



BC FIRST NATIONS

# JUSTICE FORUM



## BACKGROUND INFORMATION & DISCUSSION QUESTIONS

The modern City of Vancouver was founded on the traditional territories of the x<sup>w</sup>məθk<sup>w</sup>əy<sup>ə</sup>m (Musqueam), Skwxwú7mesh úxwumixw (Squamish Nation) and Tsleil-Waututh First Nations.



BC FIRST NATIONS  
JUSTICE COUNCIL

# INDIGENOUS WOMEN'S JUSTICE PLAN: FINAL DRAFT



*Truth is Love - Marika Echachis Swan/ ʕupinup*



***“Truth is Love”***  
**by Marika Echachis Swan**  
**ʕupinup**

*“Truth is Love”* honours the medicine of listening to the true stories of our more vulnerable community members.

When we advocate for their true well-being we create a just and safe world for us all.

***About the Artist***

Marika Echachis Swan/ʕupinup (Tla-o-qui-aht/Nuu-chah-nulth) is a mother, artist, and community arts organizer of mixed Tla-o-qui-aht, Scottish, and Irish descent. Her main creative practice explores feminist Nuu-chah-nulth values through woodblock printmaking, often layered with other visual arts techniques such as carving, stencil, and photography.

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## Acknowledgement

We acknowledge and honor that the National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice, The Red Women Rising Report, the Highway of Tears Symposium Report and many other reports and recommendations serve as a testament to the unwavering efforts of those who have fought tirelessly to raise awareness about MMIWG2S+ and violence against our Indigenous women, girls, and 2S+.

The concrete actionable steps described in those reports, and this plan, are crucial in creating lasting change and ensuring that families and survivors are given the support and protection they deserve. It is imperative that these recommendations are not only acknowledged but also implemented to effectively combat violence against our Indigenous women, girls, and 2S+ and establish a more secure and equitable society for our families.

By prioritizing and acting on these recommendations, we can work towards reducing violence against our Indigenous women, girls, and 2S+ and the MMIWG2S+ genocide. It is essential that governments, organizations, and individuals come together to hold perpetrators accountable and provide comprehensive support to families and survivors.

Only through a collective and collaborative effort can we address the root causes of violence against our Indigenous women, girls, and 2S+ and create a culture of respect, equality, and safety for our families. Now is the time to implement these recommendations and make meaningful progress towards a world free of violence against our Indigenous women, girls, and 2S+.

We also acknowledge, honor, and thank all the participants who attended the 17 in person and 3 virtual engagement sessions in Fall 2023 and the members of the Steering Committee who provided their time, insight, feedback and lived experience that contributed to this final draft.

## **She's Someone**

**She was born,  
She grew,  
She learned,  
She loved,  
She laughed,  
She cried,  
She smiled,  
She danced,  
She forgave,  
She shared,  
She was light,  
She was silent,  
She was strong,  
She was resilient,  
She was Indigenous,  
She was someone.**

**She's someone – who was loved and valued but her life, love and value was taken when she was murdered or went missing and that is not okay. We will not forget her worth, her value or her life. She lives through us and we speak with and for her.**

**We are her.**

**-TM**

## Introduction

### Purpose

The Indigenous Women's Justice Plan ('IWJP') was called for under Strategy 11 of the BC First Nations Justice Strategy ('the Strategy'), which states:

### *Strategy 11: First Nations Women*

*There is a clear imperative for us all, coming out of the MMIWG2S+ Inquiry and taking into consideration its Final Report, to set out clear and shared approaches to ending the grim reality faced by First Nations women as victims of crime.*

### *Lines of Action*

- A. BCFNJC and BC, working with relevant partners, will develop an Indigenous Women's Justice Plan within 12 months that includes consideration of the MMIWG2S+ Inquiry Final Report and Calls for Justice.
- B. Jointly develop a strategy to address the challenges of intimate partner violence and the range of issues caused by enforcement of no contact orders, administrative offences and providing safety to victims of violence in communities.

### Scope and Language

The IWJP seeks to uplift the work of Indigenous women, girls, 2SLGBTQIA+, grassroots organizations and advocates that have continued to ring the alarm for the safety and wellbeing of Indigenous women, girls, and 2SLGBTQIA+ for decades. The IWJP is intended as a pathway to bring about real and timely action to the calls and recommendations that have sat with little to no action for too many years. The IWJP is not intended to claim a novel approach but rather to utilize BCFNJC's position to uplift and advance long called for action.

### **"Indigenous" Women's Justice Plan:**

BCFNJC is a First Nations organization that holds a mandate to the 204 First Nations in British Columbia. BCFNJC is also responsible for providing services to all Indigenous Peoples within British Columbia, be it urban or rural, First Nations, Métis, or Inuit. Furthermore, we understand that changes to the colonial systems impacting First Nations women, girls, and 2SLGBTQIA+ will inevitably serve all Indigenous women, girls, and 2SLGBTQIA+, and more broadly, all Indigenous Peoples. BCFNJC has sought to include impacted Indigenous voices be it through engagements, partnerships, or collaborations.

### **Inclusion of 2SLGBTQIA+**

As this plan was being developed it became clear that particular consideration needed to be paid to gender and sexual diversity and that this was not necessarily encompassed within the title of the Indigenous Women's Justice Plan. With the advice gained from specific engagement and consultation on this topic, it was determined that there is a need to be considerate of each of the intersections of identity while simultaneously accounting for the distinct needs surrounding gender and sexual diversity. 2SLGBTQIA+ identities have been included in this plan in an effort to account for the diverse intersections of identities. Furthermore, an independent strategy calling for a specific plan of the distinct needs of 2SLGBTQIA+ community has been included in the IWJP.

### **Language & Terminology:**

#### Women, Girls, and 2SLGBTQIA+

The decision to utilize “women, girls, and 2SLGBTQIA+ (2S+)” is envisioned to be inclusive of the many intersections of identity as well as the intended expansive reach of this plan. This plan, in tandem with the forthcoming Indigenous Youth Justice Plan, seeks to address a spectrum of needs, such as the experiences of young Indigenous mothers, sex workers, Indigenous women, girls, and 2S+ with disabilities or brain injuries, groups that are often targeted by these systems simply for existing within the intersections of Indigeneity, youth, parenting, disability, or sex work.

#### 2SLGBTQIA+ and 2S+

Two-Spirit, Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, Asexual, Plus and Two-Spirit Plus. The Plus in each acronym is intended to represent additional diverse sexual and gender identities not otherwise represented. We acknowledge that Two Spirit has been adopted as an umbrella term that covers a variety of Indigenous-specific concepts of sexuality and gender that are outside colonial constructs. Throughout this document the terminology of 2SLGBTQIA+ will be used in a manner intended to be inclusive of all Indigenous Peoples with diverse sexual and gender identities. '2S+' may be utilized throughout this document as a briefer form, still intended to hold up all intersections of sexual and gender identity.

#### Chosen Family

The plan encompasses many references to family, chosen family, or heart family, in all of these instances, this plan seeks to expand the colonial construct of family to a more Indigenous definition which extends to community and cultural connections.

### **Method and Contributions**

#### **Development of this Plan**

The pathway to develop this plan included three stages:

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- 1) development of the Guiding Draft,
- 2) community engagement,
- 3) integration of engagement feedback into final draft.

Development of the IWJP: Guiding Draft (Guiding Draft) involved review of the many reports and related recommendations, with a focus on the National Inquiry into Missing and Murdered Indigenous Women and Girls Calls for Justice, The Red Women Rising Report, and The Highway of Tears Symposium Report, to develop a plan with tangible action for BCFNJC to progress and uplift this work, as well as working with partners to uplift their plans and strategic work in alignment with this plan further.

Once complete, the Guiding Draft was taken to communities and utilized as a guide for the engagements. Seventeen engagements were held in different communities throughout the province, occurring in Fall 2023.

Communities included:

Prince Rupert	Cranbrook	Victoria
Hazelton	Kamloops	Nanaimo
Terrace	Kelowna	Port Alberni
Burns Lake	Merritt	Campbell River
Fort St. John	Vancouver	Port Hardy
Fort Nelson	Chilliwack	

Additionally, three virtual sessions were held: an open session, a 2SLGBTQIA+ session, and a disabilities session.

The voices and feedback of these sessions were then integrated into this IWJP: Final Draft (Final Draft). This plan is intended to uplift the voices of Indigenous women, girls, 2SLGBTQIA+, relations, and communities who participated in the engagements, as well as those who have put their voices and hearts forward through other means.

**'Final Draft' versus 'Final Report'**

We humbly bring this plan to you with the awareness that creating change takes time and requires ongoing assessment and adjustment. BCFNJC provides this draft as a path forward from this moment but understands there will be a need for re-evaluation and course adjustment along the way. Therefore, this plan is a Final Draft of version one, creating space for this necessary reassessment. We will move forward with transparency and honesty, looking to Indigenous women, girls, and 2SLGBTQIA+ to continue to guide the path as we progress, always with a focus to making Track Two work, revitalizing traditional ways of justice, a reality.

## Structure of this Plan

This plan is structured in a manner intended to put Indigenous women in the center. The plan is divided into strategy domains (i.e. Accountability, Policing, Prevention, etc.). The collective voices of Indigenous women, girls, and 2SLGBTQIA+ from engagements and other sources are highlighted at the forefront of each strategy. This is followed by a descriptor of each strategy which offers an objective to the action. Finally, the 'Lines of Action' offer a description of the steps this plan intends to take to uphold the various calls and recommendations coming forth from the multitude of reports, grassroots activists, and engagement.

This plan offers two appendices, the 'Proposed Collaborative Action Plan' and 'Resources and Toolkits.' The 'Proposed Collaborative Action Plan' is an adaptation of the plan, intended as a tool to work with government to create change. This is made available in the Appendices for transparency, accountability, and consistency, but the plan only differs in its use of formal, legal language, versus the more accessible and clear offering of the plan. The strategies and desired outcomes of the plan are clear, however the steps to achieve them in the 'Proposed Collaborative Action Plan' may change during engagements with the Provincial and Federal governments regarding implementation. The 'Resources and Toolkits' includes existing resources that align with the various domains of this plan. BCFNJC hopes to continue contributions to this section throughout the course of our work.

## Track Two: Revitalization of Traditional Justice

This plan seeks to build on the BC First Nations Justice Strategy with a particular focus on the uplifting, expansion, and advancement of Track Two efforts and to reaffirm the gendered context in revitalization of legal traditions.

Track Two aims to support the rebuilding of First Nations' justice systems by revitalizing legal space, establishing Indigenous Justice Centres, rebuilding self-determined institutions, implementing restorative approaches, and expanding community justice programs. This comprehensive approach ensures proper recognition and support for First Nations justice systems, which must be led by First Nations and governments.

Throughout this plan Track Two work is embodied in every strategy through the principles of:

- **Self-determination and Autonomy:** Recognizing First Nations communities inherent right to exercise self-determination and autonomy for legal traditions leading to positive outcomes and a more equitable justice system which includes economic sovereignty.

- **Revitalization of legal traditions:** Empowerment of First Nations to revive legal traditions that focus on building capacity, healing, reconciliation, and creating culturally appropriate practices to decrease recidivism.
- **Respect for rights and values of Indigenous peoples:** Establishment of Indigenous systems of justice that respect the unique rights, values, customs, language, traditions, knowledge systems, and governance structures of Indigenous peoples that will contribute to fostering trust and reconciliation.

## Accountability

### “What we Heard”

- There is no transparency in these processes, complaints go without action, no one is held accountable.
- Funds are given out, but the impacts are rarely seen. We need more transparency on where money is going and how it is being spent from both provincial and federal governments.
- These systems are racist and there is no clear way to stop it, so it just continues.

**Objective:** Indigenous women, girls, and 2S+ will experience a life where they are treated with dignity and respect and people will be held accountable when they are not. It will be clear who oversees these systems and how to address issues and negative experiences. There will be an easily accessible, public space where criminal and social justice actors such as Government bodies, Police, Courts, and Organizations responsibilities and progress are tracked and plainly reported.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Oversight Team:** The Indigenous-led oversight team will oversee the responsibilities of all oversight and accountability measures included in this strategy by enforcing culturally safe guidelines and reporting out when this is not being followed. The oversight team will be made up of Indigenous community members and leaders from all regions with preference given to Indigenous women, girls and 2S+.

**Task Force:** Creation of an Indigenous-led MMIWG2S+ Task Force will be independent from government and free of cross-jurisdictional barriers, and will manage overseeing and liaising regarding ongoing and cold cases of MMIWG2S+ and will include roles such as:

- Indigenous Forensic Pathologist to coordinate with coroner and medical examiner services across the province, ensuring that Indigenous women, girls, and 2S+ victims' cases are taken seriously, not dismissed, and treated in alignment with cultural practices.
- MMIWG2S+ Oversight Unit to coordinate with justice authorities on current and ongoing investigations relating to Indigenous women, girls, and 2S+ to ensure investigative steps are adhered to and are taken seriously.
- MMIWG2S+ Cold Case Unit handles reviewing any cold cases related to Indigenous women, girls, and 2S+ and to seek further inquiry.
- A 24/7 Tip Line dedicated to receiving and promptly responding to tips on current and past MMIWG2S+ cases. Coordinating with the other Task Force units and police as appropriate.

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- MMIWG2S+ Crown Counsel and BC Prosecution Service who will have the power to review, advise and subpoena all cases involving Indigenous women, girls, and 2S+ to ensure cases of MMIWG2S+ receive justice whenever possible. This includes ensuring family and loved ones are included in the process at all stages.
- Support and advocate for the implementation of the Red Dress Alert.

**Public Platform:** A public space where there is a clear understanding of the data collected, the provision and use of funds, and the progress made by the government and BCFNJC in addressing the various recommendations, including the Calls for Justice. This will include regular reporting and assessment of practices by all social, economic, and governmental actors and their progress, or lack thereof, that is easily accessible and transparent. Additionally, a space will be included to report and uphold previous and current work being done by grassroots advocates.

**Indigenous-led Tribunal:** Contribution to the development of the Indigenous-led Human Rights Tribunal with the goal to ensure our Indigenous women, girls, and 2S+ who make complaints are being heard and are properly investigated, with power given to First Nations communities to create their own means of resolution.

**Media:** Development of a culturally sensitive best practices structure for media to follow when reporting on violence and injustices of Indigenous women, girls, and 2S+ that is centered around a guaranteed increase in culturally sensitive media coverage. It will include a protocol for when Indigenous women, girls, and 2S+ go missing and/or are found murdered, including how to properly conduct interviews with family and survivors.

## Prevention

### “What we Heard”

- We need access to the resources and supports to keep ourselves, our children, and our communities healthy.
- We are targeted by systems like child welfare and the criminal system because we are kept in poverty, we need access to safe housing, healthy and traditional foods, and quality of care that can only be gained through traditional ceremony.
- Our communities need our own funds that can be used to create programs specific to our diverse needs.

**Objective:** Funding that is provided in transparent, targeted and easily accessible ways to First Nations communities and Indigenous organizations who lead with strong actions, not just words, to actively reduce and prevent the racism, harm and

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violence against Indigenous women, girls, and 2S+. This will include creating long term funding that is outside of government distribution, is led by Indigenous women, girls, and 2S+ and includes social and criminal justice.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Funding Stream:** Access to funding for active prevention will be low-barrier, sustainable, and continuous. Overseen by Indigenous women, girls, and 2S+, the funds will go to supporting easily accessible 24/7 Indigenous-led programs and services that support overall well-being, to First Nations communities to exercise their right to self-determination and create Nation-led prevention programs, and to stand as a promise to fulfill the hundreds of recommendations made by various reports to make sure Indigenous women, girls, and 2S+ live a safe and secure life.

**Poverty Reduction:** Indigenous women, girls, and 2S+ will have access to poverty reduction resources that include provisions to decrease violence towards, and increase the overall well-being of our Indigenous women, girls, and 2S+. This will be reflected in all government policy and legislation.

## Legal Aid / Indigenous Justice Centres

“What we Heard”

- We are always being shuffled around between services; we need one place where we can get support with all of our needs.
- The colonial system is intentionally confusing, and we don’t have anyone to help us navigate it. We get told to call this number or that one, and no one ever just helps to explain.
- Our own people who are doing this work need to be paid a livable wage so they can keep employees who are passionate about this work.

**Objective:** Indigenous women, girls, and 2S+ will have access to legal and social justice services. This will ensure our women, girls, and 2S+ are getting access to services and programming specific to their lived realities.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**MMIWG2S+ Intimate Partner and Gender Based Violence Targeted Harm Reduction and Gap Filling Services:** The Indigenous Justice Centres (IJC) will provide services to our Indigenous women, girls, and 2S+ to support in navigating

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service gaps. Particularly, increasing access to justice as it relates to the MMIWG2S+ genocide, Intimate Partner Violence, Gender Based Violence, and child welfare system. This may include applications for services or funding, explanation of legal processes, advocacy and help navigating systems and institutions.

**Delivery of Family Law Services:** Indigenous women, girls, and 2S+ will have access to legal help and advice through the Indigenous Justice Centres, particularly when dealing with the Child Welfare System, including extended family.

**Delivery of Equity Seeking Legal Services:** Indigenous women, girls, and 2S+ will have access to legal help and advice that ensures they have equitable access to areas such as education, healthcare, employment, housing, and income.

**Delivery of Independent Legal Advice:** Indigenous women, girls, and 2S+ victims/survivors and Indigenous girls in care, who are not represented in legal proceedings will have access to legal help and advice in matters such as sexual assault and violence, as well as in matters that require informal legal oversight (i.e. separation).

## Policing

### “What we Heard”

- They just assume we are intoxicated or up to no good, even if we are unwell and need support or waiting for a safe ride.
- They don't protect us they make us less safe.
- When one of our women go missing, they don't help us look, they don't care.

**Objective:** Our Indigenous women, girls, 2S+ and their families who interact with the police will feel assured of humane treatment, respect, and cultural safety. They will feel safe when seeking support and their matters will be handled with care and respect. It is this faith in the police that promotes safety rather than fear.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Community-Led Safety Services:** Distinct Nation-based accountability measures and protocol development to increase the authority of community led safety services (such as Peacekeepers and Community Safety Officers (CSOs). Protocols would also create priority for these services to act as liaisons with RCMP or local police to create relational development and accountability and decrease the impacts of RCMP staffing turnover.

**Recruitment and Training:** Screening for racism during recruitment with a zero-tolerance policy. Update RCMP 'DEPOT' training to ensure an in-depth cultural

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sensitivity education on the current and historical relationships of RCMP interactions with Indigenous peoples, including, Intimate and Gender based violence, the MMIWG2S+ Genocide, the impacts of colonization, the history of why and how the RCMP was created and a significant focus on de-escalation and non-lethal tactics.

**Indigenous Specific Investigation Unit (ISIU):** An Independent Indigenous-led Investigative Body that will have the authority to receive complaints, oversee the conduct of all police forces in BC, and publicize police misconduct and outcomes of investigations of interactions with Indigenous peoples with a particular emphasis on the mishandling and mistreatment of Indigenous women, girls, and 2S+.

**Weapons Protocol:** Shift current provincial firearms standards and explore options for non-lethal weapons to be worn instead of firearms to promote a sense of safety and diminish fear and mental health impacts.

**Reallocation of Public Safety Funds:** Assess public safety funding allotted to policing services and reallocate identified funding to alternative public safety and community-based justice programming that provide support through culturally grounded and trauma-informed care.

## Corrections

### “What we Heard”

- Our women are being sent away, out of province, or they are sent to Prince George, our children and families can't visit, no money, no transport.
- Connection to, and support from, our family is a big part of healing.
- We need to have access to elders and knowledge keepers from different communities.

**Objective:** To move away from forced punishment toward healing. Focusing on social, health and financial supports that uplift Indigenous-led programs and services. Keeping Indigenous women, girls, and 2S+ away from jail, preventing separation of families by keeping mothers and youth in community and addressing lack of culturally grounded supports. Reform parole system to create a trauma-informed and culturally safe parole system that doesn't perpetuate harm for victims and families.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Presumption of Diversion:** The creation of alternative pathways away from custody specifically for Indigenous women, girls, and 2S+. These options include cultural programs and services, healing plans, and the unification of families.

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**Expansion of Cultural Programs within BC Corrections:** Development of a workplan and budget to expand cultural and trauma-informed programs for Indigenous women, girls, and 2S+ in custody and increase community-based programs. Programs will provide treatment, traditional healing, mental health, addictions, and trauma support. Services will also focus on family support and family unification.

**Community-Based Justice Programming:** Specific, tailored support included in the community-based justice programming fund aimed at keeping families together and preventing charges, including conditional release and reintegration.

**Reform of Parole System:** Review and revise the current parole system to imbed safeguards for victims and families, ensuring trauma-informed practice and cultural safety is at the forefront. To decrease the harm the current parole system causes by retraumatizing victims and families at parole hearings that impact their healing process.

## Gladue Services Department

### “What we Heard”

- Our women are always considered ‘high risk’ which means they don’t get to access the cultural programs and Elders, even if they exist.
- Social Workers need to understand the trauma we are dealing with and how they are making that worse. We need to heal, not to meet goals that keep changing at their whim.
- I feel like I don’t know enough about the reports and the rights that come with Gladue, can BC First Nations women who don’t live in BC still access Gladue? When can Gladue reports be used? We need more access to information and workers to know what they are talking about.

**Objective:** To increase the implementation of Gladue standards and to expand access to Gladue reports to support Indigenous women, girls, and 2S+ in all areas of justice including family, financial supports, housing and more.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Expansion of Gladue in the Legal System:** Ensure Indigenous women, girls, and 2S+ have their right to Gladue respected. The goal is to repair harm and trauma caused by colonialism, including racism, unfair treatment, poverty, and discrimination based on gender. Gladue expansion will ensure that Indigenous women, girls, and 2S+ have

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access to help for prevention, healing, and recovery in both custody and community settings.

**Expansion of Gladue in Child Welfare:** Gladue as a right in the child welfare process aimed at creating systems of support rather than the policing and erosion of families. The child welfare Gladue report will highlight intergenerational trauma due to colonialism and residential schools. With a focus on the development of a healing plan with tangible steps to help families stay together and receive the help they need.

**Standardized and Accessible Gladue Process:** Create a straightforward process for Indigenous women, girls, and 2S+ to access Gladue reports and resources.

**Expansion of Gladue Awareness and Education:** Expand Gladue awareness and education to justice sector professionals including their obligation to educate Indigenous women, girls, and 2S+ about their Gladue rights.

## Access to Safety – Transportation and Cellular Connectivity

### “What we Heard”

- There are too many dead zones in areas where our women are already being targeted and it is putting our women at risk.
- How can we go to our appointments and get groceries for our family when there are no safe or affordable means of getting to town and back?
- Human trafficking of our women is huge, and nobody is aware of it, we need to protect and educate our women and girls.

**Objective:** Indigenous women, girls, and 2S+ will have access to safe and affordable transportation, internet, and cellular services especially in less accessible areas. This will help to keep our Indigenous women, girls, and 2S+ safe while also making sure they have access to services that are free of discrimination.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Access to Mobility and Connectivity:** Programs and services will be created or expanded to improve the overall safety of our Indigenous women, girls, and 2S+, especially in areas where they are targeted like the Highway of Tears.

- Increased free and women run transportation.
- Free cell phone programs with all cell phone providers.

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- Increased bus stops and routes between communities, cities, and remote First Nations communities.
- Cell service will be completed along the Highway of Tears.
- Phone booths will be placed along high risk stretches of the highway.

**Training:** Employees and policy makers involved in transportation fields will have to take training on the history of colonialism and how it impacts our Indigenous women, girls, and 2S+. Training will also include learning about human trafficking and how to report it.

**Funding Stream:** Access to funding to help First Nation communities and Indigenous peoples reduce the impacts that lack of transportation and cell service has on our Indigenous women, girls, and 2S+. Communities will be able to create programs that are specific to their needs including, but not limited to: building cell phone towers that increase cell and internet services, safe ride and safe places programs and human trafficking education tools.

## Man Camps, Resource Extraction and Land Exploitation

### “What we Heard”

- There is no accountability, no repercussion for Industry workers who harm our women. This further validates the idea that, like our land, our women are available for the taking.
- Our Northern and Rural First Nation communities are increasingly being impacted by the placement of man camps that brings with it an increase in toxic men, transient populations, violence, drugs and alcohol, sexual assault, and murder.
- Violence starts with men and their view on Indigenous women, like they are entitled to treat our women this way.
- Our women are going missing and getting murdered in and around these camps and nothing is being done.

**Objective:** To protect and prevent our Indigenous women, girls, and 2S+ from the impacts of man camps and resource extraction which is directly related to the MMIWG2S+ genocide. Our women will no longer be targeted and taken advantage of by the presence of the toxic masculinity permeating these camps and industry partners will be held responsible for their actions.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Preventative Measures:** All people working in resource extraction will be required to take part in prevention measures that will be monitored and developed by Indigenous women, girls, and 2S+. These measures include the development of agreements with impacted First Nations in which industry partners must report plans and submit updates on the implementation of mandatory cultural training of industry workers, education, and reporting procedures for issues of sexual assault and drug and human trafficking, and protection measures for women who may come into contact with industry workers. The measures will include the development of social and educational programs as determined by the community that will be funded by Industry. This includes the hiring of an Indigenous liaison who will ensure these prevention measures are upheld.

