



BC FIRST NATIONS
JUSTICE COUNCIL

BC First Nations Justice Strategy



Executive Overview

Indigenous people in the province continue to be disproportionately and negatively harmed by the justice system. Historically a colonial tool used to assimilate Indigenous people and erase their traditional justice systems and institutions, the justice system today upholds deeply entrenched patterns of discrimination, violence, and marginalization. The alarming overrepresentation of Indigenous people in the criminal justice system, and children in custody of the state, along with the distinct lack of culturally appropriate and responsive legal services and resources, highlights the critical need for transformative change.

Recognizing that the path to a transformed future requires true partnership and collaboration, the BC First Nations Justice Council (BCFNJC) and the Province of British Columbia (BC) signed a Memorandum of Understanding (MOU) in Fall 2017, committing to the development and implementation of a joint justice strategy with a focus on:

1. Reconciliation with Indigenous people;
2. Decreasing the overrepresentation of Indigenous people in the justice system;
3. Improving the experience of Indigenous people within the justice system;
4. Addressing violence against Indigenous people, especially women and girls;
5. Engagement with Indigenous communities and organizations in a respectful and culturally appropriate manner;
6. Improved access to justice services by Indigenous people; and,
7. Designing services that provide Indigenous people with culturally relevant, flexible and user-focused processes.

Grounded in the acknowledgement that a justice strategy must be properly co-developed between First Nations and BC and reflect solutions First Nations have developed, systemic work was undertaken by First Nations across the province, supported by the efforts and coordination of BCFNJC, to develop elements of a justice strategy. The BC First Nations Justice Strategy (the Strategy) was signed on March 6, 2020, bringing First Nations and British Columbia into partnership to address poor justice outcomes for First Nations in BC. The Strategy was endorsed by BC First Nations leadership, through resolutions of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs. BCFNJC ultimately has a mandate from the 200+ First Nations in BC to transform the justice system and advance important work under the Strategy.

Providing a clear and comprehensive road map to the fundamental transformation of the justice system in BC, the Strategy has been shaped and informed by the collective wisdom and lived experience of First Nations and Indigenous groups, the recognition and implementation of Indigenous



Title and Rights, the respect for gender diversity and human rights of all Indigenous citizens, particularly 2SLGBTQIA+ persons and Indigenous women and girls, and the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration), particularly with respect to the justice sector.

The ultimate goal of the Strategy is to systematically advance the development and implementation of Indigenous justice systems and institutions, so that Indigenous laws and governments are ensuring the safety and well-being of citizens and maintaining harmony and balance within communities.

Overview and Scope of the Strategy:

The Strategy is comprehensive and comprised of several interconnected and interdependent components – Foundations, Pillars, Strategies, and Lines of Action – that collectively advance change along two tracks:

1. Reforming the existing justice system and
2. Restoring Indigenous justice systems and structures.

Despite its structured components and the directions set by specific strategies, the Strategy is not a static or fixed document. It is flexible and dynamic, anticipating shifts in direction and adjustments that respond to new and emerging challenges.

While the Strategy has been specifically prepared to address the realities faced by First Nations peoples in BC, and is set between First Nations and BC, it supports collaboration and relationship-building amongst all Indigenous peoples and recognizes the necessary and vital role Canada must play in the work ahead. **Importantly, through Strategies 4, 5, and 6, BCFNJC has been mandated to provide legal and wraparound services to all Indigenous peoples in BC. Recognizing that we are all connected, the Strategy advances multiple lines of action that positively impact and serve all Indigenous peoples.**

The Strategy also recognizes that there are shared, as well as some distinct, realities faced by other Indigenous peoples in BC, in particular the Métis who have put forward their own Justice Strategy with the Province to address their unique issues. Potential areas of linkage or co-ordinated action between the distinct processes and strategies being advanced by different Indigenous groups in BC may be explored through the Strategy.

Strategy Foundations:

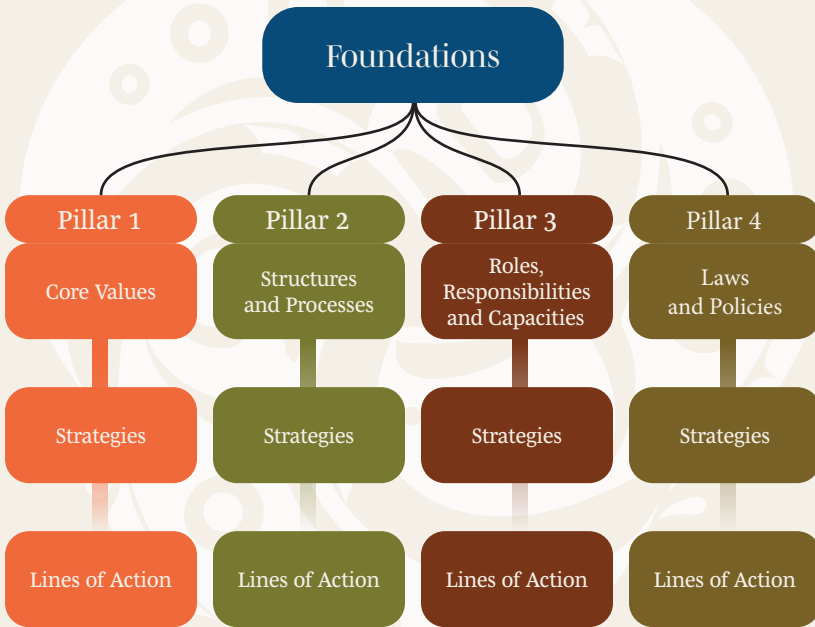
The Strategy is built upon four foundations:

- **Foundation 1:** A Strategy must adopt an integrative, holistic, and comprehensive approach that addresses all forms of interaction between First Nations and the justice system.
- **Foundation 2:** A Strategy must pursue two tracks of change at once: (1) Reform of the existing justice system; (2) Transformation through the rebuilding of Indigenous justice systems.
- **Foundation 3:** A Strategy must be proactive in creating conditions where First Nations people are no longer disproportionately interacting with, nor being impacted by, the justice system.
- **Foundation 4:** A Strategy must achieve a 180-degree shift from the current reality of First Nations people being overrepresented in all stages of interaction with the justice system, while at the same time being underrepresented as actors with roles and responsibilities within the system.



BC First Nations Justice Strategy

Upon these Foundations there are 25 Strategies that are organized into Pillars which are the root of the justice system. Each Strategy has Lines of Action attached to them to guide the implementation of the strategy.



Strategy Pillars:

The Strategy has also been organized around Four Pillars which are at the root of the justice system. Each pillar encompasses core specific strategies, along with corresponding lines of action to be pursued.

- **Pillar 1: Core Values**

This pillar encompasses strategies that are focused on upholding and implementing the core values of the presumption of diversion and First Nations self-determination of justice systems and institutions.

- **Pillar 2: Structures and Processes**

Under this pillar, fourteen strategies guide the transformation of the relationship between Indigenous people and the justice system by advancing changes to legal and governance structures and processes, including the establishment of an Indigenous Justice Secretariat to support BCFNJC implement this work throughout government.

- **Pillar 3: Roles, Responsibilities and Capacity**

Seven strategies under this pillar focus on advancing positive shifts in how individual actors do their work in the justice system and includes opportunities for these actors to adapt to and implement these strategies. Work under this pillar also includes building capacity within First Nations, ensuring they have the supports in place for Track 2 work of the Strategy.

