

Transcript of Presentation

**The Historical Relationship Between
The Canadian Justice System and Aboriginal People**

By
Associate Chief Judge Murray Sinclair
To the Aboriginal Justice Learning Network
Constituency Group Meeting
Elders-Policy Makers-Academics

Aylmer, Quebec
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In April 1997, the Aboriginal Justice Learning Network (AJLN) held a gathering of Aboriginal Elders, policy makers and academics in Aylmer, Quebec. Associate Chief Judge Murray Sinclair of the Provincial Court of Manitoba presented his views on the historical relationship between the Canadian justice system and Aboriginal peoples at this meeting.

The AJLN published Mr. Sinclair's views in a book format which is being distributed through our inventory of resource material. His speech has become a learning tool for many groups, individuals and institutions throughout the country.

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We have a lot of ground to cover, all of us, in a very short period of time. We only have one lifetime each and we have much to do when it comes to dealing with Aboriginal people and justice issues. I am not sure that one lifetime is enough to do all that needs to be done.

So let us begin with the understanding that we cannot do all of the things that need to be done in the short time we have together. We can only do so much with what we have been given and we can only go so far within the time that we are here together.

As always, I'm a bit perplexed about how I can contribute to the conversation when invited to gatherings like this because I'm never certain what it is that each of you knows, nor am I certain of what each of you do or want to do and how I can help with whatever you've come here for.

So, perhaps, some of you have already heard some of the things I'm going to talk about, however there are many of you here who I have not previously met and those people have not yet had a chance to hear

some of the views that I have on the issues that Aboriginal people face in the Aboriginal justice system. You have also not had an opportunity to hear, perhaps, some of my thoughts about where it is, we should be going.

If you have heard some of these thoughts, I hope you can listen once more, and perhaps they'll help you to get a new insight.

I'm always a bit concerned and humbled when I'm asked to speak to a gathering like this, such an august body of people with such knowledge and I'm not talking about you lawyers, incidentally, so stop sticking out your chests.

I'm talking about our Elders here, who have so much information and knowledge about the things I am only beginning to understand and have not yet grasped the full ability to apply those things to my life or for that matter, to the lives of others.

So I want to begin by acknowledging the greater gifts they have and the greater understanding they can bring to this conversation.

On the other hand however, I also recognize that my law degree seems to give me instant credibility with some people. My stature as a judge makes you feel compelled to listen to me. So I will take advantage of that by doing what it is that you've asked me to do and that is to talk to you.

Where do we begin?

It is hard to know where we begin. It really is, because as I said earlier we have so much ground to cover, so many things that we want to do.

I have been asked to talk primarily, to address the issue of the Aboriginal Justice Learning Network and where I see it going, what I see it being able to do. So as with all good speakers I'm told by my Elders, keep the best part to the end so I'm going to do that, I'm going to talk about that at the end just in case you thought I was leading to a conclusion.

What I do want to talk to you about are some very basic issues I think you need to keep your mind on as we are going through this process.

The most important thing that we as human beings have to come to grips with, is who we are. That is the biggest question in life, who am I? The biggest question of life necessarily leads us to ask other questions, such as, Where did I come from? And Why am I here? And probably the most important question is, Where am I going, and what's going to happen to me after my life is over on this earth and I go to the next world? What happens to me over there? And our Elders always tell us that those questions are very basic to open for every human being.

What I see for our young people or all Aboriginal people who come before me in court, is the tremendous imbalance they are confronted with. How out of balance each and every one of them is in their life, that they end up coming to me in the process. I'm often involved at the very end of a very tragic set of circumstances and I'm presented with just enough information to decide whether they should go to jail, and for how long. But I'm never presented with enough information to decide what I can truly do, to help this person to find his balance.