**Funding:** Sustainable community led and operated funding will be available for our Indigenous women, girls, and 2S+ and First Nation Communities to develop their own safety actions. These may include training and employing community members to work with and oversee the actions of the industry. Increase safety measures in community including security, safe transportation, and awareness workshops. Funding for research that is Indigenous led to increase data on how industry contributes to violence against our Indigenous women, girls, and 2S+.

**Land Defender Protection:** Evaluate and shift the current framework used for dealing with land defense to uphold First Nations' rights to defend their lands.

## Crisis Response

### “What we Heard”

- No one helped me look for my daughter/sister/mother/aunty.
- You are in a state of grief when someone you love is missing and/or found murdered and you don't know what you should or need to do, you feel lost.
- We need our own people to look for our women and girls because the police don't care, and they don't listen.

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**Objective:** A guarantee that when Indigenous women, girls, and 2S+ go missing and/or are found murdered they receive the response and care they deserve, the same as any other individual. This includes ensuring that those people who are already responsible, when responding to a missing and/or murdered person, are doing their job properly, timely, and without discrimination or racism and that justice authorities are working together across jurisdictions.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Crisis Response Plan Development:** A community-led crisis response plan will be created and will include actions that need to be taken across all areas for all partners who respond when someone goes missing or is found murdered. The plan will include:

- Cultural and trauma informed training for first responders.
- Agreements in place with those who respond to cases of MMIWG2S+ to communicate with impacted First Nation communities.
- Relationships with Indigenous led organizations and allies who can help families with having a safe place to gather and stay.
- Development of Indigenous Liaison so communities who do not have access to resources have someone who can help them communicate with police during searches and investigations and support them in navigating the justice system.
- A website that contains information on how to navigate the colonial system, so chosen families know what steps to take when a loved one goes missing and/or is murdered, this includes a list of resources.

**Funding Stream:** Have an easily accessible fund led by Indigenous women, girls, and 2S+ so communities can create their own crisis response teams and plans.

## MMIWG2S+ Fund

### “What we Heard”

- We are having to look for our own women with no supports.
- We are often having to travel to larger cities like Vancouver with costs coming out of our own pocket.
- There needs to be drop-in supports for us who are grieving, even just a place to talk and get a warm meal.

**Objective:** To reduce difficulties so that our Indigenous women, girls, and 2S+ who are impacted by the MMIWG2S+ genocide can focus on important things like searching,

healing, and grieving. This will increase the chances of finding loved ones who are missing and allow the chosen family the ability to focus on the important things.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Funding Stream:** A long term stream of funding that is led by Indigenous women, girls, and 2S+ that can be accessed to help survivors, victims, and families.

- Funding will be easily available without timelines, difficult application processes or government rules.
- Funds can be accessed to help with all costs associated with searching for a loved one, including funds for travel, food, and accommodation.
- Funds will provide families with the ability to heal and grieve in a traditionally and culturally sensitive way. This can look like the development of an on-land healing center or counselling.
- The chosen family will have access to funds to ensure the children of those who are missing and murdered and those who survived are cared for and provided for.

## Child Welfare

### “What we Heard”

- We are afraid to access family justice because MCFD might take our children away.
- Expectations on social workers are minimal while we as parents are held to every mistake or inaction.
- MCFD involvement is the primary factor when working with individuals that have become involved in the criminal justice system.
- MCFD becomes unnecessarily involved with women/families who are victims of violence or MMIWG2S+, the children of MMIWG2S+ are left without a parent, and family violence leads to apprehension.
- Ministry is taking children and provides no supports to the families.

**Objective:** The goal is to support First Nations to reclaim legal jurisdiction for child welfare in British Columbia. Ensuring Indigenous rights and culturally safe interventions, with government funding for collective healing from colonization, recognizing family advocates as experts, removing social workers from child protection authority, and improving the complaint process of MCFD.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Band Designated Representative Support Team:**

- **Training:** Supporting capacity building and sustainability of a community appointed Band Designated Representative. Going beyond formal Band Designated Representative training, on-the-job mentoring and support can be provided in addition to virtual ongoing access for support and consultation.
- **Agent:** Aiming to support community capacity building for Band Designated Representatives through the development of a stand in agent for communities whose Band Designated Representative position may be vacant, or in the process of capacity building. The agent would be able to represent the Nation's position on child protection and jurisdiction. It ensures the Nation has the necessary funding and capacity to support the child and family with healing.

**Jurisdiction Support:** Create a support role to assist Nations in pursuing jurisdiction for child welfare under federal legislation, with the goal of supporting Nations to reclaim their inherent rights for jurisdiction over their children's welfare.

**Reallocation of Child Welfare Funding to Prevention:** Preventative funding in place to increase prevention resources, cultural programming, and family healing and treatment opportunities.

**Independent Indigenous-led Complaints Body:** Establishment of a clear complaint process for Indigenous communities regarding social worker harm, explore accountability within the regulatory framework, address challenges like false accusations and unfair targeting, implement safeguards for fairness, and create a more inclusive approach considering cultural competency in handling complaints.

## First Nations Court

### “What we Heard”

- It is so late in the process, and we already feel defeated, we need to have these earlier on and it shouldn't require a guilty plea.
- They are great in theory but there are so few of them, we need more things like this, and they need to be infused in the traditional ways, run by Elders.
- Our women are overcharged and over sentenced. We need a space that recognizes this and the intergenerational impacts on our Indigenous women, girls, and 2S+ face so that they can focus on healing and rehabilitation over penalizing in a way that restricts access to services and supports.

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**Objective:** Delivery of culturally grounded legal process that recognizes intergenerational trauma and the impacts of colonialism. This process will put emphasis on healing and rehabilitation and will seek to disrupt the over-sentencing of Indigenous women, girls, and 2S+.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Expansion of availability and Mandate of First Nations Courts:** Take active steps to increase the availability, mandate, and funding of First Nations courts across the province including the creation of alternative processes that are not situated within the colonial constructs.

This will be addressed in the following ways:

- **Increasing Availability:** Increase access to First Nations Court, including more locations and more than once a month.
- **Expand First Nations Court Mandate:** Increased access across the legal process and without pleading guilty and regardless of charge. Process will focus on healing and rehabilitation over long sentences and high-risk assessment.
- **Funding:** Ensuring adequate and stable funding to engage with communities and continue to expand First Nations courts that are grounded in cultural and traditional justice.

## Crown Counsel and BC Prosecutorial Service

“What we Heard”

- There needs to be more support/clarification (e.g., independent legal advice for those accessing services).
- We need a Specialized Crown Prosecutors team (with training in GBV).
- I do not understand the colonial system, I worry that judges, jury, and lawyers will be racist, I do not understand legal language or the bureaucracy, so I think pleading guilty is the best choice.

**Objective:** Indigenous women, girls, and 2S+ will be treated with respect and dignity throughout the legal process. They will not be over charged or given harsher sentencing and they will not be unfairly labeled high risk.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Protocol Agreements:** Rules will be developed and followed with First Nations that address the unequal treatment of our Indigenous women, girls, and 2S+.

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**BCPS/Crown Liaison:** An Indigenous Liaison will be hired and have the power to make sure our Indigenous women, girls, and 2S+ are not being treated unjust.

## 2SLGBTQIA+

### “What we Heard”

- 2SLGBTQIA+ need to be considered as we are part of these challenges, but we also have our own distinct and specific needs and experiences. We need our own plan to speak to some of these unique areas.
- There are people running 2S+ programs who are not even 2S+, we need more programming specific to our needs.
- We need a safe place for relationship building that includes 2S+.

**Objective:** The aim of the 2S+ strategy is to affirm the Calls for Justice recommendations and BCFNJC’s engagement sessions in Fall 2023 that heard the need for greater awareness of 2S+ issues, inclusion of 2S+ history and uplifting their existing place within communities. Priority areas include having a 2S+ led team to develop a 2S+ specific justice plan that will address policing, education, justice, socio-economic priorities, health, and healing.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Development of Indigenous 2SLGBTQIA+ Justice Plan:** Development of a 2S+ specific justice plan grounded on a distinctions-based approach, considering safety challenges for 2S+ individuals and groups, including youth, through a 2S+ led team.

## Legislation and Policy

### “What we Heard”

- The system was created to colonize, and it’s still set up that way.
- We need the province to implement UNDRIP throughout the plan to help strengthen BC’s legal obligation for implementation.
- Reconciliation will not happen until there is action, and laws are changed in accordance with the National Inquiries 231 Calls for Justice.

**Objective:** Laws and policies negatively impacting our Indigenous women, girls, and 2S+ will be reviewed so they align with UNDRIP.

We plan to meet this objective, working with the Provincial and Federal Government, through the following actions:

**Legislation and Policy Review:** Review of laws and regulations related to the human and Indigenous rights abuses directly impacting our Indigenous women, girls and 2S+ in a timely way with the aim of targeting areas for change. This includes but is not limited to legislation and policy in:

- Policing
- C-IRG
- Healthcare
- Education
- Child Welfare
- Anti-Poverty
- Housing
- Education
- Employment
- Accountability
- Corrections
- Courts
- First Nations Courts
- Conditional Release
- Sentencing
- Transportation
- Environment/Resource Stewardship
- Crown Counsel and BC Prosecution Service
- Economics

## Appendix A: Indigenous Women's Justice Plan: Proposed Collaborative Action Plan

This appendix acts as the guiding framework for BCFNJC's action within government. The positioning of this document as an appendix is intended to demonstrate that while it is needed to formally guide our work, there is a significant lack of accessibility which fails to put those most impacted and those who we are mandated to serve first.

As BCFNJC's mandate is to 200+ First Nations across BC and the Indigenous Women's Justice Plan is developed by and for Indigenous women, girls and 2S+, this document has first been released here, at the 3rd Annual First Nations Justice Forum, in advance of collaborative discussions with provincial or federal governments and other justice partners. As acknowledged in our plan, BCFNJC is not claiming a novel approach or imposing new guidance. Rather, we recognize that communities and Indigenous women have the answers and solutions already, and that our work builds off past recommendations and reports. We also recognize that there is likely important work being moved in the direction this plan proposes by our partners, including provincial and federal government, and that the next step for us to effectively advance this work will be to engage in collaborative relationships. BCFNJC will work with the impacted governments and organizations to develop decision processes and pathways to meet the objectives set out within the plan.

Therefore, we ask that you regard this document as both a formative piece of work that upholds transparency and accountability, and a flexible, living document that may shift and change along with these collaborations and the directions we receive from the First Nations in BC who we are ultimately accountable to. We commit to ensuring that an updated version of this plan is always available and holds true to the voices that have come together in creation of this important piece of work.

### Accountability

**Objective:** Development of oversight and accountability measures, including a public facing reporting platform, dedicated to Indigenous women, girls, and 2S+ as an ongoing assessment and progress tracking system. Tracking and data collection on MMIWG2S+ serves to monitor and hold all persons involved accountable while also providing transparency to all Indigenous peoples in BC.

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## Lines of Action

**Oversight Team:** BCFNJC, BC and Canada with guidance from Indigenous women, girls, and 2S+ will develop an Indigenous-led Oversight Team that oversees all responsibilities of the oversight and accountability systems in place.

- The Oversight Team will be comprised of Indigenous community members and those in leadership roles from all regions, with preferred placement given to Indigenous women, girls, and 2S+.
- The Oversight Team will ensure and prioritize that proper guidelines are enforced and will, at minimum, provide an annual report on status.

**Task Force:** BCFNJC, BC and Canada will develop an Indigenous-led and comprised Task Force that is independent from government and free of cross-jurisdictional barriers that will be responsible for ensuring current and past mishandling of cases of MMIWG2S+ are properly investigated. Providing transparency and equal access to justice for all Indigenous peoples. The Task Force will include:

- An Indigenous (when possible) forensic pathologist who handles ensuring coroners from across BC are properly trained in the murders (deaths) of Indigenous women, girls, and 2S+. This includes respecting all families and communities' distinct cultural ceremony for burial and the requirement to treat all MMIWG2S+ related deaths as murder to end the perpetuation of mishandling of these cases.
- An oversight unit who will be responsible for overseeing and guiding all investigations of MMIWG2S+. The unit will be the first and continuous point of contact for all police (RCMP) across jurisdictions when an Indigenous woman, girl, or 2S+ is reported missing and/or is found murdered.
- A Team dedicated to the continuous reopening and reviewing of Cold Case files without restriction. This is to uphold accountability and transparency on the mistreatment and handling of past cases and hold those criminally responsible accountable.
- A 24/7 anonymous Tip Line that is dedicated to receiving tips and providing updates in a timely matter. The Tip Line will ensure direct communication to the oversight unit who will hold police (RCMP) responsible in ensuring proper investigation is delivered and treated seriously.
- A MMIWG2S+ Crown Counsel and BC Prosecution Service liaison who will be included in all cases involving MMIWG2S+. Including the power to reopen, access and subpoena all cases to past and present police files. This includes ensuring family and loved ones are included in the process at all stages.
- Support for the creation and implementation of the Red Dress Alert as envisioned by Indigenous women, girls, and 2S+.

**Public Platform:** Building on the work of Strategy 16, BCFNJC, BC and Canada will establish standards for data collection and reporting on progress and actions made to implement the IWJP and the various calls and recommendations from Indigenous women, girls, and 2S+ including the 231 Calls for Justice.

- BCFNJC and BC will develop regular reporting protocols for all governmental ministries, police forces, and other relevant actors, to allow for ongoing assessment of progress. A centralized, accessible, transparent, and interactive platform will be developed to display these updates.
- The public platform will also hold space to uphold all the previous and current work that Indigenous, women, girls, and 2S+ have and are doing. This will highlight positive work continuously being done while creating opportunities to educate governmental institutions on what can and should be done to act on the many recommendations.
- This platform will also include specific accountabilities for the allocation and utilization of funds provided by Governmental bodies for the purposes of work relating to the advancement of justice for Indigenous women, girls, and 2S+ and/or MMIWG2S+ related work.

**Indigenous-led Tribunal:** BCFNJC, BC and Canada will work towards the creation of a provincial Indigenous-led Tribunal who will have power across jurisdictions and will be responsible for receiving complaints in relation to injustices faced by Indigenous women, girls, and 2S+.

- The Tribunal will be assigned the power to compel bodies to comply with recommendations and will be able to respond to both systemic and individual complaints and concerns.
- The Tribunal will make space for First Nation communities to create their own process for conflict resolution with the power to hold systems responsible.
- This strategy will seek to work in tandem with the work being done on the development of the Indigenous and Human Rights Ombudsperson while seeking to advance this call to move from recommendations to mandated action.

**Media:** BCFNJC, BC and Canada will develop a framework for media relations and reporting regarding instances of violence and injustice experienced by Indigenous women, girls, and 2S+. More specifically, this includes the following:

- The framework will include an outlined best practices protocol to follow when an Indigenous woman, girl, or 2S+ goes missing and/or is found murdered. This includes ensuring an increase in culturally sensitive media exposure and protocol on how to properly conduct an interview with family and survivors.

## Prevention

**Objective:** Preventative and proactive measures will be implemented to decrease anti-Indigenous racism, sexism, harm, and violence, as committed against Indigenous women, girls, and 2S+ in BC. This includes the development of sustainable, long-term funding aimed at preventing violence against, providing protection for, and supporting the overall well-being of Indigenous women, girls, and 2S+ as imagined and led by Indigenous women, girls, and 2S+.

### Lines of Action

**Funding Stream:** BCFNJC, BC and Canada will create a sustainable, easily accessible, free of jurisdictional disputes, funding stream for First Nations communities, Indigenous peoples, and Indigenous women's organizations to support all preventative and proactive justice actions, with a focus on rights recognition.

- BCFNJC and BC with guidance from BC First Nations Communities, Indigenous-led grassroots, and organizations, will create a steering committee comprised of elected Indigenous women, girls, and 2S+ who will be responsible for the oversight of the fund.
- BCFNJC and BC will ensure existing Indigenous-led services and Indigenous Grassroots organizations that support the over-all wellbeing of our Indigenous women, girls, and 2S+ will confidently be able to supply and enhance existing services without governmental barriers on application and criteria processes that impact sustainability and success.
- With the inherent right to self-determination BCFNJC and BC will ensure First Nation communities will have access to funding to create, train and implement their own means of justice as it pertains to the over-all well-being of our Indigenous, women, girls and 2S+.
- Funding will be in alignment with the overwhelming number of strong recommendations given over decades to address the many injustices our Indigenous women, girls, and 2S+ continue to face, specifically, the 231 Calls for Justice, the 33 Highway of Tears recommendations and the 200 Red Women Rising recommendations. BCFNJC, BC and Canada will ensure the fund addresses the intentional human rights violations that continue to negatively impact Indigenous women, girls, and 2S+ individuals' right to live a safe and secure life absent of violence. Areas may include:
  - Healthcare
  - Poverty
  - Housing
  - All forms of violence
  - Intergenerational trauma
  - Education

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- Employment
- Cultural inclusion and support
- Child welfare
- Human trafficking and sexual exploitation
- 24/7 access to programs and resources

**Poverty Reduction:** BCFNJC, BC and Canada will develop a workplan specifically aimed at increasing resources around food security, housing, transportation, education, health and connection to culture and family which will work towards reducing violence and increasing the over-all wellbeing of Indigenous women, girls, and 2S+.

## Legal Aid / Indigenous Justice Centres

**Objective:** Building on Strategy 4, expansion of Indigenous Justice Centre's and Strategy 5, Legal Aid Transition. BCFNJC, BC and Canada will ensure increased and more effective access to an expanded definition of justice for Indigenous women, girls, and 2S+. With the transition of legal aid for all Indigenous peoples to BCFNJC and the continued expansion of our Indigenous Justice Centre's it is important to include services and resources specific to the lived realities of our Indigenous women, girls, and 2S+.

### Lines of Action

**MMIWG2S+ Intimate Partner and Gender Based Violence Targeted Harm Reduction and Gap Filling Services:** BCFNJC, BC and Canada will develop gap filling and harm reduction services at all Indigenous Justice Centre's across BC. These will specifically meet the needs of Indigenous women, girls, and 2S+ experiencing social and economic impacts of colonialism. This will include:

- Expanding on BCFNJC's Aunties program, BCFNJC and BC will work to increase services and support provided to MMIWG2S+ survivors, impacted loved ones and First Nation communities.
- An open-door policy where Indigenous women, girls, and 2S+ can have immediate access to services and supports to meet their needs. This may include access and/or guidance to access supportive services, funding, food, water, feminine products bus passes, cab coupons, shelter from extreme weather etc.
- Resources to help family members and those who are in contact with the justice system to navigate the system, including understanding legal terms, knowing their rights, filling out legal forms and navigating the family law and court processes.

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- Helping Indigenous women, girls, and 2S+ who need immediate care, access resources that provide culturally safe low barrier, counselling, mental health, and addiction services.
- BCFNJC and BC will develop culturally safe trauma informed access to resources for Indigenous women, girls, and 2S+ who have and are experiencing all forms of violence, including Elder abuse.

**Delivery of Family Law Services:** BCFNJC, through the Indigenous Justice Centres and supported by BC and Canada, will provide Family Law services to Indigenous families, particularly those involved with the Child Welfare system. This includes extended members of the family who otherwise would not qualify for legal aid.

**Delivery of Equity Seeking Legal Services:** BCFNJC, through the Indigenous Justice Centres and supported by BC and Canada, will deliver legal and advocacy support services to pursue matters relating to the many injustices surrounding inequitable services such as safe and affordable housing, equitable education and healthcare, income supports, employment, wills and estate support, Elder abuse, and safety for our Indigenous women, girls, and 2S+.

**Delivery of Independent Legal Advice:** BCFNJC, through the Indigenous Justice Centres and supported by BC and Canada, will deliver Independent Legal Advice to Indigenous women, girls, and 2S+ victims, survivors and families, and Indigenous girls in care whose interests are represented by the Crown/BCPS, with access to legal information, advice, and support. Furthermore, this position will support Indigenous women, girls, and 2S+ with advice, information and support in matters that require informal legal oversight (i.e. separation), on an ad hoc basis. This position will work in tandem with other services, both internal and external to the Indigenous Justice Centres.

## Policing

**Objective:** Indigenous women, girls, 2S+ and their families who encounter the police will feel confident that they will be treated humanely, respectfully and with cultural safety. Indigenous women, girls, 2S+, and their families will feel safe to call the police for support and will be confident their matters will be taken seriously and handled with care and respect. Indigenous women, girls, and 2S+, and their families who see police (in community or otherwise) will see them as contributing to safety, not fear.

### Lines of Action

**Community-Led Safety Services:** BCFNJC, BC and Canada in partnership with First Nations, will develop distinct Nation-based accountability measures and protocol agreements aimed at enhancing the authority of community-led safety services, such

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as Peacekeepers and Community Safety Officers (CSOs). Protocols would also establish a priority for these services to serve as liaisons with the RCMP or local police, fostering relational development and accountability, and mitigating the impact of RCMP staff turnover.

- Develop distinct Nation-based accountability measures and protocol agreements between community, and relevant actors that include commitments and actions by all actors, including roles and responsibilities, plans, and processes to form reliable open lines of communication and transparency.
- Work with community to train members to become Peacekeepers, CSOs, or Police and act as liaisons if there are vacancies in community-led safety services between RCMP and police to ensure consistency in service delivery for community safety.

**Recruitment and Training:** BCFNJC and Canada will implement screening for racism during recruitment with a zero-tolerance policy. BCFNJC and Canada will collaborate on the revisions to the RCMP 'DEPOT' training to ensure an in-depth cultural sensitivity education on the current and historical relationships of RCMP interactions with Indigenous peoples, including, intimate and gender-based violence, the MMIWG2S+ genocide, the impacts of colonization, the history of why and how the RCMP was created and a significant focus on de-escalation and non-lethal tactics.

- Updated DEPOT training to include topics such as Indigenous legal traditions, mental health, addictions, poverty, PTSD, gender-based violence and intimate partner violence and intergenerational trauma.

**Establishment of an Indigenous Specific Investigation Unit (ISIU):** BCFNJC, BC and Canada will develop an Independent Indigenous-led Investigative Body (the "Investigative Body") which will have authority to receive complaints, investigate the conduct of all police forces in BC, free from jurisdictional barriers, and the right to publicize outcomes of investigations and police misconduct.

- Develop a framework for the Investigative Body that outlines standards of investigation, including what constitutes misconduct, and to hold authority to mandate standards of policing in relation to engaging with Indigenous Peoples.
- Develop information sharing agreements with policing services (RCMP, municipal police forces, First Nations Police forces, BC Police Board etc.) to provide necessary documentation to complete this task.
- Ensure the Investigative Body is comprised of Indigenous peoples from dynamic backgrounds. While having an understanding of policing is important, the body will be cautious to ensure it is not represented by retired or civilian

policing members to ensure it adequately reflects the population and not one system.

- Ensure the Investigative Body will have processes such as Third-party reporting, publication of police misconduct, and outcomes of those investigations and will end paid leave and transfers while investigations of police misconduct are open.
- Seek to have Indigenous pathways to amends integrated into the complaints system.

**Weapons Protocol:** BCFNJC, BC and Canada will work with relevant partners to revise the provincial firearms standards to reflect updated terms on use, and the carrying of firearms to promote public confidence in safety. Acknowledging the immense and lasting impacts that gun violence, and even gun visibility has, this will seek to move to the approval of non-lethal weapons to be used in place of firearms.

**Reallocation of Public Safety Funds:** BCFNJC, BC, and Canada will collaborate in a review of public safety funding earmarked to policing and will develop a fiscal plan seeking to redistribute these funds to public safety and community-based justice programming such as:

- Focus on crisis response and prevention, including and not limited to the expansion of programs such as the Integrated Crisis Response Teams throughout the province, including in remote communities.
- Expanded mandate and support for programs offering supports for mental health, crisis response and addictions.
- Development of cultural programming, particularly land-based and relational focused programming.

## Corrections

**Objective:** Enacting a presumption of shifting from punishment to healing with referral to alternative social, health and economic supports. To uplift Indigenous-led programs and services that are culturally and traditionally grounded in local and traditional law and governance. Addressing overincarceration, the separation of families, lack of mental health resources – particularly culturally grounded ones, the inequitable treatment of Indigenous women, girls, and 2S+, and implementing alternatives to incarceration across BC. Reform the parole system to create a trauma-informed and culturally safe parole system that does not perpetuate harm for victims and families.

### Lines of Action

**Presumption of Diversion:** BCFNJC, BC and Canada will work with First Nations in BC to identify and develop alternatives to corrections for Indigenous women, girls, and

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2S+, including programming aimed at pre and post charge diversion, which is Indigenous-led, culturally grounded, and focuses on restoration of traditional law.

- Develop and fund a position within BCFNJC to support community-led prevention, pre and post charge correction alternatives specifically targeting Indigenous women, girls, and 2S+. This position will support First Nations communities in program and service development, funding acquisition, and developing culturally relevant evaluation measures.
- Work with existing Indigenous-led and/or Indigenous servicing community based correctional alternatives including healing lodges, prevention programs and diversion options to support and expand this work where possible.
- Develop a culturally relevant evaluation framework that assesses the impact of diversion programming which includes qualitative outcomes and a gendered, culturally grounded, distinctions-based focus.

