



*A Dialogue
in Progress:
Focus on Youth*

Interim Report - January 15, 2003

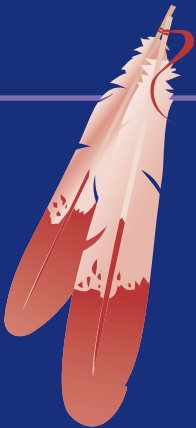




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Executive Summary

This second interim report is intended to provide an update on the work of the *Commission on First Nations and Métis Peoples and Justice Reform* during its first year.

The second half of the year, in particular, was devoted to an intense period of consultation with Saskatchewan people. The Commissioners visited northern communities in the province, heard many presentations and met frequently with individuals and organizations that offered their perspective on the justice system. On every occasion, the Commission invited participants to consider three essential questions:

1. What concerns do you have with the justice system?
2. What examples of successes or positive programs have you seen?
3. How do you think the justice system can be improved?

This report covers considerable ground in terms of issues and observations and also includes the first recommendations to be tendered by the Justice Reform Commission.

The progress report is an attempt to share what was heard by the Commissioners at community dialogues and in other forums. Many words were spoken over hundreds of hours of dialogue and this report provides only a glimpse of what was communicated by Elders, justice workers, community leaders and members of these communities. However, all the dialogues were recorded and transcripts prepared. As the Commission works toward the development of its final recommendations and the preparation of the final report, these transcripts and the sentiments expressed by all the participants will be valuable resources in the coming months.

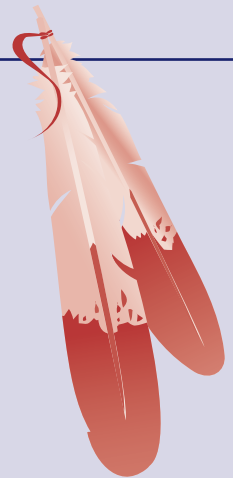
From the outset, the Justice Reform Commission recognized the need to devote special attention to the issues affecting young First Nations and Métis people in Saskatchewan. The statistics show Aboriginal youth in Saskatchewan are being incarcerated at rates well beyond what is acceptable. That data is well known. The Commissioners have talked to young people in custody and learned much about their circumstances: how family breakdown, addictions and an often-relentless justice system have separated them from their families and communities. This report takes a look at the *Youth Criminal Justice Act (YCJA)* that will become law on April 1, 2003. A preliminary study of the Act indicates that while there are opportunities for positive change in the way the justice system deals with young people, there are concerns. And while it will take some time before the full effects of the new legislation are understood, it is clear that there will be a need for stronger partnerships between communities and agencies working in the justice field in order for the objectives of the YCJA to be realized.

This report also reflects the Commission's interest in the issue of youth gangs operating in Saskatchewan. The Commissioners have heard from young people about their experiences with gangs that target young First Nations and Métis boys and girls. The Commission is committed to learning more about this emerging issue in the coming months.

Executive Summary (continued)

Courts and how they serve their communities has been another important area of concern to the Justice Reform Commission. The Commissioners visited the Cree Court in Sandy Bay and observed Judge Gerry Morin, court workers and lawyers dealing with matters in Cree when the accused wished to have the proceedings take place in his or her own language. The Commission also visited the provincial court operating on Siksika territory in southern Alberta. There, Judge Tony Mandamin conducts court in a facility built on reserve land and although the proceedings are in English, participants appreciate the fact that the justice system is accessible to them in their own community.

The Commission on First Nations and Métis Peoples and Justice Reform has now been in existence for more than a year. A great deal of work has been done; however a very critical period of consultation and research lies ahead. The next six months will be particularly important as the Commission completes its dialogue with Saskatchewan and prepares for the release of a third interim report next spring and the final report which is due in 2004.



Vision

One Community – working together to create a healthy,
just, prosperous and safe Saskatchewan

Meyo Wahkotowin

Dene Araya Who Teeya Al Then

Mission Statement

To create change and make a difference by:

- Listening to people
- Building relationships
- Promoting respect and change
- Recognizing successes, and
- Making recommendations for future justice reform

Message from the Chair

While various dialogues still continue on our overall mandate and as we listen to people throughout the Province, it is important to highlight an emerging theme for this second interim report. Given the demographics and circumstances of First Nations' and Métis youth, there are expressed concerns of community leaders, Elders and the youth themselves. Your Commission wants to promote early change to make a difference for our youth.

Effective April 1, 2003, there will be a new *Youth Criminal Justice Act*. One of the purposes of this new legislation is to reduce incarceration, an important part of our mandate. This, coupled with the federal government throne speech of September 20, 2002, presents new opportunities for all of us to consider pending changes and how we can, all working together, improve our communities. New initiatives for community-based justice and Treaty-based relationships will present collective changes. Young people themselves have advised us in our dialogues on ways that need to be considered to make a difference.

A connected outcome, if nothing is done to address the serious dilemma many First Nations' and Métis youth encounter, is the possible increase in gang activities. As we agree with the many First Nations' Chiefs, Métis leaders and Elders on this issue, this report begins to look at the situation for future action. In their wisdom, many Elders have advised us to look at traditional relationships and ways in our common search for solutions.

We have begun to make recommendations we believe are currently essential. We also serve notice that there are other important areas for ongoing research and work in progress. For these we continue to rely on your essential involvement to guide our path towards our vision for justice reform.

Since our first report, a part of our mission was tested, very severely, by a perceived and alleged conflict of interest of one of my fellow Commissioners. It was not only a significant cultural and values clash but illustrative of the very reason why this Commission was necessary. We sought independent legal advice on this matter and it was confirmed that there was no conflict of interest. It was, however, a valuable reminder of at least three significant and difficult principles of our work.

First we were created as an independent Commission; one which implies autonomy from Government, Métis and First Nations' influence in our decision making. It also implies a level of objectivity distinct from Government, Métis or First Nations' positions. This autonomy and objectivity as an independent Commission is essential if our recommendations are to be seen as free from bias.

Secondly, we were appointed as a part-time Commission. When we sit as a Commission, we devote our full energies to our mission and our mandate. However, between sessions, we all resume our normal and professional obligations. While we seek a balance, this is an example where the ethical duties of a professional appear to conflict with the role as a part-time Commissioner. My colleagues fully acknowledge this concern and are reflective in terms of how decisions will be made in the future.

Thirdly, we are all learning. Some lessons are more personal than others. Here we have a striking example how two cultures can approach the same problem with very different results, using very different values. It requires full respect of each other's traditions; that each has equally valid and viable responses to troubling issues.

Message from the Chair (continued)

The problems with the justice system are complex. We see one of our tasks as finding the resources within tradition and culture to solve some very modern problems in society. Our work plan for the next few months will be a demanding one. Engaging the people of Saskatchewan remains an essential part of our mandate. We will continue the community dialogues, the formal presentations and the private interviews. Seven roundtables will be added to our schedule in an effort to acquire a deeper insight into the critical issues of reforming the justice system.

We need your continued support to bring the justice system on a better path. I pledge our continued best efforts to fulfill our mandate for a better Saskatchewan.

Thank you.

A handwritten signature in black ink, reading "W. Littlechild". The signature is written in a cursive, slightly slanted style.

Willie Littlechild

Meet the Commissioners

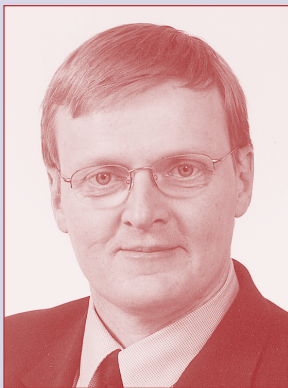
MR. J. WILTON LITTLECHILD



Mr. J. Wilton Littlechild, O.C., Q.C., I.P.C., acquired his Law Degree from the University of Alberta in 1976. Mr. Littlechild was the first Treaty Indian in Alberta to graduate with a law degree and the first Treaty Indian elected to Canadian Parliament. He is an outstanding athlete and continues to be heavily involved as an organizer in sporting events and was inducted into four Sports Halls of Fame. He received the Order of Canada in 1999.

As a Member of Parliament (1988-1993), Mr. Littlechild served on several senior committees in the House of Commons and was a parliamentary delegate to the United Nations. At the international level, he organized a coalition of Indigenous Nations that sought and gained consultative status with the Economic and Social Council of the United Nations, and has now been appointed by the ECOSOC President to the United Nations Permanent Forum for Indigenous Peoples. He has been recognized as Queen's Counsel and Indigenous Peoples Counsel by the legal profession. Mr. Littlechild speaks Cree, English and French.

MR. HUGH HARRADENCE



Mr. Hugh Harradence, Q.C., is a partner with the law firm of Harradence Logue Holash in Prince Albert, and practises as a litigator in both criminal and civil matters. Mr. Harradence was appointed Queen's Counsel for Saskatchewan in 1999 and has recently been active as a Coroner for four inquest investigations regarding the deaths of Aboriginal victims in Saskatoon.

Mr. Harradence is the former president of the Canadian Bar Association, Saskatchewan Branch and has been a significant contributor within the legal community.

Meet the Commissioners (continued)

MS. GLENDA COONEY



Ms. Glenda Cooney is currently serving as Deputy Children's Advocate in Saskatchewan and is former Deputy Ombudsman for Saskatchewan. Ms. Cooney is Past-President of the John Howard Society of Canada and contributor to several United Nations forums on criminal justice. She has worked for the Solicitor General of Canada in policing, corrections and parole, and was a member of the National Parole Board of Canada.

Ms. Cooney has served for years as an advocate for community-based restorative justice and alternative dispute resolution.

MR. JOE QUEWEZANCE



Mr. Joe Quewezance served as the elected Tribal Chief of the Saskatoon Tribal Council for six consecutive two-year terms, between October 1988 and October 2000. While serving his terms as Tribal Chief, Mr. Quewezance represented the Saskatoon Tribal Council on the Boards of the Saskatoon Indian Institute of Technology and the Saskatchewan Indian Equity Foundation.

Mr. Quewezance has been very involved in the social and economic development of the Aboriginal community in Saskatoon. As a member of the Yellow Quill First Nation, Mr. Quewezance served as Chief for ten years and as a band councillor for several years.

MS. IRENE FRASER



Ms. Irene Fraser is a grandmother with a Métis background. She is also the Regional Manager of the Aboriginal Unit for the National Parole Board, Prairie Region in Saskatoon. She has been involved in several areas of the justice system for approximately twenty years. In her current work, Ms. Fraser has been heavily involved in the development and coordination of Elder and community-assisted parole hearings, as well as in developing and presenting to Aboriginal communities on legislation, policies and practices of the National Parole Board.

Ms. Fraser has served on numerous boards of organizations locally, provincially and nationally, many of which have been related to Aboriginal issues.

Progress Report

In the period from May 30 to October 31, 2002 the Commission on First Nations and Métis Peoples and Justice Reform visited 11 communities, heard 14 presentations and conducted many other meetings. The Commission has heard from several hundred people in the last six months.

From the outset, the Justice Reform Commission was determined to hear directly from as many people as possible and to seek out the opinions of people who are most directly affected by the justice system. This sector includes victims, offenders, lawyers, judges, courtworkers and other professionals in the justice system. Also important to this Commission, is the perspective that can only be provided by members of the Saskatchewan community as a whole. Whether they are members of urban, rural or remote communities, members of First Nations or Métis communities or other individuals or organizations who choose to address the Commission from their personal point of view, individual stories and accounts create the dialogue to which the Commission will respond.

The Justice Reform Commission began its second phase in May following the release of its first interim report. That report noted the shortcomings of the justice system but also contained a commitment to build on the successes that exist whether they be effective programs or the positive contributions being made on a daily basis by outstanding and caring individuals.

The Commissioners are talking to people to learn about the justice system and how it can be improved. We have learned that justice cannot be viewed in isolation. We must look at justice as the end result of a variety of factors that impact on the life of a person and take a holistic view of a person. It is valuable to hear about the effects of foster care and to hear people's views on culture and how their exposure to their own culture, traditions and education can be improved. We are committed to viewing justice from a holistic perspective.

THE NORTHERN TOUR – JUNE 4-13, 2002

During its tour of the North, the Commission was invited to visit the communities of Meadow Lake, Beauval, La Loche, Sandy Bay, Pelican Narrows and Black Lake. At every stop the Commission was greeted with hospitality and warmth by the community.