- **Pillar 4: Laws and Policies**

This pillar focuses on the legal and policy change that is required to positively transform the relationship between First Nations and the justice system and to open space to structure proper relations between the existing criminal justice system and emerging First Nations justice systems and processes.

Evolved Timelines:

The drafters of the Justice Strategy identified deadlines on the presumption that BCFNJC would be immediately and properly funded. To date, BCFNJC's funding has been piecemeal and project-based. Moreover, the COVID-19 pandemic struck only one week after BCFNJC and BC finalized the Strategy. In short, many factors and unforeseen circumstances have made it necessary to adapt and shift the timelines that were originally drafted. While the original timelines still guide the Council's prioritization of the work, we also engage constantly with Nations to hear their evolving priorities and report out to and seek renewed mandates from BC First Nations and the Provincial Territorial Organizations to whom we are accountable.



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PILLAR 1: CORE VALUES

This pillar encompasses strategies that are focused on upholding and implementing the core values of the **presumption of diversion** and First Nations **self-determination** of justice systems and institutions.

STRATEGY 1: Upholding the Presumption of Diversion

Ensuring the core value of presumption of diversion is consistently applied to help Indigenous people break free from cycles of harmful interactions with the justice system.

The challenge:

A significant challenge with the existing justice system, as supported by extensive evidence, is that Indigenous individuals experience cycles of escalating interactions with the criminal justice system that are very hard to break and can lead to prolonged incarceration. The presumption of diversion is a core justice value that needs to be entrenched throughout the justice system to break these cycles, decrease recidivism (repeat offending) and Indigenous representation in jails, and help Indigenous people access culturally appropriate supports and resources.

The presumption of diversion requires considering and applying culturally appropriate and least restrictive approaches at every point in time of an individual's journey through the justice system, with the presumption that, whenever appropriate, these alternative responses should be the first option pursued. However, the presumption of diversion is only present in some ways in the justice system and is not applied in consistent and comprehensive manner.

The solution:

Strategy 1 aims to establish multiple checkpoints throughout the justice system where presumption of diversion can be applied, and the cycle of escalating interactions can be broken. This means at every point in time – pre-charge, post-charge, and post-conviction – culturally appropriate alternative responses to the existing justice system are considered and Indigenous individuals supported in ways that help them avoid future incarceration.



Line of Action

- A. BCFNJC and BC will establish a presumption of diversion workplan that identifies every opportunity within the justice system where the presumption of diversion may be operationalized.
- The workplan will be completed within six months of the completion of this Strategy (subject to the BC's ability to resource).
 - The workplan will identify each potential application of the presumption of diversion, and the options for operationalizing that application. It will include the insertion of resources such as wrap-around health, mental health, addiction and housing services to support the marginalized population in the justice system.
 - The workplan will include a review of all current restorative justice approaches and measures across BC, as well as pathways for expansion.
 - The workplan will include education components for all actors in the justice system on the presumption of diversion.
 - BCFNJC and BC will work with relevant actors to develop a plan for how the specific application of the presumption of diversion will be put into effect in their sector.
 - While the workplan is being developed, the specific actions identified elsewhere in this Strategy that are part of entrenching the presumption of diversion will continue to be advanced.

STRATEGY 2: Advancing First Nations Self-Determination

Supporting First Nations in however they choose to undertake the restoration of their laws and the rebuilding of their justice systems and institutions.

The challenge:

Throughout the history of Canada, First Nations justice systems and legal orders have failed to be respected and recognized. Since Canada effectively applied the criminal laws of England at Canadian Confederation in 1867 and enacted the first Canadian federal *Criminal Code* in 1892, there has been no recognition of Indigenous legal orders in criminal justice. The deeply rooted and racist idea that the only laws and systems that matter are the ones based in common law and colonial legal traditions, has contributed to the ongoing denial of First Nations justice systems, legal orders, and self-determination in criminal justice.

The solution:

First Nations self-determination is a value that must inform the structure and operation of the criminal justice system. The right of Indigenous self-determination, as expressed in articles 3, 4, and 5 of the UN Declaration, allows First Nations to determine their priorities and visions and create space for the recognition and operation of their laws, institutions, and jurisdictions. As such, Strategy 2 focuses on supporting First Nations in however they choose to undertake the rebuilding of their systems and institutions and aims to affirm self-determination and self-government in multiple ways throughout the justice system.

Lines of Action

- A. BCFNJC, with the support of BC, will develop a detailed “guidebook” to support First Nations in the work of re-building their First Nations Justice systems and institutions.
 - The goal is to complete the guidebook within two years.
 - The guidebook will include:
 - i. Detailed direction about the history of the justice system, its current operations, and the categories of work to be done by First Nations to rebuild their own First Nations justice systems and institutions.



- ii. Detailed information on 'how' First Nations may approach the rebuilding work, including roles that Elders, members, youth, and others may play.
 - iii. Best practices and templates that First Nations may choose to use.
 - iv. Processes for revitalization of First Nations legal orders, in relation to criminal law.
 - It will include and explain the standards of the UN Declaration as related to criminal justice.
 - It will include identified linkages to elements of this Strategy which support the advancement of self-determination, and how First Nations may utilize those. BCFNJC may collaborate with experts in Indigenous laws, including law schools, to develop aspects of the guidebook.
- B. Co-develop a policy for how the administration of justice will be a subject-matter open for negotiation between First Nations and BC, in both stand-alone negotiations, and as part of comprehensive negotiation processes.
- BCFNJC and BC will co-develop a policy to guide provincial negotiators on the inclusion of administration of justice, including support for the rebuilding of First Nations justice systems and legal orders in agreements.
 - BC will confirm to First Nations by letter that the administration of justice is a subject matter that can be negotiated in agreements, and that a policy is being developed to help inform these negotiations.
 - In parallel, BCFNJC and BC will advance Tripartite policy development with Canada regarding negotiations and agreement-making criminal justice, including the inclusion of criminal justice powers in self-government agreements.



PILLAR 2: STRUCTURES AND PROCESSES

Under this pillar, fourteen strategies guide the transformation of the relationship between Indigenous people and the justice system by **focusing on changes to structures and processes.**

STRATEGY 3: **Strengthening Indigenous Capacity and Legal Services**

Ensuring the mechanisms and structures are in place to strengthen, improve, and expand legal services and justice capacity for Indigenous people

The challenge:

Despite the growing overrepresentation of Indigenous children and youth in the care of government and Indigenous men and women in state custody, many Indigenous communities do not have the justice capacity to address critical justice issues and are without access to culturally appropriate and responsive legal services.

The solution:

BC First Nations have provided a clear mandate to BCFNJC to productively engage with the government to advance effective strategies that can achieve better outcomes for Indigenous people in the justice system, including strategies that strengthen Indigenous justice capacity and legal services. Strategy 3 ensures that BCFNJC can fulfill its roles and responsibilities in improving Indigenous justice capacity and legal services, with proper structures in place that support the ongoing direction and guidance of Indigenous people, as well as sustained, long-term support from the government.

Lines of Action

- A. The Province and BCFNJC to confirm sustained long-term support for the work of the BCFNJC in implementing this Strategy.
- B. BCFNJC to develop and present to First Nations a plan for the long-term roles and responsibilities of the BCFNJC in implementing this Strategy, and how those confirm mechanisms for the on-going direction and guidance of First Nations and proper BCFNJC accountabilities to First Nations.
- C. BCFNJC to work with BC to develop an action plan for the implementation of the objectives of UNDRIP where it intersects with justice.

