



Indigenous Justice Strategy

What We Learned
Wave 1 Justice Canada-Led
Engagement

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Background

The Government of Canada is committed to fundamentally transforming the relationship with Indigenous people towards one that is based on the recognition of rights, respect, cooperation and partnership.

In January 2021, the Minister of Justice and Attorney General of Canada was mandated with developing, in consultation and cooperation with Indigenous partners, provinces, and territories, an Indigenous Justice Strategy (IJS) to address systemic discrimination and the overrepresentation of Indigenous people in the justice system. Addressing these issues is consistent with the principles regarding the Government of Canada's relationship with Indigenous people, the United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration), the Truth and Reconciliation Commission of Canada's Calls to Action (TRC-CTAs), and the National Inquiry into Missing and Murdered Indigenous Women and Girls' Final Report (MMIWG) and Calls for Justice. The Ministers of Crown-Indigenous Relations and Northern Affairs Canada, Indigenous Services Canada and Public Safety Canada have also been mandated to support this work.

In the spirit of reconciliation, and out of respect for Indigenous rights to self-determination, Justice Canada recognizes that the development of an IJS must be informed by First Nations, Inuit and Métis. Development of the Indigenous Justice Strategy is being informed by two streams of engagement: 1) Indigenous-led engagement being undertaken by communities and organizations with grant support from Justice Canada; 2) Justice Canada-led engagement.

This Report only includes information collected through Justice Canada-led engagements between November 2022 and March 2023.



Engagement Methodology

Justice Canada's engagement process included the development and implementation of regional and distinctions-based (First Nation, Inuit, Métis) dialogue sessions with Indigenous partners, stakeholders, justice practitioners, provincial and territorial representatives, and other federal government departments, as well as online engagement activities to inform the development of the IJS.

The objective of both Indigenous-led and Justice Canada-led engagement is to develop a culturally appropriate strategy, informed by Indigenous ways of knowing and healing, that includes concrete actions to address systemic discrimination and the overrepresentation of Indigenous people in the Canadian justice system.

While there are several different streams of engagement taking place to help inform the development of the IJS, this report only includes information on the engagement led by Justice Canada to consult with Indigenous communities, governments and organizations across the country.

To learn more about Justice Canada's engagement approach, please consult the [IJS Engagement Plan](#).

Preliminary Discussions

Informal preliminary discussions were held across Indigenous distinctions, regions and socio-demographic communities. The purpose of these discussions was to share, learn, validate and adjust the engagement methodology for developing the IJS. This included informing aspects of the Wave 1 methodology such as format, audience and topics. It also included validating the approach to engagement with Wave 1 representing an open, collaborative dialogue that encouraged sharing across aspects of justice related to the overall objective.

The preliminary discussions helped develop and finalize the two overarching themes that made up the first wave of formal engagement dialogues:

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1. Revitalizing Indigenous legal systems
 2. Making substantive changes to the existing Canadian justice system

Virtual engagement sessions

A total of 26 roundtable discussions that crossed all Indigenous distinctions and regions took place from November 2022 to March 2023. Virtual discussions occurred with Elders, women, youth, Two Spirit, lesbian, gay, bisexual, transgender, queer, intersex, plus (2SLGBTQI+) people, as well as Indigenous justice practitioners. Sessions were also attended by Justice Canada, other federal government departments, provincial and territorial government representatives.

First Nations, Inuit, and Métis partners (further divided regionally), as well as the other communities mentioned in the previous paragraph, were invited to participate in a virtual dialogue on each theme. A series of prompting questions, developed for each theme and validated during the pre-briefings (updated throughout Wave 1 based on participant feedback), guided the facilitation. Other techniques, such as breakout rooms and polling, were undertaken to further enhance dialogue and feedback.

An online engagement platform also hosted ideation activities on both themes, open to any person who registered on the site, for the duration of the Wave 1 dialogue sessions.

Upcoming engagement

Wave 2 dialogues are planned for the summer and fall of 2023. They are informed by the themes and issues we heard during the Wave 1 discussions, and will focus more on specific, actionable changes that can be included in the IJS. A virtual Knowledge Sharing Gathering on promising practices and programs was hosted on June 1, 2023. The Gathering had the dual aim of helping to shape possible programs supported by the IJS, while also offering a platform for Indigenous justice workers from across the country to share their practices, and to learn from each other.

In the fall of 2023, Justice Canada will host smaller discussions with focus groups in each province and territory to discuss regional needs and hear about current



opportunities and gaps. In addition to these conversations, Justice Canada will be working closely with provincial and territorial governments.

