the Yukon in order to ensure that they were the only ones to trade with the Athapaskans. The Tlingits' role can be described as being the middlemen between the European traders and the inland tribes. The Tlingits were known to use whatever means necessary, often war, to ensure that the inland tribes did not trade directly with the Europeans. ⁱⁱ

Trading with the inland tribes influenced the Tlingits in a variety of ways. Some of the Tlingits' temporary camp sites became permanent and some of the coastal Tlingits began to intermarry with some of the interior tribes. The Athapaskans inhabiting the areas surrounding Teslin, Carcross and Atlin, soon adopted the Tlingit language, values, customs, and laws as their own. Thus, controversy often arises when the origin of Teslin native people is discussed for there is doubt as to whether the Teslin natives are descendants of Tlingit ancestry or of Athabaskan ancestry. Since intermarriage was practised, one can safely conclude that the ancestry of some Teslin Tlingits may be a combination of both tribes. However, some Teslin Tlingit Elders tell their own stories of their travels over the trails from the coast of Alaska.

The first real period of continuous contact with white people was during the gold rush period, which was in the 1890's. Gold was discovered in the Yukon in 1894 in the Atlin area and in 1896 in the Dawson area, and by 1898 the Gold Rush was in full force. It was during this period that the Tlingits lost control over the Chilkoot Trail due to the major influx of people. Again the Tlingits took advantage of the situation as best as they could, by maintaining the roles of guides for the gold seekers. The Atlin Gold Rush provided

employment opportunities for the Tlingits and thus their first experience with the monetary system. Naturally this new experience impacted the Tlingit lifestyle. The Tlingits exposed had to make the adjustments to a changed economical system and this affected their traditional lifestyle.

Also during the latter part of the nineteenth century the first trading posts were established in the Yukon and in the Teslin area. The Hudson Bay Company established a post named "Call Breath" near the south end of Teslin Lake. By 1903, two men known as Tom Smith and George Geddes took over the operations of the Hudson Bay Post. Tlingit men began working on the steamboats that travelled from Whitehorse to Teslin via the Yukon and Teslin Rivers to deliver food and supplies to the post.ⁱⁱⁱ

In 1915, the first Teslin Tlingit was enrolled in the Chootla Indian Residential School in Carcross, Yukon. From this time until approximately the 1950's the Teslin Tlingit children were forced to attend residential schools which were located in other communities. The children were removed from their families for months at a time to attend the residential schools. It wasn't until 1947 that the first public school opened up in Teslin. In 1948 the federal government changed policy in respect to native children. Under the new policy native children were permitted to enroll in public school provided they were clean and healthy. If native children attended it made their parents eligible for social assistance. This can be viewed as a crisis situation, as the parents needed the social assistance for food, yet in the same hand, if they lived in Teslin they could no longer trap and hunt. The residential schools have negatively and detrimentally affected many lives amongst the Teslin Tlingit. Many reports of physical, emotional, and sexual abuse have been disclosed. The schools contributed to the fragmentation of the strong Tlingit Clan and family structure, in addition to creating a cycle sometimes referred to as the "Residential School Syndrome" that the Teslin Tlingits are still today attempting to cope with.

The construction of the Alaska Highway in the 1940's brought many negative changes to the nomadic lifestyle of the Teslin Tlingit. The greatest impact was the introduction of disease and alcohol into the Tlingit population. Diseases such as measles, tuberculosis, and meningitis were inflicted upon the Tlingits. The traditional Tlingit economy was also influenced. Some men were not hunting and fishing as often as they had in the past. As a result, the Tlingits found alternative measures to deal with the shortage of food traditionally brought into the home. Some men took jobs at the labour level and women sold Tlingit crafts so that food could be purchased from the local store. Prior to the Alaska Highway, Teslin was just a summer camp for the Teslin Tlingits. Gradually, the Tlingits moved to the Teslin area from the bush where they hunted, fished and trapped.^{iv}

In 1952, the Department of Indian Affairs came into the community and began registering Tlingit people under the Indian Act. Department of Indian Affairs programs and services were offered to the Tlingit. During this period, the traditional Clan system of government was still operational. Local government consisted of the Clan Leaders and a Council of members. Decisions were made by consensus and on many occasions meetings would last for days. The representation on the Council consisted of one representative from each of the five Clans which made up the traditional government. These Clans are Yanyeidi, Daxaweidi, Daishetaan, Ishekeetaan, and Xooxetaan. This system was overshadowed but not extinguished by the Indian Affairs style of Band government with Chief and Council being the main governing body. The traditional system continue to be used in an informal manner.

In 1970, the first election under the Indian Act was held to elect a Chief and Council. With this election came an official Band office which conducted business and provided services and programs for Tlingit people. That Chief and Council provided leadership for the next fourteen years.

In April 1988, Tlingit people recognized the urgent need to return their traditional government structure to prominence. The Teslin Tlingit Council developed and adopted a Constitution which established a government based on the Clan system framework.

In 1992, the Teslin Tlingit Council initialled their final land claims agreement and self-government agreement, which have been ratified and accepted by the community.

2.2 Community Profile of Teslin

Location and Population

The rural community of Teslin is situated at kilometre 1294 of the Alaska Highway on the Northwest shores of Teslin Lake, approximately 110 miles south east of Whitehorse. The community of Teslin can be found on a map by referring to 60°10' N, 132°43' W. The elevation of Teslin is 690 metres.^v Approximately 500 people live in Teslin.^{vi} The population consists of government workers, transients, snow birds, and Tlingit people. Not all members of the population fall into these categories as some non-native people, and many others, live in Teslin because of its beauty, the wild, and the wilderness.

History

Teslin was originally a summer stop for the Tlingit people enroute to their traditional harvesting areas. The word Teslin is derived from a Tlingit word meaning, long and narrow waters. By 1903, a permanent post was established by George Geddes and Tom Smith. The year of 1905 brought the first Northwest Mounted Police to Teslin. The police came to Teslin during the summer months to take care of local problems. By 1919, the permanent detachment was established with one officer to take care of the affairs. His name was Corporal C. Stephens. The first Anglican church was constructed in 1910, however it is no longer standing. The Anglican church that still stands was built in 1929. The first Catholic

mission was built in Teslin in 1938 by Father Albert Drear. A Tlingit man named George Johnston bought the first car in Teslin in 1928. In later years, the local museum was named after this significant Tlingit man.

In 1940 the construction of the Alaska Highway and the local air strip commenced. The highway and the air strip were both constructed in response to the second world war. Both projects were also funded by the U.S. Army. Construction of the Alaska Highway resulted in many changes for the settlement of Teslin. Shortly after the highway was constructed the first full time Anglican minister moved to Teslin. In 1945, the U.S. Army established the first school in Teslin. A woman known as Miss Alberta M. Cox taught 17 children during the 1945/46 school year.

The first motel to open for business in Teslin was the Teslin Lake Motel owned by Walter and Doreen Duncan. The location for this motel was originally an army camp. In 1962, Teslin was provided with electrical services through the local airport. Later that year Yukon Electric, now a permanent fixture in the Yukon, took over the operation. The Teslin Health centre, still standing, opened its doors in 1968.^{vii}

Governing Institutions

Teslin has primarily two main governing institutions. The Teslin Tlingit Council provides programs and services to its members, while simultaneously attempting to achieve its goals of self-governance. For details on this organization refer to Chapter Three of this report.

The Federal Government provides services and programs to the Teslin citizens through the Territorial Government or through the Municipality. The Municipality was initially established in August of 1984, and is also known as the village of Teslin. The

Municipal political body consists of one mayor and four council members. These seats are elected positions. The Village Council provides services to Teslin such as:

- road maintenance
- water delivery
- telephone bill payment office
- distribution of recreational and sport funding from federal government
- establishing by-laws
- representation of Teslin and its citizens in a political form
- organizing a volunteer fire department
- organizing a volunteer recreation committee

The Village of Teslin and the Territorial Government often contract the services out to local residents. The sanitation services are contracted to a local business owner. The operations of the Teslin Airport is contracted to a community member. The post office is also contracted to a local person through Canada Post. The post office is open five days a week during regular business hours.

Social Organizations

Teslin has one nursing station to provide medical services to the citizens of Teslin. Two nurses attempt to meet the medical needs of the community. The ambulance service operates on a volunteer basis. One member of the ambulance team is always on call prepared twenty four hours a day, to act in case of an emergency. The fire department in Teslin also operates on a volunteer basis. Again, as with the ambulance service, one person is always on call.

Justice services in Teslin are a cooperative effort between the Teslin Tlingit Council's Tribal Justice Department and the R.C.M.P. The police force consists of one constable and

two corporals, one being of Teslin Tlingit ancestry. A correctional facility opened its doors in 1994. This facility is a low risk institution to help offenders to heal. On court days, the judge, lawyers, crown prosecutor, court recorder, probation officers all transport to Teslin from Whitehorse. Some Teslin citizens are considered Justice of the Peace Officers, and they make decisions in JP Court.

There is one school in Teslin. This school provides education to all children in Teslin with a range from kindergarten to grade nine. Once students reach grade ten they must go to school in Whitehorse. Yukon College also has a campus in Teslin. The courses available are very limited, with the primary interest in upgrading basic academic skills. The teachers at Teslin School and the College Campus are all of non-native ancestry, with the exception of the Tlingit language teachers. The Teslin Playschool operates with the cooperation of enthusiastic parents, as the play school operates on a volunteer basis. Two day homes in Teslin offer child care services while parents are at work or in school, however space is limited. The Teslin Tlingit Council recently set up a daycare. This was to meet the needs of parents participating in a life skills program, thus the daycare may not be a permanent fixture. There are two libraries in Teslin. The school has its own and the Community of Teslin also has one.

Recreational facilities in Teslin consist of two playgrounds, a recreation hall adequately equipped for large meetings or dances, a curling rink, a baseball diamond and a skating rink. In the past there the government funded a Recreation Worker to administer the services, however this program has been cut. In response, many community members are involved on a volunteer basis in a variety of groups and organizations to meet the recreational needs of Teslin. The following groups and organizations are currently functioning:

- Youth Group
- Teslin Hockey Association

- Teslin Tlingit First Nation Sports Council
- Teslin Mini-Rendezvous Committee
- Teslin Canada Day Committee
- Teslin Softball Association

The cultural programs and services in Teslin are provided by the Teslin Tlingit Council and community volunteers. The Teslin Tlingit Council provides cultural services through its various programs and services. Community volunteers provide the services through committees. Three committees are currently functioning. These are the Teslin Tlingit Cultural Society, the George Johnston Museum and the Teslin Tlingit Stick Gamblers.

Other than the Teslin Airport and private methods, the only other transportation available to access other communities is the Grey Hound Bus lines. The bus travels north and south three times a week, and the schedules are inconvenient to residents that utilize the system. If residents want to go to Whitehorse they must depart at approximately three o'clock in the morning.

The Canadian Imperial Bank of Commerce offers banking services in Teslin. The office is open three days a week to the public.

Economy

The major economic activity and primary source of income in Teslin is tourism. The tourism industry provides many service related employment opportunities for the residents of Teslin. The greater majority of the businesses in Teslin rely on the tourism industry for their livelihood. The following types of businesses are currently operating in Teslin:

- two seasonal resorts
- two motels

- one museum
- one video shop
- one grocery store
- two Laundromats
- six construction contractors
- two gas stations, one with a garage

The Federal and Territorial governments also give Teslin's economy a great boost. Both levels of government provide the residents of Teslin with good paying and long term jobs, in addition to providing local businesses with contracting opportunities. However, the contracting opportunities are few and far in between.

Many of the local businesses rely on the natural resources in the area as their source of service to the tourists. Fishing trips, hikes, boat tours, and wilderness adventures are quite often an attraction to the tourists. Many other business provide services to the tourists such as food, hotels, motels, and gas.

Some of the local Tlingits make traditional Tlingit arts and craft items to sell either indirectly through local businesses, or directly to tourists. Items for sale consist of:

- mocassins, mukluks, mitts, gloves, fur hats, and baby booties
- souvenir items such as beaded necklaces and headbands or vehicle ornaments
- snow shoes, canoes, and sleds
- smokes salmon and other fish
- masks, carvings, paintings and drawings

CHAPTER THREE

TESLIN TLINGIT SELF-GOVERNMENT -- JURISDICTION, POWERS, AND STRUCTURES

3.1 Introduction

The Teslin Tlingit Council has occupied its traditional territories and governed itself since time immemorial. Its rights to its lands and resources flow from this truth. After many years of struggle, its Aboriginal title and rights have been recognized by the Governments of Canada and Yukon, and a foundation for true government-to-government relationships has been established. The jurisdiction and powers of the Teslin Tlingit Council are acknowledged and enumerated in two tripartite agreements negotiated with the Governments of Canada and Yukon, and in its Constitution. The Teslin Tlingit Council's self-government structures are based primarily on the traditional system of government which has always been known to it, although a few contemporary modifications have been incorporated. The central element of Teslin Tlingit traditional government structure is the Clan system. This system has retained its crucial role and serves as the basis for modern Teslin Tlingit political and social organization.

3.2 The Government-to-Government Agreements

On May 30, 1992, after nearly twenty years of discussions, negotiators for the Government of Yukon, the Government of Canada, and the Council of Yukon Indians

(representing fourteen Yukon First Nations) concluded an Umbrella Final Agreement. This is a generic and comprehensive agreement which sets out, among other things, the principles, structures, and processes for community-based negotiations to settle Aboriginal land claims in Yukon. Specific modifications to the Umbrella Final Agreement are to be negotiated to create an individual final land claims agreement for each First Nation. The Umbrella Final Agreement includes framework provisions for the negotiation of separate self-government agreements for each First Nation. The parties agreed that the self-government agreements and the final land claims agreements for each First Nation should be negotiated and concluded concurrently.

The Umbrella Final Agreement does not bind a First Nation and the Governments of Canada and Yukon in a legal relationship until the individual final land claims agreement is ratified and signed by the First Nation. It then becomes 'attached' to the Umbrella Final Agreement. This combined Umbrella Final Agreement and individual final land claims agreement (which is, in fact, a single document at the conclusion of the process) is referred to as a Final Agreement.

It was agreed that, once the Umbrella Final Agreement is ratified by all parties and the first Final Agreement is ratified by the relevant First Nation, the Governments of Canada and Yukon will pass legislation giving them effect and entrenching them under Section 35(3) of the *Constitution Act, 1982*. The legislation will allow subsequent Final Agreements to be given effect and entrenched by Order-in-Council, and will make the Final Agreements binding on third parties.^{viii}

As the Final Agreements will be entrenched in the Canadian Constitution, the commitment to negotiate and complete self-government agreements will also be entrenched. The Government of Canada has not agreed to have the self-government agreements themselves entrenched, but the agreements will be given effect in other legislation passed by the Governments of Canada and Yukon. The self-government agreements are not precluded

from entrenchment at a future date, should there be a change in Government of Canada policy in this regard.^{ix}

On February 6, 1993, negotiators for the Government of Yukon, the Government of Canada, and the Teslin Tlingit Council concluded the Teslin Tlingit Council Self-Government Agreement (hereinafter "Self-Government Agreement") and the Teslin Tlingit Council Final Agreement (hereinafter "Final Agreement"). The Teslin Tlingit Council was the fourth member of the Council for Yukon Indians to reach this historic point. Agreements for Old Crow, Mayo and Champagne-Aishihik were completed previously; negotiations with four other member First Nations are currently underway.

The Council of Yukon Indians ratified the Umbrella Final Agreement on March 31, 1993. The Teslin Tlingit Council ratified its Final Agreement and Self-Government Agreement on April 19, 1993. The Government of Yukon has introduced legislation to ratify the Umbrella Final Agreement and the other completed Agreements. The Government of Canada is expected to do the same in the last quarter of 1993.

Implementation Agreements for the Final Agreement and Self-Government Agreement, along with a Self-Government Financial Transfer Agreement have been concluded, and also were ratified by the Teslin Tlingit Council on April 19, 1993.

Besides setting out provisions for negotiating self-government and explaining how the Final Agreement fits into the political and legal framework of Canada, the Final Agreement sets out the relationship between the Teslin Tlingit Council and the other Governments on a wide range of land, resource, economic, and social matters. The Final Agreement provides for Teslin Tlingit Council ownership and control over three categories of Settlement Lands. Aboriginal title will continue to exist for two categories of Settlement Lands. Aboriginal title to all other lands within the traditional Territory of the Teslin Tlingit First Nation has been surrendered conditionally to the Government of Canada; these lands will be subject to a

co-management. If the other Governments do not deliver on all fundamental aspects of the Final Agreement, the Teslin Tlingit Council can present a case to the courts to regain surrendered lands. Land acquired in Yukon by the Teslin Tlingit Council in the future will not carry Aboriginal title. Settlement Lands are discussed in more detail below.

As Final Agreements are based on the Umbrella Final Agreement, they include numerous provisions that refer to Yukon First Nations generally, e.g., where a certain number of seats on a commission will be held by Yukon First Nation nominees. The Teslin Tlingit Council will have representation on these bodies, either directly or indirectly. These provisions are discussed in more detail below.

The Final Agreement will not affect any Aboriginal claim, right, title or interest of the Teslin Tlingit Council claimed in British Columbia or the Northwest Territories.^x The Self-Government Agreement will not affect any Aboriginal claim, right, title or interest of the Teslin Tlingit Council or its citizens.^{xi}

The jurisdiction and powers of the Teslin Tlingit Council are set out in the Self-Government Agreement. In addition to the Self-Government Agreement, the Teslin Tlingit Council has a co-management role under the Final Agreement in numerous other quasi-government bodies and processes. The Self-Government Agreement is subject to the Final Agreement, and in the event of an inconsistency or conflict, the Final Agreement prevails.^{xii}

3.3 The Teslin Tlingit Constitution

The Constitution of the Teslin Tlingit Council (hereinafter "Constitution") was adopted initially in April, 1988, and adopted in its present form on August 10, 1991. It is incorporated into the Self-Government Agreement, which sets out in general terms what the Constitution must contain. The Constitution sets out in detail the policies, structures,

division of powers, and operating rules of the Teslin Tlingit Council. Generally, the Self-Government Agreement provisions recognize Constitutional arrangements which the Teslin Tlingit Council has established of its own accord. The Constitution must: ^{xiii}

- contain the Teslin Tlingit Council citizenship code;
- establish governing bodies and provide for their powers, duties, composition, membership and procedures;
- provide for a system of reporting, which may include audits, through which the Teslin Tlingit Council shall be financially accountable to its citizens;
- recognize and protect the rights and freedoms of Teslin Tlingit citizens;
- provide for the challenging of validity of laws enacted by the Teslin Tlingit Council and for the quashing of invalid laws;
- provide for amending the Constitution by Teslin Tlingit citizens; and,
- be consistent with the Self-Government Agreement.

The Constitution may also include other provisions to deal with self-government or Settlement Land matters. ^{xiv}

3.4 The Teslin Tlingit Council

The phrase Teslin Tlingit Council describes both the government and the collective citizenship of the Teslin Tlingit First Nation. Upon the effective date of the legislation which brings the Self-Government Agreement into effect, the Teslin Tlingit Council Indian Band constituted under the *Indian Act* will cease to exist, and its rights, titles, interests, assets, obligations and liabilities will vest in the Teslin Tlingit Council. ^{xv}

The Teslin Tlingit Council will have the capacity, rights, powers and privileges of a natural person, and may enter into contracts or agreements, acquire and hold property or any interest therein, sell or otherwise dispose of property or any interest therein, raise invest,

expend and/or borrow money, sue or be sued, and form corporations, boards, commissions, or other legal entities.^{xvi}

3.5 Guiding Principles and Objectives of Self-Government

The Self-Government Agreement recognizes the following principles of self-government:

- the Teslin Tlingit Council has decision-making structures based on the traditional Tlingit Clan system, and desires to maintain these traditional structures and integrate them with contemporary forms of government;^{xvii}
- the Parties are committed to promoting opportunities for the well-being of Teslin Tlingit citizens equal to those of other Canadians and to providing essential public services of reasonable quality to all citizens;^{xviii}
- the Parties recognize and wish to protect a way of life that is based on an economic and spiritual relationship between Teslin Tlingit people and their traditional lands;^{xix} and,
- the parties wish to protect the cultural and economic distinctiveness of the Teslin Tlingit people.^{xx}

The Constitution contains the following guiding objectives of the Teslin Tlingit Council:^{xxi}

- to promote and enhance the general welfare of Teslin Tlingit people;
- to promote respect for the land, the language, and the culture of Teslin Tlingit people;
- to work towards the creation of an environment that will allow Teslin Tlingit people to enjoy spiritual and physical health and to live with dignity and pride in their heritage;

- to ensure the protection of human, civil, legal and Aboriginal rights of Teslin Tlingit people;
- to work toward the Constitutional entrenchment of all Teslin Tlingit Aboriginal rights; and,
- to promote and strengthen the educational, social, economic and political growth of Teslin Tlingit people.

In matters requiring governmental decisions, it is the tradition of the Teslin Tlingit Council to use the consensus method. This means unanimous agreement by the members of the self-government body making the decision.^{xxii}

The powers, authority, jurisdiction and responsibilities of the Teslin Tlingit Council are exercised by one or more of its four branches, as discussed below. The branches do not exercise any of the powers and/or responsibilities belonging to any of the others, except as is provided in the Constitution.^{xxiii}

3.6 The Clan System

As noted above, the government of the Teslin Tlingit First Nation is based upon the traditional Clan system of government.^{xxiv} The membership and organization of each Clan is determined by customs inherited and observed by the Clan, which the other Clans are bound to acknowledge and respected. Each Clan chooses its own Leader and other Elders. The five Clans and their traditional emblems are:

<u>CLAN</u>	<u>EMBLEM</u>
Yanyeidi	Wolf
Daxaweidi	Eagle
Daishetaan	Beaver
Ishketaan	Frog
Xooxetaan	Raven Children

3.7 Citizenship Rights

Citizenship in the Teslin Tlingit Council is determined under the Constitution.^{xxv} Citizenship is open to persons of Teslin Tlingit ancestry who belong to one of the five Teslin Tlingit Clans, in accordance with the citizenship code. The citizenship code must enable all persons enrolled under the Final Agreement, as discussed below, to be Teslin Tlingit citizens.^{xxvi}

Under the Constitution, all Teslin Tlingit Council citizens have the rights and freedoms bestowed on all Canadian citizens by the Canadian Constitution and the Canadian Charter of Rights and Freedoms,^{xxvii} and all Teslin Tlingit citizens are guaranteed enjoyment of equal rights to life and liberty, and the pursuit of a way of life that promotes their language, culture, heritage and material well being.^{xxviii} In making laws, the Teslin Tlingit Council shall not:^{xxix}

- make or enforce laws which are unlawful or contrary to the Laws of General Application of Canada;
- make or enforce laws which unnecessarily restrict the freedom of religion, speech, the press, or the right of Teslin Tlingit citizens to assemble peaceably, and to petition for redress of grievances;
- violate the right of Teslin Tlingit citizens to be secure in their person, homes, papers, and effects against unreasonable search and seizure, nor issue warrants except under probable cause supported by oath or information specifically describing the place or person or thing to be searched or seized;
- subject any person to be twice put in jeopardy for the same offence;
- compel any person in a criminal case to be witness against himself or herself;
- deny to any person in any proceeding against that person, the right to know the nature and causes of any accusation, the right to confront any witness against him or

her, the right to have compulsory process for obtaining witnesses in his or her favour, the right to have defence counsel, and the right to a speedy trial and decision;

- inflict cruel or unusual punishment;
- deny any person or Clan within its jurisdiction the equal application of the laws, or deprive any persons or Clan of protection of liberty or property without due process; and,
- take without just compensation, any property or interest for public use.

In seeking redress for any violations of these rights, a citizen or Clan must first appeal to the Justice Council., which may hear such an appeal and thereupon direct remedial action.^{xxx} The citizen or Clan to which the direction is given must comply. Redress may be sought for administrative actions of the Justice Council (but not involving tribal justice as such) in the General Council, which may adjudicate and dispose of the matter.

Const. s. 8

Similarly, the Self-Government Agreement does not affect the rights of Teslin Tlingit Council citizens as Canadian citizens, and does not affect the entitlement of Teslin Tlingit Council citizens to all of the benefits, services, and protections enjoyed by other Canadian citizens (unless otherwise agreed in the Self-Government Agreement).^{xxxii}

Neither the Agreements nor the Constitution affect the ability of Teslin Tlingit Council citizens to exercise, or benefit from, any existing or future constitutional rights for Aboriginal people that would otherwise be applicable to them.^{xxxiii}

Unless otherwise provided for in the Agreements or a law enacted by the Teslin Tlingit Council, neither Agreement affects the ability of Teslin Tlingit Council citizens to participate in and benefit from Government programs for Aboriginal people.^{xxxiiii}

The *Indian Act* does not apply to the Teslin Tlingit Council, its citizens or its settlement lands, except for the purpose of determining which citizens are "Indians" within the meaning of the Act.^{xxxiv} Except as set out in the Final Agreement, the Final Agreement does not affect any rights or benefits the Teslin Tlingit Council or its citizens have or may be entitled to under the *Indian Act*.^{xxxv}

The Final Agreement sets out provisions dealing with eligibility and enrollment of beneficiaries of the Agreements.^{xxxvi} To receive benefits from the Agreements, a person must apply to become enrolled through an Enrollment Committee comprised of Teslin Tlingit Council Citizens. Enrollment Committee recommendations on whether a person should be enrolled will be forwarded to the independent Yukon Enrollment Commission, which may change the decisions of the Enrollment Committee. The Enrollment Commission may also enrole a person of its own accord if it deems a sufficient connection with the Teslin Tlingit Council is present. Enrollment Commission actions are subject to judicial review in the Supreme Court of Yukon.

A person with twenty-five percent or more Teslin Tlingit ancestry who lived in the Yukon before 1940 is eligible to enrole and receive benefits under the Agreements, as are all descendants (including children adopted by Canadian law or Aboriginal custom) of such persons. A person who qualifies as a Teslin Tlingit citizen but is not a Canadian citizen, may be enrolled, but this does not confer either a right to Canadian citizenship or special rights to enter Canada. No Yukon Indian person can benefit from more than one land claim agreement in Canada.

The Enrollment Committee will only operate for the first two years after the Final Agreement comes into effect. All persons on the official enrollment list when the Final Agreement comes into effect will be deemed to be enrolled without further action being required.

Generally, it is each person's responsibility to make sure that he or she is enrolled, but there is provision for application on behalf of another person in the case of minors or adults incapable of managing their own affairs.

