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THE CHALLENGE OF COLLECTING INFORMATION ON THE INVOLVEMENT OF ABORIGINAL PEOPLE IN THE CANADIAN CRIMINAL JUSTICE SYSTEM

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ABSTRACT

Note: This manuscript is an abridged version of the report: "Collecting Data on Aboriginal People in the Criminal Justice System: Methods and Challenges" (85-564-XIE) by Rebecca Kong and Karen Beattie. The full report with references is available free at www.statcan.ca on the *Our Products and Services* page, under *Browse our Internet publications*. Choose *Free*, then *Justice*.

Aboriginal people are significantly overrepresented in the Canadian Criminal Justice system. Twenty percent of adult offenders admitted under sentence to custody are Aboriginal whereas Aboriginal people comprise only three percent of the Adult population in Canada. The over-involvement of Aboriginal people in the Criminal Justice system is a critical issue and the collection of Aboriginal identifying information is essential for maintaining government accountability to the Aboriginal community and to the broader Canadian public as well as to contribute to policy and program development for Aboriginal people.

The primary source of criminal justice data is administrative systems. However, there exist considerable challenges in collecting these data. There are definitional challenges. As well, concerns with privacy, sensitivities surrounding the collection of racially based information and issues of data quality pose obstacles to the collection Aboriginal identifying information. While victimization and other population surveys also address the issue of crime, because of the generally low prevalence of crime in the population and the small numbers of Aboriginal people in the population, survey sample sizes are usually too small to permit sufficient analysis of these small groups. This paper will discuss these challenges and current efforts that are being made by the Canadian Centre for Justice Statistics in this regard.

KEYWORDS: Aboriginal; Criminal Justice; Offenders.

1. INTRODUCTION

Aboriginal peoples' experiences with Canada's criminal justice system and the need for quality data in this area have been identified consistently across numerous reports, commissions and inquiries. Much of this attention has focused on the need to measure the representation of Aboriginal people in the criminal justice system and to improve the system's response to Aboriginal accused, offenders, victims and persons at risk. In her 2002 assessment of the criminal justice system, the Auditor General of Canada simply stated "there is not enough information on Aboriginal people in the criminal justice system" (Auditor General of Canada, 2002). More comprehensive data would contribute to information-based decision-making to develop, monitor and evaluate policy and programs for Aboriginal people.

Canada's National Justice Statistics Initiative is responsible for the collection and dissemination of reliable national data on the nature and extent of crime and on the administration of civil and criminal justice. This Initiative is a partnership among federal, provincial and territorial governments and Statistics Canada whereby all jurisdictions share authority and responsibility for developing and achieving common objectives for the collection, analysis and dissemination of justice statistics and information. The Canadian Centre for Justice Statistics at Statistics Canada is the focal point of this partnership. Through national statistical programs, the Canadian Centre for Justice Statistics

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collects justice information from the jurisdictions, including information on people who come into contact with the police and those who are processed through the court and correctional systems. The information collected is based largely on administrative data, meaning the data are extracted from records management systems that already exist within the jurisdictions.

2. THE NEED FOR DATA

Aboriginal peoples occupy a distinct social, cultural and political status within Canada as bearers of constitutionally protected Aboriginal and Treaty rights. For Aboriginal people, the collection of identifying information responds to several important principles. Without sound data on Aboriginal people's involvement in the justice system, governments cannot be accountable to Aboriginal communities or to the public for justice outcomes for Aboriginal people. These data are essential for responding to issues of transparency, accessibility, fairness and equity in the justice system, and are particularly relevant for Aboriginal people given their high level of over-representation in this system. Further, Aboriginal Identity data across the justice system are needed to effectively monitor and evaluate policy, programming and performance, and to design interventions both inside and outside of the justice system that foster better outcomes in the lives of Aboriginal people. More specifically, a number of inquiries and public policy statements have documented the experiences of Aboriginal people with Canada's criminal justice system and have referred to the need for accurate data.

