

British Columbia  
**JUSTICE SUMMIT**



**TENTH JUSTICE SUMMIT**

*Indigenous Justice*

Musqueam - x<sup>w</sup>məθk<sup>w</sup>əy̓əm

May 31 – June 2, 2018

**REPORT OF PROCEEDINGS**

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*On the cover: "Rainbow Grandmothers" by Val Napoleon. Used with permission of the artist.*

## **Kokum Raven Series: Artist Statement**

Indigenous law is in the world and there are many ways to learn about it, teach it, and to represent it. The way I have chosen here is with the raven – a trickster for some Indigenous peoples. She can teach us by being a trouble maker and by upsetting the log jams of unquestioned assumptions. She can also teach us with love, patience, and a wicked sense of humour. She can create spaces for conversations and questions – that is her job as a trickster and a feminist so that nothing is taken for granted and all interpretations are laid bare.

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## Executive Summary

The Tenth BC Justice Summit marked the first time that justice system leaders and Indigenous peoples have come together with the sole focus of considering the Indigenous experience of the justice system in British Columbia, and was the first Summit in which Indigenous people played a central role in the design and planning of the event. The overall goal of the 2018 Justice Summits is to identify and accelerate real, transformative changes to the justice system in BC that will benefit Indigenous people.

A one-day caucus for Indigenous Summit participants preceded the Tenth Summit. Speakers focused on the need to disrupt the status quo particularly as it systemically relates to the overrepresentation of Indigenous people, and called for implementation of key international, national and provincial recommendations. Common among the ideas shared was a desire for more holistic approaches inclusive of Indigenous communities and Indigenous approaches. The Caucus also allowed for an update on the work to date regarding the first jointly developed BC Indigenous Justice Strategy.

All participants attended the second and third days of the Summit. Key themes included:

- The importance of resources (links between strengthened Indigenous capacity, reconciliation and justice; effective funding formulae; and funding for immediate action).
- The importance of Indigenous culture, law, and history (a relationship of trust as a foundational requirement for change; the critical value of Indigenous knowledge, law and traditions; and the need to avoid confusing reconciliation with assimilation).
- The importance of education (empathy for the experiences of Indigenous people, enabled by many forms of education).
- The importance of community and healing (an inclusive justice dialogue; real change based on work at the community level; and a justice system focused on healing).

These themes will form part of discussions between now and the Eleventh Summit, and will be used by the Summit Steering Committee as a framework for building an agenda for the Eleventh Summit focused on action recommendations.

## Introduction – Tenth BC Justice Summit

In 2018, the holding of the Tenth and Eleventh BC Justice Summits marks the first time that justice system leaders and Indigenous peoples have come together with the sole focus of considering the Indigenous experience of the justice system in British Columbia – historically, today, and in the future. These Summits open an important dialogue between Indigenous and non-Indigenous peoples and are an opportunity to begin developing a new relationship and partnership in transforming the justice system.

### Summit Host: Musqueam (x<sup>w</sup>məθk<sup>w</sup>əyəm)

From May 31<sup>st</sup> to June 2<sup>nd</sup>, the Tenth Justice Summit was generously hosted by the people of Musqueam, who throughout the event warmly welcomed Indigenous and non-Indigenous participants from many nations to their Cultural Centre and Community Centre, and to the traditional unceded territory of the Musqueam people.

The organizers, and all participants, are grateful to Musqueam for the welcome and for the setting of the Summit, which provided a safe place for open dialogue in the same place by the river where for thousands of years the ancestors of today's Musqueam people fished, hunted, trapped, gathered, and lived. As guests of Musqueam, participants expressed gratitude for the warm welcome and hospitality.

## Vision and Objectives of the 10<sup>th</sup> Justice Summit

### The first Indigenous Justice Summit

In 2017, the BC Aboriginal Justice Council (BCAJC) was asked by the Government of British Columbia to work with the Ministries of Attorney General and Public Safety & Solicitor General in visioning and planning for the 2018 Justice Summits, to be held on the theme of Indigenous Justice. Since then, the BCAJC has been involved as a partner, working with the Province to help ensure that the 2018 Justice Summits can help to mark a turn in the relationship between Indigenous peoples and the Province, signaling a commitment to meaningfully involve Indigenous peoples in discussions about the future of the justice system in BC and the transformative changes that are required.

While Indigenous leaders and experts have been involved in past Justice Summits, the Tenth Justice Summit was the first Summit at which Indigenous Justice formed the central theme, and the first Summit in which Indigenous people were a driving force in the design and planning of the Summit.

The Tenth BC Justice Summit is the first of two Summits to be held in 2018, focusing on issues related to Indigenous peoples and the justice and public safety sector in British Columbia. The Eleventh Summit will take place in November 2018. The overall goal of the 2018 Justice Summits is to identify and accelerate real, transformative changes to the justice system in BC that will benefit Indigenous people.

### Indigenous overrepresentation and the need for transformative change

As context for the Summit, participants were highly conscious of the significant overrepresentation of Indigenous people in both the criminal justice and child welfare systems. In British Columbia as in the rest of Canada, Indigenous people are incarcerated at far higher rates than non-Indigenous people and are also far more likely to be victims of violent crime. Additionally, the rates of Indigenous children in care are far higher than non-Indigenous children, the result of Indigenous children being far more likely to be removed from their families under child protection orders. These continuing patterns cause incalculable damage to individuals, families, and communities, and reinforce the intergenerational trauma created by past practices of residential schooling and cultural genocide targeting Indigenous peoples and communities throughout Canadian history.

There are many ways in which these patterns are felt. While statistics can never tell the whole story, the numbers themselves underline how important it is to act.

- In Canada, 25% of adults and 33% of youth admitted to provincial/territorial correctional services in 2014/2015 were Indigenous. The proportion of Indigenous adults admitted to provincial/territorial custody in 2014/2015 (26%) was almost 9 times higher than their representation in the population (3%). The degree of Indigenous overrepresentation in the correctional system is greater for Indigenous women. In 2014/2015, Indigenous women accounted for 38% of adult female custody admissions. The proportion of Indigenous adults and youth admitted to

correctional services has increased for every type of correctional supervision since 2007/2008.<sup>1</sup>

- In BC, despite the *Gladue* ruling nearly two decades ago, the incarceration of Indigenous people continues to occur at a rate (31.2%) more than five times greater than the percentage of the population that is Indigenous. This rate showed no meaningful change between the two census periods of 2011 and 2016. Indigenous women represented 47 percent of all women remanded in custody in 2016-17 – up from 36 percent in 2008-09.<sup>2</sup>
- One recent study showed that the rate of Indigenous people who reported experiencing violent victimization was more than double that of non-Indigenous people. The reported sexual assault rate was nearly three times higher for Indigenous people than for non-Indigenous people. Indigenous women and girls reported experiencing violent victimizations at a rate 2.7 times higher than that reported by non-Indigenous women and girls. The high rates of victimization experienced by Indigenous people did not change between 2009 and 2014.<sup>3</sup>
- Indigenous children and youth in BC are over 15 times more likely to be in care than non-Indigenous children and youth. Approximately 17% of Indigenous children and youth in care in March 2015 found “permanency” (returned to parents, were adopted or saw a permanent transfer of guardianship) in the year following. Close to 60% of Indigenous children in care will age out without ever finding permanency.<sup>4</sup>

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<sup>1</sup> Research and Statistics Division, Department of Justice Canada, *JustFacts: Indigenous overrepresentation in provincial/territorial corrections*. November 2016. <http://www.justice.gc.ca/eng/rp-pr/jr/jf-pf/2016/nov02.html>

<sup>2</sup> Government of British Columbia; BC Corrections Operations Network (CORNET); demographic data from Statistics Canada census 2011 and 2016 population tables. Indigenous data reflects those who self-report “Aboriginal”, “First Nations”, “Métis” or “Inuit” status in comparison to those who self-report other categories.

<sup>3</sup> Tina Hotton Mahony, Joanna Jacob and Heather Hobson, *Women and the Criminal Justice System* (Statistics Canada, June 21, 2017), <https://www.statcan.gc.ca/pub/89-503-x/2015001/article/14785-eng.htm>

<sup>4</sup> Grand Chief Ed John: *Indigenous Resilience, Connectedness And Reunification—From Root Causes To Root Solutions: A Report on Indigenous Child Welfare in British Columbia* <http://fns.bc.ca/wp-content/uploads/2017/01/Final-Report-of-Grand-Chief-Ed-John-re-Indig-Child-Welfare-in-BC-November-2016.pdf>

## Indigenous Culture and Tradition and the Summit Dialogue

Due to the importance and emotional nature of the discussion, the organizing team took a number of steps in dialogue with Musqueam to ensure a culturally safe and supportive environment throughout the event. The moderator and facilitator roles from past Summits were absorbed in the role of *shqwi'qwal*. The *shqwi'qwal*, as speaker, assists the community to find a new path, ensuring that all voices are heard. Reflecting the importance of Elders as keepers of wisdom and history, and their role in keeping us grounded in culture and tradition, Elders were in attendance in the plenary, and many Witnesses (Indigenous and non-Indigenous) were called to offer their reflections on the discussion. The Tsow-Tun Le Lum-Tun Le Lum Society provided resolution health support workers and a cultural support team, including traditional ceremony and medicines such as brushing-off and smudging, throughout the event. Participants also enjoyed powerful performances by the Wolfpack Dance Group of Musqueam and by Madelaine McCallum (Métis dance), reminding us of the importance of cultural identity to our youth.

## About the Justice Summit Process

The BC Justice Summit process was created in 2013 via the *Justice Reform and Transparency Act*. The Justice Summits provide a forum for respectful discussion between justice and public safety sector leaders in BC, to facilitate innovation in, and collaboration across the justice and public safety sector and how its performance can be improved.

Each calendar year, the Summits are organized around a particular theme or focus on a particular justice issue. The Summit may review initiatives taken in other jurisdictions; make recommendations relating to priorities, strategies, performance measures, procedures and new initiatives related to the sector; assess progress made; and engage in any other necessary discussions regarding the performance of the sector.

Following each Justice Summit, a report is drafted and is reviewed by all participants before being finalized and provided to the Attorney General, the Minister of Public Safety and Solicitor General, the Chief Justices of the Court of Appeal and of the Supreme Court, the Chief Judge of the Provincial Court of British Columbia, other Justice Summit participants, and the public.

In addition to the judiciary, and based on the chosen Summit topic, the Ministers may invite to a Justice Summit any individuals considered to be qualified to assist in improving the performance of the justice and public safety sector.

## The Evolution of the Justice Summits

Since the inaugural Justice Summit in 2013, the Summits and their reports have been developed by an independent steering committee representative of the interests present at the Summit and functioning at arm's-length from the Ministers. The following is a list of past Justice Summit themes:

- **The First and Second BC Justice Summits** (March 2013 and November 2013) focused on criminal justice;
- **The Third Summit** (May 2014) focused on the family justice system;
- **The Fourth Summit** (November 2014) focused on better responses to violence against women.
- **The Fifth Summit** (November 2015) focused on a “trauma-informed” justice system response to victims of violent crime, and on better coordination and information sharing where family justice, criminal justice, and child protection proceedings intersect;
- **The Sixth and Seventh Summits** (2016) focused on justice, mental health and substance use; and
- **The Eighth and Ninth Summits** (2017) focused on justice and technology, calling for a digital information management strategy for the province and needed technological improvements in the courts.

Beginning with the Fifth Justice Summit in 2015, the Justice Summits began to issue formal recommendations and moved to an annual cycle of themes. Since then, the approach has been for the Justice Summits to explore one different theme every year, with two events (Spring and Fall) on the same topic. The Spring Summit is an opportunity to hear many different voices on the topic, and to hear responses to those ideas. The Fall Summit brings forward recommendations which are respectful of and reflect the ideas raised in the Spring.

## The Role of Indigenous Organizations in Planning for the Justice Summits

To effectively transform the BC justice system, Indigenous people need to be meaningfully involved in the work to ensure improved outcomes for Indigenous peoples who come in contact with the various components of the justice system. Indigenous leaders and advocates in BC demand “nothing about us, without us.” The Tenth Justice Summit on Indigenous Justice was planned with this commitment in mind.