3.8 Self-Government Structures

The powers, authority, jurisdiction, responsibility and duties of the Teslin Tlingit Council are exercised by one or more of four branches of government.

The General Council

The General Council is composed of twenty five members.^{xxxvii} Each Clan, according to its respective traditional customs, selects five representatives from their Clan and appoint them to be members of the General Council for a term of four years.

The General Council is presided over by the Chief Executive of the Executive Council, or in his or her absence or incapacity, by a deputy designated by the General Council.

The General Council operates on a quorum of twenty, but the twenty present must be comprised of at least three members from each Clan. It must meet at least once annually, and may meet up to three times annually. Other meetings of the General Council are held at such times as the General Council considers necessary or at the request of the Executive Council, the Elders Council, or the Management Board.

Agreement by consensus is encouraged at all meetings of the General Council. When consensus has not been reached, the presiding officer may call for a motion to be considered.

A person addressing the General Council may speak in Tlingit and the Chief Executive must make every effort to ensure that translation is made available. All meetings of the General Council are open to every Teslin Tlingit Council citizen and all such citizens

are encouraged to attend and to speak on issues before the meeting. However, only General Council members may introduce motions or vote in the meeting.

The Executive Council

The Executive Council is the executive branch of the Teslin Tlingit Council. It is comprised of six members drawn from the General Council, one member from each of the five Clans.^{xxxviii} Executive Council members are appointed for four years terms by the General Council and Elders Council at the annual meeting in every fourth year. The last member is an Elder, who is appointed by, and serves at the pleasure of, the Elder's Council.

The Executive Council conducts its business by consensus. The quorum is four members. For the purposes of the *Indian Act*, the Executive Council is the Band Council.

The Executive Council is governed by a series of rules regarding meeting attendance, resignations, removal from office and conduct or behaviour.^{xxxix} A member ceases to hold office upon receipt by the Executive Council of a statement of dismissal, signed by the Leader of the Clan which appointed him, and at least three other members of that Clan. The General Council may upon consultation with the respective Clan, remove from office any member of the Executive Council whose conduct or behaviour the General Council judges to have called into question the dignity or integrity of the member in question, of the Executive Council, or of the Teslin Tlingit Council.

The Elders Council

The Elders Council is composed of all Elders fifty-five years of age and older, and is headed by the Clan Leaders.^{xl} The function of the Elders Council is similar to that of the Senate of Canada -- to take a second look at matters, and provide timely, considered advice and direction. Elders Council members have a lifetime appointment.

The Elders Council is to provide advice and direction on any matter to the General Council, the Executive Council, the Justice Council, Clan Leaders and Teslin Tlingit citizens.

The Elders Council has the responsibility of safeguarding, encouraging, and instilling in Teslin Tlingit citizens the heritage, cultural, language and other traditions of the Teslin Tlingit Council. The Elders Council makes its decisions by consensus. It may assume other responsibilities, according to the traditions and future needs of the Teslin Tlingit Council.

The Justice Council

The judicial powers of the Teslin Tlingit Council are vested in this body.^{xli} It is discussed in greater detail below in Chapter 4.

3.9 Administrative Offices

The Chief Executive

Every four years the General Council appoints a member of the Executive Council to be Chief Executive.^{xlii} The Chief Executive serves for the same four year terms at the other members of the Executive Council. The Chief Executive may be removed from office at any time by the General Council for the reasons it deems appropriate. In case of such removal, the General Council will appoint another member of the Executive within ten days, to be Chief Executive for the remainder of the four year term.

The Chief Executive serves as presiding officer in meetings of the Executive Council, General Council, the Management Board, and the General Assembly of Teslin Tlingit citizens. He or she represents the Teslin Tlingit Council at meetings with officials of other Governments, is spokesperson for the Teslin Tlingit Council in dealing with other organizations, and represents the Teslin Tlingit Council on boards, commissions, or committees which may be established in respect of the Agreements. He or she exercises

other authority, duties and responsibilities as authorized by the General Council, the Executive Council, or other Teslin Tlingit Council laws. The Chief Executive may not hold other any office besides that of a member of the General Council, Executive Council, and Management Board.

The Management Board

The Management Board is established by the General Council, and consists of the Chief Executive and various Directors of Teslin Tlingit Council departments.^{xliii} The Management Board acts as an executive/financial management committee and exercises authority in respect of:

- accounting policies and practises:
- budget policies and practises;
- management practises and systems;
- financial management and control of revenue, disbursements and assets of the Teslin Tlingit Council;
- evaluation of govt programs and activities as to economy, efficiency and effectiveness, management, control and direction of the Teslin Tlingit Council public services, including organization, staff establishments, salaries and other benefits;
- internal and external audit;
- other matters conferred by the G.C. or other governing body.

3.10 Legislative Powers of Teslin Tlingit Council

Exclusive Powers

The Teslin Tlingit Council has exclusive power to enact laws in relation to:^{xliv}

- administration of Teslin Tlingit Council affairs and operation and internal management of the Teslin Tlingit Council; and,
- management and administration of rights or benefits which are realized pursuant to the Final Agreement by persons enrolled under the Final Agreement and which are to be controlled by the Teslin Tlingit Council; and,
- matters ancillary to the foregoing.

Matters in Yukon

The Teslin Tlingit Council has the power to enact laws in relation to the following matters in Yukon: ^{xlv}

- provision of programs and services for Teslin Tlingit citizens in relation to their spiritual and cultural beliefs and practises;
- provisions of programs and services for Teslin Tlingit citizens in relation to their Aboriginal languages;
- provision for health care and services to Teslin Tlingit citizens, except licensing and regulation of facility-based services off settlement land;
- provision of social and welfare services to Teslin Tlingit citizens, except licensing and regulation of facility-based services off Settlement Land (2-14)
- provision for training programs for Teslin Tlingit citizens, subject to Government certification requirements where applicable
- adoption by and of Teslin Tlingit citizens;
- guardianship, custody, care and placement of Teslin Tlingit children, except licensing and regulation of facility-based services off Settlement Land;
- provision of education programs and services for Teslin Tlingit citizens choosing to participate, except licensing and regulation of facility-based services off Settlement Land;

- inheritance, wills, intestacy and administration of estates of Teslin Tlingit citizens, including rights and interests in Settlement Land;
- procedures consistent with the principles of natural justice for determining the mental competency or ability of Teslin Tlingit citizens, including administration of the rights and interests of those found incapable of responsibility for their own affairs;
- provision of services to Teslin Tlingit citizens for resolution of disputes outside the courts;
- solemnization of marriage of Teslin Tlingit citizens;
- licences in regard to the above in order to raise revenue for Teslin Tlingit Council purposes;
- matters necessary to enable the Teslin Tlingit Council to fulfil its responsibilities under the Final Agreement or the Self-Government Agreement;
- matters ancillary to the foregoing.

Matters of a Local or Private Nature on Settlement Land

The Teslin Tlingit Council has the power to enact laws of a local or private nature on Settlement Land in relation to the following matters: ^{xlvi}

- use, management, administration, control and protection of Settlement Land;
- allocation or disposition of rights and interests in and to Settlement Land, including expropriation by the Teslin Tlingit Council for Teslin Tlingit Council purposes;
- use, management, administration and protection of natural resources under the ownership, control or jurisdiction of the Teslin Tlingit Council;
- gathering, hunting, trapping or fishing and the protection of fish, wildlife and habitat;
- control or prohibition of the erection and placement of posters, advertising signs, and billboards;

- licensing and regulation of any person or entity carrying on any business, trade, profession, or other occupation;
- control or prohibition of public games, sports, races, athletic contests and other amusements;
- control of the construction, maintenance and repair and demolition of buildings or other structures;
- prevention of overcrowding of residences or other buildings or structures;
- control of the sanitary condition of buildings or property;
- planning, zoning and land development;
- curfews, prevention of disorderly conduct and control or prohibition of nuisances;
- control or prohibition of the operation and use of vehicles;
- control or prohibition of the transport, sale, exchange, manufacture, supply, possession or consumption of intoxicants;
- establishment, maintenance, provision, operation or regulation of local services and facilities;
- caring and keeping of livestock, poultry, pets and other birds and animals, and impoundment and disposal of any bird of animal maltreated or improperly at large, but the caring and keeping of livestock does not include game farming or game ranching;
- administration of justice;
- control or prohibition of any actions, activities, or undertakings that constitute, or may constitute, a threat to public order, peace or safety;
- control or prohibition of any activities, conditions or undertakings that constitute, or may constitute, a threat to public order, peace or safety;
- control or prevention of pollution and protection of the environment;
- control or prohibition of the possession or use of firearms, other weapons and explosives;

- control or prohibition of the transport of dangerous substances; and,
- matters coming within the good government of Teslin Tlingit citizens on Settlement Land.

Taxation

The Teslin Tlingit Council has the power to enact laws in relation to: ^{xlvi}

- taxation, for local purposes, of interests in Settlement Land and of occupants and tenants of Settlement Land in respect of their interest in those lands, including assessment, collection and enforcement procedures and appeals relating thereto;
- other modes of direct taxation of Teslin Tlingit citizens within Settlement Land to raise revenue for Teslin Tlingit Council purposes; and,
- implementation of measures made pursuant to any taxation agreements the Teslin Tlingit Council may enter into with the Yukon Minister of Finance.

The Teslin Tlingit Council taxation powers listed above do not limit the power of other Governments to levy tax or make taxation laws. ^{xlvi}

Emergency Powers

Off Settlement Land, in matters covered above under *Matters in Yukon*, the other Governments may exercise powers conferred by laws of general application to relieve the emergency of a Teslin Tlingit citizen, notwithstanding that laws enacted by the Teslin Tlingit Council may apply to the emergency. Similarly, on Settlement Land, in regard to a person who is not a Teslin Tlingit citizen, the Teslin Tlingit Council may relieve the emergency using its own laws. In both cases, the other Governments and the Teslin Tlingit Council are obligated to notify each other and transfer jurisdiction as soon as possible. ^{xlv}

Laws of General Application

"Laws of general application" means laws of general application as defined by common law, but does not include laws enacted by the Teslin Tlingit Council.¹

Unless otherwise provided in the Self-Government, all laws of general application continue to apply to the Teslin Tlingit Council, its citizens and Settlement Land. The Government of Canada, in consultation with the Government of Yukon, and the Teslin Tlingit Council have agreed to negotiate a separate agreement or an amendment to the Self-Government Agreement identifying the areas in which laws enacted by the Teslin Tlingit Council will prevail over federal laws of general application, to the extent of the inconsistency or conflict.ⁱⁱ

Yukon laws of general application are inoperative to the extent that they provide for any matter for which provision is made in a Teslin Tlingit Council law.ⁱⁱⁱ Where the Yukon Government reasonably foresees that a proposed Yukon law of general application may have an impact on a law enacted by the Teslin Tlingit Council, the Yukon must consult with the Teslin Tlingit Council prior to introducing the legislation in the Legislative Assembly.ⁱⁱⁱ The Teslin Tlingit Council has a similar obligation.^{liv}

Where a law enacted by the Teslin Tlingit Council renders a Yukon law of general application partially inoperative or would make it unduly difficult to administer that law in relation to the Teslin Tlingit Council, its citizens or Settlement Land, the Yukon Government may declare that the law ceases to apply in whole or in part to the Teslin Tlingit Council, its citizens or Settlement Land.^{lv}

Adoption of Laws of Canada and the Yukon

The Teslin Tlingit Council has the power to adopt any law of Yukon or Canada as its own law in respect of matters provided for in this Agreement. The federal *Statutory Instruments Act* does not apply to a law enacted by the Teslin Tlingit Council.^{lvi}

The General Council

The powers of the General Council are as follows:^{lvii}

- Exclusive legislative power to enact Teslin Tlingit Council laws including those powers recognized by the Royal Proclamation of 1763 and those powers recognized or extended to the Teslin Tlingit Council by the Final Agreement or any other law of Yukon, British Columbia, or Canada. Such powers shall be exercised subject to any limitations imposed by the Constitution.
- The authority to act on behalf of and for Teslin Tlingit citizens, and the authority to which all governing bodies of the Teslin Tlingit Council report and receive direction from.
- Establishment of the Executive Council.
- Establishment of land use policy, and regulations to govern land use in Settlement Lands.
- Enactment of laws to govern development of Teslin Tlingit lands and natural resources associated with Teslin Tlingit land, and of natural resources associated with Teslin Tlingit lands for industrial or other uses, provided that such development is designed for the general good of the Teslin Tlingit Council as a whole.
- Subject to any agreement with the Governments of Canada and Yukon, enactment of laws with respect to:
 - administration of the affairs, operations and internal management of the Teslin Tlingit Council;
 - adoption of and by Teslin Tlingit citizens;
 - guardianship, custody, care and placement of Teslin Tlingit citizens;
 - education, schooling and training of Teslin Tlingit citizens;
 - health care and services for Teslin Tlingit citizens;

- recognition, protection, and enhancement of spiritual and cultural beliefs and practices, and traditional languages, of Teslin Tlingit citizens;
- procedures for determining competency of Teslin Tlingit citizens, and provisions for safeguarding the interests of those found to be incompetent (subject to the principles of natural justice);
- dispute resolution and family violence;
- inheritance, wills, intestacy and administration of estates of Teslin Tlingit citizens;
- administration of rights under the Agreements which are to be controlled by the Teslin Tlingit Council; and,
- powers ancillary to the foregoing.

The Executive Council

Subject to the approval of the General Council and/or the Elders Council, the Executive Council has authority to: ^{lviii}

- lease Teslin Tlingit Council lands;
- sell or exchange only such pieces of lands that are designated in the Final Agreement as subject to sale or exchange, or that are acquired for the purpose of possible sale or exchange;
- borrow money;
- assess property to establish and collect taxes, user fees and other charges from Teslin Tlingit citizens and non-citizens using, residing on, or doing business on Teslin Tlingit lands;
- establish boards, commissions, and committees or other institutions, as may be required;
- recommend to the General Council for approval, budgets, reports and other policies for the Teslin Tlingit Council;

- approve salaries and other benefits and compensation, honoraria to Teslin Tlingit employees, boards, Council members and other governing bodies;
- approve personnel, administrative and financial policies and procedures;
- approve reports from governing bodies or consultants, consistent with good management practises;
- exercise other powers as may be delegated or assigned by the General Council; and,
- delegate its authority to other Teslin Tlingit Council governing bodies.

3.11 Taxation

The Teslin Tlingit Council and the Governments of Canada and Yukon have agreed to negotiate agreements on the coordination of tax systems and the extent to which the Teslin Tlingit Council may tax non-citizens within Settlement Lands.^{lix} The Teslin Tlingit Council agreed not to enforce its taxing powers for three years from effective date of the Self-Government Agreement.

When the Teslin Tlingit Council exercises its jurisdiction, or assumes responsibility for the management, administration and delivery of local services and, as a consequence, exercises its property taxation powers the Government of Yukon will ensure a sharing of tax room in respect of property taxes consistent with equitable and comparable taxation levels. The Teslin Tlingit Council and the Government of Yukon will enter into negotiations as necessary to provide for the efficient delivery of local services and programs.

Where, following the ratification date of the Self-Government Agreement, the Government of Canada enacts legislation providing taxation powers or tax exemptions to a First Nations government, or an entity owned by an Indian govt, other than the Teslin Tlingit Council, which differ from those provided for in the Self-Government Agreement, the Government of Canada will, at the request of the Teslin Tlingit Council, recommend Legislation to the appropriate legislative authority to provide the Teslin Tlingit Council or an

entity owned by the Teslin Tlingit Council with those other powers or exemptions on the same terms.

The Teslin Tlingit Council is, for taxation purposes, deemed to be a "public authority" within the meaning of the *Northern Pipeline Act*. The Government of Yukon must consult with the Teslin Tlingit Council on the establishment of the assessment and taxation regime for the Pipeline and the apportioning between them of the Yukon Property Tax. The assessment and taxation regime must include a fair and equitable method to apportion the Yukon property tax payable for the part of the Pipeline on Settlement Land and the portions which are not on Settlement Land.

The Teslin Tlingit Council is, for taxation purposes under the *Income Tax Act*, deemed to be a public body performing a function of government in Canada for each taxation year in which its activities are focussed within Settlement Lands or on the exercise of self-government powers.^{lx} The income of public bodies performing a function of government in Canada is not subject to tax. A similar rule applies to earnings of Teslin Tlingit corporations owned by the Teslin Tlingit Council and having its assets on Settlement Land.^{lxi}

The Self-Government Agreement tax provisions do not apply to taxation of Settlement Corporations or to individual taxes paid by Teslin Tlingit citizens.^{lxii} Under the Final Agreement, the Teslin Tlingit Council may set up Settlement Corporations for certain prescribed activities. Any investments used to carry out community, social development, or traditional activities will not be taxed, nor will payments received from a Settlement Corporation. The current income tax exemption for Status Indians under the *Indian Act* will end three years from the date legislation makes the Agreements effective. Teslin Tlingit Council citizens will be subject to general income tax laws. In exchange for the right to tax to begin taxing Yukon Aboriginal people, the Yukon First Nations will receive a \$12.6 million payment when the legislation is passed and an additional \$13.9 million payable in 10

annual payments. There will be no taxes payable on financial compensation (which is discussed below) or income earned from investing financial compensation money.

Teslin Tlingit Council Settlement lands may or may not be subject to property tax.^{lxiii} As noted, some Settlement Lands will be held in fee simple. These lands will be subject to the tax laws which apply generally to fee simple (privately owned) land in Yukon. Improved Rural Settlement Land (land outside a community which is used for commercial purposes or has a permanent structure on it) will be also be taxed, unless otherwise provided in the Final Agreement. Lands used for trapping, non-commercial wildlife harvesting or other traditional purposes are not included in this category. Unimproved Rural Settlement Land (land outside a community which does not have improvements, commercial ventures or permanent structures on it) will be exempt from property tax. Cabins, camps, tent frames, caches and fish racks will not be taxed.

The Government of Canada will assist with any property tax payments for ten years after the Self-Government Agreement becomes effective. In the first year, the Government of Canada will contribute 100%, and then it will contribute 10% less each year, until after ten years the Teslin Tlingit Council is paying 100% of its property taxes.^{lxiv} Settlement Lands cannot be seized and sold for non-payment of taxes.^{lxv}

The Teslin Tlingit Council will pay the same rates for local government services, such as garbage collection, as are paid by property owners of the Village of Teslin, unless otherwise agreed to by Teslin Tlingit Council and the Village of Teslin.^{lxvi}

3.12 Other Financial Matters

Financial Compensation

To compensate for the unauthorized use of Aboriginal land over the years and the collection of royalties and taxes from people using Yukon Aboriginal lands, Government will

pay Yukon First Nations a total of \$242.6 million dollars. This amount is earning interest and has grown to approximately \$247 million. The Yukon First Nation leadership have determined how the compensation funds will be shared by Yukon First Nations. All fourteen members of the Council for Yukon Indians will share one-third of the money equally; the Teslin Tlingit Council's share of the other two-thirds will be based on the number of Teslin Tlingit Council citizens, relative to the total number of citizens of Yukon First Nations. Payments will be made to Teslin Tlingit Council once a year for fifteen years. Yukon First Nations have also agreed to repay loans made to the Council for Yukon Indians to support land claims negotiations.

Self-Government Financial Transfer Agreement

The Final Agreement calls for the Government of Canada and the Teslin Tlingit Council to negotiate a self-government financial transfer agreement, with the objective of providing the Teslin Tlingit Council with resources to enable the it to provide public services at levels reasonably comparable to those generally prevailing in Yukon, at reasonably comparable levels of taxation.^{lxvii} This agreement has been completed and was ratified by the Teslin Tlingit at the same time as the Final and Self-Government Agreements.

The self-government financial transfer agreement sets out the funding to be provided by the Government of Canada to the Teslin Tlingit Council for the cost of public services, where the Teslin Tlingit Council has assumed such responsibility, and for the operational costs of Teslin Tlingit Council self-government institutions.

The self-government financial transfer agreement does not form part of the Self-Government Agreement, but is a contract between the Government of Canada and the Teslin Tlingit Council. It does not affect the ability of the Teslin Tlingit Council to exercise, or benefit from, any rights that it may become entitled to under future provisions of the Canadian Constitution.

Some factors taken into account in negotiating the self-government financial transfer agreement include: the ability and capacity of the Teslin Tlingit Council to generate revenues from its own sources; diseconomies of scale which impose higher operating or administrative costs on the Teslin Tlingit Council (in relation to costs prevailing prior to conclusion of the agreement); due regard to economy and efficiency, including the possibilities for cooperative or joint arrangements among Yukon First Nations for the management, administration and delivery of programs and services; any funding provided to the Teslin Tlingit Council through other Government transfer programs; demographic features of the Teslin Tlingit Council; existing levels of Government expenditures for services to Yukon First Nations and Yukon Aboriginal people; the prevailing fiscal policies of Canada; and, other Government of Canada legislation respecting the financing of Aboriginal governments. The financial compensation, discussed above, and income earned from investing was not taken in account in determining levels of funding.

Payments made pursuant to the self-government financial transfer agreement will be provided on an unconditional basis except where criteria or conditions are attached to the provision of funding for similar programs or services in other jurisdictions in Canada. The Teslin Tlingit Council may continue to access federal program funding for those programs not consolidated in the self-government financial transfer agreement in accordance with program authorities and conditions in effect from time to time.

If the Teslin Tlingit Council has access to a tax base, the revenue capacity associated with that tax base may be considered in determining the level of funding to be received pursuant to the self-government financial transfer agreement, provided that: the revenue capacity associated with the tax base more than offsets the cost of collecting it; any such revenue capacity will be excluded from such consideration for two years following the date that the Teslin Tlingit Council obtains access to that tax base; and the tax rates used to

measure revenue capacity beyond the initial two years must take into account the capability of the Teslin Tlingit Council to exploit that tax base.^{lxviii}

Resource Royalty Sharing

The Final Agreement provides that if the Government of Canada transfers the authority to collect royalties on natural resources of Yukon, royalties will thereafter be shared with Yukon First Nations as follows: if royalties in a year are \$2 million or less, Yukon First Nations will receive 50%; Yukon First Nations will receive 10% of any additional royalties collected in that year.^{lxix} The Teslin Tlingit Council will participate in any such royalty sharing. The Governments of Canada and Yukon are presently negotiating agreements with respect to the transfer of administration and management of resources.

Financial Accountability

The Teslin Tlingit Council must prepare, maintain, and publish its accounts in a manner consistent with the standards generally accepted for governments in Canada.^{lxx}

3.13 Implementation

The parties have completed implementation plans for both the Final Agreement and the Self-Government Agreement.^{lxxi} These plans were ratified along with the Agreements by the Teslin Tlingit Council on April 19, 1993. The implementation plans are contracts between the parties which set out the responsibilities of each party in relation to giving effect to the various provisions of the Agreements.

3.14 Dispute Resolution

Dispute Resolution Board

The Final Agreement establishes a comprehensive dispute resolution process for resolving disputes which arise out of the interpretation, administration or implementation of the Agreements or related legislation, and which will facilitate the out-of-court resolution of disputes in a non-adversarial and informal atmosphere.^{lxxii} A Dispute Resolution Board will be established, comprised of three persons appointed jointly by the Council for Yukon Indians and the Governments of Canada and Yukon. The Final Agreement also provides for mediation and arbitration processes, in which the Board may be involved to varying degrees. Arbitrators will have the authority to resolve disputes. Arbitrators' decisions are equivalent to orders of the Supreme Court of Yukon, except that they are not subject to appeal other than on the grounds of jurisdictional error or failure to observe the principles of natural justice.

The mediation processes may be used in the event of disputes in the negotiation of terms of self-government financial transfer agreements and of the transfer of programs and services.^{lxxiii}

Surface Rights Board

A Surface Rights Board will be established by the legislation which gives effect to the Agreements.^{lxxiv} Government and the Council for Yukon Indians will nominate equal numbers of the membership. The Board will resolve disputes over access to or expropriation of all Yukon lands, including Settlement Lands. The Board will also deal with disputes between holders of surface and subsurface rights. First Nations must be represented on every panel of the Board that deals with a dispute involving Settlement Land. The Board may determine compensation for the expropriation of Settlement Land. Orders of the Board will be enforceable as if they were orders of the Supreme Court of the Yukon.

Review Process under the Constitution

Any Clan leader, in consultation with his or her Clan, may submit to the Executive Council a petition demanding a review by the General Council of any proposed law, proposed resolution, or other proposed action under consideration, by any of the governing bodies.^{lxxv} The governing body in question must refrain from continuing with the action until the General Council has reviewed the matter. The General Council must meet to consider the matter, after which it can give its approval or give direction to the Executive Council on disposal of the matter.

3.15 Economic Development Measures

The Final Agreement sets out plans to provide Teslin Tlingit citizens and other Yukon Aboriginal people with opportunities to participate in the Yukon economy, to develop economic self-reliance, and to ensure they receive the economic benefits that flow directly from the Agreements.^{lxxvi} The Teslin Tlingit Council and the other Governments have two years after ratification to identify and develop an economic development opportunity plan for Teslin Tlingit citizens. The other Governments have agreed that public service jobs, including managerial, technical, and professional positions, should reflect the proportions of Aboriginal and non-Aboriginal population in Yukon. The need for training relevant to these positions is recognized, as is the need for training relevant to the business and jobs which will be created as a result of the Agreements. Yukon First Nations will have the opportunity to be involved in bidding for contracts let by the Governments of Canada and Yukon. The Teslin Tlingit Council and other Yukon First Nations will be involved in planning and setting up Government programs made especially for Aboriginal people, and will be involved and represented in other economic bodies in Yukon, including the Yukon Development Corporation, the Yukon Energy Corporation, the Yukon Council on the Economy and Environment, and the Economic Opportunities Planning Committee. The economic development measures provisions will be reviewed in 2010. If the stated objectives have

been met, the provisions will expire; if not they will be reviewed at five year intervals until they are met.

3.16 Programs and Services

During the term of a self-government financial transfer agreement, the Teslin Tlingit Council and the other Governments are bound to negotiate the assumption of responsibility by the Teslin Tlingit Council for the management, administration, and delivery of any program or service within the jurisdiction of the Teslin Tlingit Council, whether or not the Teslin Tlingit Council has enacted a law respecting such matter.^{lxxvii} This Agreement must include a program and service implementation plan, and identify the training requirements to be addressed in that plan. The Teslin Tlingit Council is to notify the other Governments each year of its priorities for negotiations for the following fiscal year. The negotiations will have the following objectives:^{lxxviii}

- to provide resources adequate to ensure that the programs or services to be offered by the Teslin Tlingit Council are of a level or quality equivalent to the Government program or services and existing program or service quality is not diminished;
- to provide for mechanisms of cooperation and coordination, as appropriate between the Teslin Tlingit Council and other Governments at a local, territorial and federal level to ensure the effective and efficient delivery of programs or services;
- to consider financial and administrative limitations and to promote administrative efficiency and economies of scale;
- to provide for local management and delivery of programs and services;
- to provide mechanisms for negotiating basic common standards between Government and Teslin Tlingit Council programs and services; and,
- to identify the scope of the Parties' authority.

