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JUSTICE SECRETARIAT

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PEOPLES AND JUSTICE REFORM

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INTRODUCTION

The First Nations of what is now known as Saskatchewan include the Cree, Dene, Dakota, Lakota, Nakota and Saukteaux. Each nation has a history of sovereignty and a distinct identity characterized by language, traditions, values and beliefs. The laws, teachings and ancient knowledge passed down from one generation to the next describe how people relate to one another as individuals, family and community members and as Nations. The laws of creation guided daily, monthly and seasonal interaction between people, life and land. The relationships that developed between and among all of creation sustained the survival of First Nations.

Good relations are essential to live a good life. Good relations are required to develop peace and harmony, and to resolve personal and community conflict. When relationships are restored or renewed, peace and harmony prevails. It is this understanding of *good relations* that First Nations lived by for centuries, brought to Treaty, were acknowledged in Treaty, and must be considered to attain social, economic and environmental justice.

Today, all First Nations are treated as one homogenous body with the same issues, identity, history and traditions; their distinctiveness is generally not recognized. However, First Nations have had the same treatment or relationship with the Crown, have all been marginalized, oppressed and currently struggle for recognition of their inherent right to govern themselves.

Because the lives of First Nation people have been dominated by the criminal justice system through the criminalization of their ceremonies, their right to earn a living or their right to protect their traditional laws, and many other intrusive control measures, criminal law is the context which has been promoted as “justice” for First Nations. As a result, many First Nations people have a story of their lives, an incident with the police, the courts and the jails to tell. But as one Elder said “we are not criminals and our lives do not stop or end there”¹

The scope of justice, which is the main focus of the Justice Reform Commission, is viewed differently by First Nations. A First Nations approach to “justice”, based on the teachings that have been passed down from generation to generation, looks at the entire way an individual lives and the interrelatedness of life’s circumstances. First Nations clearly state that “justice” must be discussed within the context of the teachings that underpin their *way of life*.

This submission to the Justice Reform Commission consists of two parts. The first part describes the continuing challenge of First Nations and the criminal justice system; the second part focuses on First Nations’ quest for just relations. It will do no good to tinker with a system that has plagued First Nations for over a century. In their quest for just relations, First Nations seek fundamental structural changes and a renewed government-to-government relationship with the Federal and Provincial Governments.

¹ Harry Blackbird, Justice Symposium 2002, Saskatoon, SK.

THE CHALLENGE CONTINUES: FIRST NATIONS AND THE CRIMINAL JUSTICE SYSTEM

The current Canadian justice system, especially the criminal justice system, has failed the Aboriginal people of Canada- Indian, Inuit and Métis, on-reserve and off-reserve, urban and rural, in all territorial and governmental jurisdictions. The principle reason for this crushing failure is the fundamentally different world view between European Canadians and Aboriginal peoples with respect to such elemental issues as the substantive content of justice and the process for achieving justice. With respect to the former, the European Canadian definition of justice is usually centered on the word 'fairness', whereas the Aboriginal definition usually highlights a different constellation of words like peace, balance and, especially, harmony.

Royal Commission on Aboriginal People, Report from the Round Table Rapporteur,

James C. MacPherson

BACKGROUND

History has shown us that very little change has occurred within First Nations' country to improve the way in which the First Nations are treated at the hands of Canadian government and its institutions.

Countless studies and inquiries on Aboriginal people have occurred over the last decade, the most notable being the *Report of the Royal Commission on Aboriginal Peoples* which did the most comprehensive study of Aboriginal people in Canada. Many other justice reviews have been conducted focusing on Saskatchewan, most of which contain recommendations that have yet to be implemented. Skepticism exists about potential changes to correct a system that incarcerates a high percentage of the overall population of the First Nations community - a system that continues to ignore First Nations' needs even though the majority of its clients are First Nations people.

Incremental shifts have been made in the last decade, although the abject pain and high incarceration rates greatly exceed the minute improvements. Racism prevents First Nations from fully participating in the bounty of their homeland, and from enjoying fundamental human rights to their full extent. First Nations have experienced the most socially entrenched racial discrimination of any group in Canada; in fact, legislation, such as the *Indian Act*, has been created based on a Euro-centric sense of superiority.

The reasons First Nations constitute the majority of those in criminal institutions are many; most relate to the conditions of oppression and discrimination found within the context of Canadian policies in regard to First Nations. Not only do First Nations people encounter racism individually, they also experience it within systems, where it becomes normalized, and prevents their full participation as equal members of society. Past and present government control, socio-economic challenges, poverty, dependency and marginalization are a few of the reasons First Nations people comprise most of the offenders in Saskatchewan. The factors and the history that contributed to these experiences today fill books, articles, court rooms and negotiation discussions. The criminalization of a *way of life*, of a race, brought residential schools, abuse, addictions, and many other barriers that have contributed to a loss of teachings, of self respect, and of a *way of life* where all members in a community had a contribution to make.

The destruction of indigenous forms of governance, community organization and cohesion through imposed European governmental forms such as the Indian agent, systematically sidelined and disempowered traditional forms of leadership and governance.² Traditional economies were destroyed through expropriation of traditional lands and resources, language and culture were undermined and the very essence of community was shattered.

Socio-economic disparity statistics show that, in the cities of Saskatoon and Regina, Aboriginal people earn only 55.2-56.2 % of non-Aboriginal incomes; in other words, Aboriginal families have incomes of about \$13,943 per year.³ These statistics compare to cities with high First Nations populations, such as Winnipeg at \$14,461 and Thunder Bay, at \$17,376.

There continue to be many challenges to the spirits, bodies, minds, and hearts of the First Nations people of Saskatchewan. The Canadian justice system has created, and continues to create, a collective mindset with First Nations people wherein they live with the fact that contact with police will occur, oftentimes simply because they are in the wrong place at the wrong time, or keep the wrong company, and this unfortunate happenstance can result in charges or worse. First Nations learn over the course of their life that, because of their 'Indianness'; they will likely have more interactions with police, which will most likely result in a negative experience with the justice system.

² *Mapping the Healing Journey: The Final Report of a First Nations Research Project on Healing in Aboriginal Communities*, APC 21 CA (2002) , p. 9.

³ Statistics Canada. *Housing, Family and Social Statistics*. Statistics Canada.

Saskatchewan First Nations, through community justice programs and regional advisory services, work at preventing people from entering the justice system and help in supporting those who are in the system. The funding allocations to do this work amount to about \$3.36 million per year. This figure is highly disproportionate to the total budget amount of \$229.6 million per year to operate the criminal justice system in Saskatchewan.⁴

The ability to provide more community-based services to their own people is predicated on capacity building that First Nations require these necessary services.⁵ The submission by the Saskatchewan departments of Justice and Corrections and Public Safety to the Justice Reform Commission in January 2003, titled “Working Together for Safer Communities”, recommends building capacity, encouraging community ownership, building partnerships and ensuring the justice system respects the cultural practices and traditions of Aboriginal peoples — aspirations in line with those of First Nations. The reception, implementation, and impact of its recommendations by and upon First Nations are questions for the future.

⁴ Government of Saskatchewan, (2001). Financial Estimates 2000-2003, Department of Finance

⁵ FSIN Strategic Plan for First Nations Corrections, 2000-2004 (1999), Saskatoon.