**Expansion of Cultural Programs within BC Corrections:** Building on the work of Strategy 14, BCFNJC, BC, and Canada will:

- Develop the workplan and budget for the expansion of cultural programs within BC Corrections to ensure Indigenous women, girls, and 2S+ needs are considered, focused on healing and wellbeing.
  - Ensure cultural services and programming are for Indigenous offenders first with no waitlists/denial of access to these services and programs.
- Develop child-friendly/parent-child community supports with the provision of essential resources and assistance to incarcerated parents, while also focusing on the well-being and nurturing relationships between children and their parents by prioritizing keeping parents in community.
- Pathways of cooperation and support from child welfare, when necessary, for mothers who are incarcerated.
- Develop a distinctions-based action plan to provide improved and unconditional access to traditional healing practices, Elders, mental health services, addictions treatment programming, and trauma informed supports to Indigenous women, girls, and 2S+ in BC Corrections to contribute towards healing, growth, and reducing recidivism rates.
- Consideration to explore different rehabilitation methods tailored specifically for non-violent offenders who may have committed crimes related to poverty, substance misuse or property offenses rather than violent acts.
- Address family support and unification efforts to maintain family connections to support in-community diversion programs for parents and successful reintegration post-incarceration.
- Reviewing and revising visitation policies or facilitating communication between incarcerated individuals with their families and communities through

technological means would enhance understanding about fostering healthy family bonds during incarceration periods.

- Have an evaluation procedure in place that monitors the impact of the cultural, family support and unification programming which includes qualitative outcomes and a gendered and culturally grounded, distinctions-based focus.

**Community-Based Justice Programming:** Building on Strategy 15, BCFNJC, BC, and Canada will include in the community-based justice programming fund, funding allocated to the provision of dedicated and individualized supports for Indigenous women, girls, and 2S+ programs and services.

- With specific consideration to the rates in which Indigenous women, girls, and 2S+ are charged with violent crimes and are often not included or eligible for alternative programming options.
- Enhance conditional release options specifically tailored to meet the needs of Indigenous women, girls, and 2S+ involved with community-based justice programs to enhance these reintegration supports contributing to successful rehabilitation and reduce recidivism rates, such as post-release healing plans.
- Evaluate current funds allocated for BC Corrections programming to identify inefficiencies that could be refocused into the community-based justice fund.
- Have an evaluation procedure in place that monitors the impact of the community-based programming in BC Corrections which includes qualitative outcomes and a gendered and culturally grounded, distinctions-based focus.

**Reform of Parole System:** BCFNJC, BC, and Canada will review and revise the current parole system to imbed safeguards for victims and families, ensuring trauma-informed practice and cultural safety are at the forefront. To decrease the harm the current parole system causes by retraumatizing victims and families at parole hearings that impact their healing process.

- A formal review of the current model and process of parole system standards, including the parole board and their exercises of discretion will be conducted.
  - Review to include collaboration with victims, survivors, and families to understand their experiences and perspectives.
- Implement trauma-informed, cultural competency training for parole officers and create culturally sensitive programming to support individuals in their rehabilitation journey, with the aim of understanding and addressing root causes of behavior and the impact on victims, survivors, and families.
- Implement additional support and resources for victims and their families during the parole hearing process, which could include access to victim advocates or counselling services.

- Mandatory that advisory committees for parole are Indigenous-led and have Indigenous representation.

## Gladue Services Department

**Objective:** Expansion and implementation of Gladue standards and the use of Gladue reports to support Indigenous women, girls, and 2S+ and their lived experiences with consideration in all areas of justice.

### Lines of Action

**Expansion of Gladue in the Legal System:** BCFNJC, BC and Canada will collaborate with sector partners to expand Gladue as a right for Indigenous women, girls, and 2S+ in BC at all stages of the legal process through:

- Ensuring Gladue reports are utilized for assessment over pre and post sentence reports as they are more culturally grounded and consider the intergenerational impacts of colonialism.
- Gladue Report Healing Plans must be implemented in both custody and community settings.
- Incorporation of post-release healing plans including community-based programming.

**Expansion of Gladue in Child Welfare:** BCFNJC, BC and Canada will assess the utility of Gladue rights to develop supports when involvement of Child Welfare Services occurs.

- Development of a child welfare specific Gladue framework including a culturally grounded evaluation framework to ensure effectiveness and positive impact.
- All assessments will include consideration of intergenerational trauma because of colonialism and an Indigenous-led healing and support plan with commitment to provide appropriate resources to keep the family unit together and adequately supported.
- Working with Nations who have jurisdiction over the rights of their children to establish protocols that reflect the lived experiences of Indigenous peoples in protection of children and youth.
- Pilot of child welfare specific Gladue Framework with Gladue report healing plans replacing social worker created family plans which are guided by colonial standardized decision-making tools.

**Standardized and Accessible Gladue Process:** Building on Strategy 6, BCFNJC, BC, and Canada will identify a standardized and accessible process for earlier provision of Gladue resources and services aimed at ending the pattern of criminalization and

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imprisonment of Indigenous women, girls, and 2S+ including, but not limited to, coerced plea bargains and mandatory minimum sentences.

- Include examination of first point of contact with the justice system and how Gladue is accessed, with no guilty plea required to access the Gladue report.

**Expansion of Gladue Awareness and Education:** Building on Strategy 6, BCFNJC, BC and Canada, will mandate comprehensive awareness and education to all justice sector professionals on Gladue rights, including ensuring that the Indigenous peoples whom they encounter are fully apprised of their Gladue rights.

## Access to Safety – Transportation and Cellular Service

**Objective:** Indigenous women, girls, and 2S+ will have access to safe, affordable transportation and communication systems, notably in remote and rural areas where vulnerabilities are increased. This strategy will work to reduce the impacts of GBV (IPV), human trafficking, murder, poverty, and societal disparities while combatting systemic discrimination and violence within the transportation industry.

### Lines of Action

**Access to Mobility and Connectivity:** BCFNJC, BC and Canada will work to expand and/or create policy and programming aimed at improving safety, reducing systemic barriers, and preventing violence for Indigenous women, girls, and 2S+, particularly in areas where they are targeted, such as along the Highway of Tears. Expansion of services may include:

- Increasing access to women run and free public transit, free of discrimination. Increased transportation travel routes and stops across BC, specifically along rural and remote areas of the highway where cellular service is limited or null.
- Enhancing partnerships across connectivity platforms to offer Indigenous women, girls, and 2S+ cell phones free of cost.
- Ensuring that the existing contract to complete cell coverage along the entire stretch of the Highway of Tears is completed immediately so as not to further the delay the promised Fall 2022 deadline.
- Working with relevant partners to implement a string of emergency phone booths, and surveillance cameras that are strategically placed in high-risk areas, like truck stops.

**Training:** BCFNJC, BC and Canada will work with stakeholders in the transportation industry to develop and deliver mandatory training to all industry workers.

- Building on Strategy 20, BCFNJC and BC will ensure those working in the transportation industry take mandatory training on the history of colonialism and the impacts it continues to have on our Indigenous women, girls, and 2S+.

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- The mandatory training will include ensuring they have the increased knowledge, skills, and tools for awareness of human trafficking and how to report suspicious behavior in a timely manner.

**Funding:** BCFNJC, BC and Canada will develop a funding stream for First Nation Communities and Indigenous-led organizations to reduce the impacts that mobility and connectivity have on our Indigenous women, girls, and 2S+. This will provide communities with opportunities to implement programs and services that are specific to their community needs, including but not limited to:

- Funding to develop, expand and sustain infrastructure including development of cell towers and high-speed internet that supports First Nations communities' access to essential services and increased safety.
- Funding to develop and sustain a safe shuttle and safe places program so Indigenous women, girls, and 2S+ lives are no longer put at risk trying to access basic services and/or are fleeing from violence.
- The program will provide a sustainable, safe, free ride transportation service across BC between communities and city centers, where connectivity is limited or null.
- The program will include the development of safe houses along vulnerable stretches of the highway.
- Create alternative options to hitchhiking in addition to awareness and prevention programs surrounding the risks of hitchhiking.
- Funding for First Nation communities and Indigenous-led organizations to create education, programming, projects, and initiatives surrounding human trafficking and the targeting of our Indigenous women, girls, and 2S+.

## Man Camps, Resource Extraction and Land Exploitation

**Objective:** Recognizing the well-known affects that the ongoing influx of man camps has on our Indigenous women, girls, and 2S+, specifically in northern remote and rural areas, it is imperative to take more precautions. This plan will ensure that preventative and safeguarding measures are in place to end the gendered and racialized land-based violence caused by resource extraction and toxic masculinity in BC.

### Lines of Action

**Preventative Measures:** BCFNJC, BC, and Canada will ensure all Industry partners comply with mandatory prevention and training measures that guarantee the safety, security and over all well-being of Indigenous women, girls, and 2S+.

- Impact Benefit Agreements (IBAs) will be negotiated with local First Nations in all projects including a minimum standard for the Industry Partners:

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- A gender based socio-economic impact assessment to ensure proper social infrastructure and resources are in place prior to development to protect Indigenous women, girls, and 2S+. This includes funding for educational and social programs as determined by the community. These assessments will guarantee the needs of impacted Indigenous women, girls, and 2S+ are at the forefront of protection and prevention of land, gender, and race-based violence.
- Mandatory cultural training specific to impacted First Nation Communities to ensure Industry workers are respecting and acknowledging the First Nations land they are working on. Training will include Indigenous-led, distinctions based, culturally informed education including the historical and present-day impacts that resource extraction and man camps have on Indigenous women, girls, and 2S+. This includes education on the MMIWG2S+ genocide.
- Independent reporting systems to monitor and hold accountable the system of toxic masculinity that impacts both industry employed and non-employed Indigenous women, girls, and 2S+. These measures will include increased training and reporting on human trafficking, violence, sexual assaults, rape, murder, sex work (Indigenous women being taken advantage of in camps) and drug and alcohol abuse.
- Transparent communication protocol requirements for industry partners to report out and provide evidence of adherence to the agreements.
- Hiring of an Indigenous liaison(s) from impacted communities who will be present during projects and will oversee IBA's are being implemented in the proper way.

**Funding:** BCFNJC, BC and Canada will develop a funding stream to support First Nations communities and Indigenous women, girls, and 2S+ impacted by resource extraction and/or man camps by providing direct services that protect Indigenous women, girls, and 2S+ from the risks associated with these camps.

- Funding for communities to train and employ their own Industry Liaisons who will be the direct form of contact when Industry is working close to or directly on First Nations land and can uphold Impact Benefit Agreements.
- Funding will be available to First Nation communities to increase safety measures due to the influx of resource extraction and placement of man camps. This includes increased surveillance (security cameras and community safety officers), safe transportation programs to and from community and safety and awareness workshops.
- In alignment with the OCAP principles and working towards data sovereignty Indigenous peoples will have access to funding for Indigenous-led research to



increase the data on the impacts that man camps and resource extraction has on Indigenous women, girls, and 2S+.

**Land Defender Protection:** BCFNJC, BC and Canada will evaluate the current framework for dealing with land defense, including the power and function of the Community-Industry Response Group (C-IRG), or similar units, and make necessary changes aimed at upholding First Nations' rights to defend their lands.

## Crisis Response

**Objective:** Enhancing the work to guarantee social and economic systems are in place to prevent/reduce victimization of Indigenous women, girls, and 2S+ this strategy ensures that Indigenous women, girls, and 2S+ who go missing and/or are found murdered receive a prompt and efficient response. Relevant partners across jurisdictions will ensure communication and consistency, ending the systemic discrimination and racism that has resulted in a lack of care and attention.

### Lines of Action

**Crisis Response Plan Development:** BCFNJC, BC, and Canada will develop a community-led crisis response plan for all relevant actors across jurisdictions when one of our Indigenous women, girls, and 2S+ go missing and/or are found murdered. The plan will include:

- Mandatory trauma informed, culturally sensitive, core content and standards training for those who are first on scene. This includes firefighters, ambulance, police, search and rescue and investigators.
- Agreements put into place for all relevant partners, including but not limited to RCMP/Municipal Police/First Nations Police, Child Welfare who respond to MMIWG2S+ cases to liaise with impacted Nations.
  - Agreements will ensure information sharing across jurisdictions is easily communicated between all relevant stakeholders to increase the likelihood of finding the missing person while protecting children who may be impacted by MMIWG2S+.
- Collaboration and partnerships with Indigenous-led organizations and allies across jurisdictions to develop relationships related to dedicated housing and safe spaces to gather during searches.
- Development of Indigenous Liaisons for communities without access to our IJCs Aunties, to communicate for, or support, families and loved ones to communicate with police throughout the investigation and searching progress, including navigating justice institutions, victim services, cultural supports, wrap around supports with availability after work hours. This will

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reduce barriers faced by Indigenous peoples including the impacts of racism and discrimination towards family and loved ones.

- Development of a platform that communities, families, and loved ones can access when navigating colonial systems to help understand the process when someone is missing and/or is found murdered and provides a centralized space that contains easily accessible resources, awareness, and step-by-step toolkits on what to do when a loved one is missing and/or murdered.

**Funding Stream:** BCFNJC, BC and Canada will establish a sustainable easily accessible funding stream led by Indigenous women, girls, and 2S+ to help communities create their own means of proactive measures when an Indigenous woman, girl, or 2S+ person goes missing.

- Allocation of funds for communities for the creation, staffing, and training of a Crisis Response Plan, including the development of a Crisis Response Agreement with relevant partners (RCMP/Police, Community Safety Officers, First Responders, etc.).

## MMIWG2S+ Fund

**Objective:** Prioritizing funding for victims and survivors of the MMIWG2S+ genocide this strategy ensures that Indigenous women, girls, 2S+, their chosen families and communities have the means to properly search, grieve and heal absent of barriers. This will work to increase the likelihood of finding loved ones while also contributing to the healing surrounding those who survive and those who are missing and/or found murdered.

### Lines of Action

**Funding Stream:** BCFNJC, BC and Canada will create a long term, sustainable, easily accessible funding stream led by Indigenous women, girls, and 2S+ that guarantee resources and services for the MMIWG2S+ genocide. This will assist survivors, loved ones and communities during the most unimaginable time of crisis.

- The fund will be managed by BCFNJC through a streamlined, objective, and independent funding process, absent from bureaucratic barriers.
- Funding will assist chosen families when a loved one goes missing including but not limited to funds for travel, food, hotel, printing posters, daycare and other unexpected expenses that arise.
- Funds will be used for traditional and culturally sensitive healing for families to be able to grieve. This will include grief and healing centers, lodges and 24/7 access to trauma informed counselling for all impacted by the MMIWG2S+ crisis.

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- Chosen family will have access to funds to ensure children of those missing and murdered and those who survived remain with their families, are adequately cared for, and provided for in a culturally safe way.

## Child Welfare

**Objective:** Support First Nations to reclaim legal jurisdiction for child welfare for Indigenous peoples in British Columbia, ensuring Indigenous rights and culturally safe interventions, with government funding for collective healing from colonization, recognizing family advocates as essential roles, removing social workers from child protection authority, and improving the complaint process of these bodies.

### Lines of Action

**Band Designated Representative Support Team:** BCFNJC, with support from BC and Canada, will develop a team to provide support to communities aimed at developing Band Designated Representative (BDR) capacity through:

- The provision of training through on-the-job, in-community, for new BDRs to support navigation of the colonial legal system while upholding relevant First Nation's jurisdiction. Additional regular and ad hoc consultations available as needed.
- Support in applying for and securing the available BDR funding and any necessary capacity building.
- Attend as 'agent,' the team will have the ability to deploy services to attend to court or alternative measures proceedings as an agent to represent the First Nation's wishes in the matter.

**Jurisdiction Support:** BCFNJC, with support from BC and Canada, will develop a support role to assist Nations in pursuing jurisdiction under federal legislation. The role will support:

- Securing funding to build capacity for communities and support roles to fulfill requirements when submitting requests for jurisdiction over child and youth family protection.
- Work with the Indigenous Child Welfare Director for the purpose of advancing communities' jurisdiction over child and family services.
- Support First Nations to develop community specific, traditional, and cultural laws and practices to guide their child and family work.
- Ensure there is sustainable long-term funding for nations to continue to provide services and support aligning with their child and family work.
- Support in the development of interim agreements such as coordination agreements, as a pathway to jurisdiction, and a manner to reinforce First

Nations inherent rights while limiting involvement and trauma of child welfare process. Examples of this interim work could be:

- The development of agreements for advanced notification to ensure child welfare workers do not enter community without advanced permission and a Nation liaison at all interactions.
- Alternative pathways to the court process aimed at decreasing the traumatic experience for families engaging in the colonial system, to decrease the delays of court and in turn the languishing of children in care, and to limit the use of supervision orders, in favor of cultural community supports and processes.

**Reallocation of Child Welfare Funding to Prevention:** BCFNJC, BC, and Canada will reevaluate expenditures and re-allocate funds to prevention services aiming to avoid removal and MCFD involvement.

- Provide communities with funds to implement proactive initiatives to prevent removal of Indigenous children from their families and decrease involvement from MCFD.
- Specific funds to Indigenous families/communities to help address historical injustices, promote cultural preservation, empower Indigenous people, strengthen community support systems, and further reconciliation efforts.
- Direct funding for family treatment centers and healing lodges that will offer crucial assistance to parents dealing with various challenges from colonization such as substance misuse issues or mental health concerns within a safe environment maintaining the family unit stays together during the process of healing.
- Development of supported, safe, cultural housing options to support and keep families together.

**Independent Indigenous-led Complaints Body:** BCFNJC, BC and Canada, will work to establish a clear complaint process for Indigenous communities and families regarding the child welfare system. The process will address systemic issues and individual impacts on Indigenous children, youth, and families, including false accusations and unfair targeting. It will also implement safeguards to ensure fairness and cultural competency in handling complaints involving Indigenous families impacted by social worker misconduct.

- Ensure that Indigenous women are involved in the development of this complaints process and led by them as they have expertise, experiences, and cultural knowledge to contribute to creating a more comprehensive system that can effectively address issues specific to Indigenous children, youth, and families.

- With guidance from BC First Nations and Indigenous women, develop a clear and accessible complaint process that is an Independent Indigenous-led Complaints Body to address the overrepresentation of Indigenous children and youth in care in BC related to social workers' actions.
- With guidance from Indigenous women, establish the complaint process to include addressing false accusations made against Indigenous families by social workers and examine the negative consequences such accusations have on Indigenous children, youth, and families.
- Ensure there are safeguards in place (UNDRIP/DRIPA etc.) to imbed fairness and cultural competency when dealing with complaints involving families impacted by social worker misconduct.
- In collaboration with Indigenous women, evaluate the impact the Independent Indigenous-led Complaints Body has on effectiveness and positively influence relationships between social workers and Indigenous communities.

## First Nations Court

**Objective:** In alignment with and expansion of Strategy 12, expanding access to and function of First Nations Court across BC to support the healing and rehabilitation of Indigenous women, girls, and 2S+.

### Line of Action

**Expansion of availability and Mandate of First Nations Courts:** BCFNJC, BC and Canada will take active steps to increase the availability, mandate, and funding of First Nations courts across the province including the creation of alternative processes that are not situated within the colonial constructs. This will be addressed in the following ways:

- **Increasing Availability:**
  - Increase the current number of nine First Nations Courts in the province to 12 within 2 years. This should be done in collaboration with impacted Nations at every stage of creation including infusing Indigenous legal traditions into the court process.
  - Increase the frequency of sessions for First Nations Courts from once a month to at minimum twice a month.
- **Expand First Nations Court Mandate:**
  - To allow for non-colonial processes, determined and guided by First Nations that include cultural practices and are grounded in local traditions.
  - Fulsome integration of healing plans into every stage of the legal process.

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- To include all charges, even those classified as violent, at every stage of involvement with court and eliminating the requirement of a guilty plea as a precursor for participation.
- To include family law and child welfare matters as well as violence against women.
- **Funding:**
  - Provide sustainable operational funding to First Nations Courts.
  - To support community engagement aimed at determining the needs of communities across BC and most needed placement of more First Nations Court.

## Crown Counsel and BC Prosecutorial Service

**Objective:** Indigenous women, girls, and 2S+ will be treated with respect and dignity throughout the legal process, including ending the high rates of overincarceration, overcharging, and high-risk classification. Laws and policies in place contributing to the systematic and persistent removal of Indigenous women, girls, and 2S+ from community and supports.

### Lines of Action

**Protocol Agreements:** Building on the work of strategy 19, and in alignment with UNDRIP, BCFNJC, BC and Canada will work with the BCPS and Crown Counsel to develop protocols that specifically address the prevailing practices that cause Indigenous women, girls, and 2S+ to receive elevated charges, harsher sentences, and higher risk classifications.

- Development of a protocol agreement outlining BCPS and Crown Counsel's collaboration with the MMIWG2S+ Task force.
- Bilateral agreements, outlined in Strategy 19, with BCPS/Crown Counsel and First Nations will specifically contemplate how to actively intervene in the prevalence of overcharging of Indigenous women, girls, and 2S+.
- Collaborative review and updates to the BCPS manual as per BFNJC's recommendations that have already been made.

**BCPS/Crown Liaison:** A Crown Counsel and BC Prosecution Service liaison who be included in all cases where an Indigenous woman, girl, or 2S+ is charged with a crime. This includes weighing in and providing insight into the over-charging, harsh sentencing, and risk classifications of Indigenous women, girls, and 2S+.

## 2SLGBTQIA+

**Objective:** To affirm the Calls for Justice recommendations and BCFNJC's engagement sessions in Fall 2023 that heard the need for greater awareness of 2S+ issues. To include the 2S+ history and contemporary place within communities. Priority areas include having a 2S+ led team to develop the justice plan and address policing, education, justice, socio-economic priorities, health, and healing.

### Lines of Action

**Development of Indigenous 2SLGBTQIA+ Justice Plan:** Through a 2S+ led team, the strategy seeks to create a justice plan that has a distinctions-based approach and considers the safety concerns that 2S+ individuals and groups, including youth, face.

- BCFNJC, BC and Canada, working with relevant partners, will form a 2S+ led team to develop a 2S+ specific justice plan ensuring that the perspectives of the 2S+ community are accurately represented and respected, and relevant strategies are implemented.
- The 2S+ justice plan will address various safety challenges the 2S+ community encounters daily, such as discrimination, violence, and lack of support systems, including in healthcare, education, employment, and public spaces.

## Legislation and Policy

**Objective:** Legislation and policies will reflect consideration and space for Indigenous worldviews, with particular attention and space to autonomy and self-governance. Indigenous women, girls, and 2S+ will not feel targeted by laws that are used to criminalize them but rather a system where First Nations can make space to revitalize traditional justice practices.

### Lines of Action

**Legislation and Policy Review:** Building on strategy 8, and in alignment with UNDRIP, BCFNJC, BC and Canada will conduct an in-depth review of legislation and policy relating to the various strategy domains in this plan.

A workplan will be created to identify legislation and policy for review and a structured plan for completion.

- A formal review will include suggestions for change to align policy with the action of this plan, the BC First Nations Justice Strategy and UNDRIP, as outlined in Strategy 8. Review will include:
  - Policing
  - C-IRG
  - Healthcare
  - Education
  - Child Welfare

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- Anti-Poverty
- Housing
- Education
- Employment
- Accountability
- Corrections
- Courts
- First Nations Courts
- Conditional Release
- Sentencing
- Transportation
- Environment/Resource Stewardship
- Crown Counsel and BC Prosecution Service
- Economics



## Appendix B: Resources and Toolkits

This will provide a list of resources, new and developed. This will migrate to a public forum (potentially website) and will continue to grow, ideally with shared resources between nations.

