

OPENING REMARKS

ONTARIO JUSTICE EDUCATION NETWORK

THE THIRD SUMMER LAW INSTITUTE

FOR HIGH SCHOOL TEACHERS

THE HONOURABLE R. ROY McMURTRY

CHIEF JUSTICE OF ONTARIO

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TORONTO, ONTARIO

LADIES, GENTLEMEN, I WOULD LIKE TO EXTEND TO ALL OF YOU A VERY SPECIAL WELCOME TO THE 2004 TORONTO 3RD SUMMER LAW INSTITUTE. YOUR DECISION TO COMMIT YOUR PERSONAL TIME AND RESOURCES TO ATTEND THIS FORUM IS MUCH APPRECIATED.

I WOULD LIKE TO CONGRATULATE ALLAN HUX, SARAH POLE, PAULETTE DAVIS, ANITA KYRIAKOU, SHAUN NAKATSURU, TOM KERR, TAIVI LOBU, ELIZABETH HYDE, FRANK CESARIO AND OJEN STAFF FOR YOUR CONTINUING COMMITMENT AND SUCCESSFUL

EFFORTS IN ARRANGING A MOST INTERESTING PROGRAM. WE WILL ALL BE INTERESTED IN YOUR COMMENTS AS TO THE VALUE OF THE PROGRAM AND HOW IT MIGHT BE IMPROVED.

HAVING BROUGHT TOGETHER THE MEMBERS OF THE ORIGINAL TASK FORCE IN RELATION TO THE ENHANCEMENT OF PUBLIC LEGAL EDUCATION IN ONTARIO I AM ABSOLUTELY DELIGHTED WITH THE PROGRESS THAT HAS BEEN MADE TO DATE AS A RESULT OF THE EFFORTS OF SO MANY PEOPLE WHO ARE HERE THIS MORNING.

WE REALIZED THAT THE STRENGTHENING OF THE PUBLIC LEGAL EDUCATION WOULD REQUIRE A PRINCIPLE FOCUS ON OUR HIGH SCHOOLS AND WE THEREFORE INCLUDED REPRESENTATIVES OF THE EDUCATION COMMUNITY AS MEMBERS OF OUR TASK FORCE FROM THE OUTSET IN ORDER TO BENEFIT FROM THEIR ADVICE.

AS TEACHERS YOU ARE ABSOLUTELY CRUCIAL TO THE STRENGTHENING OF A PUBLIC UNDERSTANDING THAT THE ADMINISTRATION OF JUSTICE IS A CORNERSTONE OF ANY TRUE DEMOCRACY. WHILE JUDGES AND LAWYERS HAVE AN ESSENTIAL ROLE IN SHAPING OUR ADMINISTRATION OF JUSTICE OUR EFFORTS WILL MEAN LITTLE IF THEY DO NOT COMMAND THE RESPECT OF

THE COMMUNITY. IT IS THEREFORE OUR TEACHERS WHO HAVE THE MOST VITAL ROLE OF ALL IN SHAPING THE FUTURE OF OUR SOCIETY THROUGH THEIR EFFORTS IN THE CLASSROOM.

DURING THE PAST SIX MONTHS I HAVE HAD PARTICULAR REASON TO BE REMINDED ON A REGULAR BASIS OF THE CRITICAL IMPORTANCE OF THE ROLE OF TEACHERS. EARLY THIS YEAR I ACCEPTED THE RESPONSIBILITY OF CHAIRING THE MAYOR OF TORONTO'S ADVISORY PANEL ON COMMUNITY SAFETY. MY ROLE IS LIMITED TO THE ISSUE OF CRIME PREVENTION AS MY JUDICIAL NEUTRALITY PREVENTS ME FROM MAKING OR PARTICIPATING IN RECOMMENDATIONS RELATED TO MORE EFFECTIVE LAW ENFORCEMENT.