TREATY

Treaty recognized existing Indian sovereignty and jurisdiction. Furthermore, Treaty created the foundation, if not the means, for the ongoing relationship between the First Nations and the non-First Nation settlers.

Since time immemorial, First Nations people have occupied the land that is the subject of the numbered Treaties 2, 4, 5, 6, 8 and 10, in Saskatchewan. First Nations' existence was contingent upon the customs, traditions and beliefs that were acknowledged as sacred gifts from the Creator. First Nations' traditional *way of life* provided their ancestors with the knowledge and means to understand nature. Their view explained the intricate balance of nature and the place of mankind in the circle of life. Bound by the belief that all things are inter-related and inter-connected, First Nations' ancestors lived and abided by the principles and laws of nature.

Prior to colonization, First Nations people had comprehensive bodies of law that gave direction to their society. These laws were relied upon to maintain peace and harmony among First Nations' families, communities and nations. These were the laws that were followed at the time Treaty was negotiated. First Nations believed that these same laws would continue to be enforced. The First Nation leaders left the Treaty negotiations with the understanding and the belief that they had secured an agreement that ensured the continuation of their laws and *way of life*.

The negotiation of Treaty, following protocols on both sides, emphasized the need for agreement on settlement, the creation of reserves, and the promise of building a relationship together. It did not relinquish First Nations' right to determine their own affairs, to govern themselves. Treating on a nation-to-nation basis acknowledged that First Nations were self-governing. Treaty eventually became constitutionally protected with the creation of section 35 of the *Constitution Act* of 1982.

The future was to be guided through the implementation of Treaty. Treaty was a binding agreement between Nations that recognized the laws of both parties and that created a process for the relationship to flourish. However, the relationship has not been maintained for both parties; restoration is needed and ultimately renewal of the relationship. Treaty was designed to take us through this process.

SOCIAL ISSUES

FAMILY AND CHILDREN

Traditional practices include maintaining and strengthening relationships, beginning with the family and reaching out into the community and the nation. Traditional values also place a priority on the care of children. Children were considered a sacred responsibility given from the Creator. Traditional societies distributed the responsibility of child rearing to the parents, extended families and the community; the entire community was involved in the upbringing of children.

Today, many First Nation children and families experience poverty, family breakdown, crime, youth gangs, female prostitution, family violence and high numbers of First Nations children who are in care. Generations of oppressive government policies have eroded family and community systems and have created high child welfare needs within the First Nations community. Parents have lost the ability to care for children due to addictions, offending behavior and many other cultural, mental, and psychological challenges.

First Nations jurisdiction of family matters is dictated through provincial government legislation in Saskatchewan. First Nations Child and Family Service (FNCFS) agencies provide those services allowed under provincial and federal rules and laws, which are often in conflict with First Nations culture and needs. For instance, agencies receive the majority of their funding only through taking children into care, not by keeping children out of care. Taking children into care means removing a child from their home, which is understandable if suspected of abuse but often it is neglect and family support that is lacking and therefore children need not always be removed from a home. Family support, healing and restorative practices are the services most communities would like to have available to combat family breakdown.

At times it is difficult to see the opportunities and constraints involved in making change within the FNCFS world, due to the multi-level authorities and complexities of laws governing children and families. Prevention is still not funded appropriately and budgets do not reflect agency profiles and needs. Staff training is not up to par for Agencies either.

CHANGING ROLES FOR FIRST NATIONS WOMEN AND MEN

The role of First Nations women in society has shifted significantly and has had an impact on the evolution of the family, the community and the systems within the community. Women were once the main caregivers, the teachers, the child bearers and keepers. Many now have the added responsibility of being the breadwinner and often the First Nation government leaders. The new roles have come with much responsibility but little recognition of authority for these women.

The readily available statistics of First Nations men incarcerated in Saskatchewan indicate that substance abuse and addictions are high, domestic violence and unemployment are high, and rates of men entering educational institutions are low. Traditional roles for First Nations men have been eroded along with their dignity and self-esteem. This is reaffirmed each time they are involved in the criminal justice system or social service industry, which itemizes their record of dysfunction and criminality and which never sees any potential – not for boys and certainly not for men.

YOUTH

First Nation youth comprise the fastest growing population in Canada. In Regina and Saskatoon, according to 1996 statistics, 7.5% of youth are between the ages of 0 - 24.⁶ A larger increase will be felt over the next ten years, creating major impacts in the economy and workforce. The aging population, the increase in the First Nations population and ultimately the opportunity for these youth provides hope for the future. First Nations believe that youth are the future leaders and with opportunities available to them there is hope for them to believe in their futures as well.

However, First Nations youth are vastly over-represented in the youth justice system, comprising more than 90% of the wards in Saskatchewan's youth custody facilities.⁷ The sad truth is that First Nations youth are more likely to be placed in custody than they are to complete high school. The higher representation of First Nations youth in the justice system is a reflection of two basic factors: 1) Standard of living: the social, cultural, political and economic conditions experienced by most First Nation youth affect and create offending behavior; and 2) Systemic barriers: the racism of individual police, justice and corrections officials and the systemic racism of the justice system affect how youth of different races are dealt with in this system.

Anger, frustration, and despair fill the lives of many First Nations youth. Such self-destructive behavior projected outwards leads many First Nations youth into conflict with the law. First Nations youth make up the majority of the population in youth custody facilities and Saskatchewan has the highest charge rate for youths in Canada, at 10.234 per 100,000, which is twice the national average⁸.

The Saskatchewan government has produced a youth services model which outlines a plan "to improve the way we deal with youth who offend or are at-risk to offend", by bringing government together with partners to develop services to make changes in the way at-risk youth receive treatment, schooling and jobs, with youth taking responsibility to reduce offending and to reduce youth custody rates.⁹ First Nations have a number of concerns with this plan, in particular because the assumption is that youth will remain in custody. Instead of focusing on keeping youth in custody, a wide-scale, serious effort is needed to change this assumption and close down beds. Further, First Nations need to be involved in the design, implementation and evaluation of programs that impact their youth; they need a voice here as well.

Gangs

The reason for gang creation is tied to past and present assimilation policies.¹⁰ The motivating factors are the formation of a surrogate family, identification of peers, protection, the lack of alternatives and money. Young offender facilities, correctional centers and federal institutions have become breeding grounds for gang recruitment.

Gangs use intimidation and violence to control their members and one testimony, in the FSIN's Alter-Natives to Non-Violence activity report, attests to the loyalties and violence of these societies. It tells of a young man describing a beating received by his father's gang while his father watched and did not intervene.¹¹

Law enforcement agencies view gangs from a criminal perspective where enforcement is the focus, and healing and restoration are ignored. First Nations understand that the solution to this issue is to restore control and dignity to First Nation communities and to provide prevention and healing programs to help divert youth away from gang activity.

Racial Profiling is another component of law enforcement that is used in Canada. This allows police to make leaps and draw conclusions about a person based on their race. It amounts to the legitimization of racialized policing; race based questioning is condoned and accusations against First nation people are tolerated without proof.

⁶ DIAND (2001) *First Nations and Northern Statistics Division*. (2001) DIAND Canada.

⁷ Statistics Canada. *Aboriginal peoples of Canada: A demographic profile*. (2001) Statistics Canada.

