

The Native Courtworker and Counselling Association of British Columbia

Problem-Solving Courts and Communities Working Together

Vancouver Island Convention Centre

Nanaimo, British Columbia

November 25th – 27th, 2008

Purpose

The purpose of the Conference was to educate and inform Native Courtworkers and interested community members, and justice agencies on various models of court systems that affect aboriginal people. Models such as the new Vancouver Community Court; Mental Health Courts; Gladue Court; First Nations Court; Red Hook Court; and Drug Courts; to name a few.

Specialized courts such as Aboriginal Courts are new to Canada. In the United States of America, there have been tribal courts in existence for at least eighty years. The first Aboriginal court in Canada is the Tsuu T'ina First Nation Court (also known as the Tsuu T'ina Peacemaking Court) in October 2000 in Alberta. Approximately one year later, the Cree Speaking Court opened in Saskatchewan.

At the same time, the Gladue (Aboriginal Persons) Court opened in downtown Toronto, making it the first urban Aboriginal Court. The most recent Aboriginal Court is the First Nations Court in New Westminister, British Columbia which started in 2006. In September 2008 the Vancouver Community Court opened its doors and in other municipalities throughout the Province of British Columbia, has been an expressed need by local Mayors to have community court in their jurisdiction.

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These innovative courts have emerged in an effort to address the underlying problems of accused, victims and communities. Generally known as “problem-solving” courts, they look at unique elements such as problem-solving focus; team approach to decision making; integration of social services; judicial supervision of the treatment process, direct interaction between defendants and the judge; community outreach; and a proactive role for the judge inside and outside of the courtroom. These courts are authorized to resolve problems, investigate and discover the root causes of the behaviour which has translated into criminal activity or disharmony in the community or among families.

With the opening of the Vancouver Community Court, various stakeholders and service providers are struggling to understand the implications of the new court and the way they can do their jobs.

As front-line workers whose purpose is to facilitate and enhance access to justice by assisting Aboriginal people involved in the criminal justice system to obtain fair, just, equitable and culturally sensitive treatment, Native Courtworkers have a pressing need to be well-informed about their role within the courts and how their clients will receive services.

Native Courtworkers and community members were in attendance to ensure they have a solid understanding of all court models, thereby enhancing their role in the courts and in the communities they service. In addition, the conference incorporated over 25 breakout sessions to receive as much information as possible and to promote dialogue.

Native Courtworkers, justice providers, and other service agencies providers benefited from their engagement with each other and their respective communities on a team approach in the service delivery to their clients. This forum increased the understanding of rights, obligations, court processes, cultural considerations and support, and increased awareness about legal and social resources available by Aboriginal accused, court officials and the judiciary.

Community Partnerships

Participants to the conference were provided valuable information to involve their community members and agencies to engage justice related services in their respective communities. Community policing, Youth and Adult Justice Committees, Aboriginal Restorative Justice Services, Aboriginal Elder programs, and other measures were examples of elements of the justice system.

Over 25 guest speakers shared their expertise to delegates on how the justice system can be improved and how to be more active players in the justice system. In so doing, may take more responsibility and interest in community justice issues. The formation of justice committees in their respective community would be an important outcome on engaging other community justice and service delivery agencies and Aboriginal organizations.

Delegates recognized that the justice system is evolving toward a more community-based focus. Community partnerships and delivery of justice services are seen as important avenues toward creating a system that is an integrated part of community life.

The World Dialogue Café

On Day Three of the Conference a World Dialogue Café (WDC) was held. This is an innovative, yet simple methodology for hosting conversations about questions that matter. These conversations link and build on each other as people move between groups, cross-pollinate ideas, and discover new insights in the questions or issues that are most important in their life, work, or community. As a process, the World Dialogue Café evokes and makes visible the collective intelligence of any group, this increasing people's capacity for effective action in pursuit of common aims. The World Dialogue Café is built on the assumption that people already have within them the wisdom and creativity to confront the most difficult challenges.

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The Native Courtworker and Counselling Association of British Columbia (NCCABC) continue to seek suggestions for improvement by reaching out to community members throughout BC. We gathered information and ideas that we hope to accomplish by identifying the collective desires, opportunities, dilemmas and set goals for the future.

To gather this information the questions asked were as follows:

- 1) How can we help improve Public Confidence in the Courts?**
- 2) What are the differences between Rural and Urban issues?**
- 3) How can we Leverage our Resources and Tools?**
- 4) Open Topics. – *free flow and open dialogue***

The participants at the World Dialogue Café identified the following recommendations:

Improving Public Confidence in the Courts

Improving confidence of the public in court is essential for the future of Aboriginal communities and their involvement in the Court Systems. Gaps have been identified within the following areas:

- 1) The Native Courtworker and Counselling Association of British Columbia,**
- 2) Communities and**
- 3) Judicial Systems.**

Gaps within the Native Courtworker and Counselling Association of British Columbia

- There are not enough Native Courtworkers available to serve the Aboriginal population throughout British Columbia at all Courthouses.
 - **Goal – increase the number of Native Courtworkers.**

