



Indigenous Justice Strategy

What We Learned Report: Summary

Wave 1 Justice Canada-Led
Engagement

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Department of Justice
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Canada

Canada



Executive Summary

This document is a summary of the Indigenous Justice Strategy: What We Learned (Wave 1 Justice Canada-led Engagement) Report. To read the full report, please visit: <https://www.justice.gc.ca/eng/csj-sjc/ijr-dja/ijs-sja/rep-rap/wave1-phase1/index.html>

This report summarizes key themes identified from engagement with over 700 individuals during Wave 1 of Justice Canada-led engagement on the Indigenous Justice Strategy (IJS).

This report highlights input from the 26 virtual dialogue sessions that took place between November 2022 to March 2023. This report also includes themes identified from the 250 individuals that registered and participated in Wave 1 online engagement activities hosted on the IJS online engagement platform.


This report does not include information to be provided by Indigenous-led engagement partners, which will also inform the IJS.

Engagement methodology

Justice Canada engaged with the following groups over 26 virtual dialogue sessions:

- First Nations
- Inuit
- Métis
- Elders
- Indigenous youth
- 2SLGBTQI+ people
- Women
- Justice practitioners
- Urban Indigenous people

Sessions focused on the two themes of the IJS:

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1. Supporting Indigenous justice systems;
 2. Reforms to the existing Canadian justice system to address systemic discrimination and the overrepresentation of Indigenous people.

In most cases, a dedicated session was held on each theme for each distinction and demographic (for example, two sessions were held specifically with Elders, one on both themes). Sessions were adjusted throughout the engagement period based on feedback received from participating Indigenous partners. This flexibility allowed for changes such as scheduling additional sessions to enable more discussion time.

Key Takeaways by Theme

The following points highlight the most frequently discussed themes across all meetings.

Theme 1: Supporting Indigenous justice systems

- **The colonial system does not work** for Indigenous peoples, does not address their needs, and cannot be “adapted” to suit Indigenous communities. There is a need **for community-based justice solutions** that use community-centric restorative justice models such as **circles** for healing and sentencing.
- **It is necessary to integrate traditional Indigenous methods of healing** for individuals and communities after a criminal offence or harm has occurred.

Theme 2: Reforms to the existing Canadian justice system to address systemic discrimination and the overrepresentation of Indigenous people

- **There is a need for better cultural awareness training** for police and justice workers who work with Indigenous peoples and communities.
- **There is a need to acknowledge and address intergenerational trauma** as a major contributing factor to the overrepresentation of Indigenous people in the justice system—and ensure that the justice system does not re-traumatize people who interact with it.



Across both themes, we heard from participants that:

- **Communities want to be responsible for their own programs** and want to be able to allocate resources without government oversight.
- The **IJS must be flexible** enough to be adapted to each nation or community's needs and traditions. It needs to be distinctions-based (First Nations, Inuit, Métis) and not pan-Indigenous.
- Programs that **focus on early intervention and prevention** are seen as most critical to addressing the overrepresentation of Indigenous people in the Canadian justice system.
- Programs that are developed **by and for Indigenous peoples without colonial influences** are seen as the most important aspect of addressing systemic racism in the Canadian justice system.
- **Consistent, reliable funding** is required to ensure these programs are effective and to prevent service gaps and burnout of staff.



What is the intent of the Indigenous Justice Strategy?

The primary objective of engagement on the IJS as identified by Justice Canada is to develop a culturally appropriate strategy, informed by Indigenous ways of knowing and healing, that includes concrete recommendations for action to address systemic discrimination and the overrepresentation of Indigenous people in the Canadian justice system.

Primary objectives of the IJS identified by participants thus far:

- Requires **concrete recommendations for action** and that more discussion should be focused on specific actions and desired outcomes, rather than theoretical ideas.
- Should **focus on healing**—healing the community, healing those who commit crime, healing victims, and healing those who are affected by and witness crime.
- Will **develop and expand over time**, and that there is a need to define what can be done in the short, medium, and long term as the IJS continues to be developed.




What We Heard About Supporting Indigenous Justice Systems

Participants from across distinctions, jurisdictions and experiences agreed that the aim of the IJS should be to help communities build and manage their own justice programs. There was a clear focus on community healing and holistic solutions to address the social determinants of justice rather than focusing on colonial ideas of isolation and punishment.


“When I think of Indigenous law, it's about responsibility. And I know in a colonial world, we live in a world of rights. But through Indigenous law, what I've learned is our birth is a right and that we have a lot of responsibilities, not only just to the land, but to the community, to our family, our tribe, the society as a whole. And so I feel that's my knowledge from Indigenous law and how I integrate (sic) into my own life is my responsibility in my actions through the way I live my life.”

The colonial system does not work for Indigenous peoples and their needs and cannot be “adapted” to suit Indigenous communities. There is a need for community-based justice solutions that focus on restorative justice rather than punishment and isolation from community. Justice must also be holistic and take social determinants of justice into account.

- The colonial system forces Indigenous people to adapt to and work within a colonial framework, which does not reflect Indigenous knowledge and practices.
- It was designed to subjugate and discriminate against Indigenous peoples. Interaction with the Canadian justice system re-traumatizes Indigenous people who come into contact with it - whether as accused persons, victims, supports, or witnesses.
- It cannot be “decolonized”. It must be replaced with anti-colonial, Indigenous justice systems.

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- Programs that are developed by and for Indigenous peoples without colonial influences are seen as the most important aspect of addressing systemic racism in the Canadian justice system.
 - Restoring Indigenous Justice systems requires a new approach to addressing justice needs in communities. People would like to see systems move away from removing people from their communities and their traditional lands, and instead focus on community reintegration and social reparation.
 - Communities should have the right to self-determination and decide for themselves how to address justice issues in their own jurisdictions.