Planned for early 2024, Wave 3 will be the first opportunity for Justice Canada to share the draft IJS with Indigenous partners, provinces, and territories, in order to collect feedback.

Reporting

As noted, there are several avenues of engagement occurring simultaneously and further engagement activities are planned for 2023-2024. As such, it is important to contextualize the information found in this report.

This report only includes the feedback and insights collected through the 26 Justice Canada-led virtual engagement sessions hosted from November 2022 to March 2023 and the related activities hosted on the online engagement platform.

In order to capture the information that was shared during the engagement dialogues accurately, each meeting was recorded and transcribed. Additionally, detailed and summary were also prepared on each session. These transcripts and notes are available upon request. For anonymity and confidentiality reasons, the comments are not attributed to individuals in any of our materials.

A team of data analysts read the notes and transcripts from all meetings and developed a list of more than 50 commonly heard themes. Each transcript was then coded using these themes, highlighting comments and insights that spoke to these themes. In this way, we were able to determine which themes were most commonly discussed within individual meetings, in multiple meetings with the same demographic and distinctions, and across all dialogue sessions. Throughout this document, we have done our best to contextualize our thematic findings using participants' voices.

Upon reviewing the coded data, we determined that six main themes were discussed many times in each meeting across every region and distinctions-based group. These





six themes are expanded upon in the *What We Heard Across All Meetings* section below. There were many other common themes that were explored during meetings—but in many cases, certain demographics or distinctions-based groups were more vocal regarding particular themes than others. In these cases, we have expanded on those themes in the sections pertaining to each demographic. The complete code list can be found in Appendix A.

This report also summarizes the feedback gathered through the online engagement platform’s ideation activities.

Participants

In total, Wave 1 of the Justice Canada-led engagement included 26 virtual meetings with participants from every province and territory across the country. More than 700 people attended the dialogues, representing a variety of Indigenous communities, organizations, nations, governments and interest groups. Attendees included Indigenous legal experts and scholars, court workers, as well as individuals with lived experience. In addition to these voices, representatives from provincial and territorial governments and federal departments including Indigenous Services Canada, Public Safety and Crown-Indigenous Relations and Northern Affairs Canada also observed many of the conversations to gain deeper insights into the needs and barriers facing Indigenous people.

Participation was solicited through email invitations sent to organizations and individuals that had a stakeholder relationship with Justice Canada, with invitees encouraged to forward the email to those they felt should be in attendance. Two dialogue sessions were originally planned for each distinctions-based group and region—one session on Theme 1 and another session on Theme 2. However, the schedule and structure of the sessions continued to evolve to meet the needs of participants.