Each evening the Commission met with local leaders, community organizers and, in some communities, youth workers for a briefing. The purpose of the evening briefing was to introduce the Commission, explain its mandate and review how the community dialogue would be run the next day. In Meadow Lake the Commission participated in a morning pipe ceremony with local Elders prior to the community breakfast. After the breakfast the community dialogue began.

Progress Report (continued)

The community dialogues were as informal as possible. The Commissioners joined a circle as people addressed three questions:

- What are your concerns with the justice system?
- What examples of success or positive programs have you seen in your community?
- How would you improve the justice system?

The Commissioners were presented with experiences in a very thoughtful, respectful way even though many of the issues raised were deeply troubling, complex and at times traumatic. We were impressed with the effort of the youth groups. In Meadow Lake and La Loche, the young people held workshops to discuss the three questions while the main dialogue was taking place. Later in the day they reported their discussions to the Commission.

It should be noted that the Commission had a wealth of support as it conducted the Community Dialogues for which we are very grateful. Local organizers promoted the events, introduced us to the Elders and organized the facilities, meals and transportation.

The provincial government provided support through staff of the Aboriginal and Northern Justice Initiatives (ANJI) who were present at each dialogue, briefing and breakfast. ANJI staff members offered to provide assistance to community members who required immediate action on specific complaints relating to the delivery of justice services. The staff of ANJI should be commended for their patience and diligence in following up on northern justice concerns.

The Federation of Saskatchewan Indian Nations' Special Investigations Unit (SIU) also deserves recognition for their work while the Commission was in the North. At each community dialogue the Commission encouraged individuals with complaints about the police or other justice officials to file a report with the staff from the SIU. We have been informed that a number of complaints were filed and investigations begun.

Dialogues in the communities of Meadow Lake, Beauval, La Loche, Sandy Bay, Pelican Narrows and Black Lake

Northern communities acknowledge that there are problems with the justice system. However, they also state that justice system problems do not occur in isolation; they are symptoms of larger social problems. Communities clearly articulated that they want to be able to come up with solutions to their own problems. We were told that the laws, policies, programs and services that are created in the South do not always work in the North and can be harmful. It must also be remembered that "justice" does not directly translate into a First Nation language. Further, when Aboriginal people refer to the justice system, it is often in the context of criminal justice and refers to police, courts, sentences, jails and punishment.

When I talk about justice, it has to be looked at with respect to not just lawbreaking. The concept of justice in Dene means a way of life, it means responsibility, it means child rearing. It's very broad and very big. You can't confine what justice means. There is no word for justice in Dene, and there's probably no word for justice in Cree either. Because these concepts have been imposed on us and we're expected to follow these laws.

- Speaker at dialogue in La Loche

Another big issue we have is the way sentencing is done. Sentencing must be done by those who know us, those who understand our difficulties at home and school, or in the community. The judge doesn't know us from Adam and yet all the powers are in his hands, oftentimes, not realizing that we have come back from broken homes, suffer from addictions and have identity problems and a loss of culture.

- Speaker at Beauval dialogue

The Commissioners were told on several occasions that people who work within the justice system need to be knowledgeable about First Nations and Métis cultures and traditions.

And also more cultural sensitivity training with those corrections officers. They don't really understand people from the North coming in, maybe older people, people who are Dene, way up North coming in and that culture shock that they go through, not even being sensitive to that. It's just that once you're in there, you're going through the system.

- Speaker at Sandy Bay dialogue

For communities to effectively address their issues, they require assistance in devising, funding and implementing programs that will serve them in the long-term. They require the training and resources to provide remedial services to address underlying causes of social problems in their communities.

When it comes back to justice, we must first find ourselves. We were given a law to follow. We were given a way to follow. As this lady talked, she talked about culture. That is justice. Beliefs, that is justice. A lot of that we have lost within colonization, assimilation, but we must return back to that. We have the opportunity to do that. We have Elders. And the Elders say in order for us to return back to justice, we must return back to our grassroots and to find ourselves. Yes, we can go around blaming other people, but it begins with us, as the Elders say. But our children, we must teach them the walk of our ancestors.

- Speaker at Pelican Narrows dialogue

Progress Report (continued)

There's about six people in our community here that need to be looked at as having a mental disorder. They have a mental disorder and we need to take a look at these people and do something for them in our community, because we don't have the facilities here, so I hope that you recognize that.

- Speaker at Sandy Bay dialogue

How can your Commission assist us get a treatment centre located in the Athabasca region? When we sent our clients out to La Loche or down south, sure, they go out for treatment, but they're not really working because of loneliness. They're not concentrating on themselves because of the kids back home.

- Speaker at Black Lake dialogue

A consistent theme emerging from the northern dialogues was the need for greater recognition of the importance of the spiritual and cultural aspect of Aboriginal culture and traditions.

I help my own people using my own language and a lot of the counseling I do I collected from Elders. I spent time with Elders for three, four years and that's why I teach the medicine wheel. I do the circle of life, the four aspects of ourselves as human beings: physically, emotionally, spiritually and mentally. And I use a lot of what I had collected from the Elders in my counseling, so people can look at the four aspects so they can heal themselves and they can stay balanced.

- Speaker at La Loche dialogue

Many speakers expressed a feeling that the existing justice system needs a dramatic facelift. They believe minor modifications and increased Aboriginal staffing will not bring about substantial improvements.

In terms of the courts, I think, you know, we're starting to see movement in areas where we have Cree judges, Dene judges, but it's still the same system. The policing, well we see our own Native police officers, as well, being trained in Regina, being assigned certain places, but it's still the same system. It's the system that we have to reform not as much as the people that work in it. Because the people that are working in that system are just symptoms of that system, the way they operate.

- Speaker at Meadow Lake dialogue

Law Enforcement

Many speakers told the Justice Reform Commission of their general mistrust of police officers working in their communities. They had concerns in several areas including the targeting of youth by some police officers.

Another incident is this guy pulls into his yard, to his mom's yard, and the RCMP come there and he didn't have his safety belt on. He pulled him out of the vehicle, saying he didn't have his safety belt on, they beat him up, gave him a black eye, and gave five charges to him, he had to go to court on five charges over a small incident like that.

- Speaker at community dialogue in Beauval

Throughout the North it was often stated that RCMP members do not respond quickly to calls for service and that calls to the local detachment are often diverted to Regina or Yorkton.

When you call the RCMP, they don't get there till two weeks or a month later, after everything is settled amongst the family and stuff, but they're never there when things are happening on the reserve. They're always gone. You try to call them, you get a call to Regina, and then Regina will call you back saying that there's nobody there.

- Speaker at dialogue in Black Lake

I'd like to see the RCMP to do their job. That's the reason why they're in the community of Sandy Bay, not to work for the white people but to work for each one of us in this community of Sandy Bay. When a white person calls them over, they're there right away, but the Native, they won't show up, not till about 24 hours after.

- Speaker at dialogue in Sandy Bay

Speakers told the Commission that they believe there is poor enforcement of band bylaws such as alcohol restrictions on dry reserves. Others were critical of the jail facilities in the local detachment and of the treatment received by prisoners.

Progress Report (continued)

They had stripped [a youth] naked and they threw him in the drunk tank. And as you know, I've seen it too, it is just a cell. There's no mattress, no bed, just a washroom, a toilet, a toilet tank and that's it. There's nothing else there. It was in January. It was about 40 below.

Take away the drunk tank. We don't need it. Our people suffer enough as it is. They do not have to suffer more in the drunk tank.

- Speakers at Pelican Narrows dialogue

One of the more consistent themes coming out of the northern dialogues was a criticism of Legal Aid services provided in the region. The Commissioners heard that lawyers spend little time with clients and there are often language barriers. On several occasions the Commissioners heard the comment that clients are often advised to plead guilty to speed up the court process.

I'm saying that Legal Aid is overworked. They don't have time to listen. They don't have time to serve their clients when they have a matter. And sometimes people are just railroaded and they're only given certain options. They take what's easier for them as well.

- Speaker at Sandy Bay dialogue

The Legal Aid system just doesn't work in Northern Saskatchewan. The Legal Aid lawyers don't even spend enough time consulting with the individual that's going to court. You've got maybe 40-50 people that are (there) before they go to court, they've got maybe two, three minutes, maybe five minutes, that's the most that he can do. A lot of people are choosing not to deal with Legal Aid, they're just speaking on their own.

- Speaker at Beauval dialogue

Court facilities in Pelican Narrows and Sandy Bay are inadequate and unacceptable. The Commissioners heard comments about the court facilities and had the opportunity to visit the Cree Court in Sandy Bay and found the facility to be lacking in many ways. Court is held in small spaces leaving victims and offenders in close proximity, and interviews take place in rooms such as washrooms. There are language barriers. Cree Court has improved the situation somewhat, and there are requests for Dene and Justice of the Peace/community courts. Communities would like sentencing circles and community-based restorative justice processes.

Our court takes place in the Band office at Montreal Lake. What seems to happen on every court day is that some of us will relinquish our offices for the day and have some of the court people use those offices throughout the day. And just as one person related to me this morning, it's very much of a challenge for anybody, especially if you're a victim of rape, for example, and having the perpetrator right next to you. There's no space there, and you can really feel for the victim in that situation.

- Speaker at Sandy Bay dialogue

The Dene court I think has to become a priority. There's great animosity created between two Aboriginal cultures because one Aboriginal group is utilizing a system that another group is also asking for. So as quickly as you can find enough Dene people that are lawyers and judges and clerks and that type of thing, I would suggest that that be implemented as soon as possible. Because the Dene community on this side of the province is the greatest population in numbers that there is. And how do we do that? Maybe we send a lot of people to school to become lawyers and judges and that type of thing.

- Speaker at dialogue in La Loche

Northern offenders are sent south for incarceration, often for crimes that are not serious, or for crimes that are alcohol- and drug-related. Northerners feel that alcohol and drug problems require treatment, and sending offenders south does not solve community problems and further divides families and communities.

There (was a) youth that just come back from jail and I could just see the fear in his eye, you know. And he went and did six months and he said, that's hell over there. He said there's gangs in that jail, I've seen two stabbings, people getting beat up, he said. And he also was telling me that he was trying to be recruited into the gangs within that jail.

- Speaker at Meadow Lake dialogue

The Justice Reform Commission heard northerners report that domestic violence and zero tolerance for violence legislation is detrimental to their communities. They see violence as a symptom of a larger issue that requires healing and not punishment. Punishment, due to lack of facilities and workers in the North, requires the removal of northerners from the communities. Removal divides families and causes further harm to communities.

Progress Report (continued)

Northerners are worried about the implications of the *Youth Criminal Justice Act*, particularly since they were not consulted and the resources for healing and treatment in their communities are limited.

Northerners commented favorably about the Justice Workers Program and the Victims Services Program. There were also positive comments about the Aboriginal Courtworkers Program and the use of alternative measures.

I think the one program that's been successful right now is the Victims Services Program. There is four in this region, which is called the Churchill River Region Victims Services. There's four part-time workers and we cover all the Churchill River Region. And so far it's been good, but like also she mentioned the lack of funding. That when you have a program, you get a good program going and then the funds run out, so everybody is left high and dry.

- Speaker at dialogue in Beauval

The use of mediation strategies is generally seen as a positive method of dealing with certain types of conflict within the community. Some speakers also spoke highly of various restorative justice processes that have had successes in their communities.

Mediation is good as long as the whole family is involved in it; the victim, the offender, plus the mediators that are there. And I think it would eliminate a lot of the people having criminal records.

- Speaker at dialogue in Pelican Narrows

The role of community police boards was discussed. It was agreed that better communication between the RCMP and the community is an essential element of successful policing in northern communities.

I've been involved with the RCMP at some point in time here in the past as the chairman of the police management board, and so that's one of the positive things I guess that I've seen that's worked for the community. There's some dialogue between the RCMP and the community, and I think with a board like that, it relieves some of the tensions between the community and the RCMP, and I guess some of the misconceptions that people have. You know, once people get involved and participate in programs, you know, there's a lot of positive things that happen.

- Speaker at Pelican Narrows dialogue

The Commissioners heard many people mention that it was important to include Elders and traditional Aboriginal values in the process of healing people who have demonstrated that they have social problems that have made their behaviour unacceptable in their community. The Elders in particular are seen as a valuable resource.

