



BC FIRST NATIONS
JUSTICE COUNCIL

BC FIRST NATIONS JUSTICE FORUM

Engagement Report

*Information gathered on Day 3 of the BC First Nations
Justice Forum - March 8, 2023
Fairmont Hotel Vancouver
Vancouver, BC*

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Analysis by BCFNJC Policy Team



BC FIRST NATIONS
JUSTICE COUNCIL

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Executive Summary

The BC First Nations Justice Council (BCFNJC or Council) was formed in 2015 through resolutions made by the First Nations Leadership Council (FNLC), comprised of the British Columbia Assembly of First Nations (BCAFN), the First Nations Summit (FNS), and the Union of British Columbia Indian Chiefs (UBCIC).

In September 2017, the then British Columbia Aboriginal Justice Council, the Attorney General of British Columbia, and Minister of Public Safety and Solicitor General signed a Memorandum of Understanding (MOU) with the goal of jointly developing a provincial Indigenous Justice Strategy. The 2019 Justice Forum led to the finalization of the BC First Nations Justice Strategy (FNJS or Strategy). The Strategy contains 25 parts and 43 lines of action designed to reform the justice system to be safer and more responsive to Indigenous peoples, and to restore First Nations justice systems, legal traditions, and structures. In 2020, the Strategy was endorsed by First Nations and the Province of BC.

The First Nations Provincial Justice Forum was held March 6, 7 and 8, 2023 in Vancouver, British Columbia. One representative from each BC First Nation community, either the Chief or an approved alternate, were invited to attend. Representatives working with Indigenous people, and in policing, Correctional Service Canada, and BC Corrections, also participated. The Forum was an important opportunity to share the work that has been done on the Strategy's implementation to date and to discuss pressing issues, including how community priorities in relation to justice have shifted since 2019. Session four of day three of the forum was dedicated to engagement related to the National Indigenous Justice Strategy (NIJS) through an introduction of BCFNJC's role in the engagement for the NIJS and breakout rooms to discuss the following questions:

1. "What are some fundamental values that should underlie the NIJS?"
2. "What are the priority elements for the NIJS? Are there any elements from the BC First Nations Justice Strategy that should be included in the National Strategy?"
3. "Drawing from your First Nation's legal orders, what values and principles should be included in the National Strategy?"
4. "If funding, capacity, and state-imposed legal traditions were not an issue, what would your ideal justice system look like? How would it differ from the current justice system?"

The facilitated break-out sessions were dialogue-based, posed key questions for discussions, and utilized small-group formats. Key themes that emerged from the Forum along with many others identified during the breakout sessions, will support the advancement of the implementation of the Strategy and in tangible outcomes at the community and Nation level.

Some of the key findings of the NIJS engagement sessions are the need for a holistic approach that aligns the National Indigenous Justice Strategy with the necessary wrap around services for Indigenous peoples before any involvement with the justice system and after involvement with the justice system. The breakout rooms' participants highlighted the need for stable funding, education and capacity building, a focus on child and family protection, uplifting of traditional knowledge, language preservation, policing, and a movement back to Indigenous legal orders.

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NIJS Engagement Session (March 8, 2023 – Day 3 of BCFNJC Justice Forum)

OPENING AND OVERVIEW OF DAY 3

Dr. Roshan Danesh, Kings Counsel, Forum Chair

Chair Danesh acknowledged International Women’s Day and recognized the power of women in the room. Over the previous days of the Forum, high level themes of discussions included: getting houses in order; taking stock and giving direction to Council and leadership on next steps; the need for principled and coherent courageous actions; the power of all individuals from all backgrounds; policing; IWGs; courts; and changes in legal services. The third day of the Forum would focus on the national scope and developments.

Amanda Carling, CEO, BCFNJC, recalled work articling with Innocence Canada, the only national organization mandated to fix convictions, and referenced a website www.wrongfulconvictions.ca.

There is frustration with the lack of progress on wrongful convictions and the federal government’s response is Section 696.1 of the Criminal Code which gives the Minister of Justice the power to review a conviction under federal law to determine whether there may have been a miscarriage of justice or wrongful conviction. The first registry of wrongful convictions was created and highlighted that Indigenous people were over-represented in wrongful convictions equalling 18% of cases. Given the fact that 30% of male prison populations are Indigenous, 18% means that Indigenous people are not getting access to justice. Approximately 50% of women in federal incarceration are Indigenous and to date only two Indigenous women in Canada had received a remedy for wrongful conviction.

The Honourable Harry Laforme, OC, has done incredible work to address wrongful convictions and to assist those most vulnerable in the justice system and was one of the first Indigenous people to be appointed to an upper level court in Canada.

SESSION FOUR: NATIONAL INDIGENOUS JUSTICE STRATEGY

BACKGROUNDER ON THE NATIONAL INDIGENOUS JUSTICE STRATEGY

Kory Wilson, BC First Nations Justice Council

Kory Wilson reviewed a presentation titled, “The National Indigenous Justice Strategy – the Road Ahead” noting the NIJS’s is intended to address colonialism and make systemic changes to the system.

A tripartite MOU was signed between the BCFNJC, BC, and Canada to explore how to work together. The purpose is for a culturally appropriate strategy informed by lived experiences of Indigenous people that includes the Calls to Action to address the systemic discrimination and over representation of Indigenous people in the Canadian justice system. It is anticipated the NIJS will include legislation, policy, and program measures that advance self-determination and are responsive to the Calls to Action of the Truth and Recommendation Commission and the Calls for Justice from the National Inquiry into MMIWG.

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The implementation of the NIJS is to take place over four phases, it is currently in Phase 2, and is intended to be finalized in 2024. Canada will consult with the Assembly of First Nations (AFN), the Province of BC, the BCFNJC, and the FNLC. Engagement sessions would be held throughout the country and guidance would be sought from BC First Nations on what the NIJS should be.

In regard to the work's guiding principles, it would be important to consider the division of powers, and changes to the laws, policies, and practices of the federal government that would result in full implementation of the NIJS. Additional considerations include: the policies and principles of UNDRIP and DRIPA; funding for community justice initiatives and Indigenous legal orders; the National Inquiry on MMIWG; Criminal Code reform; wrongful convictions; increasing the number of First Nations legal professionals; policing; corrections; youth justice; interjurisdictional cooperation; independent oversight; and implementing self-determination and self-government and honour those Nations with modern treaties. Prevention and diversion is foundational to the strategy.

MAIN FINDINGS – Setting BC First Nations Priorities for the National Indigenous Justice Strategy

The meeting participants convened in Breakout Rooms. During this session, participants considered what fundamental values should underlie the NIJS; what are the priority elements for the NIJS; what values and principles should be included in the NIJS; and what an ideal justice system should look like if funding/capacity and state-imposed legal traditions were not an issue.

The dialogue intended to define and specify the actions the federal government must include in the NIJS, namely the key justice issues that fall within federal jurisdiction and/or outside the scope of the BC FNJS.

Fundamental Values and Principles that Should Underlie the NIJS:

Moving beyond the fundamental rights of Indigenous peoples now formalized in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and the Declaration on the Rights of Indigenous Peoples Act (DRIPA), rights holders identified many principles and values that should be part of the NIJS. In this session are the main findings made through the analysis of the data collected in the breakout sessions held in the Forum.

- **Representation:** The first and most important principle is the need for Indigenous peoples to be included at all tables. No national conversation about justice should happen without Indigenous representation, especially considering the overrepresentation of Indigenous peoples in the Justice System, and Indigenous nations should be perceived as an equal power.
- **The seven teachings:** According to participants, the Seven Grandfather teachings of Wisdom, Love, Respect, Bravery, Honesty, Humility, and Truth should be underlying to the NIJS, alongside the values of caring, sharing, teaching and respect (as per the Council of Yukon First Nations).
- **Indigenous knowledge:** The NIJS needs to use Indigenous worldview and translate it back using Indigenous languages. Rights holders suggested to start incorporating Indigenous languages through the six language groups in the country.
- **Constitutions:** The rights holders also manifested excitement regarding the possibility of Traditional Constitutions, with effective recognition of Self-Determination, in alignment with the

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UNDRIP and DRIPA. This includes First Nations' rights to choose who polices them, how to resolve conflicts in Indigenous families, how to care for their own children and youth, and how to best apply the principle of diversion to those who need it.