3. MEASURING ABORIGINAL IDENTITY

One aspect of ensuring quality data on Aboriginal people is a comprehensive definition, which is consistent across surveys. At Statistics Canada, the benchmark for defining the Aboriginal population for the majority of surveys is the Census of Population. The Census and the post-censal Aboriginal Peoples Survey ask the following series of questions in order to identify Aboriginal peoples:

- a question on the ethnic/cultural origins of the person's ancestors;
- a question on Aboriginal Identity that asks whether or not the person self-identifies with an Aboriginal group (i.e. North American Indian, Métis, or Inuit (Eskimo));
- a question that asks whether or not the person is a Registered (or Treaty) Indian according to the Indian Act; and
- a question that asks if the person is a member of an Indian Band or First Nation.

Among the majority of Statistics Canada surveys, the most commonly used concept to measure the Aboriginal population is "Aboriginal Identity". The concept of Aboriginal Identity refers to those persons who reported identifying with at least one Aboriginal group (i.e., North American Indian, Métis, or Inuit). Also included are individuals who did not report an Aboriginal identity, but did report themselves as a Registered or Treaty Indian, and/or Band or First Nation membership. Prior to the 1996 Census, Aboriginal persons were determined using only the ethnic origin (ancestry) question (Siggnér, 2003; Statistics Canada, 2001).

Across all the national justice-sector surveys, Aboriginal Identity is the desired information and the measures of Aboriginal Identity are consistent with the first two dimensions of the definition from the Census. Aboriginal groups as defined by the Census (i.e., North American Indian, Métis, or Inuit), and information on registered status according to the Indian Act, are included in the measurement of Aboriginal Identity in all justice-sector surveys. This consistency in definition is a first-step to data quality. For the purpose of justice surveys, self-identification by the accused and victim is the preferred method of identification because it eliminates any mis-identification by justice personnel. However, self-identification, while functional and constructive for population surveys, is not always feasible in administrative surveys, particularly in relation to the criminal justice system.

4. AN OVERVIEW OF CHALLENGES IN COLLECTING THE ABORIGINAL IDENTITY OF PEOPLE IN THE CRIMINAL JUSTICE SYSTEM

Data on individual alleged offenders, offenders and victims in the criminal justice system are collected from the administrative records of the police, courts and correctional services. Therefore, there is reliance upon the administrative source to collect and report the data and to do so comprehensively and in a manner consistent with national standards. However, the administrative source may not collect or report the data at all, may collect inaccurate data or may collect information incompatible with Statistics Canada survey definitions.

The administrative source may not collect or report any information on the Aboriginal Identity of the offender or victim for a variety of reasons, such as: the collection or reporting would contravene internal policy; the information is not required for the justice agency's own business purposes, or; justice personnel find it impractical or insensitive to ask individuals to self-identify.

With perhaps the exception of the corrections intake process for those entering custody, there are presently no standards or guidelines to ensure that people in contact with the justice system self-identify as Aboriginal or non-Aboriginal. Therefore, some justice personnel, particularly those in the policing sector, may report a person's Aboriginal Identity based on their own visual assessment, a method which is subject to error and lacks support by national Aboriginal groups. In addition, the classification of a person's Aboriginal Identity may also be based on information collected from a wider social context, such as from contacts with the individual's family and other members of the community.

Because the information contained in administrative records reflects the business needs of the agency collecting the information, the data are often organized and categorized according to the agency's specifications and not according to Statistics Canada national data requirements. As such, the source data may need to be converted or "mapped" to Statistics Canada requirements. Depending on the way the source data are organized and the accuracy of the mapping process, this conversion could also affect the quality of the data reported to Statistics Canada. Furthermore, if the original identification of an individual is incorrect in the source data, this identification error will be carried forward in the data that are reported to Statistics Canada.

5. POLICE-REPORTED DATA

5.1 The Uniform Crime Reporting Survey and the Homicide Survey

Both the Incident-based Uniform Crime Reporting Survey and the Homicide Survey collect detailed information on incidents that come to the attention of police, including characteristics of the accused persons and the victims. Among these characteristics is Aboriginal Identity.