- Indigenous Gender Based Analysis Plus Toolkit – MAIWC - [https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/maciw\\_igba\\_toolkit.pdf](https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/maciw_igba_toolkit.pdf)
- You are not Alone Toolkit for Aboriginal Women Escaping Violence – NWAC - <https://www.nwac.ca/assets-knowledge-centre/NWAC-You-Are-Not-Alone-Handbook-with-weblinks.pdf>
- Okanagan Indian Band Personal Safety Guide – OKIB - <https://okib.ca/uploads/files/Safetyisasqilxwbirthright-PSD-2023-3.pdf>
- Knowing your rights Toolkit – Sexual and Reproductive Health – NWAC - <https://nwac.ca/assets-knowledge-centre/KnowingYourRights-Booklet-EN-Web-1.pdf>
- Red Dress Day Toolkit – NWAC - <https://nwac.ca/assets-knowledge-centre/Red-dress-day-TOOL-KIT.pdf>
- Issues in Human Trafficking and MMIWG2+ - NWAC - [https://nwac.ca/assets-documents/Issues\\_in\\_Human\\_trafficking\\_and\\_MMIWG2S.pdf](https://nwac.ca/assets-documents/Issues_in_Human_trafficking_and_MMIWG2S.pdf)
- Human Trafficking and MMIWG+ - A Toolkit for Government Policy Makers - NWAC - <https://nwac.ca/assets-documents/H-Trafficking-Toolkit.pdf>
- MMIW Toolkit – How to Support, Safeguard and Respond to Missing Incidents – Butterflies in Spirit - [MMIW Toolkit \(butterfliesinspirit.com\)](https://www.butterfliesinspirit.com)
- Our Spirits are not for Sale – A Handbook for Helping Sexually Exploited Aboriginal Women and Girls, Native Women’s Association of Canada – NWAC - <https://www.nwac.ca/wp-content/uploads/2015/10/Our-Spirits-are-NOT-for-sale-English-web-version.pdf>
- The Greater Sudbury Police Service – Indigenous Women and Girls Missing Persons Toolkit and Resource Guide - <https://www.gspcs.ca/en/about-gspcs/resources/Documents/Indigenous-Women-and-Girls-Missing-Persons-Toolkit-and-Resource-Guide.pdf>
- Kermode Friendship Society Missing Murdered Indigenous Women Girls Toolkit to Assist Families of MMIWG - [https://twrcs.ca/wp-content/uploads/2022/08/MMIWG2S\\_full-toolkit\\_2022.pdf](https://twrcs.ca/wp-content/uploads/2022/08/MMIWG2S_full-toolkit_2022.pdf)
- For your Protection – How and when to get a Peace Bonds and Family Protection Orders and the Difference between – Aboriginal Legal Aid Society - <https://api2.legalaid.bc.ca/resources/pdfs/pubs/For-Your-Protection-eng.pdf>
- Live Safe End Abuse – Fact Sheet about Relationship Abuse – Aboriginal Legal Aid Society - <https://api2.legalaid.bc.ca/resources/pdfs/pubs/Live-Safe-End-Abuse-eng.pdf>

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- Mothers leaving Abusive Partners – How to get Help and Protection – Aboriginal Legal Aid Society - <https://api2.legalaid.bc.ca/resources/pdfs/pubs/Mothers-Leaving-Abusive-Partners-eng.pdf>
- When your Told “No Contact” – Explains what it means when the Court makes a no Contact Order – Aboriginal Legal Aid Society - <https://api2.legalaid.bc.ca/resources/pdfs/pubs/When-Youre-Told-to-Have-No-Contact-eng.pdf>
- Keeping Aboriginal Kids Safe – Explains the Child Protection Process – Aboriginal Legal Aid Society - <https://api2.legalaid.bc.ca/resources/pdfs/pubs/Keeping-Aboriginal-Kids-Safe-eng.pdf>
- Parents’ Rights, Kids’ Rights – Explains what happens if the Ministry has Concerns about your Child’s Safety – Aboriginal Legal Aid Society - <https://api2.legalaid.bc.ca/resources/pdfs/pubs/Parents-Rights-Kids-Rights-eng.pdf>
- Tools for the Journey – Teachings to Support Grief and Loss in First Nations, Inuit and Metis Communities – Cancer Care Society - <https://www.cancercareontario.ca/sites/ccocancercare/files/assets/ACCUGriefAndLoss.pdf>
- Toolkit for Navigating the Missing Person’s Process – Introduction to the Missing Persons Process in Canada – NWAC - [https://web.archive.org/web/20141204203007if\\_/http://www.nwac.ca/sites/default/files/imce/NWAC\\_2B\\_Toolkit\\_e.pdf](https://web.archive.org/web/20141204203007if_/http://www.nwac.ca/sites/default/files/imce/NWAC_2B_Toolkit_e.pdf)

## **Now**

**The time has come,  
The time to rise,  
For the fire to rage,  
The heart to reign supreme,  
The hands to hold,  
The arms to give warmth,  
The collective energies to blend,  
The time has come,  
To gather the strength of many,  
Build up the young,  
Find our voices,  
Speak our minds,  
Walk proud,  
Sing loud,  
Dance to the drumbeat,  
Moving with the wind,  
Looking up to the creator,  
Loving mother earth,  
Thanking father sun,  
Honoring the spirit animals,  
Protecting our freedom,  
The time has come,  
To be the one.**

**-TM**



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## IMPLEMENTING THE INDIGENOUS WOMEN'S JUSTICE PLAN (IWJP) - BREAKOUT SESSION QUESTIONS

### Discussion Questions:

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**QUESTION:** BCFNJC wants to ensure Indigenous women, girls, and 2S+ are leading the implementation of the IWJP, how do you envision this being done in a good way?

**QUESTION:** We have heard from communities and Rightsholders that although there are intersections between the needs of Indigenous women, girls and 2S+ individuals, there also exist distinct issues and needs that cannot be addressed by a single plan. The following questions will inform the future work of the BCFNJC in this regard:

- Should 2S+ issues be addressed separately under a 2S+ justice plan rather than being grouped together with Indigenous women's justice initiatives?
- How might a distinct focus on 2S+ justice better address the unique needs and experiences of the 2S+ community within our Indigenous communities?

**QUESTION:** How can BCFNJC support First Nations in advancing Track 2 work to serve Indigenous women, girls, and 2S+?

**QUESTION:** How can BCFNJC support the Urban Indigenous population who have been displaced and lack connection to their community or culture?

**QUESTION:** With the Provincial government developing the Anti Racism Legislation what needs to be included to address the systemic racism, inequality and discrimination that continues to impact our Indigenous women, girls, and 2S+?

**QUESTION:** As BCFNJC works towards actioning the IWJP, are there certain strategies that should be prioritized, and why?

**QUESTION:** With the influx of resource extraction and the development of Man Camps impacting remote First Nation communities, should Impact Benefit Agreements (IBA) include mandatory commitments from proponents and government to combat the increase of violence against Indigenous women, girls, and 2S+?



## **STOPPING VIOLENCE AGAINST INDIGENOUS WOMEN, GIRLS, AND 2S+ PEOPLES: WORKSHOP DISCUSSION BACKGROUNDER**

### **Session Topic:**

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The purpose of this workshop is to bring together Indigenous women, girls, 2S+ and their allies, to discuss how the BCFNJC can support communities to end violence against Indigenous women, girls, and 2S+.

### **Session Objective:**

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The objectives of this session are to:

1. Gain insights from grassroots and frontline workers, as well as allies, who are actively engaged in combating violence against Indigenous women, girls, and 2s+ individuals.
2. Gather participant feedback regarding ways the BCFNJC through Track 2 work can support the restoration and implementation of First Nations justice systems and structures to combat violence against Indigenous women, girls, and 2S+.

### **Background:**

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Canada's historical treatment of Indigenous women, girls, and 2S+ individuals has perpetuated a system of oppression and discrimination, resulting in disproportionate rates of violence and marginalization within our current legal system and our communities. To effectively combat this pervasive issue, it is imperative to address the root causes of systemic injustice and prioritize the voices of Indigenous women, girls, and 2S+ individuals.

By acknowledging and addressing historical and ongoing injustices, we can work towards ending violence against our women, girls, and 2S+ community members, and foster a society built on the principles of equality, respect, and dignity for all.

### **Indigenous Women Justice Plan (IWJP) “Final Draft”**

The development of the IWJP was a first step toward addressing pervasive systemic issues that continue to impact Indigenous women, girls, and 2S+ individuals. The BCFNJC adopted a three-phase approach to the drafting of the IWJP based on the directives and feedback provided by First Nations, Rightsholders, and frontline workers. The result was a first draft based on the research, calls to action, and recommendations from various reports and inquiries. The first draft was shared broadly during our Fall 2023 engagements across BC. A second draft was created following feedback from our Fall 2023 engagements. The “Final Draft” is the culmination of these efforts and additional feedback from First Nations and their leadership.

The lived realities, the past and current grassroots advocacy and frontline experience was embedded throughout the IWJP and represents a strong directive that comes directly from Indigenous women, girls and 2S+. This includes uplifting the 231 Calls for Justice, the Highway of Tears Symposium and the Red Women Rising Report which represent the changes that need to happen by governments, specifically the government of BC in relation to addressing the long-standing violence against our women, girls and 2S+ in BC.

### **Contributing Factors & The Current Landscape**

#### **BC First Nations Justice Council**

The purpose of the following information is to provide context for the Fireside Discussion with grassroots, frontline workers, and our allies. This backgrounder includes a brief overview and historical timeline of violence against Indigenous women, girls and 2S+. We are hoping that this brief overview will help guide our discussion while providing an opportunity to share stories and discuss how traditional and community led justice systems and protocols can help end the epidemic of violence against Indigenous women, girls, and 2S+.

- Indigenous women make up 16% of all female homicide victims, and 11% of missing women, yet Indigenous people make up only 4.3% of the population of Canada.
- Indigenous women are twice as likely to experience violence from their current or former partner.
- 56% of Indigenous women have suffered physical assault, and 46% have experienced sexual assault. By comparison, about one-third of non-Indigenous women have suffered these assaults in their lifetimes.<sup>1</sup>

### **Intersecting Forms of Violence**

- *Forced and Coerced Sterilization*—Indigenous women were targeted in BC between 1933 to 1973 with the passing of the *Sexual Sterilization Act*. Even with the Act being repealed in the 1970's the lasting impacts of this Act has been detrimental to the violence imposed on Indigenous, women, girls, and 2S+.
- *Systemic and State Violence*—This form of violence against Indigenous women, girls and 2S+ is seen throughout inequalities within health and social systems and the deeply embedded racism, sexism, and discrimination within society. Increased violence, poverty and marginalization are a result of these different intersections of inequalities that continue to be perpetuated by lack of preventative and proactive government action in areas of policy, legislation, and sustainable funding sources.
- *Gender Based Violence (GBV)*—The MMIWG2S+ genocide sheds light on the devastating impacts of GBV on our Indigenous women, girls, and 2S+ who are faced with double victimization because of their gender and because they are Indigenous. Our Indigenous women, girls, and 2S+ are the most impacted by GBV, but it continues to be normalized, silenced, and overlooked.
- *Intimate Partner Violence (IPV)*—Indigenous women, girls, 2S+ and their families continue to be significantly over victimized and targeted by their intimate partners. An intimate partner can be defined as someone you're in a relationship with or someone you used to be in a relationship with. Violence can be seen in multiple forms including coercive control and physical, mental, sexual, and economic violence.
- *Human Trafficking*—This is the sexual exploitation and forced labour for economic gain which is done through coerced control and transportation of our Indigenous women, girls, and 2S+. Human trafficking is an international organization and Indigenous women, girls, and 2S+, specifically our girls and 2S+ children in the child welfare system are most impacted.
- *Sex Work*—Indigenous women, girls, and 2S+ are overrepresented in sex work and are disproportionately targeted in sex work-related violence. Reports of this violence are often not made due to stigmatization, past and current laws and lack of police trust which further increases the exploitation of our women, girls, and 2S+. In Northern communities where there is an influx of man

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<sup>1</sup> [Murdered & Missing Indigenous Women & Girls - Assembly of First Nations \(afn.ca\)](https://www.afn.ca/murdered-missing-indigenous-women-girls)

camps the exploitation is compounded by the increase of money and drugs where our women, girls, and 2S+ are targeted by transient workers and exploited by pimps.

**Examples of Community Based Initiatives:**

- *Save our sisters and Safer Stronger Project* – This community led project was a collaboration between the Kermode Friendship Society and ally organizations in Terrace, BC to address the epidemic of MMIWG2S+. One component of the project was the development of a [tool kit](#) to help assist families when a loved ones goes missing or is found murdered. This guides families on what to do from the first 24hrs, to how to use social media, self care, and your rights when dealing with the police.
- *Helping Spirit Lodge Society* – This organization is a result of community engagements through the 1990's and primarily seeks to help Indigenous women and children who are fleeing from violence. The programs use a traditional holistic lens and provide a safe place for women and children throughout different stages.



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**Discussion Questions:**

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**QUESTION:** If your community had the sustainable funds to create and train your own team to respond when an Indigenous woman, girl or 2S+ person is harmed, goes missing, or is found murdered, what would that look like and what would that include?

**QUESTION:** With the release of BC Gender Based Violence Action Plan in December of 2023 and the promise to uplift Indigenous-led approaches, what community-based support is needed in your community to end violence against Indigenous women, girls, and 2S+? Are supports needed specifically for mothers, 2S+ parents and their children fleeing violence?

**QUESTION:** There has been a lot of debate surrounding legislation on sex work in Canada and the impacts it has on Indigenous women, girls, and 2S+. Do you view the criminalization of sex work contributing to the safety of Indigenous women, girls and 2S+ individuals, creating further barriers to the safety of Indigenous women, girls, and 2S+ individuals, or a combination of both? If legislative change doesn't provide the answer, what is the solution?

**QUESTION:** How can the BCFNJC help combat the deeply imbedded, deliberate systemic injustices that contribute to the ongoing genocide of Indigenous women, girls and 2S+ peoples?

## Important Numbers:

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We recognize that the content of this discussion is heavy and want to ensure participants have access to resources following the close of this discussion. Please feel free to approach one of our Elders or call one of the numbers below and remember—You are not alone. The crisis lines below offer emotional support and can provide referrals based on your specific to needs and location.

### Missing and Murdered Indigenous Women and Girls 24 Hour Support Line

- 1-844-413-6649
- Emotional support
- [Contact | MMIWG \(mmiwg-ffada.ca\)](http://mmiwg-ffada.ca)

### Family Information Liaison Units

- 1-800-355-0064 / BCFILU@gov.bc.ca
- Information Service and Support for Families of Missing and Murdered Indigenous Peoples.
- [Family Information Liaison Units \(justice.gc.ca\)](http://justice.gc.ca)

### Health Support's Contact for Those

- 1-877-477-0775
- Access to Supports – Mental Health Counselling – Emotional Support – Cultural Supports – Transportation Funds
- [Health support services \(rcaanc-cirnac.gc.ca\)](http://rcaanc-cirnac.gc.ca)

### Battered Women's Support Services – Indigenous Women's Program Crisis Line

- 604-687-1867
- Counselling and Advocacy Support
- [Indigenous Women's Programs - BWSS](#)

### Gender-Based Violence 24 Hour Crisis and Information Line

- 1-877-392-7583 – Via Salal Connect Text 604-245-2425
- Emotional Support
- [24-Hour Gender-Based Violence Crisis and Information Line - Salal Sexual Violence Support Centre \(wawaw.ca\)](http://wawaw.ca)

### KUU-US – Indigenous 24 Hour Crisis Line

- 1-800-588-8717
- Listening and Supportive Ear
- [Home | KUU-US Crisis Line Society Indigenous BC Wide Crisis Line Port Alberni](#)

### BC Crisis Center

- 1-800-784-2433 (1800SUICIDE) – 310-6789 (310Mental Health Support)
- Emotional Support, Information and Resources
- [crisiscentre.bc.ca](http://crisiscentre.bc.ca)

### National Indian Residential Schools 24 Hour Crisis Line

- 1-866-925-4419
- Support
- [Indian Residential Schools Resolution Health Support Program \(sac-isc.gc.ca\)](http://sac-isc.gc.ca)

## BC First Nations Justice Council

303-1979 Old Okanagan Hwy, Westbank, BC. V4T 3A4 Office: 778-940-1520  
bcfnjc.com



## COMMUNITY SAFETY, POLICING AND OVERSIGHT: BACKGROUNDER

### Session Topic:

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Transforming policing, oversight, and community safety for First Nations through the full implementation of *the United Nations Declaration on the Rights of Indigenous Peoples* and the BC First Nations Justice Strategy.

### Session Objective:

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The objectives of this session are to:

1. Situate the BCFNJC's mandate, through the BC First Nations Justice Strategy, as it pertains to community safety, policing, and oversight, including Track 1 and Track 2 work.
2. Hear directly from communities about their work around community safety and their vision for applying traditional practices, customs, and laws to shape and inform new approaches to community safety, policing and oversight.
3. Gather participant feedback regarding ways the BCFNJC can more effectively support First Nations:
  - a. To reduce and mitigate the harms of the current colonial system of policing and public safety (Track 1).
  - b. To revitalize and restore traditional approaches to community safety (Track 2).
  - c. To reclaim their jurisdiction and self-determination over policing, oversight, and community safety (Track 2).

### Background:

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The legacy and enduring reality of colonialism permeates policing in B.C. This legacy is evident in the over-policing of First Nations people, which contributes to over-incarceration, as well as the under-serving of First Nations communities' safety needs as compared to non-Indigenous communities. Colonialism is also expressed in the denial of First Nations jurisdiction and First Nations laws, traditions, cultures and practices around safety, security, and peacemaking. Numerous reports and investigations have exposed the pervasive nature of systemic racism in this context, while the established police oversight bodies consistently fail to bring accountability and justice in cases where police unjustifiably harm or kill First Nations people.

#### *The BC First Nations Justice Strategy*

The BC First Nations Justice Strategy sets out the path to both reform the existing system of policing to make it less harmful to First Nations people (Track One) and restore and rebuild First Nations systems of community safety that are grounded in self-determination (Track 2). The Strategy addresses policing in multiple ways:

- Strategy 3 calls for the establishment of a unique process for First Nations complaints about police services, The BCFNJC will play an oversight role and will be involved in developing a unique process for First Nations complaints about policing services.



- Strategy 7 calls for the establishment of an independent oversight and accountability function regarding Indigenous peoples in and the justice system. It also calls for:
  - Creation of models for oversight and accountability to support legislative and policy proposal development
  - Public education and reporting on First Nations justice matters
- Strategy 22 calls for the establishment of:
  - New protocols with the RCMP and other police services
  - New models of Community Tripartite Agreements
  - Near-term and impactful on the ground improvements in policing, including constable programs, and peacemaking and safety initiatives
  - The expansion of community-based and First Nations police services in B.C.

### *The Current State of Policing in B.C.*

In recent years, the growing recognition of First Nations' inherent rights has laid the groundwork for the transformation of policing. B.C. passed the *Declaration on the Rights of Indigenous Peoples Act* (DRIPA) in 2019, while Canada passed *United Nations Declaration Act* (UNDA) in 2021, committing both governments to the full implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration). Foundationally, this recognition demands legislative reforms and a new approach to policing and police oversight that is grounded in First Nations self-determination.

Currently, jurisdiction over policing is shared between Canada and B.C., with the B.C. Ministry of Public Safety and Solicitor General (PSSG) overseeing policing, while Public Safety Canada (PSC) assumes responsibility for on-reserve policing. B.C. is the largest province that contracts the RCMP to provide services over much of the province through the Provincial Police Services Agreement (PPSA). The PPSA is a 20-year agreement, which is due for renewal in 2032. **As the PPSA is a bilateral agreement and does not involve First Nations, it is not compliant with UNDA and DRIPA.**

In the current system of policing, the First Nations and Inuit Policing Program (FNIPP), which was established in 1991, has been the primary vehicle for First-Nations specific services. The FNIPP has two models: Self-Administered Agreements (SAA) and Community Tripartite Agreements (CTAs). The only SAA in B.C. is operated by the Stl'atl'imx Nation, while there are 59 CTAs in B.C. that encompass approximately 130 First Nations. While the FNIPP has provided some flexibility and additional services for some communities, there have been many challenges, with a March 2024 Auditor General's report finding that the FNIPP is poorly managed, inconsistently delivered, not working in partnership with First Nations communities and inequitably funded.

The oversight of police in B.C. is layered and composed of three organizations – the Independent Investigations Office, the Office of the Police Complaint Commissioner and the RCMP's Civilian Review and Complaints Commission – that each have responsibility for different types of investigations. Although the system is complex, it has not effectively responded to the systemic issues in policing or brought holistic justice in cases of police wrongdoing. Instead, the system produces colonial solutions, with long, drawn out, bureaucratic, hyper-individualized processes that only offer colonial sentences and punishments as remedy, and has failed to facilitate meaningful, systemic reparations and repair. **No First Nations independent oversight body exist in B.C., even though Indigenous people are over-represented in cases of police**



**wrongdoing, including misconduct, use of force, and deaths.** Immense work is needed to structurally and foundationally reform and recreate police oversight and accountability in B.C.

At the provincial level, work is underway on the Policing and Public Safety Modernization Initiative, which intends to reform policing in BC through legislative modernization. This initiative stems from the *Special Committee on Reforming the Police Act* (SCORPA), which released its final report in 2022. This is a long-term project, and the BC government is seeking First Nations input in this process. **The BCFNJC is committed to ensuring that the work to modernize policing legislation is consistent with the UN Declaration.**

The federal government is in the co-development process of a legislative framework for First Nations Policing as an Essential Service, with the aim of providing sustainable funding. The framework includes SAAs, but not CTAs, and, as there is only one SAA in B.C., the framework will not have the same level of impact in B.C. relative to First Nations in other provinces that primarily utilize SAAs. **The BCFNJC is committed to ensuring that the Policing as an Essential Service legislation provides the same benefits and funding sustainability to BC First Nations as other Indigenous communities across Canada.**

#### Discussion Questions:

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**QUESTION:** What needs to happen in your community for there to be greater trust in the police agency that provides services? What do police agencies need to do to gain trust in your community?

**QUESTION:** What does repairing harm done by police look like in your community?

**QUESTION:** What role should the BCFNJC play in bringing together communities to advance their community safety initiatives?

**QUESTION:** What are your success stories and barriers you've encountered in expanding self-determination over community safety?



## COMMUNITY JUSTICE PROGRAMMING & DIVERSION: BACKGROUNDER

### Session Topic:

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Operationalizing the *Presumption of Diversion* across the justice system.

### Session Objective:

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The cornerstone of the BC First Nations Justice Strategy is the presumption of diversion along the justice continuum. Diversion means that an individual who is charged with a criminal offence is diverted out of the criminal justice system and offered an alternative process/approach to restoring balance and repairing alleged harms. The purpose of this session is to hear from an Indigenous Justice Program offering restorative justice, and from Crown Counsel and RCMP to discuss the operationalization of the presumption of diversion at a local level and why it's foundational to reducing overrepresentation. The session aims to explore what factors enhance or hinder diversion efforts, to share information and experience amongst First Nations and justice partners.

### Background:

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Since 2020, with the appointment of a Provincial Manager for Diversion and Early Intervention, the BC First Nations Justice Council (BCFNJC) has been working to support communities with their programming for community justice, diversion, and restorative justice. The BCFNJC has built relationships with Nations with the aim of supporting them with a regular meeting to facilitate sharing stories, experiences, funding opportunities and contacts amongst Nations. In November of 2023, the BCFNJC hired its Director of Community Healing to advance this work.

### *BC First Nations Justice Strategy*

#### Strategy 1:

A core challenge with the existing justice system is that First Nations individuals' (disproportionately males) initial contacts and interactions with the criminal justice system often lead to cycles of escalating interaction that are very hard to break.

The aim of Strategy 1 is to see a presumption of diversion entrenched throughout the justice system; from the moment the police are first engaged to the time in which an individual may be in the correctional system after sentencing. At every point in time, pre-charge, post-charge, post-plea, and post-conviction, actors should be instructed to fully consider opportunities for culturally appropriate alternative responses to the existing justice system, with the presumption that, whenever appropriate, these alternative responses should be the first option pursued.



Current Status & Considerations:

1. For many decades, Indigenous Justice Programs, now represented by the Indigenous Justice Association, have been the main Nation/community organizations supporting diversion efforts and other justice supports. IJPs are funded by the Federal Department of Justice and/or BC Corrections. Other Nations fund these efforts independently or at a grassroots level with no funding. Federal and provincial funding for IJPs has not increased in more than a decade.
2. The BCFNJC signed a Memorandum of Understanding with the Indigenous Justice Association to identify how both organizations can support each other's mandates and advance shared goals.
3. Although diversion is recognized as the key to reducing overrepresentation, Crown referrals to IJPs or other Indigenous-led diversion options are greatly underutilized. Justice partners have shared that there are few diversion options Crown counsel can access.
4. The BCFNJC designed a pre-arrest diversion pilot program in Prince George, BC for Indigenous people experiencing homelessness in collaboration with the Provincial and Federal governments. PSC provided funding for \$7.5M over five years to implement the pilot in cooperation with the community, starting on September 1, 2024. The Province of BC is providing another \$300,000 towards the pilot for restorative justice work.
5. Work is underway in 2024/2025 to engage Nations and key justice partners on the presumption of diversion workplan, as defined by Strategy 1 of the BC First Nations Justice Strategy.

**Discussion Questions:**

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**QUESTION 1:** How can BCFNJC support First Nations with achieving the presumption of diversion?

**QUESTION 2:** What are the shared challenges faced in this work?

**QUESTION 3:** What are the shared successes of this work? Could you share examples from your Nation?

**QUESTION 4:** What does your Nation want to have in diversion, early interventions, and community-based programs?

**QUESTION 5:** Do non-Indigenous people have access to your Indigenous community justice program? Should non-Indigenous people have access to these programs?



## LEGAL SERVICES FOR INDIGENOUS PEOPLES IN BC UPDATE: INDIGENOUS JUSTICE CENTRES & LEGAL-AID TRANSITION BACKGROUNDER

### Session Topic:

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Progress made toward the implementation of the Indigenous Justice Centres' (IJC) Rapid Expansion Plan throughout 2023-2024, and an update on the insights gleaned from our numerous Indigenous legal aid services transition community engagements conducted during the Fall of 2023, culminating in the BCFNJC's 2023 Legal Aid Services Transition Engagement Summary Report.