- **Holistic approach:** The NIJS needs to have a holistic approach to justice, including the need for wrap around services to achieve its objectives (such as access to physical and mental health services, housing, and financial supports).
- **Unification:** Rights holders also ventilated the possibility of creating a national fundamental principle, or a unified national legislation, that applies and protects Indigenous people in Canada.
- **Sense of family and community:** Family supporting the next generation, with strong sense of community, implementing strategies that allow Indigenous peoples to work their emotional intelligence and to be role models for youth and children, is present as a necessary principle for the NIJS. The role of matriarchs has also been mentioned multiple times in different breakout rooms as fundamental to communities.
- **Keeping families together:** Protection of Family and children by prioritizing the need for children to be kept in their families or communities, providing the necessary financial support when needed, instead of focusing on punishing poverty and only providing financial support when the children is taken away.
- **Land-based traditions, traditional laws, and ceremony:** Land-based practices and traditions are identified as key to bring back and revitalize traditional laws. This includes the decolonization of law buildings, and the incorporation of ceremonies, feathers, and Indigenous languages in written and unwritten law.
- **Collaboration:** The NIJS needs to have a collaborative structure with a fluid connection between those involved with and affected by this Strategy.
- **Healing:** Diversion has also been a common theme across the breakout sessions. Participants mentioned the need for a softer justice that is guided by a reintegration model and strategy instead of a punitive mentality. This should incorporate the medicine wheel teachings. In alignment with this, land-based healing and connection to spirit are also mentioned by many rights holders as key to transforming Indigenous peoples' relationship with the justice system, as well as the need to revive and reintegrate historical processes.
- **Accessibility:** Accessibility to justice has been raised as an essential value to the NIJS, by decreasing the barriers currently in place.

Priority Elements for the NIJS:

Rights holders were asked which elements should be prioritized in the NIJS. Beyond the inclusion of rights recognized by UNDRIP and DRIPA, and clear language demonstrating that this is based on internationally recognized rights, here are the main elements raised by rights holders in the breakout sessions:

- Restoration and incorporation of traditional laws.

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- Funding is one of the most common topics regarding the necessary elements for the NIJS. Strategies must be attached to stable and sufficient funding for First Nations and Indigenous communities and organizations to lead the work of implementation, and must be flexible enough so Nations can meet the need of their people.
- Clarity on the relationship with territorial and federal government, establishing clear jurisdictions for all actors involved, especially regarding funding.
- Education about Indigenous history, cultures, traditions, emotional intelligence, regional differences, and the consequences of colonialism on Indigenous peoples for all justice actors, such as police, crown, judges, bail officers, justice workers, courts, and lawyers. This must be mandatory to those who work with Indigenous peoples. Rights holders highlight the need to acknowledge the roles of matriarchs, elders and knowledge holders in the educational process.
- A national fundamental principle for all First Nations in Canada, to bring Nations together and develop a process that is more explicit with the law.
- A framework for Nations to build their own court system, Constitution, standalone justice program, policing, child welfare system, victims service, and other services. The framework is to be used if the Nation sees fit, it should not be mandatory.
- Indigenous led Victims Services.
- Protection of Indigenous Women, two-spirit, and LGBTQAI+ folks through the implementation of the strategy and in alignment will the many documents and recommendations provided through the MMIWG calls for justice and the Truth and Reconciliation Commission. This includes proper measurement of the advancements regarding the recommendations and calls to action.
- Gladue services and reports must be part of the strategy and implemented consistently across the country. This must include resources and supports for Gladue and Court workers.
- Identification of policies and legislation that need to be changed (such as the Indian Act, the Police Act, and the Freedom of Information and Protection of Privacy Act). This must be done in collaboration with Indigenous leadership and organizations and embed Indigenous rights in Canadian legislation.
- Clear government and police oversight and accountability mechanisms. This must include Indigenous independent oversight bodies and accountability mechanisms such as yearly progress reports, body and car cameras for police officers, administrative and criminal processes for police violence and government negligence.
- Policing. Indigenous peoples must have a say in who policed them and must be recognized as entitled to their own police services and they see fit. This must be attached to funding, education

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of police officers, capacity building for Indigenous people who want to work in policing, and accountability mechanisms.

- One of the suggestions for police accountability is to regulate police officers in a similar way to lawyers – through a license that can be revoked if there is mal-practice.
- Bail reform from a restorative perspective.
- Strategies to increase the number of Indigenous people in law schools in the country through a decrease in existing barriers (funding, location of schools, etc). Rights holders suggested incentivizing an increase in online law programs, enabling those in remote areas to study law from their own homes.
- Child welfare and keeping families together. This must be done through the recognition of Nation’s jurisdiction over children’s protection, the provision of necessary and sufficient funding, capacity building, and prioritization of keeping children in their own families and communities. These efforts imply providing these families with the necessary support to raise their children and parents’ empowerment to minimize the amount of litigation, increasing preventative measures. The support can range from financial, housing, health, and other type of supports.
 - Nations in the Yukon provided government with over 200 recommendations regarding the First Nations Family Act. From those, only one was followed through. When First Nations are consulted and give recommendations to government, those need to be taken seriously and implemented. Otherwise, consultation becomes just another way of overburdening First Nations in Canada without effectively improving their lives and moving towards reconciliation.
- Increase the representation of Indigenous peoples in positions of authority and power.
- A framework for the development of Community Safety Plans, attached to the necessary funding.
- Access to data. The strategy must address the need for Indigenous peoples to access data related and relevant to them.
- Wrongful convictions. The issue of overrepresentation of Indigenous people in wrongful convictions must be addressed by the NIJS, and Indigenous peoples must be informed of their rights to miscarriages of justice.
- A holistic approach to justice that includes health, housing, and other basic human rights. This means aligning the strategy with other Indigenous organizations, such as the First Nations Health Authority, and providing Nations with the necessary funds to support their people.

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- Diversion in alignment with land-based healing and culturally appropriate healing, such as the inclusion of healing lodges driven by First Nations. The strategy must be client centered and recognize the overlap between criminal and child protection law.
- The development of a National Matriarch Counsel.
- The development of a Bill of Indigenous' Children's Rights

Regarding the structure of the NIJS, rights holders highlighted the need for a strategy that has continuity and stability, and that provides action steps throughout the process. The strategy should also define what success looks like based on rights holders' ideal Justice System.

What would the ideal Justice System look like:

An ideal Justice System would incorporate the elements provided in the sections above through:

- An Indigenous Constitutional framework and a movement away from the *Indian Act*.
- Revitalization and documentation traditional laws through the establishment of Indigenous principles and laws into the justice process, when involving Indigenous peoples. The NIJS reflecting Indigenous teachings and creating a relationship of equality between Nations and Canada, with Government honouring First Nations goals.
- More Indigenous people in the justice sector and in positions of leadership, with Indigenous representation at all tables.
- Capacity building through education programs for Indigenous peoples to work in their own communities.
- Mandatory education and training for justice workers (legal professionals, court workers, corrections, police/RCMP, etc.), including a revised law school admission criteria. This would include education about Indigenous history, communities, and their traditions, as well as Indigenous law and the effects of colonialism on Indigenous peoples.
- Decolonization of the justice infrastructure through the incorporation of Indigenous traditions and ceremony, lifting Elders, matriarchs, and knowledge keepers up. Incorporation of holistic land-based practices, including involving family, ceremony, smudging, etc. into justice practices.
- Independent Indigenous justice oversight bodies and review boards.
- First Nations Police Force, Court systems, Justice Programs and Child Welfare Systems – Indigenous people decide who polices them, how their courts look like, how their children are protected and how

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to support their people with the necessary funds provided by government, in recognition of the principles of self-governance and self-determination.

- Indigenous Women, two-spirit, and LGBTQAI+ folks protected through the implementation of the strategy and in alignment with the many documents and recommendations provided through the MMIWG calls for justice and the Truth and Reconciliation Commission.
- Indigenous led Victims' Support Services.
- Nations' jurisdiction over their Children and Youth recognized and funded, prioritizing keeping families together through the provision of necessary resources to empower parents and families.
- Mandatory police body cameras with oversight body access and review.
- Sufficient and flexible funding for Indigenous initiatives and the Strategy's advancement.
- A National First Nations Justice Council that allows Nations to work together.
- Prevention prioritized instead of a punitive mentality, and diversion being a primary option to limit incarceration and find alternative paths.
- Consistency in Gladue implementation across the country.
- Attention to wrap around services to create a preventative environment, enabling people to move away from the justice system.
- A NIJS with truth finding objectives, not vulnerable to political changes and fluctuations.
- Government accountability to the commitments made to First Nations and Indigenous peoples in Canada.
- Clear goals and action plan for the Strategy's implementation.