As a judge, the single most difficult thing for us to accept is that we don't have the answers. I speak to judges all the time. In fact, just this week I came from a new judge's training program just north of

Montreal. All of the new judges in Canada are brought together there to begin their legal careers. What I try to impress upon them the most is that if you don't have the answers, don't begin to think that your appointment as a judicial officer will automatically allow you to set things right. That you somehow have the ability instantly because of your appointment to determine not only the truth which is an impossibility, but to determine how it is that you're going to change the lives of these people and move society into a better mode, because we can't do that.

The great flaw of our justice system is that the justice system somehow assumes by orienting things the way we do, we are able to correct everything and can do it infallibly. The reality however, is the system is fallible at virtually every step in the process, and the challenge of the process is to make it as little fallible as possible.

The unfortunate thing is what our inquiry and every other inquiry in Canada has found, concerning Aboriginal people in the justice system. That is, when the justice system can be fallible where Aboriginal people are concerned, it is fallible. It fails at virtually every point in the system in the process.

This is understandable because quite frankly, Aboriginal people and the Euro-Canadian justice system they come into contact with are inherently in conflict. So it is understandable that where a system orients people to do things a certain way vs. Aboriginal people who come from a system that orients them to do things differently, will naturally do things at odds with the system.

So the first thing we have to understand is the system is in conflict with the very people it purports to assist and help, and our report in Manitoba talked about that.

We spent a lot of time and a lot of words talking about where in the process the system fails Aboriginal people and how we think the changes we recommended could address those shortcomings.

But there is an even more fundamental issue at play here we need to talk about and I want to give you a bit of a history lesson because it's important for you to learn it, if you are to understand who you are as players within or outside of the system or if you are to understand who you are as an Aboriginal person. You have to understand where it is we have come from, to get to this point in time.

I am not always the way I am. I was not always this way and I will not always be this way. And in the same way, our system, our justice system was not always as we now see it. In the same way, Aboriginal people were not always as we see them.

In this day and age when we look around us at our communities, at our young people and our men, we see great discordance, we see great pain. Our young people are killing themselves at incredibly high rates, six to eight times the national average rate of suicide among young people. We have among our women, incredibly high rates of domestic violence, of sexual abuse. Our men do not know how to treat our women properly anymore.

We are in a situation in some of our communities bordering on social chaos and anarchy where people have no respect not only for their brothers and their sisters but they have no respect for their parents, they have no respect for their Elders, they have no respect for their leaders if there are any and they have no respect for their society, however they see it, which is not to say that we all live that way.

Sometimes we overstate the problem, with the result being that many people have the wrong impression about us as Aboriginal people. Many people have the impression that we are still savages as they were taught so long ago in our history books.

As a result of the dysfunction within some of our communities, people believe this is the way all Aboriginal people would tend to be if it were not for the grand civilizing process we have come through with the help of the churches and Canadian society.

But the reality is, when you look at that picture, at the way Aboriginal people are today, and look at it in historical terms, you come to realize that we have not always been this way.

Aboriginal people did not always kill themselves at a high rate. Aboriginal men did not always abuse their women and their children. Aboriginal people did not always represent 70 per cent of the jail populations of our provinces. Aboriginal people lived a relatively stable life at long points of our history and very recently.

In fact, our study in Manitoba pointed out, and those of you who read it know we pointed out in Manitoba at least, until the Second World War, Aboriginal people were not over-represented in the justice system. In fact, their presence in the jails was less than their presence in the population. 12 per cent of Manitoba's population is Aboriginal today. It was probably in the area of 15 to 20 per cent during the 30s and 40s, and less than 9 per cent of the people who were incarcerated in Manitoba during that period of time, were Aboriginal people.

The same with our child welfare system. The number of children in care today in Manitoba who are of Aboriginal ancestry represent about 70 per cent, and yet prior to the Second World War the number of Aboriginal children in care was minimal. In fact, they are unable to point to any statistical existence whatsoever.

Why is that the case then? Why is it until that period of time we appeared to have relative stability in our communities, our people did not appear to be dysfunctional. Our people did not appear to be acting out and committing crimes at such excessive rates. Our people did not appear to be abusing themselves and others in the same way we see today.