### The BC Aboriginal Justice Council

The BC Aboriginal Justice Council (BCAJC) was contacted in 2017 to partner with the province to design and deliver two Justice Summits on Indigenous Justice. The BCAJC has been involved with the design and planning of the 2018 Justice Summits from the beginning through participation in a Steering Committee and a Working Circle.

#### *Who is the BC Aboriginal Justice Council?*

In 2007, the Union of BC Indian Chiefs (UBCIC), the BC Assembly of First Nations (BCAFN), and the First Nations Summit (FNS), working together as the First Nations Leadership Council (FNLC), held a BC First Nations Justice Forum to provide an opportunity for collaboration on issues related to Indigenous justice. The 2007 Justice Forum resulted in a draft BC First Nations Action Plan, which was distributed for approval to all BC First Nations. Resolutions for its implementation were subsequently passed at the UBCIC, BCAFN and FNS assemblies in support of creating the BCAJC.

In 2013, the Native Courtworker and Counselling Association of BC (NCCABC) developed a framework document entitled *Social Justice Policy Platform and Strategic Plan*, which would be the foundation for the development of the BCAJC. The NCCABC board approved a strategic direction outlined in *Better Outcomes for Aboriginal People and the Justice System: An NCCABC Strategy Framework to Reduce the Overrepresentation of Aboriginal Children, Youth and Adults in the Child Protection and Criminal Justice Systems in BC*. Then in 2014, work was reinitiated by the NCCABC with the FNLC through the passing of additional resolutions, wherein NCCABC was identified as the host agency for the BCAJC.

Today, NCCABC acts as the host agency for the BCAJC. As host agency, NCCABC is responsible for securing and administering BCAJC resources, and establishing work plans to support ongoing BCAJC operations.

The BCAJC is composed of seven individual council members. Each of the respective political organizations – FNS, UBCIC, and BCAFN – appoint one representative according to their own protocol and accord of appointments. One representative is appointed from the Board of Directors of the NCCABC. The three remaining council members are jointly appointed by the NCCABC, BCAFN, FNS, and UBCIC.

### The Role of Métis Nation BC

The Métis Nation British Columbia (MNBC) represents nearly 90,000 self-identified Métis people in British Columbia. Of that number, nearly 18,000 are provincially registered Métis Citizens with MNBC. The Métis National Council and the Provincial Government of British Columbia, as well as the Federal Government of Canada, recognize the MNBC as the official governing Nation for Métis in BC.

The Métis Provincial Council of British Columbia was first incorporated under the Society's Act on October 23, 1996. In 2003 the Métis leadership ratified the "Métis Nation British Columbia" (MNBC) Constitution thereby establishing a new Métis Nation governance structure. Since 2003, the MNBC leadership has implemented a number of institutions of governance such as the Senate Act, Métis Nation Governing Assembly Act, BC Métis Natural Resource Act, Métis Youth of BC Act, Métis Women of BC Act, Métis Veterans of BC Act, an Electoral Act, Metis Registry Act and an objectively verifiable citizenship process.

MNBC represents thirty-eight Métis Chartered Communities in British Columbia and is mandated to develop and enhance opportunities for Métis communities by implementing culturally relevant social and economic programs and services. MNBC signed an original Metis Nation Relationship Accord in 2006, and in 2016 signed the Métis Nation Relationship Accord 2 which is being honored. MNBC is also currently working directly with the Government of Canada on a framework agreement which will be signed soon and will address the Section 35 rights of the Metis citizens of BC.

MNBC is delighted to be working with the Province of BC on the upcoming Indigenous Justice Strategy. The current Minister of Justice for Métis Nation BC is Vice-President Lissa Smith and the Justice Coordinator is Daleen Thomas.

## Agenda and Planning for the 10<sup>th</sup> Justice Summit

The concept, attendance, and agenda of the Tenth Summit was developed by a Summit Steering Committee identified by the Attorney General, with support from a Working Circle with expertise in justice issues, Indigenous justice, and Indigenous culture. The Steering Committee membership included:

- Richard Fyfe, QC (Deputy Attorney General of British Columbia)
- The Honourable Steven Point (Judge, Provincial Court of British Columbia and former Lieutenant Governor of British Columbia)
- Kurt Sandstrom, QC (Assistant Deputy Minister, Justice Services)
- Darlene Shackelly (Executive Director, Native Courtworker and Counselling Association of British Columbia)
- Mark Sieben (Deputy Solicitor General of British Columbia)
- Lissa Smith (Minister of Justice, Métis Nation of British Columbia)
- Colleen Spier (British Columbia Aboriginal Justice Council)
- Regional Chief Terry Teegee (Joint National Lead on Justice for the Assembly of First Nations)
- Douglas White III (Co-chair, Criminal Justice, British Columbia Aboriginal Justice Council, and President, Native Courtworker and Counselling Association of British Columbia)

The Steering Committee also included observers from the Court of Appeal for British Columbia, the Supreme Court of British Columbia, and the Provincial Court of British Columbia. The Committee met between March and May in planning the Tenth Summit.

The Working Circle for the Tenth Summit supporting the Committee included members representing or supporting Métis Nation BC, BC Assembly of First Nations, First Nations Summit, Union of BC Indian Chiefs, BC Aboriginal Justice Council and a range of justice and public safety sector agencies. Membership is listed in Appendix III.

## About the Preparation of this Report

This Report of Proceedings was prepared by the Summit Steering Committee for the Attorney General of British Columbia; the Minister of Public Safety and Solicitor General of British Columbia; the Chief Justice of British Columbia; the Chief Justice of the Supreme Court of British Columbia; and the Acting Chief Judge of the Provincial Court of British Columbia.

Reflecting the co-organization of the Summit, this Report was also prepared for the Members of the British Columbia Aboriginal Justice Council in their mandated capacity to lead dialogue on justice with the Province on behalf of the First Nations Leadership Council; and for the Métis Nation of British Columbia.

The Report was made available in draft to all participants in the editing stages for review and comment, prior to being delivered as a finished product and subsequent release to the public.

## Summit Proceedings, Day One: Indigenous Caucus

### Opening Protocol/Remarks and Objectives

On May 31st, 2018, an Indigenous caucus session was held at the Musqueam Cultural Centre, commencing the Tenth BC Justice Summit. The day began with an opening by Musqueam Elder, Larry Grant. Following the welcome, opening remarks from Doug White, Co-Chair of the BCAJC, Lissa Smith, Justice Minister of the Métis Nation of British Columbia (MNBC), and the Honourable David Eby, Attorney General of BC were heard. In addition, the Honourable Steven Point provided keynote remarks, contextualizing for everyone in attendance the contemporary landscape of Indigenous justice in B.C. and Canada.

The Indigenous caucus session was planned for Indigenous participation only. As noted above, the BCAJC, the MNBC, and the FNLC were active participants in the joint planning for the Summit through a Steering Committee and a Working Circle. Together, representatives of these organizations helped to define the objectives for the Indigenous Caucus Session. The agreed upon objectives were as follows:

- To provide Indigenous participants at the Summit an opportunity for those in attendance to receive an update on ongoing Indigenous led justice initiatives within BC;
- To prepare for successful participation in the Justice Summit (June 1-2, 2018);
- To review the overall plans to engage Indigenous peoples, communities and organization on Indigenous justice in 2018/19; and
- To gather information for use in development of the following:
  - An Indigenous Justice Forum (September 2018 – TBC);
  - The Eleventh BC Justice Summit on Indigenous Justice (Nov 2-3, 2018); and
  - The first jointly developed Indigenous Justice Strategy in BC.

### Update on Indigenous Justice in BC

The first item for discussion following the opening comments was an update on Indigenous Justice in BC. Nancy Sandy, BCAJC Co-Chair for Child and Family Justice, began with an update on Indigenous Justice as it relates to Indigenous child and youth welfare in BC. Following an overview on the history of the BCAJC, Sandy discussed the need to disrupt the

status quo for Indigenous children and youth in care, particularly as it systemically relates to the overrepresentation of Indigenous people who are street entrenched and/or involved in the criminal justice system. She also spoke to the importance of remembering where we all come from through the resurgence of Indigenous laws and legal processes. This includes the recognition of Indigenous legal traditions as a third legal order in Canada.

Following Nancy Sandy, Doug White, BCAJC Co-Chair for Indigenous Justice, spoke to the inertia in the current justice system and its resistance to change – particularly as it relates to Indigenous people. White spoke to the need to initiate a coherent, clear approach to address the gross overrepresentation of Indigenous peoples in both the justice system and the child welfare system through forging proper relationships between the provincial government, the leaders in the justice system and Indigenous peoples. White acknowledged that although there are pockets of effective work happening in BC, additional work needs to be done to fundamentally change the outcomes for Indigenous peoples – this includes the implementation of the Truth and Reconciliation’s (TRC) 94 Calls to Action, UNDRIP and Ed Johns report on Indigenous child welfare, ‘Indigenous Resilience, Connectedness and Reunification – From Root Causes to Root Solutions’. White also described the Justice Summits as an opportunity to initiate and build a fundamentally different relationship between the province and Indigenous Nations and to identify clear pathways for change.

### **Exploring Indigenous Justice Strategy Pathways for Change**

Following the opening remarks, participants were posed with the question ‘*What is the change you want to see?*’ Attendees shared their ideas about possible pathways for change. Common among the ideas shared was a desire for more holistic approaches that are inclusive of Indigenous communities and Indigenous approaches. Several of the themes are shared below, and nearly all of these were explored further through the Justice Summit.

Attendees discussed the need to pursue a system that takes mental health and wellbeing into consideration and incorporates Indigenous ways of knowing as they relate to justice and the law. Ensuring that all practitioners in the justice system have a good understanding of reconciliation and the specific histories and contemporary challenges of Indigenous peoples in Canada, attendees argued is critical to establishing pathways for transforming the

justice system. One related suggestion was to initiate mandatory cultural competency training within the legal profession.

Attendees described the need for an increase in Indigenous people working in every facet of the justice system. The desire for a focused effort and commitment to build Indigenous restorative justice programs that utilize Indigenous laws as a method to take pressure off the court system and provide different sentencing options was discussed. Suggested components of this restorative approach included access to cultural support for Indigenous offenders involved in the justice system, support for those who are transitioning back into the community following imprisonment, and support for offenders' families.

In terms of support for Indigenous offenders, attendees acknowledged that many Indigenous people who are incarcerated are not from the territory in which they are incarcerated. Attendees recognized the challenges in ensuring that these offenders have access to their families and cultures.

Representatives from MNBC spoke to the need to develop a unified front between First Nations and Métis communities, and expressed hopefulness that the Justice Summit would become a turning point in its respective relationships with the province and with other Indigenous partners.

### **The Tenth Justice Summit on Indigenous Justice**

Attendees discussed the next two days of the Tenth Justice Summit, to be held following the Indigenous caucus. Compartmentalizing services has created many of the barriers that Indigenous peoples are faced with in the justice system, attendees argued. Attendees reflected on the Summits as an opportunity to create better outcomes for Indigenous peoples and acknowledged that fundamentally changing the justice system will require the cooperation of all systems (i.e., health, education, justice all services that impact Indigenous peoples).

Attendees referenced the provincial government's mandate to fully implement the principles of UNDRIP and the TRC's Calls to Action. One attendee referenced the mandate letters of the Ministers and spoke to the need for a renewed focus on restorative justice, culturally relevant resources, timely access to justice and increased positive outcomes for

Indigenous peoples. The Tenth Justice Summit was identified as a place to put these documents into action through discussion, particularly through an Indigenous Justice Strategy.

## Exploring Indigenous Justice Strategy Elements

The Indigenous Caucus provided a space for the BCAJC to update attendees on the work to date in relation to development of the first jointly developed BC Indigenous Justice Strategy (the 'Justice Strategy'). Attendees discussed the need for a long-term plan and strategies for its implementation. One attendee suggested on-going internal meetings within Indigenous circles to continue the conversation. Having a diverse strategy that reflects the diversity of Indigenous Nations was highlighted as a necessity.

Indigenous experts in attendance highlighted what they witnessed to be effective initiatives in community, including community policing programs and the use of Gladue Reports. One attendee noted that there is still debate about whether Gladue applies to all Indigenous people, which should not be the case. Another described Gladue reports as critical in asserting our own stories. Funding to First Nations for legal counsel on all child protection proceedings was also suggested. Several practitioners also brought up the need for an MOU with Correctional Services. In discussing the involvement of Indigenous legal professionals in initiating a Justice Strategy, speakers discussed the histories of Indigenous lawyers, and that it was not until the 1950's that Indigenous peoples could practice law and represent themselves. Through discussion, attendees noted that many Indigenous lawyers, particularly Indigenous women, continue to experience racism in their practice. A participant suggested that we need to be developing services from the ground up to reflect the diversity of needs of Indigenous people.