DAY THREE CLOSING

Closing Comments from First Nations Leadership Council and BCFNJC

Hugh Braker, Kings Counsel, First Nations Summit

Hugh Braker noted the lands the meeting was taking place upon did not belong to Vancouver or to BC, but to the Musqueam, Squamish, and Tsleil-Waututh people and acknowledged them for allowing the Forum to take place on their territory.

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Although the Forum focused primarily on criminal justice, justice is more than that. 64% of children in care by court order are Indigenous and Indigenous people make up only 5-8% of the population. That is a justice issue. People are being kicked out of rental accommodations and that is a justice issue. The next Forum would focus on civil matters, like administrative law and its application with penal sanctions.

Hugh Braker recalled a time when his grandparents took him to Victoria to visit his uncle who was in prison. His uncle had been sentenced to two weeks in prison for having a beer in his hand in public, a charge that a white person would not have been given. Witnessing that oppression and racism against Indigenous people motivated Mr. Braker to become a lawyer.

During a meeting with the Attorney General, Mr. Braker shared some of the most offensively racist comments he had heard in court during his 25 years practicing as a lawyer, including when a defence counsel said to a judge in reference to their client, "...as is so often the problem with 'her people', she was intoxicated at the time". Or in the case of mixed marriage and the lawyer of the client, a non-Indigenous mother, said, "...there is no way my client would consent to her children being brought up on an Indian reserve'. During a fishing case related to Ahousaht First Nation, a place only accessible by boat or float plane, the client's legal counsel asked the court to be adjourned as his client had been unable to attend court due to the weather making travel not possible, the presiding judge commented, "...{bad weather} never seems to prevent 'them' coming in for their drinks". In 25 years of practicing law, Mr. Braker never saw evidence of a fair justice system, one that was not racist and recognized First Nations people as people.

First Nations people look back to their ancestors for answers and they believe they owe them a debt. Elders suffered for years in residential schools and in public. The Forum and the justice work would not be taking place if not for the suffering of the ancestors.

Mr. Braker closed by noting that the success of the Strategy lay in the hands of all in attendance.

Chair Danesh noted that BCAFN Regional Chief Terry Teegee had sent his regrets and was pleased to hear the event was taking place.

Grand Chief Stewart Phillip, President, Union of BC Indian Chiefs

Grand Chief Stewart Phillip acknowledged the territory of the Musqueam, Squamish, and Tsleil-Waututh Nations and International Women's Day.

The true measure of a person is knowing whether they make a difference in their work and this included everyone in the room. There is a need to act, to do something, to stand up and be counted, and bring about change. The system is beyond broken, it is steeped in colonial history and court rooms reflect the colonial presence of the Crown, even in the way a judge dresses and the elevated bench. The federal government was missing from the Forum, and does not feel the need to engage in implementing the UNDRIP and in the reform of the archaic colonial justice system. The system is punitive and not about people of colour, Indigenous people, or poor people.

The Grand Chief commented he had the privilege of watching the movement of justice reform evolve in BC and reflected on when court workers came on the scene and how every Indigenous person knew who their court worker was as they would be the only person to support them in navigating the racist system. They long remember them for the services they provided.

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The reformation work must be accelerated, UNDRIP must be taken seriously and risks must be taken to challenge the status quo.

There is much hope in the BCFNJC and similar organizations should be replicated across the country. When the FNLC was formed 20 years ago, Nations set aside their differences and humbled themselves, and came together. The arrangement was simple; they agreed to respect each other's unique mandate and committed to work on items of mutual concern. If there were irreconcilable differences, the parties could go their separate ways, but they are still together. This must be done on a broader scale. Prime Minister Trudeau cannot continue to hide behind archaic colonial bureaucracy. Statements of good intention were not enough. The hope was for organizations across the country to get on with the work to organize this type of capacity and create a national movement to bring about genuine justice to the Indigenous people of Canada.

Rosalie Yazzie, Acting Chair, BCFNJC

Rosalie Yazzie reflected on how best to encapsulate the dialogue and discussion and consider what she personally brought to the Council and to all those who contributed to the journey. In getting to this point, the Acting Chair acknowledged the leadership of the Council, including the perspectives of Doug White, the founding Chair of the Council, Colleen Spier, and Amanda Carling, CEO.

With the departure of Doug White from the Council, there was an increased female presence. It was irksome the Forum was being held in a colonial location; however, the reflection of the big house outline of the stage backdrop reflected Indigenous laws, legal orders, and ceremony – it was all around.

Rosalie Yazzie referenced her professional life serving the leadership of the province and training to become an advocate, to uphold the accountability and transparency and be answerable to those who have given the Council their trust in the area of transformation. Three years ago, the FNJS was signed and the Council had only one staff member. The BCFNJC was founded and built, not by large funding pots, but on the sweat, tears, and passion of the work and the desperate need for change in justice. The growth of the Council is indicative of the fact that the work was long overdue and Indigenous people could not afford their children to pay the price of the colonial heritage. Children were the ones that would benefit from the work and would one day be taking up the mantle for transformation to occur.

Boyd Peters, BCFNJC

Boyd Peters extended thanks to the Musqueam, Squamish, and Tsleil-Waututh people for allowing the ground-breaking work to be done on their lands and recognized International Women's Day and the importance of matriarchs who were held in high regard. Appreciation was paid to the work of Council and staff for convening the meeting and to the speakers and the Chair for keeping the agenda on track.

BC First Nations have come a long way and with the backing of the FNLC and respective communities, the justice transformation work was happening. Indigenous people must work as "one heart and one mind", Na'tsa'maht, which is the way they empower themselves, their communities and leadership. The needs and priorities were shared during the breakout sessions and it was up to all in the room to make the solutions become a reality. Much of the healing and Nation rebuilding would come from the land, it would empower people to fix the current broken system. These discussions must continue and there will be further opportunities to do so.

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Chief Lydia Hwitsum, BCFNJC

Chief Hwitsum thanked participants and presenters for their presence and contributions during the Forum and for their individual and collective energy. The energy and ideas would be built off of and the sharing of experiences, stories, passions, tears, and laughter would drive the actions needed to achieve priorities.

Dr. Judith Sayers, BCFNJC

Dr. Sayers encouraged participants to take the time to commit themselves to justice for the women that were taken too early and to prevent more women from going missing or being murdered. Key words to remember included ‘allies’, ‘accomplices’, ‘in-betweeners’ and ‘bridge-builders’. Communities must feel empowered – that is where action happens, and to be self-determined and self-governed, “they do not need anyone’s permission”.

Government continues to not listen to Indigenous people and it does not use its hearts to understand the challenges Indigenous people face. Holistic justice must include addressing the root of the issue, including poverty, homelessness, lack of education, and access to daycare. Participants were encouraged to do the work in community, start with a safety plan, and reach out to Council for support.

Kory Wilson, BCFNJC

Kory Wilson thanked the staff, Council, Forum Chair, and PACE for their efforts before and during the Forum and offered a call to action to all in attendance to ask themselves, “What are you doing to change the places and spaces that you occupy to ensure that Indigenous people are in a place to make sustainable, substantial, and systemic changes in community?”.

Chair Danesh advised that the work and perspectives of the graphic storytellers would be shared with participants and that a copy of Judy Wilson-Raybould’s book was set aside for every participant. Attendees were encouraged to complete the post-Forum survey. A door prize draw was held.

Knowledge Keeper Carleen Thomas closed the Forum in a good way and reminded everyone to take a chance and make bold moves to accelerate the transformation for equal justice for all.

CONCLUSION

The First Nations Provincial Justice Forum held March 6-8, 2023 concluded on March 8, 2023 at 12:38 p.m. Session four on Day 3 was dedicated to engaging rights holders to provide their input for the Nations Indigenous Justice Strategy. This session was the first of many engagement sessions happening in 2023, and provided the foundation for the next phase of engagement, which will aim to deepen the understanding of BC First Nations’ needs and how the NIJS can address them.