### Session Objective:

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The objectives of this session are to:

1. Provide an update on the rapid expansion of IJCs, including the establishment and inauguration of 5 regional IJCs across the province.
2. Highlight the collaborative efforts with First Nation communities in the territories where the next 6 IJCs will be located.
3. Review the outcomes of the Indigenous legal aid services transition community engagement sessions conducted during the Fall of 2023, emphasizing the key takeaways outlined in our 2023 Legal Aid Services Transition Engagement Summary Report.
4. Provide an update on BCFNJC current legal services and wrap-around services being offered at the Indigenous Justice Centres and an update on the progress towards the development of an Indigenous-led legal aid services model and the transition of legal aid services for Indigenous people to BCFNJC.
5. Provide an update on the projects and new service expansions being piloted in IJCs this year.
6. Gather participant feedback on potential new legal services (or gaps in services) that would benefit Indigenous peoples. This information will assist in planning for the expansion of legal services delivered, facilitated, or coordinated through IJCs.

### Background:

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#### BC FIRST NATIONS JUSTICE STRATEGY

The BC First Nations Justice Strategy (2020) was developed by First Nations in partnership with the Government of British Columbia. It lays out a comprehensive pathway to transform the relationship between First Nations and the legal system consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*. Overall, the Strategy sets out to reduce the number of First Nations people who become involved with





the criminal legal system, improve the experience of those who do, increase the number of First Nations people working within the justice system, and support First Nations to restore their justice systems and structures. The Strategy includes 25 individual strategies and 43 lines of action along two tracks:

- **TRACK 1:** Reformation of the current legal system so that it is less harmful to Indigenous peoples; and
- **TRACK 2:** Restoration of First Nation legal traditions and structures.

Each strategy aligns with one of Four Pillars: Core Values; Structures and Processes; Roles, Responsibilities, and Capacities; and Laws and Policies.

This session covers strategies 3, 4 and 5 which focus on transforming the relationship between Indigenous peoples and the legal system by changing Structures and Processes.

At a high-level, strategies 3, 4 and 5 focus on the following:

- **Strategy 3: First Nations Justice Capacity and Legal Services:** Challenging approaches that contribute to the growing overrepresentation of First Nations children and youth in the care of government and the over-incarceration of First Nations peoples; and engaging with government to advance strategies that can achieve better outcomes for our people in the legal system. At a high level, we seek to radically transform the existing legal system by enhancing access to high quality, culturally sensitive justice services, incorporating trauma-informed practices, offering comprehensive wraparound services, and adopting holistic approaches to address recidivism among Indigenous peoples.
- **Strategy 4: Expand and invest in a comprehensive network of IJCs:** Establishing a network of 15 IJCs by 2024/25, with a target of introducing three (3) IJCs per year.
- **Strategy 5: Establish First Nations Legal Services:** Developing a workplan to transition legal aid services for Indigenous peoples from LABC BC to BCFNJC.

### **INDIGENOUS JUSTICE CENTRES (IJCs)**

IJCs are physical and virtual locations that provide culturally appropriate legal information, advice, support, and representation directly to Indigenous peoples at the community level. IJCs are part of a long-term effort to change the way that Indigenous peoples interact with the legal system. They apply traditional and holistic Indigenous approaches.

IJCs provide wraparound services for Indigenous people – First Nations, Métis, and Inuit - navigating criminal and child protection issues, including:

- legal advice and representation on child protection and criminal law matters;
- advocacy and support for dealing with police service agencies;
- social services and matters involving the Ministry of Children and Family Development;
- Gladue Report writing and aftercare services;
- referrals; and
- more.

IJCs are intended to be built in collaboration with First Nations on whose territories the IJCs are located and reflective of their needs and vision for legal services. IJCs are also intended to be strategically located in areas



with existing justice infrastructure (e.g. First Nations Court, Provincial Court, local justice service provision agencies etc.), demonstrated need (e.g. caseloads), and where organizational capacity at the community level is available to assist with staffing, operations, and other matters.

Existing IJC Locations:

To date, we have established IJCs in the following locations: Prince Rupert; Prince George; Merritt; Chilliwack; Vancouver; Victoria; Nanaimo, Kelowna; and Surrey.

Opening Soon:

BCFNJC has just started working with local First Nations to open new IJCs in Cranbrook, Williams Lake, Kamloops, Fort St. John, and Port Hardy, and somewhere between Hazelton and Burns Lake by the end of 2024.

Virtual IJC:

Our Virtual IJC has been in operation since 2020 and provides representation to Indigenous people living in parts of BC not served by a physical IJC.

To make an appointment call **Toll Free: 1-866-786-0081** between 9:00am – 4:00pm Monday to Friday.

**IJC SERVICES – Legal and Wraparound**

IJCs provide wraparound services, including legal representation, to Indigenous people navigating legal issues. Given that justice issues do not exist in isolation but are linked to social and health determinants, IJCs take a holistic approach to client and community wellness by facilitating connections to supports such as Elder guidance, housing, mental health and addictions treatment and employment services, in addition to providing legal advice and representation on both criminal and child protection matters. New this year is our “Aunties Program” provides culturally relevant supports to victims and families dealing with legal issues.

While focused primarily on criminal law and child protection issues (priorities set by First Nations leaders in BC), our IJCs also offer additional services based on community and cultural needs.

Beginning March 1, 2024, our IJCs changed the eligibility criteria so we can now accept Indigenous peoples who would otherwise qualify for legal-aid services from LABC. By accepting applicants now, we will have the opportunity to gradually transition the service from the LABC to the BCFNJC in a controlled and thoughtful way.

Prior to this change, our IJCs predominantly served Indigenous peoples who did not qualify for legal aid but could not afford legal services by other means.

**LEGAL AID SERVICES TRANSITION**

As shared at last year’s Justice Forum, the BCFNJC is in the process of reimagining what quality legal aid services for Indigenous peoples should be. During the fall of 2023, the BCFNJC legal aid transition team undertook a very ambitious engagement schedule to hear from First Nation communities, Rightsholders, and legal professionals.



In total, the BCFNJC hosted 35 engagement sessions across 18 communities plus four virtual engagement sessions. The feedback and resulting recommendations from these engagement sessions culminated in a 2023 Legal Aid Services Transition Engagement Summary Report. The purpose of these engagements was to hear directly from communities and those who are working with Indigenous people in the justice space about current barriers, issues, and gaps in legal services for Indigenous people. We also asked participants to reflect on what an Indigenous-led model of legal aid services should look like.

For the remainder of 2024, BCFNJC will be developing a new model for legal aid services for Indigenous peoples and developing pilot projects in our IJCs to test components of this new model. It is planned that the transition of legal aid services for Indigenous peoples will be done incrementally beginning in 2025.

### **GLADUE SERVICES**

Since assuming responsibility for Gladue reports from Legal Aid BC, on average, our Gladue Services Team receives 470 annual requests from defense and Crown. BCFNJC has delivered Gladue over 1,000 Gladue reports to the Courts. The demand for Gladue services (reports and aftercare) continues to grow. To meet demand, BCFNJC continues to improve upon our delivery approach.

### **Discussion Questions:**

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**QUESTION:** This information will assist in planning and improving the legal and wraparound services delivered, facilitated, or coordinated through our IJCs.

- How should BCFNJC measure success in the delivery of its legal and wraparound services for Indigenous peoples?
- How do you envision the experience of Indigenous peoples within the legal system changing over the next 5 years? How will we know we are doing well?

**QUESTION:** This information will help inform our Indigenous legal aid transition workplan.

- If you had the opportunity to shape the future of legal aid services to better meet your needs and the needs of your community, what specific changes or improvements would you propose to enhance accessibility, effectiveness, and inclusivity within a reimagined Indigenous legal aid system?



BC FIRST NATIONS  
JUSTICE COUNCIL

# LEGAL AID SERVICES TRANSITION



## COMMUNITY ENGAGEMENT SUMMARY

# Executive Summary



BC FIRST NATIONS  
JUSTICE COUNCIL

The BC First Nations Justice Council (BCFNJC) is a province-wide Indigenous organization and non-profit society created by First Nation leaders in BC in 2016. BCFNJC's mandate is to reform the current justice system and to also work towards restoring traditional laws, structures, and healing, advancing self-determination over justice for Indigenous people. In March 2020, BCFNJC, together with the Province of BC, released the [BC First Nations Justice Strategy](#) (the "Strategy"), which was co-developed based on extensive engagement with BC First Nations, legal system professionals and the Province of BC. Guided by Strategies 3 and 5 of the Strategy, BCFNJC is working in partnership with the Province of BC and Legal Aid BC (LABC) to transition legal aid<sup>1</sup> services for Indigenous people from LABC to BCFNJC, with services delivered through BCFNJC's Indigenous Justice Centres (IJs).

BCFNJC is in the process of developing an innovative and holistic model of legal aid services that reflects the need for better, more effective, more culturally informed legal aid services for Indigenous people. This new model is being created through fulsome engagement across BC, to understand the current state, and to plan for the future state of legal aid services for Indigenous people in BC.

From September 19, 2023 to January 9, 2024, BCFNJC's Legal Aid Services team, in partnership with the Indigenous Justice Secretariat (IJS), travelled throughout the province to gather feedback from Indigenous people, justice service providers and legal professionals on the current and future state of legal aid services for Indigenous people. BCFNJC held 18 in-person community sessions, 17 in-person legal professional sessions, 3 virtual community sessions and one virtual lawyer session. Additional engagement was also held via an online survey and through breakout sessions facilitated during the 2023 BC First Nations Justice Forum held from March 6-8, 2023 in Vancouver, BC.

During engagement sessions, we asked participants to reflect on current barriers, issues and gaps in legal services for Indigenous people. We also asked participants what they believed was working well in the current model, and what an Indigenous-led model of legal aid services should look like.

The Legal Aid Services Transition: Community Engagement Summary report aims to present what we heard during engagement sessions and identify recommendations to guide the development of a legal aid services delivery model for Indigenous people. The feedback we gathered can be summarized into 7 key themes and 16 additional themes.

The 7 key themes we heard included:

- Accessibility
- Eligibility Criteria
- Limitations of the Current Model
- Holistic and Wrap-around Supports
- Community Collaboration and Relationship Building
- Cultural Competency and Trauma-Informed Services
- Expanding Legal Services

From these themes, Community and Legal Professional participants offered 44 Recommendations. A full recommendations list can be found in Appendix B.

# Recommendations List

## Accessibility

- **Recommendation 1:** Partner with community organizations to assist in providing resources (e.g., internet, phone, computer, printer, etc.) to access legal services.
- **Recommendation 2:** Consider providing legal services in Indigenous communities and on reserves via outreach programs or satellite offices.
- **Recommendation 3:** Provide in-person legal services via a brick-and-mortar model.
- **Recommendation 4:** Provide virtual legal services in tandem with in-person legal services.
- **Recommendation 5:** Expand legal service hours and ensure services are provided in a timely fashion (e.g., after hours, drop-in services, 24-hour response turnaround).

## Eligibility Criteria

- **Recommendation 6:** Reduce the barriers to being eligible for legal aid services (e.g., financial verification requirements, client identification alternatives, Indigeneity policies, etc.).
- **Recommendation 7:** Eliminate or change the income eligibility requirement for legal aid services so that more Indigenous peoples are eligible to receive legal representation.
- **Recommendation 8:** Expand legal aid coverage to begin earlier in the legal proceedings (i.e. pre-charge).

## Limitations of the Current Model

- **Recommendation 9:** Leverage the advantages of the clinical or staff model and tariff model when developing a new model of legal services delivery.
- **Recommendation 10:** When developing a new model of legal services delivery, prioritize the following features:
  - Allocating sufficient time for lawyers to provide quality legal services to Indigenous clients, compared to what is available under the current model.
  - Ensure the new model does not include features that incentive lawyers to encourage their clients to plead guilty and avoid a lengthy trial.
  - Provide legal services for criminal charges even when incarceration is not imminent.
  - Allow for more time on family and child protection matters to reflect the complexity of these matters for Indigenous peoples.

### **Intake Services and Application Process**

- **Recommendation 11:** Provide in-person intake services.
- **Recommendation 12:** Partner with community organizations to assist in providing intake services.
- **Recommendation 13:** Provide intake services in Indigenous communities and on reserves via outreach programs or satellite offices.
- **Recommendation 14:** Streamline intake services and the application process to ensure the turnaround is reasonable and timely.
- **Recommendation 15:** Ensure intake staff are properly trained, culturally competent and trauma-informed.
- **Recommendation 16:** Develop an online platform (e.g., website, client portal, phone app, etc.) to allow clients to track their application and access their files.

### **Conflicts of Interest**

- **Recommendation 17:** BCFNJC should be aware of possible conflicts of interest, particularly in family law matters where both spouses are seeking legal services and wrap-around supports, and develop ways to address those conflicts while ensuring access to justice for all individuals.
- **Recommendation 18:** If mitigation of possible conflicts of interest includes contracting private bar lawyers, BCFNJC should ensure that those private bar lawyers are familiar with the community they will be serving.

### **Front-End Legal Aid Services (Brydges Line and Duty Counsel)**

- **Recommendation 19:** Review current front-end LABC services to assess how they might be improved upon in a future legal aid services model.

### **Holistic and Wrap-around Supports**

- **Recommendation 20:** Holistic, wrap-around services should be embedded into BCFNJC's service delivery model. This could include:
  - Housing, mental health and addictions supports,
  - Indigenous legal navigator and advocate roles,
  - Compiling and maintaining a list of relevant community resources for client referrals, and
  - Various other practical supports, including tax returns for Elders, a drivers' licensing program, and gender-based violence programming.



**Community Collaboration and Relationship Building**

- **Recommendation 21:** Prioritize relationship building with the clients and communities we serve, and legal professionals in the justice system.
- **Recommendation 22:** Build collaborative networks and relationships with communities and service providers who are already supporting Indigenous peoples involved in the legal system.
- **Recommendation 23:** Foster open and effective communication with communities and community-based organizations to set our clients up for success.

**Cultural Competency and Trauma-Informed Services**

- **Recommendation 24:** Build culturally competent and trauma-informed legal service delivery into our legal aid model.
- **Recommendation 25:** Advocate for a culturally competent and trauma-informed justice system (e.g., in the courtroom).
- **Recommendation 26:** Provide cultural competency and trauma-informed training for a wide array of legal professionals, including lawyers, judges, parole and probation officers, court staff, social workers, and police officers.

**Expanding Legal Services**

- **Recommendation 27:** Expand legal services beyond the scope of what is offered in the current legal aid services model.
- **Recommendation 28:** Prioritize the expansion of services in the following areas: family law, child protection, criminal law, Aboriginal harvesting matters, residential tenancy, and wills and estates, particularly probate matters.

**Uplifting Indigenous Laws**

- **Recommendation 29:** Support the integration and recognition of Indigenous laws and traditional governance, and provide clarity and support for communities and Nations enacting traditional Indigenous laws.

**Elders**

- **Recommendation 20:** Elder, Knowledge Keeper, or Matriarch roles should be built into BCNFJC's legal services model.
- **Recommendation 31:** Advocate for the incorporation of Elders in the justice system (e.g., attend court as a support person for our clients, development of Elders Councils).

**Inclusive of all Indigenous communities**

- **Recommendation 32:** The legal and support services BCFNJC provides must be inclusive of all Indigenous communities in BC, including urban Indigenous, non-status First Nations, Métis, and Inuit peoples.

### **Indigenous Representation**

- **Recommendation 33:** To increase representation of Indigenous professionals in the legal system, BCFNJC should seek to hire and retain Indigenous staff, including lawyers and support staff within its IJCs.

### **Diversion**

- **Recommendation 34:** Expand and advocate for Indigenous-led diversion options such as alternative measures and restorative justice programs.

### **Victim Services**

- **Recommendation 35:** Develop or advocate for an Indigenous-led victim services program.

### **Youth Services**

- **Recommendation 36:** Develop youth legal aid services that encourage youth engagement and focus on the specific needs of youth.

### **Legal Education and Information**

- **Recommendation 37:** BCFNJC should develop its own legal education and information materials specific to the needs of Indigenous peoples.

### **Choice of Service and Choice of Counsel**

- **Recommendation 38:** The right to choice of service should be respected. Indigenous clients should have the option of receiving their legal services through BCFNJC or through LABC, and to access legal services at the IJC office of their choice.
- **Recommendation 39:** The right to choice of counsel should be respected. Indigenous clients should have the option of receiving their legal services from their preferred legal counsel, where possible.

### **Mentorship for Lawyers**

- **Recommendation 40:** Provide mentorship opportunities for lawyers seeking to expand the legal services they provide or specialize in.
- **Recommendation 41:** Provide mentorship opportunities, especially for lawyers recently called to the bar, such as having articling students assist with the preparation of court documents, contributing to tribunal matters, and working with clients on non-legal matters such as obtaining a driver's license.

### **Retaining Lawyers**

- **Recommendation 42:** Provide incentives for lawyers, such as a competitive salary to help attract and retain lawyers, especially in smaller and remote communities where lawyer retention is an issue.

### Transparency and Accountability

- **Recommendation 43:** Develop policies that provide for checks and balances to ensure legal aid services remain transparent and accountable.

### Information Sharing Agreement

- **Recommendation 44:** Ensure Information Sharing Agreements are in place between BCFNJC, LABC, and partner organizations.

## Scan the QR Code

to read the full **Legal Aid Services Transition: Community Engagement Summary report.**



BC FIRST NATIONS  
**JUSTICE COUNCIL**

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## REVITALIZING INDIGENOUS LAWS: BACKGROUNDER

### Session Topic:

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This session brings together academics and lawyers to discuss some of the current efforts being made in British Columbia on the topic of revitalizing Indigenous Laws.

### Background:

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#### BC FIRST NATIONS JUSTICE STRATEGY

The BC First Nations Justice Strategy (2020) was developed by the 204 First Nations in partnership with the Government of British Columbia. It lays out a comprehensive pathway to transform the relationship between First Nations and the legal system consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*. Overall, the Strategy sets out to reduce the number of First Nations people who become involved with the criminal legal system, improve the experience of those who do, increase the number of First Nations people working within the justice system, and support First Nations to restore their justice systems and structures. The Strategy includes 25 individual strategies and 43 lines of action along two tracks:

- **TRACK 1:** Reformation of the current legal system so that it is less harmful to Indigenous peoples; and
- **TRACK 2:** Restoration of First Nation legal traditions and structures.

Strategy 2 speaks to Track 2's work on the Restoration of First Nations legal traditions and structures. Strategy 2 states:

#### ***Strategy 2: Advancing First Nations self-determination of justice systems and institutions***

Never in the history of Canada has respect for First Nations justice systems and legal orders been a value that has informed the structure and operation of the criminal justice system. Indeed, an opposite idea and value has been long entrenched; that the only criminal laws and criminal justice system that matter are the ones constructed after Confederation, consistent with the division of federal and provincial powers in section 91 and 92 of the Constitution. At Confederation, Canada effectively applied the criminal laws of England. The first Canadian federal Criminal Code was enacted in 1892, with a specific act for youth offenders enacted in 1894. Since then, until today, there has been no recognition of the role of Indigenous legal orders in criminal justice. Even today, the federal government, as a matter of policy, typically maintains that core matters related to criminal laws and the criminal justice system are not open to discussion as part of the implementation of self-government.

This Strategy replaces the historical emphasis on denial of First Nations justice systems and legal orders, while upholding the value of their recognition and the implementation of the UN Declaration as “the framework for reconciliation”. Without such a shift in values, where self-determination and self-government are supported and upheld, achieving the transformation of the justice system cannot occur. As such, Strategy 2 is about affirming this value in multiple ways throughout the justice system and making sure it helps inform the work in all sectors.

To be clear, the work of self-determination as it relates to rebuilding First Nations justice systems is complex and will take time. It involves multiple areas of work. There is the work of articulating and expressing criminal laws themselves and replacing the *Criminal Code*. There is work in establishing the institutions and processes of criminal justice, from policing through to corrections. There is building the capacity to play these roles and responsibilities. As well, for significant advancement to take place in relation to any of these areas of work, real changes will be needed to Crown laws, policies, and practices. Space must be created for the recognition and operation of First Nations laws, institutions, and jurisdictions. This is facilitated by DRIPA, and the specific strategies and actions in this Strategy have been designed to be aligned with and supportive of efforts that will occur under DRIPA to implement the UN Declaration.

The right of Indigenous self-determination, as expressed in articles 3, 4, and 5 of the UN Declaration, also means there cannot be a single approach or model for how First Nations choose to undertake this work. Correspondingly, Crown approaches to supporting this work cannot impose or create limitations, but rather must be supportive and facilitative of the priorities and visions set by First Nations.

## **REVITALIZING INDIGENOUS LAWS IN BC**

### ***Peter A. Allard Faculty of Law – Indigenous Legal Studies***

The Peter A. Allard School of Law at the University of British Columbia offers a wide variety of courses and experiential learning opportunities focusing on Indigenous peoples and issues.

A key course at Allard is “An Introduction to Indigenous Legal Orders within the Settler State” which examines Indigenous peoples’ own laws. This course assesses the relationship between indigenous and settler state legal orders. It examines how Indigenous peoples make their own laws to govern their relationships and resolve disputes. It shows how they draw from their storied histories to adjust to new social and material relationships. At the same time Indigenous legal orders constantly confront colonialism. Colonization violently brought a radically new social world. This world severely disoriented many indigenous communities. It impaired the adaptive capacities of many indigenous legal orders. This course focuses on the contemporary project of regenerating indigenous legal orders within the settler state. Themes of the course will likely include a theoretical introduction to non-state legal orders; identifying the pitfalls and opportunities associated with advancing this regenerative project within and through an Aboriginal Rights recognition framework; a historical overview of the relationship between colonial law (and later settler state law) and indigenous law, focusing on the experience in BC; and a critical analysis of the methods which legal researchers rely on to understand indigenous law today. Materials will focus on the Canadian context, but will also draw on literature addressing other contexts such as the USA, New Zealand and Australia.

### ***University of Victoria – Indigenous Law Research Unit***

The University of Victoria Faculty of Law operates an Indigenous Law Research Unit, which has helped Indigenous communities revitalize governance and decision-making protocols related to the rights and welfare of children, governance structures and citizenship, and collaborative agreements for managing shared resources like water.

Together, ILRU and the communities it works with identify key areas of governance and the substantive and procedural values that the community wants to uphold through the law. Then, they identify decision-makers and map out people’s obligations to each other and to a legal tradition. They also consider possible consequences when a law is breached. This is all part of the process to articulate, re-state, and reform Indigenous laws so that they can be applied to today’s challenges and realities.

**West Coast Environmental Law - RELAW**

The West Coast Environmental Law RELAW program (Revitalizing Indigenous Law for Land, Air and Water) is a program supportive of and supported by the UVIC Indigenous Law Research Unit (ILRU). Indigenous nations participating in RELAW projects have access to free legal services and co-learning opportunities for community members, focused on approaches to researching, applying and enforcing Indigenous law.

Through RELAW projects, legally trained staff from West Coast work collaboratively with Indigenous nations to:

- Draw on stories and the wisdom of elders to develop a summary of legal principles related to land and resources/environmental governance in their legal tradition;
- Develop a written law, policy, agreement or plan grounded in their own laws and community dialogue; and/or
- Develop and put into action a plan for implementing and enforcing their own laws on a particular environment or resource development issue.
- The RELAW Co-learning Program is also open to individuals nominated by Indigenous nations who are not currently participating in a RELAW project.



## BREAKOUT SESSION: TRACK TWO GUIDEBOOK

### Breakout Session Objective:

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Discuss and understand community needs and to receive instructions on how to ensure the Track Two Guidebook makes the most impact and is most useful for communities.

### Background:

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#### *What is Track Two?*

The BC First Nations Justice Strategy was developed to support two separate (yet related) tracks of work to reform the justice system: Track One seeks to change the current colonial justice system so that it is less harmful to Indigenous peoples; Track Two seeks to advance self-determination in justice for communities to, among other things, support the revitalization of legal orders and traditions, restore jurisdiction to Rights holders, and support the development of culturally appropriate institutions. **It is not the job of BCFNJC to undertake Track Two work for Nations, but rather, to support Nations in their Track Two work. One such support is the creation of a detailed Track Two Guidebook.**

#### *What is the Track Two Guidebook?*

The BC First Nations Justice Council (BCFNJC), per strategy 2 of the BC First Nations Justice Strategy, is mandated to develop a detailed “guidebook” to support First Nations in the work of re-building their First Nations Justice system and institutions. Per strategy 2, the guidebook will include:

- Detailed direction about the history of the justice system, its current operations, and the categories of work to be done by First Nations to re-build their own First Nations justice systems and institutions.
- Detailed information on ‘how’ First Nations may approach the re-building work, including roles that Elders, members, youth, and others may play.
- Best practices and templates that First Nations may choose to use.
- Processes for revitalization of First Nations legal orders, in relation to criminal law.
- An explanation of the standards of the *United Nations Declaration on the Rights of Indigenous Peoples* as related to criminal justice.
- Identified linkages to elements of the BC First Nations Justice Strategy which support the advancement of self-determination, and how First Nations may utilize those.