A part of it, for me, is because of the way the government has treated our leadership, the way the government has treated our families, the way the government has treated our culture. There has been and there still is great disruption among our people today as a direct result of some of the laws that have been passed in this country.

I have spoken many times about this issue, but I think it is always worth repeating. Beginning with Confederation in 1867, the government set out on a deliberate attempt to undermine the very existence of Aboriginal communities, to undermine the very nature of Aboriginal families within society. The view was, it would be better for Aboriginal people to assimilate into Canadian society and to therefore, become more civilized.

There was a belief existent among the policy makers at the time that Aboriginal people were inherently inferior and needed to be brought up to a state of civilization more advanced than what they were offering the rest of the world at that time.

So because of that, they passed laws designed to assimilate us. They passed laws designed to undermine some of the institutions of our existence they felt had created our state of inferiority.

They passed laws, for example, that said Indian people living on reserves were incapable of entering into contracts, were incapable legally of selling anything that they produced, anything they manufactured, anything they discovered.

If they had minerals or resources in their community they could exploit, they were forbidden by law from selling or leasing those resources unless the government gave its consent. Part of that was the government believed they were inferior and incapable of contracting. Another part of it also was the government had a deliberate policy that it did not want the Aboriginal communities of this country to flourish economically. They did not want Aboriginal communities to become self sufficient and stable. They wanted Aboriginal people to assimilate, to leave their communities and integrate with the rest of society.

Ultimately, within a few generations, John A. Macdonald was reported as saying, there will no longer be any Indian reserves, there will no longer be any Indians and, therefore, there will no longer be any Indian problem. That is a quotation from the discussions and debates of Hansard.

The thrust of government policy at that time was not merely to make it difficult to be an Indian, but it was to make it difficult to be as an Indian, for they did other things as well to undermine our existence.

They passed laws for example, that said that all of our children could be taken away from our families at the age of five and locked up in residential schools, away from their families until the age of 18, and they did that. In many of our communities, 100 per cent of the children between the ages of 5 and 18 were taken from their families and put in residential schools and in some cases we are told and the whole issue of residential schools incidentally, has not been adequately discussed and studied they would be removed from their families at a young age and told they would never see their families again until they turned 18 and were allowed to leave. Often however, they were not allowed to leave unless they agreed to marry someone else who was in the school system with them.

The purpose of that was to further the view that we can't allow these newly civilized Indians who have been raised in this residential school to go back to their communities and marry an uncivilized Indian. We have to keep these people together and flourishing.

And so marriages were arranged in these schools and children were often required to marry each other. This happened with my grandmother and my grandfather. My grandmother was not allowed to leave the convent where she went to school until she agreed to marry my grandfather.

We know the natural instinct of a mother when a child is taken away from her, is to go and do something about that. We know that. All good parents who lose their children in that way will want to do something about it. History records that Indian people tried to do something about that as well.

While all of the treaties and the treaty negotiations of the time reflected a desire by Indian people for their children to grow up, be educated and have careers just like the white man, it was not this form of education they wanted for their children. Indian people often protested and tried to get their children out of this form of education, this institutional situation. Well, the government passed a law that said Indian people could not do that. They made it an offence for any Indian apparent to interfere with the education of their child who was taken and placed in an educational system like that.

Incidentally, compulsory education for Indian people doesn't sound so bad today because we know all of our children have to go to school in this day and age. Compulsory education is the norm for everyone. However, compulsory education was not the norm for Canadian society until the 1930s, and in some cases, 1940s. In those days, white children didn't have to go to school compulsorily. They did not have to go to school until laws were passed in the 30s and 40s. So in some ways, we were 50 years ahead of time.

Parents were prohibited from interfering with their children. The government inaugurated in the 1880s what came to be known as the Indian Pass System. It required that any Indian person who was outside of a reserve who didn't have a written pass, could be arrested by the police and returned to his community. This effectively prevented of course, parents from leaving their communities to go and get their children out of those schools.