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LIST OF APPENDICES

The following appendices are attached to these proceedings:

- Appendix A - Acronym List
- Appendix B - Information Items
- Appendix C - Breakout Sessions Notes Compilation

APPENDIX A – ACRONYM LIST

Appendix A – Acronym List

The following acronyms are used in these proceedings:

AFN	Assembly of First Nations
BCAFN	BC Assembly of First Nations
CEO	Chief Executive Officer
CFS	Child and Family Services
CTA	Community Tripartite Agreement
DRIPA	Declaration on the Rights of Indigenous Peoples Act
DOJ	Department of Justice
BCFNJC	BC First Nations Justice Council
FNJS	First Nations Justice Strategy
FNLC	First Nations Leadership Council
FNS	First Nations Summit
FPIC	Free, Prior, Informed Consent
IJC	Indigenous Justice Centres
IPF	Indigenous Police Force
IWG	Indigenous Women and Girls
IWJP	Indigenous Women Justice Plan
MMP	Mandatory Minimum Penalties
MOU	Memorandum of Understanding
MCFD	Ministry of Children and Family Development
MMIWG	Missing and Murdered Indigenous Women and Girls
NIJS	National Indigenous Justice Strategy
NWT	Northwest Territories
OSR	Own Source Revenue
RFP	Request for Proposal
SCC	Supreme Court of Canada
TRC	Truth and Reconciliation Commission
2S	Two Spirited
UBCIC	Union of BC Indian Chiefs
UNDRIP	United Nations Declaration on the Rights of Indigenous People

APPENDIX B – INFORMATION ITEMS

Appendix B – Information Items

The following information items were provided at the Forum:

- BC First Nations Justice Forum, Fairmont Hotel, Vancouver, British Columbia Program
- Community Safety and Peacekeeping (Policing): Background
 - Appendix A: BCFNJC’s Recommendations to the *Special Committee on Reforming the Police Act* (SCORPA)
 - Appendix B: Challenges with the First Nations and Inuit Policing Program (FNIPP)
 - Appendix C: SCORPA Recommendations
 - Appendix D: Policing as an Essential Service Forum Legislative Recommendations
 - Appendix E: Organizational Structure of Colonial Policing and Police Oversight
- Indigenous Women’s Justice Plan: Background
- Indigenous Courts: Background
- Elders and Knowledge Keepers: Background
- Corrections: Background
 - Appendix A: Implementation of the BC First Nations Justice Strategy (Canada and BC)
- Future of Legal Services for Indigenous Peoples in BC: Background
- Education, Training and Cultural Safety: Background
 - Appendix A: Supplemental Information
- First Nations Youth Justice and Prevention Action Plan: Background
- Community Justice Programming and Diversion: Background
- National Indigenous Justice Strategy: Background
 - Appendix A: Implementation of the BC First Nations Justice Strategy (Canada and BC).

Appendix C – Breakout Sessions Notes Compilation

Breakout Session 1

Facilitator: Kory Wilson, BCFNJC

Date: March 8, 2023

Notetaker: Lisa Poeckert, Support Staff, BCFNJC

DISCUSSION

Participants were asked to consider a series of questions and their comments and responses are captured below:

“What are some fundamental values that should underlie the NIJS?”

- Caring, sharing, teaching, and respect (as per Council of Yukon First Nations).

“What are the priority elements for the NIJS? Are there any elements from the BC First Nations Justice Strategy that should be included in the National Strategy?”

- Developing constitutions, guidelines, and vision statement.
- Revising/aligning divisions of power between federal, provincial, municipal/local/regional, and Indigenous governments. For example, child welfare is a provincial responsibility, but of utmost importance to all Indigenous communities.

“Drawing from your First Nation’s legal orders, what values and principles should be included in the National Strategy?”

- Sense of family and community and supporting the next generation.
- Restorative instead of punitive justice.

“If funding, capacity, and state-imposed legal traditions were not an issue, what would your ideal justice system look like? How would it differ from the current justice system?”

- Having Indigenous constitutional framework.
- Revitalize and document traditional laws.
- More Indigenous people in justice sector and in positions of leadership.
- Mandatory education and training for justice workers (legal professionals, court workers, corrections, police/RCMP, etc.). Consider revising law school admission criteria.
- Decolonizing justice infrastructure, e.g., court houses.
- Incorporating holistic land-based practices, including involving family, ceremony, smudging, etc. into justice practices.
- Independent Indigenous justice oversight bodies and review boards.

APPENDIX C – BREAKOUT SESSIONS NOTES COMPILATION

- First Nations Police Force, for example like northern Ontario.
- Mandatory police body cameras with oversight body access and review.

Facilitator: Kory Wilson, BCFNJC, and Curtis Bedwell
Date: March 8, 2023
Notetaker: Sandra Moore, Raincoast Ventures Ltd.

SESSION OBJECTIVE

The objective of this session is to define and specify the actions the federal government must include in the NIJS, namely the key justice issues that fall within federal jurisdiction and/or are outside the scope of the BC First Nations Justice Strategy.

KEY THEMES

The following key themes were identified from the discussions:

- Restoration of traditional laws
- Education for all justice actors and educators
- Land-based practice.

DISCUSSION

Participants were asked to consider a series of questions and their comments and responses are captured below:

“What are some fundamental values that should underlie the NIJS?” and “Drawing from your First Nation’s legal orders, what values and principles should be included in the National Strategy?”

- Our principles are caring, sharing, teaching and respect, which is what we follow and are guidelines for the traditional laws we have.
- It would be good to start with those of us whose Nations’ have a Constitution and/or guidelines, and make sure caring, sharing, and lateral kindness are written into the Constitution; use that to form your communities’ justice strategies and build a good foundation for success.
- My experience in the community was that there was a lack of a strong fatherly presence in the neighbourhood.
- Sense of family and community.
- Implementing an emotional intelligence strategy for men to remember what their roles are in the community – caring, support, tenderness; supporting and role modeling for the next generation in a healthy way.

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“If funding, capacity, and state-imposed legal traditions were not an issue, what would your ideal justice system look like? How would it differ from the current justice system?”

- Develop a First Nations-led Victims Services.
- I am on Council, an Elder, and am a Community Advisor. We need to look at justice policies, especially the *Police Reform Act*, which is being reformed now:
 - We should look at being included in the Special Committee on Reforming the *Police Act*
 - Unless we change the policies in government, we will not reach our goal of reforming justice for Native people in Canada.
- “In honour of the Crown” – we have to review that wording and what it really means and incorporate that into the NIJS.
- Why are we depending on the RCMP and the Government of Canada to fix us when those institutions were the ones that wrecked us, with instruction from the Crown? We have to look at the foundational direction that Canada took in the beginning and start looking at how we can get our Indigenous rights embedded in policies and Canada’s legislation.
- Bring back our traditional laws, and have matriarchs work with the communities.
- More representation.
- I was the only Indigenous person in my platoon; First Nations may have aspirations to be part of the RCMP, but I can understand why they shy away from pursuing that dream from fear.
- Media pushes forward the narrative of fear and does not look at the issue; having a conversation about bail reform will be a good one, from a restorative perspective.
- Mandatory judicial education: I know there are judicial education programs, but many of them are not mandatory.
- Revitalizing traditional laws – not only will communities benefit from that, but practitioners who help our communities will also benefit, by learning about the communities and their traditions.
- We need our traditional laws properly documented, so everyone can access them, and that will shift the whole system, ensuring everyone knows where they come from.
- I was in a Northern Justice program but left the program because I did not agree with what they were teaching me about the justice system; traditional laws are something I am more passionate about now rather than legal laws.
- More opportunities for online law programs, which might encourage more interest in attending law school and remove some barriers.
- We have to rethink the whole education system that leads into the justice system, i.e., the RCMP, court system workers, and criminology programs where Probation Officers and Parole Officers go to get trained.
- In northern Ontario, First Nations are policed by First Nations police officers, who police all the reserves; it is surprising that BC does not have more First Nations police officers.
- There are many regional differences.
- More land-based practices and decolonizing the law buildings – bringing it back to a wholistic, land-based practice. In the Yukon, we started incorporating more ceremony.
- It is important to recognize that jurisdiction for child welfare is provincial; it could be a challenge to develop a national strategy when each province interprets and implements child welfare in a different way.

