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Report of the
2009 Joint Workshop of the
National Associations Active in Criminal Justice,
Department of Justice Canada and
Department of Public Safety Canada



**Moving Forward with Aboriginal Justice:
Challenges and Opportunities**

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Thursday March 19, 2009
Fountain Room • National Arts Centre • 53 Elgin Street • Ottawa



NATIONAL ASSOCIATIONS ACTIVE IN CRIMINAL JUSTICE (NAACJ) ASSOCIATIONS NATIONALES INTERESES A LA JUSTICE CRIMINELLE

The National Associations Active in Criminal Justice (NAACJ) is pleased to present the report of its 2009 Workshop held in collaboration with the Departments of Justice and Public Safety Canada.

Invited guests from across the country provided participants with broad-ranging perspectives based on this year's theme "*Moving Forward with Aboriginal Justice: Challenges and Opportunities*". Individual and panel presentations provided insight into thematic areas which served to set the tone for small group discussions later in the day.

These facilitated sessions were designed to maximize personal interaction and meaningful dialogue around key issues in order to generate effective, comprehensive responses to the crisis seen in Aboriginal justice in Canada.

Participants were invited to complete an evaluation of the event, and the results of this evaluation, as well as the agenda and list of participants are included with this report.

We are grateful for the National Arts Centre's support to hold this meeting, and the Planning Committee for organizing the event:

Rod Carleton, André Goldenburg and Bonnie Lidstone, *Department of Justice*

Ed Buller, Erik Gaudreault and Cliff Yumansky, *Public Safety Canada*

Daniel Sansfaçon, *National Crime Prevention Centre*

Patrick Altimas, Susan Haines and John Sawdon, *National Associations Active in Criminal Justice*

NAACJ sincerely thanks everyone who attended, in particular the Co-chairs and those who served as speakers, moderators, facilitators, note-takers and photographers:

- ✎ **Patrick Altimas**
- ✎ **Allen Benson**
- ✎ **Rose Toodick Boyko**
- ✎ **Ed Buller**
- ✎ **Mary Campbell**
- ✎ **John Dorion**
- ✎ **Neal Freeland**
- ✎ **Rebecca Kong**
- ✎ **Austin Lawrence**
- ✎ **Irene Lindsey**
- ✎ **Karolyn Lui**
- ✎ **Samantha Lytle**
- ✎ **Natalie Robins**
- ✎ **Jonathan Rudin**

We could not have had such a successful event without your active engagement, and we look forward to another meaningful joint workshop in 2010.

Moving Forward with Aboriginal Justice: Challenges and Opportunities

In March 2009, approximately sixty representatives from the public and voluntary sectors gathered to address the enduring over-representation of Aboriginal peoples in the Canadian criminal justice system. Research-based learning opportunities were provided for senior level participants who considered various legislative and community-based perspectives in order to ensure a more effective and equitable justice system in the future. The précis that follows highlights research findings and themes that emerged throughout the day¹.

In her opening prayer, **Elder Irene Lindsay** reminded participants that equality and respect bring strength. The co-chairs **Patrick Altimas**, **Mary Campbell** and **Karolyn Lui** encouraged participant reflection and action following the opportunities provided today.

Prior to introducing the *Aboriginal People in Justice* panel presenters, **John Dorion** described the negative impacts of colonization on Aboriginal communities and challenges such as Fetal Alcohol Spectrum Disorder (FASD). Capacity building, community support, Aboriginal engagement and education soon became common themes.

Plenary Panel: Aboriginal Peoples in Justice

Rebecca Kong began by presenting a statistical overview of Aboriginal people and crime that highlighted rates of victimization and socio-demographic factors as they contribute to the increasing over-representation of Aboriginal people in Canadian corrections.

Aboriginal people account for only 3.8% of the Canadian population, but comprise 25% of the federal prison population.

Young Aboriginal people are at highest risk of violent victimization.

Keeping the limitations of data quality in mind, figures suggest that high school education is key to preventing custodial admissions.

Given that the Aboriginal population is young and growing, youth crime and youth engagement were discussed at length.

Austin Lawrence reviewed Justice Canada's related research themes and emphasized that community needs are particular to the trauma and healing each community requires.

An inverse relationship between the application of *R v. Gladue*² and the proportion of Aboriginal populations in the provinces was noted. Several contributing factors to the use of *Gladue* were cited:

- Reluctance to use s. 718.2 (e) for serious crimes;
- Differences across jurisdictions;
- Lack of knowledge;
- Lack of alternative sentencing options; and
- Aboriginal clients not identified.