They also made it an offence for Indians to protest these things. Of course, the natural thing was families would get together and say well, we are going to do something about this, but that was made to be an offence. It was the Indian conspiracy laws of the 1880s which said if three or more Indians get together in order to discuss a grievance against the Government of Canada, then they were guilty of an offence and could be sent to jail. So, two people could talk about their grievances, but three Indians couldn't.

Furthermore, they knew that Aboriginal gatherings in the 19th century such as sun dance and pot latch ceremonies and the huge gatherings we saw then and see today in pow wows were not just social events but were important political events as well. Chiefs would be recognized and births would be acknowledged. Names would be given, marriages would be performed, property would be shared and all of those important things. They also represented opportunities for Indian people to get together in order to grieve their concerns about Aboriginal people about the Government of Canada. Laws were then passed in the 1880s saying Indian people could not have those gatherings anymore. They came to be known as the sun dance and pot latch laws. They said it was an offence for an Indian to participate in those ceremonies.

It was also made an offence for Indian people to do other things like go to sweat lodges or participate in any traditional ceremony involving the wearing of Indian garb. Art Shofley would have been guilty of an offence years ago by dancing at pow wows he's now famous for.

All of us would have been guilty of an offence last night just by sitting here and watching those people perform, because attending those kind of functions was also an offence under those laws.

They were very clear about the nature of the ceremony you could not participate in and said an Indian was guilty of an offence if he participated in any ceremony involving the exchange of gifts. This was intended to address the issue of the pot latch ceremony on the west coast.

It inadvertently also caught Christmas in its definition, so in 1888 they amended the definition to allow them to participate in Christmas, a very important Christian event of course.

If you can't go and do something about your child who's in a school you don't want him to be in, if you can't gather in order to air a grievance, then perhaps the one thing you want to do is go to court. A very common reaction to those who feel a grievance against government is to go to court, and that is why we have lawyers, lawyers all over the place. We have about 67,000 lawyers in Canada, all of whom are ready to go to court for you.

In the 19th century there weren't 67,000, but there were still lots of lawyers ready to go to court for Indians, and all the Indian had to do was just say the word and they were there. However, the government had an answer for that too. They said no Indian could go to court and sue the Government of Canada unless they first got the permission of the government.

There was never any reported incidence of the government giving its consent that we were able to discover, but it certainly had a chilling effect on Indian's accessibility to the legal system. It also had the effect of making lawyers think twice about doing anything about these laws, even those who felt the laws were clearly wrong and there were lawyers who felt that way.

Friendship societies were formed of non Aboriginal people who supported the Indian cause, who themselves, were willing to go to court on behalf of Indians. So the government passed a law saying nobody can go to court on behalf of an Indian person unless they also got the permission of the Government of Canada.

Another law was passed saying any lawyer who secretly agrees to represent any Indian person, even as a lobbyist to represent their interests with the Queen, and there were many cases of people going to England to speak to the Queen, were guilty of an offence if they accepted such a retainer and they could lose their licence to practice law.

So what the government did was effectively take away from Aboriginal people some very essential civil rights, rights we take for granted. Not only did they take away the right to demonstrate, the right to have access to the courts, but they decided by 1890 Indians were so uncivilized they couldn't vote, either.

Indians had the right to vote incidentally in federal elections until about that time, but they took that away in a law that said Indians couldn't vote unless they agreed to be enfranchised.

So all of the recourses to the democratic procedures every citizen of Canada took for granted in the 19th century, were taken away from Indian people. But the government wasn't satisfied with that, because they truly believed these Indians would continue to do things secretly to keep themselves going, and of course, that is what we were doing.