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- The community lacks information regarding community courts. Without education Aboriginal communities lack the knowledge to lobby for more community courts within their communities.
 - **Goal – educate Aboriginal Communities about Community Courts.**
- Youth lack education and knowledge about the Court Systems.
 - **Goal – To have youth educated about court systems.**
- There is currently no inventory of Court Models. Communities are unsure if these models are working.
 - **Goal – To have an inventory list of Court Models available.**
- Court Personnel within the Court system lack knowledge of local Aboriginal history.
 - **Goal – To have court personnel educated about local Aboriginal History and culture.**
- There are a lack of resource guides.
 - **Goal – To develop a resource guide.**

NCCABC actions to improve Public Confidence in the Courts:

- ❖ Campaign for more Native Courtworkers.
- ❖ Educate Aboriginal Communities about Community Courts.
- ❖ Provide educational opportunities to youth about the court systems.
- ❖ Create and inventory list of Court Models and make this available.
- ❖ Educate Court personnel about Aboriginal History and culture.
- ❖ Develop a resource guide and make it available.

Gaps within Communities

- Networking systems are not working.
 - **Goal –To have improved networking systems.**

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- There is not enough Elder guidance.
 - **Goal – Increase Elder presence and guidance.**
- Lack of transportation and clients are not able to make it to court at times.
 - **Goal –To make transportation issue known to the judicial system.**

Community Recommendations to improve Public Confidence within the Courts

- ❖ Develop better networking systems.
- ❖ Identify and hire elders.
- ❖ Identify lack of transportation issues to the courts.

Judicial Gaps

- Probation Officers are entrenched in their way of thinking. Criminal justice system personnel are not aware of Aboriginal culture.
 - **Goal – To have Criminal Justice personnel educated about local Aboriginal history and culture.**
- There is a lack of Aboriginal presence on hiring panels.
 - **Goal – To have more Aboriginal people present on hiring panels.**
- There is a problem with the general public viewing the court system as a revolving door.
 - **Goal –To have the general public educated about the court system.**
- There is a lack of Aboriginal presence as Court system personnel (lawyers, probation officers, judges, police and correction officers).
 - **Goal – To increase the presence of Aboriginal personnel within court systems.**
- Gladue court is not accessed in court in BC.

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- **Goal – To increase knowledge of the new legislation s. 718.2(e) of the criminal code.**
- There is a lack of trust from probation officers and judges with Aboriginal people.
 - **Goal – To increase involvement between probation officers and judges with Aboriginal people to increase trust.**
- There is a lack of education and understanding in school age youth about Judicial personnel roles.
 - **Goal – Increase youth understanding about urban and rural judicial personnel roles and models.**
- There is currently no Aboriginal parole program
 - **Goal – To have an Aboriginal Parole program.**
- Circuit Courts are not offered in all communities. There is a need for more circuit courts. It is evident in the fact that there is a high volume seen within the circuits that are offered.
 - **Goal – To increase the amount of Circuit Courts.**

Judicial Gaps recommendations to increase Public Confidence in the Courts.

- ❖ Educate Criminal Justice Personnel about Aboriginal history and cultures.
- ❖ Recruit more Aboriginal people for hiring panels.
- ❖ Educate the general public about the Court Systems.
- ❖ Hire more Aboriginal Criminal Justice personnel.
- ❖ Provide opportunities for Criminal Justice personnel to interact with Aboriginal community members.
- ❖ Educate Youth about the Urban and Rural Criminal Justice personnel roles.
- ❖ Develop an Aboriginal Parole program.
- ❖ Provide more circuit courts and in more communities.

Other Actions to increase Public Confidence in the Courts:

- ❖ Ensure the Courts are flexible if Communities produce new ideas.
- ❖ Set up justice roles within bands.
- ❖ Communities should extend invitations to Criminal Justice personnel to cultural events to promote education and awareness.
- ❖ Create Public movement to increase community courts.
- ❖ Develop Justice Committees.
- ❖ Assess Literacy Issues.
- ❖ Clarify funding issues.
- ❖ Promote learning institutions direct to Aboriginal issues.

Differences between Rural and Urban communities

There are issues that people living in rural areas face that are different than people in urban areas. Acknowledging that there are differences between rural and urban communities the NCCABC wanted to have these differences specified and documented. There is also an acknowledgement that there is a lack of information available. These are also outlined in the following:

- It is acknowledged that there is a lack of partnerships and awareness with legal service providers.
 - **Goal - To have more partnerships between legal service providers.**
- There is an overall lack of Outreach and Awareness in communities.
 - **Goal - To have more awareness and outreach to communities.**
- Youth are not connected to services, committees and information about gangs, school drop-outs, etc.
 - **Goal - To have youth educated in these areas.**

