



Aligning BC Justice System Laws with the *Declaration on the Rights of Indigenous Peoples Act*

BC FIRST NATIONS JUSTICE COUNCIL

SUBMISSION TO THE FIRST NATIONS LEADERSHIP COUNCIL

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CONTENTS

1.	PURPOSE	2
2.	ABOUT THE BC FIRST NATIONS JUSTICE COUNCIL	2
2.1	BC FIRST NATIONS JUSTICE STRATEGY	3
3.	CONTEXT AND BACKGROUND	4
4.	BCFNJC PRIORITIES FOR THE DRIPA ACTION PLAN	6
4.1	UNDRIP AND THE BC FIRST NATIONS JUSTICE STRATEGY.....	6
4.2	ALIGNMENT PRIORITIES.....	12
4.2.1	Ministry of Attorney General	13
4.2.2	Ministry of Public Safety and Solicitor General	14
4.2.3	Ministry of Children and Family Development	17
4.2.4	Miscellaneous Legislation for Consideration	19
5.	NEXT STEPS.....	19
6.	CONCLUSION	20
	CONTACT	20
	APPENDIX A – BC FIRST NATIONS JUSTICE STRATEGIES AND LINES OF ACTION	21

1. PURPOSE

The BC First Nations Justice Council (“BCFNJC”) offers this submission to fulfill the request of the First Nations Leadership Council (“FNLC”) for the purpose of developing an Action Plan per Section (4) of the *BC Declaration on the Rights of Indigenous Peoples Act* (“DRIPA”). This submission highlights the strategic priorities and opportunities identified by the BC First Nations Justice Council to be included in the BC DRIPA Action Plan. The contents of this submission are largely derived from the BC First Nations Justice Strategy (the “Strategy”), of which implementation is currently underway. This submission is therefore considered a preliminary assessment to be considered alongside Strategy implementation. While the scope of this submission covers provincial laws, it must be noted that true justice transformation requires coordination with the federal government and federal laws and policies (notably the *Criminal Code*).

2. ABOUT THE BC FIRST NATIONS JUSTICE COUNCIL

The BCFNJC, established in 2015 by the FNLC, represents all First Nations in BC on justice-related issues and works collaboratively with BC First Nations, the Province of BC and key justice system stakeholders to bring about transformative change to government policy, programming and initiatives. BCFNJC is mandated to advance actions that support the rebuilding of First Nations justice systems and institutions (including enhanced community justice and policing programming), and to address critical transformation of the provincial and federal justice systems (including legal aid for both criminal and family law matters, policing, corrections, prosecution, and the courts).

On Sept. 7, 2017, the BCFNJC and the BC Ministries of the Attorney General and Public Safety and Solicitor General entered into a Memorandum of Understanding to jointly develop a First Nations 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 peoples; and,
- (7) Designing services that provide Indigenous people with culturally relevant, flexible and user-focused processes.

The BCFNJC is currently comprised of the following five leaders and experts in First Nations justice:

- Doug White (Chair)
- Rosalie Yazzie (Vice-Chair)



- Boyd Peters
- Annita McPhee
- Kory Wilson

The BC First Nations Justice Council is located on Syilx Territory, on the lands of Westbank First Nation.

2.1 BC FIRST NATIONS JUSTICE STRATEGY

The BC First Nations Justice Strategy, signed March 6, 2020, was developed over two years by the BCFNJC, BC First Nations communities, the Province of British Columbia, and with input from key justice system stakeholders participating at two Indigenous justice summits. Contained within the document are 25 distinct yet connected strategies with corresponding lines of action which together outline a path of justice reform work under two distinct tracks:

- *Track 1: Transform the existing criminal justice system; and*
- *Track 2: Restore First Nations legal orders and justice systems.*

The Strategy is consistent with the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”) and was framed to meet the standards set out in UNDRIP. It holds significant potential for a transition away from long entrenched, historic, colonial patterns regarding the criminal justice system. Anticipating DRIPA, Strategy 8 identifies the “Joint Review of Legislation to Align Laws with the UN Declaration” as a key priority, with the following attached lines of action:

- A. *BCFNJC and BC will co-ordinate with processes being undertaken pursuant to section 3 of DRIPA to ensure review and necessary legislative changes in relation 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.*

In addition to this submission, through the Strategy, the FNLC has empowered BCFNJC to work with the Province of BC to advance implementation of Strategy 8. This work remains underway and will complement the advocacy of the FNLC with respect to the development of a DRIPA Action Plan.

For a complete list of the 25 strategies and corresponding lines of action from the BC First Nations Justice Strategy, refer to **Appendix A**.

3. CONTEXT AND BACKGROUND

First Nations peoples have the inherent right of self-determination and long-established and comprehensive legal orders, traditions, and justice systems that maintain social order, and the safety and wholistic wellbeing of their citizens. These rights, legal orders, traditions, and justice systems have been undermined by the history of colonialism that sought to displace them through the establishment of various institutions (including the RCMP and the courts), laws, and policies.

Colonialism has introduced, and evolved, a set of processes, mechanisms, and structures designed to dispossess First Nations and other Indigenous peoples of their self-determination and territories. This involved legislation, policy, and systems that undermined First Nations governance and justice systems and forcibly interrupted Indigenous social and familial fabric. Due to colonial policies and institutions decision-making about their lives, including through various means such as residential schools, Indian hospitals, child welfare, and the criminal justice system.