The Teslin Tlingit Council and the other Governments may agree to develop a process for consult and negotiation regarding the establishment of common administrative and planning structures for part or all of the Teslin Tlingit Council traditional territory.^{lxxix}

The Teslin Tlingit Council may enter into agreements with another Yukon First Nation, a municipality, or other Governments, to provide for such matters as municipal or local government services, joint planning, zoning or other land use control.^{lxxx}

3.17 Review of the Self-Government Agreement

Where the other Governments have concluded a self-government agreement with another Yukon First Nation which includes provisions more favourable than those in the Self-Government Agreement, and where it would be practicable to include those provisions in this Agreement, the other Governments, at the request of the Teslin Tlingit Council, must negotiate with the Teslin Tlingit Council with a view to amending the Self-Government Agreement to incorporate provisions no less favourable than those in the other agreement(s).^{lxxxii} The parties will review the Self-Government Agreement five years after the date it takes effect, to determine: if there are other agreements in Canada which have more effectively incorporated self-government provisions respecting any matters considered in the Self-Government Agreement; whether other self-government agreements have more effectively incorporated implementation or financial transfer agreements; to ensure the Self-Government Agreement has been implemented in accordance with the implementation plan; and, whether the negotiated transfer of programs, responsibilities and resources.^{lxxxiii}

3.18 Public Register of Laws and Notification Provisions

The Teslin Tlingit Council will maintain at its principal administrative offices a register of all laws enacted by the Teslin Tlingit Council. The Teslin Tlingit Council will enter into negotiations with other Yukon First Nations with a view to concluding an

agreement to establish a central registry of constitutions and laws enacted by Yukon First Nations. Every law enacted by the Teslin Tlingit Council and any amendment thereto and the Constitution and any amendment thereto will be entered in their entirety into the register upon approval, adoption or enactment and also will be forwarded to the central registry. Any person will have reasonable access to the registries during normal business hours. The Teslin Tlingit Council will forward to the other Governments a list of Teslin Tlingit Council citizens, and any alterations to that list after they occur.^{lxxxiii}

3.19 Transboundary Agreements

The Umbrella Final Agreement commits the Governments of Canada and Yukon and Yukon First Nations to use best efforts to co-operate in negotiating Transboundary Agreements. Transboundary claims arise from the fact that the political boundaries imposed by European colonists did not respect the traditional territories of First Nations. As a result, some First Nations were cut off from parts of their traditional territories because those territories were in another Province or Territory, in which they had no rights as residents. Now, some First Nations have a claim in a traditional territory which may overlap into another province or into the traditional territory of another First Nation. The basis for negotiations will be traditional use and occupancy of the land, rather than its ownership and title.^{lxxxiv} Current negotiations include discussions between Yukon Tlingit people and Taku River Tlingit people of British Columbia.

3.20 Land Tenure and Management

Settlement Land Tenure

The Yukon First Nations negotiated for a total of 16,000 square miles of Settlement Land. It is divided into 10,000 square miles of Category A land, and 6,000 square miles of Category B land and Fee Simple land.^{lxxxv}

For Category A lands, Yukon First Nations have complete ownership of surface and subsurface rights. On Category B lands, Yukon First Nations have complete ownership of surface rights only; however, they have the power to control who can come onto the land to exercise subsurface rights. Category A and B lands retain Aboriginal title. Fee Simple lands are owned and managed by Yukon First Nations but do not carry Aboriginal title.

Yukon First Nations have the right to lease, grant land use permits for, or sell Category A, Category B, and Fee Simple Settlement Land. If Category A or B land is sold, it loses its Aboriginal title. Fee Simple lands are those Settlement lands which are, or in the future may be, registered by the Teslin Tlingit Council like any other privately held land; registration will be necessary for the lands to be sold to a non-beneficiary of the Agreements. If a Yukon First Nation reacquires Fee Simple Settlement Land from a non-beneficiary, that land does not regain Aboriginal title. Self-government powers may be exercised on Fee Simple Settlement Lands held by the Teslin Tlingit Council.

In addition to Settlement Lands, Yukon First Nations are entitled to retain a total of 60 square miles as Reserves under the *Indian Act*. Except for taxation matters, the *Indian Act* continues to apply to these lands. Title to these lands is vested in the individual Yukon First Nations for the use and benefit of its citizens. Each Yukon First Nation has a choice as to whether existing Reserves will continue to be held as Reserves or become Settlement Lands.

The Teslin Tlingit Council's allotment is 925 square miles of Settlement Land, divided into 475 square miles of Category A land and 450 square miles of Category B and Fee Simple Settlement Land. In addition, the Teslin Tlingit Council has decided to allow certain lands to remain as Reserves rather than become Settlement Land. The three Teslin Tlingit Council reserves are the Teslin Post Indian Reserve No. 13, the Nisutlin Indian Reserve No. 14 and the Nisutlin Bay Indian Reserve No. 15. These cover a total area of 12.88 square miles.

Boundaries and measurement of areas of Settlement Land will be surveyed and established.^{lxxxvi} A Settlement Land Committee will be established, comprised of two representatives from the Teslin Tlingit Council and two from the other Governments. The chairperson will be appointed by the Surveyor General of Canada, who will also control the survey standards and other legal aspects.

Title to non-Settlement land (i.e., traditional territory that is not Category A, Category B, or Fee Simple Settlement Land) is surrendered to the Government of Canada. As noted above, this surrender is conditional. If Governments do not deliver on all fundamental aspects of the Final Agreement, the Teslin Tlingit Council can present a case to the courts to regain surrendered lands.

Land Use Planning and Management

The Final Agreement recognizes both the role of Yukon First Nations as major land owners in Yukon, and the cultural importance to Yukon First Nations of their land. The Yukon Land Use Planning process^{lxxxvii} provides for land use planning (outside of existing communities) and applies equally to Settlement Land and non-Settlement Land. The planning process includes guaranteed public and Yukon First Nation input to avoid or reduce potential conflicts between competing land uses. A three person Yukon Land Use Planning Council composed of one person nominated by Yukon First Nations and two persons nominated by the other Government will oversee the land use planning process. The Planning Council will make recommendations on overall planning policy and priorities, boundaries of planning areas and planning terms of reference.^{lxxxviii} Government and any affected Yukon First Nation can establish a Regional land Use Planning Commission to develop a land use plan for their territory.^{lxxxix} These membership of these Commissions will be one-third nominated by the affected First Nation(s), one third nominated by the other Governments, and one-third based on the number of Yukon Indian people relative to the total population in the planning region.

Under the Self-Government Agreement, the Teslin Tlingit Council, the Government of Yukon and the Village of Teslin have agreed to use best efforts to ensure land use of non-Settlement Land does not have a significant adverse impact on the peaceable use and enjoyment of adjacent Settlement Land, and vice versa.^{xc} A joint planning structure may be established to make recommendations or carry out other activities for this purpose.

The Final Agreement provides for the right of access of Yukon First Nations on Crown Lands (including non-Settlement Lands, to which title has been surrendered), and the right of Governments and third parties to access for commercial and non-commercial purposes on Settlement Lands.^{xcⁱ} Essentially, provided the land is not harmed, Teslin Tlingit Council citizens have access to all unoccupied surrendered lands within their traditional territory for hunting, fishing, berry picking, gathering traditional medicines, etc., as well as and commercial activities. At any time, the other Governments may access the Teslin Tlingit Council's Settlement Lands to carry out inspections and enforce applicable laws. The other Governments have agreed not to sell or lease Crown lands if it would prevent Yukon First Nations from having access to their Settlement Lands.

Other Governments or any other agency so authorized by legislation has the right to take parcels of Teslin Tlingit Council settlement land for public purposes.^{xcⁱⁱ} Based on the principle that Settlement Land is fundamental to Yukon Indian people, Government must avoid expropriation wherever possible. If there are strong reasons to use expropriation, the process must address Teslin Tlingit Council's concerns, and where possible, other land is to be provided as part of the compensation. Other land provided as compensation will not carry Aboriginal title. Prior to expropriation, the agency seeking it must attempt to negotiate an agreement for the use or transfer of land, hold public hearings which allow all parties to present their case, get approval from either the Federal Cabinet or the Territorial Government, and pay compensation to Teslin Tlingit Council as determined by the Surface Rights Board.

The Final Agreement sets out a process for assessing project proposals for activities such as logging, mining, fishing, or manufacturing. The process is to determine how the land, air, water, people or animals will be affected by developing these industries. It will also look at ways of minimizing the environmental impact of development projects. The Yukon Development Assessment Board will be responsible for reviewing all major projects. Half the seats on the Board will go to Yukon First Nation nominees. The Board will make recommendations to Yukon First Nations and other Governments on projects which impact both Settlement and non-Settlement Land.

3.21 Resource Use and Management

The Final Agreement deals with resource use and management in great detail. A summary of the main provisions follows.

Special Management Areas^{xciii} will be established to recognize and deal with important features of Yukon's natural and cultural environment. Other Government's must respect the rights and interests of Yukon First Nations when creating new parks, sanctuaries, wilderness and other special areas. Community-based Renewable Resource Councils and other advisory bodies, which will have Yukon First Nation representation, will be involved with planning and management. Each Renewable Resource Council will have membership from the people living within the respective Yukon First Nations' traditional territory. With respect to the Teslin Tlingit Council, there are specific provisions in the Final Agreement for the Nisutlin River Delta National Wildlife Area. This area will be protected under the *Canada Wildlife Act*. Teslin Tlingit Council citizens will continue to be able to hunt and fish in the area, and use trees as necessary to hunt fish, trap, or gather in the area. The management plan for Teslin Tlingit Council lands will be prepared jointly by the Teslin Renewable Resource Council and Canada Wildlife Service.

The Final Agreement sets out the rights of Yukon First Nations and their citizens to use and protect water. It recognizes the cultural, spiritual, and traditional importance of water to Yukon First Nations. Yukon Aboriginal people have the right to use water anywhere in Yukon, without a licence, for traditional purposes. The Teslin Tlingit Council will have exclusive rights to use water while it is on or flowing through Settlement Lands, except as provided in the Final Agreement. A Yukon Water Board will be established, ensure Yukon waters are maintained and used wisely. Yukon First Nations will nominate one-third of the membership of the Board.

The Final Agreement sets out the powers and responsibilities of Yukon First Nations and the other Governments with respect to the management of fish and wildlife and their habitat.^{xciv} These are intended to ensure the wise use and conservation of fish and wildlife and their habitat for the future. All Yukon First Nations are guaranteed the right to harvest and jointly manage fish and wildlife resources within their respective traditional territories. Joint management will be carried out by the Yukon Fish and Wildlife Management Board, its Salmon Sub-Committee, and the individual Yukon First Nation Renewable Resource Councils. The Board, Sub-Committee and Councils will have equal representation from Yukon First Nations and the other Governments. Although these bodies have management responsibilities, the Minister has the final authority on fish and wildlife matters. Harvest limits have been identified, but within these limits, the Teslin Tlingit Council is to manage its own hunting, fishing and trapping. Essentially, the Teslin Tlingit Council has the right to harvest all species of fish and wildlife at any time within its traditional territory, and, with the consent of other Yukon First Nations, in other traditional territories. This right can be limited only for conservation or public health and safety reasons. Except for traditional production of handicrafts or in accordance with other laws established by Governments, Yukon Aboriginal people cannot sell edible or non-edible fish or wildlife products. The Teslin Tlingit Council has also established a basic needs level for harvesting moose stock, should a

global limit be placed on the number of moose which can be harvested in its traditional territory.

A Yukon Fish and Wildlife Enhancement Trust will be established.^{xcv} The purpose of the Trust is to restore, enhance, and protect fish and wildlife and the places where they live so that they will continue to exist and grow. The starting capital of the trust will be provided jointly by the Governments of Canada and Yukon, and the Council For Yukon Indians.

Yukon First Nations have the power to manage and use forest resources on Settlement Land, and share management of forest resources on non-Settlement Land within their traditional territory.^{xcvi} Management of forest resources will involve control of fires, diseases, pests and as well as management of logging, tree planting, and other development related activities. The Teslin Tlingit Council owns, manages, allocates, and protects the forest resources on its Settlement Land. The Teslin Renewable Resource Council will recommend forest management practises to the Teslin Tlingit Council and the other Governments. The Teslin Tlingit Council can give, trade, barter or sell trees to other Yukon Aboriginal persons and to other Aboriginal persons who are beneficiaries of Transboundary Agreements. The Teslin Tlingit Council will develop a forest resource management plan for its territory.

Two types of non-renewable resources are identified under the Final Agreement.^{xcvii} These are:

- Specified Substances, such as carving stone, building stone, flint, sand, gravel, earth soil and other matters; and,
- Minerals, which include precious and base metals and other non-living, naturally occurring substances that are solid, liquid or gaseous such as coal and oil.

The Teslin Tlingit Council have the rights to all Specified Substances on all categories of Settlement Land, including the selling of materials such as gravel or building stones. Where rights to Minerals are held (i.e., for Settlement Lands other than Category A), those rights do not rights to Specified Substances; however, they do include the right of access to exercise Mineral rights. Disputes between the Teslin Tlingit Council and Mineral rights holders will be taken to the Surface Rights Board, discussed above.

The heritage resources of Yukon Aboriginal people are underdeveloped compared to non-Aboriginal heritage resources. As program funding becomes available, the other Governments will give priority to development and management of Aboriginal heritage resources, until such time as there is an equal representation of all facets of Yukon heritage. Yukon First Nations are to be consulted and involved in forming policies and laws on heritage resources in Yukon. The Final Agreement promotes the recording and preservation of traditional languages, beliefs, histories, legends and cultural knowledge of the Teslin Tlingit.^{xcviii} A Yukon Heritage Board will be established. The Board will consist of ten members, equally appointed by Yukon First Nations and the other Governments. This Board will advise on: management of non-documentary heritage resources; use of traditional Aboriginal knowledge in heritage management; ways in which Aboriginal languages can be preserved; a plan for heritage management in Yukon; and, an inventory of Yukon heritage objects.

CHAPTER FOUR

TESLIN TLINGIT TRIBAL JUSTICE -- THE PROPOSED SYSTEM

4.1 Introduction

Since 1987, the Teslin Tlingit Council has sought a role in the administration of justice in Teslin, Yukon. An Elders Advisory Council for Aboriginal Justice was established, and the Elders participated actively, in an advisory capacity, in the existing circuit court. The role of the Elders was to provide advice on culturally-appropriate sentencing alternatives. Through ongoing development within the Teslin Tlingit community, and the increased acceptance and participation of the judiciary, this advisory role has evolved into the present forum of the Circle court. The Circle court sees the Clan Leaders, Elders, and the Teslin Tlingit community at large participate in hearing cases jointly with the judiciary and advising on culturally-appropriate sentences.

However, the Teslin Tlingit Council is still seeking a much greater role in the administration of justice for its citizens. Under the Final Agreement, the subjects for

negotiations in respect of the Self-Government Agreement could (and in fact did) include the administration of justice and the maintenance of law and order.^{xcix} The parties agreed that such negotiations could encompass the devolution of programs and services dealing with the division and sharing of responsibilities for design, delivery, and administration of policing and enforcement of law, corrections, probation services, and community conflict resolution.^c The parties further agreed to negotiate guaranteed representation for Yukon First Nations on Government commissions, council, boards, and committees established to deal with justice and law enforcement.^{ci}

In the result, as discussed above in Chapter Three, the Self-Government Agreement provides the Teslin Tlingit Council with the power to enact laws of a local or private nature on Settlement Land in relation to the administration of justice.^{cii} The Teslin Tlingit Council and the Governments of Canada and Yukon agreed to enter into negotiations with a view to concluding an agreement in respect of the administration of Teslin Tlingit Council justice.^{ciii} Negotiations are to address adjudication, civil remedies, punitive sanctions including fine, penalty and imprisonment for enforcing any law of the Teslin Tlingit Council, prosecution, corrections, law enforcement, the relation of any Teslin Tlingit Council courts to other courts, and any other matter related to Teslin Tlingit justice to which the Parties agree.^{civ}

4.2 Current Status

Currently, the Teslin Tlingit Council has jurisdiction over justice, but not the powers or structures to administer or enforce laws within that jurisdiction. The negotiations on administration of justice, referred to above, are now ongoing. The Teslin Tlingit Council has presented a proposed tribal justice system agreement to the Government of Canada. This draft document is serving as the foundation for further negotiations.

Meanwhile, under the Self-Agreement, the parties have agreed to implement certain interim measures. These interim measures are to expire five years from the effective date of

the Self-Government Agreement, or on the effective date of the justice agreement now being negotiated, whichever date is earlier; the Teslin Tlingit Council cannot exercise its power to administer justice until then. If the justice agreement is not reached within the five year period, the interim measures will be extended to December 31, 1999.^{cv}

In the interim period, the Teslin Tlingit Council has the power to establish penalties of up to \$5,000 and imprisonment to a maximum of six months for the violation of a law enacted by the Teslin Tlingit Council.^{cvi} The Supreme Court of the Yukon Territory, the Territorial Court of Yukon, and the Justice of the Peace Court have jurisdiction throughout Yukon to adjudicate in respect of laws enacted by the Teslin Tlingit Council in accordance with the jurisdiction designated to those courts by Yukon Law, except that any offence created under a law enacted by the Teslin Tlingit Council must be within the exclusive original jurisdiction of the Territorial Court of Yukon.^{cvi} Any offence created under a law enacted by the Teslin Tlingit Council must be prosecuted as an offence against an enactment pursuant to the Yukon *Summary Convictions Act* by prosecutors appointed by the Government of Yukon.^{cvi} Any term of imprisonment ordered by the Territorial Court of the Yukon will be served in a correction facility pursuant to the Yukon *Corrections Act*.^{cix}

The interim measure provisions do not preclude consensual or existing customary practises of the Teslin Tlingit Council with respect to the administration of justice, or programs and practises in respect of the administration of justice, including alternate sentencing or other appropriate remedies, to which the parties agree before a comprehensive justice agreement is concluded.

4.3 The Constitution

As discussed above in Chapter Three,^{cx} the Constitution incorporates the *Canadian Charter of Rights and Freedoms*, as well as setting out other rights of Teslin Tlingit Council citizens in relation to the administration of justice.

4.4 Philosophy of the Proposed Tribal Justice System

Philosophically, tribal justice embodies an approach to justice that differs sharply from the mainstream justice system. The Teslin Tlingit Tribal justice system will be a holistic system. In the mainstream system, justice tends to be imposed on an individual. Little consideration is given to the offender's overall life circumstances and almost no consideration is given to the victim.

In the Teslin Tlingit Tribal justice system, an individual will be considered in the context of the family and the community, with a view to healing and reparation. Punishment will not be imposed without also imposing a healing regime. The objective is to motivate an offender to accept complete responsibility for his or her actions, and to recognize the seriousness of the offense within the cultural and community context of the Teslin Tlingit Council. The values to be promoted first and foremost are the healing of the individual, the safeguarding of the family and the achievement of a healthy community.

All elements of the Teslin Tlingit tribal justice system will reflect this holistic approach, and function accordingly. This means that persons in positions of responsibility, from Clan Leaders to clerks, should be people who have engaged in their own healing process. They should be people in a position to assist both offenders and victims in the healing process.

It has been said that formal structure is anathema to a traditional system, and that Tlingit customary law, being of a spiritual nature, is something which cannot be codified. Success in retaining the cultural essence of Tlingit customary law will depend, not on formal structures, but on the individuals who operate the structure and on the receptiveness of the community at large.

The Clan Leaders will be the focal point of the system. These persons will preserve the customary laws and ensure the system follows the traditional ways. The structures will not matter that much in the end; as long as the structures complement the direction the Clan Leaders take, it is unlikely there will be a threat of the system being congested by procedures or similar problems that plague the mainstream justice system. The system will provide an opportunity for the Clan Leaders to disseminate their knowledge of Teslin Tlingit traditions and customary law to the community, and to the mainstream judicial system.

The draft proposal incorporates a number of principles intended to serve as a guide to interpretation of the justice agreement and of laws of the Teslin Tlingit Council:

- The Teslin Tlingit Council has a hereditary traditional system of justice, and desires to restore this traditional system of justice and combine it with contemporary forms of justice.
- The Elders are the keepers of Tlingit customary law and will assist in the implementation of the Teslin Tlingit tribal justice system, in which they will be restored to their traditional role as educator and law enforcer.
- The purpose of the justice agreement is to enable the Teslin Tlingit Council to restore its traditional judicial system and structures, and to provide for the administration of justice over all its lands, resources, and citizens.
- As noted above, the Teslin Tlingit tribal justice system embodies a holistic approach, and the training of its personnel will match this approach. Training for all personnel will incorporate both a self-healing program and a skills training program, and will include courses such as relationship training and communication and healing workshops.
- People working in the Teslin Tlingit tribal justice system should be people who are good role models. They should be healthy people who are held in high esteem by the community. They must be people who can be trusted to deal with others

in a fair and just manner. They will be people dedicated to maintaining the health and integrity of the community.

4.5 Jurisdiction of the Proposed Tribal Justice System

Essentially, the proposed tribal justice system calls for the Teslin Tlingit Council to have jurisdiction over all Settlement Lands, all persons on Settlement Lands, and all matters where Teslin Tlingit Council citizens or interests are involved, except as otherwise provided in the agreement.

Details of the proposed criminal jurisdiction are as follows:

- The jurisdiction of Teslin Tlingit tribal justice system includes the investigation, determination, and disposition of all summary conviction offence and hybrid offence matters, if the matter arises on Settlement Lands.
- If a summary conviction offence or hybrid offence matter does not arise on Settlement Lands, the mainstream courts, with the consent of the Justice Council, must refer it to the Teslin Tlingit tribal justice system for determination and disposition, where:
 - o the accused is a Young Offender;
 - o the matter involves a Teslin Tlingit Council citizen as an accused or as a victim; and
 - o the accused consents to the referral.
- If the accused is not a Young Offender, the mainstream courts, with the consent of the Justice Council and without the consent of the accused, may refer the matter to the Teslin Tlingit tribal justice system for determination and disposition. The only requirement is that the matter involves a Teslin Tlingit Council citizen as an accused or as a victim.

- Where a Teslin Tlingit Council citizen is the accused in a summary conviction or hybrid offence matter arising off Settlement Lands, the citizen may submit voluntarily to the jurisdiction of the Teslin Tlingit tribal justice system. If the citizen submits voluntarily to this jurisdiction, the mainstream courts, with the consent of the Justice Council, may refer the matter to the Teslin Tlingit tribal justice system, and the citizen shall be deemed thereby to have waived a constitutional right to a hearing in the mainstream courts. Before submitting voluntarily, the citizen must be informed of the nature of the tribal justice process, and of the deemed waiver of a constitutional right to a hearing in the mainstream courts.
- The mainstream courts, with the consent of the Justice Council, may refer any indictable offence matter to the Teslin Tlingit tribal justice system for disposition, where:
 - o the accused is convicted;
 - o the matter involves a Teslin Tlingit Council citizen as an accused or as a victim; and
 - o the accused consents to the referral.

With respect to the proposed civil jurisdiction, the Teslin Tlingit tribal justice system will have jurisdiction to deal with the determination, disposition, and execution of all civil disputes arising on Settlement Lands. Where a civil dispute does not arise on Settlement Lands, the mainstream courts must, with the consent of the Justice Council, refer all civil disputes to the Teslin Tlingit tribal justice system, at any time during the proceedings, if at least one of the parties to the dispute is a Teslin Tlingit Council citizen, and all parties to the dispute consent.

Where a Teslin Tlingit Council citizen is involved as a victim or as an accused in any criminal or quasi-criminal matter in the mainstream courts, the mainstream courts will be

bound to invite the advisory Sentencing and Dispositions Panel to provide recommendations on bail, other interim release orders, and sentencing and disposition. The Panel must seek the advice of the Elders Council before making any such recommendations.

All laws of general application will continue to apply to the Teslin Tlingit Council, its citizens and Settlement Lands, except to the extent that those laws are inconsistent with the justice agreement, the Final Agreement, the Self-Government Agreement, or any laws passed by the Teslin Tlingit Council pursuant to these agreements.

Orders of the tribal justice bodies will have the force of law, both on and off Settlement Lands, equivalent to an Order or Judgment of a mainstream court.

4.6 Tribal Justice Bodies and Their Specific Responsibilities

The General Council

The composition and powers of the General Council are discussed above in Chapter Three. The General Council has the exclusive power to make laws for the Teslin Tlingit Council.

The Justice Council

Under the Constitution, the judicial powers of the Teslin Tlingit Council are vested in the Justice Council.^{cxii} The Justice Council is comprised of the five Clan Leaders. Subject to removal for misconduct or other circumstances, members of the Justice Council have a lifetime appointment. The specific authorities and responsibilities of the Justice Council are to be established by the General Council, in accordance with traditional principles of Tlingit customary law and upon the advice of the Elders Council. The Justice Council will establish their own procedures and exercise their authority and responsibilities in accordance with the traditional principles of Tlingit customary law.

The Teslin Tlingit tribal justice proposal calls for the specific responsibilities of the Justice Council to include:

- oversee the operation and administration of the Teslin Tlingit tribal justice system;
- make policy and program decisions on the advice of the Elders Council and at the direction of the General Council;
- provision of a Justice Department to provide administrative and support services to the Tribal Courts;
- establishment of a policing system to ensure enforcement of Teslin Tlingit Council laws;
- establishment of a Tribal Justice Commission to monitor the administration of justice;
- ensuring legal matters are referred to the appropriate judicial body;
- preparing and recording short summaries of facts of cases and resulting decisions;
- ensuring proper records are kept;
 - o approval of budgets;
 - o making appointments;
 - o establishing salary levels;
 - o acting as employer in employer/employee relations;
 - o maintaining police discipline;
- investigation of all complaints by community against justice system officials, including Tribal Police Officers; and,
- review and evaluation of Teslin Tlingit tribal justice system on an annual basis.

The Elders Council

The composition and powers of the Elders Council are discussed above in Chapter Three. The Elders Council will act as an advisory body to the General Council and the Justice Council on any matter relating to the administration of justice.