AT THE FORMAL OPENINGS OF THE COURTS IN TORONTO IN RECENT YEARS, I HAVE SPOKEN OF THE MARGINAL IMPACT THAT THE CRIMINAL JUSTICE SYSTEM HAS IN RELATION TO THE SOCIETAL CONDITIONS THAT PRODUCE CRIME. I HAVE THEREFORE LONG BEEN URGING ALL THREE LEVELS OF GOVERNMENTS TO WORK MORE CLOSELY TOGETHER IN THE DEVELOPMENT OF CRIMINAL PREVENTION STRATEGIES. UNFORTUNATELY, THIS DID NOT HAPPEN UNTIL RECENTLY WITH THE NEW GOVERNMENTS AT CITY HALL,

QUEEN'S PARK AND OTTAWA. WHEN THE MAYOR ASKED ME TO CHAIR HIS ADVISORY PANEL, I CONCLUDED THAT AS I HAD LONG "TALKED THE TALK" ON CRIME PREVENTION, THAT IT WAS PERHAPS TIME FOR ME TO "WALK THE WALK".

AS MANY OF YOU KNOW BETTER THAN I GANG RELATED CRIME AND OTHER CRIMINAL BEHAVIOUR TOO OFTEN INVOLVES YOUNG PEOPLE WHO HAVE LEFT SCHOOL OR WHOSE PARTICIPATION IN THE CLASSROOM IS LESS THAN ENTHUSIASTIC.

I WAS THEREFORE ENCOURAGED BY THE INITIATIVES ANNOUNCED BY THE MINISTER OF EDUCATION AT THE BEGINNING OF SUMMER IN RELATION TO THE DEVELOPMENT OF NEW STRATEGIES THAT WILL ASSIST IN KEEPING YOUNG PEOPLE IN SCHOOL.

THERE ARE ALSO ISSUES RELATED TO "ZERO TOLERANCE" WITH RESPECT TO THE *SAFE SCHOOLS ACT* WHICH ARE BEING REVIEWED GIVEN THE ALLEGATIONS OF INCONSISTENT AND UNEQUAL APPLICATION AND THE PENALTIES THAT CAN LEAD TO THE TERMINATION OF A STUDENT'S ACADEMIC CAREER. I MAKE NO FURTHER COMMENT ON THIS SUBJECT AS MY INFORMATION IS LARGELY OF AN ANECDOTAL NATURE.

YOUTH JUSTICE IS ONE OF THOSE POLICY ISSUES THAT IRRESPECTIVE OF THE PASSAGE OF TIME, SIMPLY NEVER LOSE THEIR ABILITY TO IGNITE PUBLIC DEBATE, DIVIDE PEOPLE AND INFLUENCE POLITICAL PLATFORMS. IN A SUPERCHARGED ENVIRONMENT OF DEBATE, THE MAJOR CASUALTIES CAN BE FACT AND REALITY.

THERE ARE INDEED SOME HORRIFIC YOUTH CRIMES BUT DESPITE THE RHETORIC OUR NATION IS NOT ON AN EDGE OF A ‘YOUTH CRIME CRISIS’. THE MOST PUBLICIZED COMMENTS ARE OFTEN FROM POLICE CHIEFS WHO WHEN FACED WITH OPPOSITION TO INCREASED BUDGETS OFTEN FIND IT USEFUL TO STRESS THE NEED TO DEVELOP A TOUGHER YOUTH CRIME STRATEGY. HOWEVER, RECENT CRIME STATISTICS INDICATE A SIGNIFICANT REDUCTION IN YOUTH CRIME AND AS A RESULT YOUTH CUSTODY FACILITIES ARE BEING CLOSED.

IN MY VIEW THE SENTIMENTS OF A FEDERAL MEMBER OF PARLIAMENT WHEN SPEAKING IN A DEBATE RELATED TO YOUTH JUSTICE ARE APPROPRIATE:

“WHY SHOULD WE IN CANADA BE AT WAR WITH OUR OWN YOUTH. WHY SHOULD WE SAY WE ARE MAKING YOUNG PEOPLE THE OBJECTS OF CONCERN AND FEAR IN OUR COUNTRY. YOUNG PEOPLE ARE COMMITTING CRIMES AND WE SAY THEY HAVE TO BE PUNISHED. THEY HAVE TO BE PUNISHED WITH THE VICTIM AND THE CANADIAN PUBLIC PRIMARILY IN MIND BUT REMEMBER THE FACT THAT THOSE YOUTH WILL BE BACK IN OUR SOCIETY.”