- D. BCFNJC to proactively identify and work with partner organizations to advance the implementation of this Strategy, including but not limited to the Indigenous Bar Association, Law Foundation of BC, BC law schools, and the Law Society of BC.

TRACK 1/TRACK 2

STRATEGY 4: Expanding a Network of Indigenous Justice Centres

Establishing Indigenous Justice Centres (IJC) that will provide culturally appropriate information, advice, support, and representation for Indigenous people.

The challenge:

For many Indigenous people, navigating the colonial justice system is a challenging, isolating, and frustrating experience that can negatively impact all areas of an individual's life, from mental health to housing and employment. In addition to high rates of incarceration and justice system involvement, Indigenous people experience many challenges in accessing legal supports and services that are culturally appropriate, responsive, and that recognize and address the impacts of intergenerational trauma.

The solution:

BCFNJC has been actively working on the establishment and operation of 15 IJCs across the province. IJCs are safe and welcoming spaces in the community that offer culturally appropriate justice services to support Indigenous people with their interactions in the colonial legal system. IJCs provide service delivery at the “case” level as well as engagement and justice solution development at the community level. As justice issues do not exist in isolation, each IJC also provides wraparound supports to connect people to housing, diversion, safety, treatment, and restorative justice programs.

IJCs will also house legal aid and Gladue services, which are integral to Track 1 of the Strategy. IJCs will also provide a strong foundation for Track 2 work as they can be spaces to work collaboratively with First Nations to develop justice



solutions, expand services, and revitalize First Nations legal orders.

Lines of Action

- A. Establish a network of 15 Indigenous Justice Centres across British Columbia within five years.
- BCFNJC and BC will complete evaluation and assessment of the current pilot phase of Indigenous Justice Centres.
 - BCFNJC and BC will establish a plan for the roll-out of three Indigenous Justice Centres across British Columbia each year.
 - BCFNJC and BC will engage with the Legal Services Society [Now Legal Aid BC] regarding how certain services and functions of First Nations individuals, currently played by the Legal Services Society, will be transitioned to the Indigenous Justice Centres.
 - BCFNJC and BC will engage with First Nations in BC on the plan for the roll-out of Indigenous Justice Centres across BC.

TRACK 1/TRACK 2

Strategy 5: Transforming Indigenous Legal Aid Services

Transferring Indigenous legal aid services to BCFNJC and developing a legal aid model that will increase access to justice and culturally safe services for Indigenous accused.

The challenge:

Legal Aid BC is a provincial Crown Corporation created by the Legal Services Society (LSS) Act in 1979 to provide legal information, advice, and representation services. Currently, most Indigenous people only have access to the legal aid services provided through Legal Aid BC. For many years Indigenous people have advocated for the transformation of legal aid services in BC due to broad and systemic concerns around its administration and funding. There are also concerns related to the availability and accessibility of legal aid for Indigenous accused with evidence demonstrating these challenges are even more intense in rural areas

where, in some regions, up to 90% of legal aid clients are Indigenous. The current state of legal aid is a factor contributing to overincarceration and raises critical questions about how fundamental civil and legal rights guaranteed in the *Canadian Charter of Rights and Freedoms* may not be upheld for Indigenous accused.

The solution:

To achieve this transformation, BCFNJC will work in partnership with the province of British Columbia and Legal Aid BC to transfer legal aid services for Indigenous people to BCFNJC. Through Strategy 5, BCFNJC will develop and administer an innovative and holistic model of legal aid that reflects the need for better, more effective, more culturally informed legal counsel and legal aid services for Indigenous people dealing with the criminal justice system.

Line of Action

- A. BCFNJC and BC will develop a workplan to transition legal aid services for Indigenous people in BC from LSS [Now Legal Aid BC] to an Indigenous controlled entity.
 - BCFNJC and BC will work with LSS on the transition, similar to what is happening with Gladue services.
 - The workplan will identify how the transition will result in increased access to justice for Indigenous accused and outline clear criteria and standards for legal aid service.

TRACK 1/TRACK 2

STRATEGY 6: Systematic Implementation of Gladue Standards Across BC

Implementing a comprehensive Gladue Strategy to ensure Gladue Principles are consistently applied throughout the criminal justice system.

The challenge:

Gladue Principles, or Gladue Rights, address the ways the criminal justice system



has failed Indigenous people. Judges must consider the unique circumstances and experiences which may have played a part in bringing an Indigenous person in contact with the law. Gladue Principles apply to every First Nations, Inuit, and Métis person in Canada, regardless of where they live.

Gladue Principles arose from a 1999 Supreme Court of Canada decision in a case called [*R. v. Gladue*](#). The Supreme Court of Canada found that colonialism creates unique challenges for Indigenous people that results in higher incarcerations rates. Gladue Factors are the systemic or background factors related to these challenges and the harmful impacts of past and ongoing colonialism. Gladue Factors can include racism, loss of language, removal from land, intergenerational trauma resulting from the 60s Scoop and Indian residential and day school attendance, and the disruption of family and community connections. Information about an Indigenous person's background, including Gladue Factors, is presented in a comprehensive Gladue Report to support judges' application of Gladue Principles in their decision-making.

Gladue Principles ultimately represent an established approach by the Supreme Court of Canada to help reduce over-incarceration of Indigenous peoples and affect meaningful Track 1 reform of the existing justice system. However, there has been a lack of tangible and measurable results from this approach due to inconsistent, non-systematic applications of Gladue Principles and a need to transition Gladue Services in BC to an Indigenous entity.

Solution:

Implementing a comprehensive Gladue Strategy to promote the fair treatment of Indigenous people in the criminal justice system, BCFNJC will assume responsibility for the administration and management of Gladue Services across BC and establish a Gladue Service Department. The Gladue Service Department will be dedicated to advancing the systematic and thorough application of Gladue Principles, the timely delivery of high-quality Gladue Reports, Gladue awareness and education programs, and improved Gladue writing and reporting processes.

Lines of Action

- A. Establish a *Gladue* Implementation Agency (Agency).
 - BCFNJC and BC will design and reach agreement on establishment and support for the Agency within 12 months.
 - BCFNJC and BC will co-ordinate with LSS in the transition.
 - The Agency will be First Nation controlled, and not an agency of government.
 - The Agency will be responsible for advancing all lines of action in Strategy 3.
- B. Increasing capacity and numbers of *Gladue* writers.

- The Agency will establish a set of credentials for *Gladue* writers.
 - The Agency will establish and offer a *Gladue* writer training program.
 - The Agency will establish and implement a recruitment and retention program for *Gladue* writers.
- C. Development of *Gladue* awareness and education programs.
- The Agency will offer First Nations community education regarding *Gladue* and the roles communities play in *Gladue* implementation.
 - The Agency will develop and provide training programs for all relevant justice actors on their roles and responsibilities to implement *Gladue*.
- D. Formalizing the *Gladue* reporting process.
- The Agency will develop materials that standardize and communicate the *Gladue* reporting process in BC.
 - BCFNJC and BC will determine how the standardized process will be communicated and formalized across all relevant justice sectors.

TRACK 1

STRATEGY 7: Stronger Oversight and Accountability

Advancing legislative and policy development to ensure there is a strong independent oversight and accountability function regarding the justice system and Indigenous people.