L-R: Austin Lawrence, Natalie Robins, Rebecca Kong and John Dorion

Mr. Lawrence spoke briefly about the gaps and future directions of justice

¹ Please contact NAACJ if you would like to obtain a copy of any of the presentations.

² The Supreme Court of Canada *R v. Gladue* decision provided the first interpretation of s. 718.2 (e) of the Criminal Code of Canada:

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

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

research in this area, and urged participants to question the origin of these common but complex challenges in our communities.

Natalie Robins outlined the scope and components of the Department of Justice *Aboriginal Justice Strategy*. Community-based initiatives that involve both victim and community were highlighted, just as partnership development with the community was affirmed as a priority for the Department going forward.

Ed Buller summarized the history of government and Aboriginal relations, and noted that the government's statement of apology to former Indian Residential School students on behalf of the Government of Canada, in addition to legislation, does signal progress towards a more appropriately holistic response to community realities.



Community capacity, cohesion and awareness were identified as opportunities to address historical challenges in order to return to a more traditional system of healing which seeks harmony and resolution. By removing the categorization of community issues and programmatic responses, he contended that communities would be better mobilized to take responsibility and care for their members.

Research demonstrating the effectiveness of community-based sex offender reintegration, with lower recidivism rates and at a lower cost, was referenced³.

He closed by encouraging governments to seek greater understanding and take risks with Aboriginal justice initiatives that may look different, but are just as – if not more – effective than British North American models.

Allen Benson introduced The Native Counselling Services of Alberta as a court-worker program that evolved to serve as a 'community blanket': a wrap-around approach that serves the diverse needs of its community.



Community self-determination and self-sufficiency was reinforced by the James Bay Cree new justice initiative, and Mr. Benson recommended cross-jurisdictional partnership and multicultural engagement with Chiefs and particularly families as the building blocks to achieve the former. The importance youth engagement was also highlighted.

By focussing on families and healing, Aboriginal communities are better able to develop innovative approaches, such as the *In Search of Your Warrior Violent Offender Healing Program*⁴, to resolve their problems and concerns. Simple direct interventions do not address the complex needs, strengths, weaknesses and holistic barriers that are heard from families in these communities. As such, communities were encouraged to assert themselves in order to resolve issues outside of government institutions.

John Dorion thanked the panel and reiterated the challenges that have arisen as a result of assimilation and poverty, primarily among the younger generation. Cultural roots are integral to rebuilding healthy communities, and the community to take ownership of their local family violence and substance abuse.

³ More on the Hollow Water Community Holistic Healing Circle is available in *The Four Circles of Hollow Water* at: http://www.eric.ed.gov/ERICWebPortal/custom/portlets/recordDetails/detailmini.jsp?_nfpb=true&_ERICEExtSearch_SearchValue_0=ED409135&ERICEExtSearch_SearchType_0=no&accno=ED409135

⁴ The *"In Search of Your Warrior" Program for Aboriginal Offenders: A Preliminary Evaluation*, is available at http://www.csc-scc.gc.ca/text/rsrch/reports/r172/r172_e.pdf

Participants discussed funding barriers and opportunities. Despite our best intentions for cross-departmental horizontality, it was suggested that project proposals be brokered by government departments in a coordinated effort in order to address these issues more cohesively and comprehensively.

The community's capacity to provide recreation, sports and the arts as accessible alternatives to Aboriginal youth gang members and youth most at risk was identified. Youth Chiefs in Council were cited as an example of a successful opportunity that has empowered the next generation of leaders.

Jonathan Rudin: "The Promise of Change: Ten Years after Gladue"

Following lunch, **Jonathan Rudin** reflected on the *Gladue* decision within the context of working together towards our commitment to positive change.⁵



Restating findings from the morning's statistical overview, he expressed disappointment in the lack of progress since the Supreme Court of Canada decision in 1999. The failure of governments to act and the perception of being soft on crime were said to contribute to the barriers of implementing *Gladue*, and he argued that knowledge is our most dangerous obstacle. Participants were accordingly urged to listen to the needs of the community.

Points of entry within the criminal justice system were discussed along with corresponding community-driven examples. The judiciary was noted in particular.

In closing, Mr. Rudin inspired participants to consider creative initiatives that bear in mind the needs, successes and strengths of communities, rather than simply rely on government funding.

The Honourable Rose Toodick Boyko: "A View From the Bench"



Retired Judge **Rose Toodick Boyko** echoed themes of equality, humanity and courage in her afternoon address.

