

# Luncheon Address

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The Honourable John T. NILSON, Q.C.\*

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\* Minister of Justice and Attorney General, Government of Saskatchewan, Regina, Saskatchewan.



It is very important to me that you continue to meet to discuss issues around the changing justice system. The theme of the conference, *Justice to Order : Adjustment to Changing Demands and Co-ordination Issues in the Justice System in Canada*, is most timely.

Our society is changing. And as this change occurs, the justice system must also evolve to meet the ever-changing needs of the people it serves.

The justice paradigm is increasingly shifting away from narrow, traditional responses to new forms of dispute resolution [...] new processes. I believe that we must help people resolve their legal problems without resort to traditional models of justice alone. Such areas as public legal information and education, mediation, administrative tribunals, arbitration, and litigation, in my opinion, are *all* within the justice paradigm now.

In Saskatchewan there have been significant changes in how we deliver justice services. In the last five years we have seen many changes :

1. increased use of mediation in civil and family matters,
2. new family law services and a Family Law Division,
3. a movement to deal with criminal conflict situations through alternative measures including victim/offender mediation, and;
4. the steps we have take to develop community-based justice.

We are reshaping the structures through which justice is delivered. These structures must be more innovative, more inclusive, and more responsive.

If we are to succeed, we must involve the public in the processes of refashioning the justice system. We must allow people to have a role in the development and delivery of justice.

We all know that, as with other government institutions, many people have lost confidence in the justice system. Our challenge, then, is to re-invigorate the public's commitment to justice and to restore the public's faith in processes that are designed to work fairly and effectively to meet their needs.

For example, in the family law area we are asking questions like : "How do we build resiliency for children and families facing separation and divorce?" The time has passed when we considered merely what legal remedy or what legislative change we could provide. Today, the context for problem-solving requires a broader, more holistic view of the source of the problem, including things like the role of the family, the neighbours, the community, and the government institutions. In short, how do we act together to build a better society?

## **I. WHAT IS THE JUSTICE SYSTEM?**

It is clear change is needed. But how do we define this change? What, exactly, is the justice system? Is it a singular concept? Or, is it made up of multiple or parallel systems?

As you know, we examine these questions in a variety of contexts. We compare the "traditional" court models of dispute resolution to ADR. We can also examine the ways justice is delivered, whether through mainstream methods or through models developed and delivered by Aboriginal people.

I believe that the justice system is the way that people facilitate interaction and restrain the misuse of power. And, the justice system assists people in societies to live peacefully together.

We can state that the justice system is a singular concept : i.e., there is only one justice system. However, justice must be delivered in multiple ways. There is no single approach that will work for all people and all communities. Justice, or to use a biblical term, righteousness, only exists in relationships — in right relationships.

Justice is a "concept" or an "abstract," based on the reinforcement of common values. Justice does not exist in the absence of public acceptance of the values that it seeks to reinforce. Nor does it flourish where its processes and rules, which should reflect its values, are not understood.

## **II. THE NEW JUSTICE SYSTEM**

The justice system of today, and the justice system of the future, must not be perceived as "one size fits all."

It must be accessible — in form, location and cost. It must respect the diversity of individuals.

It must not be "precedent driven" or "rooted in the past." It must be innovative, flexible and increasingly responsive to public needs and expectations.

It cannot be "bound in bureaucracy" or "resistant to change." It must seek solutions to meet the needs of the people it serves and it must be client-driven rather than tradition-driven.

These are the characteristics we are striving to achieve in the justice system today, while building a justice system that will meet the future needs of Saskatchewan citizen.

### **III. SASKATCHEWAN JUSTICE'S VISION**

Saskatchewan Justice's vision is stated this way. We want a fair, equitable and safe society supported by a justice system that is trusted and understood. To ensure that the department of justice and the Government of Saskatchewan continues to move toward achieving its vision, a number of core strategies have been developed.

At Saskatchewan Justice, the administration of justice encompasses these themes through its commitment to promoting multiple strategies to support the delivery of justice. At the base is a core strategy that supports Safe Communities : promoting crime prevention and fostering the safety of individuals and the security of property in partnership with communities and others in the public.

Another core strategy centres on Aboriginal Justice : to foster a justice system relevant to, respectful of and respected by Aboriginal people through measures, both within the existing system and as developed by Aboriginal people.

A third core strategy is Conflict Resolution to promote constructive and appropriate ways for resolving conflict.

These core strategies have been developed to help Saskatchewan Justice retain its focus on providing effective and efficient justice services that meet the needs of our society.

I would like to share some of the challenges and opportunities that this approach has presented in the delivery of justice services, focusing on :

- Accessibility;
- Innovation; and
- Responsiveness.

## **A. Accessibility**

### Community Justice

Saskatchewan Justice is committed to Community Justice — to reaching out to communities to engage them in the development and delivery of justice service for their members.