⁸ Saskatchewan Government, (2000) "Saskatchewan youth services model: Reducing reliance on the youth justice system", page 5.

⁹ *Ibid*, Fact sheet, page 1

¹⁰ FSIN *Alter-Natives to Non-Violence Initiative Report*, (2003), Saskatoon.

¹¹ FSIN *Alter-Natives to Non-Violence Activity Report*, (2003), Saskatoon.

The Youth Criminal Justice Act

The *Youth Criminal Justice Act* (YCJA) is a federal act that was implemented in April 2003, to replace the Young Offenders Act. The government of Saskatchewan is charged with the responsibility of implementing it. Given the statistics, this legislation impacts First Nations youth directly.

Some of the obvious concerns of the Act are: the lack of input of First Nations, the lack of First Nations traditions within the legislation, the potential problems with insufficient financial resources and the ultimate plans to reduce funding as more responsibility is “devolved” to the community. Further impact of this legislation may be: lack of community preparation, lack of resources to develop programs and services, the likelihood of the First Nations to again “volunteer” for the creation of community services, and little or no preparation for any potential fall out that the youth will experience.

The crime prevention funding process itself needs to be improved. Funding on a proposal basis is all too familiar to First Nations and takes an enormous amount of administration and time that involve little money. Further, evaluation of any program is never inclusive of First Nations so the impact of the program will not have any bearing on the continuation of it.

Another point to reflect is the actual procedures and policies that are adopted by the various agencies working with this legislation. Again, with no input from First Nations, and the potential to fall back into the familiar path of the Young Offenders Act, it is very likely that the process for evaluation of youth will be from a negative perspective, listing their faults and failures and not allowing for potential and successes –in other words, seeing the criminal, not the youth.

ELDERS ISSUES

As with other aspects of First Nations life the vital role of the old people in many communities has been negatively impacted over the last few generations as well. No longer are they part of the care giving, teaching tradition that they once were. The history of developing wisdom through experience and through teachings from the ancient wisdom keepers, the tradition of teaching in context, of being a vital part of the community has dwindled significantly.

The removal of children from the community, the disconnection with the parents and the elders, the modeling outside the community of old people being a burden on society has transformed the community. The impact may have seemed subtle but it has far reaching effects. The loss of language alone has taken a body of knowledge that was once shared, to be kept by a few, often the old. The Elders were the ones with the patience and understanding, the ones who offered guidance not only to the children but to the parents as well. The disintegration of the community has fragmented this relationship.

Lack of funding, inadequate housing, poor living conditions on reserves and in Northern communities, have had an enormous impact on Elders’ health. When they experience sickness and ill health, they want to remain in their own communities to regain their health. Often, the resources are not available to meet their needs within the community, so they are left wondering what might happen to them in a hospital where there may require an interpreter. In such circumstances, these Elders are often left to fend for themselves.

Both First Nations and non-First Nations recognize that ancient knowledge is a very valuable resource. Inclusion of Elders as members of the community and as teachers who should be part of the decision making process is slowly being revived. However, there is often poor pay or no pay for attending meetings, and some are even left to pay their own expenses. There is often little or no community resources for programs and services for Elders basic needs or their well being. There must be specific attention paid to the needs and responsibility of Elders.

SUBSTANCE ABUSE AND ADDICTIONS

Many First Nations people suffer from substance abuse; this accounts for the majority of charges within the justice system. In addition, family breakdown, homelessness, traffic accidents and many other problems are directly related to these addictions. Addictions, though, are merely a symptom of larger problems, such as the trauma of family violence, sexual, physical and emotional abuse, and residential school effects. Fetal alcohol syndrome is a major problem and those affected are more likely to end up in the justice system, yet very little resources are available to treat and manage this condition or to prevent it.

Although many individuals and communities have made substantial recovery back to wellness from substance abuse, freedom is still a long way off for many. Instead of treating those affected by this disease as criminals within the justice system, alternative approaches need to be used to help this population.

At the front end, substance abuse-related crime needs to be treated in a different way, starting with a change in attitude within many helping professions including policing. The attitude needs to change from the behavior being a punishable crime to being treated as a disease. Wellness centres are necessary and appropriate for First Nations people to recover from drug and alcohol addictions. These centres or places of healing are necessary for diverting people from correctional facilities. This type of diversion needs to be established by each community who knows the type of issues their members face. When possible, police need to have access to this as a referral, away from the criminal justice system.

SYSTEMS

The practice of criminal justice workers, of social workers, educators, health workers and all systems workers sitting behind closed doors to deal with the “Indian problem” must stop. More studies, more pilot projects and more cultural weekend workshops are not the answer. There must be a fundamental shift in the relationship that is more reflective and responsive to First Nations of this province.

SYSTEMIC BARRIERS

The reality for First Nations in Saskatchewan is that the climb up to the basic standard of living that is taken for granted by most Canadian citizens contains many hurdles that are not often considered. The United Nations criteria for the Human Development Index that is based on life expectancy, educational attainment and income, placed Canada 1st in 2002 and placed Canada’s First Nations 79th. On the whole, Canada appears to be a very good place to live, with lots of opportunity. Look again from a First Nation’s perspective.

What must First Nations overcome just to be heard politically, socially and legally? The list is incredible and should start with the concept that is avoided at all cost: Racism. Because the term racism is negative and places responsibility of the action/behavior outside the First Nation, it is not a socially acceptable way to approach any of the issues faced by First Nations. This is found in the fact that the apologies for travesties committed against First Nations in the past should just be forgotten; Treaty promises are broken and litigated, taxation of First Nations is the primary issue and settlement of Treaty land obligations pushed aside by mainstream society. There is a constant minimization of First Nations rights, and acceptance by mainstream society of abhorrent treatment of First Nations through silence.

After racism, the list of systemic barriers is endless but includes: discrimination, prejudice, loss of language and oral traditions, institutionalization, perpetuation of a “dependence mentality”, poverty, disintegration of the family, erosion of traditional governance, oppression, victimization, marginalization, exclusion, and employment equity turned statistical gathering.

Media Perceptions

The media plays out many of the systemic barriers daily. One does not have to look very far to find the images and messages about police, and those involved in the court systems. There are many law enforcement personnel who implicitly condone the use of force and take an adversarial approach to stamping out crime. This scenario often puts minorities in the role of criminal and white people in the role of judge, enforcer, upholder of values and savior. It is played out upon First Nations people in endless encounters with police, thereby allowing the public to accept the use of force by police against First Nations people. Stereotypes of First Nations as violent, out of control, and First Nations youth as troublemakers are messages perpetuated by print and television programs including the news.

Media paints an even stronger picture of “black and white” (which is already existent), which places the police as the “good guys” and others as the criminals; therefore, most of the time, the real issues are ignored. In the reports of the death of Melvin Bigsky, the subtitles were extremely negative and took away from the fact that he was a human being. Another example is Keldon McMillan: although many were unaware of his Aboriginal background, the media printed headlines such as: “He died like an Indian.” They were all subject to much sensationalism and denigration. These and other incidents were not reported with the sensitivity one would expect for human beings dying in unfortunate circumstances.

POLICE

The primary link that First Nations people make to the justice system is through the police. Since the inception of the North West Mounted Police, First Nations people have had numerous encounters with police that have resulted in negative experiences. Rather than focusing on the safety for all citizens, the police adopted a role as enforcers, unfortunately with a racial bias. Elders tell us that the translation for the police is like “the men who come to take you away”. The reality of the relationship is not too far from this translation.