### Discussion Questions:

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**QUESTION:** What area of the law is your Nation prioritizing (e.g. criminal, child protection, developing child welfare laws)? What resources is your Nation employing in undertaking this work? What gaps or challenges are preventing you from advancing your priorities?

**QUESTION:** What would be the most useful resources that BCFNJC should included in the Track Two guidebook (e.g. templates for legislative drafting, how to guides, resource inventory)?

**QUESTION:** How would you like to collaborate with BCFNJC on this work?



## FIRST NATION LAWS IN CHILD WELFARE: ADVANCING TRACK 1 & TRACK 2 WORK WITH COMMUNITIES BACKGROUNDER

### Session Topic:

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Overview of progress made toward the development of BCFNJC child welfare strategies that support the work of First Nation communities seeking to reclaim full jurisdiction over their child and family services and/or those who seek to be more involved in the current child welfare system. Pathways and efforts made to improve the current child welfare system (Track 1) and to restore First Nation Legal Orders (Track 2) will be discussed.

### Session Objective:

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The objectives of this session are to:

1. Provide a brief overview of the current child welfare legal landscape, including a summary of Bill 38: *Indigenous Self-Governance over Child and Family Services Act* (“Bill 38”) and Bill C-92: *An Act Respecting First Nations, Inuit, and Métis children, youth and families* (the “Federal Act”).
2. Review of Track 1 and Track 2 work and proposed BCFNJC support services for communities.
3. Highlight Track 2 work in practice— Presentations on the reclamation of First Nations Child Welfare Laws by the Cowichan Tribes and Sts’ailes First Nation.
4. Gather participant feedback regarding ways the BCFNJC can support First Nations to:
  - a. Be active participants and decision-makers in the current child welfare system (Track 1); and
  - b. Reclaim their inherent Aboriginal Right to self-government in child and family services (Track 2).

### Background:

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Canada has a deeply troubling history of colonialism and the imposition of assimilationist laws and policies, particularly concerning the treatment of First Nation children. This legacy includes the imposition of the Indian residential “school” system, where Indigenous children were forcibly separated from their families, communities, and cultures, enduring abuse and neglect in an attempt to assimilate them into Euro-Canadian society. The 60’s Scoop further exacerbated this trauma, as thousands of Indigenous children were forcibly removed from their homes and placed in non-Indigenous foster care homes or adopted out to non-Indigenous families.

Despite the closure of residential schools and acknowledgement of past wrongs, the legacy of intergenerational trauma persists today and is evident in the overrepresentation of Indigenous children in the current child protection system. This ongoing cycle reflects systemic issues of colonialism and cultural erasure that continue to impact Indigenous peoples and families across Canada. British Columbia is not immune to this reality with a staggering number of Indigenous children in care. A 2022 report from BC confirms that of the





5,037 children in care at the time, 3,425 were Indigenous. This indicates that nearly 70% of children in care in BC in 2022 were Indigenous<sup>1</sup>.

During our numerous engagements with First Nation communities and Rightsholders we have heard and understand that the intersectionality between child welfare, youth justice, and the criminal legal system means that they cannot be addressed in isolation of each other. We recognize that if we are to address the overincarceration of Indigenous peoples in corrections, we must also address the overrepresentation of Indigenous children in care and doing so will require collaboration with and among First Nation communities on a large scale.

### ***Bill C-92 the Federal Act***

Bill C-92, which was passed and became Canadian law in 2019. The law aims to affirm Indigenous jurisdiction over child and family services, recognizing the inherent Aboriginal Right of Indigenous peoples to self-government in this area of the law. The Federal Act emphasizes the importance of cultural continuity and community involvement in child welfare, seeking to address the overrepresentation of Indigenous children in the child welfare system. It provides mechanisms for Indigenous communities to reclaim and revitalize their child rearing laws and to develop services tailored to their distinct needs and priorities, while also establishing standards for the provision of child and family services to Indigenous children.<sup>2</sup>

### ***Bill 38 the Provincial Act***

Bill 38 is the BC government's answer to the Federal Act. BC is the first province in Canada to formally adopt the Federal Act in full. Bill 38 received Royal Assent on November 24, 2022, and aims to amend the *Child, Family, and Community Services Act* (the "CFCSA") and the *Adoption Act* to recognize the inherent Aboriginal Right of Indigenous peoples to self-government in child and family services. In addition to the amendments to the CFCSA and the *Adoption Act*, Bill 38 also establishes the role of the Provincial Indigenous Child Welfare Director.<sup>3</sup>

### ***Indigenous Women's Justice Plan ("IWJP") Child Welfare Strategy***

The IWJP Child Welfare strategy seeks to advance Track 1 and Track 2 work by supporting communities to be active participants in decision-making processes regarding the wellbeing of their children and youth.

1. **TRACK 1—Navigating the Current Child Protection System:** Given the priority placed on child protection by Rightsholders, the BCFNJC is committed to supporting interested First Nations to be full participants in the existing child protection system and identify ways to transform the established system to better support Indigenous children and youth. Potential supports and immediate lines of action may include:
  - a. Helping First Nations to build their internal capacity by assisting them to develop their own Designated Band Representative Program.

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<sup>1</sup> Retrieved from: [Children in Care \(gov.bc.ca\)](https://www.gov.bc.ca) on March 12, 2024

<sup>2</sup> Retrieved from: [Bill C-92: an act respecting First Nations, Inuit, and Metis | Aboriginal Legal Aid in BC](#) on March 12, 2024

<sup>3</sup> Retrieved from: [CBA British Columbia - Paradigm Shift in the CFCSA — Indigenous Children Cannot Afford to Wait \(cbabc.org\)](#) on March 12, 2024



- b. Provide real-time support to the First Nation's Designated Band Representatives in court processes and proceedings, enabling them to navigate the complexities of child protection law in BC under the new system created by the implementation of Bill 38.
  - c. Working toward the reallocation of funding to support community-based prevention and early intervention strategies.
  - d. The creation of an independent and Indigenous-led complaints body.
  - e. The expansion of *Gladue*-style reports in child protection court processes.
  - f. Work with partners to provide the above-noted and additional supports as identified by participating communities.
2. **TRACK 2—Child Protection Jurisdiction Support:** Given the recent changes to the child protection landscape brought about by Bill 38, the BCFNJC is actively working towards identifying ways to support BC First Nations in reassuming full jurisdiction over child and family services under Bill C-92, the Federal Act, and Bill 38, the Provincial Act. Potential supports and immediate lines of action may include:
- a. The development of a toolkit to empower First Nations in creating the comprehensive workplans and budgets required by Canada to access capacity building funding under the Federal Act.
  - b. Helping First Nations to build their internal capacity by assisting them to develop comprehensive workplans using the toolkit as a guide.
  - c. Provide real-time support to communities interested in pursuing jurisdiction under the Federal Act or to expand upon their current authority under the *CFCSA*, including how to operationalize s. 92.1 Agreements in meaningful ways.
  - d. The development of a comprehensive BCFNJC children and youth wellbeing strategy to guide future work.

### Discussion Questions:

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**QUESTION:** The BCFNJC understands that not all First Nation communities are in a position to reassume full jurisdiction. What supports can the BCFNJC offer to these communities to start this process? Or for those not seeking to reassume full jurisdiction, what supports can the BCFNJC offer to communities seeking to expand upon their current authority under the *CFCSA*?

**QUESTION:** What resources do Indigenous families and First Nation communities need to empower and prioritize keeping families together?

**QUESTION:** The IWJP suggests having Band Designated Representative (BDR) Support teams to support capacity building and sustainability in participating communities, what would having a BDR support team look like in your community?

**QUESTION:** Some communities may not have BDRs and a stand in agent could assist these communities in the interim by representing the community's position in child welfare matters, how can an agent best support these communities?

**QUESTION:** For communities currently in the process of reclaiming jurisdiction, what have been your biggest challenges and how can the pathway to jurisdiction be improved for those in the very early stages of reclaiming jurisdiction?



## CORRECTIONS: BACKGROUNDER

### Session Topic:

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Discuss how to advance Strategies 13 and 14 of the BC First Nations Justice Strategy within Provincial and Federal Corrections.

### Session Objectives:

#### *Part One: Strategy 13*

The objective of the first part of this session is to consider how the Federal and Provincial Governments might forward Strategy 13 to ensure there is a standard and accessible process for First Nations to know where their members are being held in the corrections system, so that they can support and contact them.

Boyd Peters (BCFNJC Council Member and long-time leader involved in Correctional Services Canada (CSC)'s Kwikwèxwelhp Healing Village) will give an overview of Strategy 13 and the importance of its implementation in partnering with Federal and Provincial correctional systems.

Lori Pruce (BC Corrections, Director of Indigenous Programs and Relationships) will present on how BC might move the dial on this strategy. What are the legislative or policy changes required? For instance, e we know that there's a tension between consent, Indigenous Law, and the Privacy Act. How might we resolve this tension?

#### *Part Two: Strategy 14 – Thinking Outside the Box of Prisons*

The objective of the second part of this session will focus on Strategy 14 and consider alternatives to prisons and how to promote access to meaningful cultural healing programming to Indigenous people convicted of causing harms.

Boyd Peters will provide an overview of Strategy 14, which calls on the Federal and Provincial Governments to expand culturally based programs throughout Corrections and supports for use of alternatives within First Nations. Boyd Peters will share his community's experience with Kwikwèxwelhp Healing Village, and reflect on the strengths, and areas for improvement with the current relationship with CSC.

Jennifer Metcalfe (Prisoners Legal Services, Executive Director) will present on Section 81 of the *Corrections and Conditional Release Act* (CCRA), which governs the federal prison and parole system in Canada. Section 81 provides a mechanism for Indigenous self-determination to provide alternatives to prison whereby people sentenced to custody can serve their sentences in Indigenous communities. Although this provision in the CCRA was meant to allow for an equal, Nation-to-Nation negotiation between Indigenous governments and Canada to address community members who have caused harm, Canada rarely enters in these negotiations with Nations. What is the current state of Section 81 and how may these be enhanced and multiplied?

Lastly, Marty Maltby (CSC, Director General of the Indigenous Initiatives Sector) will discuss what is needed to advance more Section 81 initiatives from CSC's perspective. What collaboration is required with BC First Nations to facilitate more alternatives to prison that are community-led and governed? How do we bring the vision of Section 81 to a reality?



## Background:

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For decades, many Indigenous and non-Indigenous bodies, task forces, commissions, inquiries, and parliamentary reports have called for action to end the mass incarceration of Indigenous people in prison by supporting self-determination in creating alternatives to prison, including through s 81 of the CCRA.

These calls to action include the following recommendations, cited from the 2023 Prisoners Legal Services report: *Decarceration through Self-Determination*:

- 1983 Special Committee of the House of Commons on Indian Self-Government, Second Report: Indian Self-Government in Canada (chaired by Keith Penner), which recommends Canada enter treaties with First Nations for broad powers of self-government including in justice and law enforcement.
- 1988 Correctional Law Review Working Paper No. 7, Correctional Issues Affecting Native Peoples, which recommends legislation to transfer a significant degree of jurisdiction over correctional services to First Nations. This recommendation was echoed in the 1988 Report of the Canadian Bar Association Committee on Imprisonment and Release “Locking Up Natives in Canada,” which calls for legislation flexible enough to include models “very different from existing structures.”
- 1990 Task Force on Federally Sentenced Women (Creating Choices), which recommends that healing lodges be established for all federally sentenced Indigenous women.
- 1991 Law Commission of Canada, which recommends that “smaller local correctional facilities should be created, and Aboriginal communities should exercise control over those facilities.”
- 1996 Royal Commission on Aboriginal Peoples, which recommends “that federal, provincial and territorial governments recognize the right of Aboriginal nations to establish and administer their own systems of justice pursuant to their inherent right of self-government, including the power to make laws, within the Aboriginal nation’s territory” and makes other recommendations that these initiatives be given priority for funding that would ensure a secure financial base for long-term implementation.
- The Royal Commission on Aboriginal Peoples also recommends the development of community-based healing lodges to provide culturally appropriate alternatives to prison.
- 2003 report of the Canadian Human Rights Commission, Protecting Their Rights, A Systemic Review of Human Rights in Correctional Services for Federally Sentenced Women, which notes that there were no s 81 agreements for Indigenous women in place at the time. It recommends that CSC change its policy of not allowing maximum security women at its CSC operated healing lodge to a policy that is based on individual assessment.
- 2012 report of the Correctional Investigator of Canada, Spirit Matters, which recommends CSC develop a long-term strategy for increasing s 81 agreements and capacity, with permanent and realistic funding levels to allow salary parity with CSC, and a transfer of CSC-operated healing lodges to Indigenous communities based on negotiations as equal partners. Spirit Matters recommends CSC also consider non-facility-based s 81 agreements.
- 2015 Final Report of the Truth and Reconciliation Commission of Canada Recommendation 35, which calls on “the federal government to eliminate barriers to the creating of additional Aboriginal healing lodges within the federal correctional system.”



- August 13, 2015, United Nations Human Rights Committee Concluding Observations on the Sixth Period Report of Canada, which notes concern with the disproportionately high rate of incarceration of Indigenous people in the criminal legal system. It recommends Canada enhance its programs enabling Indigenous people to serve sentences in their communities.
- 2018 Report of the Standing Committee on the Status of Women, A Call to Action: Reconciliation with Indigenous Women in the Federal Justice and Correctional Systems, which recommends the federal government increase access to healing lodges as an alternative to incarceration, ensure Indigenous-run healing lodges receive equal funding to healing lodges operated by CSC, and eliminate barriers to the creation of new healing lodges.

Despite the numerous reports spanning decades in support of the use of alternatives to prison for Indigenous people, these recommendations have largely been ignored.

The authority to enter into Section 81 agreements has been given to the Minister of Public Safety, but in practice, the approval process and negotiation for Section 81 agreements has been delegated to CSC. While CSC may have a role to play in transitional provisions, these agreements should ultimately be Nation-to-Nation negotiations based on the principle of Indigenous Peoples' rights to self-determination and should not be delegated to a federal institution.

To date, CSC and the Minister of Public Safety have entered into only six Section 81 agreements in all of Canada. All of them have been for the creation of healing lodges, which are residential facilities that provide access to traditional teachings and programs. In the 2012 report *Spirit Matters*, Howard Sapers, then the Correctional Investigator of Canada, discussed the original intent that Section 81 be interpreted broadly to give latitude in what options Indigenous governments and organizations use as alternatives to prison "from the point of sentencing to warrant expiry."

Mr. Sapers noted that initially, Section 81 was not considered to be limited to the creation of healing lodges, but that funding agreements included those that involved Indigenous communities providing custody and programs in community. One example of a Section 81 initiative in British Columbia and that is the Kwikwexwelhp Healing Village, a federal facility for Aboriginal men, in which traditional and holistic teachings are utilized. The facility provides holistic programs, as well as training and maintenance skills to improve employability.

Strategy 13 of the BC First Nations Justice Strategy speaks to how First Nations must know where their members are in the correctional system, and when a move is contemplated, to provide support for members, their families and communities in reunification and reintegration, which will support better outcomes for people who have been in prison. Of critical importance with respect to this strategy is the ability of First Nations and their members to be able to build effective transition, reunification, and reintegration programs to support the decrease in recidivism and encourage restorative justice practices and outcomes. Sadly, Indigenous people are often discharged from prisons and family/community are not notified, and this has led to tragic ends.

Currently, there are no established data governance protocols regarding the sharing of this information for those who are incarcerated. Mechanisms need to be established to address any concerns regarding the *Freedom of Information and Personal Privacy Act* and ensure that standards in the UN Declaration, regarding the relationship between communities and their members, are respected.



**Discussion Questions:**

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**QUESTION:** What are the strengths and limitations of the healing lodge model as an alternative to prison?

**QUESTION:** What supports or programs could be in place in community to rehabilitate a person who has caused harm while maintaining the safety of the community?

**QUESTION:** What support do our communities need to welcome back our members from prison?

**QUESTION:** Do you currently offer programs to your members leaving prisons that you would like to expand on and how can we help?

**QUESTION:** In what ways are cultural supports being implemented and prioritized for Indigenous people in custody and/or those in community corrections?

**QUESTION:** What services might a space such as the Indigenous Justice Centers offer to support First Nations moving through the criminal justice system or support re-integration back into their communities?



## FIRST NATIONS COURTS: BACKGROUNDER

### Session Topic:

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This session brings together Judges, an Elder and a Graduate from B.C. Provincial Court's First Nations Courts.

### Background:

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#### ***BC FIRST NATIONS JUSTICE STRATEGY***

The BC First Nations Justice Strategy (2020) was developed by the 204 First Nations in partnership with the Government of British Columbia. It lays out a comprehensive pathway to transform the relationship between First Nations and the legal system consistent with the *United Nations Declaration on the Rights of Indigenous Peoples*. Overall, the Strategy sets out to reduce the number of First Nations people who become involved with the criminal legal system, improve the experience of those who do, increase the number of First Nations people working within the justice system, and support First Nations to restore their justice systems and structures.

Strategy 12 speaks to First Nations Courts, and specifically states:

*Strategy 12: Establish a joint approach to the future of First Nations Courts*

There are currently six First Nations iterations of provincial courts in BC: New Westminster First Nations Court, North Vancouver (Chet wa nexwnfw' ta S7eḵw'í7tel), Kamloops (Cknucwentn), Duncan First Nations Court, Nicola Valley Indigenous Court, and Prince George Indigenous Court. These courts are provincial courts that focus on specific aspects of the decision-making process. Primarily they are sentencing courts, where different processes and procedures, including those that are more healing-based and culturally appropriate, can occur at the sentencing stage. While an important initiative, First Nations Courts are not Indigenous courts where First Nations laws and jurisdictions are applied through First Nations institutions. An approach needs to be developed which ensures that future investment and expansion in the current model of First Nations Courts, a track 1 initiative, is at the same time coordinated with track 2 efforts towards the development of First Nations justice institutions and the implementation of the UN Declaration.

#### *Line of Action*

1. Co-develop a joint policy and approach regarding First Nations Courts
- BCFNJC and BC will establish a joint policy on expansion of First Nations Provincial Courts within 12 months.
  - The policy will consider ways in which First Nations Courts may support and form a bridge towards roles and responsibilities for Indigenous courts, as well as the role and function of Indigenous Justice Centres.
  - The policy will include a plan for how and when First Nations Courts may expand.
  - The policy will consider where First Nations legal order courts are emerging and how to support the development of these decision-making and dispute resolution practices and entities based on self-determination and the priorities of First Nations.



- In preparing the policy, BCFNJC will work with First Nations across BC, including in regions where First Nations courts currently operate.

### ***B.C. PROVINCIAL COURT INDIGENOUS COURTS***

This first Indigenous Court in B.C. was created in 2006 as a pilot project by British Columbia's first First Nations Judge: Judge Marion Buller. At the time the Court was advertised as:

“This Court provides a holistic and restorative approach to sentencing incorporating aboriginal practices. The Court has the benefit of hearing about an offender’s education, employment history, past criminal history as well as information about the offender’s extended family, his or her current needs for housing and health services, the availability of community-based resources and the views of the community toward the offence. If there is a Family or Youth Court file, or a related matter, those issues are heard at the same time as the criminal matter. There is a growing demand within the aboriginal community to expand the services that this court provides.”

Since the success of the first Indigenous Court, Indigenous Courts program has expanded across the province. The Provincial Court of BC has nine sentencing courts for Indigenous people charged with criminal offences, as well as one Aboriginal Family Healing Court that conducts supportive child protection case conferences in a culturally safe environment for Indigenous families:

1. New Westminster First Nations Court (opened November 2006)
2. North Vancouver Chet wa nexwniw ta S7ekw’i7tel Indigenous Court (opened February 2012, serves Whistler, Squamish and the North Shore)
3. Kamloops Cknucwentn First Nations Sentencing Court (opened March 2013)
4. Duncan First Nations Court (opened May 2013)
5. Nicola Valley Indigenous Court (opened in Merritt, October 2017)
6. Prince George Indigenous Court (opened April 2018)
7. Williams Lake Indigenous Court (opened December 2020)
8. Hazelton Indigenous Court (opened August 2021)
9. Lillooet Indigenous Court (opened September 2023)

The current aims of these Courts are to provide a more culturally appropriate and responsive way of conducting sentencing for Indigenous peoples. The goals of these Courts are to reduce recidivism; reduce the overrepresentation of Indigenous people incarcerated; and, to provide Indigenous people with culturally appropriate tools for healing set out in a healing plan. Healing plans typically include: counselling (substance use, mental health), connections to community resources for improving education, employment, and housing; referrals to other health professions; efforts to re-establish connections with family; participating in cultural practices and ceremonies; and, meeting with Indigenous Elders in the community.

While all Indigenous Courts have common aims, each Indigenous Court is slightly different in that it has been created by the Indigenous community for which it is located.





Indigenous and First Nations courts do not conduct trials. They are sentencing courts for people who: identify as Indigenous; plead guilty to a criminal offence; and have the prosecutor's agreement to participate.

### **CURRENT FIRST NATIONS COURTS CHALLENGES**

Some have noted that the following challenges with the current First Nations and Indigenous Courts:

- Requiring an Indigenous person to plead guilty in order to access culturally appropriate court services.
- The Crown has wide discretion to screen or refer those charged to participate.
- First Nations Courts are still embedded in the provincial criminal system.
- Lack of funding for First Nations Courts meaning limited Court dates and compensation for Indigenous justice workers and Elders.

### **DISCUSSION QUESTIONS:**

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**QUESTION:** What do you think are the current limitations to Indigenous Courts that you would like to see addressed and how?

**QUESTION:** BCFNJC is tasked to implement Strategy 12 (above), what priorities do you think BCFNJC should focus on in its implementation?

**QUESTION:** How would you like to see First Nations and Indigenous Courts expanded?



## PUBLIC LEGAL EDUCATION - EXPLORING FIRST NATIONS' NEEDS: BACKGROUND

### Session Topic:

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Explore the subject of Public Legal Education (PLE) for First Nations people in BC.

### Session Objective:

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The objectives of this session are to:

1. Discuss the meaning behind PLE, how PLE should be described by and for First Nations people, and why PLE is important.
2. Discuss PLE initiatives that have already been created for and by First Nations people in BC.
3. Present what we have heard from First Nations recently about PLE initiatives through the BC First Nations Justice Council's (BCFNJC) Fall 2023 engagement sessions.
4. Gather participant feedback on:
  - Future PLE areas of focus;
  - What mediums participants would like PLE to be delivered in; and
  - The best ways to gather feedback from participants about PLE in the future.

### Background:

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#### **1. What is "Public Legal Education" and why is it important?**

In the colonial legal system, Public Legal Education (PLE) is described as helping members of the public understand legal issues. PLE is not legal advice. PLE is about developing knowledge and skills rather than answering specific legal problems.<sup>1</sup>

PLE helps the public to:

- Be aware of their rights, legal issues and how the legal system works;
- Understand everyday legal issues, such as moving to another residence, or problems at work;
- Make better decisions and anticipate and avoid problems;
- Understand when they need legal support, and how to get it;
- Have the knowledge, confidence, and skills they need to deal with legal issues and gain access to justice; and

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<sup>1</sup> This definition is adopted from the [Law Society of the United Kingdom](#). We recognize this is a colonial institution. We would like to hear from you as to whether defining PLE should be modified for First Nations people.



- Get involved in shaping the decisions that affect them.

### **Benefits of Public Legal Education**

PLE has benefits for both the public and the legal sector, such as:

#### **i. Creating demand for legal services**

When people understand their legal rights and responsibilities, they will know when they have a legal problem, and how and when they should get help from a lawyer.

#### **ii. Increasing public understanding**

Campaigns to educate people about legal issues are a practical and powerful way to increase public understanding. They can show people the contribution that lawyers and the legal profession make.

#### **iii. Promoting the rule of law and access to justice**

PLE helps to create empowered citizens who understand and value the rule of law.<sup>2</sup> The law and the legal system are complicated. Helping the public to understand the system will increase public support for promoting access to justice.<sup>3</sup>

#### **iv. Promoting the BC First Nations Justice Strategy**

The BC First Nations Justice Strategy (2020) was developed by First Nations in BC in partnership with the Government of British Columbia. It lays out a comprehensive pathway to transform the relationship between First Nations and the legal system consistent with the *United Nations Declaration on the Rights of Indigenous peoples*. Overall, the Strategy sets out to reduce the number of First Nations people who become involved with the criminal legal system, improve the experience of those who do, increase the number of First Nations people working within the justice system, and support First Nations to restore their justice systems and structures. The Strategy includes 25 individual strategies and 43 lines of action along two paths:

- Reformation of the current legal system so that it is less harmful to Indigenous peoples; and
- Restoration of First Nation legal traditions and structures.

Each strategy aligns with one of Four Pillars: Core Values; Structures and Processes; Roles, Responsibilities, and Capacities; and Laws and Policies.

Increasing First Nations peoples' access to justice and building greater cultural awareness, knowledge and understanding throughout the system (track 1) are among the goals of the Justice Strategy. We believe that PLE is an important part of achieving these goals.