Among the most damaging of colonial patterns has been efforts to marginalize and dismantle First Nations legal orders and governance institutions, including as it relates to criminal justice. Concurrent with this has been the imposition of a common law justice system that has long reflected and struggled with racist and outdated perspectives, policies and practices regarding Indigenous peoples. The end result is a contemporary reality where Indigenous peoples in British Columbia, and across Canada, are disproportionately and negatively impacted by the justice system, often with devastating consequences for individuals, families, communities, Nations, and society at large.

The available data about the interactions between, and overrepresentation crisis of, Indigenous peoples in the child welfare and criminal justice systems is evidence of the ongoing injustice and the continuing reality of colonialism. The statistics are widely known and often reported, some of which include:

Indigenous adults and youth over-represented in custody

- In 2017/18, Aboriginal adults¹ accounted for 32% of B.C. custody admissions (8,505 of 25,976), as compared to 22% (5,343 of 24,440) in 2007/08. While the overall rate of adults in custody in B.C. varies from year to year, the 6% increase in the general population between 2007/08 and 2017/18 is minor compared to the 64% increase in the number of Aboriginal adults over that period.²

¹ Aboriginal people, in this bullet point, includes those individuals initially classified as “unknown” Aboriginal identity, as a result of administrative limitations.

² Statistics Canada, *Adult Correctional Services Survey, Integrated Correctional Services Survey and Canadian Correctional Services Survey, 2017/2018*, Canadian Centre for Justice Statistics, <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00010/tbl/tbl05-eng.htm> (accessed September 18, 2019).

- In Canada, Aboriginal youth are also overrepresented in correctional services at 43% of the youth population in custody or under community supervision (7,194 of 16,664).³

Indigenous victims of crime

- In 2014, overall rates for violent and household victimization were significantly higher among Aboriginal people compared with non-Aboriginal people. 28% of Aboriginal people aged 15 and older reported that they or their household had been a victim of at least one type of offence in the previous 12 months. This was a significantly higher proportion than for non-Aboriginal people (18%).⁴
- The overall rate of violent victimization among Aboriginal people was more than double that of non-Aboriginal people (163 incidents per 1,000 people versus 74 incidents per 1,000 people).
- Non-spousal violence also disproportionately leads Aboriginal victims not to report crime to police (77%) as compared to non-Aboriginal people (66%).
- Crisis of over-representation of Indigenous peoples killed by the use of deadly force by police, which is over 15% of all fatal police encounters since the year 2000.
- Aboriginal households have significantly higher rates of victimization (244 incidents per 1,000 households) as compared to non-Aboriginal households (138 incidents per 1,000 households).⁵

Indigenous peoples under-represented in roles of authority and responsibility

- There is a significant underrepresentation of Indigenous peoples in roles of authority and responsibility within the justice system which is rarely acknowledged.
- There is an important connection between underrepresentation in roles of authority and responsibility, and the lack of systematic progress in addressing the challenging relationship between Indigenous peoples and the justice system.

³ Statistics Canada, *Integrated Correctional Services Survey and Canadian Correctional Services Survey*, Canadian Centre for Justice Statistics, Youth Custody and Community Services Survey, 2017/2018, <https://www150.statcan.gc.ca/n1/pub/85-002-x/2019001/article/00010/tbl/tbl10-eng.htm> (accessed September 18, 2019), Table 10; Statistics Canada, *Table 35-10-0016-01 Adult custody admissions to correctional services by aboriginal identity*, <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510001601&pickMembers%5B0%5D=1.11&pickMembers%5B1%5D=2.1> (accessed September 18, 2019); Correctional services include individuals in custody and under community supervision. Custody refers to sentenced custody (including intermittent sentences), remand and other temporary detention. Community supervision includes probation, conditional sentences, provincial parole, full parole, day parole, statutory release, and long-term supervision. The data exclude other types of community supervision and inmates on temporary absence. Definitions are drawn from: Statistics Canada, *Juristat Article—Adult and youth correctional statistics in Canada, 2016/2017*, Statistics Canada Catalogue no. 85-002-X, Ottawa, Ontario (Released June 19, 2018), <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2018001/article/54972-eng.pdf?st=zgCcwOWD> (accessed September 18, 2019), p.14, Table 1.

⁴ The General Social Survey on Victimization surveyed Canadians on their experiences with eight types of offences, which are: sexual assault, robbery, physical assault, theft of personal property, breaking and entering, theft of motor vehicle or parts, theft of household property, and vandalism. See: Statistics Canada, *Victimization of Aboriginal people in Canada, 2014*, Statistics Canada Catalogue no. 85-002-X, Ottawa, Ontario (Released 2016), <https://www150.statcan.gc.ca/n1/pub/85-002-x/2016001/article/14631-eng.htm> (accessed September 19, 2019).

⁵ Ibid.

- Representation is vitally important for a range of reasons, including injecting cultural awareness and understanding, bringing diverse and lived perspectives to the interpretation and application of the law, illustrating an understanding of the relevant contexts and conditions within First Nations, and informing the development of new policies and practices that can address the challenges of the current status quo.
- Addressing underrepresentation is also a vital part of supporting the transition to roles and responsibilities for First Nations justice systems.
- A significant part of this work is increasing the capacity within and amongst First Nations to enable an increase of Indigenous peoples in roles of authority and responsibilities within the justice system.