The challenge:

Oversight and accountability in the justice system means that there are reliable, transparent systems of oversight and accountability in place to ensure those who wield significant powers and responsibilities, such as police forces, do not abuse their powers over citizens. It means the public can monitor and scrutinize justice actors to ensure they are following the rule of law and are treating communities and individuals with respect and dignity. With greater oversight and accountability comes greater confidence and trust in the criminal justice system.

There have long been calls for an independent oversight and accountability function to address challenges and concerns regarding Indigenous people and the justice system. While such calls are most typically related to policing and corrections, they also have arisen in relation to issues of access to justice, prosecutorial practices, and court decisions. Numerous studies, inquiries, and reports have also highlighted and emphasized the need for forms of independent oversight and accountability.

The solution:

BCFNJC will advance policy and legislative development to support the creation of stronger, more effective oversight tools and procedures, including reporting on Indigenous justice matters and progress related to the implementation of the UN Declaration in the justice system. Through Strategy 7, BCFNJC will work with the Province to develop models and options for an oversight and accountability function in BC that can operate in distinct and proper ways with the different sectors of the existing justice system, and has clearly defined relationships, responsibilities, and roles in relation to First Nations governments and their justice institutions and processes.

Line of Action

- A. BCFNJC and BC will establish an oversight and accountability model which will be used as a basis for legislative and policy proposal development.
 - BCFNJC and BC will conduct a survey of oversight and accountability models in other jurisdictions.
 - BCFNJC and BC will develop models and options for an oversight and accountability function in BC.
 - BCFNJC and BC will use the Justice Summit process, including potential Indigenous specific Justice Summits, as a forum for vetting options and models of oversight and accountability.

STRATEGY 8: Aligning Legislation in the Justice Sector with the UN Declaration

BCFNJC and BC will jointly review legislation to align laws with the UN Declaration and to advance necessary legislative changes for justice reform.

The challenge:

Meaningful and necessary legislative changes are needed to affirm and support Indigenous self-determination and the rebuilding of Indigenous justice systems and institutions. To affect these changes, BC needs to fulfill its obligations under Section 3 of the Declaration on the *Rights of Indigenous Peoples Act* (DRIPA) and bring provincial laws into alignment with the UN Declaration on the Rights of Indigenous Peoples (UN Declaration).

The solution:

Through Strategy 8, BCFNJC and the Province will undertake a joint review of relevant legislation to identify potential legislative changes that uphold UN Declaration standards and create space for the operation and recognition of Indigenous justice systems and institutions. The review will consider a range of approaches and forms of legislative change, from specific and relatively straightforward amendments to more complex changes needed for transformed relations, including potential amendments related to facilitating specific agreements or initiatives with First Nations.

Line of Action

- A. BCFNJC and BC will coordinate with processes being undertaken pursuant to Section 3 of *DRIPA* to ensure the review and necessary legislative changes related to the justice sector take place.
 - BCFNJC and BC will establish a joint review plan in co-ordination with section 3 of *DRIPA* processes to identify a staged approach to potential legislative changes.
 - The review will establish near-term, medium-term, and long-term legislative change priorities.

- The BCFNJC and BC will undertake engagement with First Nations, stakeholders, and the public, as necessary and appropriate, regarding the legislative review and potential changes.
- The BCFNJC and BC will co-ordinate elements of the review involving federal legislation through a Tripartite process that includes Canada.

TRACK 2

STRATEGY 9: Guiding Governmental Transformation

Under the leadership of the Ministry of the Attorney General, a cross-ministry Indigenous Justice Secretariat will support BCFNJC in guiding a whole-of-government approach to the Strategy.

The challenge:

A justice system that reflects Indigenous values, such as the presumption of diversion and self-determination, must be led by Indigenous people in culturally relevant and appropriate ways. However, there is currently an underrepresentation of Indigenous people as actors with leadership and decision-making roles and responsibilities within the justice system. Indigenous justice actors are needed to inject the necessary elements of Indigenous world views and values into the system so that BC's commitment to reconciliation and changing the status quo can be fully realized. To achieve this, structures must be put in place within the province to ensure the Strategy's implementation is sustainable, properly funded, and led by Indigenous people.

The solution:

Through Strategy 9, BCFNJC and the BC will establish an Indigenous Justice Secretariat (IJS), a new integrated and coordinated cross-ministry structure that can help BCFNJC lead the implementation of the Strategy throughout government, including in social sector areas that provide health and housing supports for individuals in the justice system. The IJS will ensure a transformative, whole-of-government approach is taken to advance the Strategy and support BCFNJC and

Indigenous leaders championing this work. Addressing the disparity of Indigenous representation within government, the IJS will ensure government is held accountable to progress on the Strategy, and that Indigenous people are guiding the implementation of the Strategy every step of the way.

The establishment of an IJS with an Indigenous Assistant Deputy Minister also aligns with previous commitments made by BC and addresses a key recommendation of the Truth and Reconciliation Commission.

Line of Action

A. Establish a Cross-Ministry Indigenous Justice Secretariat.

- BC will convert the current Indigenous Justice Strategy Secretariat (IJSS) to the Indigenous Justice Secretariat (IJS) on or before March 31, 2020.
- The IJS will be led by a newly established Assistant Deputy Minister, through the appointment of the current IJSS Executive Director. For future appointments, BC and BCFNJC will jointly hire for the ADM position and agree that the position must be filled by an Indigenous person who has a degree in law.
- BC will provide a budget to the IJS. It is understood that new funding will not be secured within 2019/2020; however, BC will provide base funding for the IJS on a go forward basis. The base funding will provide for, at a minimum, six resources.
- BC will announce, both internally and externally, the formation of the IJS and clarify the role of the IJS is to be responsible for implementation of the Strategy and operationalization of the identified priorities within government, including the implementation of UNDRIP where it intersects with justice.



STRATEGY 10: **Improving Justice Outcomes for Indigenous Youth**

Implementing an Indigenous Youth Justice Plan to ensure proactive, preventative programming can keep Indigenous youth out of the criminal justice system.

The challenge:

In BC, Indigenous youth continue to experience higher rates of incarceration and involvement in the child welfare system. Systemic inequalities, rooted in historical and ongoing colonialism, continue to create conditions of unbelonging and disconnection for Indigenous youth and children who feel alienated and unable to access the support of their communities and families. These conditions, along with the impacts of intergenerational trauma and experiences of neglect and abuse in the child welfare system, often lead Indigenous youth down a path of increased engagement and detention within the criminal justice system.

Evidence suggests that child welfare is not only a “pipeline to prison” for Indigenous people, but is a pipeline to child exploitation, sex trafficking, and murdered and missing Indigenous women and girls. The current child welfare system also neglects the distinct needs of 2S+ youth and creates conditions where they are more vulnerable to violence and discrimination. A comprehensive Youth Justice Strategy is needed to end these destructive pathways and address the root causes of the inequities Indigenous children and youth experience.

The Solution:

BCFNJC will engage with First Nations, Indigenous organizations, community leaders, and service providers to develop and advance an Indigenous Youth Plan. This plan will address the conditions that keep Indigenous youth caught between the child welfare and justice systems. It will advance preventive programming and supports that will ameliorate the wellbeing and welfare of Indigenous youth and free them from the “child welfare to prison pipeline.”

Line of Action

- A. BCFNJJC and BC will develop a First Nations Youth Justice Prevention and Action Plan within 12 months.