The Homicide Survey and Incident-based Uniform Crime Reporting Survey can potentially respond to many of the data needs pertaining to Aboriginal people outlined earlier. Both data bases are rich data sources of information for several reasons:

- The Incident-based Uniform Crime Reporting Survey provides information on all persons in contact with the criminal justice system in relation to criminal offences, whereas data from other areas of the criminal justice system speak only to a subset of persons who proceed to the courts and corrections sectors of the criminal justice system.
- The two surveys provide information on victims of violent crimes.
- The two surveys capture detailed information such as presence and use of weapons, location of the incident, age and sex of the accused and the victim, and relationship of the accused to the victim.
- Records from the Incident-based Uniform Crime Reporting Survey can be linked to court records in order to analyze a broader scope of criminal justice and social policy issues. The potential exists to link police-reported and courts data to corrections records.

- Individual records from the Incident-based Survey can be geo-coded in order to provide crime analysis at lower geographic levels. These geo-coded data can then be combined with socio-demographic data at the same geographic level to allow for more informed analyses of crime rates and patterns. This type of analysis has already been undertaken by the Canadian Centre for Justice Statistics and work in this area continues.

5.2 Quality of police-reported data on Aboriginal identity

The obstacles police face in collecting information on Aboriginal identity, as well as concerns about the legal authority to collect it, have negatively impacted the quality of this information in police-reported crime statistics, particularly those from the Incident-based Uniform Crime Reporting Survey. In fact, the Police Information and Statistics (POLIS) Committee of the Canadian Association of the Chiefs of Police (CACCP), whose mandate is to ensure the reporting of quality data to Statistics Canada through the Uniform Crime Reporting Survey, recommended in the Fall of 2001 that the data variables collecting Aboriginal Identity be removed from the Incident-based Uniform Crime Reporting Survey citing a number of concerns including data quality and possible conflicts with privacy legislation.

Discussions with this committee have revealed that police often use visual identification to gather descriptive information about an individual and that completion of information on Aboriginal identity is often left to the officer's discretion. While self-identification by the individual would produce the most reliable information, members of the POLIS Committee have indicated that front-line officers are reluctant to ask any questions of the accused or victim about their Aboriginal identity. Not only can this be awkward for officers, but such questions can further aggravate an already charged situation and prove insensitive for victims. As such, many attending officers decline to report the information or make a determination based on either their own visual assessment or the context of the incident, a method which can impact data quality because of the risk of misidentification.

Because homicide investigations tend to be lengthy and detailed, and given the small number of homicides each year, the issues above do not have the same negative impact on the coverage and quality of data from the Homicide Survey. However, there exists a perception among police that privacy laws prohibit police from sharing, for national statistical purposes, data which they are already collecting for other legitimate purposes, such as investigation. This perception has, in turn, affected the coverage of data from both the Incident-based Uniform Crime Reporting Survey and the Homicide Survey.

5.3 Legal authority

The policing community in general has raised concern that the collection and reporting of Aboriginal Identity to Statistics Canada may contravene federal, provincial or territorial privacy legislation. This concern is one of various reasons behind some police services' systematic non-reporting of Aboriginal Identity to Statistics Canada and, in fact, was one of the main concerns that led the Royal Canadian Mounted Police to stop reporting these data to the Homicide Survey in 2001. As with other police services, the Royal Canadian Mounted Police had also decided to not report the identity of Aboriginal people through the Incident-based Uniform Reporting Survey. Given that the Royal Canadian Mounted Police is largely responsible for policing northern communities in Canada where high populations of Aboriginal people reside, as well as in rural and reserve areas in the prairie and western provinces, the absence of these data present a considerable limitation to the coverage and utility of the data.

In response to these concerns, the Canadian Centre for Justice Statistics sought legal positions from all provinces and territories and from the Department of Justice Canada in 2003. The position of the Department of Justice Canada regarding the federal *Privacy Act*, legislation which governs the Royal Canadian Mounted Police, is that the collection of these data is permitted when the collection of the data relates directly to the preparation of crime reports and the conduct of criminal investigations. Their position further acknowledges that the information in such reports can also be helpful for policy development and statistical purposes. Their position states that it is permissible to disclose these data for research or statistical purposes. In other words, according the federal *Privacy Act*, any data currently being collected by police services for legitimate reasons, such as investigation, can be shared for research and statistical purposes. Since the Royal Canadian Mounted Police provide all policing services in the

Yukon Territory, the Northwest Territories and Nunavut, the Justice Canada position applies in these jurisdictions as well.