To address and overcome these crises and transform the system altogether, the DRIPA Action Plan must be designed to collaboratively transform the justice system in BC so that it is inclusive and respectful of Indigenous human rights. Transforming the relationship between First Nations peoples and the justice system will require significant legislative and policy change.

The Strategy is structured to support the implementation of DRIPA in multiple ways and therefore the development of the DRIPA Action Plan should reflect the BC First Nations Justice Strategy. DRIPA affects *all* areas of legislation in BC and BCFNJC is committed to ensuring DRIPA is reflected both in the legislative process and in the resulting laws and policies that govern the justice system.

4. BCFNJC PRIORITIES FOR THE DRIPA ACTION PLAN

The following section outlines the BCFNJC's priorities for inclusion in the DRIPA Action Plan. Specifically, this section will:

- Link the BC First Nations Justice Strategy's specific goals, actions, and timelines to the UNDRIP themes identified by the FNLC; and
- Provide an overview of the key ministries and related laws that BCFNJC expects to review per Strategy 8 of the BC First Nations Justice Strategy.

4.1 UNDRIP AND THE BC FIRST NATIONS JUSTICE STRATEGY

The *United Nations Declaration on the Rights of Indigenous Peoples* brings clarity, stability and respect for the human rights of Indigenous peoples. The UNDRIP articles identified below were used as a starting point to help frame out where the alignment of DRIPA and BC laws and policies are needed, as related to justice matters:

Article 2 : *Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.*

Article 3: *Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

Article 4: *Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.*

Article 5: *Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.*

Article 34: *Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.*

BCFNJC recognizes that the current legal framework does not come close to meeting the standard of UNDRIP and good faith reconciliation. Achieving this will require full implementation of the Strategy along the following five (5) priority areas:

(1) Partnerships and Accountability

- Establish an annual Justice Summit on First Nations issues.
- Proactively identify and work with partner organizations, including the Government of Canada, to advance the implementation of the Strategy.
- Advance the concept of an independent oversight and accountability function regarding Indigenous peoples and the justice system.
- Establish data collection and reporting on measurable outcomes and the evaluation of the Strategy.
- Develop protocols with Crown Counsel offices, the RCMP, and local police forces in BC.
- Confirm sustainable support for the work of the Council in implementing the Strategy, and the proper accountabilities of the Council to First Nations.
- Establish a Cross-Ministry Indigenous Justice Secretariat to lead the implementation of the Strategy within government.

(2) Prevention and Diversion

- Establish a workplan to advance every opportunity within the justice system to implement diversion.
- Develop a First Nations Youth Justice Prevention and Action Plan.

- Develop a First Nations Women Justice Plan that includes consideration of the MMIWG Inquiry Final Report and Calls for Justice, and intimate partner violence.
- Create a network of First Nations correction alternatives in BC over the next decade.

(3) Improved and Culturally Safe Experience

- Establish a network of 15 Justice Centres across BC within 5 years.
- Transition legal aid services for Indigenous people in BC to an Indigenous-controlled entity.
- Implement a Gladue strategy led by an Indigenous-controlled Gladue implementation agency.
- Develop a policy and approach to expand First Nations Courts.
- Implement a process for First Nations to know where their members are being held in the corrections system.
- Expand culturally-based programs throughout corrections.
- Establish a new prosecution policy related to Indigenous peoples.
- Develop standards and a training program for cultural competency for all who interact with First Nations in the justice system.

(4) Re-ignite our Justice Systems

- Create a pathway for the re-emergence of First Nations self-determination and jurisdiction in the justice sector.
- Develop a guidebook to support First Nations in re-building their justice systems and institutions which includes and explains the standards of UNDRIP as related to criminal justice.
- Develop a policy to enable First Nations and federal and provincial governments to negotiate administration of justice in both stand-alone and comprehensive negotiations contexts.
- Create a long-term, sustainable, community-based programming fund, and identify and share promising practices in community justice programs.
- Establish roles for Elders and Knowledge Keepers across BC to help ensure cultural competency, and support First Nations community-based justice programming and the work of Indigenous Justice Centres.
- Develop and implement a new approach to Community Tripartite Agreements.
- Develop a framework to expand community-based First Nations police forces.
- Create a long-term, sustainable plan to support First Nations in developing justice workers within their communities, including an investment fund.
- Develop an action plan to implement the justice aspects of the UN Declaration on the Rights of Indigenous Peoples.
- Review legislation to align with the UN Declaration on the Rights of Indigenous Peoples and to ensure space for First Nations justice systems and institutions.

(5) Increased Representation

- Increase First Nations representation across the justice system, including in the BC Prosecutorial Service and as Crown Counsel.
- Develop a strategy to increase First Nations people serving as judges in BC.

In addition to the above priorities, it is critical that BC enable the sharing of key justice-related data which is currently spread across different organizations. BCFNJC requires access to First Nations' justice data, including data gathered with the criminal, civil, family, and administrative legal and investigative systems. Without access to this data the full expression of self-determination is not possible.

The FNLC discussion paper further identifies the following seven (7) high-level themes drawn from UNDRIP to help guide the discussion of the DRIPA Action Plan:

- Ending racism and discrimination
- Recognition, promotion, implementation, and protection of rights and freedoms
- Self-determination and sovereignty
- Land and territory
- Economy and fiscal relations
- Culture and language
- Children and family well-being

Whereas the BCFNJC views justice as overlapping with each of the above identified high-level themes, this submission will focus on BCFNJC's priorities (drawn from the BC First Nations Justice Strategy) related to the following five (5) themes: Ending racism and discrimination; Recognition, promotion, implementation, and protection of rights and freedoms; Self-determination and sovereignty; Culture and language; and, Children and family well-being.