IN MY VIEW, A MOST IMPORTANT JUSTICE INITIATIVE WAS THE PASSING OF THE *YOUTH CRIMINAL JUSTICE ACT* WHICH CAME INTO FORCE IN APRIL OF LAST YEAR. THE PREAMBLE STATES THAT:

COMMUNITIES, FAMILIES, PARENTS AND OTHERS CONCERNED WITH THE DEVELOPMENT OF YOUNG PERSONS SHOULD THROUGH MULTI-DISCIPLINARY

APPROACHES TAKE REASONABLE STEPS TO
PREVENT YOUTH CRIME.

THE PHILOSOPHY OF THE *ACT* BOTH PLACES RESPONSIBILITY ON EVERYONE IN THE COMMUNITY AS IT IS BASED ON THE ASSUMPTION THAT “OUT OF COURT” RESPONSES TO YOUTH CRIME ARE OFTEN MORE EFFECTIVE THAN FORMAL COURT PROCEEDINGS. THE INTENTION OF THE LEGISLATION IS TO PROVIDE OPPORTUNITIES TO TURN A YOUNG PERSON’S LIFE AROUND WITHOUT PENAL SANCTIONS.

THE LEGISLATION MANDATES THAT THOSE RESPONSIBLE FOR THE ADMINISTRATION OF JUSTICE FOCUS ON THE CIRCUMSTANCES UNDERLYING THE OFFENDING BEHAVIOUR, CONSIDER THE NEEDS OF THE “WHOLE CHILD” AND NOT JUST THE CIRCUMSTANCES OF THE CRIMINAL CONDUCT. A FUNDAMENTAL PRINCIPLE OF THE *ACT* IS TO AVOID USING CRIMINAL PROCESSES AND DETENTION AS A SUBSTITUTE FOR CHILD WELFARE OR SOCIAL SERVICES.

YOUTH JUSTICE COMMITTEES BRING TOGETHER YOUNG PEOPLE WHO HAVE COMMITTED NON-VIOLENT OFFENCES, THEIR PARENTS, VICTIMS AND TRAINED MEMBERS OF THE COMMUNITIES TO AGREE

ON AN APPROPRIATE WAY FOR THE YOUNG PERSON TO MAKE AMENDS FOR HIS OR HER ACTIONS.

THE OPERATION OF THE NEW LEGISLATION WILL, CERTAINLY PLACE SIGNIFICANTLY INCREASED BURDENS ON OUR SOCIAL SERVICE AGENCIES AND INCREASED GOVERNMENT FUNDING WILL BE NECESSARY.

A RECENT SURVEY OF YOUTH COURT JUDGES BY PROFESSOR ANTHONY DOBB OF THE UNIVERSITY OF TORONTO, WHO WILL BE SPEAKING TO YOU TOMORROW, INDICATES THAT A SIGNIFICANT PERCENTAGE OF THE CASES BEFORE THEM COULD BE DEALT WITH ADEQUATELY OUTSIDE A COURT. INTERESTINGLY, IN QUEBEC WHICH IS THE PROVINCE WITH THE LOWEST NUMBER OF CASES BROUGHT TO A YOUTH COURT, MANY OF THE JUDGES THERE ALSO BELIEVE THAT MANY OF THE CASES COULD HAVE BEEN BETTER HANDLED OUTSIDE OF COURT. WHEN WE COMPARE ONTARIO WITH QUEBEC AS TO THE NUMBER OF CHARGES LAID AGAINST YOUNG OFFENDERS WE FIND THAT THERE ARE 3½ MORE CHARGES LAID IN ONTARIO PER CAPITA THAN QUEBEC.

IN MY OPINION WE SHOULD CONTINUE TO EXAMINE YOUTH JUSTICE THE SYSTEM IN ORDER TO DETERMINE WHETHER IT HAS IN FACT DEVELOPED AN OVER-RELIANCE ON THE COURTS. IF THIS IS THE CASE THAN OUR ADMINISTRATION OF JUSTICE IN ONTARIO AND ELSEWHERE IS PERPETUATING AN UNNECESSARY ‘OVER CRIMINALIZATION’ OF OUR YOUTH WHICH IS CLEARLY CONTRARY TO THE BEST INTERESTS OF SOCIETY. APPELLATE COURTS HAVE ACKNOWLEDGED THE POTENTIAL PERMANENT NEGATIVE IMPACT OF STIGMATIZING A YOUNG PERSON AS A BAD PERSON.