The Sentencing and Dispositions Panel

The Sentencing and Dispositions Panel will consist of the five Clan Leaders. This Panel will provide advice to the mainstream courts, to the extent that the mainstream courts continue to exercise criminal jurisdiction over the Teslin Tlingit Council.

The Peacemaker Courts

There will be five Peacemaker Courts, one for each Clan. These will be the courts of first instance, and at this level the majority of issues dealt with will be familial. Each Peacemaker Court will be composed of members from its respective Clan. Their jurisdiction will include:

- family law issues which include, but are not limited to, family disputes, adoption and child care, care for the mentally and physically handicapped, problems relating to alcohol and substance abuse, offenses against property, curfew for young people, marriage, divorce (including custody and division of property), adultery, and intermarriage;
- corporate matters among Clan members up to \$5,000.00;
- burials;
 - o suicides;
 - o Potlatches; and,
- other matters assigned to the Peace Maker courts by the General Council, including issues arising under municipal laws, renewable and non-renewable resource use, land and related issues.

Decisions of the Peacemaker Courts will be made by consensus and may be appealed to the Court of All Clan Leaders.

The Court of All Clan Leaders

There will be one Court of All Clan Leaders, composed of the five Clan Leaders. Its jurisdiction will include the following:

- Jurisdiction to hear appeals from decisions of the Peacemaker Courts.
- A general supervisory function to ensure the proper execution and enforcement of all Teslin Tlingit Council laws, including, but not limited to land and related issues, renewable and non-renewable resource use, social programs, health, education and assistance, and tribal corporations.
- The power to review the decisions of any self-government body, including corporations, committees, and boards, in order to ensure decisions are made in the spirit of the Teslin Tlingit Constitution, are reasonable in the circumstances and are in accordance with Tlingit customary law. This power to review will include the right to strike down any decision not made in accordance with the Constitution or Teslin Tlingit Council laws, and to refer the matter back to the relevant body for a new decision based on appropriate direction from the General Council.
- The power to make advance rulings indicating the position it would take on any given issue.

Decisions of the Court of All Clan Leaders will be made by consensus and may be subject to appeal to the Supreme Court of the Tlingit Nation.

The Supreme Court of the Tlingit Nation

The Supreme Court of the Tlingit Nation will be composed of nine Elders, three from the Teslin Tlingit Council and three each from the other two Tlingit First Nations in Yukon. It will have jurisdiction to hear appeals from any of the three Tlingit Nations, if the matter is of such magnitude as to affect the entire Tlingit Nation as a whole. Decisions of the Supreme Court of the Tlingit Nation will be made by consensus.

Tribal Police Force

As the Teslin Tlingit tribal justice system is unique, its enforcement mechanism will also be unique. The enforcement unit will have regular police responsibilities, such as apprehending offenders, but will have a further responsibility to coordinate its actions, where possible, with Teslin Tlingit social services.

The role of Tribal Police Officers will be an especially challenging one. They will be expected to ensure Tlingit laws are enforced but will also have a quasi-social worker role. The challenge will be to ensure the system of enforcement reflects the overall philosophy of the Teslin Tlingit tribal justice system. The ultimate objective is to heal the offender and victim. Therefore, Tribal Police Officers will have training in cultural and spiritual awareness, drug and alcohol counselling, family violence and suicide prevention, in addition to meeting the regular requirements for police officers.

Healing and Reparation Workers

This component will be another unique feature of the Teslin Tlingit Tribal Justice System. The main complaint of Teslin Tlingit citizens against the mainstream justice system is its readiness to incarcerate us without offering any meaningful opportunity for rehabilitation. Healing and reparation strategies will be an essential element in dealing with both offenders and victims. This will include provision of the following services:

- alcohol and drug therapy;
- sexual abuse counselling;
- job training/career development;
- life skills training;
- cultural revival/rediscovery programs;
- suicide prevention;

- community service programs;
- family violence counselling; and,
- counselling and support for all Teslin Tlingit tribal justice
- system personnel.

CHAPTER 5

PRINCIPAL FINDINGS -- SELF-GOVERNMENT

5.1 Introduction

This Chapter considers respondents' knowledge, experience, and opinions of the structures and jurisdictions which have been negotiated between the Teslin Tlingit Council and the Governments of Canada and Yukon. These structures and jurisdictions are described in the earlier Chapters of this report.

While respondents were asked for their opinions on the contemporary negotiated governance arrangements, it became clear that governmental 'structures' meant different things to different people.

Many of the respondents apparently viewed governmental structures in the traditional sense, which means the Clan system of government. This did not create major problems in the findings, however, as the traditional Clan system is the central element of modern Teslin Tlingit Council governance system.

Other respondents seemed to see 'the government' as being limited to the 'Executive Branch' of the Teslin Tlingit Council, or what was referred to historically as 'Chief and Council'. In fact, as described above, it is the Executive Council combined with the General Council and other branches which constitute 'the Teslin Tlingit government.' However, in practice, the 'Executive Branch' currently is the most active part of the Teslin Tlingit Council and it is therefore understandable that some respondents focussed on it as being 'the government.'

Another consistent theme in respondents' opinions on Teslin Tlingit governance is that government is something which traditionally included all aspects of Teslin Tlingit life. Traditional Tlingit government was 'lived' by the Tlingit, in contrast to mainstream society where government is viewed as an separate entity, divorced from its constituent's everyday lives. The Tlingit view government as inseparable from community.

5.2 Description of Respondents

The interview sample (n = 29) was drawn from people who are residents and members of the Teslin Tlingit First Nation. The respondents are also beneficiaries of the Teslin Tlingit Council Land Claims Agreement and the Teslin Tlingit Council Self-Government Agreement. The majority of respondents answered all questions with the exception of two who were unable to complete the section on Tribal Justice.

Fifteen of the respondents are male and thirteen are female. Eight of the respondents were 15 - 24 years of age, seven were 25 - 34 years of age, seven were 35 - 44 years of age, three were 45 - 55 years of age, and five were more than 55 years of age.

Six of the respondents had some primary school, one completed primary school, nine had some secondary school, three had some post-secondary school, and six reported they had a degree, diploma or a certificate.

Ten of the respondents reported they had never married including common-law, twelve stated they were married, one was divorced, three were separated, and one was widowed.

Nineteen of the respondents reported they were full or part time employed, four stated they were unemployed and one was a full-time homemaker.

The occupations reported were:

- renewable resources
- labourer
- homemaker
- guiding and wrangling
- Tlingit carver.
- sewing, student jobs
- student in the area of college preparation.
- carpentry, logging, or driving dump trucks
- journeyman welder
- Host at CHON-FM (translator)
- laundromat attendant
- Big Game Guide
- Tlingit language teacher
- bookkeeping
- Guide
- trapper
- observer, communicator
- fire boss
- secretary

- financial supervisor
- community education liaison coordinator
- crime prevention officer

5.3 Knowledge of Traditional Tlingit Governance

The respondents indicated the following to be their knowledge of traditional Teslin Tlingit self-government:

	Customary Law	Dispute Resolution	Child Rearing	Role of Council
A lot	41%	24%	38%	24%
A little	45%	52%	52%	62%
None	14%	24%	15%	14%

	Clan Family Structures	History	Spiritual Dimension and Relation to Nature
A lot	55%	48%	55%
A little	41%	48%	38%
None	3%	3%	7%

	Decision Making	Relations with other First Nations	Role of Elders
A lot	45%	28%	52%
A little	52%	52%	41%
None	3%	20%	7%

The majority of the respondents (79%) said they had no experience of other traditions, and 21% indicated they did. One respondent indicated knowledge of the Tlingit language and stated the language was the most important part of Teslin Tlingit culture. Another discussed knowledge of the power of Teslin Tlingit traditional law and the fact it was unwritten and could not be erased. The traditional way of being responsible for helping everyone was also indicated.

The majority of respondents said they learned about Tlingit traditions from their parents and grandparents. The second major source of information was the Elders and third from listening to others talk about it. Finally, respondents listed other family members such as aunts and uncles, and reading materials as another source for learning about traditions.

When asked if they had ever had any experience or involvement with any of the Teslin Tlingit Traditions discussed above, 79% stated yes, 21% said no. The majority of respondents indicated they had knowledge of the Clan structure and how it worked. Other people indicated they understood the spiritual dimensions of their culture in relation to hunting, healing and dancing. Others said they understood the role of the Clan Leaders in the healing process of an individual who has offended.

Some of the other traditions individuals had experience with were hunting for different families or potlatches, and understanding the roles and responsibilities of Clan Leaders in helping an individual to heal themselves. Other people indicated stick gambling, adoption ceremonies, and understanding of spiritual dimensions of fishing and hunting as other experiences they had of self-government traditions. Respondents also stated dancing, rites of passage for children, and the importance of grandmothers teaching the children the Tlingit laws as other important aspects of traditional self-government.

5.4 Knowledge of Contemporary Negotiated Self-Government

When asked how much they knew about the negotiated self-government arrangements negotiated by the Teslin Tlingit Council, 28% said they knew a lot, 41% said they knew a little, and 31% said they knew nothing. When asked how much they thought the rest of the community knew 14% said a lot, 79% said a little, and 4% said nothing.

Lack of information regarding the negotiated arrangements was a consistent theme in respondents answers to questions. The majority of the respondents (98%) felt more information about the new self-government arrangement had to be delivered to community members. Respondents identified workshops and meetings as the two most popular means to provide information to Teslin constituents. Respondents would like meetings to be kept small as some people do not feel comfortable in large groups.

Other respondents said plainly written mail-outs in the form of pamphlets, booklets or a newsletter should be delivered door to door. Some respondents felt Teslin Tlingit Council employees had an obligation to teach others about the Council's activities. Respondents want resource people going to peoples homes, especially the Elders, to provide information on self-government. Several respondents felt it was important to have someone who could speak both languages so that Elders would have easier access to information.

School instruction, to provide information to children and young adults, was also considered important. Others indicated that family and other social gatherings would be an appropriate place to pass on information on Teslin Tlingit Council activities.

5.5 Traditional, Spiritual and Historical Foundations of Teslin Tlingit Governance

When asked if the new self-government system embodied or represented to an appropriate extent the traditional self-government practices, spirituality and philosophy of Teslin Tlingit First Nation culture, 10% said they strongly agreed, 55% agreed, 17% disagreed, 3% strongly disagreed, and 10% expressed uncertainty. When asked if there were any specific traditional practices which should be given greater or lesser prominence in the new self-government system, 71% said yes, 14% said no, and 14% said they did not know. One respondent stated it would be difficult to revive tradition and what would have to occur now is a weaving of the two systems.

Respondents were asked to what extent, if any, they thought the community should be involved in the development and practice of the new self-government system and how that could be accomplished. The majority of respondents (86%) stated the community should be involved a lot, 10% said some, and 3% said a little. Five main themes were identified. These were: the distribution of information to the community; increased accountability of the Teslin Tlingit Council to the community; education of the general population on self-government; revival of culture and traditions such as language; and, increased social interaction in the community. These themes wove through a number of topics.

Important of Elders and Clan Leaders

The importance of the Elders and Clan Leaders in Teslin Tlingit governance is a common theme throughout respondents answers. Respondents consistently stated that Elders

and Clan Leaders needed more involvement to ensure traditional principles were incorporated into self-government practise. It is apparent that respondents view the Elders and Clan Leaders as being the main foundation of Teslin government and concern was often expressed regarding the lack of involvement by these two groups in Teslin government. Respondents felt the Elders would have a valuable role as educators on Tlingit history.

Community Education

Another consistent element in respondent's answers was the need to have the teaching of Teslin Tlingit traditions identified by Teslin government as a priority. The teaching of traditions and culture was viewed as an appropriate governmental responsibility, as it was historically. Respondents felt the responsibility to teach traditions lay with the Clan Leaders and Elders, but resources and support for these initiatives had to be forthcoming from Teslin government. Respondents felt knowledge of language and culture by Teslin citizens would ensure traditions are reflected at the government level.

Having the Elders pass their knowledge on to the younger generation was identified as valuable as it is the younger generation which will go forward and maintain that traditional lifestyle and traditional system of government. Respondents felt children needed to learn more about the 'old ways' and traditions. Respondents felt it was appropriate to include this traditional teaching in the schools. Education of children on Tlingit government was a traditional practise, as the current lack of it was stated by many to be a major deficiency. Many respondents said the education needed to happen in both the school and home. Education of the children had to include the Tlingit language and teachings of the 'old ways' of making things.

Increased Community Involvement

Respondents consistently stated that all members of the community needed to be involved in government. More involvement of people in the community, other than those currently employed by the Teslin Tlingit government was felt to be a traditional practise to which not enough attention is paid. Involving other people from the community, especially the Elders, would provide the participants with an opportunity to learn more about self-government. Workshops were suggested as an effective tool for providing information. The workshops were viewed as a possible forum for information exchange between the Elders and people currently employed in Teslin government. It was felt such initiatives may help pull the people together and encourage appreciation of Tlingit culture and provide education for the young on 'how it was done a long time ago.'

Respondents felt community involvement was important because the government would be making decisions about their lives, and the community should have input on these decisions. Respondents felt that government should actively seek out and encourage people to be involved by explaining to them why it is important to have them involved. Respondents want it emphasized to the general population that the decisions the government makes affects their future.

Strengthening of Traditional Laws and Customs

One participant felt strengthening of traditional laws was required such as the law about marriage. Respondents indicated there needed to be more knowledge of the history of the Tlingit and the revival of practises such as traditional aspects of child rearing, rites of passage for young men and women, teaching of roles and responsibilities, the naming of children, explanation of Clan crest and their history, more knowledge and practise of traditional laws regarding marriage, and more documentation of Tlingit history.

One respondent said the Clan Leaders need more practise with traditions of the Circle courts, which is currently in effect in the local justice system. Traditionally, if one Clan

member offended against another Clan member, those two clans would resolve the issue between them. Another respondent stated that the involvement of all Clan members, when the offence was committed by an individual, was not fair.

The Tlingit Language

The majority of the respondents mentioned language as extremely important. The teaching of Tlingit ways was viewed as an important cultural practise which had to be incorporated into 'government.' Concern was expressed that language was not being treated as the priority it should be and the younger generation needed to learn it to prevent it from being lost. Concern that children and youth were not being taught the old ways was also frequently mentioned. Respondents felt educating the younger generation had to be a priority. They felt children needed instruction in language, survival off the land in the traditional way including camping, hunting and trapping, tanning hides, drum-making, beadwork, and drying fish and meat. It was stated that children also needed to learn the songs and dances of their culture. Respondents stated that the youth needed to take more of an interest in these activities and that the older people needed to actively participate in teaching them.

Involvement of Youth

There was concern expressed that the younger people feel left out and turn to drinking. One respondent stated that two or three of the young people should be working at the Teslin Tlingit Council office to learn about self-government.

Accountability

Concern was expressed about the way individuals are hired within the government. Some respondents felt 'favouritism' is employed in government hiring practises. These

respondents said a more impartial hiring procedure was needed, as well as a democratic way of electing leaders.

Providing Information

Respondents consistently stated the need for more information on self-government processes and structures. Respondents felt that community members needed to take a more active part in General Council meetings where their opinions on government decisions could be offered. Other respondents felt the provision of information would best occur in social settings such as family and community get-togethers. They felt these would provide an opportunity to not only learn about government but to have an opportunity to learn about culture and traditions from Elders and the Clan Leaders. Again, the importance of having the Elders and Clan Leaders share their knowledge with the youth was important. Respondents said it would validate the young people and would promote self-esteem and identity.

Training

Another important subject is training. Respondents felt the local talent and expertise in the community had to be used more. To tap this resource it was felt that community members had to be encouraged by government to participate. One respondent stated there were many people in Teslin who did not speak up and offer their opinions, and these people had to be encouraged to be involved. Training would ensure local people get the jobs before people from outside of Teslin are hired.

5.6 The Canadian Constitution

When asked if they agreed the Canadian Constitution should be changed to fully recognize and entrench Aboriginal self-governance 36% strongly agreed, 54% agreed, 7% said they disagreed and 4% were uncertain. The majority felt the Constitution should entrench Aboriginal self-government but were uncertain as to how it should be done. One

respondent stated the Teslin Tlingit should have the same recognition as the French as a distinct culture. One respondent said constitutional protection was required to ensure that all that was gained could not be taken away.

5.7 Political and Economic Self-Sufficiency

When asked if they felt the new self-government system was the best way for the Teslin Tlingit First Nation to achieve political self-determination 22% strongly agreed, 74% agreed, and 4% disagreed. On the issue of the self-government arrangements being best way for the Teslin Tlingit First Nation to achieve economic self-sufficiency 36% strongly agreed, 46% agreed, 11% disagreed, and 7% did not know. Respondents were also asked what ways they felt the new self-government system would hinder achieving the goals of political self-determination and economic self-sufficiency.

The majority of respondents expressed confidence in the ability of Teslin to use the provisions in their Agreements to promote economic and political self-sufficiency. Respondents identified a number of areas where they felt Teslin citizens needed assistance to ensure the full realization of the Agreement provisions. Respondents also discussed why they felt Teslin would prosper under the new arrangements and the ways they thought the new self-government system would contribute to achieving the goals of political self-determination and economic self-sufficiency.

The most important factor identified was the autonomy provided in the Agreements and the freedom to make choices over Teslin's natural resources and to use them to the benefit of Teslin citizens. Control over what happens within Teslin Tlingit boundaries was viewed as a vital factor in promoting economic growth in that use of natural resources will benefit Teslin Tlingit people. Many respondents indicated the autonomy achieved through the Agreements would have a significant positive impact on people's attitudes which would contribute toward self-sufficiency.

Respondents felt that jurisdiction over their own lives would move them toward becoming an asset to the economy. Respondents discussed the desire to start their own businesses which would hire Tlingit people. The money earned would be kept for Tlingit people. The creation of jobs would keep youth occupied and away from destructive habits such as alcohol and drug abuse. Respondents expressed many ideas on how the economy could be stimulated through setting up small businesses such as craft shops which would offer Tlingit art and cultural items such as snow shoes, moccasins, etc.

Respondents referred to the historical state of independence of the Tlingit as an indicator that Teslin will be able to achieve independence again. One respondent indicated the historical economic structure of the Teslin Tlingit involved every single person in the community, and that a return to this philosophy would only enhance economic growth. Emphasis on community participation in economic growth was important to respondents. The fact that in the community everyone knows everyone else is important. One respondent stated "we know what the village wants ... we have people in position that will make it right ... everyone will work together ... we will be working together and sharing ideas and plans." Respondents felt that the community, the bonding and strength would make Teslin achieve its goals.

Another respondent felt the economic well-being and growth of the Teslin Tlingit depended on the healing, education and conflict resolution abilities of the people and the involvement of the younger generation.

One respondent answered that living by the Teslin Tlingit Constitution would ensure political self-determination and economic self-sufficiency.

Other respondents expressed concern that the Teslin Tlingit Council was not creating enough jobs for its constituents and that more training will be required to prepare people for jobs.

Respondents thought that the independence provided through the Agreements would encourage self-sufficiency because the Teslin Tlingit people will have to rely upon themselves to make their government work. Respondents indicated that the success of the economy will depend upon the people themselves, and that independence will encourage a stronger work ethic and pride. As well, most respondents indicated it will be difficult and challenging to establish a strong economy, but that it would encourage confidence and enthusiasm in younger people. Younger people would have goals and role models.

Respondents expressed a great deal of hope in the future economic prospects of the Teslin Tlingit, and offered opinions on what they felt the obstacles were, while making specific suggestions on initiatives which would help promote a strong economy.

Strong leadership was identified as a priority. Respondents want to look toward their leadership to ensure the community becomes self-determining and self-sufficient.

One respondent expressed concern with the internal operation of the Teslin Tlingit Council. It was felt the Council was experiencing internal problems which would lead to a slow down of implementing economic measures. A higher degree of accountability to Teslin Tlingit citizens was suggested as a means to deal with some of these issues. Increased staff meetings and cooperation among staff was suggested. This respondent felt the conflict within the system would slow down economic growth.

Other respondents also stated the Teslin government administration had to be accountable in its hiring practises, and that nepotism and favouritism had to be avoided and that everyone had to be given a chance. Respondents felt government servants had to be trustworthy and not look out for themselves. Other respondents felt support had to be reciprocal between community and government. Unity and support are needed to ensure the success of Teslin government.

Once again, the issue of education on self-government structures was identified as a deficiency. To ensure economic growth, it was felt that Teslin citizens had to clearly understand the new self-government arrangements. Respondents felt the Agreements should be written in the Tlingit language as well so the whole community would have access to them.

Education and training in general to enable citizens to fit into the self-government roles and responsibilities was also identified as a priority. There is a need to begin training local people, and to discourage the hiring of individuals who will not remain in the community. Respondents expressed faith in the ability of their own people to do the jobs which will be created, however they do need training. The lack of education was identified as a factor which will slow down economic growth.

Another important resource identified as needed to promote strong economic growth and self-sufficiency was the Elders. One respondent stated that the Elders "are number one in this thing and I think that will help out a lot". The historical knowledge of the Elders was viewed as an important guiding tool. The historical guiding and counselling role of the Elders is still needed according to respondents.

A healing process to build self respect, pride and dignity, was viewed as necessary to provide self-confidence to accomplish the tasks.

5.8 Institutions and Processes

Decision Making Process

When asked if traditional ways of decision making such as the Clan System, should be incorporated into the design and practice of the Teslin Tlingit First Nation government 22% strongly agreed, 70% agreed, and 7% said they were uncertain.

Respondents were asked what specific types of decision making should be used, and in what situations.

The majority of respondents referred to the use of Elders and the Clan System and the community at large as being the three most important decision making bodies. One respondent felt that decisions, especially where it involved choosing leaders should involve the Elders and the community at large.

Consensus as the basis for making decisions was also still considered a viable practise. Decisions historically were made by consensus. The use of consensus as the basis for decision making would ensure the involvement of the community at Clan Meetings.

Other respondents felt the Elders should have the ultimate voice in decisions. Respondents felt traditional decision making would also ensure there would be no nepotism in the Teslin Tlingit Council. Respondents felt there was a concentration of one family in the Teslin Tlingit Council and felt this was unfair to other families in Teslin.

Other respondents felt the democratic system was the best way to choose leaders. Again the concern that nepotism occurs in the Council was expressed, and that the democratic way of selecting leaders for positions would be the best way to ensure the community had input in choosing leaders.

Respondents also felt that people who have expertise in certain areas should be in decision making roles in those areas such as the management of fish and wildlife.

Respondents stated Elders should be primarily responsible for 'social affairs' and should focus on the youth. The Elders were perceived as best suited to assist youth in the area of family violence, drug and alcohol use and other criminal behaviour. The involvement of youth in decision making was also considered important especially in the area of recreation for youth.

Accountability

The accountability of Teslin Tlingit government to its citizens was a priority for all respondents. It appears from their answers that the government branch they feel should be accountable to the people is the 'Executive Branch' or the administration where, currently, the majority of decisions are made. All respondents either strongly agreed (46%) or agreed (54%) that it is important that the Teslin Tlingit First Nation government be accountable for its actions to the citizenship it represents. When asked if they agreed that such accountability was present in the new self-government system 4% strongly agreed, 48% agreed, 30% disagreed, and 4% strongly disagreed, and 15% said they did not know. When asked if they felt the degree of accountability present in the new self-government system was appropriate 8% strongly agreed, 35% agreed, 27% disagreed, 4% strongly disagreed, and 27% said they did not know.

It is apparent from respondents' answers and from the government structures and processes described in earlier chapters that accountability is built into government processes through the Constitution. However, in the opinion of many respondents, the processes to ensure accountability are not being practised. Respondents felt the government must realize it is accountable for its actions to its constituents and that government cannot, at least in Teslin, proceed without the sanction of the people. Respondents want issues such as 'favouritism' and absence of management for long periods explained to them. Respondents also indicated the importance of the 'role model' aspect of government employees positions and that they were responsible for providing a good example to the younger generations. One respondent stated that employees "have to be answerable for their jobs - have to tell what kind of work they have done. Make reports and be bonded as well". The two main points which respondents felt would ensure a degree of accountability were the need more communication between government administration and Teslin citizens and the need to put into practise accountability policies.

Respondents identified, once again, the importance of the Clan Leaders as a mechanism which could be used to ensure accountability and that more Clan Meetings should take place to ensure accountability is ongoing. When asked which features of the new self-government system would ensure accountability respondents also emphasized the use of the Elders and the Tribal Justice System. The need to keep Elders apprised and involved was also considered important.

Respondents also felt that citizens should have more access to government information and should be permitted to attend at the Teslin Tlingit Council office to view documents. In this way, it was felt the Teslin citizens would know what its government was doing and the process would provide a degree of accountability. Respondents also want financial accountability and indicated they should have access to financial books to see where money is spent and for what. Respondents also felt that government employees had to take the time to talk to the general population about government affairs when they come into the Council office.

Some respondents felt it would be appropriate to have a monthly meeting where Teslin government could explain to its population its accomplishments. Respondents felt it was appropriate to have each government employee provide a report to the community on the progress of their particular job. A process such as this, it was felt would encourage community involvement and support of government.

Another option suggested by respondents for providing accountability to constituents was through the ongoing General Council meetings. In this process, respective government employees would be asked to report to the Executive Branch of government on their activities and this information would be provided to the Clan Leaders to report to their respective Clans. Respondents also said these meetings would be an opportunity to discuss the roles and responsibilities of Clan leaders, Directors and the general population.

The need for more communication was identified as a vital factor which would promote accountability. It was felt that, currently, citizens did not know what was happening in the Teslin Tlingit government. Respondents agreed that increased communication also put a responsibility on the community to take a more active interest in governmental affairs. Respondents want to know what happens in government from the beginning of a process to the completion of that process.

As noted earlier, the issues of 'favouritism' and nepotism were raised by many respondents. It was apparent from their answers that accountability includes fair and impartial hiring practises, to ensure that all Teslin Tlingit citizens have a fair chance at obtaining jobs. Respondents felt that those in positions to hire within Teslin government had to be able to defend their choices on personnel selection to the community.

Finally, one respondent suggested that enforcement of Teslin Tlingit laws will ensure accountability.

Programs and Services

The majority of respondents agreed (57%) that the new self-government system would enable the Teslin Tlingit First Nation to design and deliver services and programs in an effective manner. 14% said they strongly agreed, 7% disagreed and the remainder did not know.

Several themes were identified in respondents' answers. These were the need for: accountability; community input; and, training. Accountability in this sense apparently means the requirement that government ascertain the 'needs' of the citizenship, in regard to programs and services.