There's some schools in reserve communities that have Elders going into the schools talking about traditional culture, ceremonies and survival skills, and I think that is useful to youth as well.

- Speaker at dialogue in Meadow Lake

Cree and Dene Courts or Justice services where people can speak their first language were appreciated by northern people. Other highly regarded community-based initiatives were:

- Community development models that use an integrated services approach to community problems such as in La Loche where new RCMP are taken on a two-day orientation by the Community Development Corporation.
- In Pinehouse, workers from different agencies such as health, education, social services and community justice meet to discuss priority cases in the community. As a result, there is an integrated approach to resolving these problems, the Commission was told.

Northerners are concerned that a lack of funding reduces the positive impact of these programs in several ways. The Commissioners were told there are high caseloads and not enough resources, which reduces both quality and quantity of services.

I hear a lot about judges being social workers and making all kind of referrals to places where they don't even know if there is a therapist working. Like, I get those calls and say, "How do we get this person out to therapy every week when we don't even have a therapist here but the judge said he's got to go for therapy? How are we going to take him to counseling, or get an assessment when we don't have a NADAC worker here, no coordinator here."

- Speaker at Sandy Bay dialogue

Some speakers noted that expensive travel reduces the availability of services.

The closest for resources we have is Prince Albert. We even have to go down as far as Lloydminster, and a lot of them [are] in Meadow Lake. So that kind of leads a lot of our people that are experiencing violence to say we can't afford to do this, we can't afford to take our kids out. So we need solutions that are going to bring something back up that will work with us back in our communities where we know we can help them better.

- Speaker at dialogue in Beauval

Progress Report (continued)

The rising crime rates, high caseloads, poor access to education and distance between communities contributes to a crisis situation in the North. Communities would like more crime prevention dollars. It was noted that competition for program funding is intense and there is not enough money to meet all the needs.

Like you ask for programs or facilities or whatever for your youth, so they can try and adopt healthy lifestyles. There's always the excuse that there's no money. Yet a new court just got built in Prince Albert, an arts building got put in Prince Albert through the Centenary Fund, yet we can't get a recreational facility in Pinehouse. We've been asking for an arena for years and years now and we're told there's no money.

- Speaker at dialogue in Beauval

Youth Issues

The youth population is growing dramatically and now accounts for approximately 60 per cent of the population in Northern Saskatchewan. Particularly troubling are the limitation of educational and employment opportunities in the North. There is a lack of recreational activities and an environment plagued with social problems such as alcohol and substance abuse and domestic violence. Such a context is one that fosters criminal activity.

Our teenagers in this community that are 18, 19 years old are lost. We have to work with the young kids due to the alcohol problems, the drug problems. And some days I just about cry because I see some kids that haven't eaten. Where's mom and dad? I don't know.

- Speaker at dialogue in Pelican Narrows

The following concerns were presented to the Commission:

- Mistrust of police and the criminalization of young people

Too often youth are charged for trivial matters that should have been diverted before entering the court system. Police may not have discretionary powers to lay charges or not, maybe it's time they did. They could have youth go directly to a mediation program, part of which may involve community service.

- Speaker at dialogue in Beauval

- Not enough emphasis is put on crime prevention.

We need more education and awareness programs to show the youth how to stay out of trouble and keep out of trouble. More educational material about the justice system and how it works, like if they get into that kind of stuff that's what's going to happen. Group programs are really good to get to kids, try to get it through their heads not to drink and drive, do drugs, stuff like that. If we could get more programs like that, it would help out a lot.

- Meadow Lake Youth speaking at dialogue

- Inadequate recreational activities and in some cases facilities such as arenas.

I think some of the things that are helping our young people mostly, sports. Like we have these hockey players, ball players, we have track and field, and I think it helps the people, like the young people, stay clean, you know. We all know that we have a lot of alcohol problems, especially on the reserve, and drugs also. We have a lot of social problems. And I think these are some of the things that help the young people. Another thing is the traditional ways, too, you know, like the sweats and stuff like that, you know. Young people that get involved there it seems to be they're not taking as much alcohol and drugs as they used to. And these things help a lot.

- Elder speaking in Meadow Lake

- Need for improved education and employment opportunities.

I can tell you, as a probation officer, the typical person who comes into our office has an education level of less than Grade 10, and they've dropped out of school for whatever reason. No support at home. They have no income, they have no job, they're dependent on welfare and they have low education. So, I think education does play an important role in people getting involved in the criminal justice system and gravitating to that type of a lifestyle.

- Speaker at Meadow Lake dialogue

Progress Report (continued)

- Lack of adequate justice and community services. For example, youth believe that probation involves little more than putting checkmarks beside their names indicating that they have showed for an appointment, and that this is largely due to a lack of available treatment/programming/counseling options in their communities. This lack of options also means that youth are too often processed through the justice system for minor infractions when community methods would be more appropriate.

I have great concern in this community with the youth and the justice system. I think a lot of the young people, and I'm talking older teenagers, shouldn't have a criminal record for many minor things that they are charged for. I think it should be handled outside of court somehow by the community, the community members, the Elders, like a sentencing circle or whatever. I think a lot of the people up on charges for the first time should go with mediation, with sentencing circles, because a sentencing circle is a hell of a lot harder to deal with than by one person up there who's got almost as much power as God. (That's the) judge, telling you what you're going to be doing with your life in the next six months, a year.

- Speaker at Pelican Narrows dialogue

June 13, 2002

Clearwater River Dene Nation – (Meeting in Saskatoon)

At the invitation of the Clearwater River Dene Nation, near La Loche, the Justice Reform Commission met with Chief Roy Cheecham, the band manager and three members of the band council.

Chief Cheecham made a presentation to the Commission that stressed his focus on prevention in the realm of justice issues. He suggested that education and training of a growing and young population is the best strategy for developing a healthy community and helping people avoid criminal behaviour. Cheecham said the building of a high school on the reserve is a positive step but more needs to be done in the field of adult education. He noted that there are other problems on the reserve including inadequate housing, severe unemployment and substance abuse.

There were concerns about policing on the reserve. The RCMP has 14 members posted at the detachment in La Loche.

A fifteenth member is not the answer. At a cost of \$100,000 per officer when salary and benefits are taken into consideration, you wonder if that \$1.4 million couldn't be spent proactively. If you don't change the status quo, you'll need 28 officers in ten years.

- Chief Roy Cheecham

Clearwater River Dene Nation has been a dry reserve for many years but that does not stop residents from consuming alcohol in La Loche and returning home intoxicated. There is an ongoing concern as is the enforcement of the band's alcohol bylaw. Hainault, the band manager, said the RCMP doesn't seem to take the enforcement of this bylaw seriously enough. Hainault listed other issues pertaining to policing on the reserve:

- The RCMP (officers) go home at 2:00 a.m. Everybody knows that and it is after that time that many crimes are committed.
- On court day, the plane arrives with the judge, the crown prosecutor and the Legal Aid lawyer. At noon they all get into the RCMP cruiser and go to lunch.
- When there is a complaint against the RCMP it is investigated by former RCMP or other former police officers.
- We have asked many times that an RCMP member be housed on the reserve. The RCMP always finds reasons for not doing that.
- We need to improve response time from 45 minutes or an hour.

There was some discussion on the success of designating a reserve "dry" and rigidly enforcing such a bylaw. Chief Cheecham defended his council's decision and noted that the differences between Clearwater River Dene Nation and neighbouring La Loche are evident.

We have a quieter, calmer community. Our crime stats are constant or declining. Those who object to the bylaw are users and abusers.

- Chief Roy Cheecham

COMMUNITY DIALOGUES, PRESENTATIONS AND SITE VISITS

September 10, 2002

Regina Correctional Centre

After an extensive tour of the facility the Commissioners had the opportunity to hear from staff members who shared their thoughts with respect to justice reform and the management of a correctional facility. The Commissioners also heard from a delegation of inmates.

Progress Report (continued)

The Commissioners left the facility appalled by the conditions under which inmates in segregation are being held. This portion of the Correctional Centre can be compared to an old dungeon and raises serious questions about the treatment of human beings in this jail. Inmates in this section are confined to their cells for twenty-three and a half hours a day. The stench is overpowering in the dark and dirty corridor.

It should also be noted that the overwhelming majority of inmates currently being housed in these deplorable conditions are Aboriginal men.

The original section of the Regina Correctional Centre, which includes Segregation Unit (East G wing) and the Secure Unit (West G wing), was constructed in 1913.

The Commission acknowledges that its observations are not unique and in fact the issue of closing or replacing much of the Regina Correctional Centre has been discussed for many years. Although there are other areas of the facility that are clearly unsuitable, the Commission is particularly distressed at the state of East G and West G. During dialogues with inmates, staff and management of the Regina Correctional Centre the issue of these units arose frequently.

Here, if you've had a chance to look at this place, except for the new units out there, with a few exceptions, it's back in Charles Dickens' era, some of the facilities and the units we have here. The staff have to work in it, inmates live in it, and it's not a great place.

- Staff member speaking at dialogue

The age and design of the building create inhumane conditions, which are worsened by the amount of time that inmates in these units are confined to their cells. The labour intensive procedure of having to manually lock and unlock each cell precludes meeting standards for daily exercise. Above all, safety is a concern.

I don't believe that we can accomplish what we want to accomplish, regardless of all of our efforts, as long as we have to work in an environment like this. The security will always be an issue in terms of operations in this kind of facility, just because of the design and what you have seen, and trying to implement a 21st century corrections philosophy in a 19th century architecture. I go home at night thinking that we have no fire escapes at the end of those units. If there was ever a fire, where would those inmates go if you had a fire at the end of the gate? I go home at night, my hair stands up on the back of my neck thinking, what about the safety of the people in this institution.

- Staff member speaking at dialogue

Recommendation

That the segregation units of the Regina Correctional Centre, known as East G and West G, be closed immediately.

September 11, 2002

Treaty Four First Nations – Treaty Four Grounds, Fort Qu'Appelle

One of the most significant messages the Commission remembers from this dialogue was the frustration Treaty Four leaders and Elders hold towards the mainstream justice system and their efforts to re-establish their own system based on their traditional beliefs.

Elders, leaders and staff presented their perspectives of Treaty Four Governance initiatives and other issues. These 34 First Nations have utilized their Treaty Four land claim settlement to build a foundation and capacity for their ultimate self-reliance.

The Centre assists First Nations to develop their own constitutions, laws and policies, including generic fiscal management, membership and election acts, and to provide professional advisory services to the First Nations. The Centre is developing a dispute resolution capacity at the community and regional levels.

From a number of Elders the Commission heard a consistent complaint about the existing justice system: it has no heart and is essentially a system of laws at odds with ancestral teachings and a healthy lifestyle. Jails were seen as anti-spiritual centres for the teaching of disrespect and breaking up families. The justice system heals nothing, but brings pain for First Nation people.

Some Elders blamed the education system for contributing to the dysfunction in First Nation communities. Starting with the residential school system, Elders complained the forcible loss of traditional teachings led to the loss of healthy parenting skills. One Elder connected the incarceration system with continuing the work of the old residential schools.

I was a victim to the brothers and to the priests. Imagine a nine or eight-year-old boy learning sexual [acts] through perverts.

- Elder speaking at dialogue September 11, 2002

Progress Report (continued)

One Elder expressed concern that sentencing circles require love and respect and without these two ingredients, clients could abuse the process. Other Elders were concerned with the unfair treatment of First Nation veterans, the lack of training or education while people are in jail, gangs and drugs in the jails.

Another Elder focussed on the difference between First Nation and Western concepts of justice. The Commission heard that, from the First Nation perspective, Western justice seems rooted in man-made laws designed to control people and things, whereas First Nations law is inspired by conformity to the Creators' and Nature's laws where the focus leans towards love and respect.

To you, the leaders, also the Commission toward justice, we have to work together in order for things to work together. If we're not at the table, then something is missing at that table that we can't even digest and it will never work. And we've been away from that table far too long, far too long as First Nations people. We need to make our stand for the future that they don't suffer the same consequences we suffer today.

- Elder speaking at dialogue in Fort Qu'Appelle

One Grandmother expressed hope the justice system could be changed if there was a willingness to stop the victimization of people, but government money and its need to control, is what runs the system. It was suggested that honesty within First Nation communities is also needed otherwise the evils done to First Nation people by others will be done by First Nation people instead.