The following table lists the 25 individual strategies contained within the BC First Nations Justice Strategy and identifies the UNDRIP themes that the strategies seek to address. For specific lines of action related to each Strategy, see **Appendix A**.

FNJS Strategy and Initiative		Ending Racism and Discrimination	Recognition, Promotion implementation, and protection of rights and freedoms	Self-determination and sovereignty	Culture and language	Children and family well-being
Strategy 1	Reflecting the core value of a presumption of diversion throughout the existing justice system	✓	✓	✓		

FNJS Strategy and Initiative		Ending Racism and Discrimination	Recognition, Promotion implementation, and protection of rights and freedoms	Self-determination and sovereignty	Culture and language	Children and family well-being
Strategy 2	Advancing First Nations self-determination of justice systems and institutions	✓	✓	✓		✓
Strategy 3	First Nations Justice Capacity and Legal Services	✓	✓	✓		✓
Strategy 4	Expand and invest in a comprehensive network of Indigenous Justice Centres		✓	✓		✓
Strategy 5	Establish First Nations Legal Services: Ensuring increased and more effective access to justice, and in particular defense counsel, for Indigenous accused	✓	✓	✓		✓
Strategy 6	Implement a comprehensive Gladue strategy supported by a dedicated First Nations controlled Gladue implementation agency	✓	✓	✓	✓	✓
Strategy 7	Establish a legislative and policy foundation for an independent oversight and accountability function regarding Indigenous peoples and the justice system, and to provide public education and reporting on First Nations justice matters, including the implementation of the UN Declaration in the justice sector	✓	✓	✓	✓	✓
Strategy 8	Undertake a joint review of legislation to align laws with the UN Declaration as required by DRIPA, and ensure space for the recognition and operation of First Nations justice systems and institutions.	✓	✓	✓	✓	✓
Strategy 9	Establish a Cross-Ministry Indigenous Justice Secretariat under the leadership of the Ministry of the Attorney General to lead the transformative work within government as identified within this Strategy	✓	✓	✓		✓
Strategy 10	Prevention and Youth	✓	✓	✓	✓	✓
Strategy 11	First Nations Women	✓	✓	✓	✓	✓
Strategy 12	Establish a joint approach to the future of First Nations Courts		✓	✓		✓
Strategy 13	Implement measures to ensure there is a standard and accessible process for ensuring First Nations know where their members are		✓	✓		✓

FNJS Strategy and Initiative		Ending Racism and Discrimination	Recognition, Promotion implementation, and protection of rights and freedoms	Self-determination and sovereignty	Culture and language	Children and family well-being
	being held in the corrections system, so that they can support and contact them					
Strategy 14	Expand culturally-based programs throughout corrections, and supports for use of alternatives within First Nations	✓	✓	✓	✓	✓
Strategy 15	Support First Nations community-based justice programming, with the goal that within 5 years every First Nations community that seeks it, has a long-term community justice programming plan and has begun offering expanded programming	✓	✓	✓	✓	
Strategy 16	Establish formal mechanisms to track progress on the Strategy, and ensure that it is progressing and having an impact on both track 1 and track 2		✓	✓		✓
Strategy 17	Engage and incorporate Canada in the work of this Strategy and broader Tripartite including BCFNJC, BC, Canada efforts on both track 1 and track 2		✓	✓		✓
Strategy 18	Significantly increase First Nations representation in the BC Prosecutorial Service and as Crown Counsel		✓	✓		✓
Strategy 19	Establish structured relations between First Nations and Crown Counsel offices across the Province	✓	✓	✓		✓
Strategy 20	Development of standards of cultural competency, and a training program regarding First Nations and the justice system, to be used by all who interact with the First Nations in the justice system including police, BCPS and Crown Counsel, courts, and corrections	✓	✓	✓	✓	✓
Strategy 21:	Systematically establish roles for Elders and Knowledge Keepers across BC to help ensure cultural competency and appropriateness, support for First Nations community-based justice programming and the work of First Nations Justice Centres	✓	✓	✓	✓	✓

FNJS Strategy and Initiative		Ending Racism and Discrimination	Recognition, Promotion implementation, and protection of rights and freedoms	Self-determination and sovereignty	Culture and language	Children and family well-being
Strategy 22	Establish new models of structured relations between First Nations, the RCMP, and other police forces, that support new strategic and policy level, as well as community level, and cooperative change, while supporting greater community-level police forces	✓	✓	✓	✓	✓
Strategy 23	Development of a coordinated strategy to increase First Nations people serving as judges in British Columbia		✓	✓		✓
Strategy 24	Establish a sustainable set of supports to increase the numbers of First Nations justice workers to lead justice related work within First Nations	✓	✓	✓		✓
Strategy 25	Establish a new, self-standing prosecution policy related to Indigenous Peoples	✓	✓	✓	✓	✓

The above table demonstrates the strong linkages between the BC First Nations Justice Strategy and the themes drawn from UNDRIP. As discussed above, one central foundation of this Strategy is to implement the standards of the UN Declaration regarding the justice system. This is one of the reasons why the rights of self-determination and the inherent right of self-government are at the core of the Strategy. In various ways, all of the specific strategies touch on work that must be done to implement the UN Declaration in the justice sector.