The issues around police and the First Nations members of the community reach far back into the relationship between First Nations and police. The difference now is that the treatment is so blatant, so obvious that it can no longer be ignored by mainstream society. Complaints of excessive force, of death resulting from police brutality, of First Nations women and girls raped, and of assault and institutional abuse, have now floated to the surface of the criminal justice system. This is a direct result of the police practice of dropping off First Nations people outside the city of Saskatoon. Lloyd Dustyhorn, Rodney Naistus and Lawrence Wegner along with survivor Darrell Night have crystallized the police problem so that it can no longer be ignored.

The problems regarding First Nation-Police relations receives, local, national, and international attention. The “Saskatoon Policing Incident” or the more romantic term “starlight tour”, has given our community a national profile on not only the issue of policing but on the overall human rights issues faced by First Nations people in Canada. The response to this “incident” is critical for all citizens in Saskatchewan to address this very unhealthy relationship.

In February of 2000, the silence of First Nations people was finally broken and their voice had an opportunity to be heard through the Justice Reform Commission. Although these men drew world attention, their stories are not uncommon for many First Nations people here and around the country.

The FSIN continues to look for solutions for the problem, through a 35 member RCMP task force, numerous investigations, multiple complaints, coroners inquests, inquiries. There are still no answers and the relationship continues to dissolve.

Historical RCMP Relations with First Nations

The role of the RCMP during the settlement of the Northwest in 1869-1870 was to implement the oppressive policies of the Federal Government upon First Nations. In fact, the RCMP carried out the orders of Indian agents, such as preventing people from leaving the boundaries of the reserve and confiscating sacred bundles and charging people for holding ceremonies.

Historically, the “red coats” did not fulfill their duties to protect and respect Treaty. Leaders such as Big Bear and Poundmaker were fighting for basic human rights of their tribes; yet, the government, aided by the RCMP, treated them like criminals. History does not help with relations today because First Nations people believe that the RCMP continue to protect “white” people and not them.

This early history has had an effect upon the relationship between First Nations and the RCMP. These memories remain in the minds and hearts of the many members of the First Nations community. The negative association of these historical events is reinforced by First Nations’ experiences today. This history must be acknowledged and honestly examined before there is growth in the relationship. Responsibility must be taken for what has happened.

Contemporary Relations with Police

The everyday life of a First Nations person involves accepting the fact that he\she will eventually have contact with police. Those individuals on the street such as addicted people and youth have a greater chance of negative police contact because they are lower on the socio-economic scale and thus more vulnerable. This reality impedes First Nations people from attaining their goals in life. Put simply, it is a crime to be First Nation.

Many First Nations people, particularly those who are socially marginalized, have had to deal with clashes with police. Although there have been inquests and analyses of the deaths of two men on the outskirts of Saskatoon in 2000, many First Nations people believe the truth has not come to light.

It is difficult to be confident in a system that does not use transparent and accountable procedures through its own policies and practices. It has been cited in many documents, that police hide behind the "Blue Wall", primarily in investigating alleged misconduct of each other. This practice severely hinders the chance of uncovering any wrongdoing by officers, which cumulatively erodes any existing confidence in the current accountability mechanisms. The fact that the police force is so untouchable leads to a multitude of problems for the overall structure and daily operating procedures designed to ensure safety within First Nations communities.

The Justice Reform Commission was established because of FSIN's strong advocacy. Hope and expectations by First Nations reside with this Commission; it is expected that it will do what cannot be done by the people themselves: to convince both non-First Nations and Governments that the justice system, including many policing practices, must be changed.

It is interesting to note that the police system has evolved into a court related role, where police officers have become an extension of the court system, rather than the safe keepers or even the investigators that they were intended to be. It is not uncommon for the police to be the first contact, the referral service, the investigator, the guard, and the prosecution.

Excessive Use of Force by Police

First Nations people experience police harassment, and the use of excessive and unnecessary force at the hands of the police. Furthermore, police are often most visible in poverty-stricken areas of urban centers. First Nations people in southern cities believe that police target them for apprehensions for minor violations. They have too much contact with the law. Police, having high status in society, are granted flexibility with regards to societal norms of behavior as they uphold Canadian laws. Consequently, some of them cross the line to excessive force, an abuse of power for which First Nations people become victims.

When problems arise where First Nations are involved, the police response is slow and approached with suspicion. Police seem above the law, they hold the power of information, what is shared and how. They investigate themselves. Any issues that the force and its members are facing are unknown. The fortress is tight.

Recruiting

There must be system changes to the way police do business. Police forces need to improve the way they interact with and treat First Nations people first and foremost. Only when this improvement occurs will First Nations individuals become interested in joining these organizations.

Community relations must be a priority. Inclusion of First Nations in recruiting, assessment, evaluation and policy setting is critical. Recruiters must have insight into First Nations communities, they must understand and respect different cultures and they must develop ongoing relationships. First Nations officers within the system, within First Nations forces and First Nations citizens must be part of the entire picture and part of the "public" to be protected.

Training

Although the training regiments at police colleges have incorporated First Nations education to a small degree, the amount of time spent on cultural awareness must increase. Training of all police officers must include community development approaches that focus on solutions and healing. Most of the police's clients are First Nations people; therefore, much of the training should be in relation to understanding First Nations history, worldviews and cultures.

More light should be shed upon some of the questionable practices of police, in an attempt to enlighten recruits' awareness and get to the root of problems with Police-First Nations contact. Training of recruits should be at a First Nations institution, alongside other First Nations people.

Quality of Police Service

First Nations people in the north experience an opposite problem to that of their southern counterparts; they do not receive adequate services. The reason given is that the resources are inadequate to police in isolated and northern communities.

Regarding incidents of violent acts including homicide, northern First Nations people are concerned most with the slow response time and protection services by the RCMP. Communities are often forced to wait for days for services. They require more efficient, responsive police services.

Senior Level Resistance to Change Within the RCMP

First Nations people think that many commanders or supervisors have an outdated style of training and perspective of policing in First Nations communities. When problems arise, efforts to make changes that address First Nations' concerns by community members are often ignored or rejected by these commanders.

It has been proven that members with culturally sensitive perspectives treat First Nations people with more respect and consideration; they are better at motivating people, being flexible, and working within a team environment, all aspects that make police more humane. Unfortunately there are not enough of these senior level people. And due to the systemic institutional practices, the solution cannot be left to the Police. Even though there are more First Nation officers, these problems persist.

RCMP Police Management Boards and Community Tri-partite Agreements

Beginning in 1993, the FSIN and federal and provincial governments signed a Framework Agreement on policing that created thirty Community Tripartite Policing Agreements between the individual First Nations and Governments. These agreements are overseen by Police Management Boards in the communities whose mandate is to provide direction to the RCMP and build capacity within the communities.

Unfortunately, the police management boards face obstacles with resistant commanders who prevent communities from participating in decision-making about the police services. And, like all other First Nation institutions, the boards are hampered by miniscule funding, prohibiting them from fully exercising their rights and duties. They have little or no authority; this leaves them developing policy that may or may not be implemented.