The Chiefs echoed the concerns of the Elders, but emphasized the jurisdictional and resource difficulties. Recognition of First Nations jurisdiction based on the Treaties was seen as one of two keys to establishing a more culturally appropriate system of resolving disputes and conflict. The other key was the proper resourcing of programs designed to alleviate community dysfunction and empower individuals to live a more productive life.

We've had a clash of cultures over the years, where we have a number of our First Nations traditions and values been overtaken by acts of government, acts of parliament and acts of the bureaucracy that have interfered with our values and our culture and our heritage. And what we're attempting to do, and what we will do over the years is rebuild our justice system within our communities and for the benefit of our people.

- Chief speaking at dialogue in Fort Qu'Appelle

The Chiefs were relieved the courtworker program has been reinstated because it was seen as doing good work for community members. The Legal Aid program is seen as an important service, but because the program is severely understaffed the program is ineffective and is contributing to injustice.

All this funding, if there was some way that they could be pooled and put into just a justice program ... instead of us having to write a proposal every year to all of these departments for our funding. Sort of just gives you an idea of what we spend our time on.

- Speaker at dialogue in Fort Qu'Appelle

The Commission also heard from front line justice workers in the region. They listed a number of programs that seemed to be making a difference in their communities, such as the volunteer crisis intervention teams working at the community level, the "In Search of Your Warrior Spirit" program for men who batter, and the anti-bullying program in schools. The Commission heard, however, each of these programs face a troubled future given the rate of volunteer and staff burnout and erratic funding.

From the justice workers one clear message emerged: governments must empower the communities to solve their own problems. The inclusion of First Nations people as part of government policy and program development was also suggested as an important measure to making government responses to justice initiatives more effective and culturally relevant.

Many of our Elders, when we talk with them, they say that crime is a broken relationship, and what we need are the tools to build those relationships, the relationships with our Creator, the relationships with our relatives, the relationships with those that we live with on this Earth. So that's the kind of problem-solving process that we would like.

- Speaker at dialogue in Fort Qu'Appelle

Elders, Chiefs and technicians frequently cited specific areas of concern. RCMP recruits were viewed as poorly trained, with some detachments seen as havens for racism. The fate of First Nations youth was raised as a significant issue, prompting one Chief to call for a response at the community and the provincial level.

You know, something has to change because there's too many young people that are going to jail, that are joining gangs, that are working on the street, that are in prostitution, that are enslaved to a life of drugs and alcohol. There's a lot of things that have to change, and not only with the system but also within our people.

- Chief speaking at dialogue in Fort Qu'Appelle

Progress Report (continued)

It seems clear to this Commission that the Treaty Four First Nations want to address the root causes for the troubles in their communities. There is an apparent willingness to restore a spiritual, philosophical and practical approach to solving First Nations problems by First Nations people.

We talk about how we're going to help (young people), how we're going to support them and be there for them. We cannot do that if we do not first take a look at ourselves and deal with our own issues and do something that's going to be positive in everything we do. We talk about the laws to change and, yes, that's true, we need to do something that way. We need to bring back the Natural Law, follow the way our ancestors were. We have to take a look at what's really wrong with us in our communities. We have to take a look at what's happening on the outside. Are we going to allow what's happening on the outside into our own communities, and allow our own people to start doing this to us and hurting all over again? I believe we have to start taking a look around us and start with ourselves. We have to stop letting our children suffer. Stop that suffering and pain. Stop that cycle that we went through; we have to begin that new journey, we have to begin with our people. The ones that are making decisions, the ones that are doing all the controlling of the finances. Yes, we have some good people in there, and they try to do right, but there are some that are only there for themselves. Sorry to say that, but that's true.

- Speaker at dialogue in Fort Qu'Appelle

September 13, 2002

Research Roundtable – Wanuskewin Heritage Park, Saskatoon

The Commission convened a roundtable of academics and leading authorities to discuss critical areas for research and discuss recommended best practices for a research program for the Commission. The roundtable provided expertise in the area of current and past research undertaken in the area of justice, which directly affect the work of the Commission, as well as establish communication lines for ongoing work on justice issues among academics.

September 16, 2002

North Battleford Community Dialogue, North Battleford

At this dialogue the Commission heard a wide range of concerns and suggestions for the future. The erosion of traditional culture was a thread that ran through virtually all of the concerns expressed. The justice system was described as irrelevant and discriminatory, failing to provide healing for the offender or the victim. Much concern was expressed for children and youth, and the need for rediscovery of traditional parenting skills.

But they never thought at one point in time 125 years ago they'd take over. We were here before Canada became Canada, we were here before Saskatchewan became Saskatchewan. Look at the confusion now. Of course, this is where some of our culture is lost. Where are our old communities? We have to teach. Our culture is ... language, but the government presented everything their own way. I walked into Manpower one time and they told me, "What's your first language?" I told them Cree. He said, "You're wrong, English is, French is second."

- Speaker at North Battleford community dialogue

Above all, working together was seen as the avenue for positive change, and the Commission was viewed as an indication of this. Suggested solutions included the development of programs from the grassroots level for children, youth, parents and grandparents, and more resources for existing community programs. Cultural training for police, prosecutors and judges was another suggestion. The provincial employment equity initiatives and the employment of increasing numbers of Aboriginal people, especially in decision-making positions, are viewed positively.

I think this is a positive sign that we're starting to work together. We all have to – we all have spirituality through use of the Cree First Nation in that we all are children of the Creator, and we're all of four colours, and we all have to start working together.

- Speaker at North Battleford dialogue

There were several examples of successful initiatives in the community: Battleford's Concern for Youth, The Walking School Bus, soccer and hockey teams, community policing, community Cadet Corp, sentencing circles, cultural camps, learning from Elders and pride in language, and schools where cultural values are stressed.

At the end of the day the Commission met with some of the local Aboriginal youth. In this discussion, the Commission was not surprised to learn there was some minor "baby gang" activity, that local youths join these gangs out of a sense of self-protection from the hostility shown by the young, non-Aboriginal community in North Battleford.

September 17, 2002

Onion Lake First Nation Community Dialogue – Onion Lake First Nation

While in this First Nation community the Commission learned of the hostility some members of the Nation feel from some people in the Lloydminster community towards people of Aboriginal descent, particularly after three Onion Lake youths were charged in the death of a Lloydminster man.

Progress Report (continued)

An unchecked, obvious presence of drug dealers on the First Nation and court issues were by raised a number of speakers. Restoration of culture and language for youth, lack of funding and resources, jurisdiction problems caused by provincial borders and the need for information about the new *Youth Criminal Justice Act* were other concerns, as well as the absence of a court on the reserve.

These drug dealers, you know, when you watch them – well, the other day [we] pulled up to this one place and within five minutes there was two carloads of young people and you could just see it, it was right in front of you what they were doing, and I thought, you know, what can you do? Like there is really nothing you can do because nobody listens to you, you got to have evidence.

- Speaker at Onion Lake dialogue

The necessity of locally designed and staffed solutions to meet each community's unique needs was the consensus during a discussion in search of solutions. Increased funding, and the re-allocation of much of the funding used for incarceration, was considered mandatory to meet the community healing and education needs.

Every community is unique, their cultures are unique and, therefore, we should formulate our own policies as to how to mandate the funding.

-Speaker at Onion Lake dialogue

A discussion of successes illustrates how the RCMP can improve its relationship with a First Nation community by assigning a proactive and compassionate officer to work with the local community justice committee and police management board. Previously, it was pointed out, people suffered under what can only be described as a standard patrol and arrest approach. And finally, the Commission was struck by the number of initiatives the community undertook to improve the safety of its members, including the establishment of a community security detail, healing/sentencing circles and an active courtworker program. Other successes identified were the work of Elders in corrections, the proactive team of department heads, the director of justice role and cadets programs for youth.

(The security detail) is one of the programs that has really helped this First Nation and, in fact, people laugh at me when I call them our angels, but they are, they help the community, they help the police and, you know, they prevent a lot of crime. But on the other hand I should mention, too, these boys, they work mostly – most of the time they work twelve hours a night, but they only get paid for eight hours a night.

- Speaker at Onion Lake dialogue

I am very sorry when I hear about young people getting into trouble, they worry me. I pray for them all the time. I'm one of the oldest in Onion Lake. All of these people in here are my grandchildren because I am the oldest. I am thankful for your work, don't give up, always do your best.

- Elder speaking at Onion Lake dialogue

September 18, 2002

North Battleford Adult Correctional Centre, Forensics Unit North Battleford Hospital, Drumming Hill Youth Centre and First Nations High School - North Battleford

The Commission spent a morning at the minimum security North Battleford Adult Correctional facility and held a frank and informative dialogue with the inmates. Later, the Commission met with staff of the Forensics Unit at the North Battleford Hospital for a briefing on its operations. Later that afternoon the Commission was taken on a tour of the North Battleford Youth Centre and spent a few hours with the residents. The Commission also visited the newly opened First Nations High School for a brief tour of this promising facility before it ended the day at the Drumming Hill Youth Centre and engaged in a dialogue with the residents.

October 2, 2002

Elders and the Corrections and Public Safety Aboriginal Program - Cypress Hills

Commissioner Joe Quewezance represented the Commission in a unique dialogue opportunity hosted by the provincial Department of Corrections and Public Safety. At this gathering Elders working within the facilities and the coordinators of the Aboriginal Correctional facilities in the province addressed the Commission's three basic questions. What emerged was a gratifying consensus that the healing programs and ceremonies were having a positive impact on the inmates and the general security of the facilities. However, episodes of racism from correctional staff towards the Elders, the ceremonies they perform and the healing journeys of the inmates are still evident, some Elders stated.

October 28, 2002

Symposium on the Treaty Right to Justice – Saskatoon

In the spirit of cooperation, the Office of the Treaty Commissioner invited the Commission on Justice Reform to attend the Symposium on the Treaty Right to Justice. While at the symposium our Commission received a briefing on the significance of the Treaties in a modern day context and how justice and safer, more prosperous communities can be better realized through the proper implementation of the Treaties. What made the symposium a success for the Commission was that Elders from across Saskatchewan played such a pivotal role.

The First Nation consensus seems to be that the ability of First Nations to administer their own laws was not relinquished when the Treaties were negotiated. Rather, there was to be a mutual respect of each nation's laws.

There seemed to be a genuine interest and commitment on the part of the federal and provincial delegates at the Symposium to improve the justice system's relationship with First Nations people. Delegates made an effort to connect with First Nation concepts of harmonious relationships as compared with the mainstream definition of crime.

October 31, 2002

Elders of the Office of the Treaty Commissioner – Saskatoon

The presence of the Elders at the Symposium on the Treaty Right to Justice provided the Commission with a unique opportunity to gain a deeper understanding of First Nation justice and healing issues. After the symposium the Commission spent half a day listening to the Elders explain their views on the justice system and traditional healing methods in a modern day context.

Much of what the Commission heard from the Elders reinforced the idea that Western justice and the First Nation approach to healing were at odds with each other. One Elder pointed out the apparent hypocrisy of a justice system that said it treated everyone fairly and the same and yet seemed oblivious to the needs of those who needed assistance to be treated fairly and equally. Other Elders carried that idea further by stating the justice system could never deal with the real issues in First Nation lives because it avoided the fact crime is a result of unhealthy relationships.

The Elders agreed what was needed was a restoration of traditional First Nation teachings and processes designed to heal relationships instead of systems that promote anger and pain. From what the Commission heard it would appear that the Elders advocated a restoration of traditional parenting skills and spiritual practices as the best chance of saving the youth from unhealthy lives. Recreation programs for youth were also considered beneficial.

The Commission wishes to thank these Elders for sharing their wisdom. We will take their advice to heart as we continue our work.

December 5, 2002

Elders Advisory Council to the Aboriginal and Northern Justice Initiative Branch

The Commission was invited to make a brief presentation to this newly reformed council of First Nation and Métis Elders. The purpose of the Elders Advisory Council is to guide the Aboriginal and Northern Justice Initiatives branch of the Department of Justice.

As in all our meetings with Elders the Commission acquired some very insightful guidance. The Elders were very concerned with the fate of Aboriginal youth under the new *Youth Criminal Justice Act*. Once again the Elders pointed to the return to traditional parenting skills as the most effective solution to problems created by the justice system, the welfare system and the legacy of the residential schools. The Elders were clear that communities are responsible for the prevention of crime and healing of relationships, but limited resource and personnel issues must be addressed.