In their closing comments, BCAJC Co-chairs Nancy Sandy and Doug White reinforced that there is difficult work ahead to identify pathways for change, including the long-term goal of re-establishing Indigenous jurisdiction where Indigenous laws guide the work of rebuilding a justice system that works for Indigenous people. The co-chairs implored attendees that over the next year and a half, their help would be needed to build, strengthen and begin the work of implementing a BC Indigenous Justice Strategy.

## Summit Proceedings, Days Two and Three: All Participants

### Opening Ceremony

The full meeting of the Tenth Justice Summit commenced on Day Two. Elder Larry Grant and Councillor Rosalind Campbell began the day by welcoming participants to Musqueam territory on behalf of the Musqueam people and the Musqueam Band Chief and Council.

The shqwi'qwal, Harold Tarbell, was introduced to all participants by the Honourable Judge Steven Point, former Lieutenant Governor of British Columbia, and by Councillor Campbell. The shqwi'qwal was given the traditional blanket symbolizing the role.

As on Day One, witnesses for the full meeting of the Summit were called. Participants asked to be witnesses included:

- Phil Gladue
- Betty Gladue
- Al Edkins
- Tom McCallum
- Ramona Bent
- Rosemary Trehearne
- Ken Pruden
- Caroline Buckshot
- Jane Morley
- Taryn Walsh

The Tsow-tun Le-lum healing team were introduced to all participants. Throughout the Summit, Tsow-tun Le-lum supported participants during and after their discussions, providing smudging and brushing off to cleanse the spirit.

Remarks of welcome were then offered on behalf of the Assembly of First Nations by Regional Chief Terry Teegee, on behalf of Métis Nation British Columbia by the MNBC Minister of Justice, Lissa Smith, and on behalf of the BC Aboriginal Justice Council by its Co-Chair for Criminal Justice, Doug White.

In his remarks, Doug White spoke to the importance of the opportunity presented by the Summit discussion. In recent decades and even in recent years, justice reform efforts in British Columbia have often marginalized or even been silent on questions of the Indigenous experience of the justice system. This dialogue can be seen as the beginning of an

interrogation of the foundations of the colonial system of justice, and as an opportunity to begin building a new relationship on more solid foundations. Remarks followed from Lissa Smith, highlighting the importance of Indigenous unity in dialogue and negotiations with government over the future of the criminal justice system.

The full meeting of the Tenth Summit was officially opened by the Honourable David Eby, QC, Attorney General of British Columbia.

## Keynote Remarks

Keynote remarks for the Summit were delivered by the Honourable Steven Point.

Judge Point provided participants with important context for this Justice Summit, the first to be focused on Indigenous justice. He reminded participants that British Columbia had been colonized in the near-absence of treaties, and without prior allegiance having been sworn to the Crown. Unlawfully, under colonization Indigenous peoples had witnessed the Crown lay claim to the territories and waterways where they had lived and hunted for many thousands of years. They had been placed on small reservations, a process abetted by an imported system of justice and law enforcement which acted in other ways to repress Indigenous people and harm or destroy Indigenous language and culture.

As a young person, Judge Point had been encouraged by Skowkale Elders to lead and speak for his people as Chief. He then entered institutions such as university and the legal system where Indigenous people in the 1960s and 1970s were so few as to be nearly invisible, and where discrimination was widespread.

Judge Point noted that with the growing awareness in Canada of the harms of the colonial experience, and the responsibility of Canadian governments and society to reconcile with Indigenous people, it is time to take off our coats, park our egos, and build a new relationship between Indigenous and non-Indigenous people. This relationship should put away the colonial relationship; not by forgetting it, but by learning from it to create a relationship based on trust and understanding. Indigenous people, their nations and their communities need to rebuild, and need help to do so, including help from the justice system.

In closing, Judge Point asked non-Indigenous and Indigenous participants alike to begin this process from a position of empathy. It is difficult to understand what it is like to be a minority until it happens to you, in a country that used to be yours, governed by a system that is foreign to your people.

## **Bearing Witness – Indigenous Experience of the System**

Following Judge Point’s keynote remarks and a short break, the Summit moved to a discussion period. Participants introduced themselves to the others at their own table, relating their own personal cultural background and their journey to this discussion. Participants then shared their experiences and knowledge of the Indigenous experience of the justice and public safety system in British Columbia in light of the keynote remarks.

Following this conversation, representatives from a selection of tables were invited by the shqwi’qwal to share the table’s discussion with the room as a whole, with participants being invited afterwards to share any additional stories. From the discussion, five key points emerged.

- **Progress on reconciliation and on justice issues requires strengthened Indigenous capacity at the nation and individual levels**

Numerous tables and speakers highlighted the importance of building (or rebuilding) Indigenous capacity. To engage on a footing of fairness and equality requires strengthening at the level of national capacity, as resolution of many of the larger questions implies a nation-to-nation relationship. Without this capacity to engage, self-determination is difficult or impossible. Within the justice system itself, it is important that there be more Indigenous people in all professional roles, to correct imbalances within the system, to provide necessary knowledge and influences which have been missing or in short supply, and to better reflect the communities in which the system operates.

- **The dialogue about justice must be more inclusive, in order to create common purpose**

As strategies and reforms are developed, participants expressed that we need to be certain that the dialogue reaches and includes all those who are needed at the table, as some

people who have important contributions aren't yet being invited. We need to examine our boundaries as to who is and who isn't brought into the discussion. Rather than using legalese and letting the colonial system continue to define the terms of discussion, we need to speak to people in ways they can understand.

Many participants also felt that the beginning of the Summit dialogue, as a more inclusive forum than others before, gave reason to be hopeful. The metaphor of the canoe was often invoked: if we are all paddling in different directions, we will go nowhere. This discussion offers us a chance to begin paddling in the same direction.

- **Indigenous knowledge, law and traditions can make a profound contribution to the way justice is delivered**

Participants returned repeatedly to the idea that the justice system has much to learn from Indigenous communities, at various levels. At the community level, there is a wealth of knowledge which exists today about the effectiveness of programs and interventions. Importantly, this knowledge relates not only to programming which exists within the sphere of the colonial justice system, but to traditional and culturally-based approaches which are grounded in the community. It is often very clear 'what works' at the community level, and effective pathways are in many cases well-known.

In terms of law and institutions, the importance of Indigenous law and Indigenous justice models is becoming increasingly apparent, now aided by focused research in these areas. It was apparent to many participants that there exists a wealth of largely untapped knowledge. As this knowledge and the cultures which bore it have suffered a sustained attempt at destruction, we are in a situation where non-Indigenous people don't know what they don't know. It is time to give space and a platform to what is already known and what can be discovered.

- **Real progress requires real resources, allocated through an effective funding formula**

Participants considered the questions of capacity and resources to be directly linked. A repeated theme was that change for individuals has to be based on their connection to the community and how the community provides support. Experience tells us that

disconnection from the community has worsened any existing challenges for Indigenous people, and that change comes from the community. While capacity to engage matters and must be resourced, the overwhelming priority in terms of changing lives today is to secure resources to deliver services at the community level.

Resources can only be most effectively applied with an appropriate funding model: how are resources to be shared? While no formula was proposed at this stage, the community-level focus was repeated by many, including support for victims services, support for defendants and their families, and support to services in remote communities.

- **Reconciliation in the justice system requires empathy for the experiences of Indigenous people**

Participants were united in expressing the need for non-Indigenous society to continue the process of learning, recognizing and understanding what Indigenous people have experienced. Indigenous people have learned much about the colonial state, but little learning has occurred in the other direction. There is a need for much more education in support of reconciliation, regarding the impact of residential schools and recognizing the pervasive role of trauma amongst the many Indigenous people who are poor and struggling. Running through these comments was the recurrent theme that Indigenous people are often left disconnected, not knowing who they are due to being removed from their families and their land. Non-Indigenous people should take this information in the spirit in which it is offered. Without this knowledge and the empathy which should accompany it, progress will be difficult.

## **Action on Reconciliation: A Better System and a Better Relationship**

In the afternoon of Day Two, discussion at the Summit moved to practical considerations within the criminal justice system, considering ways to create a better system and a better relationship.

### **Panel 1: The reality on the ground**

In the first panel discussion of the afternoon, speakers discussed the Indigenous experience of criminal justice from a frontline perspective: what is needed, and what is working?

- Mitch Walker spoke from his experience of developing Gladue reports with and on behalf of Indigenous defendants in criminal cases.<sup>5</sup> Gladue can and should be much more than it currently is within the CJS in BC. It is an avenue for individual communities to take back autonomy in the CJS and make important and vital changes within their communities for safety, crime control and justice/social programming. Gladue can be used as a tool for communities and Nations to regain autonomy over the justice processes that occur within their communities. It starts with reports, but the ultimate goal is control. With control and autonomy comes confidence, direction and an ownership. A Gladue Program could help all communities, provincially, to change the way Indigenous peoples are sentenced in BC, through the rediscovery and incorporation of localized practices, traditions and methods of sanction. Gladue can lead to communities feeling and believing that the Criminal Justice System is not something that happens outside their purview of control, but rather as something in which they are equal partners and their methods have value, meaning and consequence.

Ignorance remains regarding Gladue reports. They are best understood as promoting autonomy in justice, which for Indigenous people is often seen as something outside their scope of control. They are one way of helping communities to heal. Despite the assistance of the Legal Services Society, there are still just 75 reports being developed annually in British Columbia, a tiny amount compared to the demand.

- Aaron Pete spoke from his perspective as a Native Courtworker in the Fraser Valley. His work begins with learning about the healing process within different bands, as each approach will be unique. The goal then is to create a wraparound approach for each client by connecting them to resources in the community, to connect with Legal Aid, and to attempt to have a Gladue report introduced in Court to create better understanding

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<sup>5</sup> A Gladue report may be requested by a Canadian court when considering sentencing a defendant of Aboriginal background under section 718.2(e) of the Criminal Code. The process derives its name from *R. v. Gladue*, a 1999 Supreme Court of Canada decision which was the first Court ruling on s. 718.2(e). In s. 718.2(e), a court is required take into account all reasonable alternatives to incarceration, “with particular attention to the circumstances of Aboriginal offenders.” The report describes those circumstances to the court with respect to the defendant in question.

of what brought the client to that point. The challenges are significant as many people he sees have significant mental health problems, and low levels of education. His clients are often very low in confidence and lack direction, and the challenge is to encourage them as opposed to weighing them down. The question ‘what do you want to do from here?’ is intended as a helping hand but can often be felt as a burden, based on how institutions have treated people in the past.

- Participants then heard from Mary Brown, who leads the Heiltsuk Gvi’las Restorative Justice Program. The program, which is diverse and involves many approaches, originates and is founded on local Indigenous laws, values, traditions of respect, and culture. The community is at the centre of the justice programs used, which are developed in partnership with the justice system and have strong elements of transparency and accountability. The program uses a variety of interventions; an example of an approach with a strong cultural grounding is the isolation program, in which repeat offenders likely to be remanded are (in consultation with police, crown and defence) isolated in water-access-only cabins connected to that family for a period of time, so that they can reflect on behaviour and reconnect with the spiritual traditions of the community. The program has experienced remarkable success, particularly with youth, moving from having the highest per capita numbers in BC on probation to *no* youth on probation, but also with the adult population.
- Jason Simmonds spoke to participants about challenges presented by the justice system to Métis people. The biggest single issues to be confronted are the repatriation and reconnection of people to their communities and addressing the pipeline from the child welfare system to the penitentiary system in BC and in Canada. Echoing the call to begin an interrogation of the foundations of the system, he asked participants to consider the characteristics of justice institutions which reflect those institutions’ colonial origins and mindsets. There has been relentless focus on separating Indigenous children from their families and communities. If we are committed to changing this, we will recreate our institutions. This will involve finding ways to look at Indigenous communities and the lives of Indigenous families which are based on understanding and empathy and allow

for benign interpretations of genuinely benign circumstances. Above all, we need to create systems that reconnect and keep our children with our communities.