TRACK 1

STRATEGY 11: Improving Justice Outcomes for Indigenous Women, Girls and 2 Spirit (2S+) People

Ending colonial patterns of violence and discrimination in the criminal justice system that negatively and disproportionately impact Indigenous women, girls and 2 Spirit individuals.

The challenge:

Overrepresented as victims of crime and over-incarcerated in Canada's prison system, Indigenous women and girls have, since colonization, experienced the overwhelmingly destructive and harmful impacts of the criminal justice system. As the ongoing Missing and Murdered Indigenous Women and Girls (MMIWG2S+) Crisis highlights, Indigenous women and girls continue to be murdered and go missing — their lives deemed less worthy of care, compassion, and the pursuit of justice.

Today, the criminal justice system continues to imperil the safety, wellbeing, and dignity of Indigenous women girls and 2 Spirit individuals by reinforcing and upholding colonial practices and policies, such as:

- biased policing and under-policing;
- racial profiling and stereotyping;
- inconsistent application of Gladue Principles;
- focus on charging and jailing, rather than on social, health, financial, and community-based supports; and
- lack of culturally appropriate programming and supports for survivors of different forms of violence, including intimate partner violence and gender-based violence.

The solution:

Through Strategy 11, BCFNJC will work with First Nations across BC to develop and implement an Indigenous Women & 2S+ Justice Plan that will respond to the 231 Calls for Justice and other key reports and recommendations. By advancing solutions to ongoing discriminatory policies and practices in the justice system, the plan will support better outcomes for Indigenous women, girls, and 2SLGBTQIA+ peoples in all areas of justice, from policing and corrections to legal aid and crisis response.

Lines of Action

- A. BCFNJC and BC, working with relevant partners, will develop a First Nations Women 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.

TRACK 2

STRATEGY 12: Shaping the Future of First Nations Courts

Adopting a renewed approach to First Nations Courts to ensure there is space for the development, role, and function of First Nations justice institutions, including Indigenous Justice Centres.

The Challenge:

In BC, First Nations Courts are criminal sentencing courts for Indigenous people where different processes and procedures, including those that are more healing-based and culturally appropriate, can occur at the sentencing stage. There are currently nine First Nations iterations of provincial courts in BC: New Westminster

First Nations Court, North Vancouver (Chet wa nexwníw ta S7ekw'í7tel), Kamloops (Cknucwentn), Duncan First Nations Court, Nicola Valley Indigenous Court, Prince George Indigenous Court, Williams Lake Indigenous Court, Hazelton Indigenous Court, and Lillooet Indigenous Court.

The goal of these courts is to create pathways for healing and the restoration of balance by involving Elders and restorative justice practices in the court process. While an important initiative, First Nations Courts are still embedded in the mainstream justice system and are not courts where First Nations laws and jurisdictions are applied through First Nations institutions. New policies and approaches are needed to guide the future of First Nations Courts and determine how they may support the emergence of First Nations legal order courts that are based on and administered according to the self-determination and the priorities of First Nations.

The solution:

BCFNJC and the Province will co-develop an approach to First Nations Courts that will ensure the future investment and expansion in the current model of First Nations Courts, a Track 1 initiative of the Strategy. This approach will also revitalize the role and function of First Nations Courts and consider how they may support and provide space for the role and function of Indigenous Justice Centres and the development of First Nations justice institutions, a Track 2 initiative of the strategy.

Line of Action

- A. Co-develop a joint policy and approach regarding First Nations Courts.
- BCFNJC and BC will establish a joint policy on the expansion of First Nations 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.



STRATEGY 13:

Transparency and Information Sharing Across Corrections

Ensuring First Nations can access the information they need to locate where their members are being held in the corrections system and provide effective support.

The challenge:

First Nations must be able to support their members who are within the corrections system. To do this, First Nations must know where they are, when they may be moved, and when a move has occurred. Without such basic information, a significant obstacle exists for First Nations to provide cultural and other supports to their members, as well as to their families within communities. Lack of such information can interfere with the identification of alternatives and the operationalization of the presumption of diversion.

The solution:

As there are currently no established data governance protocols regarding the sharing of this information for those who are incarcerated, BCFNJC will work with BC Corrections and First Nations to advance measures that will ensure reliable, accessible, and standardized information sharing between First Nations and BC Corrections. BCFNJC will also work to establish mechanisms 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.

Lines of Action

- A. Review and, if required, update the existing MOUs that First Nations and Corrections have in place, which can be used as templates to confirm and standardize the process for sharing of information.
 - BCFNJC and Corrections will review protocols that have been used with some First Nations, to identify what works best and what issues may need to be addressed. BCFNJC and Corrections will review the MOU model and process which is currently in place,

- and come to agreement on a model and process that First Nations may use going forward.
- B. Review and identify potential legislative and policy changes to ensure that First Nations have access to information on their members who are incarcerated.
- BCFNJC and BC to conduct a legislative and policy analysis and develop proposals for change.

TRACK 1/TRACK 2

STRATEGY 14: Expanding Culturally-Based Programming in BC Corrections

Developing correctional alternatives in First Nations and expanding cultural programs that support the healing and rehabilitation of Indigenous people in the corrections system.

The challenge:

More culturally based programs are needed throughout the corrections system to support the healing journeys of Indigenous people, alongside alternatives to corrections that are First Nations designed, based and controlled. Studies and experience have demonstrated the importance of cultural norms, practices, and programming within corrections, both as part of rehabilitation and healing, and as part of reducing rates of recidivism (re-offending). Such culturally based programming is also critical for appropriate reconnection and reintegration with families and communities after sentences have been served.

Solution:

By expanding more culturally based interventions and programs, Indigenous values, traditions, and healing methods can be integrated into the corrections system to help Indigenous people successfully progress in their healing journeys and reintegrate into their community. BCFNJC will support the expansion of culturally based programming throughout BC Corrections, including within adult custody centres and community corrections supervision. Through Strategy 14, BCFNJC will also support the development of a network of First Nations corrections alternatives.



Lines of Action

- A. BCFNJC and BC will pilot two new correction alternatives within First Nations in BC over the next three years, as a basis for informing the development of a network of alternatives over the next decade.
- BCFNJC and BC will develop a workplan and budget to guide the pilots. The workplan will include any potential legislative changes required to the *Correction Act*.
 - The workplan will include identifying and working with potential First Nations that may form part of the pilot.
 - The pilots will be distinct, and regionally spread so the learnings can be broad.
- B. BCFNJC and BC will establish a workplan and budget for the expansion of cultural programs within BC Corrections.
- The workplan will be completed within twelve months.
 - The workplan will include a survey of all existing programs and services; a list of which BC Corrections can provide.
 - The workplan will identify specific pathways and options for the expansion of programs over the next 1, 3, and 5 years.

TRACK 1/TRACK 2

STRATEGY 15: Growing Community Justice Programs

Ensuring every First Nations community that seeks it has can build and expand their community justice programming.

The Challenge:

First Nations community-based programming is critical to making progress on both Track 1 and Track 2 of the Strategy. Communities need programs that are prevention and healing based, trauma-informed, and culturally grounded, so that Gladue Principles can be fully upheld, and the presumption of diversion can be reflected at all stages of interaction with the criminal justice system.