YOUTH AND THE JUSTICE SYSTEM

Youth Facility Site Visits

The Commission made site visits to open and closed custody youth facilities an important part of its mandate. Typically these visits involve a brief tour of the facility itself and, time permitting, a brief dialogue with the management and staff. Due to time constraints we were not always able to meet with management and staff as the young people residing in these facilities were the first priority.

The dialogues with the youths in the facilities that follow were significant.

September 10

Paul Dojack Youth Centre - Regina

The first site-visit conducted by the Commission began at the Paul Dojack Youth Centre. After a tour of the facility the Commission met with youths from each of the four units to listen to their experiences and concerns with the justice system, and hopes for the future. The following is just a sample of what we heard.

Progress Report (continued)

The concerns of the youth about the justice system included police roughness, the length of time it takes for a case to get to court, the length of time spent in remand and unfair treatment in court. The need for better counsel from Legal Aid was the concern about the legal system most often expressed.

The judge I went up against was prejudiced so my lawyer told me what I should expect and I got it.

- Youth speaking at Paul Dojack Youth Centre dialogue

Increased contact with family and more cultural activities were most frequently mentioned as ways to improve their experience in custody. The youth expressed appreciation for accessibility to education, Elders, art and shop activities that may lead to employment, camps, counseling and drug and alcohol education at Paul Dojack Youth Centre.

I participate in ceremonies that go on. We do pipe ceremonies every second Monday here with my dad and my grandpa and that's just to, I guess, keep me thinking straight so I don't mess up while I'm in here.

- Youth speaking at Paul Dojack Youth Centre dialogue

When the time comes to return to their communities, most of the youth mentioned hopes of curbing their use of drugs and alcohol, and a better family life; gangs were a concern they knew they'd have to deal with.

I'd want to change the people I hang around with because I've been hanging around with lots of negative people. And the drugs that I do. I believe in the treatment centre ... and just to get into some kind of programs, like after school, so I can occupy myself and not think of getting into trouble, and just try help my brothers and sisters so they don't end up in a place like this.

- Youth speaking at Paul Dojack Youth Centre dialogue

September 18, 2002

North Battleford Youth Centre

The Commission toured the North Battleford Youth Centre, meeting with staff and residents. Among the issues discussed were programming and policies that put the youth at risk.

What we think of the level system (earned privileges), we think that they should take out the level system because it affects many youths, that it gets out to the communities. They get picked on or beat up or harassed because they have to tell on people. In jail terms, it's ratting on inmates. And, say, if they get bumped to the Correctional, then most likely they're going to take their reputation there because there's a lot of youths that have a gang mentality and they come in and out, and they're most likely going to spread the word that the guy is just a rat.

- Youth speaking at North Battleford Youth Centre dialogue

Lots of times lots of us we get stereotyped and there's really nothing we can do about it. You know, we try to improve our behaviour, but lots of times people don't really look at that, they just – you know, lots of places you go they don't really worry about you, they're just there to feed you or whatever, or put you in your room, that's it.

- Youth speaking at North Battleford Youth Centre dialogue

Some youth reported that Legal Aid lawyers don't have the time or the inclination to listen to them and to adequately represent them. Lengthy probation periods and unreasonable curfews are seen as factors that lead to breaches that retain youth in the justice system. Drugs are described as being everywhere.

It's (drugs) just always there, you know. It's hard to avoid, it's like in the community, every community.

- Youth speaking at North Battleford Youth Centre dialogue

Increased recreation and places to socialize in the community were most often suggested as providing an alternative to youth crime, although there was some hopelessness expressed as well.

I don't know, if they have gyms, like open gym nights that would keep people (out of trouble). If they knew that there was a place to go and there's a place that there is staff to watch them and there is a gym to play ball or something, you would be able to go and do something like that. That would keep them out of trouble for a while.

- Youth speaking at North Battleford Youth Centre dialogue

Progress Report (continued)

Community service alternatives to probation, and alcohol and drug treatment programs were other suggested solutions. The Calder addictions program, and the Green Tree work experience program operating out of the Nesbit Youth Centre in Prince Albert are seen as successful programs. Norsask was suggested as a preferred youth custody model, especially for older youth.

Drumming Hill Youth Centre - North Battleford

The tour of this facility was conducted by a resident. He expressed pride in the facility and the sweat lodge, which has been built on the grounds near the main building. The residents of Drumming Hill spoke of early introduction to drugs and alcohol addictions, and of family members that had also experienced the justice system, most often siblings, cousins and fathers. They were concerned about the effect of breaches, of lengthy probation orders and curfew.

That year (of probation) it's hard to stay out of trouble because they just keep checking up on you for your curfew and drugs and alcohol, but some people are addicted, like me, and then they put me in jail for that.

- Youth speaking at Drumming Hill Youth Centre dialogue

Discriminatory treatment throughout the justice system was reported by a number of youth.

The cops, they label all – like in the reserve they pick you up, they say they're going to charge you for this, this, this and this and this, and then they ask you questions about all of them, and like if you lie, like you say, "I don't know anything about them." And they're "Well, you're going to get charged for that." And then you have to make up something like to put them on someone else, just so you don't get that charge. Like they say "You're getting charged for all of these", and then they try and make you take those charges which you didn't do, like put more on you.

- Youth speaking at Drumming Hill Youth Centre dialogue

I would like to say about the court system, too, like the way Aboriginals get treated in court. Like say if I had assaulted somebody in – like a real bad beating and then this non-Aboriginal did the same thing and we were both in the same cell area and, you know, we're going up on the same charges and I always see non-Aboriginals get less and the Aboriginal always comes out with more of something, you know.

- Youth speaking at Drumming Hill Youth Centre dialogue

Legal Aid representation was given poor reviews:

They'll say plead guilty to the biggest charge and then you can get these ones dropped.

It seems like they don't really try to help you, they just agree with whatever the Crown wants, you know. That's how it is when I got Legal Aid help, so I don't ask Legal Aid any more.

- Youths speaking at Drumming Hill Youth Centre dialogue

The youths had several solutions for a better future including: jobs, lots of family support, a fresh start without being on probation, and equal treatment for everyone. They felt they would need to change their friends, stop drinking and doing drugs, and go to school to change their lives when their sentences were over. Taking part in more cultural programs and sports are mentioned as other avenues for success.

Camps such as Alternatives to Violence, sponsored by FSIN, which offer cultural activities as well as a diversity of other recreation such as riding horses, wall-climbing, swimming, and canoeing, are seen as successes in the community.

October 21, 2002

Kilburn Hall Youth Centre - Saskatoon

Once again the Commission was struck by the experiences these youths shared, including broken homes, absent fathers, alcoholism in their families and gravitation to the gangs. The dialogue with staff that followed affirmed these concerns, as well as concerns of systemic discrimination, inadequate emphasis on family support and diversion tactics that may prevent youth from encountering the justice system.

Progress Report (continued)

One of my brothers went to jail and he's on probation now. I think what would help him, he needs support. He doesn't have much family, just my sister and that's about it. He's with negative peers all the time always trying to look for trouble. I don't know, my whole family is – my brother is in for manslaughter and my other brother is in jail, it's drugs and alcohol. There was always violence and that's the only thing he knows.

-Youth speaking at Kilburn Hall dialogue

I think it comes down to parenting. There's good structure in the school, I think maybe 50 per cent of the time stuff that happens on the street wouldn't happen if parents actually spent time with their children and explained the way life should be. They should be leading by example really. I don't know much about what my parents did, but from what I seen – like obviously, I was taken away from them by Social Services before anything serious happened. But from one of my friends who live with their original parents, it's just a disaster. Sometimes, like, I feel really sorry for him. I offered to take him to my foster home but my foster parent doesn't want anything to do with him. I tried to explain the situation and they phoned mobile crisis. But they're always putting it onto other people.

- Youth speaking at Kilburn Hall dialogue

And definitely that's what I see, I think, is children bringing up children. Our youth are having to bring up their children too young. They get frustrated and sometimes I call it selfish parenting, where parents are wanting to live like young people and then their children go and have to look after themselves and fend for themselves while they're out having a good time. I see moms coming in there very young, struggling to get an education. And when I speak to them the background's not there, their parents are not there to help them. Their parents are still living that empty lifestyle themselves ... That's not our way as Aboriginal people. Whenever there was a need the Elders stepped in and helped ... there's got to be more of that sharing the knowledge of parenting with the young people.

- Elder speaking at Kilburn Hall dialogue

Traditional culture was often identified as a solution.

I don't know if you guys are trying to get to the root of the problem, but there are many branches on a root, so there are things that connect before you get to the main branch. Right? And that main branch is usually the drugs and alcohol and that's what gets us. But even if you have parents, whether they are responsible or not responsible – I had a very responsible mother and father. My life was very structured, I lived what was considered a normal life, I went to school, everything was fine. I didn't know what drugs were or pills or anything was till I moved here. But I also had no connection with my culture, I didn't know what sweetgrass was, what sage was.

-Youth speaking at Kilburn Hall dialogue

I strongly encourage you young people to get into that group, become spiritual, it makes it a lot easier for you to deal with the pain that everyone must carry. It is very, very difficult to show your emotions within the system, but if you work with Elders it makes it a lot more easier to heal.

- Elder speaking at Kilburn Hall dialogue

The fact that Kilburn Hall functions as a remand centre causes a variety of problems.

The bulk of the kids in this facility are Aboriginal and Métis, and we see that. The average length of stay right now is about four-and-a-half days per person, okay. Why is that happening? It's very predictable. From about Wednesday night on the kids start getting arrested, they start getting picked up by the police. We peak probably about Sunday night, we're jammed full, we're running kids all over the province all weekend long to try to create space for us to accommodate the volume of police arrests. These kids go to court Monday, Tuesday, Wednesday and the majority of them are released back into the community somewhere. And then the whole cycle repeats itself maybe with the same kids or maybe with different kids the next weekend. We are recipients of police practice, of Youth Court practice. We become a very expensive baby-sitting service. And the consequence of that is that the kids who need us the most, the sentenced kids or 35 sentenced kids from Saskatoon, they're gone, they're out of here, they're in Battleford, they're in Orcadia, they're in Regina, they're all over the province and they're driven en masse by a van, by two vans we have out there. And they're not getting the benefit of being in Saskatoon, close to their families, close to their communities, areas where staff can work with them.

-Staff member speaking at Kilburn Hall dialogue

Progress Report (continued)

Gangs were mentioned in a few different contexts. Recruitment to gangs has been known to occur in youth centres, but youth centres are also seen as places of safety from gang activity.

Gangs are good for people who have nobody to run to like if you have no family, no support. They're good for people that want to live on the streets, want something that's not there. It's good for those kind of people. But if you want to change, you might as well stay out of gangs. I don't know, if you want to go to jail, it's good for protection. If you go to the Pen and something, you don't want to be alone inside the prison.

- Youth speaking at Kilburn Hall dialogue

I got too far (into gangs) and it turns out I have to be a soldier. I got too far in. Now my little brother and my sister. I see my little brother started talking gangs, he started talking gang talk, stuff like that. I told him and I keep on telling him. It's going to be difficult for my little brother if he's going to follow my steps and there's only one way to get out, get stabbed.

- Youth speaking at Kilburn Hall dialogue

Inadequate support for youth when they return to their community is seen as a reason for recidivism.

So, you know, to me we need a lot more in the community for these kids before they come in and when they get out. In particular the 16- and 17-year-olds, I feel they come through the system and they're written off by almost any agency any more, like the money isn't going to those kids at all. And there's no money for room and board, so the kids end up on the street. There's no room and board placements that want them, you know. I don't know, it's sad and very depressing.

- Staff member at Kilburn Hall dialogue

I think we've got some other good examples, like the Intensive Case Management program ... that deals with high-risk, violent youth, youth who are often causing riots, doing assaults in institutions, that end up here quite successful. They come out of the Intensive Case Management program in much, much better shape than when they went in.

- Staff member at Kilburn Hall dialogue

October, 21

Yarrow Youth Farm – Saskatoon

The youth at Yarrow identified probation orders and breaches as a major concern and there was mention of prosecutors who “make you sound like you're all bad ... like you're just a problem kid or something.”