- Coreen Child spoke to participants from her experience as chief, and as someone who is supporting the families of missing and murdered women and girls. The experience of the justice system, of violence, of the loss of a child, of someone going missing, continues to unsettle and destabilize whole communities. For Indigenous people, the search is to find a place of belonging, to have a sense of identity, to know who you are and where you come from. Of all the discussions had at this event and elsewhere, one vital goal is to find ways for Indigenous people to feel settled, to find and reclaim their identities, and to find belonging. The justice deals with people in a cold and distant way, such as when ‘impact letters’ are requested from families who have lost a loved one. What truly matters is to hear that your loved one matters, that your community matters. Similarly, when setting out a transition plan for an offender, that plan too should be based on identity and community, built around the idea that the person *belongs*.
- At the conclusion of the panel, Genesis Hunt was invited to add to the discussion in the context of his work with the Indigenous Justice Program and with the Restorative Justice Association. He argued that the commonly-held idea that restorative justice (RJ) can only be used in minor cases is a myth: there are pioneering efforts in new directions, which suggest that RJ has the potential to be used in serious criminal cases such as sexual assault, impaired driving causing death, or child pornography. RJ’s effectiveness is also in play when we consider that the trauma suffered by many Indigenous people is complex, rather than being a single dimension. Combined with Indigenous courts and the guidance and wisdom of Elders, restorative approaches can create a sacred and powerful space in justice. The example was provided of a young Indigenous woman in court in Duncan, who was not engaging with anyone as her case progressed. When the judge opened the floor for Elders to speak, the young woman raised her head and began to engage, participating from that point forward because of that deep connection. More generally, there is an important role for RJ in decriminalization of members of a community beyond any question of sentencing, by working on a person’s ‘criminal thinking’ and their choices of criminal friends and associates.

## Panel 2: Change at the system level

In the later panel of the afternoon session participants heard from a second group of panelists, who considered what true reconciliation and change in justice might look like at the system level.

- Melissa Louie and Leah George-Wilson spoke to the linkage between reconciliation and reform in the criminal justice system and the broader issue of Indigenous rights and title. Often, working on rights and title can be categorized as ‘political,’ in contrast with the legal, technical, operational challenges associated with reform of the justice system which are supposedly apolitical. The central message of the presentation was to the contrary: that justice system reform is inextricable from questions of rights and title, and from related issues of housing, health and quality-of-life. With the government of Canada’s acceptance of the Truth and Reconciliation Commission’s 94 calls to action, and Canada’s 2016 support of the UN Declaration on the Rights of Indigenous People, we are moving from a period of confrontation to a period of collaboration. However, the increased autonomy for Indigenous people essential to achieving reconciliation, and to respecting and creating space for Indigenous laws and traditions, means that rights and title are central to the discussion.

This is a critical point in history, and for the justice system to respond intelligently and effectively to these circumstances, greater awareness of the TRC Calls and the UN Declaration are required throughout. Key leaders such as the judiciary and the Law Society are in a position to have a positive influence, by bringing missing pieces into the dialogue *via* increasing familiarity with these foundational elements. We need to see a growth in Continuing Legal Education with such a focus, and in legal advice with a reconciliation lens.

- Participants next heard from Brenda Butterworth-Carr, speaking from her perspective both as an Indigenous woman and as a senior leader within the national police force. During her career, she has seen growth in awareness across society and within policing of the Indigenous experience of the criminal justice system (and

experience of policing more specifically). In light of this history, the challenge for her and for the RCMP as a whole is how to make right what is wrong. While these wrongs have unfolded over many generations, we have to make things right as quickly as possible. A major part of making positive changes to the way Indigenous people experience policing is to recognize that policing is an activity which occurs at the community level and must be changed at the community level – most fundamentally, by ensuring that police forces reflect and understand the communities they serve. Here, the leadership and respect for the roots of culture which is so well demonstrated in the Heiltsuk restorative justice approach is something we can all learn from. At the training level, RCMP recruits are now learning about the loss of Indigenous land, the history of the relationship between Indigenous peoples and settlers, and what there is to overcome. At the operational level, there is a focus on avoiding doing further harm; for instance, through restricting the use of administration of justice charges, recognizing their tendency to increase incarceration rates. At the leadership level, senior leaders in the RCMP need to bridge to leaders in government to ensure the commitment to reconciliation is a common one.

- Marcie Flamand continued the discussion of changing police practices regarding Indigenous people, from her experience in policing urban Vancouver and working to protect Indigenous women in the Downtown East Side who are highly vulnerable to crimes of violence and sexual violence. Much like the justice system as a whole, progress can be made wherever our institutions can learn to communicate based on respect, in ways which allow people to feel heard and safe. When these things are true people become more able to listen, and a real dialogue about safety and trust can be established. The SisterWatch program in Vancouver which reaches out to many Indigenous women operates on these principles, having learned to hold meetings in ways that work and in places that work, establishing strong links to the community.
- Aaron Sumexheltza spoke to participants from his experience as Chief of the Lower Nicola Band. The principal message of his remarks was that effective reform of

criminal justice as it affects Indigenous people cannot only be focused on justice programs but has to be grounded in history and law. Knowledge of the history, and a commitment to decolonization, is essential. As an illustration, he read several passages from the Wilfred Laurier Memorial, the letter provided to Prime Minister Wilfred Laurier by the Okanagan, Shuswap and Kamloops chiefs which details the gradual, non-treaty-based taking of Indigenous lands and suppression of culture and hunting rights in the Southern Interior by white settlers from 1850 to 1910. When considered along with the accompanying trauma of residential schooling, it should be obvious that no approach to contemporary justice issues regarding Indigenous people can occur in isolation. To get to action, which we need to do later this year, there needs to be a frank and honest discussion, and the Summit is a good start. We should expect and welcome an emotional discussion as part of any meaningful reconciliation between BC and Indigenous peoples and use that honest discussion as a means of strengthening our relationship.

- The concluding remarks on the panel were made by Terry La Liberté, offered in context of his many years of work as defence counsel. He identified the gap between the expectation expressed in the Criminal Code and by the Supreme Court in *Gladue*, regarding a court's awareness of the particular circumstances of Indigenous offenders, and the reality of the very limited funding available to make such reporting a reality. Setting aside the general question of the legal aid tariff, the gap is such that Law Foundation money has been used to pay for Gladue reports, with limited relief now that the Legal Services Society has money to pay for a limited number. Notwithstanding that change, the troubling reality of this funding model is that Indigenous clients are required to pay for their own Gladue reports, reports which are mandated as necessary for appropriate sentencing.

At this point in the proceedings, the panel remarks had extended into the period allotted for participant discussion and report-back. Accordingly, the shqwi'qwal asked participants to discuss the content of the presentations and their own perspectives on practical considerations for reconciliation, at their tables. The report-back was deferred until after the morning presentations on Day Three.

Upon the conclusion of the discussions, the Summit adjourned until the following day.

## The Way Forward

At the outset of Day Three, following an opening greeting from Elder Larry Grant, the shqwi'qwal described the objectives for the remainder of the Summit. Participants then heard from a final panel, with speakers reflecting on the Summit discussion and on pathways forward.

- Doug White, reflecting on the Summit, conveyed his gratitude for the sharing of life experiences, thoughts and ideas by all participants. His remarks linked the question of justice reform to issues of autonomy and self-determination. Indigenous people deserve to be in control of their own destinies, and what must accompany that is the inherent right and authority to make decisions. The history of British Columbia has been based on the wrong ideas, namely that aboriginal title didn't matter, and Indigenous people didn't matter. However, we can all see that recent decisions regarding title – such as the *Tsilhqot'in* decision of the Supreme Court – are causing ruptures in existing patterns, which is creating anxiety and uncertainty. The *status quo* is broken. Our job is to find a pathway through that deep uncertainty. If we cannot figure this out, the danger is that we are laying the groundwork for conflict on the ground.

For all these reasons, we need to work in partnership to create a shared understanding. If Aboriginal title exists, then so does Aboriginal decision making. Therefore, this partnership will need to recognize multiple locations of legitimate authority and decision-making, flowing from the moving from a situation in which the Crown is unconstrained in its decision making (albeit with duty to consult) to a situation in which we have a genuinely multi-jurisdictional country. In that relationship, Indigenous decision-making would not be subjugated but coordinated with Canadian and provincial decision-making, and Section 35 of the Constitution will come to life. The new paradigm should be one of consent, one in which the Crown would no longer be able to act unilaterally. This will not be easy as the Crown has jealously guarded its role as decision maker over Indigenous identity, and over

criminal justice. The work of the Aboriginal Justice Council has been to reach out to the province to work in partnership, have these difficult conversations, and craft a shared vision for the future. The Indigenous justice strategy being developed will be an important element of this work.

- Regional Chief Terry Teegee highlighted the importance of continuing to do important work within the system to improve the lives of Indigenous people and Indigenous communities today, while the longer process of determining a just and fair relationship between Indigenous peoples and Canada continues. It is an enduring mystery as to why the Supreme Court's repeated direction to the justice system regarding 718.2(e) of the Code has been applied only to a very limited extent, or in some cases not at all. How can the *Gladue* ruling not have led to more action, given that the overrepresentation of Indigenous people in criminal justice has actually worsened since 1999? There is urgent action required in these matters. Similarly, there is also urgent action required on the use of administration of justice charges. Too often, these charges are used following breaches of conditions which are either onerous or unrealistic or both, acting not as a corrective to behaviour but simply to increase the rate of Indigenous incarceration. We could instead be thinking about a presumption of diversion with respect to Indigenous defendants. Further, there is great potential in the work of Indigenous courts. We need to build momentum to show that talk of a new relationship is being accompanied by action and addressing these practical opportunities in the near future would be an important, practical step forward.
- Judge Point's remarks focused on the importance of a stronger, healthier relationship as part of the change process. For generations, we have characterized the situation as "them vs us." We all need to get over that, even though it is true that Indigenous people have not been treated well. The discussions at the Summit have shown the importance of connecting people to the right resources; however, resources are only part of the picture, as we need to understand the power of institutions which reflect the colonial past, and how those institutions affect communities. Looking at institutions and considering different approaches holds much promise. As we have

heard, restorative justice built on Indigenous culture and traditions is a viable mean of avoiding criminalization. We must explore these ideas as there is no propensity of Indigenous people to commit more crimes than anyone else. This dialogue has been very positive, but now the government has to act and to show commitment to change.

- Richard Fyfe reflected on the Summit proceedings from the perspective of his own career in the Ministry leading to his current role as Deputy Attorney General. In that time, the provincial position has mainly been one of involvement in litigation. It is now clear that collectively we need to move beyond the mindset of litigation towards one of relationship building. That shift can and should bring a different approach and an opportunity to work collaboratively, where we place matters of survival, dignity and well-being at the forefront of our objectives. Often, we can and should move fast; but sometimes moving fast can cause harm, something we should remain aware of and discuss.

The many thoughtful remarks from speakers over the past day suggest a number of important themes. We need to make a priority of keeping people in, and connected to, their communities, and find ways to support them that strengthen the community's role. In doing so we need explore how we can do better on *Gladue*, as there is no propensity of Indigenous people to commit crimes more than other people, and the overrepresentation we see is unacceptable. We need to look hard at institutions that reflect our colonial past and having enduring impacts on families and communities and build ones that reconnect families. We can learn much more from the sacred and central place held by Elders in Indigenous culture, and recognize restorative justice's power as a way of connecting people to the wisdom and tradition of their communities and avoiding criminalization. There is a need to move forward to action, and the Ministry of Attorney General is committed to working with Indigenous people to achieve these changes. All of this must be addressed in an improved relationship, one in which as Judge Point has said we move from "them and us" to "we."

