

Opening Remarks

The Honourable Mr. Justice David H. VICKERS*

In these times, attacks on the criminal justice system are frequent and vocal, informed and uninformed. Assessed on an individual anecdotal basis, some of the complaints are justified. Seldom do we read or hear informed and reasoned criticism of a system that has the second highest rate of imprisonment in the western world. Only the brave will argue for a closure of prisons and a reduction in the rate of incarceration.

One of the reasons which accounts for the system being under attack is that it operates in a way that excludes public participation. We have professionalized criminal justice and falsely advertised that in this system there is peace and security. By excluding communities we have made some conscious choices. We have chosen to say to ordinary people that only professional people can know and understand criminal conduct and only professional people can provide community protection. We have chosen to exclude communities from an understanding of the nature of crime and we have denied them the ability to understand the role that a strong community social support network plays in the maintenance of public peace and security. In short, there is no ownership. In the absence of ownership, criticism is a legitimate response.

From time to time, attempts have been made to involve local communities, such as the local justice councils that came into existence in British Columbia in the mid 1970's. No recent attempt has more legitimacy than the efforts made in several provinces within some aboriginal communities.

The enforcement of the criminal law has historically been a professional monopoly. All professions are exclusive. Inclusion of local communities fosters understanding. Participation brings with it an acknowledgment of ownership. The trend to include is in the best traditions of democracy.

We have much to learn from aboriginal communities across Canada that have become involved in the sentencing process. The sentencing circle, one innovation, has brought with it a community understanding of the nature of criminal activity. It has involved whole communities, individual victims and their families, balancing rights and responsibilities of the persons involved.

Some of these initiatives help us understand the commitment involved in restoring offenders to their communities. In the long run, restoration to community fulfills the mandate of the criminal law to protect people and property and thus achieve peace and security.

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This panel explores the success of aboriginal sentencing initiatives in two Yukon communities, the Kwanlin Dun Project and the Teslin Project. We learn from our panelists that the process is not easy, nor is it necessarily lenient. It demands commitment from all participants and a willingness to seek innovative solutions. Above all, it takes leadership and the courage to understand the need for change that surrounds us all.