



BC FIRST NATIONS
JUSTICE COUNCIL

THE BC FIRST NATIONS JUSTICE STRATEGY:

**Providing Culturally Safe,
Indigenous-led Justice Services**

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- Executive Director of Indigenous Initiatives and Partnerships for British Columbia Institute of Technology
- Chair of the British Columbia First Nations Justice Council

British Columbia First Nations Justice Council



- In 2016, First Nations in British Columbia established the BC First Nations Justice Council (BCFNJC).
- We are a creation of, and get our mandate from, the over 200 First Nations in the province of British Columbia (on the west coast of Canada)
- We are accountable to those Chiefs and report regularly on our progress





Indigenous Peoples in Canada

- Indigenous Peoples in Canada include:
 - 634 First Nations,
 - Métis peoples, and
 - Inuit peoples
- The lands in British Columbia have been populated by the ancestors of First Nations since time immemorial
- Smallpox epidemic decimated First Nations populations
- Section 91(24) of the *Constitution Act, 1867* states that the colonial federal government has exclusive authority over “Indians and Lands reserved for Indians”
- Under the authority of s. 91(24), the federal government sought to actively colonize and control First Nations people and disconnect them from their culture through tools such as the *Indian Act* of 1867 and Residential Schools



International and Domestic Legal Context

- We are working to advance self-determination through justice system transformation that advances the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*
- In 2019, the Province of British Columbia enacted legislation requiring the provincial government to work with Indigenous peoples on implementing *UNDRIP*
 - *Declaration on the Rights of Indigenous Peoples Act* [SBC 2019] c. 44
- Canada followed suit in 2021 by enacting federal legislation (*United Nations Declaration on the Rights of Indigenous Peoples Act*) that:
 - Confirms UNDRIP as universal international human rights law with application in Canadian law, and
 - Provides a framework for the government of Canada's implementation of UNDRIP



Indigenous Peoples and the Justice System in Canada

- Overrepresented in federal prisons: Indigenous people represent 5% of the population of Canada but 32% of people in federal prisons. Half of all women in federal prisons are Indigenous.
- Less likely than non-racialized Canadians to have their cases dismissed, discharged, or withdrawn
- Overrepresented in the criminal justice system – as both victims and offenders
- Indigenous people have a higher probability of being placed in maximum security institutions, serving higher sentences, and returning to custody
- Indigenous defendants are often pressured to pleading guilty
- Contributes to a cycle of reincarceration



Transforming the Justice System for Indigenous People

- The status quo is untenable and the conclusions are the same: the Canadian justice system is failing our people at every turn
- Transformation of the relationship between First Nations and the justice system requires changes in who is playing roles within the system, and how these roles are being played
- This includes improving access to justice for our people, minimizing the damages of the imposed colonial justice system, and perhaps more importantly supporting First Nations to advance self-determination and the reawakening of pre-contact legal orders, traditions and systems of justice

About the BC First Nations Justice Council



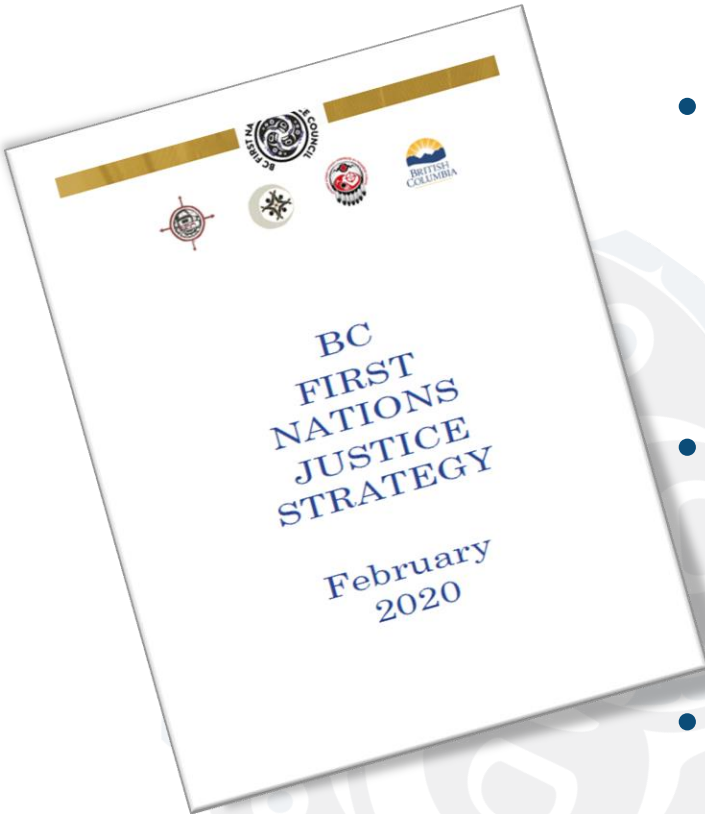
**We are currently the only First Nations Justice Council in Canada
and are guided by our unique and comprehensive
BC First Nations Justice Strategy (2020)**