- Kurt Sandstrom added further remarks from the perspective of government. From what has been said at the Summit and other recent consultations, it is clear that access to justice is not a reality for many Indigenous people and communities. Indigenous people see little or no reason to trust the criminal justice system. There is substantial overrepresentation of Indigenous people in the criminal justice system, a situation which all agree is unacceptable but which has consistently failed to improve. As others have said, there is a need to take quick action, and there are some things government and the Aboriginal Justice Council are examining in the near term. These include an improved approach to *Gladue*; expanded use of diversion regarding Indigenous offenders; the expansion of Indigenous courts in general and exploring Indigenous family court; the implementation of regional Indigenous Justice Centres; more culturally-aware support for traumatized people in contact with the justice system; and the use of new technologies to expand access to justice in rural and remote areas. More than all of this, we require a new relationship. All participants have a common interest in a system that works for everyone. To build this, those in the colonial system must recognize that, at this stage, they need Indigenous traditions more than Indigenous people need those of Canada.
- The final speaker on the panel, Professor Val Napoleon, spoke of the practical work that she and her colleagues are conducting to rebuild and articulate Indigenous law. The work is occurring through a new intensive course on Gixtsan land law within the University of Victoria's Canadian and Indigenous Law Degree program. Indigenous law hasn't gone anywhere in Canada, but it has been undermined. The challenge the researchers have undertaken is to recover Indigenous law in individual communities via projects built around contemporary questions which are important to the people in those communities. Research is conducted on all the different ways law has been expressed and managed, through critical and systematic engagement and analysis, focus groups, and working directly with individuals.

In the oral tradition, it is vital to work with all sources: stories, songs, writings, and institutions. As the researchers uncover law, rules and norms, they also look for the location of authority, asking who the authoritative decision makers would have been

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for the particular contemporary legal problem that is at issue. The kinds of law which emerge through this research include sacred law, natural law, deliberative law, customary law, and positivist law. The ultimate goal of the work is to contribute to the normalization of Indigenous law: first by identifying sources, then by developing secondary resources, and finally through the application of those resources and the laws they reflect to situations today.

### **Bearing Witness: What Form Should a Better Relationship Take?**

Following the morning panel and a short break, the Summit moved to a discussion period. At their tables, participants shared their thoughts on priority pathways concerning the justice system and Indigenous peoples, reflecting on the most important steps to take now, and how we can strengthen our relationship going forward.

Following this conversation, representatives from a selection of tables were invited by the shqwi'qwal to share the table's discussion with the room as a whole, with participants being invited afterwards to share any additional stories. This included reflections on the conversations from the afternoon of Day Two. From the discussion, six key points emerged.

- **Now is the time for government action, not words**

Participants commonly expressed support for the Summit dialogue, but regularly made clear their belief that talk is not the same as reconciliation. Actions speak louder than words. Whether explicitly stated (many times) or implied, substantial new resources were commonly seen as necessary to achieve positive outcomes for Indigenous people regarding the criminal justice system. This includes resourcing of programs, particularly at the community level such as restorative justice or Gladue report writing, or to promote access to justice in remote areas; more system-level resource support to allow for greater representation of Indigenous people within the key justice professions and roles; and capacity support, to allow for sustained, effective engagement in areas such as research, education, policy and law reform. Pilot projects should lead quickly to actually delivering services more broadly. To measure the effectiveness of investments such as these in achieving desired outcomes, the government should also consider having some other body than government track key performance indicators.

- **Work at the community level is essential in creating real change**

In plenary discussion, those reporting out returned frequently to the idea that real change in criminal justice from the perspective of Indigenous people must be based in the community and mobilize grassroots energy. Local relationships between community groups, Crown prosecution, police, and probation – relationships which are culturally sensitive and grounded in respect and a commitment to reconciliation – are essential factors for us to succeed at (for example) diversion programming or restorative justice. Group-to-group relationships are important, but the bedrock is individual level relationships. Effective knowledge and respect are strengthened when decision makers visit, listen to, and learn from the communities most affected by the work that is done, including seeing firsthand the effectiveness of local, culturally-grounded solutions.

- **Reconciliation in criminal justice does not equal assimilation**

Participants frequently made the point that a future characterized by reconciliation is one in which Indigenous law and culture have substantially influenced the colonial system; we should not simply expect people to adapt to the *status quo*. Even those accommodations which have been made to date, while well-intentioned, exist within the paradigm brought by settlers. Indigenous courts for all their innovation are essentially colonial courts. For guidance, we should look to the TRC Calls but also to the UN Declaration in finding ways to create space for and learn from Indigenous law and traditions. Suggestions included “no new courthouses, more longhouses,” and the idea that Elders’ importance to healing and problem solving is such that they should be considered key resources in the way that clinicians and other experts support the system. Indigenous people have a good understanding of what the justice system has done to them, and it was argued that the system now needs to learn about Indigenous law and approaches to wrong-doing. Meaningful reconciliation means movement – movement in an Indigenous direction and in ways which empower self-determination.

- **A relationship of trust is a foundational requirement for change**

It was common in the discussion for participants to express the idea that relationships must now change – from an adversarial, litigation-based approach to partnerships based on trust, at all levels. This will require courage and risk-taking particularly at the leadership level to

model this behaviour for others and create the conditions for reconciliation. The government must be trusted to follow through and must live up to that trust. There must be honesty in achieving reconciliation, particularly through acknowledgment that real wrongs occurred, often at the hands of the justice system and often with their consequences still visible and unaddressed. Participants also expressed that “reconciliation cuts both ways;” as trust is earned in partnership, both partners should be able to speak honestly and plainly to each other.

- **The criminal justice system (and government) should be far more focused on healing**

Nearly every intervention in the discussion related directly or indirectly to the relationship between criminal behaviour and the massive, intergenerational, overlapping traumas experienced by Indigenous people in British Columbia. Indigenous overrepresentation is essentially a crisis in the health of communities, a crisis which plays out in criminal, family, and child welfare proceedings and leads to further trauma and dislocation. The fundamental priority is to invest in healthy communities, mitigating poverty and restoring traditional practices which narrow the gap between people and their communities. The criminal justice system in its own specific work should function with a far more protective mission regarding Indigenous people, with a presumption of diversion and well-connected wraparound services. Courts and restorative justice programs dealing with Indigenous people should undergo a fundamental rethinking from a healing perspective, using Indigenous court-workers more regularly and recognizing the linkages across criminal and family process; healing units should be further developed within penal institutions.

- **Reconciliation in the justice system can be enabled by education**

Participants were strongly supportive of more education in support of reconciliation, both with respect to the historical record and regarding the reclaiming of Indigenous law. It was also recognized that there is no one Indigenous history or set of laws, but huge variation at the level of individual nations. This means that general education should be followed with education on the local context and culture to create understanding of the diversity of Indigenous experience. This history is often an oral history and hearing these often-emotional stories directly from those with lived experience is an important part of

reconciliation. Finally, there is also a need for specific, professional education, such as expanded training on trauma-informed practice, and role-specific cultural competency training.

- **Development of Indigenous legal institutions should be supported**

A key theme was the critical importance of Indigenous capacity building at the local/nation government level as a foundation for building Indigenous legal institutions (including Indigenous Courts, Tribal Police, Restorative Justice systems, and other institutions). The institutions are critical in the emergence of greater autonomy and communities' control of their own destiny. Several speakers noted that the development of these institutions is linked to title and jurisdiction. Smaller communities do not have the capacity to advance these in a manner similar to developments in the larger Inter-Tribal Courts models in the United States.

## Reflections of the Summit Witnesses

Following the report-outs from the tables, the shqwi'qwal invited the Summit Witnesses to offer their thoughts and guidance to participants based on the three days' discussion.

### *Phil Gladue*

*Thank you for being here. This has been a long time coming. It is good that we have come together as human beings, to express where we come from. It is important that this message gets to the schools. All children need to learn about this country. They'll turn the tables, Aboriginal and non. It is good to see all Elders, front line workers, and politicians gathered together. When we come to gatherings like this, we should open up our elephant ears. I learned a lot here and I will be passing it along to my family and others.*

### *Betty Gladue*

*How wonderful it is for us to sit here today, to be able to dialogue and do something good. We have been manipulated and controlled for so long; I am overwhelmed because people are listening, and I had an impact. All these very*

*important people sitting beside me. They're going to listen to me. I have pride in myself, in my community. I have pride and I have hope. I will go home in peace. Things are happening, and we need a workbook to give others to carry this message.*

### **Al Edkins**

*I want to remind you of what Judge Steven Point said: take off your tie, your ego, when you come to the door. Egos kill what we as humankind could accomplish. Culture, acceptance of principles, support – these are all very noble, these aspirations, but are we going to buy into it?*

*I see acceptance of the need for change by all governing parties. I'd rather negotiate than litigate. We are committing to establishing and maintaining a force, a forum for change. We need to maintain it. Others may bring their ego. We're in the process of shedding ours. We also need to humanize the process. We all love, breed and die. We're all human.*

*What does meaningful reconciliation mean? We should throw out meaningful and keep reconciliation. I made a phone call to one of our Elders and they said without forgiveness, there is no reconciliation. We have to put the past away if we are to move ahead.*

### **Tom McCallum**

*I'd like to thank the Creator, the Elders and all the ancestors of the territory. I was inspired by the words of the Honourable Steven Point, and by the young people who danced for us. I have met many wonderful people who come from the government – I've never seen so many government people in one room, except when I went to court.*

*When I came to BC, I was honoured to be able to practice my culture. I do a ceremony called the First Dance. The tree is the centerpiece. Trust is the central point of everything we are doing here. What I have seen here is people*

*coming together with a like mind, sharing at a personal level to get to know each other, to remove the fear of the unknown. We are getting to trust each other, but we have a fear-based society. We're starting to open that up. Today is very different from the first day. The fear is gone.*

*Inclusion was mentioned. I'm really happy Metis are included in this going forward. It's so important. The grass that you see, the river, the ones that are flying – that's where our knowledge comes from – they are all our ancestors. It's about our lives. There's a story behind everything. This is our justice system. What you see here, the land, the water: we have ceremony. That guides us. Elders are not Elders just because of a long life, but because they are able to tap into the source, that's where they get their information.*

*I work in prison system, in an Aboriginal unit. There are changes happening there as well. We believe that's what's going to help. But we're working at the back end of the system. We have to go to the front end; and we have to work with children. Thomas Aquinas says give me a child for the first seven years, I'll give you the man.*

*There is no word for justice in our language. We talk about a good life, being in harmony. I'd like to thank Val Napoleon for the work she is doing, because our nations have their own ways. Maybe they'll share with us, and we can all share how we can move together. And in this second 500 years you're going to do the listening, and we're going to do the talking.*

### **Ramona Bent**

*I'm honoured to be here. Something I've learned coming to these meetings is how strong the culture is here at Musqueam. I really feel it in my heart. I was asked to come as an Elder, but I'm an Elder in training. I have learnt so much here. I saw how many Aboriginal judges and lawyers we have. We don't have that many in my area.*

## TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

*As we build communication, as we make sure all voices are being heard, we are weaving the story about who we are. As I began my own healing journey, I had to start telling my story piece by piece. All the things we've talked about – education, residential schools, the Sixties Scoop, what happened to families, intergenerational violence – we are telling our stories to be heard as individuals. I work at OCC, and the clients I meet don't know who they are. It's sad to see: they are trying to connect to Mother Earth. I see a lot of emptiness. As a person you need to know who you are, how you are and why you're here.*

*It important to check out other programs and see what is working. What resources are out there? We experience things like the RCMP taking our children away and need to help ourselves be stronger. We need to bring in restorative justice, education, Friendship Centres, and make sure there are more Aboriginal people working in these systems.*

*We also need to keep funds in local communities for more support, like Legal Aid. In northern communities, look how long it takes for sentencing, how much it costs to see the probation officer. And meanwhile everyone is working in isolation.*

*There should be an apology to build trust.*

*We need to start supporting families in communities, have them be part of release plans. There are Elders in the system, and we need more. They bring balance. It is important that Elders are in these discussions. We need them at our schools, at the daycare, at the band office. They bring education, understanding and healing.*

*We should review our policies and our mandates, and think outside the box, to find a way to take a negative and turn it into a positive. It's important from an individual perspective and from an agency perspective to be open to change. We should take what is being said as knowledge, not as an attempt to tear things down.*

*It really comes down to resources. Prevention starts in schools, in day care, with resources for women, where we can bring our teachings. Resources, resources, resources!*

### **Rosemary Trehearne**

*I'm so grateful to be here. I'm honoured to have been asked to come. I've heard it's a new way. I'm glad that for some of you it's a new way, but for some of us it's an old way. Eventually we get up and move forward. Not just First Nations people, but everyone in the room. I've listened to people in this room, in higher positions, keep their minds open to what we're talking about. I can't say enough about the people who are here to work with us, but instead of them and us I want to say "we."*