APPENDIX C – BREAKOUT SESSIONS NOTES COMPILATION

- We need to look at partnering with the RCMP and have an Aboriginal RCMP that we can trust and depend on; we should have a say on who comes into our community, who goes to court, and who does not.
- Crown Council approves charges in BC; how to influence the Crown approval process and who is shut out of that process should be included.
- In our community, it is the matriarchs who have the final say. We are trying to have the matriarchs work with the RCMP, so charges are just left up to Crown Council; we are going back to our traditional ways
- Make it mandatory that police should have to wear body cameras, have cameras in their cars, and not be able to turn them off. Having access to the videos is important:
 - In many cases of wrongful convictions, the recorder “malfunctions” right before the incident occurs.
- Addressing issues with the *Freedom of Information and Protection of Privacy Act*.

TRANSCRIPT OF FLIP CHARTS

- First Nations-led Victims Services
- Lower representation; more First Nations representation in positions of authority
- “Repeat Offenders”
- Bail reform
- Look at policies – *Police Act, RCMP Act*
- UNDRIP – DRIPA, UNDA
- Why are we allowing the Feds to “fix us”, when they “wrecked us”?
- “The Crown”
- Bringing back our traditional laws
- Education and training
- Revitalizing traditional laws – community benefit, practitioner benefit, learning opportunities
- Document traditional laws – where we come from and what that means
- Access to legal training (online)
- Law schools – how they teach (change methodologies)
- Barriers to law school applications (LSAT)
- Experiential legal clinic
- Mandatory Indigenous training
- Justice system training – mandatory
- Justice system actors need training
- Values: caring, sharing, teaching and respect – guidelines for traditional laws
- Traditional Constitution – vision statement
- Lateral kindness
- Moving away from *Indian Act*
- Role Models – family unit, role of men, matriarchs
- Family and community
- Emotional intelligence training – focus on next generation
- Policing – community safety led by police

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- Regional differences – education
- Land-based practices – incorporating ceremony
- Land-based traditions
- Child Welfare – jurisdiction for child welfare is provincial
- Look at Constitution (First Nations and Canada)
- We have the foundation in our traditional values
- “An Aboriginal RCMP”
- We choose who polices us
- Money to develop a Community Safety Strategy plan
- Trust and mistrust – First Nations may be reticent to engage with police
- How to influence Crown Counsel
- Policy Manual – desk book
- Who approves charges? In BC=BCPS
- Police oversight – body cameras
- Access to policy body cameras
- Access to data
- FOIPPA.

Breakout Session 2

Facilitator: Andrea Hilland, BCFNJC

Date: March 8, 2023, 10:39am-11:30am

Notetaker: Erin Solway, Raincoast Ventures Ltd.

KEY THEMES

The following key themes were identified from the discussions:

- Land-based healing to be included in the national strategy
- Creation of a national fundamental First Nation principle
- Include 7 traditional teachings
- First Nations need to be the decision makers in the judicial processes
- Development of a national First Nation justice council

DISCUSSION

Participants were asked to consider a series of questions and their comments and responses are captured below:

“What are some fundamental values that should underlie the NIJS?”

APPENDIX C – BREAKOUT SESSIONS NOTES COMPILATION

- BC has a justice council at the provincial level and is ahead of other provinces. What is working well with BC's First Nation Justice Council and what could be added to the national level?
- It is important to continue a collaborative structure. The criminal code is national, the strategy should be similar. Provide a solution for all Canadians by harmonizing legal orders and leans on First Nations. First Nations require a fluid connection with everyone involved and to be on the same page. This would be the intention of the NIJS.
- Land-based healing to be included in the NIJS and strategic goals. Land based healing is fundamental in rehabilitation and reintegration and that balance is required.
- Work towards creating a national fundamental principle from all the First Nations in Canada. Bring the Nations together to develop a process that is more explicit with the law.
- Open doors to look at diversion stage solution being the first option. The way that the Criminal Code is used now, it often funnels to a certain punitive outcome.
- Provincial strategy includes prevention and wraparound services to refrain people from entering the justice system. Can use this as a starting point.
- Adjust the NIJS so that it is not about the result of punishment or correction. Ask people what their perception of their own health is. Justice is a part of health; all services are a part of justice health such as housing, medical, and basic human rights.
- Include both Indigenous and non-Indigenous teachings, there are individuals who are both and the teachings would need to be reflected in the NIJS.
- Include the seven traditional values/teachings (honesty, courage, love, respect, wisdom, humility, truth).
- Ensuring that the language that is used in drafting the NIJS uses action words. First Nations languages translate differently in English. When Indigenous words are translated, it translates into action sentences. Creating that connection and having the meanings reflect the same in both languages. Identify the differences in language and the terms.
- Concepts created under colonial system that have no Indigenous language translation, i.e., jail and police. It is the extended family, who manage the family members. Canadian system is fragmented, the judges are supposed to be impartial and separate. When there are Tribal police departments in the community they develop connections, it is a different kind of relationship versus the RCMP's two-year rotation cycles. In the current Canadian system, there is no policy on creating a relationship with our First Nations.
- Track 2 refers to our own systems. How do we transform? Balancing both western and traditional systems, we must find the reflection and create a balance between both systems.
- Use language that hits at the correctional model and trying to restructure these models. Soft justice is from the healing lodge. We really need to see that become as a primary option to limit incarceration and find alternative paths. Look for that reintegration model and strategy versus being punitive first.
- We need healing lodges which are driven and lead by First Nations communities. Currently, they are led by government and the Correctional Services of Canada.
- Could look at the national model from a regional model perspective, i.e., having corrections and Nations encourage discussions on what the purpose of healing lodges are.
- A community attempts to incorporate the medicine wheel teachings in their education programs and policies which look at the four aspects of self. Teach from a holistic approach. The governance

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departments are also divided up into the four quadrants of self. Ensure that it creates a balance, cannot focus on one area and not paying attention to the other aspects.

- Look at the environment of the courts, the national action committee discussed having judges in the field beside us. This is challenging the physical procedure of justice, making it more user focused. Change the client experience with court and the law in both criminal and family law. Leaning on Indigenous knowledge and Elders for support.
- Funnelling funding and sponsorship towards women's groups, focusing on Elders' teachings. Going back to matrilineal ways. In the colonized era, it is mostly males who develop the laws.
- Suggestion to initiate the development of a National Matriarch Counsel
- Taking the courtroom outside to have a grand vision.
- Yukon introduced feathers in the justice buildings. It gives the courtroom a different positive, familiar feeling for the community members.
- Having access to feathers, medicine bundles, tools from First Nations communities and having people know how to answer your inquiries. We need to 'think outside the box.'
- Symbolically, we have these ideas, what is physically in place? How does the NIJS play out when we are implementing it? Discuss ideas of action on moving forward.
- A lot of things have been forgotten, we need to revive and integrate historical processes.

“What are the priority elements for the NIJS? Are there any elements from the BC First Nations Justice Strategy that should be included in the National Strategy?”

- Policing, RCMP, Criminal Code, and wrongful convictions.

“Drawing from your First Nation's legal orders, what values and principles should be included in the National Strategy?”

- We cannot learn Indigenous legal orders if we lose the Knowledge Holders. Preservation of the knowledge and legal orders. Federal government needs to ensure funding and encourage archiving legal Indigenous orders that can lead to revitalization of the order. Clear language indicating that there is an international interest. Conducting provincial and national interviews with Knowledge Holders and Elders.
- Ensuring continuity and preservation with revitalization, create action steps throughout the process.
- First Nations development of a family act book outlining traditional roles when it comes to raising and nurturing families.
- The funding relationship with territorial and federal government needs to be finalized, the status is incomplete. Have come across many hurdles. Territorial governments do not want to give up their authority. If we take back the authority, there will be people without employment.
- Funding is always a challenge.
- Create and partner with more accomplices.
- Some might have trouble with why the feather is to be used. Compare it to a cross. First Nations people have been here since time immemorial, these were our ways. First Nations need to be refreshed about historical protocols; we need to go back to our ways to help our young people. The youth are affected across the Nation.