Another serious issue concerns the actual amount of time RCMP members spend within the community. The community tripartite agreement stipulates that members are to spend up to 80% of their time on reserve; however, current practice falls short of this obligation.

The rationale for this shortfall in service is that reserve detachments do not have enough equipment for police to complete their tasks, so they travel to the nearest main station to file reports. The RCMP tracks these hours spent on and off reserve and First Nations have concern about the validity and the accountability for these numbers.

DISCRETION & AUTHORITY

Discretion and authority are the cornerstones for law enforcement in Canada. The actors from police, to prosecutors, to judges and lawyers right through to mobile crises, social workers, and corrections workers have discretionary powers. Discretion plays a vital role in the lives of people who come into contact with the criminal justice system. This is because each story plays out in its own way and because each person has their own way of judging and perceiving what is happening, what should be the outcome, and what is best for the person or community and society.

The laying of a charge, proceeding with prosecution, diversion at any stage, who to pursue for information, how much information to record, the weight to give information shared, the measurement of credibility of a person sharing information, who can or will become involved, and how the charges will ultimately be disposed of are all decisions that involve discretion by a criminal justice worker.

Doing what is best in a given situation, given one's perspective and understanding will inevitably shift from person to person, on what they are taught, what legislation guides them, what their experience tells them and so on. People in this position must be discreet, and must conduct themselves wisely and use caution. Issues are addressed in the most expeditious, cautious manner and processed with the required amount of information. This "objective" approach is held in high esteem by the criminal justice system but goes against First Nations teachings and traditions and culture.

Clearly, the person with the issue to be resolved must be allowed to participate and feel part of the process. It is important to know what their values are, who their role models are, what their strengths are and how they learn and contribute. This "subjective" approach speaks directly to the person and to their potential within a given community. This approach is conducive to the First Nations perspective. To focus on a person's weaknesses and problems or the most efficient way to process them in the criminal justice process is a negative use of discretion. Discretion is a tool to be used in a healthy way and with the development of more reintegration and renewal processes.

COMMUNITY SERVICES

Community based services are required for every community in Saskatchewan. They allow for community input and make services accessible to First Nations. They create employment and establish contacts in the larger context within the province and Canada. They are however, plagued with problems.

Many community service employees experience challenges such as being overburdened and underpaid. They lack technical and political support both locally and regionally. They often become heavily dependant on local people to volunteer.

When positions are transferred from the province to the community, the required service delivery money does not accompany the position; Bands receive only the salary. In addition, the administration becomes the focus with workers who have to double and triple report to governments. In order for Bands and Tribal Councils to fund positions they must make multiple proposals to various government departments for continued services that are stretched to meet all the demands of a community. This does not even touch on any type of prevention or restorative service or program. For example, they often operate on a volunteer basis.

All governments need to re-evaluate their programs and work together to devise a better system of collaboration and coordination to improve the services they fund at the community level. The lack of financial resources leaves the community and the services very vulnerable. This is further complicated by the fact that a number of employees trained and hired by the community are often lured into the provincial system, where stable jobs and better salaries are available to them.

There is a need for more First Nations regional training initiatives, training and additional courses. The mediation-training program offered by the FSIN, needs to be accredited by a post-secondary institution. Further, an important issue is the need for First Nations Justice of the Peace training. A para-legal type education would aid in dealing with the many justice issues addressed by justices of the peace, justice workers and court worker issues.

ALTERNATIVE MEASURES

Incarceration should be considered as a last resort when considering or working within alternative measures programs by either the non-First Nations governments or Tribal Councils.

Perpetrators of crime are considered for alternative measures based upon: circumstances of case, eligibility of the accused and nature of the crime, impact of offense on the victim, other various factors, and whether the accused accepts responsibility for the offense.

There is an option where a police officer has the discretion to decide whether or not the accused can be put through alternative measures, which saves on court time and a lengthy process that usurps too many resources. This option is a pre-charge referral, whereas the court process is the post-charge referral.

The programs rely heavily upon mediation when handling the cases between the offender and the victim. Incorporating more First Nations values into it is difficult because it is still inherently a government-run program; furthermore, people who are outside of the community determine who is eligible.

LAWYERS AND LEGAL REPRESENTATION

Maneuvering and surviving the justice system has become common practice for some First Nations families due to the intergenerational exposure to a life soaked in judgments of criminal life styles. Homeless individuals view incarceration as a safe option where one has free lodging for a period of time. Unfortunately, this view has become the norm for a large numbers of adults and youth. With the increase in gang activity, young First Nations men find themselves in even more contact with the justice system.

Legal Aid is often the only option for many accused First Nations people. High Legal Aid caseloads result in improper, absent or poor legal representation. There have been instances where First Nations individuals appear in courts with no Legal Aid representation. As with other institutions, lawyers often lack cultural awareness and understanding; in addition, some are not showing up for court, which consumes a lengthy and unnecessary amount of court time.

At times, court workers take over the job of looking after First Nations people in the courts because of their concern for these people. This creates problems, such as violation of the court worker mandate, work overload and under-qualification.

Private council and prosecutors also figure prominently in the processing of First Nations people in the criminal justice process. Again the systemic barriers come into play and the lack of understanding of the First Nations community, plague the individual caught up in the system.

Some education about legal rights is required. People need to know the expectations in court and the role of each person in the courtroom. This would help when a person ends up in the court process and needs to know what is expected of them and of all the other people in attendance.

COURTS

Courts and more specifically, judges, have a lot of the discretion that is available within the criminal justice system. The judge assesses the best sentencing and allows, within guidelines, for the time the trial takes as well as the way in which the information unfolds, making decisions throughout the process.

Again objectivity is what is considered key to this adversarial process and it is how decisions are made about what this external reviewer deems appropriate. For First Nations, this type of court system and judgment has proven, over generations, to be a key factor in the oppression of First Nations people.

Generally, judges are beyond approach. They want only certain information. They are responsible for their own education; they work within a system that has the potential to perpetuate systemic barriers if a judge is so inclined. When the most common contact with First Nations is through the criminal justice process, the kind of education that judges receive about First Nations, is as negative as the information available in the media. First Nations values need to be part of the evaluation process in the criminal justice system before that system can have any impact on the lives of First Nations.

Recidivism rates among First Nations show that punishment through the courts is not the deterrent it is held out to be. Judges vacillate between leniency and being tough on crime, all at the expense of First Nations.

CORRECTIONS

Statistics on the critically high proportion of First Nations people in prisons have been desensitized enough that people merely accept them as fact and forget that some of these offenders can turn their lives around. One First Nations traditional teaching recognizes that everyone should be seen as recoverable. It is no surprise that prison has become a First Nations death sentence, because there is no way to escape the length of sentences and inevitability of being charged. Although there may not seem to be an easy solution to this massive problem, small steps can be taken, which is better than no improvement at all.

Many problems exist for inmates in provincial correctional facilities. There are major problems with remand. The places where they are currently housed are crowded; inmates spend lengthy waiting time in remand, and they are not allowed to participate in programming. Administrative problems also exist. For example, paperwork gets lost within the system, preventing inmates from attending funerals. Far too many times, systemic breaches occur, such as failing to appear, sometimes because the person could not get to town to attend court, or because of lack of money. This results in institutional charges and the creation of an ever-growing criminal record.