She promoted principle-based courage to take necessary risks through her experience on the bench. Understanding and open-dialogue allowed her to work beyond the confines of her traditional role as Judge, to serve as a healer in court.

Further to Mr. Rudin, she acknowledged that in order for communities to have the courage to face these challenges, they must first have the capacity to justify this courage. She offered people-centred community justice services as an opportunity, and touched on the benefits of restorative justice practices such as healing circles.

Recognizing the energy and commitment in the room, she closed by asserting that the necessary shift from "other-ing" to "sharing" within the criminal justice system is possible.

Highlights from Table Discussions

Participants brought forward these considerations from facilitated discussions in the afternoon:

Program Delivery

- Community justice programs that seem to be most successful are developed in, for and by the community.

⁵ Read Jonathan Rudin's commentary on *R. v. Gladue* at <http://www.aboriginallegal.ca/docs/Gladcom.htm>



Jennifer Walker and Annie Hoang

- Flexibility in funding arrangements, cost-sharing, and multiple-year funding may foster programs that are tailored to individual communities.
- Communicating successes will foster the creation of programs and services in communities where none exist.
- Program evaluation may be fostered by conducting a cost-benefit analysis of community-based initiatives and communicating the benefits of community investments.

Community Engagement

- Relationships and partnerships based on trust are required in order to better engage Aboriginal communities.
- Transparency and accountability support community engagement.
- Supporting the design of community-driven programs will enhance Aboriginal community involvement.
- Relationships with Aboriginal communities will increase understanding thereby impacting community participation.
- We may better support Aboriginal community participation in the design, delivery and ownership of justice programs by adapting our approach to align with a community’s needs.
- There are gaps in the community’s capacity to provide tools for its members.
- Listening is key to understanding.

Community Based Sentencing Options

- Distinct roles within the criminal justice system serve as a barrier to Aboriginal models of justice.
- The categorization of issues undermines a more holistic approach to resolving issues.
- Human and financial resource realities impede progress.
- Technology and communication may support the expansion of services to victims, offenders and communities.
- Strength and power derive from good information.
- Early education is a key to prevention.

Horizontal Work

- Cross-cultural understanding will re-shape the delivery of justice programs and services in Aboriginal communities.
- Communities must be empowered to take responsibility for their communities and members.
- A willingness to learn and an open-mind are necessary to build relationships that will creatively respond to community realities in a sustainable manner.



Mary Campbell, Karolyn Lui, Irene Lindsey, Susan Haines, Patrick Altimas and Bonnie Lidstone

Patrick Altimas, Mary Campbell and Karolyn Lui thanked everyone for participating and each provided closing remarks. Despite the increasingly tragic circumstances of Aboriginal peoples in Canada, the pervasive sense of hope was evident among participants.

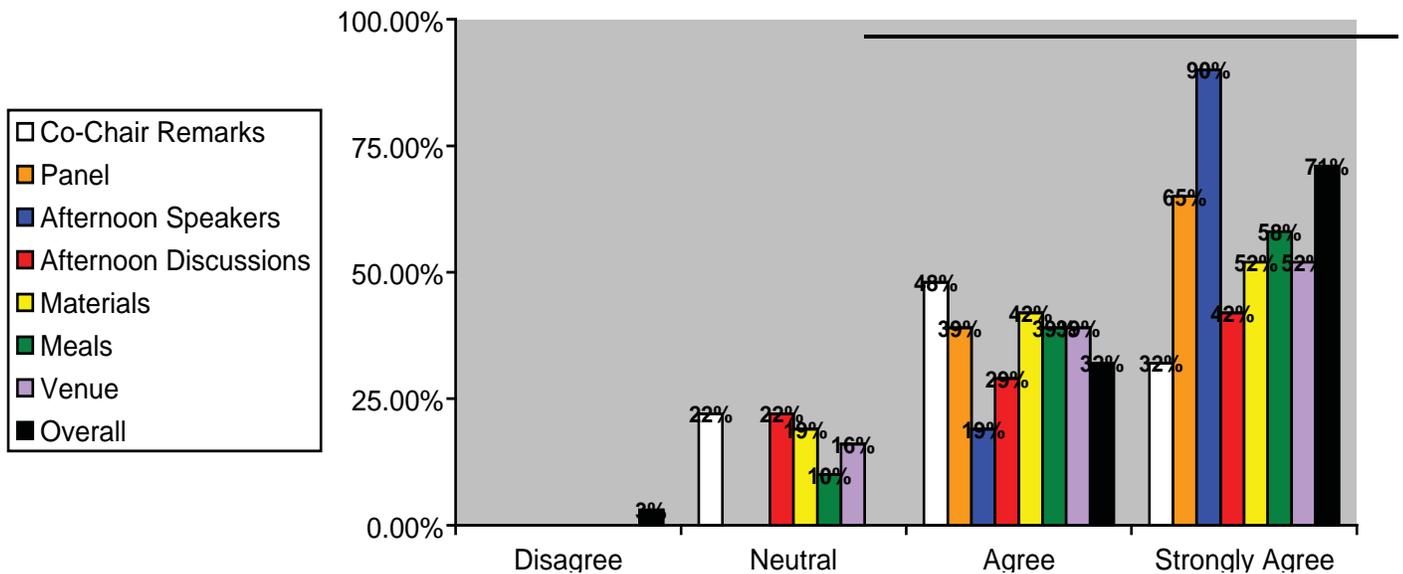
Elder Irene Lindsay closed the day by thanking the Creator in prayer. 🙏