APPENDIX C – BREAKOUT SESSIONS NOTES COMPILATION

- People want to try bringing back ceremonial practices and the importance of small things, will help people with a sense of pride and accomplishment.
- Child and family laws in courts; children are being taken away from communities. Those children should have gone to an auntie or their grandma on the mother's side.
- Holistic to include justice strategies, we need to be proactive and forward thinking. Metrics are not in the western world. What does success look like? Create truth finding objectives and not be political. When it gets too political, everyone loses focus, and we are that much further from completing our goals. The government does not want to give our own rights and powers back. It is a constant fight. We have spent a lot of money; we are spending our own resources. The government is still not honoring First Nations and is not working towards the goals of the First Nations.
- We need to be tough on crime.
- Need to use the Indigenous worldview and translate it back by using our language. Suggestion to start with the six language groups of the country. Hidden fabric that keeps us all together and keeps us as a national marker. We understand that the provinces do not get along.
- BC has several different languages and cultural groups. These need to be brought forward at the National level so that we can provide the Justice Council with clear recommendations. We do not want more promises, we want action. Does the NIJS have an impact on the communities? How do we make sure that the impacts are brought forward?
- The current justice system adopts a hierarchical aspect. Traditionally, we govern in a circular setting. We sit at a table where we are equal versus being one person dictating the consequences.
- In most courts especially with child protection, they hear the social worker's argument first. It should be that the court hears from the parents' argument first. It is who you hear first that has the most impact on decision-making. It helps to empower the parents, with the current process, the parents may feel that they have the least amount of power. With a new process, they can take responsibility and determine how their decisions affect their future.
- Look at the Child Welfare System – foster parents are provided financial supports to raise the foster children. The funding should be initially sent to the parents due to poverty situations. Statistics show that Indigenous children are removed from the home is mainly due to poverty. There is a problem with helping the child only after they are taken away. How can we address that in the NIJS?
- A parent asked for \$369/month from the welfare program to cover daycare expenses. The Ministry did not help the parent. When things started to fall apart in the parents' life, they took the child and placed them in a foster home and the foster home was provided over \$2,000/month for support. Indigenous children are the 'cash cow' for the MCFD.
- Revamping of the hierarchical structure is needed and provide the Nations the flexibility in funding and expense principles to meet the needs of the users. We want to keep the children within the family. What does that look like from a funding perspective? All children should be protected and not become a cash income from agencies.
- The *First Nations Family Act* is almost near completion, the territorial government was completing a review and asked for input from Nations in the Yukon. The Nations gave their opinions and recommendations, and it was seemingly tossed aside. It was very frustrating if we want to try being of assistance and act from our recommendations. I hope to see it implemented somewhere. The government categorizes it as consultation. Out of 200+ recommendations presented, the only recommendation they followed through with, was the hiring of a child advocate. There appears to be a lot of talk, with no action. It is easier to stay quiet so that I do not get frustrated from all the hard

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work put into providing our recommendations. We as workers, are working frontline and having to deal with these issues.

“What would you like to see on accountability on the justice strategy? Demographics, data of prison population How do people feel when they are going through that?”

- When I was working in the court system, processes are done differently in Alberta when it comes to First Nations. Gladue reports are consistent in Alberta, whereas there are few Gladue reports in BC.
- Yearly progress reports are needed to ensure accountability. The Council can report back to the government. There needs to be a two-way exchange to be successful at the First Nations level of standards.
- First Nations across the country need to be the decision makers. Ultimately, First Nations communities are the people who judge the reviews and report cards. We need to become the decision makers.
- The Justice Council can ensure that the government is accountable. Need to include the accountability and measurements. Determine what the priorities are.
- Suggestion to develop a First Nations working group consisting of various First Nation groups across the country.

Breakout Session 3

Facilitator: Lydia Hwitsum
Date: March 8, 2023
Notetaker: Megan Krempel, Raincoast Ventures Ltd.

KEY THEMES

The following key themes were identified from the discussions:

- Nations must have a voice in how funding is spent to ensure they are being invested in community priorities
- The need for low barrier/no barrier access to justice
- Advocate for accessibility to some tools that exist but are hard to find
- Suggestion to prepare a card for children with information on their rights and phone numbers they could call for support
- The imbalance of power leads to injustice; policy and regulation barriers must be broken down to ensure for Indigenous inclusion at all tables
- The need to decolonize and return to Indigenous traditional values and justice orders
- Restorative and community based justice must be an option at the beginning of the process
- Self-determination must be incorporated into the NIJS
- Individuals in institutions must be made aware of their rights to miscarriages of justice

APPENDIX C – BREAKOUT SESSIONS NOTES COMPILATION

- Connection to spirit is absent from any path for healing in the justice system
- The importance in Gladue support and court workers to immediately connect with a client
- Policy and regulation barriers must be broken down for our inclusion
- Focus must be on keeping families together; separated families are the root of so many problems.

DISCUSSION

Participants were asked to consider a series of questions and their comments and responses are captured below:

“What are some fundamental values that should underlie the NIJS?”

- The Métis Nation – Saskatchewan (MN-S) is developing its own Court and a system to resolve political disputes. This is now being expanded to address dispute between individuals like a civil court. The intention is for it to capture child welfare cases. The MN-S went to all Métis communities and spoke with them to find out the fundamental values for the justice system. Indigenous is an umbrella that is not equally applied, and this umbrella strategy does not address that. The fundamental value should be the value of the community and our relationships before they were destroyed by colonizers. The names in Cree have all your rights and responsibilities that you owed to that relationship. A court system that starts from a place of love, we need this. We are still working on it but fundamentally it should be your Nation with its own court and values. I see that is how we decolonize and go back to our traditional systems.
- Restorative and community based justice must be an option at the forefront. Traditional legal orders are stronger when our people are enforcing it. There must be holistic approaches of medicine, ceremony, culture, and ancestral guidance, this gives people a sense of identity and pride. Self-determination of First Nations must be incorporated in the NIJS.
- I am a strong supporter of educating people. In my work as court worker, I see that clients come in with no idea of their rights. We are educating our clients. I am lucky to be able to speak to school-aged children and I tell them about First Nations courts and Gladue and the statistics of children in care and in the system. Many of the children I speak to are non-Indigenous and they have no idea about the statistics of Indigenous children and people in care and in the justice system.
- We need to go to institutions and tell individuals about their rights to miscarriages of justice.
- An obvious absence is the consideration of the spirit, that is often the first place we start. We have ceremonies to bring spirit back and it is absent from any path of healing in the justice system.
- It has always bothered me that at these meetings, the Wellness Rooms are separate to where we are meeting. Does that mean we are convening in “unwell rooms”? We pray to remove obstacles and envision what success could look like; we must integrate that into the rooms we are sitting in. I challenge that the Wellness Room be that room next time. We hear these stories, and we are sitting in pain and that is the reality.
- It is important that people know their lineage. Part of the struggle is not knowing what you deserve. When you understand that, you know what unacceptable treatment is. I have pride and now I am unshakable. Restoration of dignity is key, and we will not accept anything less than that.