4.2 ALIGNMENT PRIORITIES

The three core Ministries related to the administration of justice in BC are the Ministry of Attorney General, the Ministry of Public Safety and Solicitor General, and the Ministry of Children and Family Development. Each provincial Minister has been mandated to review laws and policies to make sure they align with the UN Declaration. While the alignment of BC laws with DRIPA clearly necessitates substantive policy changes within each Ministry, the scope of this section will be BC Laws organized by Ministry responsible.

The following is considered a preliminary review; BCFNJC welcomes the opportunity to further discuss, propose, and refine the changes necessary to align BC laws with UNDRIP.

4.2.1 Ministry of Attorney General

As per the BC Attorney General's Mandate Letter, the Minister is responsible for:

- Improving and support legal aid, including First Nations legal services, dispute resolution services for families and expanded poverty law services to increase access to justice.
- Working with First Nations to set targets and take action to reduce the numbers of Aboriginal people involved in the justice system and incarcerated.
- Increasing the number of court sheriffs, expand the use of duty counsel and increase staffing of the Court Services Branch to address court delays.

The Minister has jurisdiction over the following entities:

- BC Court Services Branch
- BC Prosecution Service
- Justice Services Branch
 - Legal Aid BC (arms length, funded through Justice Services Branch)
- Legal Services Branch

In addition to these specific responsibilities, the Minister administers 146 BC Laws. 30 of these laws have been identified for the purpose of alignment with DRIPA.

Table 1: Short-term Priority Legislation (Ministry of Attorney General)

BC LAW	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Crown Counsel Act</i> ⁶	<ul style="list-style-type: none">• Section 2 - Functions and responsibilities of the Criminal Justice Branch• Section 4 - Responsibilities of Crown counsel	<ul style="list-style-type: none">• Charge Assessment Guidelines• Crown Counsel Policy Manual• Indigenous Justice Framework• Prosecutorial Guidelines
<i>Legal Services Society Act</i> ⁷	<ul style="list-style-type: none">• Part 2 - Role of the Legal Services Society (Sections 9 - 12)	
<i>Police Act</i> ⁸	<ul style="list-style-type: none">• See Minister of Public Safety and Solicitor General	

⁶ https://www.bclaws.ca/civix/document/id/consol25/consol25/00_96087_01

⁷ https://www.bclaws.ca/civix/document/id/complete/statreg/02030_01

⁸ https://www.bclaws.ca/civix/document/id/complete/statreg/96367_01

BC LAW	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Youth Justice Act</i> ⁹	<ul style="list-style-type: none"> See Minister of Children and Family Development 	

Table 2: Medium to Long Term Priority Legislation (Ministry of Attorney General)

BC LAW	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Attorney General Act</i>	TBD	TBD
<i>Civil Rights Protection Act</i>	TBD	TBD
<i>Court Agent Act</i>	TBD	TBD
<i>Court Jurisdiction and Proceedings Transfer Act</i>	TBD	TBD
<i>Court of Appeal Act</i>	TBD	TBD
<i>Court Order Enforcement Act</i>	TBD	TBD
<i>Court Order Interest Act</i>	TBD	TBD
<i>Court Rules Act</i>	TBD	TBD
<i>Evidence Act</i>	TBD	TBD
<i>Family Law Act</i>	TBD	TBD
<i>Human Rights Code Act</i>	TBD	TBD
<i>Jury Act</i>	TBD	TBD
<i>Justice Administration Act</i>	TBD	TBD
<i>Justice Reform and Transparency Act</i>	TBD	TBD
<i>Law and Equity Act</i>	TBD	TBD
<i>Law Reform Commission Act</i>	TBD	TBD
<i>Legal Profession Act</i>	TBD	TBD
<i>Ombudsperson Act</i>	TBD	TBD
<i>Provincial Court Act</i>	TBD	TBD
<i>Representative for Children and Youth Act</i>	TBD	TBD
<i>Supreme Court Act</i>	TBD	TBD

4.2.2 Ministry of Public Safety and Solicitor General

As per the Minister of Public Safety and Solicitor General's Mandate Letter, the Minister is responsible for:

⁹ https://www.bclaws.ca/civix/document/id/consol25/consol25/00_03085_01

- Increasing annual funding to support women who experience domestic violence, sexual assault and other crimes;
- Working with First Nations to set targets and take action to reduce the numbers of Aboriginal people involved in the justice system;
- Recognizing culture for its role in rehabilitation and recovery and provide culturally diverse and appropriate programming in prisons, particularly for Aboriginal people; and
- Increasing support for initiatives that are proven to prevent and reduce crime, and increase the use of restorative justice programs.

The Minister has jurisdiction over the following entities:

- BC Corrections
 - Community Corrections
 - Adult Custody
- Policing and Security Branch (Primary mechanism through which BC administers and regulates provincial and municipal policing)
 - Administers First Nations policing agreements and programs
 - Police policy and legislation (e.g. Police Act)
- Community Safety and Crime Prevention Branch
 - Restorative Justice
 - Victims Services (Crime Victim Assistance Program)
 - Manages multi-disciplinary policy initiatives (e.g. domestic violence policy)

In addition to these specific responsibilities, the Minister administers 45 BC Laws. 14 of these laws and 1 regulation have been identified for the purpose of alignment with DRIPA.