All provinces, except Ontario and New Brunswick, also supplied legal positions. The positions provided by British Columbia, Alberta, Quebec and Manitoba support the collection of Aboriginal data for investigative and appropriate policy, program and research purposes. These provinces also supported the transmission of these data to Statistics Canada. In Saskatchewan and Prince Edward Island, local and municipal police are not included within the provisions of the provincial freedom of information and privacy legislation. Therefore, local and municipal police in these jurisdictions are free to collect Aboriginal data for statistical purposes. In Newfoundland and Labrador, the collection of data on Aboriginal identity is authorized for the purposes of law enforcement or for operating programs or activities. In Nova Scotia, under the *Provincial Freedom of Information and Protection of Privacy Act*, the collection of data on Aboriginal identity is also authorized for the purposes of law enforcement and may be disclosed for research purposes if the head of the public body collecting the information has approved conditions relating to the security and confidentiality of the information.

The legal positions provided confirm that, in those jurisdictions that responded, privacy or freedom of information legislation do not expressly forbid police from collecting information on Aboriginal identity, nor do the legislation forbid the reporting of these data to Statistics Canada for national statistical purposes.. It should be noted, however, that concerns remain among some police services, including the Royal Canadian Mounted Police, regarding the use of data in their current state for national statistical purposes.

6. CRIMINAL COURTS DATA

6.1 The Adult Criminal Court Survey and the Youth Court Survey

The Adult Criminal Court Survey and the Youth Court Survey provide national databases of statistical information on the processing of cases that involve charges under the *Criminal Code of Canada* and other federal statutes through the adult and youth criminal court systems.

Presently, the Aboriginal identity of persons appearing in court is not included in the national data requirements for the Youth Court Survey or the Adult Criminal Court Survey. However, work is currently underway to integrate these two surveys. Included in the integrated survey is the addition of the data element "Aboriginal Identity", the response categories for which include: Aboriginal, Non-Aboriginal, and Unknown/Not Stated. The definition of Aboriginal Identity includes the dimensions covered by the Census measurement of Aboriginal Identity, meaning persons who are North American Indian, Métis or Inuit, or those who are registered (or Treaty) according to the *Indian Act*.

This data element, to which jurisdictions have the option to respond, was added due to the broad interest in social policy questions regarding Aboriginal people. Despite the addition of this data element, consultations with all jurisdictions regarding the development of the new integrated survey revealed that the vast majority of jurisdictions do not collect this information in their existing court information systems and have no current plans to do so because this information is not considered necessary for the purposes of court administration.

Although information on the Aboriginal identity of the accused may not be relevant to court administration, the recent Supreme Court of Canada decision in *R. vs. Gladue* (1999, 1 S.C.R.) is but one example that illustrates the relevance of these data in terms of broader criminal justice policy. In this case, the Supreme Court was called upon to consider how section 718.2 (e) of the *Criminal Code* should be interpreted and applied. This provision is among several sentencing guidelines that were codified in 1994. Section 718.2 (e) states:

718.2 A court that imposes a sentence shall also take into consideration the following principles:

(e) all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Aboriginal offenders.

In the absence of information on Aboriginal Identity in court records, however, this information gap may be overcome through analytical projects linking police-reported records to court records. However, this is dependent on an improvement in the coverage and quality of police-reported information on Aboriginal Identity. Further, the methods required to reliably link police and courts records usually reduce the number of records available for analysis.

7. CORRECTIONS DATA

There are several national surveys that collect information on adults and youth who enter the correctional system and that include information on Aboriginal identity. These are the Adult Corrections Survey and the Youth Custody and Community Services Survey. Prior to 2003/04, the Youth Alternative Measures Survey provided information on youth admitted to alternative measures programs. Since the implementation of the *Youth Criminal Justice Act* on April 1, 2003, the Extrajudicial Sanctions Survey has replaced the Youth Alternative Measures Survey.

Aboriginal Identity is routinely collected upon intake of the individual into the correctional system for each jurisdiction and the Correctional Service of Canada. The collection of Aboriginal Identity in the Adult Corrections Survey as a general indicator is consistent across jurisdictions.