CORONERS INQUESTS & INQUIRIES

Many of the tragic deaths within the First Nations community end up within the confines of a Coroners inquest, which has very little power to make policy or recommend legislative change. The recommendations that come out of these inquests are merely suggestions for change within the system. They hinge on the goodwill of all those within the system and government to implement the recommendations.

Inquiries are unfortunately as influential. The little hope rests on the goodwill of the people within the system. Both inquests and inquiries suffer from problems with accurate evidence, timeliness and the same systemic barriers we see in the courts and policing. There is hope that the record created by these processes will add to the barrage of information of unjust relations First Nations face in the criminal justice system.

Institutional change, to give these processes any teeth must require that they be more inclusive of First Nations as resources to participate in the information gathering process and the ultimate creation of recommendations.

FIRST NATIONS QUEST FOR JUST RELATIONS

...the circle symbolizes the oneness of First Nations people with the Creator and the Spiritual, social and political institutions of the First Nations. This act/ statement is rooted in the doctrine of *wahkotowin* (the laws governing all relations) and *miyo-wicehtowin* (the laws concerning good relations).

From Treaty Elders of Saskatchewan, p 14

RESTORING RELATIONSHIPS

Respecting First Nations traditions and the relationship developed at Treaty, the FSIN vision of justice development is to create a First Nations system that reinforces traditional First Nations values, cultures, and spirituality, one that is trusted and respected by First Nations members in Saskatchewan. This relationship must restore peace, mutuality, prosperity, stability and security for all of creation.

A First Nations justice system promotes healing of First Nations individuals, families and communities, and provides the flexibility to accommodate the cultural, spiritual, geographic and linguistic diversity of First Nations people. It integrates First Nations systems with mainstream options to create an environment of trust and respect for each other.

The justice system will need to be holistic in nature, and provide avenues for First Nations individuals and their families to deal with addictions and deep-rooted issues that led to the negative conduct. The system would be designed to criminalize sick people less, notably those with addictions. Its focus would be on good relations, maintenance of relations, restoration of harmony and renewal of the relationship when problems arise. Treatment, not punishment, and healing would be the priority, and incarceration, the last option.

As a holistic system, it will guide people through an integrative process to services that will address and coordinate their physical, emotional, psychological and spiritual needs to strengthen the entire person. In order to achieve this healing continuum, there is a strengthened inter-departmental engagement among First Nations governments and Canadian and provincial governments.

Justice must reflect a continuing relationship; maintaining the relationship is everyone's responsibility and as a result, First Nations individuals, families, communities will become vital, healthy and in control of their own future.

First Nations envision healthy Nations with the capacity to design, govern and implement their own systems according to their spiritual beliefs, values and traditions. Honor, respect, responsibility and humility found in the principles of Treaty will restore the relationship and guide this change process.

The four major areas on which to begin storing the relationship are: First Nations governance, life long learning, economic development; and health and social well being.

PRINCIPLES OF A FIRST NATIONS JUSTICE SYSTEM

The FSIN's mission is to strengthen First Nations individuals, families, and communities through the restoration of traditional First Nations justice and related practices. The guiding principles will encompass the following:

- The First Nations justice system will include social, economic and environmental harmony based on traditional principles of First Nations governance.
- The issues that plague an individual or community will be approached in a way that treats all of the issues that lead up to the negative action, not just the immediate symptoms. This holistic approach will assist individuals in addressing their physical, emotional, psychological, and spiritual needs, as well as the socio-economic factors affecting adversely their well-being.
- Reflects First Nations values, culture, and spirituality in redressing injury, and the role of Elders in assisting community members to find solutions to disputes and correct imbalances.
- Does not dismantle a person's dignity or self-esteem based on the actions but looks at the contributions as well as the problems that person faces/causes.
- Works with other governments on an equal footing, respecting everyone's ability to participate.
- Driven by First Nation community members and the options they wish to implement. First Nations participate fully and equally in all aspects of the justice process.
- The justice system will operate independently from the First Nation and Tribal Council, and FSIN body politic to ensure that it is completely independent of adverse political influence.
- Based on the protection, safety and respect for First Nations and incorporates the ancient knowledge and traditional teachings.
- Respects First Nations women and their importance in and to First Nations culture and spirituality.
- Treats First Nations youth in a respectful manner, and they and their families must have access to Elders or spiritual advisors to gain understanding of their role in and value to the community.
- Healing is a priority to restore the community balance.

ROYAL COMMISSION ON ABORIGINAL PEOPLE AND OTHER REPORTS

The comprehensive Canadian study on issues faced by Aboriginal people in Canada was undertaken in the Royal Commission on Aboriginal Peoples. The study looked at every aspect of First Nations participation in Canadian society and emphasized First Nations' inherent rights to self-determination. At the end of the five-volume report and several other publications, RCAP sets the stage for a new relationship based on past experience, present conditions and hope for the future.

Although RCAP was comprehensive, it is yet another study on the lives of First Nations that resulted in little or no action. The record of studies, commissions, inquiries, inquests, reports and academic papers has changed little in the way First Nations are treated by the criminal justice system. First Nations themselves have the information to share but it must be put through the statistical filter, an academic study, and often then written by a recognized authority in order to establish any truth or value.

The Penner Report completed in 1983 also noted the need for a new relationship, but which strongly stated the pitfalls of building a relationship through the Department of Indian Affairs. They had far too much control in all aspects of First Nations lives already. In addition to these, are an abundance of reports that range from health care to incarceration to policing to housing. Some want to tinker with current systems but few go so far as RCAP and Penner in boldly stating what First Nations live everyday.

First Nations in Saskatchewan together with the Federation of Saskatchewan Indian Nations know that a new relationship is the only answer. The casualties of the current systems are beginning to add up in a very visible way in Canada. The potential for growth and success is at hand and it will be up to the citizens of each community to start down a new path.

FIRST NATIONS WORLDVIEW AND TRADITIONAL RELATIONSHIP-BUILDING PRACTICES

Even though each of the six First Nations groups in Saskatchewan possesses different languages and cultural traditions, they share similar spiritual philosophies, teachings and laws.¹² The various cultural groups share the principle of getting along, which is called *Miyowichetowin* in the Cree language¹³.

With respect to justice, mainstream cultures put a high value on classifying people as “guilty” or “not guilty” and penalizing those who fail to abide by these values. In addition, the justice system, concentrates on the crime itself and the sorting out of each person’s story and how all of these elements collaborate with the final criminal act.

The First Nations worldview focuses on the responsibility of a person to their family, community and the Creator. This responsibility translates into accepting the responsibility for one’s wrongdoing. This perspective does not focus on the offense itself, but instead on the reasons for its occurrence and the transgressor’s acceptance of the consequences. The knowledge of the interconnectedness with all living things is important. The present justice system places little importance on trying to understand the breakdown and restoration of relationships.

Another concept still central to First Nations is that spirituality is a way of life and every part within society is interconnected. Issues are not separated and isolated, as they are in the current justice system, which is compartmentalized in terms of its application and operation.

RESTORATIVE PRACTICES – RESTORING BALANCE AND WELLNESS

First Nations’ worldview is unique in its emphasis placed on relationships. Justice, in a traditional First Nations sense, is to live a good life, to maintain, restore and renew relationships to find balance and peace in the community.