Vision: BC First Nations children and families thriving in peace and security, their dignity and well-being supported by a trusted and representative (i.e. Indigenous-designed and led) justice system

Mission: The BC First Nations Justice Council supports the well-being of future generations by transforming the status quo today – upholding self-determination, reclaiming legal traditions and addressing systemic injustice

Values: Culture | Safety | Respect | Empowerment | Trust | Results

British Columbia First Nations Justice Council and the Justice Strategy



- BCFNJC has an important mandate to develop a comprehensive Justice Strategy. This work culminated in the completion of the **BC First Nations Justice Strategy in 2020.**
- The Justice Strategy was developed by the BCFNJC in partnership and consultation with First Nations in British Columbia
- The Justice Strategy was endorsed by the Province of British Columbia in March 2020 with the government of Canada officially signing on to this work through a Tripartite Memorandum of Understanding in August 2021

Understanding The Strategy

The Justice Strategy was created with two distinct but related tracks of work:

- **Track 1:** Reform the existing justice system so that it is less harmful to our people; and
- **Track 2:** Transformation through the rebuilding of Indigenous Justice Systems consistent with the standards of the *United Nations Declaration on the Rights of Indigenous Peoples*.

The BC First Nations Justice Strategy contains **25** individual strategies with **43** corresponding lines of action.

A conversation
with the system



The Strategy: Track 1



Track 1: Reform the current justice system



Systematic Gladue Implementation

Standardization of, and increased access to, Gladue reports across the system



Reduce Youth Incarceration

Prevention, diversion, and access to justice



Culturally Safe Justice Services

Increase cultural safety training, and Indigenous representation in positions of authority



Safety for Women and Girls

Increase public safety and access to justice for women and girls



Independent Oversight

Third-party oversight regarding Indigenous peoples and the justice system

The Strategy: Track 2



Track 2: Rebuilding of Indigenous Justice Systems



15 Indigenous Justice Centres

15 centres by 2024 for legal aid and access to justice services



Rebuilding our Institutions

Self-determined and culturally appropriate institutions



Restorative Approaches

Restorative and healing approaches at all levels



Reclaiming Legal Space

Revitalize First Nations legal orders



Growing Community Justice Programs

Community justice fund for stable and ongoing investment

Justice Strategy Implementation



- The work to transform the justice system is well underway. Since 2020, we have:
 - Opened five (5) Indigenous Justice Centres: four public-facing offices and one virtual justice centre
 - Will be opening five (5) additional Indigenous Justice Centres this month (November 2023), and an additional 6 in 2024
- We are opening a Police Accountability Unit to ensure police are held accountable to our people who have experienced gross abuse and misconduct.
- We are in the process of developing a plan to transition Legal Aid for Indigenous people from Legal Aid BC to the BC First Nations Justice Council