Some respondents again indicated the Clan structure is a mechanism which could be used to provide community input in government design of programs and services.

Respondents also felt there needed to be a better system for programs and services than currently exists and more input by the community on its program design and delivery. Respondents felt that community input on programs had to be taken seriously by government.

The need to hold the community accountable was also mentioned by respondents. There was concern expressed that some people abuse the system and the design of programs needed to include accountability mechanisms for the public. For example, one respondent felt it was appropriate for those who receive social assistance to justify the need.

Some respondents stated their impression of current programs was good. One individual stated, however, that the programs were good in theory but were problematic in delivery, as the individuals hired to run these programs were not fully qualified and needed more training. The need for post-secondary education is a priority according to respondents and should be recognized as such by government. Respondents felt that people were being encouraged to pursue higher education but were not being supported by their government.

Respondents also expressed confidence that the autonomy achieved in the new arrangements and the fact that Teslin designed its own system would promote development of good programs and services. Self-reliance, leadership working for the community, and community involvement were stated to be strong assets.

One respondent expressed concern that the success of programs and services would depend on other Governments keeping their word on the arrangements it negotiated with Teslin. Respondents expressed concern that a great deal of time was spent educating government rather than receiving the support of government.

Some respondents felt the system was too new to comment on.

Management of Land, Water and Natural Resources

The majority of the respondents strongly agreed (39%) or agreed (54%) the new self-government system would enable the Teslin Tlingit to develop and manage land, water and natural resources in an effective manner.

The fact that the Tlingit had historically managed its resources since time immemorial was highlighted by respondents. Respondents indicated that the autonomy the Teslin Tlingit once again had over their settlement lands was very important.

The importance of land to the Teslin Tlingit is very evident in respondents answers. Respondents viewed their control over their land and resources as a privilege as well as a right, and viewed themselves in a position of trust in relation to the land. The majority of the respondents emphasized the responsibility placed upon themselves to guard the land, and the pride which would be involved in ensuring the waters were not contaminated and the land kept clean. Having responsibility for the care of the land, many respondents felt, would ensure that the resources were not depleted, and that because it was `their' land, it would be treated with respect.

Respondents answers indicate an existing respect for the land and the animals on it and the need to take care of both for future generations. The importance of treating the land with respect and harvesting the animals in a sustainable manner was identified as something which would occur naturally. One respondent stated "it's going to be our land and it's up to us to make sure that it's in tip top condition."

Respondents felt their knowledge of `their' land was the strongest asset, along with the fact that the Teslin Tlingit people are returning to traditional means of guiding the Tlingit lifestyle. One respondent stated the traditional Clan structure of government would ensure the safety of land, water and other natural resources.

Another important factor was the power to decide what will happen on Tlingit settlement land. Control over the land and water and knowing who will be using it were viewed as the significant factors in safekeeping the land. Respondents felt the power to decide "for ourselves and not the government [of Canada or Yukon] making decisions for us" was very important.

Dispute Resolution

When asked if they agreed the new self-government system would enable the Teslin Tlingit to resolve disputes within the community in an effective manner, 26% said they strongly agreed, 41% said they agreed, 15% disagreed, and 22% expressed uncertainty.

Respondents stated the autonomy to choose what forms of dispute resolution would be used in Tlingit government as important. The power to deal with issues as they were dealt with a long time ago through the Clan System was identified as important. Many respondents felt this was still an appropriate mechanism for dispute resolution.

Respondents were also asked if they felt the new self-government system would enable the Teslin Tlingit to resolve disputes with other governments in an effective manner. The majority said they either strongly agreed (59%) or agreed (7%), with 22% stating they did not know and the rest either disagreeing or expressing uncertainty.

Respondents felt the Teslin Tlingit Council would have more power under the new arrangements and therefore would have to be taken more seriously by the Governments of Canada and Yukon. The new arrangements would make Teslin Tlingit Council laws binding and official. This situation, it was felt, would make it easier to discuss issues with other Governments on level ground.

5.9 Women, Youth, and Elders

Respondents were asked a series of questions on what they felt the status of women, youth and Elders was in the new arrangement and what it should be. Respondents were asked to what extent they thought women, youth, and elders should be involved as "special interest" groups in the development and practice of the new self-government system 81% said a lot, 11% some, 4% said a little and 4% said not at all. The majority of respondents said they strongly agreed (38%) or agreed (34%) that a good self-government system displays gender equity in positions of authority, and that there should be as many female members on the General Council as there are male members. A minority (28%) disagreed with the statement. The majority of respondents also strongly agreed (21%) or agreed (54%) that the new self-government system should ensure that women hold a minimum number of positions of authority.

Some respondents felt that women, youth and children should not be viewed separately from the rest of the community and they should not be considered as "special interest" groups as this splintered the sense of community. It was stated that women, youth and children were represented within the Clan System as it is. Others felt that each group was a special interest whose voice had to be heard by government. Respondents suggested the use of public meetings where these groups could voice their concerns.

The majority of respondents agreed that women should be equally represented in leadership positions in government. Those who disagreed felt the jobs should go to the most qualified individual.

To ensure involvement by women in the leadership roles some respondents felt they should hold Clan Leader positions. One respondent stated it was appropriate to have a female Clan Leader, especially when dealing with situations where male Clan Leaders are deliberating on very sensitive issues involving women, such as sexual assault.

Others felt women, youth and elders should be represented at each level of Teslin government. Another suggestion was to create Councils for women and youth similar to the Elders Council and ensure representation for each of these groups in Teslin government. The voice of women and youth and Elders had to be given more prominence and their ideas given serious consideration. One respondent felt that a guarantee of the interests of women, youth and Elders should be part of the Constitution and should be law.

Some respondents felt the benefit to women would be in a traditional sense. One respondent stated that the traditional role of women as advisors should be enhanced. Other respondents felt that women were already over represented in positions of authority and that it was having a discouraging effect on men.

Youth are regarded as a very important, but neglected resource in the Teslin government system. Respondents consistently expressed the view that youth were neither invited nor encouraged to be involved enough in government and this had a detrimental effect on both youth and government. All participants recognize the youth are in need of guidance, direction, education and training in their culture. Most respondents indicated the importance of Teslin youth as the source of the Teslin Tlingit government's future survival, but further indicated that little is being done to develop that resource. Respondents consistently stated youth had to be more involved in government. A recognition of youth by government, it was felt, would encourage responsibility, a stronger sense of identity as a Tlingit person, pride and dignity and a desire to carry on their traditions. Respondents felt including youth would encourage youth to see the value in protecting their new self-government arrangements.

One respondent stated "these kids need some kind of a law for Aboriginal people to go by ... we have a lot of smart kids out there, and we have to start using them now instead of letting them run free and use booze for entertainment".

Respondents were very explicit in what they felt was needed for the youth of Teslin. A youth group and a youth worker were suggested. Establishment of a youth council, and designing and delivering recreation programs with some variety were also suggested. Providing education programs on self-government operations and providing incentive to continue with education were perceived as vital.

The fact that Teslin youth will be dealing more with their own people now was viewed as a positive step. One respondent equated this with a 'safe-zone.'

The Elders are another group which were consistently identified as being very important to Teslin self-government, and a vital resource, but is being neglected. Respondents expressed a desire to return the Elders to their traditional role as teachers and it was apparent the majority looked forward to getting to know them in that capacity.

Respondents expressed faith in the ability of Elders to assist with implementing self-government in a helpful way. One respondent stated "they are part of the people that know a lot ... they'll help the self-government, too ... they can keep it on track. They're the experts. If we listen to the Elders and do it the way they say, its going to be great. We are going to have to involve our Elders if we want this system to work."

Respondents consistently said the Elders had to be more involved. One respondent stated that the Elders are the leaders that understand the old system, and that being educated in modern society, many people have left a lot behind. Respondents said the Teslin government had to recognize and involve the Elders in self-government processes. Respondents also acknowledged it would be difficult for Elders to take on so much responsibility, but looked forward to seeing Elders in positions of prominence.

Respondents also felt there was an onus on the Elders to set an example for the younger generation. It was also apparent the Elders have a role of responsibility toward the youth. It

was stated that this arrangement, if renewed, would be mutually beneficial to the Elders and the youth.

5.10 Best Features of Self-Government Arrangements

Respondents were asked what they felt were the best features of the self-government system and why.

To many, simply having the land returned to the jurisdiction of the Teslin Tlingit was important. One respondent stated the best feature was that "we got the land". The ability and jurisdiction to protect the land through Teslin Tlingit laws was identified as a key feature.

One respondent indicated the protection of people through the protection of the land and water was important.

The revival of the Clan system and the involvement of the Clan Leaders was also considered to be one of the best features of the self-government system because they are features brought back from the past. The historical leadership role of the Clan Leaders was acknowledged by respondents. The role of the Clan Leaders in the new system was considered very important by the respondents. One stated "they're the ones making all the decisions, which is the best part.

Tribal justice was also considered to be a very important feature of self-government. It was viewed as a 'best feature' because it is an opportunity for Teslin Tlingit people to help their own and it instilled a sense of pride which had been taken away. One respondent stated "we're falling down really fast ... I believe this is a way to bring us back up." Respondents considered that having a say in what happens to offenders was critical in helping people to "heal their hurts" and that "it makes us stronger as a people." The fact that the Leaders from each Clan are involved was identified as important.

Another major feature identified was the autonomy which would be provided by self-government. Respondents answers indicated a great deal of pride and hope in being recognized as a Nation and having a control over what happens within that Nation. One respondent stated "we call the shots ... we'll decide what's right for the people ... we'll decide how our country will be managed." Respondents viewed self-government as meaning they have jurisdiction over their own lives, and as providing the freedom to grow economically, spiritually, emotionally, physically, and mentally. Self-government was viewed as providing "more control on how to deal with your own people as a Tlingit person ... control over what happens on our traditional lands ... it's our people that are helping our people and working with our people."

The involvement of Teslin Tlingit on important Boards which govern, among other things, wildlife management in Yukon was considered an important feature of the Agreements. These Boards provide an opportunity for Aboriginal people to be involved in development in Yukon.

Another important feature of the system, which some indicated they felt was being overlooked at this point, was the guidance of the Elders. Some respondents felt the Elders were a key feature and their involvement was crucial to the operation of self-government in providing direction to leadership. It was also stated that having the Elders teach the traditional ways, and write down the laws for the benefit of the younger and future generations would both be very valuable.

The plan to make stronger connections with other Tlingit groups in Yukon was also considered a best feature.

One respondent stated the best feature is "the uniqueness and the distinction, the history, our own Constitution and [laws] that will be developed by the people and for the people."

5.11 Worst Features of Self-Government Arrangements

After identifying the best features of the self-government system, respondents were asked to identify what they felt were the worst features of the system. Many respondents focused on the administration and management of the Teslin Tlingit Council itself as experiencing the most problems. Respondents indicated stronger leadership, direction, and discipline was required for employees working within the Teslin Tlingit Council. Respondents perceived the administration and management as needing to be more organized and accountable.

Respondents also indicated the Clan Leaders and the General Council, which are an integral part of the infrastructure of government, were not exercising the authority vested in them through the Constitution. Respondents felt the Teslin Tlingit Council was run mainly by middle management, which was perceived to be a problem. Concern was expressed that decisions which should be made by the General Council were being made by administration and middle management, and in this regard the Constitution was not being followed.

Respondents indicated a need for more information and felt the Teslin Tlingit Council should take the initiative to provide information to its citizens. Concern was expressed about the lack of knowledge amongst Teslin Tlingit citizens, and a lack of awareness of how to voice their concerns. Respondents wanted more information on self-government programs.

Follow-up services for people returning from jail or who had been sentenced was identified as a deficiency.

Elders, some respondents stated, were not being recognized as they should be as a directing body for the government.

Respondents expressed the concern there may not be enough people to fill all the positions which would be created when self-government is fully implemented.

Another concern was that the movement into self-government was happening too quickly, and that people would not have sufficient time to adjust.

Finally, some respondents felt the system was too new to make judgments on, and others felt the Teslin people were doing their best.

CHAPTER SIX

PRINCIPAL FINDINGS -- TRIBAL JUSTICE

6.1 Introduction

Respondents were asked a variety of questions about the proposed Teslin Tlingit tribal justice system, traditional justice, and the mainstream justice system.

The respondent demographics are described at the beginning of Chapter Five. The majority of respondents reported first hand experience of justice, either in the mainstream system or in the Teslin Tlingit tribal justice system, as an offender, witness, or through involvement of a friend or relative. None of these groups were singled out and interviewed separately and it would be useful at a later date to hold a focus group for individuals who have been victims of crime to determine their opinions on the Teslin Tlingit tribal justice system. This is important as there is an emphasis on assisting offenders in the tribal justice system.

The proposed Teslin Tlingit tribal justice system is discussed in detail above in Chapter Four. For the purposes of Chapters 6, the research focuses on both the proposed system of justice and the interim measures currently in place under the Self-Government Agreement.. As noted above in Chapter Four, the Teslin Tlingit Council has an informal arrangement with the Territorial Government to establish what has become known as a Circle court. The Circle court involves the participation of the Clan Leaders and Elders as

sentencing advisors to the presiding judge. The community at large is invited to attend these sessions which occur on a monthly basis as part of the Territorial Circuit Court schedule. It is apparent from many of the respondents replies that the current Circle court is considered to be Teslin Tlingit tribal justice.

Knowledge of Teslin Tlingit Justice Traditions

Respondents were polled on their existing knowledge level of Teslin Tlingit Justice traditions. The majority of the respondents indicated they knew either a little or a lot about Teslin Tlingit Justice tribal justice traditions such as Tlingit customary law, dispute resolution mechanisms, role of the Council and Elders, the Clan and family structures, history, spiritual dimension, decision making process and relations with other First Nation. Twenty-seven percent of respondents stated they had knowledge of traditions other than those listed above, and 73% indicated they had no other knowledge of Tlingit justice traditions. Those who stated they understood other traditions indicated knowledge of potlatches, naming ceremonies, traditional marriage, and some of the traditional laws and repercussions for breach of those laws.

	Clan System	Clan Court	Peace Maker	Healing Circle Court	Holistic Health
A lot	31%	31%	12%	31%	8%
A little	65%	50%	50%	38%	35%
None	4%	19%	38%	31%	58%

Respondents indicated their knowledge of traditional systems was gained through family, passed down from parents, aunts, uncles, or through Elders. Others indicated they learned through books and information distributed at the Teslin Tlingit General Assemblies

held annually and culture camps and word of mouth information. Others stated personal experience such as attendance at court and Peacemaker Court and witnessing the Clan Leaders participate in the justice system. Others attributed their knowledge to the teaching of the Clan Leaders and seeking out the knowledge of Elders.

The majority of the respondents indicated they had personal experience and involvement with the Teslin Tlingit justice system (65%) where the Clan Leaders actively sit as a sentencing panel, and 35% indicated no personal involvement. The respondents who reported personal experience with Teslin Tlingit justice traditions indicated either first hand experience as an offender, or observer or they had worked in the justice system. Other Respondents indicated knowledge and experience through discussions with others about the Clan system, the Clan court and the Peacemaker court, participating in healing circles. The majority most often reported the Clan court, the Clan system, and the Healing Circle as the means of their involvement in the system.

When asked if they had any experience or involvement with the current justice system, 69% answered yes, and 31% answered no. It is unclear from the answers whether the respondents understood the "current justice system" to mean the mainstream system as apposed to Circle Court where the Clan Leaders are actively involved. The impression is the opinions expressed are sometimes about Circle Court and other times about the mainstream court.

The majority of the respondents stated their experience was personal either as an offender, a victim or a witness. Others stated their involvement was through the involvement of a friend or relative, first hand observation, or by word of mouth. The respondents reported the following information about their experience.

The Meaning of "Justice" to the Teslin Tlingit

When asked what the concept of "justice" meant to them, the respondents provided the following variety of answers:

- It is the process which occurs when someone has done something wrong. They have to be held accountable for it, either through tribal justice, or the court system.
- Justice means going to jail. "If you do the crime, you do the time."
- Justice involves disciplining people through laws.
- Justice is having the Elders sit with you and help you.
- Justice means fairness. Everyone has to be treated fairly or innocent until proven guilty. Justice means being treated respectfully in a holistic manner. Justice means assessing the needs of the individual and meeting them in sentencing, either through treatment or community sentencing. Justice means following through with judicial decisions.
- Justice means a fair trial and assessing the crime from all aspects and letting the community have a say in the decision.
- Justice is how a person is dealt with when they are in trouble with the law.
- Justice is the process of correcting a wrong.
- Its a process to help an individual "straighten out".
- Justice is a process where everyone is treated equally regardless of sex or race.
- Justice is keeping order in the community. It is there to serve everybody in the community.
- Justice is helping people.
- Justice is our people helping each other when someone is in trouble and dealing with the problem.
- Justice is your traditional rights.
- Justice means a lot of things. It means fairness, respect, love, compassion, forgiveness, understanding, and being truthful.

- Justice is something a person should never forget, because if you start doing things you should not be doing, you know your up against it. A person should keep it in mind that there is judgment to everything.
- Where an offence or dispute has been created between two or more parties, and the procedure to reach resolution for the situation and decisions made, would be justice for both parties.
- Dealing with criminals, alcohol and drugs, jail terms, probation, fines and community hours.

6.2 The Mainstream Justice System -- the Teslin Tlingit Viewpoint

A minority (7%) strongly agreed that mainstream justice system is an effective way to deal with the problem of crime in society. One individual stated that if the crime was very serious the mainstream system was effective, otherwise the mainstream system did not recognize the lifestyle of native people. If the crime is serious, for example murder, it was felt the mainstream system could more effectively deal with the crime. The majority of respondents (56%) agreed that it was an effective way to deal with the problem of crime in society, 22% disagreed and 7% strongly disagreed with 7% indicating uncertainty.

Respondents were asked their opinion on the treatment of Teslin Tlingit citizens in the mainstream justice system. A minority (8%) strongly agreed that Aboriginal person receive fair and impartial treatment and 19% simply agreed this was true. The majority of respondents (38%) disagreed or (35%) strongly disagreed.

The majority of the respondents (35%) strongly agreed and 42% agreed, that all other factors being equal, an Aboriginal person charged with a criminal offence is more likely to be sent to jail than a non-Aboriginal person charged with the same offence.

Racism in the Mainstream Justice System

The majority of respondents felt there was a lot of racism within the current criminal justice system and that Aboriginal people are generally stereotyped as being "drunks and law breakers." Racial discrimination was considered to be common among cops. One respondent related an experience where several of her native friends got into a fight with some non-native individuals. When the police intervened, her native friends were treated roughly in contrast with the treatment of the non-natives. One respondent stated that "more of my Indian friends go to jail than white friends." Another respondent reported an experience whereby a couple of Aboriginal people who were charged with sexual abuse received longer sentences than a non-native individual who was charged with the same offence, but who got off on a fine and three months probation.

Incarceration as a Tool of Rehabilitation

One respondent stated the system used to incarcerate high numbers of Aboriginal people in Teslin, until the Clan Leaders began to participate in Circle Court. Now that Clan Leaders have a say in sentencing the numbers have decreased.

When asked if they felt incarceration was an effective and proper way to punish and offender to prevent further offence, 8% strongly agreed, 54% disagreed, 27% strongly disagreed and 12% both agreed and disagreed. Those who disagreed felt that incarceration was a short term solution to a much bigger problem. Again the feeling that criminal behaviour is a symptom of a bigger problem was expressed. One individual expressed the opinion that "people who break the law have problems which go back to something that the individual has experienced in the past." Respondents who felt incarceration was ineffective felt that putting offenders in jail only served to make them "hard."

Respondents who expressed uncertainty stated that any beneficial gains from the jail experience depended on the individual's constitution. For some people, jail is beneficial and

acts as a deterrent, for others the experience simply hardens them and encourages continuing criminal behaviour.

Other respondent's stated the benefit of jail depended on the crime committed. If it was a serious crime, a jail term should be imposed and would likely be beneficial.

When asked if offenders who are incarcerated usually return to the community as better citizens, 65% of the respondents disagreed, 23% strongly disagreed and 12% expressed uncertainty. Again, some respondents felt it depended on the individual. Some people felt that offenders learned from the experience, but more often than not they come back "mean", "hardened or resentful".

We asked respondents if they felt individuals who are incarcerated receive rehabilitative help to assist them to return to the community and reintegrate. The majority of respondents (35%) disagreed, with 19% strongly disagreeing. Of the respondents, 31% felt offenders returned rehabilitated and 4% strongly agreed this was true. Some of the respondents (12%) were uncertain. Again respondents felt it depended on the individual.

One factors which was thought to influence rehabilitation was involvement of the offender's family in a supporting role during incarceration. Other respondents stated that more Aboriginal oriented programming would help in rehabilitation. Others stated alcohol rehabilitation treatment, when imposed as part of a sentence was effective if there was a support system and follow up for the person when they returned to the community. If this does not occur, the returning offender usually though peer pressure and lack of support returns to alcohol abuse. Respondents also felt it was difficult for an offender to successfully return to the community without some kind of re-integration process.

Perceptions of Criminal Behaviour

Respondents continually expressed the opinion that the problems which cause people to break the law are usually deep rooted, right from childhood. It was expressed that these problems can more effectively be dealt with through healing rather than punishment through the court.

The Mainstream System as a Deterrent to Criminal Behaviour

When asked if the current system of justice acted as a deterrent to criminal behaviour 58% of the respondents stated they disagreed and 12% strongly disagreed. The remaining 15% agreed and 4% strongly agreed the system acted as a deterrent. Some of the respondents (12%) stated it sometimes acted as a deterrent. Respondents stated that some people re-offend simply so they can have the security of three meals and a place to sleep. Respondents felt that people became dependent when they were incarcerated and that when they were made to leave and return to the community, they did not have assistance reintegrating. Lack of reintegration support is a highly significant factor according to respondents. Apparently, many offenders simply re-offend and return to jail when they do not receive assistance.

Many respondents stated the contrast between the mainstream system and the Teslin Tribal Justice System is the emphasis of the latter on rehabilitating and "healing" the individual offender. The problem with meeting the objectives of healing and rehabilitating appears to arise from lack of services and programs in Teslin.

6.3 The Teslin Tlingit Tribal Justice System: Structures, Processes and Spiritual Foundations

Knowledge of Proposed System

When asked how much they knew about the proposed justice system 20% a lot, 60% a little and 20% said they knew nothing. When asked how much they thought the rest of the

community knew about the proposed justice system, 16% said a lot, 80% said a little, and 4% said nothing.

The majority of the respondents (92%) felt that more information about the proposed justice system should be delivered to the community. 8% said they felt this was unnecessary.

The most popular means of providing information identified was through public meetings, workshops, mail-outs, and having people attend at residents homes to explain information in a simplified manner. Respondents felt information should be provided in school programming for the benefit of children. People want more information on the justice system in general and the role of the Elders in the justice system.

Respondents Views on the Main Features

According to respondents the key positive features of the current and proposed Teslin Tribal Justice system is the involvement of the community and the Clan Leaders. The community involvement and role of the Clan Leaders in Tribal Justice, most respondents felt, demonstrated to the offender that people in their community cared about them.

It appears that the majority of respondents felt the involvement of the Clan Leaders and community is beneficial because of the way offenders are dealt with. It was stated that the Clan Leaders attempt to deal with the problem, and the reasons at the root of the problem, and attempt to help the offender overcome it. One respondent stated that "our justice system looks at the person on a one to one basis...it looks at their background, their life and how their sentence is not going to harm them, but it will benefit them." Another respondent stated the "village people will know that person and his weakness and how to fix him up, how to make him a better person."

The Readiness of the Community to Assume the Responsibility of the Administration of Justice

When asked if they felt the Teslin Tlingit First Nation was ready to gradually assume responsibility for the administration of justice, 24% strongly agreed, 56% agreed, and 20% disagreed.

Generally, respondents expressed confidence in the ability of the Teslin Tlingit to develop and administer their own system of justice. One respondents stated there was no choice as Aboriginal people were experiencing to many difficulties in the mainstream system.

Other respondents indicated confidence in the abilities of the Clan Leaders and Elders as the focal point of justice. The fact that Teslin is currently exercising traditional justice in the form of the Circle Court, was mentioned by several respondents as an indication that Teslin had the ability and the will to administer justice.

Respondents expressed confidence but also highlighted the need for training, alternatives to incarceration, development of treatment modalities, hard work, and commitment as necessary to continue developing Tribal Justice. Respondents also emphasize the need for input by the community in general. Education of the traditional system of justice and laws was also desired.

The need for training is emphasized. Respondents expressed confidence in the ability of Teslin citizens to take on the responsibilities and positions required to administer justice, but acknowledged that appropriate training had to occur. Respondents want training to begin as soon as possible. Respondents were concerned that Teslin is involved in the administration of justice already without more community development and implementation planning occurring.

Another priority in implementation and development of justice is the involvement of the Elders. This is considered important so that traditional justice principles and other culture such as the Tlingit language are retained as part of the justice system to the extent they can be.

Another concern raised by respondents was the need to have leaders in justice and in government generally act as "role models" to the community in general. Respondents also emphasized the need for relationship training and healing in general among the leadership. Respondents stated that before Teslin government can begin to deal with "other peoples problems" or its own justice system, it has to deal with its own internal problems. Following of established policies and recognizing established government structures were considered important in the smooth operation of Tlingit government.

Again, any respondents indicated the need for services and programs to support the Tribal Justice system. Again, the need for follow-up programming to assist individuals returning to the community who had been sent outside the Yukon to various treatment centres in B.C. and Alberta. The concern is these individuals return to the community in very vulnerable states. Currently, respondents feel there is no "healing" within the community or follow-up to assist these people who have made gains. Another respondent expressed a desire to have counselling services offered prior to court so the Judge and Clan Leaders would have a better understanding of the individual's specific needs regarding treatment. Also, there was need for more use of advice and knowledge of local resource people and family members, in regards to the assessment of the offenders prior to going to court.

Perceived Strengths and Weaknesses of Teslin Tribal Justice

When asked if they felt the proposed tribal justice system would be a good thing for the citizens of the Teslin Tlingit First Nation, 76% answered yes, 20% stated maybe and 4% said they did not know. One respondent stated "at one time if a person got in trouble, they took him to court and the next thing you know they took him to jail. Now its different."

Respondents were of the view there is a fundamental difference between the mainstream system of justice and the tribal system of justice by the way Aboriginal people are dealt with in both systems. The common view was tribal justice, as it currently stands, is a

more humane and logical way of dealing with an offender than the mainstream system. One Respondent expressed the view that the traditional principle of justice is based on making the offender a "better person", in contrast with the mainstream system which is to make the offender "serve time."