The Youth Custody and Community Services Survey and the Youth Alternative Measures Survey also collect Aboriginal Identity on an aggregate and national level for youth who are admitted to the correctional system. In terms of the Youth Custody and Community Services Survey, the frequency of reporting Aboriginal status as 'unknown' is relatively low and only Quebec's system is unequipped to capture information on Aboriginal Identity. Overall, reporting to the Youth Alternative Measures survey is inconsistent and the frequency of jurisdictions to report Aboriginal Identity as 'unknown' is usually high.

7.1 The Integrated Correctional Services Survey

The Adult Corrections Survey and the Youth Custody and Community Services Survey have been redeveloped into an integrated microdata survey, meaning one survey will collect individual records for each adult and youth. The Integrated Correctional Services Survey allows for detailed analysis of person and case characteristics and these data have the potential to be linked to court and police records to inform a broader range of criminal justice and social policy issues. Within this survey, the response categories for the data element on Aboriginal Identity have been expanded to enhance the detail available for the category 'Aboriginal'.

Presently, the Integrated Correctional Services Survey is being implemented in several provinces. While reporting trends of Aboriginal Identity are currently unavailable at a national level, it is expected that the current quality and coverage of the Aboriginal Identity information will be maintained with the movement from the aggregated approach to the integrated microdata approach. While no changes in the quality or coverage of the Aboriginal Indicator in the integrated microdata survey are expected, the microdata will enable more robust analysis than the aggregate administrative data currently being reported to the Adult Corrections Survey and the Youth Custody and Community Services Survey. Detailed records on each individual entering the corrections system will permit the analyses of specific issues related to corrections, such as on the complexity of individual case histories and re-involvement with the correctional system. Individual records from the Integrated Correctional Services Survey will also have the potential to be linked to records reported through the policing and court surveys to examine broader justice questions related, for instance, to the progression of cases through the justice system, re-involvement and re-offending.

7.2 Quality of corrections data on Aboriginal identity

Corrections data are considered to be of relatively sound quality and have historically been the primary source of information for analyzing the representation of Aboriginal people in the criminal justice system. The level of quality is due mostly to the nature of the operational objectives of correctional services, which includes the delivery of programs and services to individuals. Consequently, correctional systems often have a vested interest in collecting

characteristic data to facilitate the delivery of correctional programming. For example, many programs and services in correctional systems are designed for specific groups, such as for Aboriginal people. Reliable data on the number of Aboriginal people helps to determine which programs and services should exist and/or be developed to meet various needs. The intake process of individuals into the correctional system allows for the collection of this data to facilitate such program delivery in a consistent manner.

Although corrections data on Aboriginal Identity are generally comprehensive, data quality cautions do exist. Given that the collection of Aboriginal Identity in correctional services is based on self-identification, individuals may be more or less inclined, depending on the circumstances, to self-identify as Aboriginal. For example, individuals who fear discrimination may be unwilling to identify themselves as Aboriginal, whereas the availability of culturally-sensitive programming may encourage offenders to self-identify as Aboriginal.

Corrections data are also subject to some of the data quality issues generally associated with administrative data. Generally, administrative records in correctional systems are intended to serve the program delivery and administrative functions of corrections. These systems are often jurisdictionally-specific and focus on local, provincial or federal system or program requirements. Consequently, source data may need to be converted, or 'mapped' to Statistics Canada national data requirements. To date, while there have been no issues to question the reliability of the data, there have also been no data quality audits.

As with other sectors of the criminal justice system, standardizing data collection at the corrections level and ensuring categories within administrative systems are compatible with national data requirements would enhance data quality. However, these initiatives are beyond the control of Statistics Canada whose responsibility is to provide standards and definitions for survey concepts and to assess the degree of compliance with these standards. Further, assessments regarding compliance are not continuous and are normally performed only when a jurisdiction makes changes to the interface used to report administrative data to Statistics Canada.