Most of the times I came here it's because of breach, a couple of breaches. If I wouldn't have had a curfew I would still have been out doing good, probably. I think mostly my problem is the curfew and stuff.

-Youth speaking at Yarrow Youth Farm dialogue

We call it the Jean Val Jean syndrome, you get somebody in who's in for a relatively minor offence, they have no impulse control, they keep running away, and they get longer and longer sentences, so basically you have somebody who started out with rather a minor sentence who does six or seven months.

- Staff member speaking at Yarrow Youth Farm dialogue

Learning traditional culture was identified as having a positive effect, while customized education (such as Omega and Joe Duquette) and more programming to help youth were identified as solutions.

I learned stuff I've never learned before which gives me a good start on life, you know. Such as respect, I didn't have much respect, but ever since I started getting into my cultural ways it's starting to come.

The whole program, they just keep you here until your time is up. I think they need to help you out more, getting you back into the community. The whole program, doesn't really help people out, they keep coming back. I think they need, not really harsher places, but maybe to work with you more, identify your problems, maybe work things out with your family members and stuff like that. I think that would really help me.

- Youths speaking at Yarrow Youth Farm dialogue

Progress Report (continued)

Staff from Yarrow Youth farm focused on the number of youth in custody who could be in the community instead with some support, the need to work with families, delays in the justice system, and youth with mental health issues that should not be in custody.

Another thing, when you have youth and children, when you consequence them, it has to be immediate, it has to be relevant. Well our youth system goes against that dramatically. We have kids that come to us and I'll be reading the charges, you know, they'll have assaulted their brother or mother or something and then they'll go, "yeah, that was a year and a half ago and I've been living at home since then and things are going really well. Now I'm back here and I have to do my four months in custody."

- Staff member speaking at Yarrow Youth Farm dialogue

Employment for youth and initiatives by the Saskatoon Tribal Council (STC) were seen as possible solutions.

STC has ... PALS and they also have youth justice workers, but they're just getting set up. I went and talked to them and they're not ready to begin any type of community-based relationship, they're still trying to figure out what's going on. But when they get there I think they'll be a great resource. I've really come to believe that having a job really makes a difference on these guys. They're at the point in their lives where they're probably going to have a good chance of not being in jail for the rest of their life if they can get hooked into an employment situation.

- Staff member speaking at Yarrow Youth Farm dialogue

June 8, 2002

Saskatchewan Youth in Care and Custody Network

At the request of the Commission, a special youth forum was convened in Saskatoon by the Saskatoon Youth in Care and Custody Network to address, among other concerns, the development and eventual implementation of the new *Youth Criminal Justice Act* (YCJA). In this forum youth from across Saskatchewan met with the Commission.

This dialogue produced some valuable information from both the perspectives of young adults who have moved beyond being in care or custody, and from youth currently experiencing care or custody. The youth talked of their concerns about stereotyping and racism, education, files and information sharing, the frustration of not being listened to, separation from family and culture, homelessness, foster homes, and the ease of entering the youth justice system.

I'd like to share with you a comment that one of our network members made about the role of young offender custody. He said, and I quote, "It is often said that residential school systems and the generations of suffering brought to Aboriginal communities has been abolished. The so-called abolition of residential schools is nothing more than an illusion. When our prisons are spilling over with Aboriginal youth and when these prisons strip young people of their language, culture and identity, how can they honestly say that they have moved on? How can they tell us that they've improved? The residential school was never abolished, it only changed ship." This is a profound message that we should not ignore. When we consider the challenges that Aboriginal youth face in Saskatchewan today and we think about how to overcome those challenges, it is important to note the solutions aren't found in prison. In fact, prisons separate young people from many of their forces which can help them take responsibility, re-connect to their families and move on. If there's one reform that deserves serious consideration, it is a massive shift from the temporary, expensive Band-Aid solution of incarceration to the restoration, healing and connection that can take place in a young person's own community.

-Provincial coordinator, SYCCN dialogue

The youth spoke of solutions that included safe houses, diversion and alternative sentencing, increased opportunities for recreation, youth helping youth and most of all, increased guidance from Elders in a variety of settings, schools, during predisposition report preparation, and in youth custody facilities.

They're starting in the justice system to use more sentencing circles and stuff. It would be cool if they could put even more value on it because when I see an Elder working with a young person, I can't get over how maybe this kid won't listen to anybody else but when that Elder comes in, it's like they have this magic. They can just make that kid sit and listen and actually hear what they're saying, and nobody else can do that.

-Youth speaking at SYCCN dialogue

Progress Report (continued)

I had a worker, a contract worker, that while I was in the supervised room and board homes she was there to take me out and spend time with me and listen to my concerns and try to help me through some of the issues that I was dealing with, and she was unlike my room and board parents. She was unlike my probation officer. What she did was she actually did listen ... that was a very big positive in my life that for once somebody actually listened to what I had to say, and I could open up. I could tear down the wall that I had built, and I could talk about the real issues inside of me.

-Youth speaking at SYCCN dialogue

When the discussion turned to successes, Cree Lodge Integration program in Regina, for people who have just come out of custody, Joe Duquette School in Saskatoon, and the Gathering Place in Regina were mentioned as successes in the community. The Children's Advocate Office was also recommended as a successful avenue of assistance to youth.

August 21, 2002

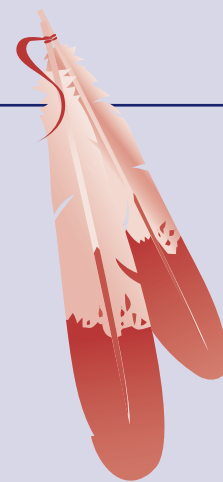
Roundtable on the Youth Criminal Justice Act – Wanuskewin Heritage Park (Saskatoon)

To begin our work on the *Youth Criminal Justice Act* to be implemented on April 1, 2003, the Justice Reform Commission invited provincial government departments including: Health, Social Services, Learning, Corrections and Public Safety, Inter-Government and Aboriginal Affairs to a roundtable discussion. Also invited were provincial and youth court judges, the Children's Advocate, and representatives from the federal government.

The purpose of the roundtable was for the Commission to receive a briefing on the new legislation, to identify issues of concern and to explore areas of opportunity. The forum was opened with an Elders' invocation.

The federal government presented the objectives and principles for the new act. Each provincial department presented to the issue. There was the sense that all government departments need to continue to work together in order for successful implementation. The concern about clear enforceable standards for youth care while in custody was raised. The need to develop resources around assessments for fetal alcohol syndrome and fetal alcohol effects (FAS/FAE) and cognitively disordered youth appearing in court and the special circumstances they pose for the youth justice system was identified. Rehabilitative programming for youth in custody was stressed by each participant as was a need to better dovetail current resources to target the needs of youth. It starts with senior management in government departments meeting and moving the initiatives to the front line staff along with the resources to assist youth in conflict with the law.

Everyone recognized there is an opportunity to do business differently in terms of Saskatchewan youth justice. In order to be successful it will mean full participation with First Nations and Métis people and cooperation and implementation with everyone's input into the process.

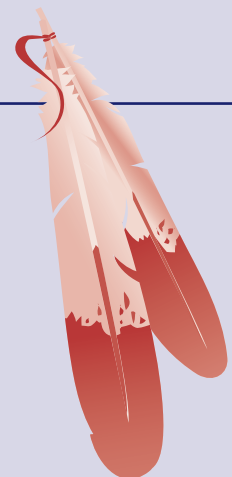


Progress Report (continued)

PRESENTATIONS

The Commission has heard a number of presentations from organizations working in the area of justice. They include:

1. Aboriginal Courtworkers Program - September 12
2. Elizabeth Fry Society of Saskatchewan - October 22
3. Saskatchewan Police Commission - October 24
4. Indian and Child Family Services - October 24
5. Prince Albert Police Service - October 25
6. Operation T.A.R.G.E.T. - October 25
7. Prince Albert Youth Outreach Centre - October 25
8. Prince Albert Youth Council - October 25
9. White Buffalo Youth and Elders from White Buffalo Youth Lodge and Friends of the Family - October 29
10. FSIN Special Investigations Unit - October 29
11. Children's Advocate Office - October 29
12. Saskatchewan Legal Aid Commission - November 27
13. Human Services Integration Forum – November 27



Future Dialogues

One year into our mandate the Commission has visited 12 communities, held dialogues and meetings with 36 organizations and committees and heard directly from over 1,000 Saskatchewan people. By June 2003, we plan on convening another 17 community dialogues, meeting with an additional 25 to 50 organizations and committees, and listening to as many people as is possible in so short a time.

Community dialogues are still an essential and highly valued process for us. Among the areas we hope to visit are places like Pinehouse, La Ronge and Montreal Lake in north-central Saskatchewan, the Yorkton and Kamsack areas, and the communities around Duck Lake and Green Lake in central Saskatchewan.

With respect to public presentations, the Commission will make time available for any community or organization that wants to address justice reform. The Commission will also make time to hear from individuals in either a public or private forum.

The Commission knows that it needs to hear from certain key sectors of the Saskatchewan public including women and youth who have succeeded in finding a healthier lifestyles, ex-RCMP or municipal police officers, and practitioners of community healing or justice initiatives. We will be making a special effort to meet with these people in the next few months.

Along with community dialogues and public presentations the Commission will be focusing on a number of themes at specially convened roundtables.

- Racism in Saskatchewan and in its Institutions
- Victims and Violence
- Restorative Justice
- Policing in Saskatchewan
- Crime Prevention
- Governance and Community Development
- Implementation of the Justice Reform Agenda

While these processes are unfolding we hope to receive written submissions on a number of justice-related issues from communities, organizations and individuals. We have simplified our grants to community organizations process to make it easier for people and their communities to access the resources we have made available.

Anyone may contact us with his or her views on these questions. If you have special needs or concerns, we will endeavor to make sure you have the opportunity to share your experience.

From now to the end of June 2003, we have an incredible amount of work to do if we are to find the solutions that will lead to a safer, healthier, just and prosperous Saskatchewan in our lifetime.



Invitation for Submissions or Interviews

The Justice Reform Commission is aware there are many communities, organizations and individuals who want to develop a submission or voice their concerns. The Commission welcomes this desire and has developed the following strategy in order to accommodate the presentation of concerns and proposals for justice reform.

For those groups or individuals who have the time and resources to prepare a written submission they are encouraged to write the Commission Chair or Executive Director directly at 802 – 119 4th Avenue, Saskatoon, SK, S7K 5X2.

For those communities, individuals and non-profit organizations who need assistance to develop their submission, the Commission has established a Community Grant Application process. Grants range from between \$500 to \$3,000 depending on the complexity of the project and are available until March 31, 2003. The grant process has been streamlined and simplified to enable virtually anyone to make an application.

To apply for the grant follow these steps:

1. Provide us with an **Executive Summary** of who you are. Include your name, full address and phone number. Where appropriate, provide a contact person and his/her title, e-mail address, mandate of your organization and some background information.
2. Purpose of the **Funding Request**. Briefly describe the purpose of the proposal, the issues you will address and how your final paper will contribute to the Commission's mandate. Also include a work plan outlining how you plan to develop your final paper and list any community resources you will use – *for example, facilities, people and partnerships*.
3. Mail or fax us your **Proposal**. The Commission will review all proposals at their next business meetings, scheduled for February 10 and March 13, 2003.

Please note, the more information you provide us, the better we will be able to evaluate your proposal and the sooner we will be able to provide you with our response.

For more information contact Sherrie Bodnarchuk or Winston McLean at (306) 964-1209.

The third process is devoted to those individuals who feel they have information to share with the Commission but are concerned about making their statements public. The Commission is prepared to hold private interviews on any evening when it is in a Saskatchewan community. This process is aimed at employees or managers of federal, provincial, or Aboriginal institutions or agencies who fear reprisals from their colleagues or employers. If an individual has a complaint about a law enforcement officer and wants that complaint investigated, you are encouraged to call the FSIN's Special Investigations Unit at (306) 665-1215.

Individual submissions may also be sent by mail or email. More information is available on our website: www.justicereformcomm.sk.ca or by calling (306) 964-1209.



Federation of Saskatchewan Indian Nations – Special Investigation Unit

The Federation of Saskatchewan Indian Nations' Special Investigation Unit (SIU) is currently filling the role of an independent complaint body for First Nations and Métis and non-Aboriginal people with complaints against police. FSIN reports that it has received over 2,000 calls pertaining to complaints against law enforcement officers and other workers in justice institutions. The SIU currently has 521 files, 227 of which are still under investigation.