Respondents commonly felt that the strength of the tribal justice system, was it looked at the person from a community level whereas the mainstream system looked at the individual from a strictly legal perspective. In the mainstream system it was felt the individual was viewed simply as an "offender", or "just another native person" in contrast to the tribal justice system where individuals were treated as members of the community.

Respondents stated the tribal justice system tended to deal with the individual as a "whole" and not just as a "bad" person who had done something wrong. The individual's life circumstances were taken into consideration by the Clan Leaders at sentencing. It was expressed that the mainstream system did not deal with the problem, or the offence, as a symptom of bigger problems being experienced by the individual offender. "When a person is in trouble, you don't look at their whole life as bad, you have to look at the good parts too. Some people do lots of good things and they do something bad, people look at that and forget all the good things. When people look at a person who has made a mistake, it's the starting out a new life for them. It's a chance for them to stop before they get too far."

Respondents felt it was important to be in court with their "own people." Being brought into court in the mainstream system, was expressed by one Respondent as being a humiliating experience, whereas in tribal court you have your own people there. One Respondent felt that the mainstream system "sees colours" and that the tribal system provides understanding, caring, love and common sense. Another respondent stated that "in the white justice system you don't have anyone there to support you...in the traditional system you have your Clan Leaders and alcohol workers from the band office to support you."

The fact that the court involved the Clan Leaders was considered an important part of the current system of sentencing. One Respondent stated "they have a jury and we have elders, Elders are just as good." The fact that the tribal system involved the community was considered very important. When the community was involved justice was not perceived to be just about judges and lawyers.

The problem experienced by the offender appears to be considered a community issue. In the tribal justice system the community is invited to be involved to deal with the issue as a symptom of a bigger problem which the community is exposed to.

Some respondents expressed skepticism and stated the tribal justice system would likely be challenged under the Charter of Rights by members who are not informed and who do not believe in traditional practises. Others were in favour of tribal justice but were concerned that sentencing was too lenient.

Finally, respondents supported the idea of counselling but wanted counselling and other rehabilitation services to be made available in Teslin so immediately follow-up could be provided to offenders and victims alike.

Teslin Tlingit Spiritual, Cultural and Historical Foundations of Tribal Justice

Respondents were asked a series of questions relating to the foundations of Teslin Tlingit Justice, in particular the spiritual, cultural and historical foundations.

When asked if they felt that Aboriginal traditions and spiritual beliefs played an important and respected role in the current justice system, 12% of the respondents strongly agreed, 31% agreed. Of the respondents who agreed, several expressed the opinion that acknowledgement of Aboriginal traditions depended on the justice personnel involved in the Circuit Court in Teslin. Apparently, some judges are very open to incorporating Aboriginal

traditions into Court procedures. The majority of the respondents disagreed (35%) or strongly disagreed (19%) with the statement.

When asked what the most appropriate way to deal with an offender is, 82 % agreed and 28% strongly agreed, the problems experienced by offenders are usually deep rooted and traditionally it is better to "heal" a person than incarcerate them. One respondent stated traditional healing is appropriate only if the crime is not too serious.

When asked if they felt Aboriginal culture and philosophy should play a predominant role in a justice system that deals with Aboriginal people, 21% strongly agreed, 75% agreed, and 4% strongly disagreed. Respondents stated that an Aboriginal person, assisting an Aboriginal offender was more capable of understanding the experience of the Aboriginal offender and therefore in a better position to effect change. Also, the practise of looking at the "whole well-being" of the individual or the holistic approach, was considered a cultural advantage when assisting Aboriginal people.

The majority of the respondents (72%) felt the proposed justice system needed to embody more of the traditional culture and philosophy of the Teslin Tlingit First Nation, but others acknowledged they needed more information on what those traditional principles are. Others felt reincorporating traditional principles into the contemporary system would have to happen slowly so people could adapt.

When asked if there were any specific traditional practises that should be given greater prominence in the proposed system, 44% stated yes, 44% stated no and 12% said they did not know.

The Role of Elders

When asked how important the Elders were to the community, 96% of the respondents stated Elders are very important to the community, 4% stated they were not very important. One respondent stated Elders are not utilized as much as they should be.

The majority of respondents either strongly agreed (38%), or agreed (58) that Elders could play a useful role in dealing with Aboriginal offenders. Some of the respondents did not distinguish between Elders and the Clan Leaders. In some cases there isn't a distinction as the majority of the Clan Leaders are Elders. Other respondents clearly viewed them as separate groups.

When asked if Elders play an influential role in the current justice system the respondents were divided with 4% strongly agreeing and 54% agree. The remaining 35% disagreed, with 4% strongly disagreeing, and 4% stated they had an influential role sometimes. It appears that individuals feel the Elders should be involved more, and acknowledge that in practise they are not. One respondent stated that the lack of Elder involvement will change once the self-government system is more in practise and people realize there is another "way".

Many respondents view the Elder's role in Tribal Justice as being somewhat parental or as healers. Respondents felt the Elder's could have a large role in healing individuals, especially considering most Elders have lived their entire lives in Teslin and are familiar with the life circumstances of Teslin citizens. Some respondents felt that Elders should be in a decision-making role like the Clan Leaders in relation to justice because of their knowledge of traditional law.

Respondents also felt that Elders had a responsibility to the people and were accountable to the people. The responsibility it was stated was largely in the area of educating the community on traditional culture and practises.

The Clan Leaders

The role of the Clan Leaders in a judicial capacity is discussed later in this chapter. A section on the Clan Leaders is included in this section as they form the main historical, spiritual, and cultural foundation of the existing Circuit Court and the proposed system of Teslin Tribal Justice.

When asked if traditional methods such as involvement of the Clan Leaders and the Healing Circle, were appropriate for use in a contemporary justice system, 25% stated they strongly agreed, 67% agreed, 4% disagreed and 4% did not know.

The value of the Clan Leaders as the focal point of Tribal Justice to most respondents was their knowledge and familiarity of Teslin citizens personal life circumstances and their ability to provide appropriate sentencing. The fact that Teslin Tlingit people would be working with Teslin Tlingit people was considered the highlight of Tribal Justice. One respondent indicated that in the mainstream court, all a person had to look forward to was going to jail, whereas in "native court", they are given a chance because the judges know the person, and they know what can benefit them through a sentence.

One respondent referred to the Clan Leaders as their jury and others expressed confidence in their ability to be adjudicators. Other respondents felt that Clan Leaders should be more "up to date" on court and law. One respondent said "Clan Leaders play a very important role, and they make decisions...you respect and listen to them...they tell you something and you have to do it".

The Community

When asked to what extent the community should be involved in the development of the justice system, 88% stated a lot, 12% said some and 4% said a little, 4% stated not at all. Everybody should be involved in it including the RCMP, judges and lawyers. So they know

where they stand when it comes to judging people. I think it should be mainly the responsibility of the band.

It was very evident from the information provided by the respondents, that the element of community involvement in the sentencing of an offender is an extremely important component of tribal justice, in fact it could be said that it is viewed as "tribal justice". At least 50% of the respondents were individuals who experienced the Circle Court first hand as an offender.

Respondents indicated the community involvement or social aspect of the hearing in Circle Court was very powerful as an element of social control. Circle court is open to the entire community. One respondent who had experienced Circle Court as an offender stated "it is hard for a person to be seen socially after having sat amongst the Clan Leaders because not only do they have to make restitution to the parties concerned, but as the same time the offender is shamed. I think its the shame that hurts more than having to make restitution."

Dealing with Offenders

When asked if it was appropriate to deal with criminal offence in isolation from the other social, economic or health characteristics of the offender, 50% disagreed and 27% strongly disagreed. When asked what the best method of rehabilitating a person who has committed a criminal offence, the majority (80%) of the respondents indicated that counselling and psychological treatment would be the most effective.

Considering the information provided by the respondents it is safe to say that the majority feel an offender is more appropriately dealt with when the Clan Leaders are involved in Circle Court.

There is a strong sense of community that comes through in the answers provided and an obvious desire to help individuals return to the community and to be "healed". These

respondents felt it was appropriate to let the offender know of their crime and the results of their crime and then bring them back to the community and have the community work with them. It was felt that the person needed to be "listened" to.

Respondents felt that having offenders brought before the Clan Leaders and the individuals Clan members was an effective way to confront offenders and make them accountable for their actions. One concern raised however, was the need to ensure sentences are enforced. Respondents felt the community should be involved in ensuring sentences are enforced. One possibility suggested is having offenders report to the Clan Leaders and the offended family.

Respondents consistently stated that offenders should be responsible for making reparation to the victim of their crime. The method of reparation suggested varied from making financial reparation to working in lieu of financial compensation. Others felt it was appropriate to have the offender hunt and fish for a period of time for the victim. Some respondents felt that incarceration was still appropriate for serious offenses. Other respondents felt it appropriate to sentence offenders to time in the "bush". Community work and curfews were identified as other options for reparation which would be enforced in probation orders. Combined with these forms of reparation, respondents stated that offenders should received counselling and treatment especially in the area of alcohol abuse.

Most respondents emphasized treatment and counselling as the most effective means to rehabilitate and return offenders to the community. The current lack of programs and services was highlighted and some respondents felt it was necessary to build a treatment centre within Teslin so that community members would not have to be sent outside of the Yukon to deal with their problems in isolation from family and community.

Treatment centres and programs were considered important because many respondents felt that the majority of crimes were committed by offenders under the influence of alcohol.

Many respondents reported they felt offenders drank because of "anger and sorrow". Most respondents felt that treatment was a way to help respondents to "deal with that anger and sorrow". Treatment and counselling was viewed as a way to assist offenders to go back to their past to see where problems began and to begin a healing process. Treatment and counselling was viewed as a way to "break the cycle" of violence. Relationship training, life skills training, and learning about their traditions and culture were also viewed as necessary elements of rehabilitation programs.

Other respondents expressed skepticism about the effectiveness of treatment and healing circles. Those who were skeptical felt that sentences had to be monitored closely to ensure offenders were respecting conditions placed upon them. Respondents stressed the need for the offender to take responsibility for their actions and the need for the community and Clan Leaders to assure the offender accepts and takes the responsibility for their actions.

Another issue mentioned as a deterrent was the lack of employment opportunities as part of the rehabilitation process.

Other respondents felt more emphasis and resources needed to be put on prevention of crime. An important element of prevention was believed to be teaching potential offenders about their culture which would give them a sense of "who they are" and encourage pride and belonging.

Assisting the Victim of Crime

Regrettably, there was not enough time and opportunity in this research project to properly examine the needs of victims of crime as a special group. This portion of the research was devoted to the nature of compensation the victim should receive from the offender. One respondent reported that compensation was an essential element of traditionally Tlingit sentencing for crimes such as robbery or damage to property.

When asked if they felt victims of crime should be compensated 40% strongly agreed, 56% agreed, and 4% strongly disagreed. When asked if they agreed that reconciliation between the victim and the offender is an important part of dealing with criminal offence, 44% strongly agreed, 37% agreed, 4% disagreed, 11% strongly disagreed, and 4% stated reconciliation depended on the nature of the crime. When asked what form compensation should take the respondents listed a variety of means such as financial compensation or work performed by the offender in lieu of financial compensation. Other respondents stated offenders should pay for any counselling services the victim requires as a result of the crime.

One respondent, in support of reconciliation felt that the consequences of crime are that both the offender and the victim are "carrying something...they have to let it out and learn how to deal with it...most of the time the offenders have problems and don't want anybody to know about it...if they carry it around with them it always leads to trouble...when a person makes a mistake, he has to correct it in order to make things better".

Respondents stated that whatever compensation was offered would have to meet the approval of the victim and should only be discontinued when the victim felt fully recovered. Financial compensation was considered especially appropriate for property crimes. In this case respondents felt offenders should either have to fix the damage with his own money or make financial compensation equal to the value of the loss.

Other respondents felt a public apology was also an appropriate method of reparation. Respondents acknowledge that financial compensation alone is not sufficient for victims who have experienced crimes which have an emotional cost such as sexual abuse. One respondent stated that no amount of money would make a difference, that the victim was left with the cost for the rest of their life.

Respondents also felt the Clan Leaders had to decide the nature and amount of compensation and that orders for compensation had to be abided by. Some respondents

reconciliation could also occur through the Clan system, where the respective Clans involved could sit with the offender and the victim to resolve the issue to the satisfaction of the victim, including compensation and other means of reparation.

Respondents who agreed with reconciliation felt it should happen as soon as possible if appropriate because feelings hardened over time. It was also felt appropriate to have an Elder, mediator, or an appropriate professional present to assist. One respondent felt the offender and victim had to deal with each other because whatever the punishment received by the offender "it was probably not enough".

The exception to reconciliation, respondents stated, was in the area of emotional crimes where the choice of reconciliation had to be the victims. If the victim chose reconciliation, supervision had to be provided.

Some respondents felt the traditional potlatch system was an appropriate means for resolving issues between offenders and victims.

Respondents felt that the families of offenders and victims should be included in resolution of offenses and if necessary family counselling should be provided.

Community support is also viewed as important in resolving offenses.

6.4 The Clan Leaders in a "Judicial" Capacity

When asked if they felt the Clan Leaders would make good judicial decisions, 40% strongly agreed, 36% agreed, 8% disagreed, 8% were uncertain and 8% said maybe. When asked if they felt the community would respect and abide by the decisions of the Clan Leaders, 28% strongly agreed, 44% agreed, 12% disagreed, 12% were uncertain, and 4% did not know.

The majority of respondents expressed faith in the ability of the Clan Leaders to adjudicate disputes in Teslin. They are a strong influence on people. One respondent stated that "you have to listen to them even outside the courts", which is consistent with the principles of traditional Tlingit justice. Another respondent stated that Tlingit people were taught to view their Elders with respect. One respondent said "I'm comparing my elders to the Pope...that's how important they are to me".

Most respondents saw the Clan Leaders in the role of caretakers of their community and their citizens. Respondents felt that the Clan Leaders knowledge and ability to act as adjudicators was derived from their cultural knowledge, life experience, and age. It was clear from respondents answers they felt the Clan Leaders had the best interests of their citizens at heart and would therefore make the best decisions for them. Respondents spoke about the Clan Leaders as though they are a very valuable part of Teslin Tlingit society. Respondents stated confidence that the Clan Leaders would be behind them "one hundred percent" in developing justice for Tlingit people.

The most positive assets of Clan Leaders as judges continually mentioned by respondents, is their knowledge of Tlingit culture, familiarity with citizens life circumstances, and their long-term relationships with their citizens. Their long term relationships with their citizens was considered important because it provided the Clan Leaders with understanding of the way citizens live their lives and what they do for their livelihood.

Respondents who had already experienced Circle Court said the Clan Leaders helped them by looking out for their "best interests" and by providing moral support.

When asked for reasons why they should respect Clan Leaders judicial decisions the main answers were Teslin ownership of their justice system, the principle of helping rather than incarcerating, community involvement, and the Clan Leaders traditional respected role

and familiarity with their citizens. One respondent said the Clan Leaders decisions would hold weight because they were Tlingit citizens as well. Another felt that the Clan Leaders were very capable of making sentences tougher if necessary to ensure respect for their decisions.

Respondents felt that Clan Leaders had to take their roles seriously, especially in terms of role modelling for the community. Respondents stated that in order to judge other peoples lives the Clan Leaders had to conduct themselves by standards which the community can follow.

Some respondents felt the Clan Leaders needed to have assistance from a courtworker or someone else who understands the mainstream judicial system. Some respondents felt it was significant that the Clan Leaders did not have knowledge or education around the mainstream system of justice.

Other respondents felt the effectiveness of the Clan Leaders in a judicial capacity depended on what kind of charges they deal with. Offenses such as sexual abuse and child abuse, some respondents stated, should be dealt with by both justice systems.

One respondent felt that when the Tlingit citizenship developed a stronger sense of the power and autonomy of their own government that more respect would be created for Clan Leaders decisions. One element which is currently lacking according to some respondents is the consistent enforcement of sentences. Others felt that sentencing had to be tougher and that the Clan Leaders would have to show more "tough love" to ensure respect by the community.

Some respondents felt there was a danger that Clan Leaders would not be impartial and might pick favourites. Impartiality and fairness are considered essential if the Clan Leaders are to have respect from the community. One respondent expressed concern that if a

particular Clan Leader harboured "hard feelings" toward a particular family, they might be disposed to give a heavy sentence to any offenders from that family which would result in disrespect for their decisions.

When asked if they felt it was necessary for the Clan Leaders to undergo training or some other kind of preparation before they start making judicial decision 19% strongly agreed, 42% agreed, 45% disagreed and 4% were uncertain. The majority felt training was appropriate, but not necessarily in a classroom setting. Workshops and other means of training were felt to be more appropriate in the area of criminal law, psychology for adults and youth, and writing skills so that their decisions could have a more active role in training in the community. Some respondents suggested combining the mainstream system with tribal justice and if this occurred training in the mainstream system would be required.

Respondents felt Clan Leaders should receive training in the following areas:

- appropriate sentencing
- treatment and counselling as appropriate as sentencing mechanisms
- mainstream court procedure, criminal code offenses and sentencing
- communication skills to enhance their abilities as community teachers

One respondent stated that "you can't enforce the law if you don't know about it"

Generally, the respondents who were in favour of the Clan Leaders receiving training, acknowledged the traditional knowledge of the Clan Leaders as very valuable, but felt this knowledge should be combined with knowledge of the contemporary mainstream system.

Other respondents felt the Clan Leaders should write down their traditional knowledge and make it available to Teslin citizenship.

Respondents who disagreed with training for the Clan Leaders felt the Clan Leaders already had appropriate knowledge. These respondents felt the traditional knowledge was

enough because the Clan Leaders would be working within a traditional framework. Respondents acknowledged the value of the life experience of the Clan Leaders as an appropriate education and their knowledge of Tlingit traditions as appropriate qualifications for their job as adjudicators. Respondents stated they had already received their training from their ancestors.

Some respondents referred to the job the Clan Leaders have done to date as evidence they are capable of doing a good job with their current qualifications. One respondent stated that "instead of training the elders, they should be training people under the elders".

6.5 Women, Youth, and Elders

Respondents were asked to what extent they felt special interest groups, such as women, youth and elders should be involved in the development of the justice system. The majority (84%) said a lot, 8% stated some, and 8% said not at all. When asked if they felt women would be treated fairly in the proposed system, 8% strongly agreed, 75% agreed, 4% disagreed, and 12% expressed uncertainty. When asked if they felt that a good justice system displayed gender equity in positions of authority such as judges, 12% strongly agreed, 64% agreed, 20% disagreed, and 4% were uncertain. When asked if the proposed justice system should ensure that women hold positions of authority 12% strongly agreed, 79% agreed, and 8% disagreed.

Several respondents felt that women, youth and elders should not be identified as special interest groups as this would separate them from the community and they should be treated equally with everyone else. These respondents also felt the most qualified person should get jobs within the system as opposed to enforced gender equality. Again, there were respondents who felt that women would be treated fairly and should not be accorded special treatment. One respondent stated that "everybody deserves to be treated fairly whether they are elders, youth, men, or women...nobody should be separated...through tribal justice

everything should be equal...the five Clan Leaders don't care if it is male or female, they look at what happened, they look at the circumstances behind it, and they punish them or they treat them fairly."

A variety of views were expressed about what measures could be taken to ensure that women are treated fairly and justly under the proposed system.

Respondents felt that victims of crime needed to have more input in sentencing of the offender and had to be allowed to speak to the impact of the crime on their lives. Respondents felt that victim impact statements had to be made and taken seriously. Follow-up work for victims of crime was also stated to be necessary in terms of counselling needs if required.

Other respondents felt women should play a prominent role in the proposed system. First, when women are victimized, their advice on how to deal with their offender is honoured and that impact statements are taken from them and taken seriously. Also, it was felt that the victim should have follow-up such as counselling if required. Currently, there is nothing for the victim, no counselling or restitution for the women involved.

Some respondents stated there had to be female Clan Leaders to ensure women are fairly and appropriately treated in the justice system. When women take on these positions it was stated they should have the same pay level and privilege the male Clan Leaders receive.

Several respondents felt the equality of women needed to be recognized in the Teslin Tlingit Council Constitution.

6.6 Powers

Respondents were asked what jurisdiction the Teslin Tlingit Tribal Justice should have over the law and the person. The majority of respondents consistently stated the Teslin

Tlingit justice system should have absolute jurisdiction over non-citizens who committed offence while on settlement land or breached Teslin First Nation Laws. One respondent stated "if our laws follow us off our land then it should be the same on the other side". One respondent stated that if "I commit a crime outside of our lands then I'm charged there and I will be dealt with through the current system...then it should be the same for a non-citizen coming on our lands...they have to face our justice system".

Absolute jurisdiction over non-citizens on Teslin settlement land was considered especially important in the area of land use and hunting. One respondent stated for example, that "any white person that hunts on our land should take everything" and this law had to be enforced by Teslin Tlingit. Absolute jurisdiction also considered important in ensuring conservation and environmental responsibility of non-Tlingit citizens while on Teslin settlement land. Respondents felt that absolute jurisdiction of non-citizens on settlement land was essential to ensure conservation and environmental protection.

Respondents felt traditional laws should apply to non-citizens who offend on settlement land.

Other respondents felt jurisdiction should be shared with the mainstream system in the case of non-citizen offenders on settlement land. Sharing of jurisdiction, it was felt would reduce potential conflict between the systems.

Respondents were asked what jurisdiction the Teslin Tlingit justice system should have over its Citizens who committed crimes while off settlement land. Some respondents felt it depended on the nature of the crime committed. Others felt in fairness, if a citizen committed a crime off settlement land they were subject to the law where the crime was committed. Others felt that due to the traditional principle of Tlingit law following Tlingit citizens wherever they went meant the person should be returned to the jurisdiction of Teslin and dealt with in the Tribal Justice System.

Respondents who felt the person should be dealt with where the crime occurred stated that traditional laws pertained only to traditional lands and anyone outside of settlement was accountable to the government of that land.

Others felt shared jurisdiction was appropriate concerning Teslin offenders in other jurisdictions. Respondents stated Teslin Justice should have input on how the person is dealt with in order to show support for Teslin citizens. One respondent stated that the person should be subject to both laws and should be answerable to both.

Respondents were asked what particular offenses the Teslin Tlingit should have exclusive jurisdiction over. Respondents answered:

- jurisdiction over all offenses occurring on settlement land against Teslin citizens, land and property
- hunting and forestry offenses
- Sex offenders
- impaired driving or vandalizing
- the small crimes involving band members and our land
- drug and alcohol abuse, elders abuse, child abuse, or assaults.

Respondents were asked what areas they felt Teslin should share jurisdiction with other governments. Respondents answered:

- cases where a Teslin Tlingit citizen commits a crime off of settlement land
- transboundary issues that affect Teslin should include other governments especially in the area of environmental pollution and the use of non-renewable resources
- Narcotics offence.
- serious crimes such as murder and attempted murder, and other violence crimes such as child abuse or child sexual abuse.

When asked if there were some criminal offence which should always be dealt with by the mainstream justice system, 8% strongly agreed, 47% agreed, 36% disagreed, and 8% strongly disagreed. The respondents listed the following offence as those which should remain within the jurisdiction of the mainstream courts:

- Murder.
- sexual offenses, including sexual assault and child molesting
- robbery and break and enter offenses
- serious violent crimes

Respondents expressed confidence in the ability of Clan Leaders as judges, but felt there were some crimes which were so serious the mainstream system would be better equipped to deal with them such as murder. The need to have the mainstream system deal with murder cases was consistent in the majority of respondents answers.

Several respondents felt that all crime, including murder should be within the jurisdiction of the Teslin Tribal Justice System. These respondents felt Teslin was capable of fully developing its own system of justice to handle crimes of a serious nature. Others felt, shared jurisdiction was more appropriate when dealing with violent crimes.

CHAPTER SEVEN

PRINCIPAL FINDINGS -- FOCUS GROUPS

7.1 Introduction

Two focus groups were held during the research project, one with youth and the other with women. The purpose of establishing the two focus groups, was to ensure that a variety of views, understandings, and perspectives surrounding Aboriginal Governance and Justice initiatives, were reflected in this study. The topic areas of discussion were designed to address the issues and concerns important to youth and women; to assist in identifying the role of women and youth within the Teslin Tlingit First Nation government and judicial structures, policies, and practises; and to shed light on what changes are required to address the areas of concern. Special attention has been given to the justice area as it is still in its evolving stage. The discussions provided a view as to whether or not the needs and expectations of women and youth are being met. Both focus groups were informal meetings, thus allowing for the participants' individual experiences, opinions, and feelings to evolve. The methodology for the focus groups is discussed in Chapter One in further detail.

Throughout the focus group discussions participants consistently recommended and suggested programs, services, and training that they viewed as necessary for the Teslin

Tlingits to assume their full role of self-governance. This information was recorded as research findings in this chapter, however the information will be incorporated into chapter eight. The participants' recommendations and suggestions are directed at the Teslin Tlingit Council in cooperation with appropriate governments, as requested by focus group participants, unless otherwise specified.

7.2 Youth

The youth group consisted of 6 people between the ages of fifteen and twenty-four years with a gender balance. As was stated in Chapter One, the focus group consisted of both offenders and victims. The group focused on seven topic areas which are discussed in the following sections.

Knowledge of Traditional Tlingit Governance Structures and Processes

The respondents were asked what they knew and thought about the Traditional Tlingit Government. All of the respondents indicated that they knew a bit, but not a lot. The respondents stated that the information they received to educate them on the system was too difficult to read, let alone understand. One respondent pointed out that the information they received in the mail was in abundance and that they did not attempt to read it.

When asked for suggestions for improving the education process of Tlingit Governance, the respondents indicated that the information presented must be at a language level that the youth can comprehend. The respondents further suggested that the self-government system be taught in schools through simulation (mock) and role play.

The respondents were asked to suggest some methods for teaching the youth about Traditional Tlingit Governance. The youth suggested small group information sessions, simulation and role play, and work shops. All of the respondents preferred a small group setting because, "everyone gets a chance a speak."

Knowledge of Teslin Tlingit Justice System Structures and Processes

As with Governance, the respondents were asked to comment on what they knew about the Teslin Tlingit Justice System structures and processes. The respondents again indicated that the information was too difficult to comprehend and that alternative methods of teaching needed to be identified.