*I've worked in Aboriginal justice since 1972. When I heard about Gladue reports in my community, I understood the courts now had to listen to the background of Aboriginal people. If we can't use the things we've learned throughout our work, throughout our lives, then the work is wasted. It should have been made a lot meatier. I'm hoping Gladue reports will become more permanent within justice system.*

*People in authority, leaders, need to make people under them be more accountable to Indigenous people. The same with Chief Judges and others who have that type of position. You have to let your well-meaning approach go down through the system. And it has to come from the community: we know what we need. And it comes back to resources.*

### **Ken Pruden**

*What I've witnessed since I've been here is progress and listening. We are being listened to. It has given us a chance to explain our concerns, and to understand our differences. A lot of people who are not of Aboriginal heritage think we're all one group. Indigenous people are a diverse group: we all are*

*different. Think about the amount of knowledge and experience of these different groups that have come together to solve these problems.*

*A journey of a thousand miles starts with one step. I really feel honoured to take part in a gathering such as this. If we continue on this path, reconciliation will become a truth. I wish you all safe journey.*

### **Caroline Buckshot**

*On the first day, Doug White talked about interrogating the very foundations of our institutions. That's what we are doing. I'm going to take a page out of Aaron's book and share a story. I'm from the Algonquin territory.*

*The Creator created earth, trees, water, land, winged ones, furry ones, all of it. He brought the animals together, and said I'm going to bring humans to the earth. They're going to be very different from you. I'm going to give you gift of love, but I don't want to give them because they'll misuse and abuse it.*

*The eagle said, give to it me, I'll take it to the mountain. The salmon said, I'll take it to the deepest part of the oceans. And all the animals were sharing their ideas. But way at the back, there was a little mole. The mole said, I know where to put this gift of love. Put it in their hearts, Creator. That's the last place they'll look.*

### **Jane Morley**

*I'm very grateful to be here, to come to this place, this beautiful building. I've been to a number of Summits, and this one gets top marks. I think it's because of my hosts.*

*I'm a non-Indigenous witness. I knew I was supposed to remember the things we have talked about. I have trouble remembering what happened yesterday. I needed some props. I looked at the gift I received, a beautiful spoon, with a*

*frog, a symbol of transformation. As Doug said, we're in a period of transformation. It may not be of our choosing, but we have choices.*

*I am reflecting about the canoe metaphor, and how it helps us understand how we move forward. I feel what I've witnessed is an invitation from Indigenous people to join and get into the canoe. That's a risky invitation. As non-Indigenous people, we have to recognize that we don't necessarily know how the canoe works. We need to look for leadership from Indigenous people. We need to paddle.*

*We don't know where we're going, but our journey is the destination. We've had good signs, like what we heard from Bella Bella, those working on Gladue reports. As we go, we'll be paddling together. We heard the rhythm from the drums today. We need to move with that rhythm.*

*I have heard many, many stories of people who have gone through residential schools. When you let go and listen you learn. And I have learned. The Truth and Reconciliation Commission report should be required reading. We must educate ourselves. A canoe moves, and you have to move with it. When you get someone in a canoe who doesn't know about it, that's when it's dangerous and tips. We need to be careful not to tip the canoe.*

*Indigenous children and families need to be connecting to their communities. We as settlers have taken away from Indigenous communities.*

*I also learned that we come with resources, probably one of the reasons we're being invited into the canoe. A priority for those resources is nation building. We need to think how this builds Canada, too. I am grateful for Val Napoleon's presentation. As a nation that has Canadian laws, we need to embrace Indigenous laws, so we can be in that canoe.*

## *Taryn Walsh*

*We need to communicate and acknowledge the history of what has happened to Indigenous people. My daughter is ten, and she said today at school we talked about residential schools, and about the story of Phyllis. It was something she could really relate to.*

*We need to acknowledge that history has a place in the justice system; Gladue reports are a way of making this acknowledgement.*

*In this era of the TRC Calls to Action, and the UN Declaration, what does that look like when we apply it to the justice system? How do we move that forward? At this summit, it began to look like a partnership, reflected in the participants, in the agenda, and in the location. This was remarkable. As we move forward, this will no longer be remarkable, it should become normal. I thank you for this opportunity.*

## **Closing remarks**

To conclude the Summit, participants heard a number of closing addresses.

The Honourable Christopher Hinkson, Chief Justice of the Supreme Court of British Columbia, provided remarks on behalf of the judiciary, noting that the Summit had brought all participants a better understanding of Indigenous people's experience of the criminal justice system. Chief Justice Hinkson observed that much more must be done to ensure individual people are reconnected with their communities. There was a message of hope at the Summit, that we are beginning to build cultural competency and that non-Indigenous people are beginning to understand. This gives reason for optimism that a new relationship can bring about transition in the justice system to the benefit of Indigenous people, work that will clearly not end with these two Summits. The role of the judiciary is unique in this. There is a focus on judicial education regarding the UN Declaration and the TRC calls to action. As this greater awareness takes hold, the obligation of the judge remains that of adjudicating fairly.

The Honourable Steven Point noted that we are now looking for solutions to conquer the problems we know exist. The law of averages suggests that we are going to find solutions with enough of us paying attention, so we must be patient, listen, and suspend our judgment. The justice system is waiting to be decolonized, and it is true that Indigenous people have paid a big price. We must feed the right dragon, by starving out self-pity and anger, and feeding kindness and humility.

Nancy Sandy and Doug White, the co-chairs of the BC Aboriginal Justice Council, offered their thanks to participants for attending the Summit. Nancy Sandy reminded participants that laws come from the Creation stories, and law is meant to support and nourish the good life. Doug White noted that this work is aimed at addressing the greatest tragedies and the most important needs of Indigenous people and is directly connected to children. We have a chance to repair the harms and ugliness of the past. We are all harmed; cultural genocide cannot be conducted without harming yourself. But today there is a lot of redemptive potential. We need a loving relationship – and if we can have one, we would stop punishing each other.

The Summit was officially adjourned by the Honourable Mike Farnworth, Minister of Public Safety and Solicitor General of British Columbia. Minister Farnworth gave thanks to the Musqueam people for their generosity in hosting the event; to the Elders, Witnesses, and healing team, for their guidance, wisdom and support in making the event a success; and to the organizers, including the Aboriginal Justice Council and Métis Nation, for their efforts in planning the Summit. Minister Farnworth observed how important it was, as the Summit showed, to have diversity of voices in reforming the system and building our new relationship. Thanking all participants, the Minister declared the Summit adjourned.

## Next Steps – Looking Forward

### Key themes of the Tenth Summit

The key themes of the Tenth BC Justice Summit, as expressed by participants, are restated here, organized into four categories.

#### The importance of resources

1. Progress on reconciliation and on justice issues requires strengthened Indigenous capacity at the nation and individual levels.
2. Real progress requires real resources, allocated through an effective funding formula.
3. Now is the time for government action, not words.

#### The importance of Indigenous culture, law, and history

4. A relationship of trust is a foundational requirement for change.
5. Indigenous knowledge, law and traditions have a profound contribution to make to the way justice is delivered.
6. We must continue to support and expand development of Indigenous legal institutions.
7. Reconciliation in criminal justice does not equal assimilation.

#### The importance of education

8. Reconciliation in the justice system requires empathy for the experiences of Indigenous people.
9. Reconciliation in the justice system can be enabled by education.

#### The importance of community and healing

10. The dialogue about justice must be more inclusive, in order to create common purpose.
11. Work at the community level is essential in creating real change.
12. The criminal justice system (and government) should be far more focused on healing.

These themes will form part of discussions between now and the Eleventh Summit and will be used by the Summit Steering Committee as a framework for building an agenda for the Eleventh Summit focused on action recommendations.

## Towards a Jointly Developed Indigenous Justice Strategy in BC – Planned Engagement

### Regional Engagement, Indigenous Justice Forum and 11<sup>th</sup> Justice Summit

In 2017, the BC Aboriginal Justice Council (BCAJC) signed a Memorandum of Understanding (MOU) with the Attorney General and the Minister of Public Safety and Solicitor General. This MOU recognized the parties' acknowledgment that "significant improvements are required in the way that the justice system interacts with Indigenous people in British Columbia" and committed the parties to working together to jointly develop a BC Indigenous Justice Strategy. In accordance with the MOU, the BC Indigenous Justice Strategy will address issues of concern for Indigenous peoples affected by the justice system including, but not limited to:

- The overrepresentation of Indigenous peoples in the justice system;
- The experience of Indigenous people in the justice system;
- Violence against Indigenous people, especially women and girls;
- Engagement with Indigenous communities and organizations;
- Access to justice services by Indigenous people; and
- Lack of culturally relevant, flexible and user-focused services for Indigenous people.

### Planned Engagement on Indigenous Justice in 2018 – a Timeline

In addition to the BCAJC's ongoing work to engage with Indigenous communities and organizations, the timeline below outlines key opportunities for engagement in relation to the joint development of a BC Indigenous Justice Strategy (the 'Justice Strategy'). At the Justice Summit, the BCAJC invited conversation about this engagement timeline and the Justice Strategy. The Justice Summit provided an opportunity to discuss what engagement around the development of the Justice Strategy could look like going forward.

The BCAJC continues to work with the province, MNBC and others to ensure engagement around the Justice Strategy continues. Work is underway to plan for regional engagement sessions on the Justice Strategy this fall, and to provide briefings and updates at meeting of the BCAFN, UBCIC, FNS, and MNBC. The possibility of a Fall/Winter 2018 Indigenous Justice Forum is also being discussed. To summarize, it is envisioned that the following planned

engagement activities will advance the creation of Justice Strategy, where Indigenous peoples are not just involved, but are the driving force behind its development:

## **1. The Justice Summits**

- The Summits will both include meetings and dialogue between Indigenous leaders, justice experts and the voices of those with lived experiences alongside the leaders of the justice and public safety sector, with approximately equal representation;
- The intended outcomes of the Summits will be to contribute to the Justice Strategy by providing specific recommendations for real change that can be actioned by the province.

## **2. Regional engagement sessions with Indigenous leaders and experts;**

- Participants will include Indigenous leaders, justice organizations and experts to consider justice policy and action priorities with identified/recommended timelines;
- While some government/justice system participants may be invited to participate or observe this event, it is fundamentally a dialogue within the Indigenous community.

## **3. A provincial Indigenous Justice Forum**

- Participants will include Indigenous leaders, justice organizations and experts to consider justice policy and action priorities with identified/recommended timelines;

While some government/justice system participants may be invited to participate or observe this event, it is fundamentally a dialogue within the Indigenous community.

## **Eleventh BC Justice Summit**

The Eleventh Summit will occur in November 2018, following engagement and consultations occurring in response to the Tenth Summit. The agenda will be developed by the Summit Steering Committee, with a focus on proposed Action Recommendations for the consideration of participants.

## Appreciation

The Steering Committee would like to express its thanks to Chief Wayne Sparrow, Elder Larry Grant, Councillor Rosalind Campbell, the Musqueam Band Council, Coordinator Noreen Point, and the people of Musqueam, for their generous hosting of the Justice Summit and the warm welcome given to those from all Nations who attended.

The Committee would like to thank the Honourable David Eby, QC, the Honourable Mike Farnworth, and the Honourable Chief Justice Christopher Hinkson, for their remarks at the opening and conclusion of the Summit.

The Committee would like to thank the Honourable Steven Point for his keynote remarks, and for his valuable guidance as the event was organized. The Committee also wishes to thank Harold Tarbell for his great work as shqwi'qwal in directing the conversation with warmth, humour, and respect.

The Committee is grateful for the wisdom and guidance of those attending as Elders: Phil Gladue, Betty Gladue, Al Edkins, Tom Mccallum, Ramona Bent, Rosemary Trehearne, Ken Pruden and Caroline Buckshot.

The Committee would also like to extend its appreciation to Regional Chief Terry Teegee, Doug White, Nancy Sandy, Lissa Smith, Mitch Walker, Aaron Pete, Mary Brown, Jason Simmonds, Coreen Child, Genesis Hunt, Melissa Louie, Leah George-Wilson, Deputy Commissioner Brenda Butterworth-Carr, Superintendent Marcie Flamand, Chief Aaron Sumexheltza, Terry La Liberté, Richard Fyfe, Kurt Sandstrom, and Professor Val Napoleon, for their contributions to the dialogue as panelists.