We know all about how our Elders continued to protect our ceremonies. They'd often go into the bush miles into the distance and conduct their secret little sweat lodge and other ceremonies. Sometimes they'd go off on an island in the middle of a lake and do their ceremonies there. But even that didn't sit well with the government, so they passed a law saying any person who continues to represent himself as an individual with medicine or healing abilities, was guilty of an offence. They attacked our medicine people, our healers, and said if they continued to say they could heal people in a traditional way, they were guilty of an offence.

Then a law was passed that I think is ironically titled the *Indian Advancement Act* in 1891, which said any Indian community which is considered by the government to be in an advanced stage of development — and that is the phrase — an advanced stage of development would henceforth from that point on, have to elect its leadership in accordance with rules and regulations created by the government.

Those rules and regulations said only Indian men over the age of 21 could hold office, and only Indian men over the age of 21 could vote for them, which of course undermined the status of women in society and greatly undermined the matriarchal societies of some of our tribes by creating this form of government, that was modeled on the form of government that Canadian society followed, its so called democracy.

But they went further than that and said the forms of government that are elected in that way, really have no power. If they want, they can control noxious weeds, decide where houses can be built, or control where the garbage is to be dumped. If they want, they can decide whether people coming into their community can sell trinkets and goods, but beyond that they have no real authority.

And just to keep a handle on it, they passed a law saying whenever the council wants to meet, they have to give notice to an Indian agent who is responsible for that territory, and they can't have a meeting without them, and it was always a man, of course.

The Indian agent had a right to attend those meetings and furthermore, had the right to chair those meetings and set the agenda.

So those advanced Indian communities were still subject to the direction of the local Indian agent. Any Indian leader who held himself out to be a representative of the community, who said he was the traditional chief and not these new chiefs, was guilty of an offence and could go to jail just for declaring these new forms of government were invalid, and that his traditional form of government was still valid. Those leaders were prosecuted, and we know of several instances where they were incarcerated for continuing to do that.

Incarceration was a relatively easy thing to accomplish because Indians who were prosecuted under the *Indian Act*, had to appear before a Justice of the Peace designated by the Minister of Indian Affairs, and was prosecuted by someone also designated by the Minister of Indian Affairs.

Government cutbacks were as important in those days just as they are today, so they decided to roll that person into one, and the prosecutor was the Indian agent. Just to keep it easy, the Justice of the Peace was also the Indian agent.

So as you can see, the rule of law we take for granted in our system, that everyone is subject to the equal enforcement of the law, was never there for Indian people. Those laws were in place until 1951 when the Indian Act was amended. Some of them were repealed in 1927, but they were there for several generations, and certainly the Indian residential school legislation is still in the Indian Act today, it's just not enforced in the same way.

But the Indian residential school system was a part of our lives for almost one hundred years. When you think of how many generations of children went through those schools and that kind of lifestyle, you can begin to see how the lives of those children would become disrupted, disoriented, and how they would be out of balance with their Elders and their families.

For when you think about it, you cannot take a child and raise that child in an institution, and expect that child to be able to function well and provide a loving or caring environment to his or her family.

You cannot take a child and separate that child not only from his or her mother and family, but also separate that child from his sisters, his brothers, his aunts, his uncles, any adult of any importance to him and put that child in an environment where they don't see a loving and caring family environment, and then ask that child to return and become a parent and expect them to be able to function properly.

We know the effect of that institutional situation is not going to be immediate because the first generation of children still have their parents living back home to help them when they return, those who did. Even the second and third generations would have their parents and great grandparents to help them because we know that older people continue to have that influence with young children, even to that level.

But eventually, those who were not tainted by the residential school system began to die off and subsequently, lost their importance within the family. As each generation returned, the previous generation would become less and less able to maintain a stable and balanced influence for them.

So we begin to see the impact of it all after five, six, even seven generations in the families, and I think that is why we don't see any change in the statistics until after the Second World War.

A number of things occurred which added a great deal of impetus to the change. A lot of our men went off to war and returned having fought in battles as soldiers at the frontlines. Today, we know about post traumatic stress disorder because of studies that were done on Vietnam veterans. We know today what the impact fighting in wars has upon individual human beings and we know today those men returning from those wars to our communities did not receive anything near the support, care and rights non-Aboriginal veterans received when they returned.