### **2. What are some PLE initiatives that have already been created for Indigenous people in BC?**

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<sup>2</sup> The [Provincial Court of BC](#) defines the rule of law as “the same laws apply to everyone regardless of their occupation, level of wealth, race, colour, sexual orientation, gender or other personal characteristics. It means that all people are treated equally by the same standards. It means that political influences or popularity polls have no part in a Court of Law. It means that no person is above the law. The requirement that our courts follow the Rule of Law is a fundamental principle of Canada’s democracy.”

<sup>3</sup> We acknowledge this description of PLE comes from the [Law Society of the United Kingdom](#).



The following are several examples of PLE initiatives already in existence<sup>4</sup>:

- a. Legal Information for Indigenous People: A booklet produced by the Bella Coola Advocacy Program providing basic and accessible legal information for Indigenous people facing legal issues including the justice systems, children & families, rights & protections, death & taxes, income security, and class actions. It explains how the laws can vary for people based on their Indigeneity.
- b. Community Legal Assistance Society (CLAS): CLAS's Human Rights Clinic and the BC Association of Aboriginal Friendship Centres developed some posters for Indigenous communities covering racial profiling, housing, discrimination in health care and the duty to accommodate, as well as several informational videos.
- c. Legal Aid BC: Legal Aid BC has developed web pages with legal resources for Aboriginal peoples in BC. There are web pages with information about subjects such as *Gladue* principles, healing plans, laws about homes on reserves, child and family rights, and what to do if you have been accused of a crime. Legal Aid BC has other resources including a graphic novel about family violence and other brochures with illustrations.
- d. Clicklaw: Offers a number of resources for Indigenous peoples in BC, however their website is not as user-friendly as some others. Their resources tend to be text-heavy.
- e. Dial-A-Law/People's Law School: A webpage dedicated to Aboriginal law.

### **Resources from Other Jurisdictions:**

Although it is based in Alberta and concerns Alberta laws, Bearpaw Media and Education offers examples of resources that could be adapted to BC laws:

- f. Bearpaw Media and Education: Bearpaw produces and distributes free/by donation multimedia resources about the law for Indigenous people in Alberta. Their videos and booklets feature a great deal of visual work/illustrations. Their work covers subjects including natural law, Indigenous identity, Missing and Murdered Indigenous People, children and youth justice, adult justice, family justice; government I.D. and voting, employment rights, landlord and tenant rights, education, and lateral violence. They also have an app called, "Connections," which is designed for youth ages 14-26 who are transitioning to adulthood from government care.

### **3. What we heard from First Nations recently about PLE initiatives through the BCFNJC's Fall 2023 engagement sessions**

Here is a summary of key points we heard from First Nation participants across BC:

- Avoid 'legalese' and legal mumbo jumbo. Use plain language that is simple and easy to follow (Grade 9 level);

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<sup>4</sup> We note a number of these resources also include a broader audience of Indigenous people such as Metis people and we appreciate that First Nations' needs may differ from other Indigenous groups'.



- People don't know where to look for legal information. Better and broader communication is needed through social media;
- Establish a connection and trust before getting into the legal discussion;
- Need a "Knowing Your Rights" service;
- More workshops are needed, including legal education sessions in communities (preventative/preparatory);
- Communities would like help writing their own bylaws;
- Educational booklets and pamphlets specific to justice, family, civil, etc.;
- Internal capacity building so community members can teach and help community members;
- Need more education on the legal system and different areas of law, for example child welfare law; PLE should be taught using a model like the Parent Legal Centres (PLC) and how they go into communities and have workshops – they build relationships within the community;
- Greater access to education, including traditional parenting practices and teachings on restorative justice practices;
- PLE education materials should be available in schools so our children learn their rights early. These efforts should also include Youth safety workshops;
- Training/education in:
  - Gender-based violence
  - Navigating the justice system
  - Missing and Murdered Indigenous Women and Girls
  - Preventing violence
  - How to support loved ones in contact with the justice system
  - *Gladue* (principles; factors; and reports)
- Education regarding the difference between on-Reserve and off-Reserve legal issues, Métis issues, and non-status issues;
- Increase resources and education in the north and remote communities;
- Avoid a pan-Indigenous approach; and
- Need to talk about big picture whole person, family, culture.

#### **Considerations relayed from First Nation communities:**

- Take note of individuals' reading comprehension level/literacy levels;
- People in addiction, mental health, etc. might not be able to understand materials;
- Consider the differences between the northern versus the southern part of the province; rural vs urban; on-Reserve vs off-Reserve;
- Simplify information (people are often overwhelmed and trying to process a lot of information at once). Keep in mind that First Nations are visual learners and try to simplify information into diagrams and brief overviews;
- Cultural safety should be prioritized. Indigenous people may be shy. Some may need interpreters, etc.;
- Partner with other organizations in an area already providing education and support; and
- Non-Indigenous people should be involved too so that Indigenous people don't have to carry all the weight/responsibility.

#### **Recommendations for future PLE mediums:**



- Print, including graphic materials, incorporation of First Nations art and nature, large print, colorful; translated into common Indigenous languages; incorporation of braille; and
- Podcasts, Radio, Video, Apps and Social Media.

**4. Participant Input:** We would like to know from you what subjects you would like to learn about and what mediums you would like PLE to be delivered in. This information will help the BCFNJC create the most relevant PLE possible for First Nations in BC moving forward.

#### **Discussion Questions:**

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**QUESTION 1:** Do you think there is a better way to describe PLE with a First Nations-lens than the description set out above? Should different or additional goals or values be emphasized? For instance, West Coast LEAF describes itself as a “not-for-profit in BC striving to end gender discrimination through equality rights litigation, law reform, and public legal education.” West Coast LEAF has a webpage titled “Our intentions and values for public legal education and information” on which it states:

We offer legal education that is based on our feminist and social justice values. In addition to providing information about law, our approach includes analyzing power and privilege, critiquing the law, and valuing non-legal pathways. Our public legal education programming has been providing people with information about colonial law for more than 20 years.

Since then, West Coast LEAF has gone through many important changes, including shifting from a women’s organization to a gender equality organization and committing to decolonizing. We offer this statement of our intentions and values in the spirit of transparency. We want to share who we are and where we’re coming from when we offer our education programming.

After reviewing West Coast LEAF’s statement, do you think that the BCFNJC should devise its own intentions and values for public legal education? What would you like to see included in such a description?

**QUESTION 2: What subjects would you like to learn about? What topics should the BCFNJC’s PLE focus on?**

For example, and in no particular order:



**QUESTION 3: What mediums would you like PLE initiatives delivered in?**

For example, and in no particular order:

Aboriginal Rights: Hunting & fishing	Family law/separation & divorce/parenting	Gender equality rights including gender-based violence and youth safety
Child welfare/how to deal with MCFD	Labour & Employment	How legislation and bylaws are drafted and the enforcement of First Nations laws
UNDRIP and Human Rights	Housing and Renter's Rights	Criminal law plus topics such as preventing violence, <i>Gladue</i> , restorative justice and diversion
Land Defender Rights and the right to gather	Wills & Estates (on and off-Reserve)	Prison law, including how parole works and what happens when someone completes their sentence
Environmental and energy law	Elder law	Canadian constitutional law and Charter Rights
Tax law (on and off-reserve)	Real Estate (on and off-reserve)	Aboriginal law (Canadian law relating to Indigenous peoples)
Corporate law	Personal injury	Indigenous Legal Traditions, including sources of Indigenous law (i.e. Sacred law, Deliberative law, Positivistic law, Customary law). We recognize that there is no pan-Indigenous law. PLEs could be developed for the laws of each specific First Nation.
Trusts (on and off-Reserve)	Mediation/Negotiation Skills	Other areas such as: <ul style="list-style-type: none"> <li>• Governance</li> <li>• Health + Law (topics such as FASD, alcoholism, post-partum depression and how it impacts child welfare issues)</li> <li>• MMIWG updates</li> <li>• How to support people who are involved in the legal system</li> <li>• How to navigate visiting people who are incarcerated</li> <li>• How to participate in parole hearings that impact your family</li> <li>• Dealing with the CBSA/issues when you cross the border to the U.S.A</li> </ul>

- Booklets available at the BCFNJC's Indigenous Justice Centres & online;
- Podcasts;
- Graphic novels/other visual materials;
- Articles published in community newspapers & newsletters;
- Webinars;
- In-person community seminars and workshops;
- Videos on the BCFNJC's website which could be shared on other websites such as Youtube and Facebook; and
- On TV (i.e. APTN show).



**QUESTION 4: How would you like to give feedback about PLE in the future?**

We recognize that PLE will continue to evolve as the laws evolve. We want are seeking ways that we can continually improve our development and delivery of PLE. Outside of the typical “survey method” what to do see as the best and most innovative ways to gather feedback from PLE participants?





## FEDERAL INDIGENOUS JUSTICE STRATEGY: PRELIMINARY ENGAGEMENT FINDINGS AND RECOMMENDATIONS FOR LEGISLATIVE CHANGE

### PART ONE: PRELIMINARY ENGAGEMENT FINDINGS

In partnership with the First Nations Leadership Council (FNLC), the BC First Nations Justice Council (BCFNJC) held a series of engagements on the National Indigenous Justice Strategy (NIJS). The target audience for the engagements was BC First Nations, Indigenous peoples in BC, Indigenous service providers, and relevant stakeholders working in the justice system. The sessions were designed to elicit ideas and priorities for inclusion in the NIJS. This What We Heard Report summarizes the key themes and feedback received at the engagement sessions.

Funding for engagement was provided through the Department of Justice Canada (DOJ). The DOJ also retained Kūwiingu-néewul Engagement Services (KES) to conduct parallel engagement on the NIJS; however, the findings of the KES-led engagements (many of which BCFNJC participated in) are not considered in this report.

The BCFNJC strongly encourages each of you, your respective parties, and your legislative colleagues to take bold action and ensure this opportunity does not go to waste. We feel a collective sense of urgency to ensure this province, and indeed this country, is safe for all those who call it home, in particular, Indigenous people who continue to pay the price of colonialism with their lives. We are calling on you to work with us to help deliver the transformative change in policing that is long overdue, and to champion the vision of the BC First Nations Justice Strategy which the BC Government endorsed in 2020.

#### Engagement Methodology

Data was collected at a provincial forum, regional sessions, focused dialogue circles, and through an online survey. Data was examined using thematic analysis with a grounded theory approach, meaning that the analysis was carried out by inductively coding a single case study for common themes and applying those codes to related case studies. Parent codes on themes were developed and refined, and child codes were added to embrace related but distinct themes. Under each theme, pertinent notes from the engagement sessions are included. Replicated responses were either deleted or combined. Nine themes in no particular order were identified in the analysis:

- (1) advancing First Nations governance and sovereignty;
- (2) geographic differences and needs;
- (3) needs and gaps in serving Indigenous clients;
- (4) poverty, trauma, youth, and definition of justice and wellness
- (5) building relationships with government and the justice system;
- (6) representation of Indigenous people employed in the justice system;
- (7) building relationships with Indigenous organizations and First Nations;
- (8) public outreach and engagement; and
- (9) developing mechanisms to achieve goals.

## **Provincial Forum**

A provincial forum dedicated to the NIJS was held on March 8, 2023 as part of the annual BCFNJC Justice Forum. Over 300 people attended the Forum which included a keynote address from Justice Harry LaForme, remarks from the Justice Council, and targeted breakout sessions.

## **Regional Sessions and Dialogue Circles**

In-person regional sessions were held in October and November 2023 in Williams Lake, Terrace, Victoria, and Vancouver. In addition to this, Targeted virtual dialogue circles were held with Elders, youth, and women, Two-Spirited, and women-identifying people. The sessions were conducted as a roundtable dialogue over four rounds and BCFNJC staff took notes on participants' responses (see **Appendix A** for discussion questions).

The following are the nine themes identified from the data collected from the NIJS engagement sessions.

## **Advancing First Nations governance and sovereignty**

*Quote: "Canada can't say NO – we already have two system of laws – British Common law and Quebec Civil Law. Why can French Canadians get their own systems of law, but First Nations cannot?"*

- Fort Nelson First Nation does much for their community with a Justice Centre.
- Four Treaty 8 First Nations have a collaborative approach to land and resource planning.
- First Nations communities play a role related to governance and justice matters.
- CFCSA changes mean that communities are more engaged in a noticeable way.
- The values and principles behind establishing sovereignty:
  - Self-determination.
  - Cultural respect and relevance.
  - Community and restorative Justice.
  - Elders' wisdom.
  - Sustainable reintegration into the community.
  - Equity and fairness in the justice system.
  - Youth involvement and collaboration.
  - Conservation of natural resources.
  - Negotiating self-government agreements.
  - Legal recognition of Gitksan legal orders.
  - Consultation and consent.
  - Restore customary law and restorative justice.
  - Education and training.
  - Require funding and resources.
  - Require data collection and reporting.
  - Conflict resolution mechanisms.
  - Partnerships and agreements.
  - Ongoing review and adaptation.
- The values and principles behind the Expression of Interest (EOI) regarding Legal Aid and BCFNJC:
  - Recognition of Indigenous legal orders.

## **BC First Nations Justice Council**

- Establishing self-government and jurisdiction.
- Restorative Justice and community involvement.
- Youth justice.
- Require funding and resources.
- Conflict resolution protocols.
- There needs to be community-led initiatives and efforts in building community capacity.
- The Metis nation is not recognized as an Indigenous governing body and there is an uphill battle, the laws that are imposed on us do not include us.
- There are restrictions on what parents can do, and parents need to learn how to parent in a different way than we were taught, when we were kids, we had consequences and now kids don't have consequences, the government needs to take their hands off our children.
- Families and parenting were completely broken with IRS, from Kirsten's community the grandparents would raise the first grandchild to show the parents how to parent.
- Genealogy, the community needs to tell the youth who their family is.
- Sense of belonging, there is no wholeness without a sense of belonging.
- Land-based learning, getting your hands in the dirt, learning respect, learning respect from fishing.
- We want our own justice system. British law system is focused on "individualism" while NTC is communal.
- Elders-Knowledge keepers to provide protocols. The role of Elders is to provide protocols in restoring/teaching the culture.
- There needs to be a clarity of process – not a pan-Indigenous approach. Cannot create a one-size fits all approach to justice.
- Dispute resolution needs to be part of the process.
- Clear communication about how harms are dealt with.
- What are ways communities can address wrongdoing? Banishment and shaming are two practices.
- How to deal with offenders:
  - Need buy-in from the community.
  - In Tseshaht – the word for resolving criminal disputes is "\_\_\_\_\_."
  - Could an appropriate recommendation be that Canada must fund First Nations to undertake research and community gatherings to help identify and understand "Indigenous appropriate ways to deal with 'offenders.'"
  - The codification of Indigenous appropriate ways to reflect traditions.
  - First Nations laws go farther – banishment but just corrections time and being allowed to re-enter the community.
- Each Indian Tribe in the United States has their own Criminal Code – as they are Independent political bodies. For example, Hobbie Tribe and Navajo Tribe have their own complex Criminal Code.
- We need to consider hunting and fishing laws. Is being a Land Defender a criminal offense? Why are Indigenous peoples disproportionately affected by this? For example, the Search the Landfills movement in Manitoba – demonstrators used sidewalk chalk and were charged with vandalism.
- There is not one single social issue that cannot be addressed without the land question. There needs to be autonomy over land base – recognition of Aboriginal Title – a huge step towards self-determination over justice.

### ***Developing mechanisms to achieve goals***

- How do we balance traditions with the different marriages and cultures coming together?
- What tangible steps are being taken to address systemic racism?
- Current mechanisms that are required to achieve goals:
  - MOU's and agreements.
  - Reporting and monitoring.
  - Independent oversight bodies.
  - Community feedback mechanisms.
  - Joint review and evaluation.
  - Data transparency.
  - Compliance with legal agreements.
  - Conflict resolution protocols.
  - Independent audits.
  - Public accountability statements.
  - Political and legal advocacy.
  - Capacity building.

These are not subject to change:

- Legally binding agreements.
- Multi-party agreements.
- Constitutional protections.
- Bi-partisan support.
- Independent oversight.
- Community-led initiative.
- Public awareness & advocacy.
- Long-term planning and funding.
- Education and training.
- International Agreements.
- Community capacity building.
- Legal safeguards.
- Current policies and legislation that require attention:
  - Criminal code reform.
  - Youth Justice Act amendments to recognize youth rights.
  - Judicial appointment process
  - Cultural competency training, including training for parole boards.
  - Policing legislation.
  - Corrections and parole policies.
  - Indigenous child welfare.
  - Victims' services.
  - Resource allocation.
  - Data privacy and ownership.
  - Legal framework for collaboration.
  - Support for customary law.

- Policies and legislation related to UNDRIP:
  - Must be in alignment with UNDRIP.
  - Legal framework.
  - Consultation and consent.
  - Right to Indigenous legal systems.
  - Cultural sensitivity.
  - Data sovereignty.
  - Oversight and accountability.
  - Resource allocation.
  - International recognition.
- We don't need posters of women fleeing domestic abuse, we KNOW we don't want that, but we don't know how to not to get to that point.
- Metis Nation is going for legislation for Metis children in care and having jurisdiction for children in care.
- YCJA needs to be amended so that it recognizes the rights of the youth. For example, under the YCJA, no need to contact community, whereas under the child protection laws in BC, that's the first call that is made. Federally, privacy laws inhibit this from occurring. Early access or early alert mechanism in place to help at-risk Indigenous youth.
- In terms of family matters, lack of response from government means we need actual response and oversight.
- Automatic second review of charges against Indigenous peoples could help provide a second eye.

### ***Building relationships with Indigenous organizations and First Nations***

- Indigenous legal organizations are concerned that their funding is in jeopardy especially if an IJC is opened in the community and there is competition between them. Improved communication on how to collaborate is needed to be good role models as peacekeepers and peacemakers.
- Justice means having good relationships with Indigenous organizations and having respect for them. There needs to be a way to work together.
- Organizations need solid foundations in the community, including the circuit courts. These organizations speak on behalf of clients in circuit courts and virtual bail courts.
- NCCABC has 50+ years of experience working within the provincial system and working with community services and the Crown.
- How to engage and support Native courtworkers as they contribute to reducing recidivism.
- Organizations need to connect with support services to assist clients and broader supports such as outreach workers. For example, *Unlocking the Gates* provides transportation for people exiting the corrections system and need transportation home. Another example is the *Mama Bear Clan* has been a community safety initiative since 2016.
- There needs to be greater coordination between First Nations to implement efforts, programs, and enforcement; this requires frequent meetings to build more meaningful relationships. For example, if banishment is an option, neighbouring First Nations need to work together. Agreements between First Nations need to be created.

### **Geographic differences and needs**

- Regional differences in needs between northern British Columbia and southern British Columbia must be considered.
- There is no “once size fits all” for rural and urban regions as they have different contexts and needs.
- Distinctions must be made for Indigenous peoples living in urban regions.
- NIJS needs to acknowledge local teachings and customs and not implement a pan-Indigenous approach.
- Each territory has their own vision for the NIJS and they must be considered moving forward.

### **Needs and gaps in serving Indigenous clients**

*Quote: “In my territory we don’t have a word for aunt, all my mother’s sisters were called mother, they all were responsible for raising me, there was no concept of a single mother. In the child protection area, all the sisters. All the mothers should be served with notice regarding the child, each of the sisters should have standing.”*

*Quote: Elder Sally: “Went to a court case in Kamloops. A young girl was going through the courts. She had a white social worker. Had a couple of Elders talking to her and she (the youth), couldn’t talk to the white workers because they didn’t understand her culture and what she was going through. They wouldn’t listen to her and what she was going through.”*

- Other essential pieces of work are missing – we hope to have someone there to fill in a true gap. Find the gaps and don’t reinvent the wheel.
- Getting people to Court is a major challenge.
- Sexual assault is a big problem, the justice system does not work, the victims fall into addictions and despair.
- Gap looking at advocating towards full implementation of their laws, instances where the law is not applied to people where Indigenous people are the victims (both people and organizations).
- Virtual swearing of an affidavit, the courts are pushing back on digitization but we need more digitization to provide better access.
- Long wait times, Metis don’t know where to go in the system, Indigenous court worker is over-worked, not enough programs for the youth,
- The MCFD funding cancelled the restorative justice for youth, a lot of the money for youth programming comes from the feds and proposal driven funding is really problematic.
- Missing is that adults don’t volunteer in the community, they just get paid and go home, because we hire people from outside the community and there is no community connection. How is the community to get know people.
- Solitary confinement is a big problem, and it is still happening we need to get on it. Over-representation of First Nations (in particular women and girls) in solitary confinement. Girls and women in incarceration keeps going up.
- Training needs to be consistent, and a lot of people cannot afford the training, lack of funding. We need sustainable funding and more training.

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- Separate Indigenous Courts from restorative justice, some of the cases that go to the Indigenous Court should be referred to the restorative justice.
- At the sentencing court there are often not enough Elders and they are not trained and don't know what questions to ask, and the sentencing court is not for all charges, like murder.
- Issues with training and capacity building so we don't just hire outsiders who do their time and leave.
- Had issues getting Gladue report for inmates because of privacy laws. A lot of our youth are couch-surfing and getting into initiated into gangs, we don't know where they are. No way to track our youth.
- Some of the youth/adults are banned from their communities because they did harm there.
- Takes a village to raise a child, it's important that the child stays in their community. We all have aunts that are like our mom. The system restricts or has a policy that if you are not the biological parent, you can't see or help the child.
- Not just victims but healing for the "offender" and the community.
- Current system has one winner and one loser. Not equal, need restorative justice/healing and ongoing support.
- Delayed parole hearings. All the rights to the offender when it comes to some stuff, no rights for
- No compassion from the criminal system.
- Misuse of Aboriginal support systems that should be going to "true" Aboriginal people. Be more culturally competent.
- Barriers related to privacy and consent for First Nations in corrections.
- Safe transportation out of communities. Safe houses, trusted supports. Community safety plan.
- Native court workers have found that First Nations will not go to a white person. Need more First Nation people on the front line who understand the system and can help explain the system or changes.
- First Nations people have the lowest rate of parole applications.
- MFCF - The system is set up to prevent foster children from complaining.
- Inequality in standards for non-Indigenous person vs. Indigenous person.
- Lack of First Nations cultural supports for courts. Need First Nations with lived experience. Better social workers, judges.
- Territory specific-no pan-Indigenous approach.
- The Parents Legal Centre has closed in Terrace. Will BCFNJC be filling that gap? Where do these MCFD files go?
- We look at alternates to a person going to jail, like treatment. We can divert people if treatment isn't available.
- People are visual, we draw out a map of where they are and where they can go.
- Changing the responses to how we are dealing with the justice system.
- Timelines don't set our people up for success. Indigenous metrics are not colonial metrics.
- It's the Nisga'a's constitution that guides us. Nisga'a – "our vision is to bring the longhouse back, Chiefs and Matriarchs."
- We are working from the foundation of who we are. That is where we work from first.
- When a person is charged, they are told you need to do this restorative justice, but it is very loosely suggested. That isn't contributing to safety to communities. Instead of talking to them about how do we get you out of these charges, by saying, what are the barriers to you achieving wellness. When are you at your best, who can support you, where is the place that is most conducive to your healing.

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- Reinststate our practice, in the longhouse, peacemaking circles. We have to remember that when planning a more reflective justice system. The longhouse is a natural place for family wellness. Needs to be the right path for the family not just the individual.
- There are no measurements in place to make sure the person is doing their restorative work. There needs to be some sort of checks and balances for community to ensure the person's healing and success.
- Why do we not have, at a provincial level, approved land-based healing institutions? Quikwelp Stolo has a federal institution that does land-based healing.
- Everyone in our communities is crying for healing. No controls on healing services, another way to exploit Indigenous people. Need to have more affordable healing services. There needs to be greater access to more land-based healing for justice coverage. Need more at a provincial and federal level. Land-based healing centres are a possibility are needed, and evidence for this is effective. Justice and wellness must include youth. Four Seasons offers land-based healing and wraparound service.
- Submission must include child welfare (children in care are 64% Indigenous). Child protection courts aren't working. Cannot consider 'justice without child and family.
- Parole needs to have an Indigenous voice.
- Lack of Indigenous Cultural awareness training. Lack of actual Indigenous staff and voices. Training needs to be available for all that want it.
- Gap in Terrace with the closure of legal aid and parents centre – need for a system that doesn't just close shop.
- How do we find that balance with intermarriage. How do we balance the traditions with the different cultures.
- Dispute resolution process – NTC – rule is consensus and no end until a decision is made.
- Look into India with the many Indigenous tribes who have their own Courts. Poorer country than Canada, they have their own justice systems.
- Sitting down and talking intrigues the heart and mind. First Nations people can never talk too much. Hearing a different view changes the mindset.
- For Ahousaht, we need to get back to old ways. We had our own policing. We had accountability and respect.
- It was a school where we teach our community and our kids, it's our governance.
- Don't think we can answer What is an Indigenous appropriate way to deal with criminal offenders without doing more research. Would have to talk to more people older than me about what that would mean.
- Old laws would have a family potlatch to apologize to the family when a crime against another family happened. Another Indigenous law was banishment, banished a potential Hereditary Chief once.
- People who are not 2S+ running 2S+ support Groups.
- Not enough resources to help all off our people.
- "Colonial business hours, Mon-Fri 8am-4pm."
- Lack of sexual assault kits and people to administer them.