The respondents were requested to comment on their perspectives of the Teslin Tribal Justice system. The responses were varied and are as follows:

- The best thing in the law in Teslin is Tribal Justice.
- If you do the crime you go to Circle Court and get off easy.
- You get off easy, but eventually you learn. The punishments can get stiffer. Your own people will give up on you.
- When sentenced to go see the Clan Leaders, I went and talked to them for a couple of minutes, then I'd take off. They'd say, "That's all I have to say." You are treated like you're just another case.
- Sometimes, punishments are worse than what is deserved.
- At the camps you get sent to... you have access to your friends, dope, and alcohol. Even at the spiritual camps.

Strengths and Weaknesses of the Traditional Justice System

Respondents were requested to identify what they perceived to be the strengths and weaknesses of the proposed justice system. The respondents interpreted the traditional justice system as the partially implemented Tribal Justice system that currently operates in conjunction with the Canadian Justice System in Teslin. The majority of the comments were focused on weaknesses, however some strengths were mentioned as well.

The following areas were identified as weaknesses within the system. For the most part, the respondents provided some sort of rationale for their belief. One respondent indicated that all Clan Leaders needed to be involved in the Tribal Justice Process, as opposed to one. Which is reported by this particular respondent, as being the case. Another respondent indicated that "stiffer sentencing" was required in order for offenders to have more respect for the system and to take it more seriously.

Sentences to the bush was a matter of controversy. Some felt it was a strength and others identified it as a weakness of the justice system. Some members of the youth group felt it provided an opportunity to learn your their culture, encouraged responsibility and good work habits. One respondent felt there should be an "aide" available who could provide alcohol abuse prevention counselling. One respondent's response was that the down side to the whole ordeal was that some offenders considered a sentence to the bush as a "pleasure".

The strengths of the traditional justice system were identified by the respondents as Clan Leader involvement and the effectiveness of curfews. The respondents stated the essential part of their community justice system was the role of the Clan Leaders. The major benefit of having the Clan leaders involved was their familiarity with all Teslin Tlingit citizens and their individual circumstances. This was considered very important in dealing with each youth offender to ensure sentencing considered individual circumstances to provide the maximum benefit.

Respondents felt the benefit of having a curfew imposed was that it limited alcohol consumption. Apparently, curfews are usually taken seriously as one respondent stated, "every time you breached, you got hours added on, and it gets worse."

When the respondents were asked what they thought the most effective form of consequences for a deviant action was, they suggested alcohol and drug abuse treatment,

community work, fines, banishment to the bush, and curfews. As was stated previously, not all thought curfews were effective.

Representation of Youth Within the Teslin Tlingit Self-government and Justice Systems

The participants were asked if the present youth representation within Self-government and Traditional Justice system structures and processes, was adequate. All respondents indicated their dissatisfaction.

All respondents felt that they must be represented in the Tribal Justice system. The youth participants indicated that they should be represented on the Tribal Justice Council and on the Sentencing Panel. The respondents considered the age difference between themselves, the Elders and Clan Leaders to be a problem. Different values and lifestyles apparently lead to a lack of communication or understanding between the youth and the Elders and Clan Leaders. The participants expressed their desire to be involved in tribal justice as a proactive measure to reduce the likelihood of criminal behaviour. Respondents indicated youth involvement in the system on an ongoing basis would be a preventive measure.

Participants recommended a youth be involved in sentencing, because a peer could provide advice to the Clan Leaders on appropriate sentencing. The participants also stated that training for youth on sentencing practises would be required. One respondent stated that the Clan Leaders go into their circle, and that the offender is not a part of this process. He felt that youth should be included, because decisions are being made about their life. One respondent indicated that the offender should be permitted to speak on their own behalf during sentencing proceedings with Clan Leaders. Youth felt sentences could be more realistic and personally beneficial, provided they be permitted to share their view on how they could be helped.

When the group was asked to comment on the "young offender" distinction. The general view was that youth offenders should be treated the same as adult offenders. That there should be no "young offender" distinction.

The participants viewed the Teslin Tlingit Council and its operations as being the "government". The youth group indicated that communication between them as a group and the Teslin Tlingit Council was in need of improvement. The participants desire more exchange of information to work jointly toward improvement of their circumstances. Respondents mentioned that Elders should participate in youth meetings to provide information to the youth and to listen to the experience of the youth. The youth hope is to encourage mutual understanding through an information exchange.

Educating the Youth on Teslin Tlingit Traditions, Values, Laws, Language and History

When the respondents were asked to identify what they viewed their needs as in this particular area, many concerns and issues were raised. Lack of knowledge of the Tlingit Language was identified as the primary area of need. Respondents indicated that they want more emphasis on teaching Tlingit as a language in the school system in Teslin. The youth expressed concern the Tlingit language was only taught up to grade five at which time you had to switch to French. One respondent expressed concern because isolated Tlingit words were taught in school, so it was impossible to achieve fluency in the language. The Youth Group felt that Tlingit language should be offered as an option from primary to secondary school, thus providing for an opportunity to become fluent. The group also stated that the Tlingit language should be recognized equally with French, as a second language which meets university entrance requirements.

When the participants were asked to suggest more effective methods of teaching the Tlingit Language, a variety of responses evolved. Respondents felt that the Tlingit language

should be taught through story telling, and through explaining the meaning of Tlingit songs. They commented that this would add enjoyment and meaning to learning the language.

The respondents were asked to identify what laws, values, traditions, and historical information they needed to learn and how. The Youth stated that Elders should be involved at the school. Some respondents felt that the school should have as part of their curriculum, "culture days" where the Elders could teach legends, Tlingit customs, laws, and the meaning of "respect". The youth expressed their desire for more exposure to their Elders. The respondents felt that the Teslin Tlingit Council should include in the Tlingit Constitution, a provision that Elders and middle-aged people participate in activities which promote cultural and language revival for Teslin Tlingit.

Youth Interest and Enthusiasm in the Teslin Tlingit Self-Government and Justice Systems

The participants were asked to identify whether they thought the Youth were interested and enthusiastic about Teslin Tlingit Self-Government and Justice initiatives. The participants reported that there was a lack of interest because they "had been left out for a long time". They indicated that being involved in the focus group was encouraging and that youth were now starting to become interested. The youth felt that this focus group was considered a beginning and an acknowledgement.

When asked what would encourage them to get more involved, the respondents stated that the Teslin Tlingit Council should invite the youth to important functions to be involved and should make the youth feel welcome and important. The youth feel it should be mandatory that they be invited to Teslin Tlingit Council meetings and be provided with information workshops. The respondents stated that more interest has to be shown in what the youth have to say. The Youth indicated that parents should be involved as role models to show their responsibility and their interest in teaching the youth.

Program and Service Support for Youth While in Transition to Self-Government

The focus group participants were asked what types of programs and services would help while they were in transition to Self-Government. The majority of the comments were directly specifically towards the operations of the Teslin Tlingit Council and its programs and services to its members.

Participants stated they need more things to do. Youth participants said boredom was a problem which led to alcohol use. When the group was asked about the cause of boredom, they reported that the problem was due to lack of funds for programs, services, and equipment for recreational and sport activities. The participants indicated that they needed a youth worker and a recreation worker. The group also stated that a special place for youth is required, such as an alcohol and drug free pool hall and arcade centre to help alleviate boredom. The participants further described what their ideal "Youth Worker, Recreation Worker and Youth Program" would consist of. They indicated that the person would have to be a Tlingit person whom had cultural, recreational, and programming skills and that they speak the Tlingit language fluently. The program the group described consisted of cultural, recreational, educational, and sport concepts. The Youth Group also stated that the government and/or the Teslin Tlingit Council should provide funding for the equipment for the programs and services they require in the area of recreation.

The participants indicated that programs and services would be beneficial and would lead to a sense of pride, stronger self-esteem, knowledge of history, increased confidence and pride, and a stronger sense of who they are through knowledge of their heritage. Respondents also stated these programs would unite the people and encourage communication and knowledge of each other. Participants were concerned initiatives tried in

the past were inconsistent, short term or redundant which led to boredom in both the worker and the participants.

7.3 Women

Five women participated in this focus group ranging from fifteen to fifty five years of age. As was stated in Chapter One, this particular group represented not only women, but also youth, elders, parents, students, and members from the health field, the cultural area, and the education field. Offenders and victims were also represented within the group. Some group members wore more than one hat. As with the Youth Focus Group, this group intended to focus on the seven topic areas, however as the session progressed the group members were determined to raise the issues and concerns they had. Thus, the information collected is organized a little differently in order to accommodate the wishes and needs of these women.

The Role of Tlingit Women in the Home and their Concerns

Participants were asked to comment on what they viewed as the Tlingit woman's role in the home. Many concerns and issues were raised by the group participants. Concern was expressed regarding the amount of work women do. One participant informed that many women were entirely responsible for the household operation including the family livelihood, and she wanted more acknowledgement for their efforts. Another respondent indicated that some women feel they carry the load for the family. She stated that some women are responsible for the children, discipline, bringing home the bread and butter and running the household.

The respondents stressed the importance of recognizing traditional Tlingit parenting. They feel that parenting skill programs and workshops provided to them are based on European values and seem foreign. The group participants were also concerned that single

mothers received no assistance with parenting. One respondent indicated that traditionally, the family would be involved in raising children including aunts, uncles, parents and grandparents. Another respondent stressed that parents need to take interest and responsibility for their children and for their children's education.

The participants were asked to propose some strategies to address their issues and concerns regarding their role at home and parenting. The strategies were directed at the Teslin Tlingit Council in cooperation with the applicable governments. The following strategies were identified:

- Development of a Child Care Act that will integrate the Tlingit way of life with the contemporary way of life.
- Conduct research on the historical role of elderly women charged with the responsibility of dealing with family issues.
- Conduct research on the traditional system of support provided to single parent women.
- Develop programs to teach parenting skills which reflect the Tlingit way of life.

Perspectives on Teslin Tlingit Governance Structures, Processes, and Policies

Respondents were asked to comment in this area. Initially, much of the discussion focused on past healing initiatives of the Teslin Tlingits. Eventually the discussion surrounded the internal operations of the Teslin Tlingit Council and how the organization was meeting its members needs and expectations. The participants went further to describe some proposed strategies to address the areas of their concern.

The group indicated that healing programs were needed for men. The programs would teach parenting skills, relationship skills, work skills, and sex education skills. The women in the group envisioned this type of program to assist men for when they had to pass

information of this type on to their sons, and to help the men to assume their responsibility for their role in the community and for their actions. The participants felt that Teslin men had to take responsibility for their health and begin a healing process for themselves. One of the participants felt that "men have to get rid of their old behaviours and attitudes...they are portrayed as being non-emotion and extremely strong".

The respondents identified residential schools as having a great impact upon the Teslin Tlingits. The group participants feel that in order to address the problems the Teslin Tlingit Council must conduct research on the impact of residential schools on Teslin Tlingit men and women. To take a closer look at the "cycle" created by the residential school experience and its indirect affect on every Tlingit.

When asked to comment on the internal structures and processes of the Teslin Tlingit Governance, respondents stated that the issue of favouritism has to be addressed and ended in Teslin Tlingit Council hiring practises. Respondents also want to ensure that Teslin Tlingit Council's resources are allocated fairly to its citizenship. All respondents indicated that there is a lack of employment opportunities for women in Teslin. The group participants recommended that the Teslin Tlingit Council provide more training and employment opportunities, especially for the younger generation.

The respondents further went on to describe areas of concern and topics of issue with the Social Programs Department of the Teslin Tlingit Council. The respondents indicated that they want NNADAP workers to be more consistent in providing encouragement to their clients. The participants also mentioned that a day care centre is needed. The participants felt that the centre should be designed and developed using the Tlingit culture and language a foundation. The group also mentioned that training of Teslin Tlingit people will be required to staff the centre. Respondents also stated that they would like to see family, youth and women, educational, parental, relationship, and sexual abuse counselling made available in

Teslin. Respondents stated that more training in social areas is required to assist in the takeover of child welfare.

When respondents were asked if they saw any other matter as being crucial to the Teslin Tlingits achieving Self-governance they stated that education and training must be provided for. That the education and training provisions should include all areas that are required to implement the self-government system. The respondents further indicated that students need to be encouraged to partake in professional studies as opposed to diploma programs.

Women and the Traditional Tlingit Justice System

The focus group was requested to comment on female representation within their traditional justice system. All of the participants were concerned that all of the Clan Leaders are male. The participants felt this caused problems for women and children who are sexually assaulted. The participants said that the victims apparently find it difficult to deal with male Clan Leaders in these situations. Some of the women also felt that the Clan Leaders did not understand the contemporary system of Justice.

When the respondents were asked what they thought would help to solve the problems, they recommended that the area of Tlingit customary and family laws undergo further research. The group also recommended that the Teslin Tlingit Council hire a court worker to work with the Clan Leaders. The participants indicated that the court worker be educated in both the traditional and contemporary systems and must be able to communicate effectively in both Tlingit and English.

Tlingit Customs, Values, Laws and Language

Respondents were asked to provide their insight into this area. The participants indicated that the Teslin Tlingits needed to develop a strategy for creating a bridge between

generations. The group recommended that this strategy incorporate methods to educate the younger generation on Tlingit culture and language.

Respondents feel that there is a lack of resource people within the community. Participants want resource people who will show respect to them and reflect Teslin Tlingit culture and language in their own lives. Respondents stated that more information on Teslin Tlingit traditional laws and customs is needed in order to pass this information on to younger generations. One of the participants stated that the elders have their own way of teaching and their ways are set. She also informed that the younger ones are learning in a different way today.

The participants were asked for strategies to address the identified concerns and issues. Research and documentation of Tlingit customary laws was identified as being necessary, with a view to integrating Tlingit traditions with contemporary laws. The group also recommended that a program be developed to help Elders develop and plan traditional activities. The participants indicated that the interest is there and that a program of this kind will develop something that will instill pride in Tlingit. The participants also felt that research was necessary in the areas of curriculum development and on the significance of names, clans, and places.

Perspectives on the Public School System

As was stated at the beginning of this section, some of the findings evolved and were not planned. This particular section is an example of precisely that. The findings were recorded and thus reported due to its importance to the group participants and to its significance as a factor in the Teslin Tlingits achieving their goals of Self-Governance.

The respondents expressed concern about the current operation of the school and the professionalism of the teachers who work there. The participants reported concern regarding

the use of emotional and verbal abuse by educators in the local school and the detrimental affect this had on their children's dignity, pride and self-esteem. Respondents stated that teachers do not follow their code of ethics, with regards to respectful and constructive treatment of their students.

The participants think that the teachers should actively consult with parents regarding overdue assignments, discipline procedures, and problems with students to encourage parental involvement in education. Some respondents felt that some students are uninformed about what school expectations are and their individual level of learning. Respondents felt that options should be presented, with the student's cooperation, and be within reach of the student, regarding unfinished or late assignments as opposed to kicking students out of school. The group participants felt that the practise of "kicking" students out of school was a contributing factor to high school drop-out.

The participants also felt teachers provided more attention and direction to non-native students. The respondents felt that teachers should be culturally sensitive in all aspects and be able to effectively communicate via frequent feedback, with parents and students.

Women acknowledged the need for parents to motivate their children to achieve in education and felt the Teslin Tlingit government also had to play a part in teaching and providing incentive regarding education.

The participants were asked to identify some strategies for addressing their areas of concern. The group felt that a native counsellor is required in the school. The participants indicated that this person could counsel students, monitor students at home and at school, assist students, parents, and educators in communication and work directly with the Teslin Tlingit Council. The respondents indicated that the Education Act needed to be simplified and the information has to be delivered verbally and in written form to community members. The group recommended that teachers, parents and students partake in a life skills course and

a cultural orientation together. The group also advised that teachers be informed that they frequently break their code of ethics. This should be done in a positive and constructive manner.

CHAPTER EIGHT

RESEARCH REPORT CONCLUSION

8.1 Introduction

As this research study progressed it became apparent that the Teslin Tlingits participating in the interviews and focus groups had many concerns and issues regarding the internal operations of the Teslin Tlingit Council. It was decided that this study would not be complete if the concerns and issues were not addressed in some manner. Ironically, the issues and concerns raised in the report were addressed through an Executive Summary of this report from the Teslin Tlingit Leadership. Refer to section 8.4 and to Appendix B for details on this matter. In addition to individual participant concerns and issues, it became apparent that the Teslin Tlingits faced larger scale problems with respect to achieving their self-government goals.

8.2 Barriers to Self-Governance

Three primary problems were identified in this study. The first being the powers of the Teslin Tlingit First Nation Self-Government vs. other levels of government. At the

present time, the Teslin Tlingit First Nation deals with this matter through the provisions in the Teslin Tlingit First Nation's Final Agreement, the Self-Government Agreement, and the Tlingit Constitution. There are provisions in the Agreements that provide direction to the Teslin Tlingit Leadership and to the governments involved, for dealing with issues surrounding these types of problems.

The second problem area is the task of achieving harmony with respect to the traditional Tlingit governing structures, laws and beliefs, and the contemporary roles and values of some Teslin Tlingits, particularly those of women and youth. For example, issues such as female and youth representation and involvement in the Teslin Tlingit Self-Government and Judicial systems will require further research, analysis and action in order to help bridge the gaps involving the growth and change experienced by women and youth over the years.

The third area that will require further research, analysis, and action is the problem of achieving the goal of self-governance with approximately five hundred Teslin Tlingits. Almost half of the Teslin Tlingit citizens live outside of Teslin. Already, some citizens of the Teslin Tlingit First Nation wear more than one hat, sometimes the case is two or three. The Teslin Tlingit First Nation will have to take an indepth look at how it can most effectively achieve their goals of mature-self governance with such a narrow population base.

8.3 Concluding Remarks

In conclusion, two primary conclusions were drawn from this study. The first being that the Teslin Tlingit project participants felt that land and the ownership of it, encompasses everything. This shows that the Teslin Tlingit First Nation is truly holistic in nature, as all aspects of life are considered together. The Teslin Tlingits realize and accept their responsibility for safeguarding the spiritual, emotional, and physical aspects of Tlingit life. This is reflected in their desire for the return and responsibility of their traditional lands, and

in their relentless pursuance of self-governance. Without the land, the spiritual, emotional, and physical aspects of Tlingit life will no longer be truly Tlingit.

The second conclusion is that Teslin Tlingits desire and need to be educated on all aspects of Teslin Tlingit Self-Government and Tribal Justice. The method of educating, must be conducive to Tlingit learning styles to ensure effective learning. With education comes understanding, and with understanding, respect will naturally evolve.

8.4 Executive Summary

The Teslin Tlingits are well on their way to achieving their goals with respect to Aboriginal self-governance. The Teslin Tlingit Leadership takes this very seriously, as it does this research report. The Teslin Tlingit Leadership anticipates that the final Royal Commission report will have a high profile, and that all levels and types of governments in Canada will take this report seriously as well. Moreover, the Teslin Tlingit First Nation has faith that this research study will greatly assist the public, policy makers, other First Nations, and the Canadian Government in developing a better understanding of Aboriginal self-governance in Canada. The better understanding and greater awareness will enable those involved in Aboriginal self-governance in Canada to make more informed decisions.

The Teslin Tlingit Leadership feels that this report has greatly enlightened them as to what the aspirations and needs are of the Teslin Tlingit people with respect to individual Teslin Tlingit lives, self-governance, and justice. This research report also proved to the Teslin Tlingit First Nation that they are on the right path with respect to self-governance. The greater majority of the problems that the project respondents referred to have already been addressed, are currently being addressed, or plans are in place to deal with the matter/s. Furthermore, the Executive Director of the Teslin Tlingit Council drafted a list of recommendations derived from the research findings in Chapters five, six, and seven of this report. The recommendations were directed to specific program and service departments

within the Teslin Tlingit Council organization for review. The listing of recommendations was a beginning point in meeting the specified needs and aspirations of the Teslin Tlingits, indicated in this report. For details on this report refer to Appendix B.

ROYAL COMMISSION ON ABORIGINAL PEOPLES

**TESLIN TLINGIT FIRST NATION
RESEARCH PROJECT**

**QUESTIONNAIRE ON
SELF-GOVERNMENT AND TRIBAL JUSTICE**

July, 1993

APPENDIX A
ROYAL COMMISSION ON ABORIGINAL PEOPLES
TESLIN TLINGIT FIRST NATION RESEARCH PROJECT
QUESTIONNAIRE ON
SELF-GOVERNMENT AND TRIBAL JUSTICE

PART I INTRODUCTION

The Teslin Tlingit First Nation has agreed to participate in a research project with the Royal Commission on Aboriginal Peoples. The objective of the research project is to provide information to the Commission for the purposes of educating Government on the meaning and practise of self-government and tribal justice within the Teslin Tlingit First Nation, and ensuring tribal justice models will meet the needs of their constituents.

The Teslin Tlingit First Nation has taken steps towards Self-Government. The first step was to develop a Constitution outlining its governing structures and the roles and powers of those structures. This Constitution recognizes the traditional Tlingit system of governing through the Clan system. Structures included in the Constitution are the General Council, the Executive Council, the Elders Council, and the Justice Council. The Teslin Tlingit First Nation has now negotiated a comprehensive Land Claims Agreement and a Self-Government Agreement with the Federal and Yukon Governments. The Land Claims Agreement sets out the responsibilities of the various levels of Government and provides for Self-Government bodies such as management boards which will regulate land use, renewable resources management, and other resource areas. The Self-Government Agreement incorporates the Constitution and sets out the manner in which the Teslin Tlingit Council will exercise its responsibility for Teslin Tlingit citizens and their Settlement lands.

The purpose of this questionnaire is to gather information about the opinions of Teslin Tlingit citizens in two main areas: (1) the manner in which the traditional system of governing can be woven through the self-government structures to be put into place under the Self-Government Agreement and Land Claims Agreement, to ensure traditional governing principles and philosophy are retained; and (2) the strengths and weaknesses of the current and proposed tribal justice structures and processes.

The information will be analyzed and incorporated, along with information from other sources, into a final report and submitted to the Commission.

The Teslin Tlingit Council anticipates that the Commission's Final Report will be accepted and treated seriously by the Federal Government. This questionnaire is an opportunity for Teslin Tlingit citizens to have a direct role in enabling Government to make more informed decisions in future policy formulation with respect to the aspirations of Aboriginal peoples.

The names of respondents and all their responses to this questionnaire will be held in strictest confidence, under the control of researchers employed by the Teslin Tlingit Council. No individual response will ever be identified, either to the Commission or to any other party. Information will only be released in the form of percentages, for example, a certain percentage of the persons interviewed answered "yes" to a certain question. Information released in this form will be made available to any respondent who requests it.

Respondents are not obligated to answer each and every question. Every respondent has the right to refuse to answer a specific question or questions without providing a reason for the refusal.

PART II SELF-GOVERNMENT

A. TESLIN TLINGIT SELF-GOVERNMENT TRADITIONS

A1. Please indicate how much you know about each of the following aspects of traditional Teslin Tlingit self-government:

customary law (adoption, inheritance, etc.)	a lot / a little / none
dispute resolution mechanisms	a lot / a little / none
child rearing/education	a lot / a little / none
role of Council	a lot / a little / none
role of elders	a lot / a little / none
clan/family structures	a lot / a little / none
history	a lot / a little / none
spiritual dimensions/ relations to nature	a lot / a little / none
decision making	a lot / a little / none
relations with other First Nations	a lot / a little / none

A2. Do you know of any Teslin Tlingit self-government traditions other than those listed in Question A1?

yes / no

If "yes", please describe:

A3. How did you learn about the Teslin Tlingit traditions discussed in Questions A1 and A2?

A4. Have you ever had any experience or involvement with any of the Teslin Tlingit traditions discussed in Questions A1 and A2?

yes / no

If "yes", please describe:

B. CONTEMPORARY NEGOTIATED SELF-GOVERNMENT SYSTEM

B1. How much you do know about the new self-government system that has been negotiated by the Teslin Tlingit First Nation?

a lot / a little / nothing

B2. How much do you think the rest of the community knows about the new self-government system?

a lot / a little / nothing

B3. Do you think more information about the new self-government system should be delivered to the members of the community?

yes / no

If "yes", what methods should be used to do so?

B4. Based on what you already know or have heard, do you think the new system will be a good thing for the citizens of the Teslin Tlingit First Nation?

yes / no / maybe / don't know

B5. Do you agree that the new self-government system embodies or represents to an appropriate extent the traditional self-government practices, spirituality and philosophy of Teslin Tlingit First Nation culture?

strongly agree / agree / disagree / strongly disagree

If you disagree, how can the system better represent this philosophy?:

B6. What do you think are the best features of the new self-government system, and why?

B7. What do you think are the worst features of the new self-government system, and why?

B8. Are there any SPECIFIC traditional practices that you feel should be given greater or lesser prominence in the new self-government system?

yes / no

If "yes", please describe:

B9. Do you agree the Canadian Constitution should be changed to fully recognize and entrench Aboriginal self-governance?

strongly agree / agree / disagree / strongly disagree

If you agree, what changes should be made?

B10. Do you agree that the new self-government system is the best way for the Teslin Tlingit First Nation to achieve political self-determination?

strongly agree / agree / disagree / strongly disagree

B11. Do you agree that the new self-government system is the best way for the Teslin Tlingit First Nation to achieve economic self-sufficiency?

strongly agree / agree / disagree / strongly disagree

B12. In what ways do you think the new self-government system will contribute to achieving the goals of political self-determination and economic self-sufficiency?

B13. In what ways do you think the new self-government system will hinder achieving the goals of political self-determination and economic self-sufficiency?

B14. To what extent, if any, do you think the community should be involved in the development and practice of the new self-government system?

a lot / some / a little / not at all

How do you think that level of involvement can best be accomplished?

B15. To what extent do you think women, youth, and elders should be involved as "special interest" groups in the development and practice of the new self-government system?

a lot / some / a little / not at all

B16. Do you agree that a good self-government system displays gender equity in positions of authority, for example, that there should be just as many female members on the General Council as there are male members?

strongly agree / agree / disagree / strongly disagree

B17. Do you agree that the new self-government system should ensure that women hold a minimum number of positions of authority?

strongly agree / agree / disagree / strongly disagree

B18. What SPECIFIC measures do you think can be taken to ensure that the interests of youth, women and elders are represented fairly under the new self-government system?

B19. What do you think will be the impact, good or bad, of the new self-government system on Teslin Tlingit youth?

B20. What do you think will be the impact, good or bad, of the new self-government system on Teslin Tlingit elders?

B21. What do you think will be the impact, good or bad, of the new self-government system on Teslin Tlingit women?