The mandate of the Special Investigation Unit is:

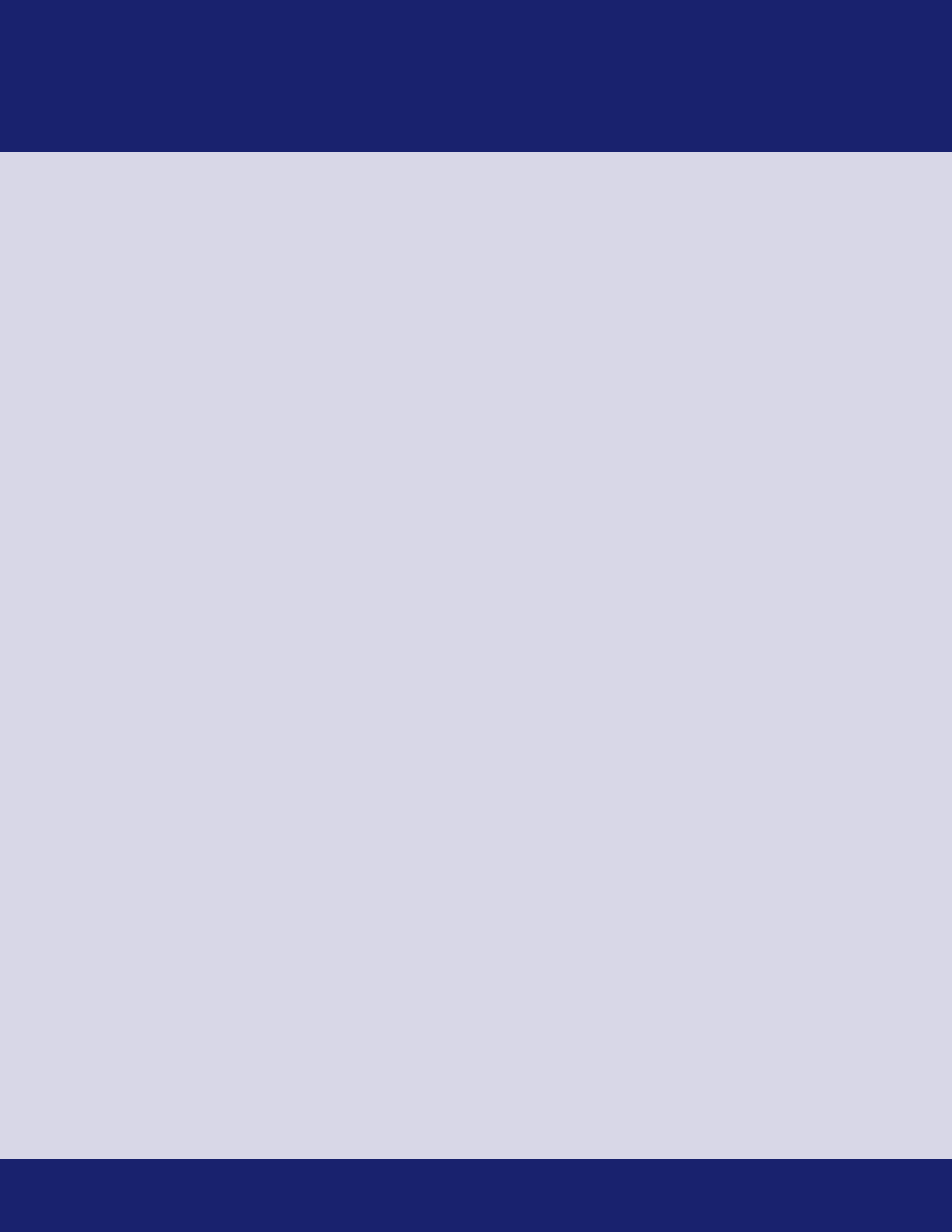
- 1) To provide First Nations members who have been mistreated by law enforcement officers with a complaint-friendly alternative to mainstream offices of public complaints;
- 2) To ensure that complaints are investigated thoroughly and that complaints are appraised accordingly; and
- 3) To provide complainants with such protection from retaliation or other discomfort as they require.

First Nations and Métis people are asking for a safe avenue to have their concerns with policing heard. There is tremendous value in providing an investigation unit for Aboriginal people on police misconduct. There are legitimate concerns about having "police investigating police." Personal accounts will be forthcoming only if a safe environment such as an independent investigative body is available to have them heard.

The Justice Reform Commission notes a key recommendation contained in the Linn Reports ten years ago has not been addressed. The Linn Reports recommended that "the Saskatchewan Police Commission and municipal police services collaborate with Indian and Métis organizations to assess options under the Saskatchewan Police Act, 1990 to develop a citizen's complaint mechanism credible to the Indian and Métis communities." The Commission feels this recommendation is as relevant today as it was in 1992.

Recommendations

1. That the recommendation contained in the Linn Reports asking for a citizen's complaint review mechanism be implemented.
2. In the interim, that funding for the Special Investigation Unit be provided to ensure it is able to continue its work on behalf of First Nations and Métis people.



Preliminary Comments on the *Youth Criminal Justice Act*

The child is the most important element of the circle.

- Danny Musqua, Elder, October 30, 2002

BACKGROUND

In Canada, the federal government has constitutional responsibility for criminal justice while the provinces are responsible for the administration of justice. The *Young Offenders Act* (1984) will be replaced with the *Youth Criminal Justice Act* (YCJA) on April 1, 2003. The federal government has developed the YCJA for a number of reasons including the disturbing fact that Canada puts more youth in jail than any other country in the Western world.

In Saskatchewan, because the majority of the youth in the justice system are First Nations and Métis, the new legislation will therefore have more of an impact on these people and their families than any other demographic. Aboriginal youth represent 69 per cent of youth admissions to sentenced custody but only 15 per cent of the Saskatchewan youth population. This places more youth in custody than the national average and more than any other province.

Acknowledged problems areas of the *Young Offenders Act*, include:

- The lack of a statement of purpose and principles for youth justice,
- The courts being over-used for minor cases that could be better dealt with outside the courts,
- An over-reliance on incarceration, and
- A lack of effective reintegration of a young person after release from custody.

The new YCJA highlights protection of society, youth accountability with an emphasis on social values, protection of the rights of youth and respect for victims. The stated goals of the YCJA include:

- Making a clear distinction between violent and non-violent offenses,
- Reducing the use of the formal justice system,
- Reducing the over-reliance on incarceration,
- Making sure youth placed in custody are safe, treated fairly and in a humane environment,
- Improving reintegration and rehabilitation.

OPPORTUNITIES AND CHALLENGES

The Commission views the YCJA as an opportunity to reduce the use of custody and increase community involvement in rehabilitation and reintegration. The YCJA provides opportunities and challenges to all levels of government and communities. Communities must commit to provide appropriate culturally based community-based services to meet the needs of youth in conflict with the law rather than have their youth taken from the community and placed in custody facilities.

The YCJA provides communities with an incentive to be involved, to make decisions about what their youth need and to be involved in developing programs to meet the needs of their youth. There is great potential for increased community control and management of youth justice services.

The Commission endorses the principle that youth in conflict with the law should be held accountable for their actions in culturally appropriate and meaningful ways within their communities. In order for communities to accept responsibility for their youth and to address the roots causes of behaviour, there is a need for extensive human, financial and service resources to ensure that communities are able to develop community directed justice services based on cultural values, practices and beliefs. Resources include not only funding for programs and program evaluation, but community commitment and leadership.

The governments need to commit to the creation and development of extra judicial measures. This will determine the success of the legislation in not criminalizing youth.

RECOMMENDATIONS

The Commission presents the following recommendations with regard to the effective implementation of the *Youth Criminal Justice Act*.

Use of Discretion

The YCJA provides clear instruction to both the police and the Crown to divert youth in conflict with the law from the formal court process. This is an opportunity for discretion to be used to encourage youth to repair harm, to encourage families and communities to become more involved and to provide opportunity for the victims to participate. Diversion will reduce the rate of institutionalization of youth, which we have seen will reduce the likelihood of recidivism.

Too often youth are charged for trivial matters that could have been diverted before entering the court system.

- *Beauval Youth Justice Issues paper, June 6, 2002*

Recommendation 1

That Saskatchewan government, First Nations, the Métis Nation and the police work together to create a set of guidelines for the use of police and Crown discretion that ensures that First Nations and Métis youth will be diverted into culturally appropriate programs or services.

Lowering the Age of Presumption

Under the YCJA the age at which youth will be automatically transferred to adult court, i.e. the age of presumption, for a number of the most serious charges is a decision made by each province. Many provinces, including Saskatchewan, are considering setting the age at 14 years.

The youth transfer provisions for more serious offences will result in more First Nations and Métis youth being dealt with in adult court in light of their current disproportionate representation. The lowering of the age of presumption appears contrary to the spirit and the intent of the YCJA. Although the percentage of youth this provision affects is small, courts can easily continue to give careful consideration to each of the cases and determine if the level of maturity and intent of the youth warrants treatment as an adult.

Recommendation 2

That the Government of Saskatchewan maintain the age of presumption at 16.

Standards of Care

The YCJA sends a clear message that the use of custody will be reserved for only the most serious crimes. The legislation states that the purpose of the youth custody and supervision system is to contribute to the protection of society by carrying out sentences imposed by courts through safe, fair and humane custody and supervision of young persons.

Preliminary Comments on the Youth Criminal Justice Act (continued)

Standards of care are essential to prevent institutional abuse. Institutional abuse refers to abuse that has occurred to a child while under the care of the government in a government or privately run facility.

The Commission has heard from youth workers and youth in custody of inconsistent programming and multiple transfers between institutions, which disrupts their relationship with their families, their community, treatment and education. Some youth advised that they valued and benefited from enhanced cultural awareness and the ability to participate in cultural activities. The Commission was cautioned about setting standards that do not reflect cultural values. Standards of care which improve education, reduce incidents of violence and determine fair treatment do not diminish the delivery of culturally appropriate service.

Saskatchewan's Children's Advocate has advised the Commission that she has repeatedly called for the development of standards for youth facilities with limited success.

Recommendation 3

That clear and enforceable standards with regard to safe, fair and humane custody as well as rehabilitation and reintegration be adhered to and that an independent body be established to create the standards and monitor compliance. That body must include First Nations and Métis representatives.

Public Education

The YCJA provides all levels of government and communities throughout Saskatchewan with an opportunity to become partners in creating safe and healthy environments. In order to build the capacity necessary to provide youth in conflict with the guidance and support necessary to repair harm and restore harmony, communities require knowledge and awareness of the opportunities and challenges presented by the YCJA. The justice professionals also require the knowledge and understanding of the principles of healing and restoration versus retribution and punishment.

Recommendation 4

That First Nations, Métis and the Saskatchewan government work together to develop a public education strategy to ensure greater knowledge and understanding of the YCJA.

Meaningful Partnership

The Commission has heard and observed an encouraging level of partnership and communication regarding the YCJA. Notably, the Province of Saskatchewan formed a deputy minister's steering committee to create an inter-disciplinary strategy for youth justice. The Commission recognizes the value of this steering committee and would like to see its continuation to monitor the implementation of the YCJA and oversee the move from custody to community.

Recommendation 5

That the deputy minister's steering committee on YCJA is expanded to include First Nations and Métis representation. This body needs to conduct a detailed analysis of the YCJA to highlight the potential opportunities and the concerns the legislation has for the program and service deliverers, the courts, the communities, and the youth. They must continually monitor and evaluate the implementation of the YCJA.

CONCLUSION

The new legislation offers an opportunity to enhance community involvement in youth issues in a meaningful way. To reduce the potential for incarceration of our youth and increase their odds of staying in school, participating in family and community development and their own futures requires a significant investment from the youth, their families, the community and all governments. Successful community-based initiatives require extensive resources; financial, human and time.

Youth have their own voice and need to be heard on issues that impact their lives. Youth want to participate in decision-making and policy development particularly when those decisions and policies affect them. Including young people in decisions and providing them opportunities to take responsibility will result in enhanced services. Every child is given the right to express their views in all matters affecting them in Article 12 of the United Nations Convention on the Rights of the Child. The rights granted under this convention are recognized in the YCJA.