Table 1: Short-term Priority Legislation (Ministry of Public Safety and Solicitor General)

ACT	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Correction Act</i>¹⁰	<ul style="list-style-type: none"> • Section 35 - Programs for young persons • Section 38 - Transfers and outside programs 	<ul style="list-style-type: none"> • Adult Custody Policy • Bail – Adult • Probation - Adult
<i>Correction Act Regulation</i>¹¹	<ul style="list-style-type: none"> • Section 2 - Standards for confinement • Section 17 - Separate confinement - short term • Section 18 - Separate confinement - longer term • Section 24 - Segregation pending disciplinary hearing 	

¹⁰ <https://www.bclaws.ca/civix/document/id/92consol16/92consol16/79070>

¹¹ https://www.bclaws.ca/civix/document/id/complete/statreg/10_58_2005

ACT	PRIORITY SECTION(S)	ASSOCIATED POLICIES
	<ul style="list-style-type: none"> • Section 32 - Performance appraisal • Section 37 - Complaint to person in charge • Section 38 - Programs for inmates 	
<i>Police Act¹²</i>	<ul style="list-style-type: none"> • Section 1.1 - Police forces in British Columbia • Section 2.1 - Provincial policing priorities • Section 4 - Regulations respecting policing and law enforcement • Section 4.03 - Duty of municipalities to use and pay for specialized services • Section 4.2 - Regulations respecting a designated policing unit • Section 6 - Constables and employees • Section 7 - Duties and functions of commissioner and police force • Section 14 - Royal Canadian Mounted Police as provincial police force • Section 18.2 - Regulations respecting a designated law enforcement unit • Part 5 - Municipal Police Boards (Sections 23 - 30) • Part 7.1 - Independent Investigations Office (Sections 38.01 - 38.13) • Section 44 - Special Investigations • Part 9 - Office of the Police Complaint Commissioner (Sections 46 - 51.2) • Part 9.1 - Recovering Small Community Policing Costs (Sections 66.2 - 66.9) 	<ul style="list-style-type: none"> • BC Provincial Policing Standards

¹² https://www.bclaws.ca/civix/document/id/complete/statreg/96367_01

ACT	PRIORITY SECTION(S)	ASSOCIATED POLICIES
	<ul style="list-style-type: none"> Part 11 - Misconduct, Complaints, Investigations, Discipline and Proceedings (Sections 76 - 167) 	

Table 2: Medium to Long Term Priority Legislation (Ministry of Public Safety and Solicitor General)

ACT	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Attorney General Act</i>	TBD	TBD
<i>Community Safety Act</i>	TBD	TBD
<i>Criminal Records Review Act</i>	TBD	TBD
<i>Crime Victim Assistance Act</i>	TBD	TBD
<i>Missing Persons Act</i>	TBD	TBD
<i>Parental Liability Act</i>	TBD	TBD
<i>Safe Streets Act</i>	TBD	TBD
<i>Victims of Crime Act</i>	TBD	TBD

4.2.3 Ministry of Children and Family Development

As per the Minister of Children and Family Development's Mandate Letter, the Minister is responsible for:

- Working to implement the recommendations from "Indigenous Resilience, Connectedness and Reunification—From Root Causes To Root Solutions: A Report On Indigenous Child Welfare In British Columbia" and provide better supports to keep Aboriginal children at home and out of care;
- Reducing the number of Aboriginal children entering the BC care system a priority; and
- Working to ensure Delegated Aboriginal Agencies are supported to offer services at the same level offered to non-Aboriginal children.

The Minister has jurisdiction over the administration of certain aspects of the youth criminal justice system and the BC child welfare system.

In addition to these specific responsibilities, the Minister administers 12 BC Laws. 4 of these laws have been identified for the purpose of alignment with DRIPA.

Table 1: Short-term Priority Legislation (Ministry of Children and Family Development)

BC LAW	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Child, Family and Community Service Act</i> ¹³	<ul style="list-style-type: none"> Section 2 - Guiding principles 	

¹³ https://www.bclaws.ca/civix/document/id/complete/statreg/96046_01

BC LAW	PRIORITY SECTION(S)	ASSOCIATED POLICIES
	<ul style="list-style-type: none"> • Section 3 (b) - Service delivery principles • Section 4 (2) - Best interests of child • Section 5 - Services or support for families • Section 50.01 - Planning for Indigenous child after continuing custody order • Section 54.01 - Permanent transfer of custody before continuing custody order • Section 54.1 - Permanent transfer of custody after continuing custody order • Section 70 - Rights of children in care • Section 79 - Disclosure without consent • Section 90 - Minister's authority to make agreements • Section 92.1 - Director may make agreements respecting Indigenous children • Section 103 - Power to make regulations 	
Youth Justice Act¹⁴	<ul style="list-style-type: none"> • Section 7 - Pre-sentence report • Section 8 - Sentence • Section 10 - Sentence - conditional discharge or probation order • Section 13 - Sentence - custody • Section 15 - Review of sentence by court • Section 16 - Transfer of sentence • Section 28 - Programs for young persons • Section 38 - Investigations 	

¹⁴ https://www.bclaws.ca/civix/document/id/consol25/consol25/00_03085_01

Table 2: Medium to Long Term Priority Legislation (Ministry of Children and Family Development)

BC LAW	PRIORITY SECTION(S)	ASSOCIATED POLICIES
<i>Adoption Act</i>	TBD	TBD
<i>Social Workers Act</i>	TBD	TBD

4.2.4 Miscellaneous Legislation for Consideration

- ***Freedom of Information and Personal Privacy Act*** (Minister of Citizens' Services)
 - Need to explore data access and data sovereignty - There is no single repository of justice system data in BC. Instead, there are many databases spread across different organizations, distinct justice functions, and different internal applications.
 - Per Strategy 13, need to implement measures to ensure there is a standard and accessible process for ensuring First Nations know where their members are being held in the corrections system, so that they can support and contact them.
- ***Mental Health Act*** (Minister of Health)
 - *Section 30*
- ***Declaration on the Rights of Indigenous Peoples Act*** (Minister of Indigenous Relations and Reconciliation)
 - Annual audit and evaluation of DRIPA alignment.