Although much language and traditional teachings have been lost to First Nations in Saskatchewan, cultural laws and values still remain. Workable solutions to the current impasse are difficult to find; reviving First Nations traditions and restoring and returning them back to First Nations justice institutions are initial first steps. They are responsible to find their way and once the systemic barriers are acknowledged, efforts to remove them can begin.

First Nations people must take the opportunity to re-introduce and implement restorative, balanced, healthy approaches to dealing with crimes and offences. A number of communities across Canada are utilizing this method of addressing the many ills of their society.¹⁴

Healing is the term used to describe practices that help restore balance and health, back to a First Nations community. This movement began for many communities back in the early eighties by adopting a drug and alcohol free life. In addition, some communities managed to divert sex offenders out of jail and into healing circles and traditional First Nations practices of restoring health¹⁵.

¹² Cardinal, *Treaty Elders of Saskatchewan - Our dream is that our peoples will one day be clearly recognized as Nations*. page 9.

¹³ Cardinal, *Treaty Elders of Saskatchewan - Our dream is that our peoples will one day be clearly recognized as Nations*. page 14.

¹⁴ Solicitor General of Canada. *Mapping the Healing Journey*. (2002), page 74

¹⁵ Solicitor General of Canada. *The Four circles of hollow Water*. (1998).

The concept of utilizing a circle for healing, restoring balance and wellness is a universal principle and one shared among the six cultural groups within the 73 Saskatchewan First Nation communities.¹⁶ This fundamental concept can and is being used on many fronts within the community for healing.

SPECIAL INVESTIGATIONS UNIT -FSIN

In 2000, FSIN responded to the tragic freezing deaths of First Nations' men in Saskatoon by creating the Special Investigations Unit (SIU). In addition to working on relationship and partnership building between municipal police forces, the RCMP, the Special Investigations Unit monitors all reported investigations. The impetus for this was the flood of calls to FSIN from First Nations people concerning their safety and complaints against police.

SIU provides an independent review process regarding police complaints. It intervenes and takes statements, submits them to the police and monitors the progress, thereby providing an external review. Future plans have the SIU evolve into a legislated, independent, civilian oversight entity that conducts investigations.

The SIU objectives are:

- To provide First Nations who have been mistreated by law enforcement officers with a compliant friendly alternative to mainstream offices of public complaint;
- To ensure that complaints are investigated; and
- To provide complainants with protection from retaliation.

This kind of oversight body plays a multifaceted role in the community. It ensures trust in a process where previously there was none. It provides legitimacy, expediency, and efficiency to the investigation and review process for First Nations people. Its professionalism and confidentiality leaves politics aside. It can be a valuable tool in public relations and education for the province. Finally, it is First Nations run, and has can operate on First Nations' principles as well as work with the current justice system.

PROVINCE-WIDE FIRST NATIONS POLICE FORCE

A different approach to policing is needed, modeled after a somewhat traditional structured method of traditional First Nations "societies". This model centers on a more relationship-building approach often called peacemaking. There are models from our past and other parts of the country that reflect a humanistic way of dealing with people. Through proper training in a traditional (First Nations) approach, an officer not only learns to deal with crisis, but also spends most of his/her time maintaining relationships, educating, and supporting people to deal with their own problems, and thereby upholds a respectful place in the community.

The First Nation Chiefs in Saskatchewan have resolved to establish a police force that would serve all reserve communities who request it, created and operated by them. First Nations' uniqueness, accounting for culture and worldview, would be demonstrated at the community level where a holistic, preventative approach to strengthening relations and cultural conflict resolution methods would be displayed. A peacemaking approach is the orientation that First Nations will use in their own police force. The FSIN has a strong commitment from leadership to develop a First Nations Police Force, as evidenced by a resolution carried at its February 2003 Legislative Assembly.

In reality the racism faced by First Nations throughout the Criminal justice process, ushered in by police, will be the impetus for the creation of a First Nations Force. Oppression, racism, internal police issues all point to a need for First Nation Tribal policing to deal with First Nations issues, a First Nations force that is predicated on relationship building.

¹⁶ Cardinal, *Treaty Elders of Saskatchewan*, Page 15

COURTS

The creation of Tribal Courts and the use of tribunals are both options being considered by many Tribal Councils and Bands. Establishing Tribal Courts, like the American Indian system, will require resources and changes in legislation. On the other hand, steps can be taken toward this goal by the implementation of Tribunals to resolve many issues such as land disputes. Treaty Four First Nations have chosen this option in their goal to become more self-determining.

The possibility of creating avenues where people do not have to enter the system if they chose a traditional First Nations system is our goal. This would leave the courts to deal with First Nations who chose to enter that system but would also provide for the option of dealing with all of the addiction, abuse and socio-economic issues, on an ongoing basis within the First Nations model.

FUTURE DIRECTIONS

It is time for First Nations to take their rightful place in this province. First Nations must be party to a government-to-government relationship with the Federal and Provincial Governments to ensure the health and well being for all. If the relationship is guided by respect, honour and responsibility, the relationship will ensure a positive future for generations to come.

It is time for positive change. Everyone in every institution and system (family, community, nation, governments) is responsible to ensure that positive change occurs. Change must begin by rethinking *justice* matters. The topic of *justice* encompasses the broad scope of relationships and the interrelatedness of all parts of the whole that are fully connected with one another. First Nations do not want to replicate the current flawed system; tinkering with the system is unacceptable. First Nations must determine for themselves what their nations need.

Rethinking *justice* matters means refocusing on the areas that have the most impact on the lives of First Nations. These areas are: First Nations' governance, life long learning, economic development, and health and social well-being. Each area will require fundamental changes to the existing systems that have undermined First Nations *way of life* and unique position within Canada. This major assessment refocus will need continual review and evaluation by First Nations and the other parties of the relationship.

First Nation Governance

Governance is about relationships. Good governance consists of good relations that are based on the values, customs and traditions of each First Nation. As First Nations re-establish their right to govern themselves, their people and their ancestral lands, and reclaim their jurisdiction, intergovernmental relations must change. Some changes are already under discussion within the FSIN self-governance process. The following matters must be considered:

1. The establishment of an independent First Nations Office to ensure that the government-to-government relationship is recognized and respected by First Nation and non-First Nation Governments. If there is meaningful participation from all parties, positive intergovernmental relationships will develop.
2. The establishment of a First Nations independent oversight body. This body must be built on the success of the FSIN Special Investigations Unit and must be expanded to include children's advocacy, medical, social and environmental rights.
3. The Province must step aside in areas where First Nations have determined that they will assert their own jurisdiction. First Nation laws must displace province and federal laws as First Nations laws are developed and implemented.
4. The development of an internal and external process with all governments to ensure an integrated approach to policy development in the areas of education, children and families, financial decision-making, and program and service delivery.
5. The development of an internal FSIN process that would allow Tribal Councils and First Nations to work on common issues such as: establishing a First Nation consultation process that would give a meaningful voice to each member of a First Nation, and developing a standard for provincial and federal government discussions and negotiations.
6. The design and delivery of programs and services for First Nations, by First Nations, according to the needs identified by First Nation communities.
7. Leadership must be knowledgeable about tradition and cultural teachings. They will work to develop

future leaders who are trained to utilize methods and techniques taught through traditional and ancient teachings, as well as contemporary governance.