Justice Strategy – Strategies 3 & 5



Strategy 3: First Nations Justice Capacity and Legal Services

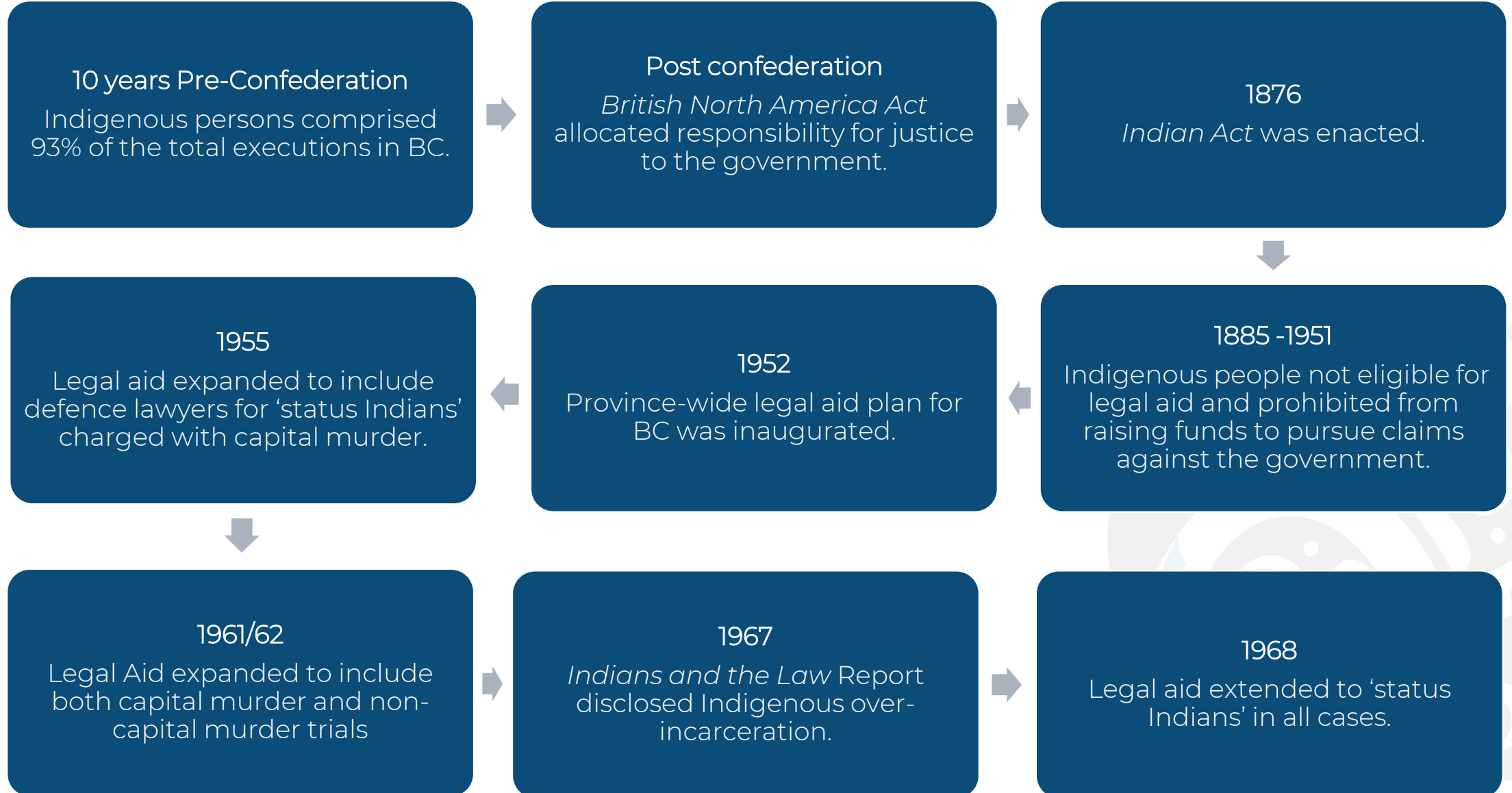
Strategy 5: Establish First Nations Legal Services

Strategy 5 - Culturally Safe Justice Services



- Culturally-appropriate information, advice, support, and representation for Indigenous people.
- Traditionally, discipline and issues of justice were administered collectively by the community. Administering Legal Aid Services through BCFNJC's Indigenous Justice Centres will bring back decision-making closer to home and back into the hands of people.

History of Legal Aid for Indigenous Peoples in Canada



Legal Aid in British Columbia today



- Legal aid services are provided by Legal Aid BC, a provincial crown corporation created under the *Legal Services Society Act*
- Status quo contributes to overincarceration of Indigenous accused
- For many years, First Nations have been advocating for transformation of the legal aid regime in BC
- Need for better, more effective, more culturally-informed legal counsel and legal aid services for First Nations people dealing with the criminal justice system and child protection system
- In 2022, Legal Aid BC and BCFNJC signed a Memorandum of Understanding establishing a collaborative relationship paving the way for the future transfer of legal aid services for Indigenous people to BCFNJC

Legal Aid Services – Current Concerns



- Issues with access to legal counsel
- Cultural Competency of legal counsel
- Failure to ensure Gladue Principles (internationally known as “Social Disadvantage Factors unique to Indigenous peoples”) apply at every stage of the process (*R. v. Gladue* [1999] 1 SCR 688)
 - Courts to take into consideration “all available sanctions, other than imprisonment” for Indigenous offenders
- Lawyers are overworked and underpaid, leading to insufficient amount of time spent with Indigenous accused
- Lack of consistency using diversion options and programs