5. NEXT STEPS

While the scope of this submission covers provincial laws, it is critical that Canada be involved in the process of alignment with UNDRIP. BCFNJC and the Province of BC must work together to, where appropriate, amend the federal legislation that impacts the administration of justice in BC (e.g. *Criminal Code*, mandatory minimum sentences).

- (1) Continue work towards implementing the First Nations Justice Strategy, and with respect to DRIPA alignment, Strategy 8.
 - a. Establish a joint review plan in co-ordination with DRIPA processes to identify a staged approach to potential legislative changes
 - b. Review and refine near-term, medium-term, and long-term legislative change priorities.
 - c. Undertake engagement with First Nations, stakeholders, and the public, as necessary and appropriate, regarding the legislative review and potential changes.
 - d. Work with BC to co-ordinate elements of the review involving federal legislation through a Tripartite process that includes Canada.

- (2) Ensure that the Action Plan is attached to significant funding to guarantee full implementation of the Strategy and full resources for DRIPA alignment process. The sustained financial and human resourcing of these strategic initiatives over the long term will be the measure of the commitment of all of the partners.
- (3) Work with First Nations to explore a First Nations-led oversight and accountability function for the purpose of annual audit and evaluation of progress with DRIPA alignment. There is a need for an internal and external champion to hold everyone accountable to clear outcomes.

6. CONCLUSION

The BCFNJC acknowledges this exercise and the implementation of the DRIPA Action Plan as a positive turning point for justice and Indigenous human rights in British Columbia. BCFNJC further acknowledges that, as DRIPA becomes operational, future legislative changes arising from this legislation will need to come in collaboration with Indigenous nations.

As First Nations and the Province of BC move forward with the alignment of DRIPA and existing BC laws, the BCFNJC highlights the importance of cooperation and the necessity of honouring and supporting the core principles of self-determination, self-government, participation in decision-making, and free, prior and informed consent. The DRIPA Action Plan must effectively coordinate these responsibilities in a way that supports the transition away from colonial systems of administration and governance. This legislative change is intertwined with broader legislative work that must be done to support self-determination, affirm the inherent right of self-government including the moving out from under the *Indian Act*, and the recognition and implementation of Indigenous rights consistent with section 35 of the Constitution.

Beyond the scope of this submission, there remain many questions about what it will mean for First Nations to be fully self-determining in the area of justice. In the meantime, the BC First Nations Justice Strategy provides a clear, well defined and comprehensive road map to the fundamental transformation of the justice system in BC for both Indigenous and non-Indigenous people and must remain at the forefront of the process to develop a DRIPA Action Plan.

CONTACT

If you have any questions related to this submission, please contact Gaelene Askeland, Executive Director, BC First Nations Justice Council, by email at: gaelene@bcfnjc.com.

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APPENDIX A – BC FIRST NATIONS JUSTICE STRATEGIES AND LINES OF ACTION

Strategy 1: Reflecting the core value of a presumption of diversion throughout the existing justice system

Line of Action

- A. BCFNJC and BC will establish a presumption of diversion workplan identifying 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 Province’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 of justice systems and institutions

Lines of Action

- A. BCFNJC, with support of BC, will develop a detailed “guidebook” to support First Nations in the work of re-building their First Nations Justice system 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 re-build their own First Nations justice systems and institutions.
 - ii. Detailed information on ‘how’ First Nations may approach the re-building work, including roles that Elders, members, youth, and others may play.
 - iii. Best practices and templates that First Nations may choose to use.
 - 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.
- 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.

Strategy 3: First Nations Justice Capacity and Legal Services

Lines of Action

- A. 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 FNJC 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 the Province 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, BC law schools, and the Law Society of BC.

Strategy 4: Expand and invest in a comprehensive network of Indigenous Justice Centres

Lines of Action

- A. Establish a network of 15 Justice Centres across British Columbia within 5 years
- BCFNJC and BC will complete evaluation and assessment of the current pilot phase of Justice Centres.
 - BCFNJC and BC will establish a plan for roll-out of 3 Indigenous Justice Centres across British Columbia each year.
 - BCFNJC and BC will engage with the Legal Services Society regarding how certain services and functions of First Nations individuals, currently played by the Legal Services Society, will be transitioned to the Justice Centres.
 - BCFNJC and BC will engage with First Nations in BC on the plan for the roll-out of Justice Centres across BC.

Strategy 5: Establish First Nations Legal Services: Ensuring increased and more effective access to justice, and in particular defense counsel, for Indigenous accused

Line of Action

- A. BCFNJC and BC will develop a workplan to transition legal aid services for Indigenous people in BC from LSS to an Indigenous controlled entity.
- BCFNJC and BC will work with LSS on 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.