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- In isolated areas there is a lack of community involvement in the court process in regards to sentencing, attendance and video-appearances.
 - **Goal - To increase community involvement in these areas.**
- Band offices need to have an open door policy for Service people to gain knowledge and information about elders, alcohol and drug workers, band office staff.
 - **Goal - To have Service people acquainted with on-reserve communities.**
- There is a lack of open communication and knowledge sharing between rural and urban services.
 - **Goal - To increase communication between rural and urban services.**
- When the Court orders attendance to programs, there is a lack of acknowledgment of the transportation costs to getting to these programs.
 - **Goal - To have the costs of transportation to programs that are court ordered acknowledged.**
- There is a lack of knowledge around video-court.
 - **Goal - To have people educated about video-court.**
- There is a lack of collaboration to start addressing root causes of problems (parenting, homelessness and lack of affordable housing).
 - **Goal - To have more collaboration that addresses root causes of social issues.**
- There is a need to know if Aboriginal youth are moving from rural to urban settings.
 - **Goal - To obtain information about this issue.**
- Probation Officers need to know and understand the community and how it works and to become community friendly.
 - **Goal - To have Probation Officers become more "community-friendly".**
- There is a lack of knowledge of whether sentencing is the same for Rural and Urban members for the same charges.

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- **Goal - To research about sentencing similarities and differences between Rural and Urban charges.**
- There is a need to know if on-reserve crime rates are the same as off-reserve crime rates.
 - **Goal - To research if crime rates for on-reserve and off-reserve.**
- Métis people are not utilizing On-Reserve Aboriginal resources.
 - **Goal - To have Métis people utilize On-Reserve Aboriginal resources.**

Actions in regards to differences between Rural and Urban communities.

- ❖ Develop partnerships between legal service providers.
- ❖ Do overall outreach and awareness to communities.
- ❖ Connect youth to services and educate them about gangs, schools drop-outs, etc.
- ❖ Increase community involvement in the court process with sentencing, attendance and video-appearances.
- ❖ Facilitate communication between Rural and Urban communities about services.
- ❖ Ensure measures are taken to have Service people are acquainted with communities
- ❖ Address transportation costs to court-ordered programs.
- ❖ Educate people about video-court.
- ❖ Ensure collaboration efforts take place with addressing root causes of problems.
- ❖ Research about youth moving from Rural to Urban settings and make this information accessible to communities.
- ❖ Ensure Probation Officers visit and become community friendly.
- ❖ Research the similarities and differences between charges in regards to Rural and Urban community members.
- ❖ Research crime rate differences for Rural and Urban communities.

- ❖ Invite more Métis people to utilize On-Reserve Aboriginal resources.

Leveraging Resources and Tools

It is just as important to have resources and tools and to utilize them to their fullest potential. Making communities aware of the resources is the beginning step to this process and must be done collaboratively.

Here is a summary of the issues and goals concluded with tasks to achieve leverage of resources and tools.

- It is acknowledged that the medicine wheel should be used with Holistic justice.
 - **Goal - To incorporate the medicine wheel and Holistic Justice.**
- Hiring panels can be essential to the success of leveraging resources and tools.
 - **Goal - To increase mutual hiring panel participation.**
- There is a need for integrated case management.
 - **Goal - To have resource workers, social workers and A&D counsellors involved in case management.**
- RCMP members are not visible at community events, functions and meetings.
 - **Goal - To increase RCMP presence at community events, meetings and functions.**
- There is a need for more websites, newsletters and articles in Aboriginal Newsletters.
 - **Goal - To increase communication and awareness of resources.**
- Increased communication is essential to leveraging resources and tools.
 - **Goal - To have Native Courtworkers involved with communities to talk about justice issues.**

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- Leveraging resources and tools is incumbent on reaching out to the community to demonstrate positive role modeling.
 - **Goal - To increase positive role modeling in communities.**
- Honouring ceremony need to take place for everyone involved (judge, crown, defense, etc).
 - **Goal - To assist with honouring ceremonies so everyone is involved.**
- It is acknowledged that there is a need for an organizational retreat.
 - **Goal - Leverage resources and tools by having everyone meet face to face.**
- There needs to be collective/combined work in a collaborative setting to provide service to meet the needs of the client.
 - **Goal - Have everyone come together that provide services to clients.**

Actions to Leverage Resources and Tools:

- ❖ Incorporate the medicine wheel and Holistic Justice.
- ❖ Increase mutual hiring panel participation.
- ❖ Incorporate integrated case management.
- ❖ Invite RCMP members to community events, meetings and functions.
- ❖ Ensure Native Courtworkers visit communities to understand their local issues.
- ❖ Take measures to increase role modeling.
- ❖ Attend and participate in Honouring Ceremonies.
- ❖ Assist with organizing an Organizational Retreat.
- ❖ Have a conference to collaborate on services for client.

Open Topics/Actions/Suggestions

There were various open topics discussed regarding improvement for clients. Here is a summarized list of the action and suggestion outcomes.

- ❖ Create an Invitation Calendar on NCCABC website.
- ❖ Recruit staff to be role models within the Justice System.
- ❖ Networking – team actions to their community.
- ❖ Take submissions of success stories and place on the NCCABC website.
- ❖ Host community forums.
- ❖ Expand on current programs to work them to the fullest extent.
- ❖ Increase the resources in Community Court.
- ❖ Incorporate more restorative justice practices and healing circles with everyone involved.
- ❖ Host an event and invite people to have an impact.
- ❖ Host dinners with Judges, Lawyers, and other individuals.
- ❖ Research Aboriginal youth statistics and provide community outreach to schools.