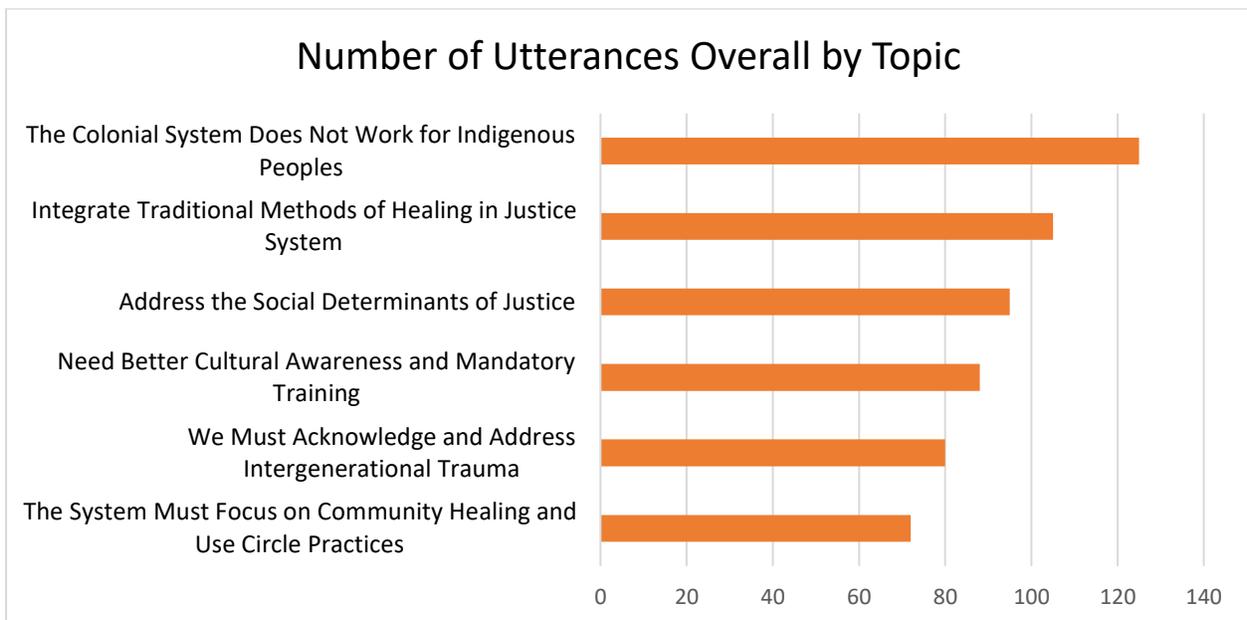


What We Heard Across All Meetings

Understanding that the ideas and insights shared throughout the dialogue sessions were deeply interconnected is important. As such, separating out themes and topics is difficult, because the interconnectedness of the systems at work is a major motif that we heard consistently during our conversations. What follows is an attempt to draw out common topics from the meetings, and to present them in a way that allows the reader to understand the iterative nature of what was learned.

There were many themes and topics that were addressed by meeting participants regardless of distinction and demographic. Across all meetings with the many regions, distinctions, and diversity groups that attended dialogue sessions, the following themes were heard the most often – both across meetings and within each meeting:

The graphic below illustrates the number of times the six main themes were raised by a participant throughout all 26 dialogue sessions that took place between November 2022 and March 2023:





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

Participants urged Justice Canada to think about justice holistically. Specifically, it was stressed that the journey of the accused, the victim(s), and the community must be taken into account, starting from point of contact with the justice system all the way through to release and reintegration. Additionally, all those systems and needs must work together to maximize healing and restore balance.

“There are strong benefits of the native court workers that are on the ground and in the court rooms, access to meaningful lawyers and meaningful consultation about your charges. But the system, as it's laid out in Canada, if you commit a crime, it's no longer about the victim. It's about the crime against the Queen. So that's why we work with the Crown and that's why it's taken out of the victim's hands and put it as a crime against the Queen. So, it energetically does not align with any of our protocols being Indigenous. When crime happens, the first crime is the crime against themselves. The second is the crime from the person most harmed. And then it goes to community. And it's also the responsibility of community to say what happened, that this failure happened...”

Many voices made it clear that the current operation of the colonial justice system does not consider the underlying social factors that led to involvement in the criminal justice system, nor the intergenerational trauma and systemic racism that Indigenous populations face across the country. In particular, we heard that child welfare and family services, police services and interactions with police, addictions, housing, and employment and education opportunities are all interconnected with justice and need to be addressed holistically. While interventions such as Gladue Reports and diversion programs try to consider these aspects, we heard from participants that they are offered



and utilized inconsistently across the country and only provide a temporary and narrow solution to a broader issue.

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

Community circles were among the most commonly cited forms of traditional healing and culturally appropriate justice models. Overall, there were calls for justice matters to remain within the purview and control of the community, rather than being passed to a colonial justice system that removes offenders from their communities and brings them into confrontation with non-Indigenous worldviews. Many participants suggested that when transgressions occur, communities are best positioned to hear from offenders, victims, witnesses, and legal experts without re-traumatizing the people involved in the incident. Moreover, it is through the communal process of hearing and understanding the circumstances that the community can collectively help decide on a best course of action.

We heard many stories of great success with sentencing circles and healing circles when transgressions occur in communities. In some cases, court judges have sat in circles and participated in the process, and feedback from those experiences has indicated that Indigenous court workers do see the benefits of incorporating Indigenous restorative processes into a colonial criminal justice process.

“Sometimes it takes a lot of effort to get out of that colonial view and to go back to an Indigenous view on how we work within the Indigenous





communities for the benefit and the well-being of our community members. And it is very different from mainstream justice. When we sit in a circle, and so please pardon my colonial words, but if somebody had committed a crime and we're sitting in a circle and there's a judge and there's police officers and people making statements and we have also the victim and the offender sitting in the circle and each have their own support person, because it's important to recognize that everybody has a right to be supported no matter who they are. Sitting in a circle ensures (sic) nobody has more say or is more important than the other, including the victim and the offender."

There was also a call for more funding and space to be made for Indigenous court workers. This recommendation came with a caveat that these workers ought not to replace the need for training and education for non-Indigenous members of the court system. Many participants voiced frustration that lawyers are not exposed to Indigenous law during law school, and that the requirement to focus solely on colonial law perpetuates the supremacy of the colonial legal system.

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

There needs to be **more integration of traditional ceremonies and medicines** in every aspect of the criminal justice system.