Solution:

Strategy 15 recognizes that community-based justice programs are building blocks for Indigenous justice systems and institutions, providing opportunities for the application of Indigenous laws and practices regarding criminal justice. Under Strategy 15, BCFNJC will focus on the creation of a long-term, sustainable community-based programming fund, as well as the identification and reporting on best practices in community-based justice programming, with the goal that every First Nations community that seeks it can build community justice programming.

Lines of Action

- A. Create a long-term, sustainable, community-based programming fund. BCFNJC and BC will establish a long-term, sustainable fund to be accessed by First Nations to support new justice community-based programming within 12 months.
 - The fund will be focused on providing First Nations with sustained funding over time, to build programs that will endure, as opposed to one-off projects.
 - The fund will include dedicated supports for specific types of programs, including support for youth programming that is preventative in focus.
 - The fund will include support for the recruitment and retention of First Nations mediators on the various provincial mediator rosters, including the family mediator roster and the child protection mediator roster.
 - Core criteria for accessing the fund will include community need; the programming will be First Nations led, designed and delivered, and will directly support justice-related programming within the community.
 - The fund will be managed by the BCFNJC through a streamlined, objective, and independent funding process.
- B. Identify and report on best practices in community-based programming.
 - On a regular basis, BCFNJC will compile and disseminate to First Nations examples of best practices in community-based programming.
- C. Establish a co-ordinated approach with the First Nations Health Council (FNHC) on community-based programming that addresses healing initiatives.
 - The goal is to ensure there is no duplication of efforts, and that co-ordinated approaches support the most effective and successful expansion of community-based programming.
 - BCFNJC will approach and begin dialogue with FNHC; BC will be engaged by the Councils as necessary and appropriate.



STRATEGY 16:

Tracking the Progress and Impact of the Strategy

Ensuring that reporting, evaluation, and knowledge sharing requirements under the Strategy can be fulfilled.

The challenge:

The Strategy contains many distinct yet interdependent strategies that impact all areas of the justice system, from community-based programming to the court system. With such a large scope of work involving many justice partners, transparency and accountability are core values that need to be upheld. First Nations and Indigenous groups need to be kept informed of the Strategy's progress, including areas where work has stalled or progressed significantly.

The solution:

BCFNJC will work to ensure there is effective and transparent monitoring and evaluation of the Strategy's progress. BCFNJC will not only create opportunities for knowledge and information sharing related to the Strategy but will establish formal mechanisms that will ensure First Nations, the public, and government and justice partners can always access, assess, and track the Strategy's progress across all 25 strategies and 43 lines of action. This includes the progress on new streams of work that were not contemplated at the time of the original Strategy's development but have since become important for Indigenous people in BC.

Lines of Action

- A. Establish an annual Justice Summit on First Nations Issues In addition to the current Justice Summit under the *Justice Reform and Transparency Act*, establish an annual Justice Summit co-planned by the BCFNJC and BC that is dedicated to First Nations issues, inclusive of a broad cross-section of First Nations leadership, and has a focus on evaluating and assessing progress on the Strategy.
 - Pursue amendment to the *Justice Reform and Transparency Act* to include the requirement for an annual Justice Summit dedicated to First Nations issues.

- B. Establish a joint process and standards for data collection and reporting on measurable outcomes, including the evaluation of the effectiveness of this Strategy.
- BCFNJC and BC to establish a workplan for data collection and reporting on the Strategy.
 - BCFNJC and BC will make annual data available to First Nations, the BC justice sector, and the public on the progress of implementation of the Strategy.

TRACK 1/TRACK 2

STRATEGY 17: Building a Strong Partnership with Canada

Strengthening the Tripartite partnership between BCFNJC, BC, Canada to effectively advance Track 1 and Track 2 of the Strategy.

The challenge:

The Strategy advances many strategies and lines of action that assume and require some level of participation by Canada. Leadership from Canada and direct federal government action is also needed to advance many vital elements that have not been addressed in this Strategy, including reform of the *Criminal Code*.

The solution:

BCFNJC will work with BC and Canada to develop a Tripartite protocol and process around the implementation of the Strategy. This protocol will help clearly define the roles and responsibilities of BC and Canada in implementing the Strategy and identify actions under Track 1 and Track 2 wherein the leadership of Canada is needed beyond what is written in this Strategy.

Line of Action

- A. BCFNJC and BC to approach Canada to form a Tripartite process and protocol around the implementation of this Strategy.
- Protocol will address specific strategies and lines of action in this Strategy in which Canada will participate.
 - Protocol will identify Track 1 and Track 2 actions where leadership of Canada is needed beyond those in this Strategy, and the steps to be taken by the BCFNJC, BC, and Canada in relation to those actions.
 - BCFNJC will engage and update First Nations regarding the protocol and process development with Canada.

PILLAR 3: ROLES, RESPONSIBILITIES, AND CAPACITIES

Seven strategies under this pillar focus on advancing positive shifts in how individual actors do their work in the justice system and includes opportunities for these actors to adapt to and implement these strategies.

STRATEGY 18:

Increasing Indigenous Representation in the BC Prosecution Service

Ensuring Indigenous people can take on influential leadership and decision-making roles in the prosecution service.

The challenge:

The BC Prosecution Service (BCPS) and Crown Counsel play a critical role in the criminal justice system. BCPS is the provincial prosecution service in BC responsible for promoting public safety, justice, and respect for the rule of law by conducting or supervising prosecutions and appeals at all levels of the court system fairly and effectively, on behalf of the whole community. BCPS acts independently of police and government when making prosecutorial decisions.

Crown Counsel are lawyers who act as prosecutors on behalf of society as a whole. They are appointed and assigned to cases by the Criminal Justice Branch of the Ministry of Attorney General. Crown Counsel are responsible for representing the prosecution side of the matter. Consequently, they exercise significant power and discretion at key points in the criminal justice process: they can require witnesses to testify in court, present evidence, and explain to the judge and jury the details of an alleged crime. It is important that Indigenous people are represented in the BCPS and as Crown Counsel.

The solution:

For a fair and impartial justice system to work and uphold Indigenous values, it is essential that Indigenous people are represented throughout the justice system, including in roles that exercise significant executive and prosecutorial powers. BCFNJC will work with BCPS and other justice partners to implement a recruitment strategy that will aim to increase the representation of Indigenous people in BCPS and as Crown Counsel.

Line of Action

- A. Set a target of 6% Indigenous people within BCPS and Crown Counsel.
- BCFNJC will work with the BCPS in its jointly established recruitment strategy to achieve the recruitment target.
 - BCFNJC will work with the BCPS and the Law Society of BC, Law Foundation of BC, University of Victoria, University of British Columbia, and Thompson Rivers University Law Schools to promote the recruitment strategy.
 - BCFNJC will identify to the BCPS, First Nations counsel who may be appropriate to consider for appointment as Special Prosecutors.

TRACK 1

STRATEGY 19: Strengthening Relations between First Nations and Crown Counsel

Supporting structured relations between First Nations and BC Crown Counsel offices to facilitate trust, understanding, and the application of the presumption of diversion.

The challenge:

As Crown Counsel play an important role in the criminal justice system, acting as prosecutors and providing advice to government, it is important that there are structured relations between Crown Counsel offices and local First Nations guided by mutual respect and understanding. These structured relations can help achieve many purposes, including:

- Learning about forms of cultural appropriateness,
- Deepening knowledge about alternatives that can support the presumption of diversion and build relationships that can help facilitate the implementation of alternatives,
- Building an understanding about the roles of Crown Counsel and how they perform their functions, and
- Ensuring First Nations have knowledge about their members who may be



facing charges, where the member wants to inform their Nation.