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- We push that culture saves lives and that reconciliation is power. We have people there to provide medicines outside of the courts and provide those teachings. We see the change in people and support of community so they can come back in a healthy way.
- There must be resources and supports. If they go into First Nations court, workers must immediately connect with the client and engage with them. This includes Gladue support workers, they should also connect with the client immediately and get to know them.
- We have tried to refer clients to the FNHA for virtual supports for drugs, but that service is not available through the virtual health platform. They need a doctor and someone to help them make the phone call.
- There is too much “no” in the system, there must be independent leadership to say “yes”. There are barriers put before us preventing us to be in these spaces. No policy or regulation should stop us from doing what we aspire for our people and that should be incorporated as breaking down barriers. Like the requirement that government workers be bilingual in French and English. Those are not our first languages. Break down policy barriers and regulation for our inclusion.
- Arbitrary colonial driven priorities create system type barriers.
- This work is being done but the vast amount of people do not even reach the court room. Families are destroyed when the MCFD gets involved and Indigenous and marginalized families are disproportionately involved. This must be a priority in the national conversations. We need to rebuild and keep families together. Children separated from families are the root of so many problems.
- Youth do not always have the skills to express themselves or stand up their rights. There must be an advocate from day one to help them. Youth do not know that they can ask for a lawyer and they do not understand that they do not have to speak. The right to a lawyer is so important.
- There are directives in place for agencies around accountabilities and the rights of the child. The draft principles in relation to Indigenous people in BC should guide how business is conducted. We are equal to Canada and when we collaborate at tables we need to be recognized as an equal power. Those principles of good faith and honour of the Crown are not operated on. We operate in integrity and respect, that is how we are raised.
- We must minimize the amount of litigation that families go through and exercise every opportunity before children end up in family court. We must be more creative in how families are supported. The civil litigation directive can support the argument that we need preventative approaches and funds and to make nations accountable. The new Commission being implemented to address the Call to Action, 1.7 – Indigenous Ombudsman, must have no limitations.
- My Nation’s complaints process is a piece of paper. Nations need to build up their own complaints process to address the lateral violence that is occurring.
- IJCs should have mini hubs in Terrace and Fort Nelson.
- After the court process we must be able to work with the FNHA to incorporate the next steps, like a life skills worker.
- Unlocking the Gates is a peer support organization and its staff have been through addiction. They bring clients to court, to probation, and to appointments and funding and resources are needed to expand it.
- More funding is needed to send people to treatment. Band Offices do not pay for treatment, they have to go through the Ministry. Bands are not funded for many things and if their members have to go to court, they do not have funding for that. If someone has family court and they must travel to get there, they need money to do that.

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- I am an Elder to the courts in New Westminster and when I go home to Hazelton, I am an Elder to the court there. They hold us hostage under the *Indian Act*, our justice is held by the colonial system. Our people are lost. I was taught on the land how to hunt and fish and be grateful. I was a drunk and I have been in jail, and I have lived experience. Clients do not know if they are Indigenous or not and the colonized system wants to keep throwing that out. I was born before Bill C-31, we lost our rights. I went to residential school and day schools. Money is the biggest challenge, and everything depends on money. We always gave moose to the poor and we have to learn that way again. We have to work together and include everything. Speak your heart. The client is the most important person there. We are decolonizing but we are still colonized.
- There is a lot of self-awareness on our healing paths.
- When you are in recovery and you want to drink or commit a crime, you have to walk outside your door and be connected back to the land and remember your purpose and not be surrounded by cement walls.
- We have more interest in funding these initiatives, but our approach is disjointed. I am a professional fundraiser and I teach this. The Unlocking the Gate Society came through my school. Our organizations are small and under resourced, but they need support. We need to group together and form bigger entities to do the work, the organizations are there. There is money under the BCFNJC. There are many young women and lawyers who want to help but they do not know where to go. We need to give our accomplices and philanthropists access to how they can help. I speak from a colonized perspective as I did not grow up in community, but I have learned that world. I can offer that perspective. We have the answers, but we must join together to build a stronger group. You can find Not-for-Profit (NFP) organizations doing that work.
- We must stop siloing work off – we must come together to be a stronger collective.
- I am an Elder to First Nations courts for children and families. Getting them back together is a funding issue. I almost lost my own kids because of my drinking. My daughter is working for Jordans Principle. People get funding to take our children, they get more funding than we do as First Nations. Our people are underprivileged.
- Accountability to government for not investing in the right infrastructure for our people to get into roles and jobs that contribute to society. The mining and pipeline work and the camps, there must be a strategy to work with the RCMP to address these camps and the gangs that are targeting our young people and our women. The RCMP are accountable in the role they play. The RCMP knew where Jessica Patrick was being held and they did nothing, they stopped looking for her and her family found her. Corporations and industry are not being held to account, they are paying high wages for taking men and women out of communities and then when they come back with their money, gangs target them with their drugs. A strategy to address the gang issue is needed and some diversion tactics. The gangs are getting strong in the north.
- Pull the circle together of all authorities for a coordinated effort to shut drug houses down.
- Our people die in the RCMP detachments.
- We already have the tools to make the RCMP function by regulating police officers like we do lawyers. Police officers should be licensed like lawyers and have their license revoked if they offend.
- We should not get rid of the RCMP, we need enforcement. Gangs remain an issue. My relative's mother is grooming her son into a gang, and it was a lot of work to go through family court to get a protection order against her. It took almost one year. Her son is 15.

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- Some Nations do not want us. My grandmother was Bill C-31; they have lots of oil and money and only 11 of them voting for the current Chief. He is Chief all the time.

“If funding, capacity, and state-imposed legal traditions were not an issue, what would your ideal justice system look like? How would it differ from the current justice system?”

- We need to change the First Nations court in the north to not be a sentencing court. We do not have the resources, so Prince George is the hub for detox. People from Terrace, for example, go to Prince George to get support and then they become lost and homeless. We are losing our counselling services and our doctors. We had a client at First Nations court, she was 600th on the waitlist for Central Interior Health. There is no access to doctors and counsellors and those resources are needed for First Nations courts to be successful. They do not have the knowledge to record suspensions or explain that process. The John Howard Society helps them in the south but not in the north. People are stuck waitlisted and going through court process for years. There is no housing in the north and rents are high, there is a lot of homelessness. Even if they have schizophrenia there is no support for that in the north. Elders are scared to send members down south because once they get there, they meet someone else and get taken into a lost and homeless state. We need the resources to make the system work in the north.
- If we incorporate our own justice, then the IJS could be in Prince George. We need restorative justice and land based healing. Instead of being incarcerated, an individual could go to a remote location that they are flown into and they cannot get out of. That is where the healing needs to be done. They could hunt their first moose and catching their first fish. This should be connected back to the FNHA, they have to bear some of this responsibility. We need their help to support the healing.

Breakout Session 4

Facilitator: Kirsten Barnes
Date: March 8, 2023
Notetaker: Rae Ratslef, Raincoast Ventures Ltd.

KEY THEMES

The following key themes were identified from the discussions:

- More focus on child protection and family
- There should be more focus on child protection issues, particularly in how they are taken away so easily and the appeal process, and voluntary agreements
- There is an overlap between criminal and child protection law
- Core values should sustain themselves regardless of changes in government
- There has to be separate legislation that should only relate to First Nations

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- In our justice system back in the day it was women who ran things and decided things
- There has to be some focus on the men as well
- There is nothing for victims
- It would be nice to have a central point to teach people how to apply for funding
- There is need for more Indigenous peoples educated with boots on the ground
- Police are undereducated and not trained enough
- First Nations are spread thin in our communities
- Education is important
- People are trying to move home to help their communities and there is no housing
- A strategy to get the money quickly from the government and then need a strategy to manage it
- Federally we are getting a lot of support from DOJ and ISC but not provincially
- Long-term funding
- A NIJS has to look at a holistic approach
- Our children can only go to school to Grade 7 in most communities and then they go off reserve to schools three or four hours away and that is when we lose them
- We need nurses and doctors
- Wraparound service provision and looking at the whole individual – we cannot fix this by just trying to fix justice
- How do you proactively plan if you do not know the money will be there year after year?
- For Indigenous justice programs, there has not been a call for applications in 17 years, the same agencies are being funded now as then
- Every Nation that would like to, should have a stand-alone justice program and there are only 30 in the province; funding is needed to do this work
- Educating people to do this work is really important
- There should be funding available to put community safety plans in place
- There is a lack of training in our Police force, across Canada
- It is important to not neglect the use of modern media in all of our needs there are many educational applications that could be created that would be very useful for our communities
- The Deadly Aunties is a very good program for community
- Our young people are grasping AI and living it and we need to look to them to assist in designing the systems we need to base this work on
- First Nations could be the first to have a Bill of Children's Rights.

DISCUSSION

Participants were asked to consider a series of questions and their comments and responses are captured below:

- There is a lot of focus on criminal justice strategies; we need more focus on child protection and family law issues as well. As we operate now there is a confusion that we are only doing criminal justice.
- The Canadian Bar Association Aboriginal Secretariat has been doing work on changing Bill C37 before it comes out completely. We have been interviewing Elders on what they feel would be beneficial to

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change. It is all ad hoc. In relation to child protection issues, we would like to see more focus on child protection issues, particularly in how they are taken away so easily and the appeal process, and voluntary agreements. The power sits so much with government and once the child is taken if the parents are not cooperative, the power sits with government. There should be more education and advocacy. We are doing it from the not for profit side, but it should be an easier process to feed through BCFNJC as a central board to feed into those legislation amendments more.