B22. Do you agree the new self-government system will enable the Teslin Tlingit First Nation to design and deliver services and programs in an effective manner?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

B23. Do you agree the new self-government system will enable the Teslin Tlingit First Nation to develop and manage land, water and natural resources in an effective manner?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

B24. Do you agree the new self-government system will enable the Teslin Tlingit First Nation to resolve disputes within the community in an effective manner?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

B25. Do you agree the new self-government system will enable the Teslin Tlingit First Nation to resolve disputes with other governments in an effective manner?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

B26. Do you agree that traditional ways of decision making should be incorporated into the design and practice of the Teslin Tlingit First Nation government?

strongly agree / agree / disagree / strongly disagree

B27. What SPECIFIC types of decision making should be used, and in what situations?

B28. Do you agree that it is important that the Teslin Tlingit First Nation government be accountable for its actions to the citizenship it represents?

strongly agree / agree / disagree / strongly disagree

B29. Do you agree that such accountability is present in the new self-government system?

strongly agree / agree / disagree / strongly disagree

B30. Do you agree the degree of accountability present in the new self-government system is appropriate?

strongly agree / agree / disagree / strongly disagree

B31. Which features of the new self-government system do you think will ensure accountability?

B32. If you think the degree of accountability present in the new self-government system should be changed, in what SPECIFIC ways should it be changed?

B33. Are there other SPECIFIC ways in which accountability could or should be maintained, which are not in place under the new self-government system?

B34. Have you ever had any experience or involvement with Aboriginal self-government, in any capacity?

yes / no

(If "yes", go to *Question B35*. If "no", go to Part III Tribal Justice.)

B35. Please describe BRIEFLY the facts and any feelings or opinions you had about the experience.

PART III TRIBAL JUSTICE

A. TESLIN TLINGIT JUSTICE TRADITIONS

A1. Please indicate how much you know about the following aspects of the traditional Teslin Tlingit justice system:

Clan System	a lot / a little / none
Clan Court	a lot / a little / none
Peace Maker courts	a lot / a little / none
healing circle	a lot / a little / none
holistic health	a lot / a little / none

A2. Do you know of any Teslin Tlingit justice traditions other than those listed in Question A1?

yes / no

If "yes", please describe:

A3. How did you learn about the Teslin Tlingit traditions discussed in Questions A1 and A2?

A4. Have you ever had any experience or involvement with any of the Teslin Tlingit traditions discussed in Questions A1 and A2?

yes / no

If "yes", please describe:

A5. What does the concept of "justice" mean to you?

B. CURRENT JUSTICE SYSTEM STRUCTURES AND PROCESSES

Please indicate the extent to which you agree with the following statements:

B1. In general, the current justice system is an effective way to deal with the problem of crime in society.

strongly agree / agree / disagree / strongly disagree

B2. Criminal behaviour may have its roots in family violence issues or other forms of violence experienced by the offender.

strongly agree / agree / disagree / strongly disagree

B3. Aboriginal persons receive fair and impartial treatment in the current justice system.

strongly agree / agree / disagree / strongly disagree

B4. Aboriginal traditions and spiritual beliefs play an important and respected role in the current justice system.

strongly agree / agree / disagree / strongly disagree

B5. All other factors being equal, an Aboriginal person charged with a criminal offense is more likely to be sent to jail than a non-Aboriginal person charged with the same offence.

strongly agree / agree / disagree / strongly disagree

B6. Incarceration is a proper and effective way to punish an offender and prevent further offenses.

strongly agree / agree / disagree / strongly disagree

B7. Offenders who are incarcerated usually return to the community as better citizens.

strongly agree / agree / disagree / strongly disagree

B8. Offenders receive rehabilitative help in the current system which prepares them to return to their community as responsible citizens.

strongly agree / agree / disagree / strongly disagree

B9. The current system of justice acts as a deterrent to criminal behaviour, i.e. people don't usually offend again after being dealt with in the current system.

strongly agree / agree / disagree / strongly disagree

B10. Traditional healing methods and counselling are more appropriate for dealing with Aboriginal offenders, and jail should only be imposed as a last resort.

strongly agree / agree / disagree / strongly disagree

B11. It is appropriate to deal with criminal offenses in isolation from the other social, economic or health characteristics of the offender.

strongly agree / agree / disagree / strongly disagree

B12. Elders can play a useful role in dealing with Aboriginal offenders.

strongly agree / agree / disagree / strongly disagree

B13. Elders play an influential role in the current justice system.

strongly agree / agree / disagree / strongly disagree

B14. Aboriginal culture and philosophy should play a predominant role in any justice system that deals with Aboriginal persons.

strongly agree / agree / disagree / strongly disagree

C. PROPOSED NEW JUSTICE SYSTEM STRUCTURES AND PROCESSES

C1. How much do you know about the new justice system that is proposed for the Teslin Tlingit First Nation?

a lot / a little / nothing

C2. How much do you think the rest of the community knows about the proposed justice system?

a lot / a little / nothing

C3. Do you think more information about the proposed justice system should be delivered to the members of the community?

yes / no

If "yes", what methods should be used to do so?

C4. Based on what you already know or have heard, do you think the new system would be a good thing for the citizens of the Teslin Tlingit First Nation?

yes / no / maybe / don't know

What is the reason for your answer?

C5 .How do you think traditional justice principles differ from the principles employed in the current justice system?

C6. Do you agree that traditional methods are appropriate for use in a contemporary justice system?

strongly agree / agree / disagree / strongly disagree

C7. Based on what you already know or have heard, do you think the proposed justice system embodies or represents the traditional culture and philosophy of the Teslin Tlingit First Nation to an appropriate extent?

yes / no

If "no", should it be represented:

more than in the present proposal

less than in the present proposal

C8. Are there any SPECIFIC traditional practices that you feel should be given greater or lesser prominence in the proposed system?

yes / no

If "yes", please describe:

C9. To what extent, if any, do you think the community should be involved in the development of a justice system?

a lot / some / a little / not at all

C10. To what extent, if any, should women, youth, and elders be involved as "special interest" groups in the development of a justice system?

a lot / some / a little / not at all

C11. Do you agree that women will be treated fairly and justly under the proposed system?

strongly agree / agree / disagree / strongly disagree

C12. Do you agree that a good justice system displays gender equity in positions of authority, for example, that there should be just as many female judges as there are male judges?

strongly agree / agree / disagree / strongly disagree

C13. Do you agree that the proposed justice system should ensure that women hold some positions of authority?

strongly agree / agree / disagree / strongly disagree

C14. Are there any SPECIFIC measures that can be taken to ensure that women are treated fairly and justly under the proposed system?

C15. To what extent should the Teslin Tlingit First Nation justice system have jurisdiction over non-citizens within Teslin Tlingit First Nation settlement lands?

C16. To what extent should the Teslin Tlingit First Nation justice system have jurisdiction over its citizens outside Teslin Tlingit First Nation settlement lands?

C17. What issues or matters do you think the Teslin Tlingit First Nation justice system should have exclusive jurisdiction over?

C18. What issues or matters do you think the Teslin Tlingit First Nation justice system should share jurisdiction with other Governments?

C19. How important to the community are Elders?

very / a little / not much / not at all

C20. How would you describe the role that Elders should play in the justice system?

C21. Do you agree the Court of Clan Leaders will make good decisions?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

C22. Do you agree that the community will respect and abide by the decisions of the Court of Clan Leaders?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

C23. Do you agree the Clan Leaders need to undergo training or some other kind of preparation before they start making decisions in a new justice system?

strongly agree / agree / disagree / strongly disagree

If you agree, please describe what preparation you think is necessary:

C24. Do you agree that victims of crime should be compensated?

strongly agree / agree / disagree / strongly disagree

If you agree, what form should such compensation take?

If you disagree, why?

C25. In what ways, other than incarceration, should an offender be held responsible for his/her actions?

C26. What do you think is the best method of rehabilitating a person who has committed a criminal offense?

Jail

Counselling/psychological treatment

Other (specify)

C27. Do you agree that reconciliation between the victim and the offender is an important part of dealing with criminal offenses?

strongly agree / agree / disagree / strongly disagree

If you agree, how should such reconciliation be accomplished?

If you disagree, why?

C28. Do you agree the Teslin Tlingit First Nation is ready to gradually assume responsibility for the administration of justice?

strongly agree / agree / disagree / strongly disagree

What is the reason for your answer?

C29. Do you agree there are some criminal offenses which should always be dealt with by the current justice system?

strongly agree / agree / disagree / strongly disagree

If you agree, please describe which offenses and why. If you disagree, please explain why.

C30. Have you ever had any experience or involvement with the current justice system?

yes / no

(If "yes", go to Questions C31 and C32. If "no", go to Part IV Respondent Demographics.)

C31. If the answer to Question C30 was "yes", was the experience:

personal (as victim, offender or witness)

through the involvement of a friend or relative

through first hand observation

by word of mouth

(circle all that are applicable)

C32. If the answer to Question C31 included "personal", please describe BRIEFLY the facts and any feelings or opinions you had about the process and the outcome.

PART IV RESPONDENT DEMOGRAPHICS

1. Sex

male / female

2. Which age group are you in?

less than 15 years

15 - 24 years

25 - 34 years

35 - 44 years

45 - 55 years

more than 55 years

3. Do you reside within the boundaries of Teslin?

yes / no

If "no", please state where you reside:

4. What is the highest level of education you have attained?

no formal education

some primary school (Grades 1 - 8)

completed primary school

some secondary school (Grades 9 +)

completed secondary school or equivalent

some post-secondary
degree, diploma or certificate

5. What is your marital status?

never married (including common law)

married (including common law)

divorced

separated

widowed

6. What is your employment status?

employed (full or part time)

unemployed

retired

full time homemaker

student

7. What is your usual occupation or trade?

CONCLUDE INTERVIEW

APPENDIX B

**ROYAL COMMISSION ON ABORIGINAL PEOPLES
TESLIN TLINGIT FIRST NATION RESEARCH PROJECT**

**EXECUTIVE SUMMARY OF
PROJECT PARTICIPANT'S ISSUES AND CONCERNS**

MAY 9, 1994

**EXECUTIVE SUMMARY OF
PROJECT PARTICIPANT'S ISSUES AND CONCERNS**

MAY 9, 1994

FOREWORD:

The following recommendations were derived from the report on Self-Government and Tribal Justice that the Teslin Tlingit Council submitted to the Royal Commission in November of 1993. It is significant to note that the following recommendations are directly from the members of the Teslin Tlingit Council that participated in the research project. Furthermore, the recommendations will be utilized by the Teslin Tlingit Council as a means to improve and refine the programs and services it offers to its citizens, and to provide guidance while in pursuance of full self-governance. It is anticipated that this will help to better meet the needs of the Tlingit people.

Bearing equal significance to the above, is the fact that many positive comments regarding the operations of the Teslin Tlingit Council were mentioned by the participants involved in this study. It is also significant to note, that many of the recommendations mentioned have already been addressed and acted upon by the Teslin Tlingit Council. So congratulations to those that are on the right path!

The recommendations are categorized according to the departments that exist within the Teslin Tlingit Council. The purpose of categorizing is to assist with the expediency in which the recommendations may be reviewed. Some departments have no specific recommendations, however the "General" category may apply in such cases.

SUMMARY OF RECOMMENDATIONS

1. Lands and Land Use Management

2. Self-Government

- ❖ To involve the whole membership in the entire process, such as in the planning and implementation stages.
- ❖ Positions of authority, such as Clan Leaders, General Council, and the Chief and Council, should realize their responsibilities, and thus as a result could perhaps begin practising the authority vested in their positions in a manner that will benefit the people that they represent.
- ❖ To provide more information on exactly what the system is, what it was derived from, how it will work, and so on, to the members by using layman's terms, and not a lawyer's. This can be accomplished through small groups that are personalized to some extent. The information should be made available at the pre-school and at the elementary school levels as well. It must be in a form where all members can take advantage of the opportunity to learn.
- ❖ To ensure that women, youth, and elder's are represented at every level, by ensuring that a minimum number of positions of authority are reserved for these particular groups.

3. Tribal Justice

- ❖ Involve the whole membership by requesting their input on any type of matter. This could include the planning or implementation processes, or even the day to day matters.

- ❖ Follow-up programs must be established, developed, and practised in regards to members that are attempting to reintegrate themselves into the community after returning from a correctional facility. This applies to the youth as well.
- ❖ As in self-government, more information in regards to every aspect of this department is requested. The information presented should be easily understood by the young and the old. Information is particularly requested in the following areas:
 - Healing Circles
 - Court of all Clan Leaders
 - Peacemaker Courts
 - Traditional Laws and Punishments
 - Circle Court
 - Supreme Courts of the Tlingit Nation
- ❖ To involve the offender's/victim's family on a more frequent basis.
- ❖ Ensure that all programming is **Tlingitized**.
- ❖ To develop support systems within the community for offenders, victims, and the families affected.
- ❖ To provide training opportunities for Clan Leaders that will adequately equip them to fulfil their responsibilities in a justice capacity. Training is recommended in the following areas:
 - Mainstream Justice System
 - appropriate sentencing
 - court procedures

- criminal code
 - Charter of Human Rights
 - Historical traditional crimes, punishments, and consequences
 - The whole realm of Tribal Justice
 - Psychology
 - Writing and Reading Skills
 - Counselling/Treatment Initiatives
- ❖ Ensure that consistency is practised in regards to the enforcement of punishments and consequences.
- ❖ Offenders and victims should be allowed more input. For example, the youth group that participated in the research project requested that they should be allowed to speak on their own behalf. The youth felt that this would be more realistic as they would have a good idea of how they can change their own behaviours.
- ❖ The youth group involved also recommended that they have a youth representative on the sentencing panel. It is felt that this would ensure that their perspective and contemporary life style would be better represented and more thoroughly considered. It is also recommended that this "youth rep" be fully trained along with the other sentencing panel members.

4. Renewable Resources

- ❖ To have the land returned to Tlingit ownership and control.

5.1 Social/Cultural Development

- ❖ Develop a youth group and a youth council to meet the needs of today's generation. It is further recommended than an Elder participate in youth meetings to provide information to the youth and to listen to the experiences of the youth. The purpose would be to create a mutual understanding via information exchange.
- ❖ Establish a Youth Worker position specifically for the purpose of working with the Tlingit youth. The youth group involved recommended that programming involve the following aspects.
 - Provision of a Youth Centre
 - Provision of adequate funding, equipment, and resources
 - Youth Worker to be of Tlingit ancestry and fluent in the Tlingit language
 - Provision of recreation, sport, socializing, cultural, and education opportunities for the Teslin youth
- ❖ After-care and follow-up services must be established and practised in our community. Particularly for members that are returning from treatment.
- ❖ Move the focus from treatment to prevention and start with our youth.
- ❖ Get the healing centre fully operating. It is probable that this will result in an increase in "success stories". This centre should offer services in the following areas:
 - Counselling in the following areas: family, youth, elders, men, women, sexual abuse, physical abuse, emotional abuse, alcohol abuse, drug abuse, verbal abuse, residential school syndrome, relationships, and parenting.

- Support system for parents (single and other) and for those people being counselled or treated.
 - Prevention in the above areas.
 - Promotion of healthy individuals, families, and the community from a holistic perspective.
 - Programming specifically targeted for services that are required by the male membership.
- ❖ Find a balance between alcohol and drug abuse. More often than not, the focus is on the problems that accompany alcoholism. We must begin to realize that drugs pose many problems that are quite similar in nature to alcohol related problems.
 - ❖ Any programs, treatment and so on, should be balanced between the sexes. In the past the focus has primarily been on women, men must be given encouragement to take part in the healing process.
 - ❖ Development of a Tlingit Daycare, this would provide the opportunity we need to expose our young ones to a Tlingit environment at a very young age. This centre should be designed and developed using the Tlingit culture and language as the foundation.

5.2 Cultural

- ❖ To teach the Tlingit way of life to all members, young and old, who have a desire to learn. This includes language, songs, dances, laws, artwork, crafts, spirituality, history, governance, justice and the clan system
- ❖ To address reviving the Tlingit language as a priority.

- ❖ To instill a strong sense of identity, pride, and dignity in all members. This will be met by learning, and thus living the Tlingit way of life.

5.3 Education

- ❖ Elders to assume their traditional role as educators.
- ❖ For women to become the "keepers of knowledge" and the "first teachers" once again.
- ❖ To provide more training opportunities for the disadvantaged.
- ❖ Ensure that educational opportunities such as workshops and on the job training opportunities are distributed fairly amongst membership.
- ❖ Provide training opportunities that are accessible by any member whom so desires it. Opportunities to may be in the following areas: Relationship Training, Parenting, Life Skills, Career Development and in all areas involving Self-Government. Note this overlaps into the social area 5.1.
- ❖ Encourage students to pursue professional studies as opposed to just diploma programs.
- ❖ Local teachers should be encouraged to involve parents more in regards to disciplinary procedures, assignments and problem behaviours.
- ❖ Provisions should be made for a Tlingit Counsellor at the school. This person could have responsibilities such as:
 - Counsel students
 - Monitor students at home and at school

- Assist in improving communication between students, parents, and educators
 - Work directly with the staff of the TTC
 - ❖ Teachers to become more culturally sensitive when dealing with students and parents. It is recommended that teachers, parents, and students partake in a life skill course and a cultural orientation project together.
- 6. Capital and Community Services**
- 7. Economic Development**
- 8. Finance and Administration**
- ❖ To allow membership access to the financial books or records by having them readily available at the TTC office.
- 9. General - Applicable to all Departments**
- ❖ To make decisions that represent fairness and impartialness. To use practises that represent equalism and that avoid favortism and nepotism.
 - ❖ To recognize and appreciate local resources (including the talented) within our membership and community, by utilizing them to the fullest extent.
 - ❖ To be aware that you are accountable to the people whom you provide services to. This could be practised through information sessions, such as an outline (written or verbal) of your accomplishments. This could be related to the membership via meetings, workshops, or newsletters. Information should be made available on a regular basis, such as monthly or bi-monthly. It is hypothesized that if

communication is improved, then involvement and participation may increase as a result.

- ❖ To conduct yourself in the manner, both personally and professionally, specified in the Tlingit Constitution.
- ❖ To be role models in the community. To involve the youth, women and elders to the fullest extent, and to ensure that they are represented at every level, especially at the political and judicial levels.
- ❖ 1) Training opportunities in the departments that already exist should be made available to the youth, so as to prepare them for their future roles, when they take over the operations of the TTFN. If this is followed up on then situation such as the absence of TTC's Director of Lands, can be avoided in the future, because a fully qualified person will be immediately and readily available. This will also allow for involvement and utilization of our youth.
- ❖ 2) Any programs developed must be applied or practised on a consistent basis.

10. General Membership

- ❖ To take the initiative to realize their roles and responsibilities in being a member of the Teslin Tlingit Council.
- ❖ To become more involved in all aspects of Tlingit life, such as making the effort to learn more about the Tlingit way of life and the language.

11. Territorial and Federal Government

- ❖ To provide the resources and support necessary to fulfil the recommendations from the people. This can be interpreted in the broadest sense.

12. Research

- ❖ Research will be necessary in many areas to assist in understanding, and eventually development of programs that represent a balanced integration of the traditional and contemporary ways. The recommended areas are outlined as follows:
 - Development of a Tlingit Child Care Act. This should include the traditional and contemporary disciplinary methods and the traditional roles of all family members in parenting.
 - Documentation of the Tlingit Way for the purpose of educating those that require or desire it. The focus should include content as well as significance of the aspect from a past, present, and future perspective. Research should include traditional laws, customs, songs, dances, art, legends, history, the clan system, the governing system, the judicial system, significance of seasons, significance of Indian names and place names, and medicines.
 - Development a Tlingit Day Care.
 - Job Creation: Native Counsellors
 - Youth Worker
 - Training plans for recommended areas.

ENDNOTES

- i. Aurel Krause. **The Tlingit Indians**. Original publication in 1885. In Chapter One: Historical Survey, Krause records in detail the first accounts of contact with the coastal Tlingits.
- ii. Edward Lester Bullen. **Education of the Indians of Teslin, Yukon**. An unpublished thesis that was submitted by the author to the University of Alberta/ Education Division/ Graduate Studies. November 1968. In the first sixty pages or so, Bullen discusses the history of the Teslin Tlingits.
- iii. Edward Bullen elaborates on the early-post contact activity of the Teslin Tlingits from page 60 through to page 95 in his graduate studies thesis.
- iv. Edward Bullen in his thesis provides very detailed information pertaining to the impact that residential schools and the construction of the Alaska Highway had on the Teslin Tlingits from pages 110 to 120.
- v. Yukon Data Book. 1986. The section on the community of Teslin provides some data that is still relevant today.
- vi. Brighter Futures Initiative. 1993. Unpublished report prepared by a Teslin Tlingit woman named Corinne Sheldon. The section on community profile of Teslin provided up to date information pertaining to Teslin.
- vii. Teslin Women's Institute. 1972. **The history of the Settlement of Teslin**. This report contains valuable information regarding the history of Teslin.
- viii. Refer to the Final Agreement, Chapter 2 for general provisions on bringing the Agreement into effect.
- ix. Final Agreement s. 24.12

- x. Final Agreement s. 2.2.2
- xi. Self-Government Agreement s. 3.1
- xii. Self-Government Agreement s. 8.3
- xiii. Self-Government Agreement s. 10.1
- xiv. Final Agreement s. 10.2
- xv. Self-Government Agreement s. 9.1
- xvi. Self-Government Agreement s. 9.2
- xvii. Self-Government Agreement s. 2.1
- xviii. Self-Government Agreement s. 2.2
- xix. Self-Government Agreement preamble
- xx. Self-Government Agreement preamble
- xxi. Constitution s. 2.1
- xxii. Constitution s. 6.4
- xxiii. Constitution s. 6.2
- xxiv. See Constitution s. 5.0 for all the following points.
- xxv. Self-Government Agreement s. 1.1; Constitution s. 4.2
- xxvi. Self-Government Agreement s. 10.3
- xxvii. Constitution s. 7.1
- xxviii. Constitution s. 7.2
- xxix. Constitution s. 7.3
- xxx. Constitution s.8
- xxxi. Self-Government Agreement s. 3.6
- xxxii. Final Agreement s. 2.2.3; Self-Government Agreement s. 3.3; Constitution

- s. 3.2
- xxxiii. Final Agreement s. 2.2.6; Self-Government Agreement s. 3.4
- xxxiv. Self-Government Agreement s. 3.5
- xxxv. Final Agreement s. 2.2.7
- xxxvi. See Final Agreement Chapter 3 for details of the following points.
- xxxvii. See Constitution s. 9.0 for General Council provisions.
- xxxviii. See Constitution s. 11.0 for provisions on the Executive Council.
- xxxix. Constitution s. 14.0
- xl. See Constitution s. 15.0 for provisions on the Elders Council.
- xli. Constitution s. 16.0
- xlii. See Constitution s. 13.0 for provisions on the Chief Executive.
- xliii. See Constitution s. 21.0 for provisions on the Management Board.
- xliv. Self-Government Agreement s. 13.1
- xlv. Self-Government Agreement s. 13.2
- xlvi. Self-Government Agreement s. 13.3
- xlvii. Self-Government Agreement s. 14.1
- xlviii. Self-Government Agreement s. 14.2
- xlix. See Self-Government Agreement s. 13.4 for discussion of Emergency Powers.
- l. Self-Government Agreement s. 1.1
- li. Self-Government Agreement s. 13.5.2
- lii. Self-Government Agreement s. 13.5.3
- liii. Self-Government Agreement s. 13.5.4
- liv. Self-Government Agreement s. 13.5.5

- lv. Self-Government Agreement s. 13.5.6
- lvi. Self-Government Agreement s. 20.0
- lvii. Constitution s. 10.0
- lviii. Constitution s. 12.0
- lix. See Self-Government Agreement s. 14.0 for the points discussed in the first four paragraphs of Section 3.11.
- lx. Self-Government Agreement s. 15.1 and s.15.4, Income Tax Act s.149
- lxi. Self-Government Agreement s. 15.3 and s. 15.5
- lxii. See Final Agreement Chapter 20 for all points discussed in this paragraph.
- lxiii. See Final Agreement Chapter 21 for points discussed in this paragraph.
- lxiv. Final Agreement s. 20.7
- lxv. Final Agreement s. 21.3
- lxvi. Final Agreement s. 21.4
- lxvii . See Self-Government Agreement s. 16.0 for discussion of the self-government agreement financial transfer agreement.
- lxviii. Self-Government Agreement s. 19.0
- lxix. Final Agreement s. 23.2
- lxx. Self-Government Agreement s. 22.0
- lxxi. Final Agreement Chapter 28, Self-Government Agreement s. 23.0
- lxxii. Final Agreement Chapter 26
- lxxiii. Self-Government Agreement s. 24.0
- lxxiv. Final Agreement Chapter 8
- lxxv. Constitution s.17.0
- lxxvi. Final Agreement Chapter 22

- lxxvii. Self-Government Agreement s. 17.1
- lxxviii. Self-Government Agreement s. 17.3
- lxxix. Self-Government Agreement s. 27.0
- lxxx. Self-Government Agreement s. 26.0
- lxxxii. Self-Government Agreement s. 6.3
- lxxxiii. Self-Government Agreement s. 6.6
- lxxxiiii. See Self-Government Agreement s. 21.0 for discussion of all points in this paragraph.
- lxxxiv. Final Agreement Chapter 25
- lxxxv. The Settlement Land Tenure discussion refers to provisions found in Final Agreement Chapters 4, 5, and 9; Self-Government Agreement s. 29.0.
- lxxxvi. Final Agreement Chapter 15
- lxxxvii. Final Agreement Chapter 11
- lxxxviii. Final Agreement s. 11.3.0
- lxxxix. Final Agreement s. 11.4.0
- xc. Self-Government Agreement s. 25.1
- xcii. Final Agreement Chapter 6
- xciii. Final Agreement Chapter 7
- xciv. Final Agreement Chapter 10
- xcv. Final Agreement Chapter 16
- xcvi. Final Agreement Chapter 27
- xcvii. Final Agreement Chapter 17
- xcviii. Final Agreement Chapter 18
- xcix. Final Agreement Chapter 13

xcix. Final Agreement s. 24.2.1.13

c. Final Agreement s. 24.3.2.3 (m) - (p)

ci. Final Agreement s. 24.4.1.3

cii. Self-Government Agreement s. 13.3.17

ciii. Self-Government Agreement s. 13.6.1

civ. Self-Government Agreement s. 13.6.2

cv. Self-Government Agreement s. 13.6.3, s. 13.6.6

cvi. Self-Government Agreement s. 13.6.4.1

cvii. Self-Government Agreement s. 13.6.4.2

cviii. Self-Government Agreement s. 13.6.4.3

cix. Self-Government Agreement s. 13.6.4.4

cx. Section 3.7, 'Citizenship Rights'

cxi. Constitution s. 16.0