A FUNDAMENTAL OBJECTIVE OF THE NEW *YOUTH CRIMINAL JUSTICE ACT* IS THEREFORE TO DIVERT MORE YOUTH FROM THE CRIMINAL JUSTICE SYSTEM. THIS DIVERSION CAN OCCUR AT EITHER THE PRE-CHARGE STAGE OR AT THE POST-CHARGE STAGE. AT THE PRE-CHARGE STAGE IT OCCURS ON THE BASIS OF POLICE OFFICERS DISCRETION AND AFTER THE CHARGE IS LAID IT REQUIRES THE EXERCISE OF THE DISCRETION OF A CROWN ATTORNEY.

AS YOUTH JUSTICE ISSUES ARE OF VITAL IMPORTANCE TO OUR SOCIETY IT IS ESSENTIAL THAT THE TEACHING PROFESSION PLAY A PROMINENT ROLE IN THE ONGOING DEBATE.

THE MAYOR'S ADVISORY COMMITTEE ON COMMUNITY SAFETY HAS RECOGNIZED THE OBVIOUS AND CRITICAL ROLE OF THE EDUCATION SYSTEM IN GENERAL. THE PUBLIC AND SECONDARY SCHOOLS ARE MAJOR COMMUNITY ASSETS AND THE CHAIRS OF BOTH SCHOOL BOARDS ARE ON THE ADVISORY PANEL. THE BOARDS HAVE COMMITTED THEMSELVES TO DEDICATE SOME OF THEIR SCHOOLS AS COMMUNITY RECREATION CENTRES. THESE INITIATIVES HAVE SIGNIFICANT FINANCIAL IMPLICATIONS BUT IT IS HOPED THAT WITH THE ASSISTANCE OF THE PROVINCIAL GOVERNMENT THAT AN INCREASED NUMBER OF SCHOOLS WILL BE MADE AVAILABLE IN THE MONTHS AHEAD.

SEVERAL MONTHS AGO I CHAIRED A MEETING THAT INVOLVED THE TWO TORONTO SCHOOL BOARDS, AND REPRESENTATIVES OF THE THREE UNIVERSITIES AND FOUR COMMUNITY COLLEGES IN TORONTO. IT IS THE FIRST TIME THE REPRESENTATIVES OF THESE INSTITUTIONS HAVE EVER MET IN THE SAME ROOM. THEY ALL HAVE COMMITTED THEMSELVES TO THE CAUSE OF COMMUNITY SAFETY.

OUR UNIVERSITIES, COLLEGES AND SCHOOLS HAVE AN ENORMOUS POTENTIAL TO PROVIDE NEEDED SPACE FOR EDUCATIONAL AND

RECREATIONAL ACTIVITIES THAT COULD PROVIDE ALTERNATIVES TO THE ANTI-SOCIAL AND CRIMINAL BEHAVIOUR ENGAGED IN BY MANY YOUNG PEOPLE.

THE UNIVERSITY OF TORONTO HELD A ONE DAY CONFERENCE AT THE END OF JUNE WHICH FOCUSED ON PUTTING TOGETHER ALL THE AVAILABLE RESEARCH RELATED TO YOUTH CRIME. I AM PRESENTLY WORKING WITH RYERSON UNIVERSITY WHICH WILL HOST A CONFERENCE ON OCTOBER 30TH NEXT WHICH WILL FOCUS ON PRESENTATIONS FROM YOUNG PEOPLE WHO ARE PARTICULARLY KNOWLEDGEABLE ABOUT THE CHALLENGES IN THEIR INDIVIDUAL COMMUNITIES.

THE GOVERNMENT OF ONTARIO HAS TWO CABINET MINISTERS ON THE ADVISORY PANEL AND HAS CREATED AN INTERMINISTRIAL COMMITTEE INVOLVING THE SEVEN OR EIGHT MINISTRIES THAT CAN CONTRIBUTE TO THE ENHANCEMENT OF COMMUNITY SAFETY. THE FEDERAL GOVERNMENT IS ALSO WELL REPRESENTED IN OUR ONGOING DISCUSSIONS.