We know as well that in the 50s a lot of provinces changed their laws to allow Aboriginal people into places that served liquor in Manitoba. The famous report is the Bracken Report in 1956, which allowed Aboriginal people to drink alcohol in a beverage room or beer parlor, as it was called, and we know the relationship between alcohol and crime in our communities.

Also in the 1950s, the Department of Indian Affairs decided these Indians weren't migrating into urban areas fast enough so they created a native housing program through the federal government which gave Indians large financial incentives to buy or build houses in urban communities, as long as they moved away from their reserves. Anyone wanting to build a house on an Indian reserve couldn't get any federal money but anybody building a house in an urban area could get a \$10,000 forgivable loan and in those days that could build you a pretty good house.

So a lot of people migrated into the urban areas in the 1950s as a direct result of that program and I think we know that.

But I think it is during the start of the family dysfunction s when we begin to see the statistics change. Stony Mountain Penitentiary reported in 1962 for the first time, an aberration in their inmate statistics. They estimated 20 per cent of their population were Aboriginal, the first reported notice of over representation in the jail system. Around the same time, in the early 1960s, we begin to see those statistics increase for all provincial and federal institutions in Western Canada. Those statistical increases grew even more as the years went by to the state we see today.

Our educational system functioned much along the same lines as well. When I went to school and I'm sure this is true for every Aboriginal person today of my generation, or close to it, that we were taught about the concept of discovery, about the great arrival of Christopher Columbus. We were taught about Jacques Cartier and Samuel de Champlain. We were taught about the massacre of father John Breboeuf by the Indians of Eastern Canada who tore out his heart, as savages are wont to do, and ate it. We were taught how Indians were really nothing more than part of the country side when the white men arrived and had no real rights. We were taught that Indians were actually pretty lucky that the white men came here and saved them from their life of barbarism and the terrible living conditions the white men saw. We were taught all of that.

It amazes me today that in some cases our children are still taught that. I know of a young girl back home, the same age as my daughter, who was expelled from school for two days because she refused to write a paper on the benefits of Christopher Columbus' discovery of North America.

We have a situation in our lifetime when growing up in that kind of environment resulted in our inability to find out who we are. The great question each and every one of us had to answer was beyond our capability of answering as Aboriginal people, because who we were, was not who society wanted us to be. I was not what society wanted me to be, and what society wanted me to be, was not what I saw myself as being.

I grew up in an era with Elvis Presley and the Beatles, and for a while that is what I wanted to be. But when I looked in the mirror, I didn't see Elvis, and when I let my hair grow, it didn't grow into the same style that the Beatles did. I couldn't speak with an English accent and the people I grew up with, couldn't function that way either.

When we looked in the mirror we always saw Aboriginal faces, and for a long time many of us didn't like what we saw. We didn't like our ourselves growing up in that day and age because of what we had been taught about ourselves. We didn't like ourselves because of the images of Aboriginal people that we saw in books, newspapers, movies, and on television.

We didn't like the images of the people we saw when we took the bus to Winnipeg and saw these drunken Indians on Main Street, all of whom were victims of the same kinds of things we were victims of. We didn't like those images, and so we didn't want to be that way. But that was never a positive option for us.

In other words, we were not told how not to be that way. We were told simply if you don't do what we tell you to do, you will end up like that. The unarticulated premise of our educational system was, if you don't grow up to be the way we are saying you should be, then you're going to be a failure like your uncle, you're going to be a failure like your cousin who's living in a Main Street hotel, and that was the great threat we faced.

So the reality then, for us as Aboriginal youth, was growing up with terrible conflicts over who we were. We did not know who we were and our young people today, they still do not know who they are. We have not been able to give our young people their sense of identity today, just as I was not able to get my sense of identity as a young person in the

50s and 60s.