“And I think that goes hand in hand with handing back jurisdiction to communities, jurisdiction over child welfare, jurisdiction over education, over childcare, over our ability to provide for ourselves through hunting and fishing and things like that, that have us less reliant on colonial systems of income or things. Just all of those things need to be addressed. And sometimes it's very, very frustrating to see how siloed the criminal justice system is apart from all of these other things that, when people come in and talk to me like we can't hide from the fact that this person desperately needs to see a doctor, yes, they have their conditions that we're trying to work on with bail and probation, but this person is in desperate need of the basics in life.”




What We Heard About Reforming the Existing Canadian Justice System

While participants overwhelmingly expressed that the goal of the IJS should be creating the space and funding needed for Indigenous justice systems to thrive, they also shared their views on short-term changes that could be made to the existing justice system that would impact their communities. The following topics were highlighted by participants across all Theme 2 sessions.

“Speaking as (sic) someone who's worked in the courts, from my own community, having Indigenous-specific victim services and where that's not available, making sure that victim support services, which are often housed in courthouses, but just wherever they're housed, to make sure that they're of course going to be trauma-informed, but trauma-informed through an Indigenous lens in a way that can support Indigenous peoples.”

The system is complicated and not compassionate


- The technical language used in the justice system makes navigating the system extremely challenging, especially for populations that may not speak English as a first language or have had inconsistent access and opportunity for education.
- Understanding the court system is difficult, and increased access to culturally competent guides and interpreters would help those coming into contact with the system and help make sense of options, conditions and expectations.
- The probation or bail conditions placed on Indigenous people are not culturally aware and often lead to subsequent interactions with the justice system. The system must account for cultural needs and the burden of intergenerational trauma.



“A lot of these systems are not friendly. They're often hostile. They're often confusing and unfamiliar. [We advocated] for something we refer to as system navigators. And that's not even just criminal justice specific. That can be child welfare, that can be health care, that can be education, but especially with criminal justice system helping to navigate through the courts, helping to navigate through arrest and policing and detention and bail and all of those things.”

There are programs and supports that help, but they are inconsistent and underfunded

- Programs that focus on early intervention and prevention are seen as the most critical components of addressing the overrepresentation of Indigenous people in the Canadian justice system.
- Programs that support Indigenous people are understaffed and underfunded. Indigenous organizations and individuals are often stretched far too thin, and Indigenous workers within the system are experiencing high levels of burnout.
- Elders often work on a contractual basis, and therefore do not have benefits including vacation pay and pensions. This leads to overwork and exhaustion. Prioritizing the health and well-being of Elders must be a priority.
- Elders are being asked to fulfill a large number of different roles within the colonial criminal justice system and are often expected to work with individuals outside of their own cultural practice. Understanding and sensitivity around the work Elders do and aligning culturally appropriate supports for Indigenous individuals interacting with the justice system is crucial.
- Within the current system, programs such as Gladue Reports and diversion can serve to help Indigenous peoples receive more fair treatment when interacting with the colonial justice system. However, these measures are applied inconsistently across the country, and are usually at the discretion of the judge.
- Access to these programs varies across the provinces and territories, as capacity and funding are inconsistent and unreliable.

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- Courts and courthouses differ in terms of spaces and symbols appropriate for Indigenous cultural practices (e.g., smudging spaces, eagle feathers).
 - In some cases, Indigenous cultural measures are overseen by non-Indigenous organizations. This removes power from the community to determine their own needs.
 - Many programs can only be accessed if or when an individual is incarcerated, but early intervention and prevention programs are key to success.

“I believe that at the provincial and federal level (sic) there is a lack of consistency in access to different processes and practices in different areas, especially in rural areas where specific courts are used. One municipality or Indigenous community may have access to the specific restorative justice program, but if you go a few communities over they may not have any access to restorative justice.”

Youth need more support; prevention and early intervention is key

- Programs and centres for Indigenous youth are critically needed to help keep youth from coming into contact with the justice system.
- Youth need alternative options when they come into contact with the justice system.
- Youth are disproportionately affected by social determinants of justice (e.g., structural racism and discrimination, unequal access to services), and require a justice system that is compassionate and focused on healing.

Education and training are key components of success

- Understanding the social determinants of justice and the history and impact of colonialism on Indigenous persons from coast to coast to coast is imperative to creating a system that treats them with respect and compassion.
- All frontline workers need to have extensive cultural awareness training and need to work within a system that allows them to respond to situations in culturally



appropriate ways. These cultural practices differ widely between regions and distinctions, and training must be specific to the populations being served by those individuals.

- Offering education to Indigenous people on their rights and providing the tools to help them navigate the justice system and access the services they need would improve outcomes in the short-term.

“People don't seem to know that type of stuff, especially when it comes to the residential school piece and how the government of Canada was part of that, as well as the following governments in regards to the provincial pieces. I think education is important in a way where it's presented to not only the general public, but as well as the staff. That includes police, corrections officers, as well as courts.”





Next Steps

The Wave 1 dialogues helped identify more targeted themes and objectives for the IJS. The following themes have been selected for further discussion during the Wave 2 dialogues.

- Revitalizing Indigenous justice, including administration of justice and enforcement of laws.
- Expanding Indigenous restorative justice and diversion, rooted in the specific culture and traditions of communities.
- Advancing community healing, wellbeing and safety, including wraparound supports that respond to the social drivers of justice.
- Reflecting the need for prompt action, including increased and sustainable resources, and ongoing collaboration and engagement to affect meaningful change.