8. First Nation law must be recognized and given paramountcy over First Nations people and First Nations land. When First Nation issues arise in Court, appropriate expertise must be sought by the Courts to ensure that there is some way of knowing who should be approached to validate traditional knowledge prior to making decisions.

Life Long Learning

Life long learning is intergenerational, intercultural, inter-tribal and inter-governmental. Everyone is part of the learning process, and as such, each is responsible to ensure that learning must take place within a respectful and open environment where everyone recognizes that shared learning experiences are the bases for community and capacity development.

First Nations view their world as an ever-changing relationship between people, life and land. The relationship shape-shifts from one issue to another: family and community, health, social development, education, conflict resolution, fair treatment and just relations. Learning is the key to understanding the relatedness and connectedness of First Nations to their ancestral lands that are the source of their inherent authority.

For centuries, First Nations exercised their authority to safeguard and develop their languages, cultures, economies, identities, institutions and traditions. Today, First Nations endure the challenge of maintaining the relationship teachings that emphasize the importance of discipline and the skills development taught through First Nation languages, spirituality, culture and traditions. The following matters must be considered:

1. There must be respect for First Nations' knowledge and for the ancient teachings upon which relationships to the spirit, the environment, the land, and all living things are connected. Knowledge and information must be shared; however, others are now appropriating aspects of traditional knowledge. This is an issue. There needs to be recognition that First Nations traditional teachings are intellectual property.
2. Institutional learning that reflects First Nations experience and knowledge must be respected. Institutional learning includes a vast array of learning processes from: home, family and community life skills to pre-school, K-12, post-secondary and specialized training. Every educational institution must serve the needs of First Nations and must reflect the demographics of the Province. First Nations will then have meaningful participation in the processes.
3. First Nations' traditional laws must be taught and given the proper recognition as are the laws of other nations. These teachings are important for each person who lives under the laws: to know how they work and apply, how to respect them, and how they can advance First Nations' participation in the development of their own systems. Everyone would benefit from this education (children, youth, adults, peacekeepers, community workers, judges, lawyers, police, unions, and leaders.) This type of education is foundational, long term, and must be part of every governmental system.
4. Institutional and traditional teaching must be used to identify, assess, confront and eliminate systemic barriers that plague First Nations today. This assault on systemic barriers should be taken on every aspect of society that allows and perpetuates all types of systemic barriers. "Weekend workshops" do not work to eliminate systemic barriers; the elimination of barriers must be built into the relationship permanently. It must be recognized that these barriers will not go away by themselves. First Nations need to ensure that these are eliminated from their own governance systems; they can teach from example.

5. Relationships based on trust and respect will promote open communication and conflict resolution. Communication work must be ongoing; it must be addressed internally by First Nations and externally through intergovernmental relations. Learning from past experiences can offer teachings for present and future relations.
6. The media plays a large role in how First Nations are portrayed and what people will learn about First Nations. The development of good relations with the media will ensure that what is known and reported about First Nations is informed, balanced and proper protocols have been followed when required. The relationship can guide how information is gathered, who has access to information and how it is reported.
7. The diversity of First Nations who live in Saskatchewan must be recognized and respected. There are differences among the Cree, Dakota, Dene, Lakota, Sauteaux, and the Nakota. Each community has a unique history; their current status, demographics and opportunities may differ from one region to the next. It is important to focus on the strengths of each community and to build on their successes.
8. Research and development of cultural, traditional and linguist matters must be preserved; this includes written and oral history. The First Nations' communities, the First Nation University of Canada, the Saskatchewan Indian Cultural Centre and the Saskatchewan Indian Institute of Technologies must be party to this development.

Economic Development

Economic well being maintains self-respect, dignity, self worth and promotes prosperity. First Nations' traditional life and social status has been eroded, the connection to the land has been denied and the right to livelihood has not been fully recognized or implemented. Treaty affirmed First Nations' inherent right to livelihood and a continuing right their traditional economies. Economic well being of First Nations would have a positive impact on the Province as a whole. The following matters must be considered:

1. First Nations need an economic base to gain prosperity. For example, commercial aspects of traditional economies require jurisdiction over resources. To deny this would result in continued oppression, poverty, dependence and unemployment of First Nations people.
2. Expansion of institutional capacity of First Nations to facilitate the implementation of First Nation governance. This is promoted through positive labor relations, economic diversification, and environmental responsibility.
3. First Nations are the objects of a service economy for areas such as social services, justice, education and health. Sustained economic development must take the place of pilot projects and of administering non-First Nations governmental programs and services.
4. The assessment of land use development, water and resources needs to be conducted through a consultation process with First Nations that respects First Nations ancestral lands, laws and lifestyles. Outstanding land claims must be resolved within a First Nations collective process. First Nations must assess their traditional territories and land base to ensure that they are truly stewards of the land.
5. The removal of systemic barriers will provide equitable employment opportunities and create long lasting employment opportunities. First Nations employees and employers will experience positive labor relations, no matter where they are located within the province.
6. A First Nations Public Service Commission with culturally appropriate labor relations must be established to set employment standards, employment evaluation and assessment, equitable treatment, job security and career options for First Nations.

6. There must be access to capital available through federal and provincial governments, as well as First Nation avenues like the First Nations Bank, SIGA, and other resource revenue sharing opportunities. Current resources should be reviewed and redirected appropriately with the input of First Nations.
7. Increased community employment, technical and professional careers, ongoing training for employees, career options for youth and personal development will enhance community economic well being, give hope to First Nations people and ensure First Nations participation in the economy.

Social and Health Well Being

Community capacity building is directly related to the health, economic and social well being of First Nations. The ability to govern and to contribute to community, to have healthy relationships, is directly correlated with the health of a First Nation. The following matters must be considered:

1. There must be an acknowledgement of past oppression through systemic barriers that include colonialism and loss of: language, family ties, culture, identity, and the value of First Nations contribution to the development of Canada.
2. Emphasis must be placed on building people and healthy communities rather than on punitive, retributive and condemning judgments. This includes improved relations through integrated services for all governments and communities.
3. Any system that is designed to serve First Nations must focus on the whole person within a community context. There must be balance within the physical, spiritual, emotional and mental aspects of the person and services must be provided in an integrated manner.
4. If resources are shared appropriately with First Nations as originally negotiated through Treaty, people will have hope and will be able to determine their own future. The institutionalization of gangs, the disintegration of families, and the perpetuation of dependence on government will decrease.
5. Housing is a top priority for First Nations to have stable, safe and secure living environments, to build confidence and increase living standards. Adequate shelter positively affects children's learning abilities, access to employment opportunities and overall health.
6. Places of safety where positive intervention can occur, where relationships can be renewed and balance restored are necessary. Other types of institutions where healing can occur and that provide positive interventions are needed for other members of society who are vulnerable – offenders, victims, youth, adults, men and women/children and the elderly.
7. There must be a mechanism for community to assess its strengths, to build on their successes, to prioritize needs and to develop processes to meet their particular needs. All levels of government must support this effort.
8. Alternative measures, community support, counseling, health promotion, education, and employment must all be available and accessible in the community. Resourcing for communities must be a priority.

CONCLUSION

The areas examined within this paper present possible avenues to create good relations for the short, medium and long term. It is critical that ongoing dialogue occurs – for all to participate and be heard – and to maintain the process. This process should be continually monitored to ensure participation and to review the progress as well as the lessons learned that would facilitate further growth.

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