Moving Forward with Aboriginal Justice: Challenges and Opportunities

Summary of Evaluations

Completed evaluations⁶ demonstrated the following levels of satisfaction with these aspects of the workshop:

Overall Assessment of the Workshop



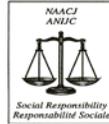
Evaluations also confirmed that:

- **100%** of participants agreed or strongly agreed that the day was useful for developing relations with NAACJ, Public Safety Canada and Justice representatives.
- **90%** of participants agreed or strongly agreed that the day provided them with a good opportunity to discuss research, policy, legislation, programs and services, and community engagement.
- **87%** of participants agreed or strongly agreed that the day will impact their work in a meaningful way.

Moreover, comments included:

- Very engaging and insightful subject matter
- Excellent workshop - I've learned a lot that I can use in my work
- Very good cross-section of expertise
- I learned a lot and thoroughly enjoyed my day - great forum
- Topics covered all relevant perspectives and really worked well together – very inspiring
- The speakers and panel discussion were well chosen, very informative
- Small group discussions needed more time, as did question and answer periods
- Excellent morning, especially Allen Benson and Ed Buller
- Particularly enjoyed Ed Buller and Jonathan Rudin
- Jonathan Rudin was terrific
- Rose Boyko was great

⁶ Thirty one completed evaluations were received from a total of approximately 60 participants. This 52% completion rate is considered very good. (Four self-identified as NAACJ representatives, 6 as Justice representatives, 13 as Public Safety representatives, 2 as Statistics Canada representatives, and 1 Other representative).



Moving Forward with Aboriginal Justice: Challenges and Opportunities

Thursday March 19, 2009

Fountain Room • National Arts Centre • 53 Elgin Street • Ottawa

AGENDA

8:30 am	Coffee and Registration	
9:00	Opening Prayer	Irene Lindsey , Cree Elder
9:15	Welcome Remarks from Co-Chairs	Patrick Altimas , President, National Associations Active in Criminal Justice Mary Campbell , Director General, Corrections Directorate, Public Safety Canada Karolyn Lui , Director, Aboriginal Justice Directorate, Justice Canada
9:30	Panel Discussion: Aboriginal Peoples In Justice Moderator: John Dorion , Chief, John Cochrane First Nation	Rebecca Kong , Chief, Correctional Services Program, Canadian Centre for Justice Statistics Austin Lawrence , Senior Researcher, Research and Statistics Division, Justice Canada Natalie Robins , Program Analyst, Aboriginal Justice Strategy, Justice Canada
10:30	Break	
10:45	Panel Discussion (cont)	Ed Buller , Director, Aboriginal Corrections Policy Division, Public Safety Canada Allen Benson , Chief Executive Officer, Native Counselling Services of Alberta
11:30	Panel: Questions and Answers	
12:00 pm	Lunch	
1:00	The Promise of Change: Ten Years after Gladue	Jonathan Rudin , Program Director, Aboriginal Legal Services of Toronto
1:40	A View From the Bench	The Honourable Rose Toodick Boyko
2:00	Break	
2:15	Facilitated Table Discussions	
3:00	Highlights from Table Discussions	
3:20	Concluding Remarks & Evaluation	Patrick Altimas, Mary Campbell, Karolyn Lui
3:30	Closing Prayer	Irene Lindsey