This is the great dilemma we face, because each and every young person who comes before me in court, is weighed down by that burden and that is why, when I look at the options available to me as judge, I think well, I can impose a fine. Now, if I fine him \$50 is that going to give him his sense of identity? Well no, maybe not. Maybe \$100 will give him a sense of identity or perhaps \$500, but that will not give him a sense of identity either. So how about if I put him on probation and make him go and report to a white probation officer downtown, will that give him his answer of identity? Well, I don't know, maybe it would. It would depend on the probation officer.

I have not met too many Aboriginal probation officers, but there are some out there who have a good sense of what they have to do. But in our system, probation officers generally function very much like police officers. They are there to keep an eye on somebody and if they do something wrong, they report it and end up back in the system.

It is very rare and I mean no disrespect, but it is very rare to find probation officers who go that extra mile with their clients. They are overworked, overburdened, just like everyone else in the system.

Maybe if I send this person to jail, I think maybe that will give him a sense of his identity. The sad reality is, there is an awful truth to that.

Many Aboriginal men who stop a life of crime, tell us the answer for them was when they learned about their culture, and where did they learn about their culture? The first time they learned about their culture was when they were in jail. It's a terrible thing to say, that you can go to jail to learn about who you are

and find your solution there. If that's the only thing to stop him from living a life of crime, then couldn't we find a way of doing that outside of jail? That is the question I ask.

The reality is that some of our men and women do find their answer through learning their culture while they are incarcerated. Incarceration for that purpose seems to me to be a little illogical, but there it is. There are only three things I can do with somebody who is in front of me as a judge. I can take away their money, and the money that goes to their family. I can put them on probation and hope, hope that somebody will help him, or I can send him to jail and perhaps keep him out of trouble for a while. However, more and more evidence is coming before us that sending someone to jail simply increases their criminal activity, and doesn't decrease it.

All of this is what's going to lead me to the conclusion. I told you I was going to make this sound like I knew where I was going.

We have a situation where too few of our lawyers and too few of our judges and probation officers know about that history. They think that Aboriginal people are just like every other criminal that comes before them, people who commit a crime out of convenience, commit a crime out of need or commit a crime out of passion.

The reality in my view, is that for most Aboriginal people, criminality is often a forced state of existence. Criminality is often a direct result of their inability to function as individuals, as human beings in society.

Our young people in Winnipeg are joining street gangs in huge numbers. A year ago they were estimating there were 300 to 400 Aboriginal youth gang members. Now they are saying it is about 1,500. I think it's a scare tactic myself, but even if they are joining in disproportionately high numbers like that, it's merely a reflection of the need of our young people to find out who they are, who am I? This gives them part of the answer. This gives them a sense of comfort about who they are.

So I think, we in the justice system, are compelled to accept it is our responsibility for a vast majority of the people who come before us, Aboriginal and non-Aboriginal, to find a way to help them find out who they are. Then we can help them to answer those questions I mentioned earlier, which are, where did I come from, why am I here and where am I going?

We need to find ways to help them confront those questions and find answers. For by answering those questions, each person in society is able to find a way of functioning properly.

The problem with our justice system, as it functions today, is we are often discouraged from even probing into that. We emphasize in our system the need to generate numbers. I remember I was talking one time with judges about doing sentencing circles, and I said the very first sentencing circle I ever did, involved 500 people who were in attendance. 150 of them spoke at that sentencing circle. One judge said, We can't take all day to sentence somebody, and I said, Well, think about it for a moment, you're dealing with the rest of this person's life. This is probably the most important thing that will ever happen to this person. Why wouldn't you want to take all day to do it right?

The reality is we get thousands and thousands of people in our system who we feel we need to move along. There is a great sense of discouragement over doing it carefully and doing it right. But that is a reflection of the numbers, the number game we are caught up in.

The problem is our system is not oriented in my view to doing it right yet. It needs to be reoriented to doing it right.