Participants spoke about the need to develop an IJS that centres around Indigenous ways of understanding and supporting community healing. In many cases, these recommendations included calls for a restorative justice model that focuses on connection to culture, spending time on traditional lands, and helping both offenders and victims return to a state of balance within themselves and within community.



“I do know that the Aboriginal offenders currently within the system don't get the same or don't have the same opportunities and have to fight twice as hard in order to be able to access the ceremonies that they so desperately need, because a lot of them don't have that. A lot of them, because of the intergenerational trauma, they don't have that same opportunity to be connected with their culture and therefore their ceremonies and their traditions.”

Participants felt that a greater emphasis on holistic care and healing would prevent recidivism and help offenders reintegrate into their communities after an incident has occurred. Justice Canada was also reminded that traditions and cultures differ between nations, regions and distinctions, and that it is critical that solutions be flexible enough to adapt to the needs of each community and nation. For example, First Nations frequently cited that having an eagle feather in courtrooms, and opening up spaces for both victims and accused to smudge during hearings would make the colonial justice system feel more inclusive. It is important to note that efforts to include ceremony would need to respect a regional and distinctions-based approach.

“We also incorporate the seven teachings into that. And when we work with the healing wheel plan, we look at the mental health, the spiritual, the physical and the emotional. So, when we work with each quadrant with our clients, it shows where they're lacking or where they're not, where they haven't learned or they haven't experienced. And we work right, we start from their grassroots level. And then we kind of work our way because we need to find out that root, that's what brought them in today or why are they repeat offenders?”

“It's more than just a program. It's going back to the land, practicing or sharing ceremonies and reconnecting with your spirits so that you gain that identity as an Indigenous person and to be proud. Because with pride comes that understanding and that knowledge of these are my ancestors. The ground that I walk on has been walked on by my ancestors.”



There must be **an acknowledgement of intergenerational trauma** as a major contributing factor to the overrepresentation of Indigenous people in the justice system and addressing this must ensure that the justice system does not re-traumatize people who interact with it.

The social determinants of interactions with the criminal justice system were top of mind for almost all participants across all regions, distinctions, and demographics. Those we spoke with were vocal about the impacts of intergenerational trauma on Indigenous communities and individuals from coast to coast to coast, and adamant that the IJS should both address the existing trauma, and ensure that future interactions with the justice system do not re-traumatize people—whether they be accused, victims, witnesses, family members or support workers. It was asserted that ongoing disconnection from cultural practices, loss of language, separation from traditional lands and territories, disruption of family and community values, and lingering effects of Residential Schools, Day Schools, and the Sixties Scoop all play a fundamental role in the overrepresentation of Indigenous people in the Canadian justice system.

“I know I see a lot of underlying issues of addictions, poverty, lack of support, generational impact from (sic) residential school because I’m still impacted. We’re all impacted one way or another. Trauma, mental health, there’s so many things that the youth are facing, and it’s kind of hard to work with them and to work with the families. Something that I think we all face.”

The potential of the criminal justice system to re-traumatize all those associated with it was a recurring theme. While many participants discussed the trauma associated with being charged with a crime or being a victim of a crime (and subsequently needing police support to give statements and to attend court), other attendees stressed that court workers and Elders that support Indigenous people in the criminal justice system are also at risk of being re-traumatized.

A greater emphasis on educating the Canadian public regarding Indigenous laws and Indigenous world views was seen as one way to alleviate some of the strain on Indigenous court workers. Hiring more court workers, Gladue writers, and other





supports for individuals that have to interact with the justice system, was also recommended as a short-term solution. Ideally, most participants believed that keeping justice matters within community and finding ways to divert people away from corrections facilities would be the most beneficial ways of reducing re-traumatization.

“The prison system is a system that is colonial, that was brought over by the colonists. And so how do you have an Indigenous justice system that doesn't continue to perpetuate the trauma of the colonial prison? And having gone into the prisons, it's not a pretty and fun place for people. Security trumps everything. And there are good people who are doing good things in there, and I'm not trying to take away from that, but the people who go in there come out more traumatized than they were before. And staff themselves feel traumatized by the roles that they have to play within the prison system.”

Cultural Safety and Awareness Training must be implemented across all aspects of the justice system, and the training must be both regionally appropriate and distinctions-based.

While there was an acknowledgement by participants that cultural sensitivity and awareness training is provided to some people working within the justice system, it was widely agreed that the training is insufficient, that not enough people are exposed to the training, and that the training is too general. In particular, participants spoke to the need for much more widespread education and exposure of Indigenous history, worldviews, cultures, and issues across all sectors of the criminal justice system —and throughout Canada more generally.