Participants

1. Patrick Altimas	President, National Associations Active in Criminal Justice (NAACJ) and Executive Director, L'Association des services de réhabilitation sociale du Québec
2. Sandra Baker-Gregory	Administrative Assistant, Aboriginal Corrections Policy Unit
3. Frankie Berland	Investigator, Office of the Correctional Investigator
4. Allen Benson	Chief Executive Officer, Native Counselling Services of Alberta
5. Ed Buller	Director, Aboriginal Corrections Policy Division
6. Pauline Busch	Senior Policy Analyst, Aboriginal Corrections Policy Division
7. Mary Campbell	Director General, Office of the DG, Corrections Directorate
8. Brenda Chapman	Senior Communications Advisor, Communications and Law Information
9. Francine Charlebois	Special Advisor, Innovations, Analysis and Integration Directorate
10. David Daubney	General Counsel, Criminal Law Policy Section
11. Sylvie Doire	Counsel, Dispute Prevention and Resolution Services
12. John K. Dorion	Board Member, Canadian Training Institute and Chief, John Cochrane First Nation
13. Sophie Fix	Office Manager, Corrections Directorate
14. Neal Freeland	Volunteer, National Associations Active in Criminal Justice; Photographer
15. Dariusz Galczynski	Program Manager, Corrections Research and Development Division
16. Erik Gaudreault	Policy Analyst, Corrections Policy Division
17. Naomi Giff-McKinnon	Senior Policy Analyst, Policy Centre for Victim Issues
18. John Giokas	Counsel, Criminal Law Policy Section
19. André Goldenberg	Counsel, Aboriginal Law and Strategic Policy
20. Jennifer Goldstone	Senior Analyst, Priorities and Planning Division
21. Susan Haines	Executive Director, National Associations Active in Criminal Justice
22. Ed Halla	Production Officer, Production Services
23. Lisa Hitch	Senior Counsel, Family, Children and Youth Section
24. Annie Hoang	Board Member, YOUCAN Youth Canada Association
25. Rebecca Kong	Chief, Correctional Services Program
26. Irving Kulik	Executive Director, Canadian Criminal Justice Association
27. Austin Lawrence	Senior Researcher, Research and Statistics Division
28. John Leefe	Counsel, Aboriginal Law and Strategic Policy
29. Bonnie Lidstone	Senior Analyst, Intergovernmental and External Relations Division
30. James Loewen	National Restorative Justice Coordinator, Mennonite Central Committee Canada
31. Karolyn Lui	Director, Aboriginal Justice Directorate
32. Jennifer Lukassen	Senior Research Analyst, Courts Program, Statistics Canada
33. Sam Lytle	Student, St. Leonard's Society of Canada; Rapporteur
34. Phyllis MacRae	Senior Counsel, Office of the Northern Region
35. Kathy Magladry	Regional Manager, Atlantic and Nunavut, Operations
36. Michelle Mann	Counsel and Consultant, Office of the Correctional Investigator
37. Chantal Marion	Senior Policy Analyst, Policy, Research and Evaluation Division
38. Patti McDonald	Policy Analyst, Aboriginal Corrections Policy Division
39. Margaret McIntosh	General Counsel, Aboriginal Law and Strategic Policy
40. Kim Pate	Executive Director, Canadian Association of Elizabeth Fry Societies
41. Samuel Perreault	Analyst, Canadian Centre for Justice Statistics
42. Sophie Rioux	Policy Analyst, Policy, Research and Evaluation Division
43. Natalie Robins	Program Analyst, Aboriginal Justice Strategy
44. Marie Ross	Policy Integration and Consultation Officer
45. Gloria Savage	Executive Director, Salvation Army, Corrections and Justice Services Ottawa
46. John Sawdon	Executive Director, CTI Canadian Training Institute
47. Wendy Sawyer	Planning Officer, Aboriginal Corrections Policy Division
48. Amanda Scott	Senior Research Analyst, Office of the Federal Ombudsman for Victims of Crime
49. Karen Topolinski	President, John Howard Society of Canada
50. Bonnie Tulloch	Counsel, Special Advisor on Northern Issues, PPSC
51. Jennifer Walker	Program Development Officer, Corrections Research and Development Division
52. Elizabeth White	Executive Director, St. Leonard's Society of Canada
53. Lloyd Withers	National Coordinator, Canadian Families & Corrections Network
54. J. Stephen Wormith	Canadian Psychological Association of Canada
55. Cliff Yumansky	A/Senior Director, Corrections Research and Development Division
56. Ivan Zinger	Executive Director, Office of the Correctional Investigator