8. VICTIM SERVICES DATA

8.1 The Transition Home Survey

The Transition Home Survey is a biennial survey that collects national aggregate information on residential services for abused women and their children in order to profile services and clients served. From this survey, the number of shelters on or serving reserve areas and the number that have culturally-sensitive programming for Aboriginal women and children can be determined. However, no information on the Aboriginal identity of clients is gathered. Such information could prove useful for assessing service needs, particularly in urban areas. Without adequate support and instruction, however, the collection of this information could be a challenge for shelters. For instance, many do not currently maintain records that would contain this type of information about residents. Further, if required to ask residents to identify themselves as Aboriginal or non-Aboriginal, without adequate support and guidance, shelter workers could face the same concerns regarding sensitivities that have been expressed by police.

8.2 The Victim Services Survey

In 2003, the Canadian Centre for Justice Statistics conducted the Victim Services Survey through funding by the Policy Centre for Victim Issues at the Department of Justice Canada. Similar to the Transition Home Survey, the information collected through this first-ever survey provides a profile of victim service agencies, the services they offer and the people they assisted. The survey was intended to be a census of system-based, police-based and court-based victim service agencies, sexual assault centres and financial benefit programs for victims of crime. Selected community-based agencies were also surveyed.

From this survey, we know the number of services that have specialized programming for Aboriginal people, the number that can provide services in Aboriginal languages, and the number that target victims of residential school abuse for service. For some jurisdictions, information is available on the number that serve reserve areas and that are actually located on reserves. The Victim Services Survey is an aggregate survey and does not gather any information on the Aboriginal identity of persons assisted.

During the development of the Victim Services Survey, several stakeholders identified information on the Aboriginal identity of the persons assisted as a priority for developing and assessing policies and programming. However, further consultations with service providers revealed that many would not be able to provide these data because of operational or policy constraints. The data collection issues raised by service providers for victims of crime mirrored those raised by the police. Concerns were primarily related to the legal authority to collect and report this information and to the sensitivity or appropriateness of asking victims seeking help to identify themselves as Aboriginal or non-Aboriginal.

9. OTHER SOURCES OF DATA ON ABORIGINAL PEOPLE

9.1 General Social Survey on Victimization

Statistics Canada's General Social Survey on Victimization is a source of information on the victimization of Canadians and their perceptions of crime and of the criminal justice system. The survey is a general population survey of individuals 15 years and older and is conducted every five years. Socio-demographic information is collected and respondents are asked about their experiences with certain types of crimes.

The 1999 General Social Survey on Victimization was the first attempt to measure the ethno-cultural background of respondents. Through a random telephone survey, a question was adapted from the Census that allowed respondents to self-identify their ethno-cultural background. Survey respondents, who self-identified themselves as Aboriginal, including North American Indian, Métis, or Inuit, were considered to be Aboriginal people. The 1999 General Social Survey included Canadians living in the ten provinces but excluded the Yukon and Northwest Territories.

In general, there are some limitations or factors to consider when using data from the General Social Survey on Victimization to analyze Aboriginal populations. First, the small number of Aboriginal people, as well as the lack of over-sampling, may restrict the depth of analysis that can be done. However, since rates of victimization are generally higher among Aboriginal populations compared to non-Aboriginal populations, the number of victims in the survey sample is usually large enough to permit cross-tabulations of the data and reliable estimates of the nature and extent of victimization among Aboriginal people.

Second, as mentioned, a limitation of the 1999 General Social Survey is that it excluded the territories where high concentrations of Aboriginal people reside. While the 2004 General Social Survey includes the territories, the reliability of data is still to be determined. Third, comparisons between Aboriginal and non-Aboriginal populations should be made with the consideration that the Aboriginal population is younger, on average, than the non-Aboriginal population. According to the 2001 Census of Canada, the median age for the Aboriginal population was 25 years, while that of the non-Aboriginal population was at an all-time high of 38 years. This difference is relevant given that the General Social Survey does not collect information from Canadians under the age of 15 and that the risk of victimization declines with age. Finally, the General Social Survey collects data from respondents through telephone interviews using a random digit dialing technique and, while this does not exclude on-reserve populations, some anecdotal evidence suggests that telephone ownership may be lower on reserves and in remote areas (Brzozwski & Mihorean, 2002).