Legal Aid Services – Emerging Themes



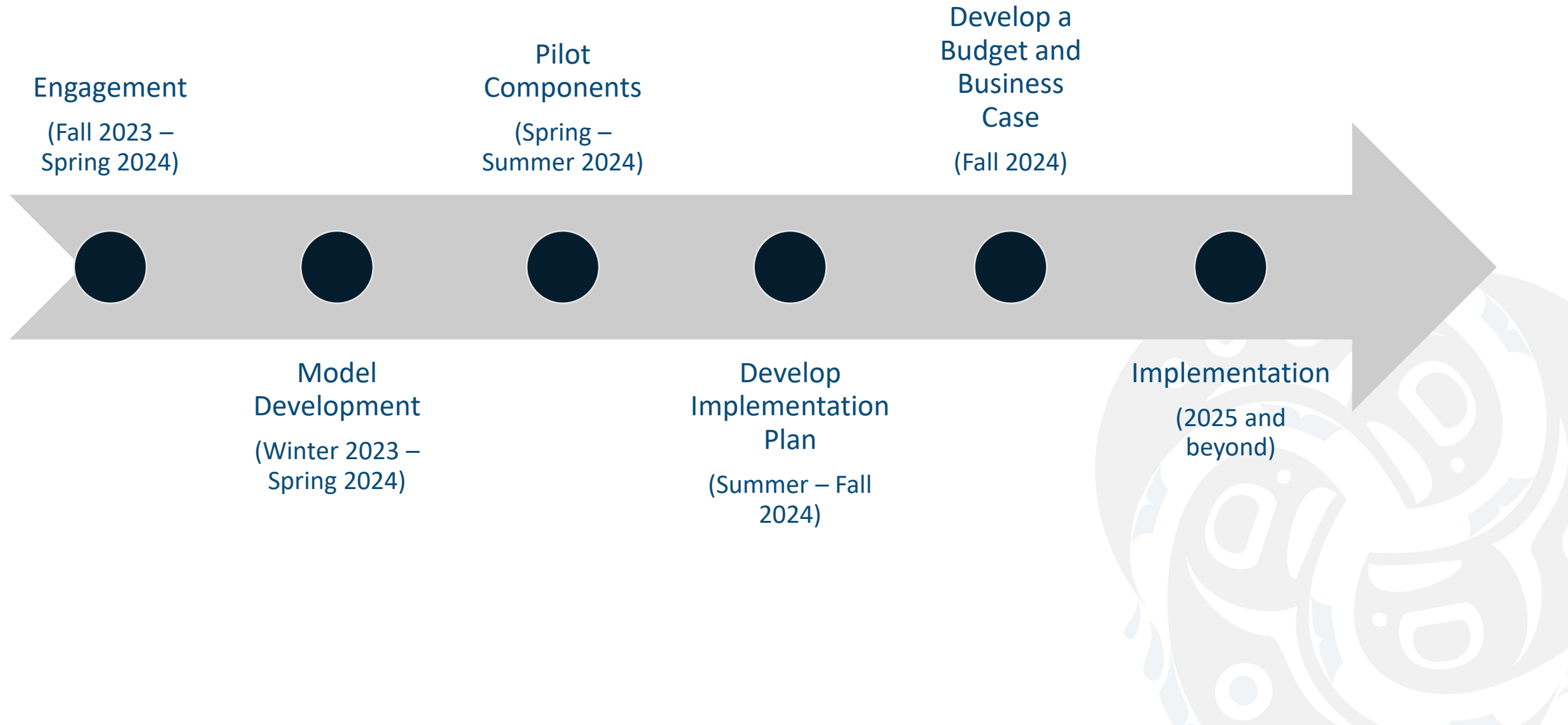
- Self-Determination
- Contributing Factors
- Identifying Issues
- Healthy Communities
- Duty of Care
- Wrap Around Services
- Funding Considerations
- Expansion of Legal Services
- Shortage of Lawyers
- Regulatory & Oversight Considerations
- Inter-jurisdictional Cooperation
- First Nations Courts & Alternatives to Litigation
- Legal Educational Materials

Legal Aid Services for Indigenous People



- BCFNJC is working in partnership with the province of British Columbia and Legal Aid BC to transfer legal aid services for Indigenous people to BCFNJC
- BCFNJC is in the process of developing an innovative and holistic model of legal aid that encompasses the emerging themes listed on the previous slide
- Additional elements that we expect to be included in this new model are:
 - Additional Cultural Competency training for all lawyers working with BCFNJC (staff lawyers and roster lawyers)
 - Broadening the criteria for qualification of legal aid
 - Broadening the scope of legal services offered to Indigenous clients
 - Oversight and quality control to ensure the highest level of legal services
 - Taking a more holistic approach to justice (wrap-around services; mental health and wellness; diversion; more time spent with clients; etc.)

Anticipated Timeline of Legal Aid Transition





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Gilakas'la (Thank You) Questions? Comments?

To learn more about the BC First Nations Justice Council, to get more information on the specific details of the strategy, contact:

info@bcfnjc.com or **1-877-602-4858**, scan the QR Code and visit us online: **bcfnjc.com**



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