- There is an overlap between criminal and child protection law. I am tackling it from our community, on a smaller scale. We have had a Native Court Worker in Fort Nelson who is moving a lot of things forward; but hats off to bringing in Elders. We have 70 Elders, but we have a hard time getting them to participate.
- Have seen programs come and go because of political changes. Core values should sustain themselves regardless of which government comes in, they should be continuous. Can recall different governments take really, really good programs that no longer exist. It should not be the budget, but the programs and services that serve the people that guides.
- Regarding appointments to the bench – when you get into a position you have to follow the common law, sometimes you can get away with making things up. But if we put Indigenous people in the courts, will it help? Do we want to have the Criminal Code apply, or the US Crimes Act? Would you want to talk about murder or other horrible crimes in a court. What could change in the Criminal Code to serve you better?
- 17.18(2) deals with potential for having a Gladue Report, it is not stand-alone. Get out of the Criminal Code and have separate pieces of legislation to reflect the core values. When Cindy Gladue came before the court, there was a section amended. There is an added piece that includes Indigenous peoples. It was a tag on dealing with vulnerable people and how you get to have more information about their background before sentencing. There has to be separate legislation that should only relate to First Nations. Two bodies of law is how I see it.
- In our communities we are spread thin with work. The community may want to address one thing that has affected it. Looking at the whole body of legislation will be difficult. The AFN and BCFNJC is looking at that. Are we comfortable with that? Are they talking to us enough?
- When you talk about monies, years ago we were given back our Aboriginal authority and last week at Gathering Wisdom we voted “no”. Through Health Canada we were getting more money and now we are fighting for that back. In justice we are going through the same thing now. Government is not going to give us the money, they will just give a little, and we will be fighting over it. Our traditional laws are awakening. My co-worker may not be educated, but she is experienced. The women are awakening things and making it bigger and bigger, more than the men. If government gave us more money, we could make it happen. With just men running things we had a hard time.
- In our justice system back in the day it was women who ran things and decided things. It is still like that in my house today.
- In early 2000, when we were given back authority from Health Canada they did a 30% budget cut, and they are saying there will be another budget cut when we take over. That is why we voted “no”. Within the justice system it is the same thing.
- I am glad this forum is happening and that our voice is being heard.
- Federal government loves to download responsibility to the provincial government or to First Nations without budget. It is an important concept to fight for.

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“Is there anything under MMIWG2S+ that needs to be done?”

- We feel it is not being measured properly. We are still having people going missing and being murdered.
- Part of it is educating the men too. In a lot of communities, men have suffered as much as women and that gets overlooked sometimes. There has to be some focus on the men as well. That might create some balance.
- There is nothing for victims. You have CVAP that is \$1,2000 that can be used for counselling. We have a mother of four in our community who was the subject of a very violent community and had to leave community and her children. She is trying to get groceries to her four children and there is nothing to help her.
- Victim Services is not sufficient. You become the person who suffers the most. We need to focus on that support. Everyone is always trying to pass the buck when it should be based on the criminal system.
- It has taken a year to apply for monies. It would be nice to make it easier to apply. The money exists but they do not make it easy to access it. You have to have all these certifications and financials in place. We are now in a good position and have gained knowledge on how to apply. It would be nice to have a central point to teach people how to apply for funding.
- I was born in the 60s in Toronto, my next strategy is education. I have learned that when they say you can have money, they say to do the work and then they will pay. How do we pay our team, keep eating, and keep roofs over our head? That is still an issue.
- We need more Indigenous peoples educated with boots on the ground.
- How do we educate our people?
- We do land-based activities with the kids to educate them in a different way.
- As a former Police officer, I went through the system. Even Police are undereducated and not trained enough.
- We are spread thin in our communities. In my wife’s community there is not enough experienced people to run the community. Some have the experience to go forward because we worked in different areas. Education is important.
- My grandparents used to talk about educating yourself and implanting yourself into the government system and then come back to community.
- Housing is a big thing. People are trying to move home to help their communities and there is no housing. In all the communities, how many families are living with each other?
- We need to educate our own people about the housing and how to use it but there is drug addiction and other underlying issues that are happening because of the residential schools and now they are parents.
- How do we strategize and educate?
- We have managed to secure funding to educate our members to be able to do grant applications. It is where we have to start. Without the money, you cannot do anything. You first need a strategy to get the money quickly from the government and then need a strategy for how to manage it.
- Federally we are getting a lot of support from DOJ and ISC but not provincially.
- You need long-term funding.
- A NIJS has to look at a holistic approach. What is causing our community members to be involved in a life of crime? Living in poverty, overcrowding, effects of colonization and residential schools, daycare.

APPENDIX C – BREAKOUT SESSIONS NOTES COMPILATION

There are so many issues that need to be addressed to tackle the big issues. I have been challenging the education and communications departments for an overall strategy.

- Our children can only go to school to Grade 7 in most communities and then they go off reserve to schools three or four hours away and that is when we lose them. Those kids are being recruited by gang members. We have three gangs and three crack houses in our community. It takes a community to address it. How much money are we receiving to educate our own children?
- We need nurses and doctors. I haven't had a doctor since early 2000s since my doctor retired. I just quit trying.

“What other actions are we missing on the national scene?”

- Strategy 17-25 calls for federal action and we are still talking about NIJS.
- Wraparound service provision and looking at the whole individual – we cannot fix this by just trying to fix justice.

“How many of you know there is an existing National Aboriginal Strategy that has been in place since the 90s? It was created to address overincarceration in the criminal justice system. They are funding 200 community-based justice programs in communities”

- There are 30 in BC.
- There is money and programs, but you have to apply for it at the right time. You need to know where to look, how to apply, what to say, etc.
- If you do not apply by the deadline you need to apply the following year.
- If they know you, they may extend the program.
- How do you proactively plan if you do not know the money will be there year after year?
- They are drawing upon what they have learned and are doing engagement from Indigenous communities across Canada to improve the plan.
- For Indigenous justice programs, there has not been a call for applications in 17 years, the same agencies are being funded now as then.
- Under the current climate in BC, every Nation that would like to, should have a stand-alone justice program and there are only 30 in the province. Funding is needed to do this work.
- We formed our own justice in our community and are getting more things done.
- If you go to a non-Indigenous company that does all this work for you, you are talking \$50,000 in fees before you even do anything. That is why educating people to do this work is really important.
- There should be funding available to put community safety plans in place. We have two drug camps in our very small community and the Police cannot do anything. How do we resolve those things?
- We can put a strategy in place and an action plan, but how much has actually been done. We need to say who will do it and include timelines, so it gets done. The BC Action Plan on DRIPA has no real teeth to make them do it, other than political.
- We are following the Yukon's Deadly Aunties example of a Community Police Officer. I hired my grandmother, auntie, and uncle to do the safety work and patrolling. Are you going to argue with them?
- A lot of these problems are our own social problems because of the drug dealers and bootleggers, and so on. By Whitehorse, the community reduced the Police calls by 60% when they started looking at their social programs. I would like to see the Justice Forum bring that program forward.

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- There is a lack of training in our police force, across Canada. It takes six months in training, and six months in the field and then you have a “know it all”.
- If you do not look after the social problems in the community, the problems will just get worse.
- There is funding available through DOJ for Aboriginal Community Safety Initiatives. It is worth going after, loosely based on the Yukon model.

Further comments included:

- It is important to not neglect the use of modern media in all of our needs. There are many educational applications that could be created that would be very useful for our communities.
- We must remember today that communication can be very interactive. You can even interact with scenarios. It is well within our reach.
- The Deadly Aunties are very good for the community. No one will argue with the grannies. One found her own niece dead of fentanyl, so everyone had to rally to support her. It takes all these supports.
- In Canada the impetus is not there to ensure all citizens can take advantage of modern media, including AI. Our young people are grasping it and living it and we need to look to them to assist in designing the systems we need to base this work on.
- We need to be futurists about children’s rights. We could be the first to have a Bill of Children’s Rights. We have never had the really difficult discussion about child abuse in this country. It is prevalent and we need to turn our lens to that essential basic question of protecting children.
- You are rolling out more First Nations courtrooms, which tend to deal with criminal, but they should incorporate family as well.