I think that, like, big ups to the Commission for setting up this stuff to happen, because slowly, our communities are catching on to listening to youth and that. I like to come to things where people start realizing that you can't make decisions about people when they're not involved in it. You're wasting your time trying to plan for people and not even asking them what they want for themselves ... the people that are sitting around this table, I just see, like, we're going to listen to each other, and, I don't know, that's just really promising.

- Youth speaking at SYCCN dialogue



Gangs and the Saskatchewan Experience

In Saskatchewan, gangs involving First Nations and Métis youth began to appear in the early 1990s. Most were active in the larger urban centres, particularly in Regina and Saskatoon. Gangs in Saskatchewan are criminal organizations that lead to increased crime such as: escalation of violence, damage to property, intimidation, sexual exploitation, prostitution and drugs.

The Justice Reform Commission has been told that gangs exist in Saskatchewan and are affecting First Nations and Métis people. The Commission has also been told that gang activity in Saskatchewan is increasing and therefore immediate action must be taken by all levels of government working together to understand why youth and adults join gangs and what can be done to reduce gang involvement.

I got involved because they set me up large with money and with drugs and that I could sell and, you know, it was a big thing.

It was about the money, it was about making the money and being set up with a never-ending supply of things that I loved to do and things that I had, and it was just like – it was incredible ...

Look at us. Out of all five of us, no father figures, big families, not good families, family problems, so there's a family right there that's willing to open his doors for you that has no problems and has money galore.

- Youths speaking at dialogue in Regina

The Justice Reform Commission heard that youth join gangs to find a sense of belonging. Often, the youth are vulnerable due to family break up, ineffective parenting, lack of positive role models, poverty or a combination of these factors.

I think people just go into gangs like to get noticed and it's a sign telling their parents that they need help.

- Youth speaking at Saskatchewan Youth in Care and Custody Network roundtable in Saskatoon

Youth custody facility residents who met with the Commission spoke freely of the reasons for their gang involvement:

I joined one. I don't think I had a choice in it. It was either this one or the other one. I don't know, kind of like they were forcing us to, so all my friends, or most of my friends joined this one, so I joined.

- Young Offender facility resident

Gangs and the Saskatchewan Experience (continued)

I guess because they look up to their older brothers that are in those gangs, so they find it very cool to be with them.

- Young Offender facility resident

Gang leaders and members have enormous power over potential members and aggressively recruit very young boys and girls and exert strong pressure to ensure that gang members remain in the organization.

If you're in a gang, you can't leave. You have to be carried out in a coffin. You can't leave unless you want to get killed. I have to live with that for the rest of my life, there's no way I can get out.

- Young Offender facility resident

Once caught in the web of gang influence and control, young people are often unable to break free and return to a healthier lifestyle. Many young people realize that their only hope is to avoid the gangs.

Some people even ask me, "are you in a gang" and I'm like no, and they're like that's good, don't join no gangs. Like a few people on the street like they'll tell you that, you know, like that's a good thing. Some people will tell me don't join the gang because they own you and that's pretty well true, you know.

- Youth speaking at Street Culture Kidz dialogue, April 15, 2002 in Regina

Apparently gang activity is a factor in adult corrections as well.

I work at the federal correctional facility. I see a lot of gang members. I see a lot of young people, old people, people that are in wheelchairs, they're still gang members ... it's young people, mainly young people that are in here now that are struggling, that are scared because there are other gang members.

- Elder speaking at Kilburn Hall, October 21, 2002 in Saskatoon

The Federation of Saskatchewan Indian Nations has recognized the ongoing problems with gang involvement in the First Nations community. Chiefs attending the April 2001 legislative assembly expressed concern about the emerging Aboriginal gang problem and the fact that the activity was no longer restricted to the large cities but had made its way onto the reserves and into First Nations communities throughout the province. In the fall of 2002, the FSIN announced a study of gang activity in Saskatchewan would be undertaken.

In a presentation to the Justice Reform Commission, Cal Albright of the Federation of Saskatchewan Indian Nations noted that consultations with several communities involving over 400 people and 100 organizations have confirmed that there is an emerging gang problem in this province.

We're talking about young people that feel disenfranchised and that the feeling of belonging comes from being in these groups. We are wanting to do more about that, we need to address that issue. We are working on that and we hope to do more work on it.

- Cal Albright of FSIN speaking to the Justice Reform Commission in October 2002

It is clear to the Commission that gangs are causing some First Nations and Métis people in Saskatchewan, particularly youth, to enter into a life of crime. Immediate steps should be taken to educate youth on the dangers of gang membership.

Serving Notice

In the long-term steps must be taken to foster healthy families and positive role models for youth. The Justice Reform Commission will continue to listen and discuss the issue of gangs and their impact on the young people of Saskatchewan. All levels of government must make the consequences of criminal gangs a priority for youth education.



Appendix

TERMS OF REFERENCE

WHEREAS, it is desirable and in the public interest the Commission on First Nations and Métis Peoples and Justice Reform review the justice system with the intent of devising solutions to overcome systemic discriminatory practices and address attitudes based on racial or cultural prejudice;

AND WHEREAS, it is acknowledged this Commission shall not, in any way, be interpreted as an abrogation of Treaty or Aboriginal Rights;

AND WHEREAS, there shall be no negative financial effect arising from the creation of this Commission to any existing First Nations and Métis justice programs and initiatives funded by the Government of Saskatchewan;

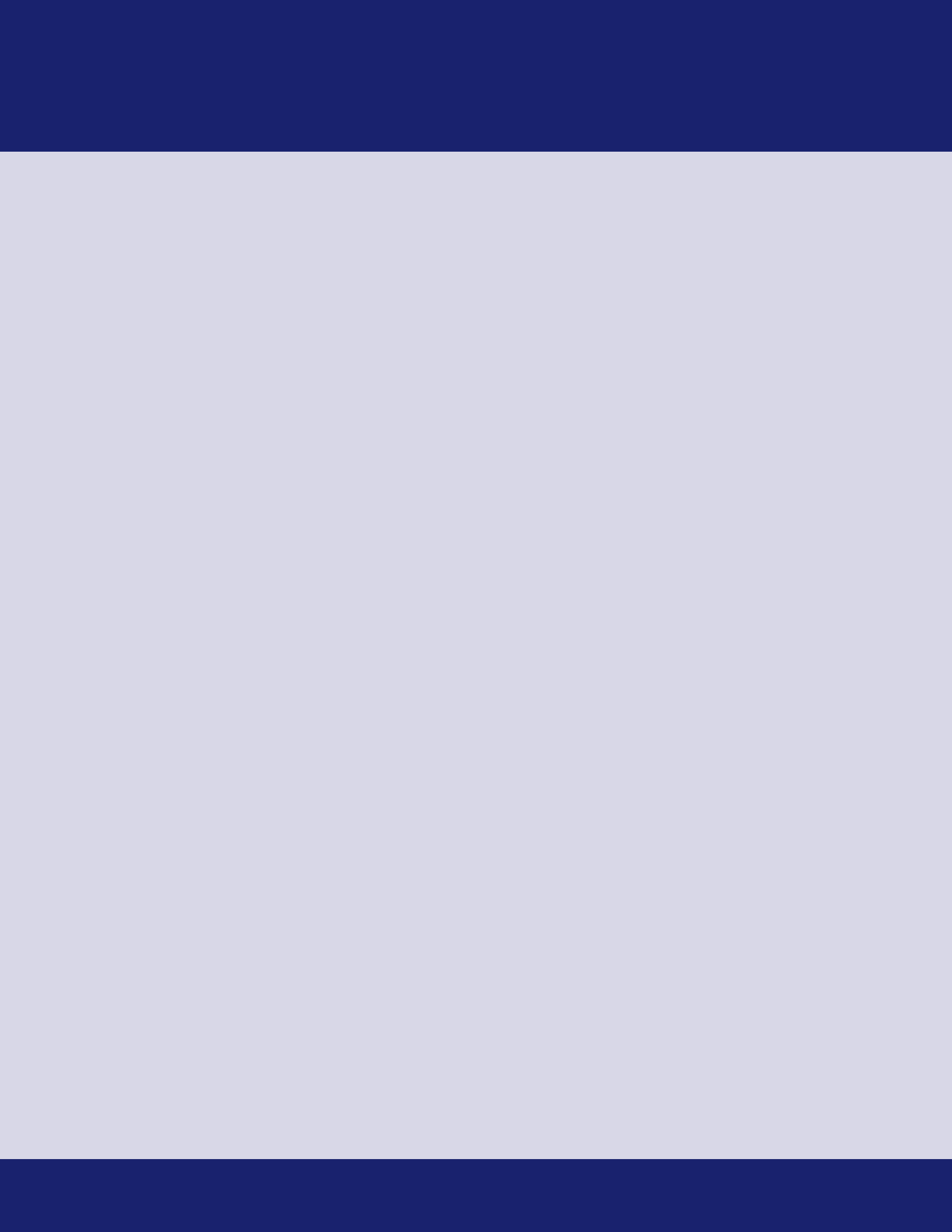
THEREFORE, the *Commission on First Nations and Métis Peoples and Justice Reform* is hereby charged to perform its duties and functions in accordance with the following Terms of Reference:

1. The *Commission on First Nations and Métis Peoples and Justice Reform* is mandated to hold hearings regarding reforms to the justice system that will:
 - a) respond to justice-related issues of First Nations and Métis Peoples;
 - b) include in its scope of consideration all components of the criminal justice system including, but not limited to: policing, courts, prosecutions, alternative measures, access to legal counsel, corrections including community corrections, youth justice, community justice processes, and victims services; and
 - c) make reports to the Government of Canada, the Government of Saskatchewan, the Federation of Saskatchewan Indian Nations and the Métis Nation of Saskatchewan.
2. In the exercise of its mandate, the *Commission on First Nations and Métis Peoples and Justice Reform* shall:
 - a) communicate with Saskatchewan's people, and particularly with First Nations and Métis Peoples, communities, organizations and governments, as well as officials who are responsible for the management and operation of the justice system, for the purpose of generating reform proposals and setting priorities for action;
 - b) attend First Nations and Métis Peoples' communities to hear about the types of reforms that may be most useful in these communities;
 - c) hold hearings at times and places that it considers desirable and necessary;

Appendix (continued)

- d) analyze proposals in light of recommendations contained in previous justice reform initiatives such as the Saskatchewan Indian and Métis Review Committees, the FSIN Strategic Plan for First Nations Corrections, the Royal Commission on Aboriginal People and the Aboriginal Justice Inquiry of Manitoba, as well as researching existing literature regarding crime, victimization and other relevant factors;
 - e) identify efficient, effective and financially responsible reforms which would improve the administration of justice and would better reflect the values and inherent strengths of Aboriginal communities and promote positive inter-community and inter-disciplinary co-operation, leading to reduced offending, reduced victimization, reduced incarceration and safer communities for First Nations and Métis Peoples;
 - f) determine and provide solutions and recommendations for reforming the justice system, thereby ensuring the fair and equitable administration of justice for all people in Saskatchewan;
 - g) examine cultural issues within the administration of justice including the accommodation of Aboriginal languages, spirituality, family values, women's issues, social structures and respect and protection of traditional livelihood and ways of life; and
 - h) take into consideration the special fiduciary relationship, exemplified by the *Royal Proclamation of 1763*, Section 91(24) of the *Constitution Act, 1867*, and Section 35(1) and Section 25 of the *Constitution Act, 1982*; as well as the constitutional relationship between Canada and the First Nations and Métis peoples with respect to Aboriginal and Treaty rights in the context of the administration of justice.
3. The *Commission on First Nations and Métis Peoples and Justice Reform* shall provide interim progress summaries every six months from the date of their appointment to the Government of Canada, the Government of Saskatchewan, the Federation of Saskatchewan Indian Nations and the Métis Nation - Saskatchewan.
 4. The *Commission on First Nations and Métis Peoples and Justice Reform* shall provide their final report to the Government of Canada, the Government of Saskatchewan, the Federation of Saskatchewan Indian Nations and the Métis Nation - Saskatchewan within three years from the date of this order.
 5. The Commission will recommend short and long-term implementation strategies and identify a vehicle to oversee the implementation of its recommendations.





Commission on First Nations and Métis Peoples and Justice Reform

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