The Committee wishes to thank Madelaine Mccallum and the drummers, singers and dancers of the Wolfpack Dance Group, for lifting spirits with their performances at the Summit.

Finally, the Steering Committee would like to thank all participants at the Tenth British Columbia Justice Summit, whose willingness to speak openly and personally contributed so much to the event.

## Summit Feedback

Comments on this *Report of Proceedings* and the Summit process are encouraged and may be emailed to the Justice and Public Safety Secretariat at [justicereform@gov.bc.ca](mailto:justicereform@gov.bc.ca).

Responses may also be sent to the BC Aboriginal Justice Council c/o [nccabc@nccabc.net](mailto:nccabc@nccabc.net), and to Métis Nation BC via the feedback form at <https://www.mnbc.ca/contact/board-of-directors>.

## Appendix I: Summit Agenda

Time	Session
<p><b>Day One (May 31) Indigenous Caucus Session</b></p>	
<p><b>OBJECTIVES</b></p>	<p>The BC Aboriginal Justice Council, the Métis Nation of BC, and the First Nations Leadership Council have actively participated in the joint planning for the Tenth BC Justice Summit through a Steering Committee and a Working Circle.</p> <p>The first day of the Tenth Justice Summit on Indigenous Justice has been planned for Indigenous participation only. The May 31, 2018 Indigenous Caucus is intended to provide Indigenous participants at the Summit an opportunity to do the following:</p> <ul style="list-style-type: none"> <li>• Receive an update on ongoing Indigenous led justice initiatives and other key justice initiatives within BC;</li> <li>• Prepare for successful participation in day 2 and day 3 of the Justice Summit (June 1-2);</li> <li>• Review the overall plans to engage Indigenous peoples, communities and organization on Indigenous justice in 2018/19; and</li> <li>• Inform development of the following:             <ul style="list-style-type: none"> <li>○ an Indigenous Justice Forum (September 2018 – TBC);</li> <li>○ the Eleventh BC Justice Summit on Indigenous Justice (Nov2-3, 2018); and</li> <li>○ the first Indigenous Justice Strategy in BC.</li> </ul> </li> </ul> <p>Reflecting the importance of the dialogue, the moderator and facilitator roles are absorbed in the role of shqwi'qwal. The shqwi'qwal, as speaker, assists the community to find a new path, ensuring that all voices are heard. Elders will be in attendance in the plenary to bear witness. Please also note that the Tsow-Tun Le Lum-Tun Le Lum Society is providing resolution health support workers and a cultural support team.</p>

## TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

Time	Session
8:00 – 9:00	Registration/Breakfast
9:00	<p>Opening Protocol</p> <ul style="list-style-type: none"> <li>• Opening (Elder Larry Grant)</li> <li>• Identifying the Shqwi'qwal (Speaker) Harold Tarbell and Calling Witnesses</li> <li>• Welcoming Remarks                             <ul style="list-style-type: none"> <li>○ Attorney General David Eby, Co-Chair for the BC Justice Summit (via Video)</li> <li>○ Hon. Steven Point</li> <li>○ Regional Chief Terry Teegee</li> <li>○ Doug White, BC Aboriginal Justice Council Co-Chair</li> </ul> </li> </ul>
9:30	<p>Update on Indigenous Justice in BC</p> <ul style="list-style-type: none"> <li>• BC Justice Summits (Members of the Justice Summit Steering Committee)</li> <li>• BC Aboriginal Justice Council (Doug White and Nancy Sandy, BCAJC Co-chairs)</li> <li>• Indigenous Justice Strategy (Doug White and Nancy Sandy, BCAJC Co-chairs, as Partners to the MOU with AG and PSSG)</li> </ul>
10:30	Health Break
10:45	The Tenth BC Justice Summit on Indigenous Justice (May 31-June 2)
12:00	Lunch
1:00	<p>Exploring Indigenous Justice Strategy Elements</p> <ul style="list-style-type: none"> <li>• Discussion on emerging 'priority pathways' including key initiatives</li> </ul>
2:30	Health Break
2:45	<p>Indigenous Justice Strategy Elements – Continued</p> <ul style="list-style-type: none"> <li>• Continued discussion on emerging 'priority pathways'</li> </ul>

# TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

Time	Session
3:30	Fall 2018 Indigenous Justice Forum and Beyond
4:15	Closing Remarks and Protocol
4:45	Close of day
6:00	Reception (for all Summit participants) 6:30 Traditional Métis dance performance (Madelaine McCallum)
Day Two (June 1)	
8:00 – 9:00	Breakfast/registration
9:00	<p>Opening ceremony</p> <ol style="list-style-type: none"> <li>1. Welcome - Elder Larry Grant</li> <li>2. Welcome from Musqueam Band Council - Councillor Rosalind Campbell</li> <li>3. Acknowledgement of Harold Tarbell as shqwi'qwal.  In the Coast Salish tradition, a blanket will be wrapped over his left shoulder to symbolize his role.</li> <li>4. Calling of Witnesses</li> <li>5. Remarks of welcome               <ul style="list-style-type: none"> <li>○ Regional Chief Terry Teegee on behalf of AFN</li> <li>○ Doug White, Co-Chair Aboriginal Justice Council</li> <li>○ Lissa Smith, Justice Minister MNBC</li> </ul> </li> <li>6. Opening of Summit – Hon. David Eby QC, Attorney General</li> </ol>
	<p>Shqwi'qwal's opening remarks</p> <ul style="list-style-type: none"> <li>• Harold Tarbell: The Summit dialogue</li> </ul>
	Keynote remarks

## TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

Time	Session
	<ul style="list-style-type: none"> <li>Honourable Steven Point: Truth, reconciliation and the justice system: why we are here today</li> </ul>
10:15	Break
10:30	<p>Bearing Witness – Indigenous Experience of the System</p> <ul style="list-style-type: none"> <li>Discussion will occur first at small tables. Participants introduce themselves to the others at their table, relating their own personal cultural background and what has brought them to the discussion today. Discussion continues at the tables with participants sharing their experiences and knowledge in light of the keynote remarks.</li> <li>One participant at each table will then share the table’s discussion with the room as a whole. Participants will then be invited to share their stories.</li> </ul>
12:15	Performance by Wolfpack dance group
12:30	Lunch
1:30	<p>Action on Reconciliation: a better system and a better relationship (part 1)</p> <ul style="list-style-type: none"> <li>Panel 1: The reality ‘on the ground’ – panelists will discuss the current situation in criminal justice from a frontline perspective. What is needed, and what is working? <ul style="list-style-type: none"> <li>Mitch Walker (Gladue Writers’ Society)</li> <li>Aaron Pete (Native Courtworker and Counselling Association)</li> <li>Mary Brown (Heiltsuk Gvi’las Restorative Justice Program)</li> <li>Jason Simmonds (Métis Nation Child Welfare)</li> <li>Coreen Child (Minister’s Advisory Council on Indigenous Women)</li> </ul> </li> </ul> <p>The panel will be followed by questions and discussion by participants.</p>
2:30	Action on Reconciliation: a better system and a better relationship (part 2)

# TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

Time	Session
	<ul style="list-style-type: none"> <li>• Panel 2: Change at the system level – panelists will discuss what reconciliation could look like for the way the system operates               <ul style="list-style-type: none"> <li>○ Melissa Louie (Lawyer, Morgan &amp; Associates)</li> <li>○ Deputy Commissioner Brenda Butterworth-Carr (Royal Canadian Mounted Police)</li> <li>○ Supt. Marcie Flamand (Vancouver Police)</li> <li>○ Chief Aaron Sumexheltza (Lower Nicola Band)</li> <li>○ Terry La Liberté (La Liberté Cronin)</li> </ul> </li> </ul> <p>The panel will be followed by questions and discussion by participants.</p>
3:30 – 3:45	Break
3:45	<p>Bearing Witness – Important steps towards Reconciliation for the BC Justice System</p> <ul style="list-style-type: none"> <li>• Discussion will occur first at small tables with participants sharing their stories and ideas on meaningful reconciliation between BC and Indigenous peoples concerning the justice system.</li> <li>• One participant at each table will be asked to share the table’s discussion with the room as a whole. Participants will then be invited to share their reflections and comments.</li> </ul>
4:30	<p>Reflections on the Day – Important steps towards Reconciliation for the BC Justice System</p> <ul style="list-style-type: none"> <li>• Doug White (BC Aboriginal Justice Council) - summary of the major themes and ideas people have brought forward and linkages to the work of the Indigenous Justice Strategy</li> <li>• Harold Tarbell – reflections on where the discussions will open up in the morning.</li> </ul>
5:00	Close of day

# TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

Time	Session
Day 3 (June 2)	
8:00 – 9:00	Breakfast
9:00	<p>Opening of Day</p> <ul style="list-style-type: none"> <li>• Opening welcome (Elder Larry Grant)</li> <li>• Reflections on Day Two, outline objectives for last morning (Harold Tarbell)</li> </ul>
	<p>The Way Forward</p> <ul style="list-style-type: none"> <li>• Panel discussion on the priority pathways for the justice system and Indigenous peoples in BC. Discussion follows. <ul style="list-style-type: none"> <li>○ Doug White (Co-Chair BC Aboriginal Justice Council) <ul style="list-style-type: none"> <li>▪ Next steps in developing an Indigenous Justice Strategy</li> </ul> </li> <li>○ Richard Fyfe (Deputy Attorney General) and Kurt Sandstrom (Assistant Deputy Minister, Justice Services) <ul style="list-style-type: none"> <li>▪ Government’s commitment</li> </ul> </li> <li>○ Val Napoleon (University of Victoria) <ul style="list-style-type: none"> <li>▪ How do we leave space for Indigenous legal traditions?</li> </ul> </li> </ul> </li> </ul>
	Break
	<p>Bearing Witness: What Form Should a Better Relationship Take?</p> <ul style="list-style-type: none"> <li>• Discussion will occur first at small tables with participants sharing their thoughts on priority pathways concerning the justice system and Indigenous peoples. What are the most important steps to take now, and how should we strengthen our relationship going forward?</li> <li>• Witnesses identified on May 31 and June 1 will be invited to share comments. After the Witnesses have spoken participants will then be invited to make additional comments.</li> </ul>
	Summary

## TENTH JUSTICE SUMMIT REPORT OF PROCEEDINGS

Time	Session
	<ul style="list-style-type: none"> <li>• Harold Tarbell: Summary of the key points from the two days and the next steps.</li> <li>• For information of participants, review of the steps to come:               <ul style="list-style-type: none"> <li>○ Preparation of a report for review by participants</li> <li>○ Gathering at Indigenous Justice Forum in September</li> <li>○ Eleventh Summit with development of recommendations, and form of ongoing engagement</li> </ul> </li> </ul>
11:45	Closing <ul style="list-style-type: none"> <li>• Hon. Christopher Hinkson (Chief Justice, Supreme Court of British Columbia) – closing remarks</li> <li>• Hon. Steven Point – closing remarks on behalf of Steering Committee</li> <li>• Doug White – closing remarks on behalf of BC Aboriginal Justice Council</li> <li>• Hon. Mike Farnworth (Minister of Public Safety and Solicitor General) – appreciation and remarks</li> </ul>
12:30	Summit adjourns

## Appendix II: Summit Participants

**Alphonse**, Joe (Chief, Tl'etinqox First Nation)

**Angel**, Lenora (Executive Director, Ministry of Children and Family Development)

**Attfield**, Dave (Assistant Commissioner, Deputy Criminal Operations Officer, Core Policing, Royal Canadian Mounted Police)