The solution:

BCFNJC will facilitate communication and relationship building between First Nations and Crown Counsel offices, developing different models of protocols that will support strengthened, structured relations between First Nations and Crown Counsel offices.

Line of Action

- A. Establish models of protocols to be established between First Nations and Crown Counsel offices.
 - BCFNJC and BCPS will develop examples and models of protocols that will support the direct establishment of bilateral protocols between First Nations and Crown Counsel offices.
 - BCFNJC and BCPS will prepare messages to be sent to First Nations across BC explaining background information for pursuing bilateral protocols between First Nations and Crown Counsel offices.

TRACK 1

STRATEGY 20: Cultural Competency Standards, Training, and Education

Developing standards for cultural competency and a training program for all those who interact with Indigenous people in the justice system, including police and Crown Counsel.

The challenge:

Culturally appropriate training for justice professionals that work with Indigenous people has been limited and/or non-existent in the past, contributing to friction and crisis in the system. In addition, due to the historical and ongoing role police have played in colonization, including conducting harmful patterns of biased policing and surveillance, Indigenous people often experience distrust, fear, and

trauma in their interactions with police. There is a pressing need for all justice and policing agents to be educated on cultural safety, the history and impacts of colonization, and their role in advancing reconciliation and Indigenous wellbeing.

The solution:

While there are various forms of training taking place in different parts of the justice system, a coherent and consistent approach is needed so that core cultural competency practices are reinforced throughout the system. Through Strategy 20, BCFNJC will advance such an approach, establishing clear standards of cultural competency, along with a consistent and systematic training program regarding Indigenous people and the justice system.

Lines of Action

- A. BCFNJC will establish a set of a core content and standards for cultural competency to enhance training programs related to justice matters. BCFNJC and BC will conduct a review of the existing training that could inform the content and standards.
 - Core content and standards will include:
 - i. Relevant topics related to the history of Indigenous people and the criminal justice system,
 - ii. A distinctions-based approach reflective of the diversity of Indigenous peoples across BC,
 - iii. The experiences of Indigenous women and children,
 - iv. The current context and challenges of overrepresentation, and
 - v. Relevant standards and rights, including the UN Declaration and section 35 of the *Constitution*, *DRIPA*, and understandings of healing and trauma.
 - The core content and standards will also include specific topics that may be particularly relevant to different actors in the justice system, such as how to identify and communicate potential alternative measures that may be available as part of supporting the presumption of diversion.
 - The BCFNJC will engage with First Nations experts in developing the core content and standards.
- B. BCFNJC and BC will co-ordinate working with each sector within the justice system including police, BCPS and Crown Counsel, courts, and corrections, to establish or enhance a process and understanding of the implementation of the core content and standards.
 - BCFNJC and BC will establish a joint workplan within 12 months for how to achieve understandings with each sector on the roll-out of the core content and standards.
 - BCFNJC and BC will work with each branch of the justice sector on



implementation of the core content and standards.

TRACK 1/ TRACK 2

STRATEGY 21: Strengthening Traditional Knowledge and First Nations Laws in the Justice System

Expanding the roles for Elders and Knowledge Keepers across the justice system to support cultural appropriateness, restorative justice processes and Indigenous methods of healing.

The challenge:

A critical aspect of both Track 1 (reform the existing justice system), and Track 2 (rebuilding First Nations justice institutions and legal orders), is supporting and expanding the roles to be played by Elders and Knowledge-Keepers. These roles include everything from ensuring and reinforcing the cultural appropriateness of how the justice system is operating, to applying knowledge of First Nations laws and teachings in First Nations Courts. Elders also have an important role to play in healing and trauma-centred approaches to building well-being and effective and proactive justice programming in communities.

The solution:

BCFNJC recognizes that Elders and Knowledge Keepers are critical pillars of the community who, through their knowledge, teachings, and compassion, can help progress an individual's healing journey and restore balance within a community. Through Strategy 21, BCFNJC will establish and expand roles across the justice system for Elders and Knowledge Keepers to support our foundational work including support for community-based justice programming, cultural competency and appropriateness, and the work of Indigenous Justice Centres. BCFNJC will establish an Elders and Knowledge Keepers Council who can facilitate this work and ensure Elders and Knowledge Keepers are providing advice on all aspects of the Strategy's implementation.

Lines of Action

- A. BCFNJC to establish an Elders and Knowledge Keepers Council to provide advice on all aspects of the implementation of this Strategy.
 - Elders and Knowledge Keepers Council to be established within three months.
 - Elders and Knowledge Keepers Council to have representation from across BC.
- B. BCFNJC and BC, with advice from the Elders and Knowledge Keepers Council, will establish a network of regional Elders and Knowledge Keepers Councils who have formal relationships with, and can provide support to all sectors of the justice system, including police, BCPS and Crown Counsel, courts, and corrections.
 - BCFNJC will develop a proposal, including a budget, for a network of regional Elders and Knowledge Keepers Councils within 12 months.
 - BCFNJC will work with First Nations across BC to develop the proposal.
 - The proposal will include the role of the Elders and Knowledge Keepers Councils and how the police, BCPS and Crown Counsel, courts, and corrections may interact and engage with the Elders and Knowledge Keepers Councils.
 - BCFNJC and BC will co-ordinate establishing formal relationships with all sectors of the justice system and the network of Elders and Knowledge Keepers Councils.



STRATEGY 22: Strengthened Relations Between First Nations and Police Forces

Establishing new models of structured, cooperative relations between First Nations, the RCMP, and other police forces so that changes can be made at the policy and community level.

The challenge:

Policing is most often the first aspect of a person's interaction with the justice system. For many First Nations and other Indigenous peoples, this interaction is filled with fear and trauma that is tied to the historical and current contexts of policing. Historically, police forces acted as enforcers of many colonial policies of assimilation and displacement, including forcible land dispossession and the residential school system. Today, concerns of systemic racism and bias are attached to police forces who have harmed or failed to protect Indigenous people, particularly Indigenous women and girls who are overrepresented as survivors of violence and crime. As a result of these realities, when First Nations people require assistance, including protection by the police, they may not feel safe to reach out for that help.

Transforming the relationship between First Nations and policing is also complicated by the multiple structures of policing across British Columbia. In different geographical areas the policing authority may be RCMP or a municipal police force. In many places there will be agreements in place between First Nations and the RCMP or local policing authority. The First Nations and Inuit Policing Program (FNIPP) also plays a role as a national program that provides enhanced policing for First Nations communities. Approximately 132 communities in BC are part of the program, although many more have asked for support through the program and been denied. First Nations led community based public safety models are needed to facilitate culturally appropriate safety models within local First Nation communities.

The solution:

Ensuring that policing better reflects and serves the needs of First Nations, Strategy 22 focuses on developing and strengthening the protocols and relationships that First Nations hold with police. BCFNJC will work with the RCMP and other municipal police forces in BC to develop new models of structured relations with First Nations that support the presumption of diversion and other goals of the Strategy. BCFNJC will also work with BC to co-develop a framework for the expansion of and transition to community-based First Nations police alternatives that are based on First Nations self-determination.