## Poverty, trauma, youth, and the definition of justice and wellness

*Quote: “When you’re traumatized, you lose your spirit. We need our culture. We’re trying to bring that back.”*

*Quote: “When my people look at issues, they don’t break it down to child protection, abuse, housing, etc. We look at it as one. Not separate issues, we go to the ‘big house’ with a few select people and get it settled, they can’t come out until its settled.”*

- Services outside the justice system that address poverty and wellness need to be part of the process.
- We have a long population of homeless people and people experiencing addictions. The National Indigenous Justice Strategy needs to prioritize solutions and initiatives to ameliorate poverty, addictions. People without homes will go to get in trouble and get arrested so that they get shelter and food for the winter. Never seen the amount of tent cities decades ago.
- Help getting to treatment and barriers to treatment for addictions and mental health. Currently a crisis.
- FASD – need for specific training to support people who have these issues. This was a call to action, and it has not been fully implemented. We need treatment in the north for ADHD and FASD. Things have happened in Court that should not have happened. A lot of youth and Indigenous people are undiagnosed for autism or FAS, and they go through the system.
- I work on bail and a lot of the stuff we have been putting through lately is folks going through treatment.
- We also need stability with wraparound services. It is hard knowing which peer support group is running here, which is people we can get assistance with our clients when we need to get hold of them.
- For Youth/2S+/Women:
  - Addressing violence.
  - Cultural preservation.
  - Economic empowerment.
  - Healthcare access.
  - Education and training.
  - Respect for identity,
  - Healthcare that’s unique to Nations culturally.
  - Sensitivity to specific needs.
  - Safe spaces.
  - Education and awareness.
- For youth:
  - Education and mentorship
  - Mental health services
  - Preventing substance abuse.
  - Connecting to culture and access to sports and recreation.
  - Access to life skills programs.
- The issues with adopting out and foster care and the kids aging out without help or services.
- Treatment centres, sometimes people are not ready for it and then there is also a long wait. Mental health issues too. In British system (individualism) we don’t have the power to force treatment. In NTC, we can force/order to successfully complete treatment. Lots of barrier to treatment and aftercare right now. Not many communities have their own aftercare program. Lack of funding to do that. Have a land-based healing for victim and offender.

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- All the rights to the offender when it comes to some stuff, no rights for the family/friends/victims of the victims, not supports.
- Lots of vicarious trauma in community. Drugs and alcohol involved in a lot of domestic disputes.
- Raised to fear RCMP, fear could be raped or killed. Reluctance to report to RCMP any complaint against RCMP. RCMP beatings in custody, cover-ups of abuse. Dehumanizing mentality. Racism in police: need to address root cause of racism in RCMP. "Canada needs to make a concentrated effort to root out racism."
- Safe places place in middle of reserves and are culturally safe.
- Has been a decline of community gatherings. Seven generations of knowledge can't be passed on with so many children in the foster system. Too many restrictive policies on "biological parents/Indian adoption." It takes a village. Must act in the best interests of child and community. Role of Elders in enforcing community safety. Look at it from the perspective of the family. Look at it from a safety perspective, not just justice and punishment. Have entire family working on reintegration plan. Community and family accountability, transparency, so we are not working in silos. Seen people that were young and in trouble and then have seen them years later and how they have changed and gotten better, it because they went back home and connected with their Elders and community. IRS- intergenerational effects, so solutions and change needs to happen. Get to the youth. Youth treatment that focuses on family system that's coming from IRS. Support family basic needs.
- Gang members and banned community members, how do we re-integrate them?
- I have seen so much racism. The number of children in custody in care years ago was 48%, but now its 64%, its going completely in the wrong direction, that has got to stop. It's the same for incarceration. More natives are going to jail now, especially girls. There are more First Nations people in institutions than any other society in BC. Need to consider child welfare. 45 or 46% were Indigenous in care. It's now much higher and no one seems to care, nothing gets done, it's still going up every year. Our people get screwed with it comes to child protection.
- When you work in Urban settings, you can adapt to that situation, where there might be more than "one stream", all different types of FN's people. When you develop this strategy there needs to be a way to address those traditions and the people.  
Justice needs to look at everyone together-wellness, spirituality, health care. Justice cannot be separated.
- The vision of the longhouse is that no door is the wrong door. No stumbling blocks, holistic approach. We need to look at it from more a holistic point of view. Jordan's principle for CJS. We are not thinking about safety in our community when we are thinking about justice.
- Residential school was where the stripping of our people took place. Stripped our people of skills, structures, justice, and safety. We need to relearn our languages, our way of justice.
- Language is so important, shifting it from reacting after the fact to prevention.
- Our people are so traumatized and intimidated by the institutions. Focus on wellness, we know that nothing will move if a person stays at the same place that they are at. We work on individual wellness. Moving away from trauma. Talk about holistic considerations. Working on their whole wellness. You can't put timelines on healing, that's a colonial mindset.
- Having the people that make the decision be part of the team.
- Need to change the corrections mindset.
- Solutions cannot be limited.

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- Cannot separate legal issues/areas (e.g. child vs property vs criminal etc)
- Addressing basic needs – poverty, isolation. Housing and food security of our people. Housing – a lot of people who enter into the Courts in Lower Mainland – First Nations Courts in New Westminster – without housing, how can healing plans be effective at all.
- Current system victims afraid of the criminal justice system
- It's important to look at the whole picture, it's hard to pick one area to prioritize.
- Our community has more break-ins, more violence because of addictions. Seen theft in like Dollar Stores. Fred Sam, Nakazdli – more break ins, more violence, due to addictions and poverty – we need to prioritize the wellness of our communities. Rising cost of living, rising cost of housing, rising levels of poverty, leads to criminal activity and more incarceration. Housing and food security are so important. Part of the NIJS needs to focus on the increasing poverty and criminalization of folks.
- Feelings and being valued is a crucial part of our justice system.
- Too many levels of balancing between the two worlds, our world and the “modern” world. We have been trying to bridge that gap.
- Social determinants of health: Need for wraparound services and parole aftercare, reintegration and healing, FUNDING AND LOCATIONS FOR PROGRAMS THAT SUPPORT HEALING, Family WORK, AND REINTEGRATION INTO THE COMMUNITY (the consequences (e.g. apology). Linkages to healthcare. Justice links to more things. We need to talk about the entirety of the person. WHY do people go into the system; what does “criminogenic” mean?
- Bring people back and ensure they have something to do and find balance.
- “There is no help or outreach for those who live off reserve, services.”

### ***Building relationships with government and the justice system***

- The NIJS must be a cross-Ministry effort, since the NIJS is a mandate for the DOJ but the work overlaps with Public Safety Canada, Ministry of Mental Health and Addictions, Health Canada, and Indigenous Services Canada.
- What role would Canada play legislatively to assist?
- RCMP require oversight and implementing Indigenous policing. Police must know the community they serve, and more Indigenous peoples should serve on police oversight boards.
- Work the government and law enforcement to address wrongful convictions and expand the Indigenous court system.
- Greater collaboration with Corrections Services Canada on reporting.
- Prioritize building good relations rather than focusing on rules and processes, as those can be weaponized against First Nations. These relationships will help families and communities navigate the justice system.
- Require alternatives in the Indigenous court system since people are expected to plead guilty and face incarceration.
- Government controls First Nations membership and this makes self-identifying an issue because people do not know how to access resources due to cultural and social disconnect.
- Complaints to RCMP “don’t go anywhere.” Williams Lake is considered a training ground for new RCMP officers.

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- Create monthly meetings with RCMP, probation, child welfare, and others to discuss risk cases and risk reduction. Situation Tables and Justice Wellness strategies should be included in the meetings.
- Frontline staff need to be advocates for systemic change.
- Bodies such as BCFNJC, programs, and courtworkers need improved communication.
- Insist that the government provide treatment for Indigenous peoples in the criminal justice system.
- Indigenous funding should not cover all costs; whatever the government saves from healing interventions should be redistributed to communities.
- Canada should fund research on developing Indigenous legal structures founded on pre-contact teachings. Canada recognizes separate laws for Quebec so why not First Nations?
- Parole should provide information to the community to support re-integration.
- The government must increase funding for healing and re-integration programs.
- Police are not well-trained to conduct wellness checks.
- Policing on hold with Ahousaht. They can't get restorative justice and have been absent since 2016.
- Policing on reserves work with and be managed by Head of House.
- A lack of government response to family justice and needs improved oversight.
- Wills and estates are an issue; the Indian Act states that an Indigenous person's will is invalid until approved by the Minister.
- In reinstating Indigenous legal orders, Canada would refuse to change the Criminal Code since it is federal and applied nation-wide. As an example, criminal law differs from state to state. Quebec has not enforced the criminal code to social and cultural matters, such as same-sex marriage and abortion.
- High police turnover
- Training the next generation of police officers
- Be heard / history of silence /RCMP don't listen to our people when we talk about where that person might be / no acting on what has been said and or posted on social media / not collecting evidence.
- Loved one's belongings need to be given back.
- RCMP are racist, they do not see Indigenous people as humans or as individuals, they need more compassion.
- Definition of "confidentiality" stops family in supportive roles and community roles (also consent).
- Inaccessible complaint system (harm inflicted, no reliable place to raise concern)
- Taken into custody for defending self, our women are being charged with assault for protecting themselves, no apology for lack of medical attention/holding in custody, lack of follow up.
- Police mistreatment of our women.
- Our women are being raped by police officers.
- Hard to retain Indigenous / female officers due to police culture.
- Police are mistreating our vulnerable population.

### ***Representation of Indigenous people employed in the justice system***

- Though more Indigenous people are employed in the justice system there is still much work to be done in promoting greater representation.
- Indigenous peoples need to have greater representation in the Supreme Court.

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### **Public outreach and engagement**

- Fort Nelson First Nation wishes to explain their role to the court system (particularly judges) and what the courts would like to see in their role.
- Self-determination requires community engagement and public awareness and education.
- Legal Aid requires community engagement and public education.
- Community-led initiatives require community engagement and public education.
- The truth around the Pickton case needs to be released, as participants explain that they were silenced when speaking about it (Judge Ramsay). Canadian need to be educated as to why this is important work.
- Mandate education on the harms the criminal justice system committed and from actors outside the criminal justice system.

## **PART TWO: POTENTIAL FEDERAL LEGISLATIVE CHANGES**

### **1. Legislative Reforms to Support Diversion and Sentencing**

- *Relationship to Justice Strategy*: Strategy 1 – Presumption of Diversion; Strategy 6 – Implement a comprehensive Gladue strategy supported by a dedicated First Nations controlled Gladue implementation agency; Strategy 10 – Prevention and Youth; Strategy 11 – First Nations Women; Strategy 14 – Expand culturally-based programs throughout corrections, and supports for use of alternatives within First Nations; and, Strategy 15 – First Nations Justice Programming.
- *Key Legislative Changes*: The following legislative changes would represent transformative shifts that support diversion of Indigenous accused to more culturally appropriate and community-based measures, as well as addressing how sentencing disproportionately impacts Indigenous peoples. For diversion to work, it also requires a significant expansion of community-based justice programming through changes to funding, policy, and practice.

(a) Amend section 717 of the *Criminal Code* to reflect the following goals:

- Reverse the presumption in s. 717(1) where the accused is Indigenous – i.e., alternative measures shall be used unless the “protection of society” necessitates otherwise;
- Expand the class of alternative measures in to include those authorized by Indigenous governing bodies; and,
- Include reference to addressing contextual and cultural factors related to Indigenous persons in determining appropriateness of alternative measures.

*Note: An approach will have to be determined to define First Nations governments or Indigenous governing bodies in the Criminal Code and other federal legislation. Currently there*

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*is no consistency of approach or definition, with some references to communities, governments, and governing bodies. Because of the use of “Indigenous governing body” in recent legislation (i.e., An Act respecting First Nation, Metis, and Inuit children, youth and families) consideration should be given to achieving consistency with the use of that term. As well, review could be conducted of how definitions are being advanced in ongoing self-government work being led by First Nations.*

*Consideration should also be given to amending the definition of “Alternative measures” so that includes substantive content of what may be an alternative measure – and not just formal definition that it means a measure under section 717.*

*It has also been proposed that Alternative Measures be made available for all offences other than homicide (Report of Commission into First Nations and Metis Peoples and Justice Reform, Saskatchewan, 2003).*

(b) Amend Part 1 of the *Youth Criminal Justice Act* to reflect the following goals:

- Include a principle in section 4 stating a presumption for the use of Extrajudicial measures in the case of an Indigenous youth;
- Include statements of objectives in section 5 related to addressing overrepresentation of Indigenous peoples in the justice system, recognition of the inherent right of self-government, and upholding Indigenous cultural and community practices and priorities; and,
- Include a statement in section 10 of a presumption for the use of extrajudicial sanctions in the case of an Indigenous youth.

*Note: Like all topics related to diversion, significant increase in investments in community-based programs is needed to ensure access to extrajudicial measures. A focus on these investments could be an early step to support legislative changes.*

(c) Amend section 718 of the *Criminal Code* and section 38 of the *Youth Criminal Justice Act* to:

- Include specific reference to restorative justice and restorative justice principles in the “Purposes and Principles of Sentencing”; and,
- Include a presumption against “short” periods of incarceration (i.e., so that alternatives to incarceration are always preferred to short periods of incarceration).

*Note: There has been international and domestic discussion of the presumption against short sentences. A determination would have to be made on what is “short” – i.e., less than a year; 6 months; 3 months etc.*

- (d) Amend section 722 of the *Criminal Code* and section 40 of the *Youth Criminal Justice Act* to reflect the following:
- Make the preparation and use of *Gladue* reports mandatory when an Indigenous person is being sentenced.
- (e) Amend section 515(10) of the *Criminal Code* and section 29(2) of the *Youth Criminal Justice Act* to reflect the following:
- Make the preparation and use of *Gladue* reports mandatory when an Indigenous person is being considered for detention/release.
- (f) Amend section 81 of the *Corrections and Conditional Release Act* to reflect the following goals:
- State a presumption in favour of the use of correctional services provided by an Indigenous governing body or Indigenous organization where such a facility exists; and
  - Change the discretion to enter into agreements to a mechanism requiring the entering into of agreements where an Indigenous governing body has provided notice of its intent to provide correctional services (Note: In effect, a similar mechanism to Bill C-92).
- (g) Amend section 84 of the *Corrections and Conditional Release Act* to reflect the following goals:
- Require notice to inmates of the option to be released into an Indigenous community;
  - Establish a presumption in favour of release into an Indigenous community where an inmate requests it and an Indigenous governing body consents to it; and,
  - Establish a mechanism requiring the entering into agreements where an Indigenous governing body has provided notice of the intent to establish a standing protocol for release of inmates into their community (Note: In effect, a similar mechanism to Bill C-92).

*Note: There are longstanding recommendations for the better implementation of sections 81 and 84 of the Corrections and Conditional Release Act to address policy and practice barriers. For a recent example and summary see: Parliamentary Committee Notes: Overrepresentation (Indigenous Offenders), March 9, 2023.*

*These barriers have included: chronic underfunding of section 81 facilities; limitation of agreements to a 5-year timeframe; lack of notice and awareness of section 84 releases amongst inmates; lack of access to section 81 and 84 opportunities in urban settings; limitations on the use of non-facility section 81 options; and, red tape and practice burdens on the effective use of both section 81 and 84.*

*Implementing all of these recommendations would not involve legislative change, and could be implemented in addition to, or in advance of, legislative change.*

(h) Amend sections of the *Criminal Code of Canada* to address how Mandatory Minimum Penalties disproportionately impact Indigenous peoples:

- Revoke all MMP's for all offences;<sup>1</sup> or,
- As an alternative to revocation, include a broad discretion in sentencing to determine whether an MMP must be imposed, and include consideration of Indigenous background in use of discretion.

*Note: Prior to Bill C-5 there were 67 MMP's in the Criminal Code and six in the Controlled Drugs and Substances Act. Bill C-5 eliminated 14 MMP's in the Criminal Code (13 for firearms offences and 1 for a tobacco offence) and the 6 in the CDSA. As such, to repeal all MMP's would involve amendments to over 50 sections of the Criminal Code.*

*There are many approaches that could be taken to addressing the disproportionate impact of MMP's on Indigenous peoples. Two of the options are above. There have also been proposals where MMP's may be maintained for a small class of the most serious offences (e.g. murder) while being revoked for all others.*

*A related issue is the availability of conditional sentences under s. 742.1 of the Criminal Code. It has long been identified that removing limitations on the use of conditional sentences may help address the overrepresentation. At the same time there is concern of "net widening" – that in the context of the increased rates of administration of justice offences by Indigenous offenders, the imposition of a conditional sentence can ultimately result in harsher punishment and longer incarceration, than an original, available, lesser sentence would have. Some limitations on conditional sentences were removed in Bill C-5 in 2022. Repealing MMP's, or adding a general discretion, would de facto include an amendment 742.1 and greatly increase the availability of conditional sentences because the current section bars the use of a conditional sentence where an MMP exists.*

(i) Amend sections 732.1 and 732.11 of the *Criminal Code* to provide for general discretion in the imposition of conditions for probation, to confirm and mandate the use of *Gladue* on administration of justice offences, and a presumption against the imposition of incarceration for the original sentence where there has been an administration of justice offence except in exceptional circumstances.

*Note: These amendments are to address the concern of "net widening" noted above and support the use of conditional sentences as mechanism for reducing incarceration.*

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<sup>1</sup> Going forward a list can be provided of the 50 sections of the *Criminal Code* that would have to be amended to repeal all MMP's.



- (j) Amend sections 523.1 and 524 of the *Criminal Code* to reflect a presumption that where a breach of condition arises it may be handled without laying a new charge by returning the accused to court, except in exceptional circumstances. The effect would be that rather to reduce the number of additional charges for breach of conditions and leave it to the Court to determine if it will cancel the accused's release, return the accused to custody, or adjust their bail conditions.

*Note: Some of this was addressed in Bill C-75. As well, much of this could likely be achieved through shifting policy and practices to a presumption against laying new charges; however, given the preponderance of breach of condition offences as well as the relationship between breach of condition offences and overincarceration, legislative change could support better outcomes.*

## 2. Legislative Reforms to Support First Nations Jurisdiction, Justice Systems, and Institutions

- *Relationship to Justice Strategy: Strategy 2 – Advancing First Nations self-determination of justice systems and institutions; and, Strategy 8 – Alignment with UNDRIP; Strategy 15 – First Nations Justice Programming.*
- *Key Legislative Changes:*
  - (a) New legislation that creates a mechanism for the recognition and implementation of the substantive and procedural jurisdiction of Indigenous governing bodies over criminal justice:
    - Recognition of the authority and jurisdiction of Indigenous governing bodies to enact their own criminal laws as an expression of the inherent right of self-government;
    - Recognition of the authority and jurisdiction of Indigenous governing bodies to enact their own laws and create their own institutions for the administration of justice (including to conduct prosecutions and establish courts);
    - Entrench principles and standards regarding the substantive and procedural jurisdiction of Indigenous governing bodies over criminal justice;
    - Create a mechanism, analogous to Bill C-92, where an Indigenous governing body, may provide notice regarding transition to the application and implementation of their criminal law jurisdiction, and the establishment of agreements to support the implementation; and,
    - Create a mechanism for dispute resolution where elements of the transition and implementation are not resolved through time-bound negotiations.

*Notes: There are significant legal and practical complexities with enacting this legislation.*

1. *Issues of paramountcy and interjurisdictional immunity may arise regarding the relationship between Indigenous, federal, and provincial laws, and the relationship between 91(24) and 92(14) of the Constitution Act, 1982. Some of these issues – paramountcy in particular – may be addressed in the upcoming ruling of the Supreme Court of Canada in Attorney General of Quebec v. Attorney General of Canada.*
2. *A First Nation assuming criminal law jurisdiction is wholly interrelated to the Nation re-building and path of self-government they are on, including how they foresee moving beyond the Indian Act. As part of considering an approach to such legislation, the BCFNJC needs to consider what its proper role may be in the criminal justice jurisdiction aspects of the self-government work First Nations are doing, and how the steps the BCFNJC may seek to advance supports and aligns with that work.*
3. *This approach involves the recognition of multiple criminal justice jurisdictions across Canada. Consideration may need to be given to how to enable and encourage larger inter-Nation exercises of this jurisdiction. As well, the issue of to whom that jurisdiction may be applied must be addressed. Is it based on personhood (eg. Members of a particular Nation?)? Is it based on geography (e.g., Everyone in a particular area?).*
4. *In the context of BC, to address both the legal and practical issues, a tripartite approach should be strongly considered where complementary federal and provincial legislation would be passed, along with tripartite agreement mechanisms.*

*Also, in the context of BC, inter-Nation work prior to the enactment of legislation to establish broader regional or provincial approaches to exercise of substantive and procedural criminal jurisdiction would significantly enhance the viability and likelihood of such a legislative approach.*

5. *Prior to any Nation being in a position to exercise substantive and procedural jurisdiction, there is substantial criminal justice system rebuilding work that needs to take place. This work does not primarily involve legislative change – it involves investments, agreements, and practice and policy shifts on a range of matters including restorative justice programming, community prevention services, youth programming, governance re-building (and law-making capacity) and so on.*

*Given this, the BCFNJC may wish to propose two stages of legislative reform, where the self-government legislation represents a second stage of work. The BCFNJC may also wish to engage with First Nations about what aspects of criminal justice system rebuilding may already be advanced through their negotiations with Canada (and in some aspects/instances BC), including at RIRSD tables.*

*Reflecting a staged approach, consideration may also be given to legislative change that supports some Nation criminal justice rebuilding, prior to the enactment of legislation that fully implements self-government in relation to criminal justice. For example, legislation (likely*

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*involving BC as well) could recognize Indigenous courts with respect to certain individuals and offences.*

### 3. Specific Topic Reforms<sup>2</sup>

- *Relationship to Justice Strategy: Strategy 7 – Independent oversight and accountability; Strategy 8 – Alignment with UNDRIP; Strategy 10 – Prevention and Youth; Strategy 11 – First Nations Women; Strategy 13 – First Nations information about members in corrections system; and, Strategy 16 – Formal mechanisms to track progress.*
- *Key Legislative Changes:*
  - (a) Pass stand-alone federal legislation for oversight, accountability, and data collection regarding Indigenous peoples in the justice system.

*Note: There are many approaches to achieving accountability and oversight for federal government action in transforming the criminal justice system for Indigenous peoples, including achieving the Strategies in the Justice Strategy and a NIJS.*

*An independent Indigenous Justice Auditor-General (or equivalent type of office) could be created by legislation to monitor and report on federal actions re: justice reform and Indigenous peoples. This could include investigating, reporting, and making recommendations. The role could also include data collection and reporting to support (1) public education on the need for justice system reform re: Indigenous peoples and (2) evidence-based decision-making within the justice system, including the use of alternative measures. The function could also play a role in reporting on the development of First Nations Justice Systems, and their functioning (including data). Consideration may have to also be given to a provincial role or complement for such an office for full effectiveness and comprehensiveness.*

*Other approaches to such a role could be the amendment of existing oversight and accountability mechanisms – though it would have to be carefully considered whether this could provide the Indigenous and justice system expertise that is necessary. As well, consideration could be given to removing the data collection role to another entity. For example, there has been recommended the creation of a data centre on Indigenous justice that would track, collect, and report data on Indigenous justice issues.*

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<sup>2</sup> This category is just a starting list of some specific topic legislative changes. This list could become quite extensive over time, and the BCFNJC would have to determine the best strategy for advancing these specific topic area reforms. To be clear, many key shifts that would address specific topic areas would be addressed through the changes on sentencing/diversion as well as First Nations justice systems.

As well, many reforms may arise from the specific strategies the BCFNJC is seeking to develop regarding First Nations Women and Children, Youth, and Families. We are not aware of the status of that strategy development, so have just flagged a few reforms at this time. We could proceed to analyze how, for example, to translate the Calls to Justice of the MMIWG Inquiry into legislative reforms if that is aligned with the work being done at the BCFNJC on Strategy 11.

- (b) Amend the definition of “youth” in the *Youth Criminal Justice Act* to raise the age to which the Act applies.

*Note: Such a shift would reduce the number of Indigenous young people being tried as adults and reduce the rate of incarceration. An alternative approach would be state a presumption against incarceration in the Criminal Code for accused under a certain age (i.e., 25 – which has been recommended in some reports and studies) with some exceptions for serious offences. Where the presumption is deviated from the Judge could be required to give written reasons.*

- (c) Repeal section 43 of the *Criminal Code* to remove the defence for the use of force on children.

*Note: This amendment is to fulfil Truth and Reconciliation Commission Call to Action #6.*

- (d) Amend section 239 and 273 of the *Criminal Code* to recognize as an aggravating circumstance for an offence referred to in section 235, 236, 239, 264.1(a), 256 – 269, or 271 – 273, the fact the victim of the offence is a female person who is Indigenous.

*Note: This amendment is a recommendation from the MMIWG Inquiry and mirrors Bill S-215 which has not passed.*

- (e) Amend section 222 of the *Criminal Code* to include cases where there is a pattern of intimate partner violence and abuse as murder in the first degree.

*Note: This amendment is a recommendation from the MMIWG Inquiry.*