This involves bringing victims, community members and offenders together to condemn — not the criminal — but the criminal act, and to assist in the re-integration of the offender into the community. These justice programs give increased attention to reparation and re-integration. They focus on making right the harm that has been done.

We recognize that creating safer communities requires a balanced and integrated approach that involves the criminal justice system, the community and our partners in education, health and social services. This means that we work together in a number of areas, and it seems very beneficial to all that we do.

The Community Justice approach at Saskatchewan Justice involves a number of programs including :

- victims services;
- family violence programs;
- crime prevention; and
- Aboriginal community-based justice initiatives.

Saskatchewan Justice has been developing Aboriginal justice strategies since 1993, and implemented a number of province-wide programs to deal with that.

Alternative measures are another important aspect of this approach. We are working with community groups to develop Adult Alternative Measures programs that divert less serious and non-repeat offenders from the court system. We have a "colour and status blind" alternative measures program in Regina which has been very successful. We are developing these programs in other communities in Saskatchewan.

In Saskatchewan, we know that we cannot dictate to our communities what it is we think they need. Rather, we must listen to them and take our advice from their understanding of their own issues and how they intend to make changes. We will then support these initiatives through the programs and services available at Saskatchewan Justice, changing how we do things as we listen.

## **B. Innovation**

Innovation is a key principle in developing initiatives that provide more effective or direct justice services to the public. The Civil Mediation Program was one such example where our department and the province's Court of Queen's Bench judges worked very closely together to develop this program.

*The Queen's Bench Act* requires parties in the Judicial centres of Regina, Saskatoon and Swift Current to participate in an initial mediation session prior to proceeding with litigation in non-family civil cases. This is a direct, inexpensive and effective opportunity to encourage dispute settlement without having to face the financial or emotional costs of a trial.

## **C. Responsiveness**

Besides being accessible and innovative, the justice system is also responsive to the specific needs expressed by the people of Saskatchewan. For example, *The Victims of Domestic Violence Act* provides remedies for victims in situations of domestic violence. People said there were situations where they could not get the right response in situations of domestic violence. This was the first such Act in Canada to respond specifically to violence, or the threat of violence, in households. These measures include :

- Emergency Intervention Orders;
- Victims' Assistance Orders; and,
- Warrants of Entry.

Emergency Intervention Orders provide a means for immediate action to protect a victim of domestic violence in an emergency situation. Victims' Assistance Orders are used similarly, but generally in non-emergency situations. They also have expanded powers that can require the respondent to pay the victim compensation, grant the victim temporary possession of personal property and restrain the respondent from contacting the victim.

A Warrant of Entry may be issued when there is concern that someone who is unable to act on his or her own is suffering from domestic violence and the respondent is preventing others from seeing that person.

These orders are assessed by judges in such a way that we know judges monitor the response. We have listened to the bar and the judges when they tell us that the most important aspect of this Act is the 24-hour telephone access to specially-trained Justices of the Peace around the province, who hear the case and issue an order if they feel it is warranted. All such orders are then subject to review in the Court of Queen's Bench by a judge within three days.

The *Victims of Domestic Violence Act* has been evaluated once fully, and has been assessed by other provinces such as Prince Edward Island, Alberta and British Columbia for its suitability to their policy concerns.

Similarly, the Family Law Division has responded to the concerns of families experiencing separation or divorce with respect to custody and access issues. Recently, information sessions for parents and professionals were held across the province. These workshops asked child care and legal professionals how to promote resiliency in divorced or separated families.

We are continuing to listen to people in the area of custody and access issues. It is a national issue being addressed by the federal government, with many problems to resolve. We will continue our work in the province in this area and continue our discussions with the federal government.

Measures that respond to specific needs are important because the justice system is judged not only on the "result" but increasingly on how the "result" was delivered. Was it fair? Was it effective?

## CONCLUSION

When there are so many aspects to the justice system which all interrelate and must all serve the public well, it is important to remind ourselves that no single approach is a panacea. A range of approaches may be needed to provide people with the greatest opportunity to obtain "justice" in a system in which they are comfortable.

Despite the fact that there is no formula to create a perfect justice system — one that solves all problems brought before it, there are certain common factors. We need to remind ourselves about these issues :

- fundamental fairness;
- the independence of the decision-maker;
- a focus on improving accessibility and responsiveness;
- respect for the individuals appearing in the system;
- protection for vulnerable people who are subject to abuse; and finally
- accountability to the public.

One of the challenges facing us all is to ensure there are responses available to meet the justice needs of the people we serve. We must remember that the underlying premise of the law is the orderly resolution of social differences. We insist that this is carried out within the context of respect for the participants.



All elements of the justice system must acknowledge their collective responsibility to work together to meet the changing demands of society and provide a fair, accessible and accountable justice system.