Somebody else here said, What is justice? Well, justice is doing the right thing, that is really what justice is. It is not any more complicated than that, doing the right thing.

Where Aboriginal people are concerned, we are not doing the right thing. All of the statistics and all of the studies we know about, have all come to that conclusion. What is the right thing? Well, we have to learn that. It is not going to be the same for our friends in Maniwaki as it is for our friends in Moose Factory.

It is not going to be the same for the Ojibways in Roseau River, as it will be for the Crees in Lac l Orange.

It will not be the same for the people in the Blood Reservation in Alberta, as it will be for the west coast Indians in British Columbia, or the people of the Northwest Territories, or our Inuit brothers and sisters in Inuvik. They will all have different solutions based upon their understanding of how to do things because process is just as important as results. We must never forget that.

The process each will follow will reflect who they are. The results will be the same I think, for all of us if we let that happen.

The Aboriginal Justice Learning Network arose in a discussion David Arnot had with a number of people including myself, a couple of years ago. In that conversation with me, David said there is a recommendation in the AJI report suggesting we should have a learning centre. We called it an Aboriginal Justice Institute. We said all Aboriginal people who want to learn how to deliver justice to their people should be given a place where they can learn and study from Elders who will be able to give them that knowledge. Who can learn from lawyers about how law is supposed to work. Who can learn from judges about experience and about how justice systems are supposed to work, but will also allow them ultimately, to do their own thing.

In the similar way, we said non Aboriginal judges, lawyers, police officers and probation officers should go there to learn how Aboriginal justice is supposed to work, and it is all designed, we said, to allow the implementation of one of the major recommendations we made, which is Aboriginal people should be allowed to deliver justice their own way. Aboriginal people should be allowed to have their own justice systems in their own communities to do justice for their people, to do what is right for their people.

This program you are now participating in grew out of that discussion. Ultimately, in my view, what we need to focus on is how we can establish a process whereby you, who are Aboriginal, and you, who are non-Aboriginal, can continue to come together with a view in mind about how we can do what is right where Aboriginal people are concerned. We need to think about that and we need to talk about that.

I want us to have an on going process so when we have new judges appointed in Saskatchewan, Quebec or the Maritimes, we can say to them as administrators of our courts, in addition to going to the new judges training program, put on by the judicial institutes of our courts, you will also go and spend a couple of days with the Aboriginal Justice Learning Network, to learn how to deal with Aboriginal justice issues in our courts and with our communities.

I'd like to be able to say that to them, but we need to have an on going process that is supported by governments, and recognized by those who are within the justice system. We need to have a way of

continuing this dialogue, so it is not just an opportunity for us to spend a few days in a very nice hotel, eating some very nice food, and sitting in some very hard chairs. We need a lot more than that.

So ultimately it rests with you, those of you who are here. It doesn't depend on David, it doesn't depend on me or Romola. It rests with you, all of you who are here. You have to commit personally those of you who think this is important, to see this will continue to happen.

You have to go back, those of you who represent departments and programs and governments, you have to go back to your offices on Monday morning, send a memo to your boss somewhere, whoever that might be, and say I just came from an interesting program I think we should make a commitment to. This is why you have to do that.

You have to be able to see the benefit of this, and if you don't see it today, maybe you'll see it the next time you come to this session. Maybe you will need to send somebody there who does see it, if you're not the right person.

We have a lot of ground to cover, and we have a short time to do it. I want to be able to leave this life, this earth, thinking I have moved the conversation along a little bit and I hope you will commit your life to the same thing, that when you are done whatever it is you do, you will feel that you have moved the conversation along a little bit. I hope these words I have shared with you have given you a little appreciation for how I feel about these things.

I do not pretend to have the answers. I sometimes feel I only have questions, but I do want you to know that I have strong feelings about this. A strong feeling about the importance of these issues in this day and age, and also a strong feeling about the important role each and every one of you is going to play, and the resolution of those programs.

So I thank you for listening, meegwetch.