**Bailey**, Ian (Assistant Deputy Minister & Chief Information Officer, Ministry of Attorney General)

**Bailey**, Rhaea (Manager, Indigenous Services, Legal Services Society)

**Bauman**, Hon. Robert (Chief Justice of British Columbia)

**Bayes**, Shawn (Executive Director, The Elizabeth Fry Society of Greater Vancouver)

**Belak**, Brenda (Legal Counsel, Supreme Court of British Columbia)

**Bell**, Kristy (Board Member, Native Courtworker & Counselling Association of BC)

**Bent**, Ramona (Elder, Osoyoos Indian Band)

**Bentley**, Shannon (Lawyer, Native Courtworker & Counselling Association of BC)

**Benton**, Mark, QC (Chief Executive Officer, Legal Services Society)

**Bond**, Allison (Deputy Minister, Ministry of Children and Family Development)

**Braker**, Hugh, QC (Councillor, Tseshaht First Nations)

**Brown**, Mary (Coordinator, Heiltsuk Gvi'ilas Community Justice Program)

**Buchan**, Maureen (Senior Policy Adviser, BC Assembly of First Nations)

**Buckshot**, Caroline (Aboriginal Elder/Spiritual Advisor, Correctional Service of Canada)

**Butterworth-Carr**, Brenda (Deputy Commissioner, Commanding Officer, 'E' Division, Royal Canadian Mounted Police)

**Callicum**, Andy (Vice President, Nuu-chah-nulth Tribal Council)

**Campbell**, Rosalind (Councillor, Musqueam Indian Band)

**Cardinal**, Ben (Regional Board Member, Native Courtworker & Counselling Association of BC)

**Casimer**, Cheryl (Political Executive Member, First Nations Summit)

**Cavanaugh**, Lynda (Assistant Deputy Minister, Court Services Branch)

**Child**, Coreen (Member, Minister's Advisory Council on Indigenous Women)

**Cox-Bishop**, Marlene (Senate Clerk, Métis Nation BC)

**Dobmeier**, Teresa (Assistant Deputy Minister, Ministry of Children & Family Development)

**Downey**, Tracy (Executive Director, Prince Rupert Aboriginal Community Services Society)

**Eby**, Hon. David, QC (Attorney General of British Columbia)

**Edkins**, Alan (Senate Chair, Métis Nation BC)

**Farnworth**, Hon. Mike (Minister of Public Safety and Solicitor General of British Columbia)

**Flamand**, Marcie (Superintendent, Operations North, Vancouver Police Department)

**Fontaine**, Leah (Prosecutor, BC Prosecution Service)

**Fyfe**, Richard, QC (Deputy Attorney General, Ministry of Attorney General)

**George**, Gloria (Board Member, Native Courtworker & Counselling Association of BC)

**George-Wilson**, Leah (Lawyer, Miller Titerle Law Corporation)

**Gerhart**, Todd (Chief Federal Prosecutor, Public Prosecution Service of Canada)

**Gervais**, Robyn (Lawyer, Gervais Law)

**Gillespie**, Hon. Melissa (Acting Chief Judge, Provincial Court of British Columbia)

**Gladue**, Phil (Elder, Métis Nation)

**Gladue**, Betty (Elder, Métis Nation)

**Grant**, Larry (Elder, Musqueam Indian Band)

**Haldane**, Celeste (Board Chair, Legal Services Society)

**Hall**, Roger (Aboriginal Liaison, Okanagan Correctional Centre)

**Hinkson**, Hon. Christopher (Chief Justice, Supreme Court of British Columbia)

**Hungerford**, George (Board Member, CBA Aboriginal Lawyers Forum)

**Hunt**, Genesis (Indigenous Justice Program Manager, Alert Bay Community Justice)

**Jefferson**, Joanne (Qwiiqwelstom Manager, Sto:lō Nation)

**Juk**, Peter (Assistant Deputy Attorney General, BC Prosecution Service)

**Kelly**, Doug, Grand Chief (Chair, First Nations Health Council)

**La Liberté**, Terry (Lawyer, La Liberté Cronin & Company)

**Lawton**, Dean, QC (Bencher, Law Society of BC)

**Lazanik**, Ray (Strategic Advisor, Native Courtworker & Counselling Association of BC)

**Lee**, Michael, MLA (Opposition Critic for Attorney General, Legislative Assembly)

**Leung**, Karen (Legal Officer, Office of the Chief Judge, Provincial Court of British Columbia)

**Lindley**, Shelby (Lawyer, Springfords)

**Lord**, Lindsay (Chief Executive Officer, John Howard Society Thompson Region)

**Louie**, Melissa (Legal Counsel, First Nations Summit)

**Manak**, Del (Chief Constable, Victoria Police Department)

**Manuel**, Bruce (Corrections Liaison Worker, South Okanagan Restorative Justice Program)

**McBride**, Heidi (Executive Director & Senior Counsel, Superior Courts Judiciary)

**Mccallum**, Tom (Elder, Métis Nation)

**McLean**, Kimberley (Provincial Director, Strategic Operations Division, BC Corrections)

**Mezzarobba**, Marcie (Executive Director, Community Safety & Crime Prevention)

**Miller**, Mark (Chief Executive Officer, The John Howard Society)

**Morley**, Jane (Coordinator, Access to Justice BC)

**Morris**, Mike, MLA (Opposition Critic for Public Safety & Solicitor General, Legislative Assembly)

**Napoleon**, Val (Associate Professor, Aboriginal Justice and Governance, University of Victoria)

**Nash**, Laurel (Assistant Deputy Minister, Strategic Partnerships and Initiatives Division)

**Nevin**, Caroline (Executive Director, Canadian Bar Association BC Branch)

**Nickel**, Carol-Ann (Executive Assistant, Native Courtworker & Counselling Association of BC)

**Noftle**, Lynn (Inspector, Youth Services Section, Vancouver Police Department)

**Paul**, Darcy (Wellness Worker, Sto:lo Nation)

**Pecknold**, Clayton (Assistant Deputy Minister & Director of Police Services, Police Services Division)

**Peters**, Alicia (Qwiiqwelstom Wellness Court, Sto:lo Service Agency)

**Peters**, Boyd (Director, Rights and Title, Sts'ailes Band)

**Phillips**, Robert (Political Executive Member, First Nations Summit)

**Point**, Hon. Steven (Judge, Provincial Court of British Columbia)

**Poulin**, Sonia (Executive Director, Justice Education Society)

**Pruce**, Lori (Director, Aboriginal Programs, BC Corrections)

**Pruden**, Ken (Elder, Métis Nation of BC)

**Ramsdale**, Vanessa (Restorative Justice Coordinator, South Island Wellness Society)

**Rankin**, Taya (Manager, St'at'imc Restorative Justice)

**Robertson**, Wayne, QC, (Executive Director, Law Foundation of BC)

**Robins**, Natalie (BC Regional Coordinator, DOJ Indigenous Justice Program)

**Rudolf**, Sally (Legal Counsel, BC Court of Appeal)

**Rutquist**, Larissa (Manager, National Policy, Indigenous Justice Program, Justice Canada)

**Salman**, Azam (Assistant Deputy Minister, Corporate Management Services Branch)

**Sam**, Michele A. (Board Member, Native Courtworker & Counselling Association of BC)

**Sanchez**, Jaime (Special Advisor to Regional Chief, BC Assembly of First Nations)

**Sandstrom**, Kurt, QC, (Assistant Deputy Minister, Justice Services Branch, Ministry of Attorney General)

**Sandy**, Nancy (Co-Chair, Child Welfare, BC Aboriginal Justice Council)

**Schmidt**, Lee (Associate Director, Indigenous Legal Studies, Allard School of Law)

**Shackelly**, Darlene (Executive Director, Native Courtworker & Counselling Association of BC)

**Shackelly**, Darryl (Program Director, Native Courtworker & Counselling Association of BC)

**Sieben**, Mark (Deputy Solicitor General, Ministry of Public Safety and Solicitor General)

**Simmonds**, Jason (Director of Children & Families, Métis Nation BC)

**Smith**, Lissa (Vice President & Minister of Justice, Métis Nation BC)

**Sparrow**, Leona (Director, Treaty, Lands and Resources, Musqueam Indian Band)

**Spicer**, Valerie (Sergeant, Diversity & Indigenous Relations Unit, Vancouver Police Department)

**Spier**, Colleen (Lawyer, Spier and Co., and member, BC Aboriginal Justice Council)

**Spotted Eagle**, Jon (Director, Native Courtworker & Counselling Association of BC)

**Stevens**, Lori (Regional Crown Counsel, BC Prosecution Service)

**Stewart**, Dee (Sergeant, Royal Canadian Mounted Police)

**Sumexheltza**, Aaron (Chief, Lower Nicola Indian Band)

**Tait**, Faith (Justice Department Manager, Nisga'a Lisims Government)

**Teegee**, Terry (Regional Chief, BC Assembly of First Nations)

**Tennant**, Donna (Director of Sustainable Development, Native Courtworkers & Counselling Association of BC)

**Trehearne**, Rosemary (Elder, Sto:lo Nation)

**Turi**, Cari (Assistant Deputy Minister, Correctional Service Canada)

**Tyler**, Christopher (Community Justice Coordinator, Kwadacha Nation)

**Veenstra**, Bill (President, Canadian Bar Association BC Branch)

**Walker**, Mitch (Vice Chair, Gladue Writers Society of BC)

**Walsh**, Taryn (Assistant Deputy Minister, Ministry of Mental Health & Addictions)

**Walters**, Peter (Consultant, Ministry of Attorney General)

**Wells**, Terri (Indigenous Justice Program Working Group, North Island Community Justice)

**Weselowski**, Allan (Director, Ministry of Indigenous Relations and Reconciliation)

**Whitcombe**, Adam (Deputy Executive Director, Law Society of BC)

**White**, Douglas (Co-Chair, Criminal Justice, BC Aboriginal Justice Council & President, Native Courtworker & Counselling Association of BC)

**Wilson**, Judy (Chief, Secretary Treasurer, Union of BC Indian Chiefs)

**Wilson**, Kory (Executive Director Indigenous Initiatives & Partnership, British Columbia Institute of Technology)

**Wilson-Yazzie**, Rosalie (Founder, Nesika Law Corporation)

**Wishart**, Hon. Susan (Associate Chief Judge, Provincial Court of British Columbia)

**Yee**, Colleen (Inspector, Centralized Ops Support Section, Vancouver Police Department)

## Appendix III: Summit Organizing Team

### Steering Committee (and \*Observers)

**Regional Chief Terry Teegee**, BC Assembly of First Nations

**Douglas White III**, Co-Chair Criminal Justice, BC Aboriginal Justice Council, and President, Native Courtworker and Counselling Association of British Columbia

**The Honourable Judge Steven Point**, Provincial Court of British Columbia

**Richard Fyfe, QC**, Deputy Attorney General, Ministry of Attorney General

**Kurt Sandstrom, QC**, Assistant Deputy Minister, Justice Services, Ministry of Attorney General

**Darlene Shackelly**, Executive Director, Native Courtworker and Counselling Association of British Columbia

**Mark Sieben**, Deputy Solicitor General, Ministry of Public Safety and Solicitor General

**Lissa Smith**, Minister of Justice, Métis Nation BC

**Colleen Spier**, Spier and Company Law, and member, BC Aboriginal Justice Council

**Heidi McBride\***, Executive Director & Senior Counsel, Superior Courts Judiciary

**Sally Rudolf\***, Legal Counsel, Court of Appeal for British Columbia

**Brenda Belak\***, Legal Counsel, Supreme Court of British Columbia

**Karen Leung\***, Legal Officer, Office of the Chief Judge, Provincial Court of British Columbia

### Ex officio

**Allan Castle**, Coordinator, BC Justice Summits/BC Justice and Public Safety Council

**Tami Currie**, Executive Director Strategic Planning and Performance, Justice Services Branch, Ministry of Attorney General

**Alyssa Melnyk**, Vice President, Castlemain Group

## Working Circle

**Tami Currie**, Executive Director, Justice Services Branch

**Alyssa Melnyk**, Vice President, Castlemain Group

**Allan Castle**, Coordinator, BC Justice Summits/BC Justice and Public Safety Council

**Colin Braker**, Communications Director, First Nations Summit

**Richard de Boer, QC**, Director, Policy and Justice Issues, British Columbia Prosecution Service

**Courtney Daws**, Senior Analyst, Castlemain Group

**Jacqueline Davies**, Senior Program Manager, Policing and Security Branch

**James Knighton**, Aboriginal Program and Relationship Analyst, BC Corrections

**Lori Pruce**, Director, Aboriginal Programs and Relationships, BC Corrections

**Darryl Shackelly**, Native Courtworker and Counselling Association of BC

**Melanie Neil**, Executive Director, Court Services Branch

**Karyn Scott**, Executive Director, Justice Services Branch

**Beverley Salkus**, Executive Coordinator, Justice Services Branch

**Rob Parenteau**, Director, Community and Social Innovation, Ministry of Indigenous Relations and Reconciliation

**Maureen Buchan**, Senior Policy Advisor, BC Assembly of First Nations

**Andrea Glickman**, Policy Director, Union of BC Indian Chiefs