I HAVE BEEN INVOLVED IN THE CRIMINAL JUSTICE SYSTEM FOR ALMOST FIFTY YEARS AND I HAVE LEARNED THAT A SIGNIFICANT

MAJORITY OF THE ARRESTS TAKE PLACE AMONG A VERY SMALL PERCENTAGE OF THE POPULATION.

IF ONE WERE TO ANALYZE THE CITY OF TORONTO, I BELIEVE THAT YOU WOULD FIND THAT THE AREAS THAT PRODUCE THE GREAT MAJORITY OF CRIME ARE CHARACTERIZED BY HIGH RATES OF SCHOOL DROPOUTS AND UNEMPLOYMENT, INADEQUATE HOUSING AND RECREATION FACILITIES, RACISM, ALCOHOLISM, HIGH INFANT MORTALITY RATES, SHORTER LIFE EXPECTANCY, MORE COMMON COMMUNICABLE DISEASES WITH A HIGH POTENTIAL OF PHYSICAL AND MENTAL DAMAGE.

THE FOUNTAINHEADS OF CRIME ARE THEREFORE RELATED TO THE DEHUMANIZING EFFECT ON THE INDIVIDUAL OF SLUMS, IGNORANCE, RACISM AND VIOLENCE, AN IMPOTENCE TO FULFILL RIGHTS, POVERTY AND UNEMPLOYMENT, IDLENESS, GENERATIONS OF MALNUTRITION, CONGENITAL BRAIN DAMAGE AND PRENATAL NEGLECT.

THE REPORT OF THE UNITED WAY ENTITLED *POVERTY BY POSTAL CODE*, CHRONICLES A SYSTEMIC ISSUE WHICH PRODUCES CRIME. IT STATES THAT “NEIGHBOURHOOD POVERTY RESEARCH PROVIDES

STARK PROOF OF EXPANDING AND INCREASINGLY CONCENTRATED POVERTY ACROSS THE CITY OF TORONTO, ESPECIALLY IN THE INNER SUBURBS”. THE REPORT PROPERLY RECOGNIZES THE NEED TO ADDRESS THE UNDERLYING ISSUES OF POVERTY AND THE LACK OF AFFORDABLE HOUSING.

THE REPORT IS A VERY IMPORTANT DOCUMENT AND ALL OF THE ISSUES THAT IT ADDRESSES ARE RELEVANT TO THE MAYOR’S INITIATIVE IN RELATION TO COMMUNITY SAFETY. IN PARTICULAR, IT IDENTIFIES YOUTH AS THE MOST PRESSING SOCIAL ISSUE OVERALL AND DESCRIBES THE MAIN PROBLEM AS A LACK OF SOCIAL INFRASTRUCTURE FOR YOUTH – SOCIAL, RECREATIONAL PROGRAMS AND SERVICES AS WELL AS A RANGE OF SERVICES TO MEET THE NEEDS OF MARGINALIZED AND MULTI-BARRIERED YOUTH.

IT IS THEREFORE ESSENTIAL THAT ALL OF OUR IMPORTANT INSTITUTIONS BOTH IN THE PUBLIC AND PRIVATE SECTOR COLLABORATE AND PARTNER TO ADDRESS THESE VITAL ISSUES.

AS AN IMPORTANT PUBLIC INSTITUTION I AM PLEASED THAT OJEN IS DIRECTLY INVOLVED IN WORKING IN THE COMMUNITIES MOST AT

RISK. THERE ARE MANY THOUSANDS OF YOUNG PEOPLE IN PUBLIC HOUSING AND OJEN IS WORKING IN THESE COMMUNITIES TO CREATE A BETTER UNDERSTANDING OF THE JUSTICE SYSTEMS. THE CREATION OF GREATER RESPECT FOR THE JUSTICE SYSTEM WHICH INCLUDES A PUBLIC REALIZATION THAT THE SYSTEM IS MORE THOUGHTFUL AND CONSIDERATE THAN OFTEN APPRECIATED WILL HELP TO REDUCE THE FEELINGS OF ALIENATION THAT SO OFTEN CONTRIBUTE TO CRIMINAL BEHAVIOUR.

IN THE MINUTES THAT REMAIN I WOULD BE PLEASED TO ENTERTAIN ANY QUESTIONS RELATED TO MY COMMENTS OR ANY OTHER JUSTICE RELATED ISSUE.