Despite some limitations, the General Social Survey on Victimization is a rich source of data for several reasons. In addition to collecting data on criminal incidents that are reported to police, information on criminal victimization which is not reported to police is also obtained. Consequently, data are collected on the nature and extent of victimization so that rates of victimization, including rates of spousal and multiple victimization, can be determined. Moreover, the survey collects information on various risk factors of victimization, including socio-economic and socio-demographic factors, as well as protective measures taken to avoid criminal victimization. This information allows for comparisons among various groups of people, including between Aboriginal and non-Aboriginal peoples.

9.2 The Census of Population

The Census of Population is the main source for population counts on Aboriginal people in Canada. This survey provides population counts by age and sex for North American Indian, Métis and Inuit people. In addition, information is collected on language, ancestral origin, status and affiliation with First Nations. Census respondents self-identify their Aboriginal affiliation. For each Census, there are normally some Indian reserves and Indian settlements where enumeration is either not permitted or is interrupted before it can be completed (77 of these geographic areas in the 1996 Census and 30 in the 2001 Census). The impact of the missing data is very small for higher level geographic areas (Canada, provinces, Census metropolitan areas and census agglomerations), but the impact can be significant for smaller areas where the affected areas account for a higher proportion of the population.

9.3 The Aboriginal Peoples Survey

The Aboriginal Peoples Survey is a post-censal survey and was first conducted by Statistics Canada in 1991. As a result of the Royal Commission on Aboriginal People's final report, the federal government mandated Statistics Canada to conduct a second Aboriginal Peoples Survey following the 2001 Census. It surveyed about 117,000 individuals to collect information on the lifestyles and living conditions of Aboriginal people. While the core of the survey was directed to those aged 15 years and older, there was an additional component to collect information on children and youth. As well, there were supplemental questions specifically for Métis people and persons 15 years and older residing in Inuit communities.

10. CONCLUSION AND NEXT STEPS

The collection of data on Aboriginal people in the criminal justice system is needed to maintain government accountability to the Aboriginal community and to inform policy and program development for Aboriginal people. Although data on Aboriginal identity can be collected at other points in the criminal justice system, the collection of these data by police is crucial and unique. As the point of initial contact for all persons in conflict with the law, police are able to provide information on those persons diverted away from the formal justice system, those who are victims of violent crime, as well as those who are charged and proceed through the criminal justice system.

Presently, there are a number of police services not providing data on Aboriginal identity and, for those that are, there are issues of data quality that stem from operational and methodological concerns. Without participation from all forces, including the Royal Canadian Mounted Police, full coverage in several provinces, all territories and at the national level is unattainable. Further, with gaps in police data, comparisons and linkages with courts and corrections data are compromised.

It is also noteworthy that no data on Aboriginal people are reported by adult and youth criminal courts and that there is little interest by court administrators to do so. Yet, the Supreme Court of Canada decision in *R. vs. Gladue* ruled that the courts, when sentencing, are obliged to consider the context of Aboriginal offenders' lives and culturally-sensitive sentencing options, pointing perhaps to the importance of understanding court activity in relation to Aboriginal people and to the importance of more detailed information on an Aboriginal person's community affiliations and culture.

Together, various strategies that would make data collection on Aboriginal people in the criminal justice system a priority would help improve coverage and data quality. Such strategies include the following:

- Fostering relationships and consulting with Aboriginal groups to better understand the positions of different groups regarding data collection and self-identification, to resolve concerns and encourage/promote self-identification and the use of the data.

- Developing a coordinated communication strategy directed at the police and other justice sectors, Aboriginal people, other stakeholders and the public to raise awareness of and support for the collection of Aboriginal identifying information.
- Having appropriate governing bodies encourage and support police and other criminal justice sectors to collect these data.
- Implementing national standards for defining and collecting Aboriginal identity, including ensuring administrative systems either mirror or are correctly mapped to standard national definitions.
- Educating and training police and other criminal justice sectors regarding standard definitions and collection methods.
- Evaluating data submissions, such as detailed auditing and data verification exercises.
- Where appropriate, cross-referencing data with other more reliable sources of data that use self-identification, such as police booking systems or corrections case management systems.
- Continuing to assess the feasibility and encourage the development of collecting Aboriginal identity through other crime-related national surveys, such as the Transition Home Survey.

Once measures to improve data quality are implemented, effort and support to maintain and keep improving data quality will be needed.

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