Lines of Action

- A. Develop protocols between the BCFNJC and the RCMP, as well as the BCFNJC and other local police forces in BC.
 - Protocols to be established within 12 months.
 - Protocols will focus on collaboration at the strategic level to advance and support the goals of this Strategy.
 - Protocols may identify additional actions to be taken directly between BCFNJC, RCMP, and other local police forces.
 - BC will actively encourage the establishment of the protocols.
- B. Co-develop and implement a new approach to Community Tripartite Agreements (CTAs). BCFNJC, based on feedback from First Nations, will develop proposals for changes to the CTA model within six months.
 - The new approach should:
 - Strengthen how CTA's are used to address First Nation priorities, ensuring they are not inflexible in adapting to and meeting the needs and circumstances of particular communities, and include strengthened communication protocols,
 - Ensure space for negotiation of community-led priorities, which are not fixed or "take it or leave it" models, and
 - Consider shifts and actions that will reflect First Nations jurisdiction and governance, the role of bylaw development and enforcement, and build understanding around First Nations laws and law-making.
- C. Co-develop a framework for expansion and transition to increased community-based First Nations police forces.
 - BCFNJC and BC to develop a framework to expand the development and transition to increasing community-based and First Nations police forces in BC.
 - BCFNJC and BC will work with Canada in developing the approach, including interim steps such as community safety constable programs, changes to the First Nations policing program, and new peacemaking and safety initiatives.



- BCFNJC and BC will, with the RCMP and other local police forces, identify forms of co-ordination needed as expansion and transition of increased community-based First Nations police forces takes place

TRACK 1

STRATEGY 23: Increasing the Number of First Nations Judges

Developing a coordinated strategy to create more opportunities for First Nations candidates to serve as judges in BC

The challenge:

In British Columbia, 95% of criminal cases are heard in the Provincial Court of BC, with only the most serious crimes being heard in the Supreme Court of BC. However, First Nations people are underrepresented as Provincial Court Judges, even though a large proportion of both victims and accused are First Nations.

In recent years, various jurisdictions, including the federal government, have prioritized diversity in appointments, including placing an emphasis on Indigenous peoples. Having more Indigenous judges can be an important factor in bringing the understanding of different lived experiences into the judicial function, integrating an understanding of Indigenous history, culture, and experience into the judiciary, innovating new approaches to addressing over-incarceration, and rebuilding trust between First Nations and the justice system.

However, there are several challenges in identifying and recruiting First Nations candidates for appointments as judges, including:

- the relatively low number of First Nations lawyers,
- challenges that exist with the retention of First Nations lawyers,
- a lack of encouragement and support to apply, and
- the challenge for some First Nations lawyers of leaving the forms of practice they have in the complete manner that judges must.

The solution:

BCFNJC recognizes that diversity and representation on the bench are an important value of the justice system, and while judicial appointments are subject to a structured, independent, process of appointment, there are steps that can and should be taken to effectively encourage and increase the number of Indigenous judges. Through Strategy 23, BCFNJC will work with BC and its justice partners to establish an approach aimed at increasing the number of First Nations judicial appointments. This approach will include actively reaching out to and encouraging potential First Nations judicial applicants and opportunities for judges to mentor First Nations lawyers in their early years of practice.

Lines of Action

- A. Work with the Law Society of BC, the Judicial Council of BC, the Canadian Judicial Council, BCFNJC and BC to establish an approach to identifying and encouraging potential First Nations candidates for judicial appointments.
 - The approach will include opportunities for judges to act as mentors to First Nations lawyers in their early years of practice.
 - The approach will identify ways to ensure First Nations lawyers are informed of the application process, the criteria to be met, and when and how planning to apply may take place.
 - The approach will explore identification of suitable First Nations experts and organizations who may be contacted as part of the process of vetting potential applicants, to ensure First Nations perspectives form part of that process.
- B. BCFNJC will develop a system for regularly reaching out to and encouraging potential First Nations judicial applicants.
 - BCFNJC will establish an informal roster, and regular system of reaching out to potential candidates.



STRATEGY 24:

Increasing the Number of First Nations Justice Workers

Establish a sustainable set of supports to help First Nations build teams of First Nations justice workers that can lead justice related work in their communities.

The challenge:

Track 2 work of the Strategy – restoration of Indigenous justice systems and institutions – requires a systematic increase of justice workers within First Nations. These justice workers are integral to leading justice-related work, whether it be to implement community-based justice programs and new protocols as identified in this Strategy, or to help First Nations governments establish strategic plans and initiatives to move their internal work forward. However, there has not been sustained support that First Nations can access to build up the numbers and capacity of justice workers. Funding is often tied to specific projects, and not provided as part of a vision of systematic strategy that views First Nations capacity building around justice as central to tackling pressing challenges.

The solution:

BCFNJC will implement a long-term plan to improve the justice work capacity within First Nations. This plan will include establishing a fund that First Nations can access to support the creation and training of justice worker teams in their communities.

Line of Action

- A. Create a long-term, sustainable plan to support First Nations in developing teams of justice workers within their communities, including an investment fund that can be accessed by First Nations to retain and build capacity.

- BCFNJC will work with First Nations across BC to identify categories of justice workers, including roles to be played, that will most effectively support First Nations doing internal work related to the success and implementation of this Strategy.
- BCFNJC will evaluate what training may be needed or developed to support First Nations in identifying and retaining individuals to be on justice worker teams within their communities.
- BCFNJC and BC will establish a fund within 24 months that can be accessed by First Nations to support communities with justice worker training and establishing justice worker teams.



PILLAR 4: LAWS AND POLICIES

This pillar focuses on the legal and policy change that is required to structure proper relations between the existing criminal justice system and emerging First Nations justice systems and processes.

STRATEGY 25: Advancements in Prosecution Policies for Indigenous People

Supporting BC Prosecution Services to advance policy changes directed at the unacceptable overrepresentation of Indigenous people in the justice system.

The challenge:

The *Crown Counsel Policy Manual* (the Policy Manual), issued by the BC Prosecution Service (BCPS), provides guidance to prosecutors in the exercise of their discretion, including on fundamental prosecution considerations such as charge assessment, alternative measures, bail, and resolution discussions.

In April of 2019, the BCPS publicly announced its Indigenous Justice Framework along with an initial series of policy changes to the Policy Manual in relation to Bail, Charge Assessment Guidelines, and Probation. While these changes are positive, further work must be done to review and revise the Policy Manual and ensure further recommendations aimed at increasing fairness and reducing the overrepresentation of Indigenous people in the justice system are implemented.

The Solution:

BCFNJC will support BCPS in positively transforming the way it deals with cases that involve Indigenous persons – as victims, as witnesses, and as accused – by supporting their review and revision of the *Crown Counsel Policy Manual*. BCFNJC will ensure that BCPS is making necessary policy changes that include Indigenous-specific considerations and uphold core Indigenous justice values, such as the presumption of diversion.

Lines of Action

- A. The BCFNJC will continue to support the BCPS in its review and revision of its *Policy Manual* with regard to Indigenous peoples.
- The BCPS policy review will continue until all relevant policies in the *Policy Manual* have been reviewed and revised or, where needed, new policies have been created.
 - A guiding principle of this policy review will continue to be that, as set out in this strategy, at every opportunity, the least restrictive appropriate response to criminal conduct should be pursued



Implementing the BC First Nations Justice Strategy requires a collective approach that is grounded in transparency and accountability. We invite you to learn more about the Strategy and to explore the exciting work we are doing to advance it.

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