Strategy 6: Implement a comprehensive Gladue strategy supported by a dedicated First Nations controlled Gladue implementation agency

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 *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 Nation 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.

Strategy 7: Establish a legislative and policy foundation for an independent oversight and accountability function regarding Indigenous peoples and the justice system, and to provide public education and reporting on First Nations justice matters, including the implementation of the UN Declaration in the justice sector

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: Undertake a joint review of legislation to align laws with the UN Declaration as required by DRIPA, and ensure space for the recognition and operation of First Nations justice systems and institutions

Line of Action

- A. BCFNJC and BC will co-ordinate with processes being undertaken pursuant to section 3 of *DRIPA* to ensure review and necessary legislative changes in relation 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.

Strategy 9: Establish a Cross-Ministry Indigenous Justice Secretariat under the leadership of the Ministry of the Attorney General to lead the transformative work within government as identified within this Strategy

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 (Secretariat) on or before March 31, 2020.
 - The Secretariat will be led by a newly established Assistant Deputy Minister, through 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 Secretariat. It is understood that new funding will not be secured within 2019/2020; however, BC will provide base funding for the Secretariat on a go forward basis. The base funding will provide for, at a minimum, 6 resources.
- BC will announce, both internally and externally, the formation of the Secretariat and clarify the role of the Secretariat as 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: Prevention and Youth

Line of Action

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

Strategy 11: First Nations Women

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 MMIWG 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.

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

Line of Action

- A. Co-develop a joint policy and approach regarding First Nations Courts
 - BCFNJC and BC will establish a joint policy on expansion of First Nations Provincial Courts within 12 months.
 - The policy will consider ways in which First Nations Courts may support and form a bridge towards roles and responsibilities for Indigenous courts, as well as the role and function of Indigenous Justice Centres.
 - The policy will include a plan for how and when First Nations Courts may expand.

- The policy will consider where First Nations legal order courts are emerging and how to support the development of these decision-making and dispute resolution practices and entities based on self-determination and the priorities of First Nations.
- In preparing the policy, BCFNJC will work with First Nations across BC, including in regions where First Nations courts currently operate.

Strategy 13: Implement measures to ensure there is a standard and accessible process for ensuring First Nations know where their members are being held in the corrections system, so that they can support and contact them

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.

Strategy 14: Expand culturally-based programs throughout corrections, and supports for use of alternatives within First Nations

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 that the learnings can be broad.
- B. BCFNJC and BC will establish a workplan and budget for the expansion of cultural programs within BC Corrections.
- Workplan will be completed within twelve months.
 - Workplan will include a survey of all existing programs and services; a list of which BC Corrections can provide.
 - Workplan will identify specific pathways and options for expansion of programs over the next 1, 3, and 5 years.

Strategy 15: Support First Nations community-based justice programming, with the goal that within 5 years every First Nations community that seeks it, has a long-term community justice programming plan and has begun offering expanded 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
- BCFNJC will compile and disseminate to First Nations examples of best practices in community-based programming on a regular basis.
- C. Establish a co-ordinated approach with the First Nations Health Council 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: Establish formal mechanisms to track progress on the Strategy, and ensure that it is progressing and having an impact on both track 1 and track 2

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.

Strategy 17: Engage and incorporate Canada in the work of this Strategy and broader Tripartite including BCFNJC, BC, Canada efforts on both track 1 and track 2

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 that Canada will participate within.
 - 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.

Strategy 18: Significantly increase First Nations representation in the BC Prosecutorial Service 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 it's jointly established recruitment strategy to achieve the target.
 - BCFNJC will work with the BCPS and the Law Society of BC, the Law Foundation, the 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.

Strategy 19: Establish structured relations between First Nations and Crown Counsel offices across the Province

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.

Strategy 20: Development of standards of cultural competency, and a training program regarding First Nations and the justice system, to be used by all who interact with the First Nations in the justice system including police, BCPS and Crown Counsel, courts, and corrections.

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 First Nations 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,
 - v. Relevant standards and rights, including the UN Declaration and section 35 of the *Constitution*,
 - vi. *DRIPA*, and
 - vii. 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, 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.
- a. 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.
 - b. BCFNJC and BC will work with each branch of the justice sector on implementation of the core content and standards.

Strategy 21: Systematically establish roles for Elders and Knowledge Keepers across BC to help ensure cultural competency and appropriateness, support for First Nations community-based justice programming and the work of First Nations Justice Centres

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 3 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 the Province in developing the proposal.
- The proposal will include the role of the Elders and Knowledge Keepers Councils and how each of 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: Establish new models of structured relations between First Nations, the RCMP, and other police forces, that support new strategic and policy level, as well as community level, and co-operative change, while supporting greater community-level police forces

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 (CTA's).
 - BCFNJC, based on feedback from First Nations, will develop proposals for changes to the CTA model within 6 months.
 - New approach should:
 - Strengthen how CTA's are used to address First Nation priorities, ensure they are not inflexible in adapting 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.

Strategy 23: Development of a coordinated strategy to increase First Nations people serving as judges in British Columbia

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 the early years of practice.
 - The approach will identify ways in which 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: Establish a sustainable set of supports to increase the numbers of First Nations justice workers to lead justice related work within First Nations

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 both justice worker training and establishment of justice worker teams.

Strategy 25: Establish a new, self-standing prosecution policy related to Indigenous Peoples

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.