“The Indigenous justice strategy should begin in school, regardless of your career. It should be a common component of all training in all universities. Everyone should have to know and be aware about it. Also, police force recruitment should be heavily saturated with Indigenous representation and training, along with lawyers and courthouse staff, so from the very beginning with police to corrections officers, parole officers, etc., they need to have trauma-informed



training and they need to have an education on Canada's colonial history as part of this trauma-informed training.”

There was general agreement that while everyone should have some cultural awareness education, those working in the justice system need much more training and require region-specific training. Inuit and Métis participants noted that often cultural awareness training focuses on First Nations experiences and information and overlooks the unique history and culture of other distinctions. These groups urged that cultural awareness training should include specific information regarding all three distinctions to ensure equitable treatment in the system.

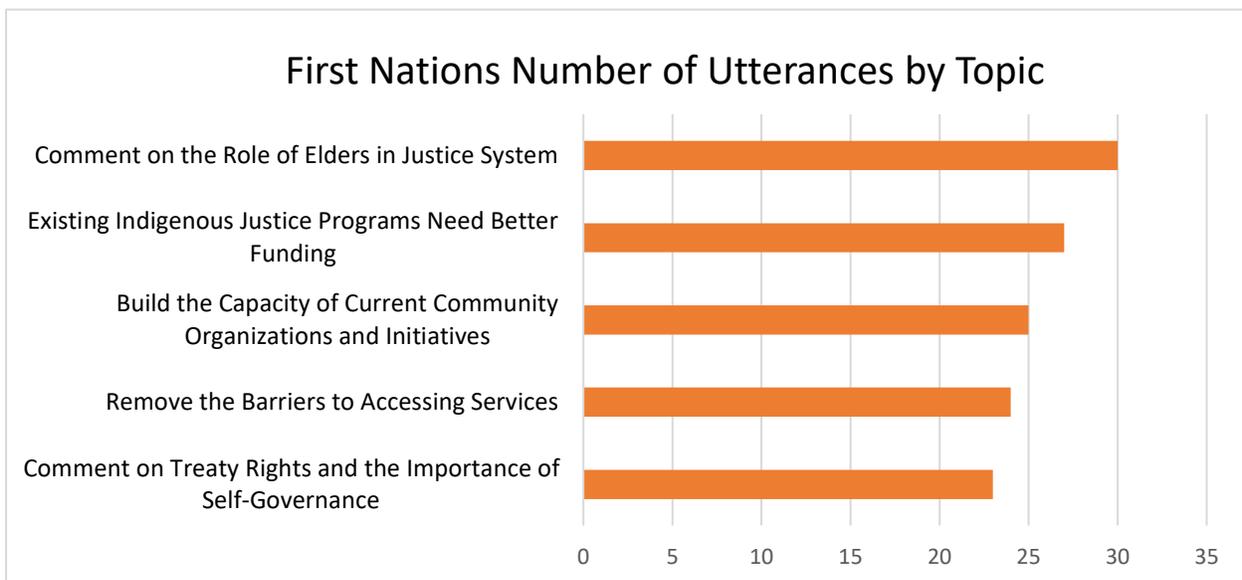
An emphasis on training police services on regional differences was also heard throughout the meetings. As police are often the first point of contact between an individual and the criminal justice system, it is imperative that they understand the territories they are policing and the socio-cultural and historical implications of the people living on that land. Many attendees called for a return to community-based policing, with a focus on police integrating into the communities that they are in, and attending feasts, ceremonies, and community events.

What We Heard from First Nations

While we hosted separate engagement sessions for First Nations from each region across the country—British Columbia, Prairies, Ontario, Québec, Atlantic, and North—, the themes that we heard in each of these targeted dialogue sessions were recurring.



The chart below shows the most commonly coded themes across all First Nations dialogues.



Participants were consistent in acknowledging that the **IJS cannot be pan-Indigenous, nor can it be implemented province by province, or region by region.** The language, traditions, cultures, and needs of individual communities and nations must be taken into account by the IJS, and the IJS must be adaptable to the conditions of each individual nation. These calls went hand-in-hand with conversations regarding **self-governance and treaty rights**, as attendees agreed that nations need to have sovereignty over their own security and justice needs.

Participants discussed the **legality of land claims and treaty rights and were vocal about their desire to see Indigenous rights upheld by the Canadian government as per the UN Declaration and the TRC-CTAs.** Many people talked about the role that Elders play in remembering the ways in which nations traditionally handle the justice needs of their communities. There was a call for there to be respect for the knowledge that has been kept and passed on by Elders; for recognition of this knowledge as legitimate; and for this knowledge to inform the development of Indigenous justice solutions and the merging of traditional and existing justice systems.

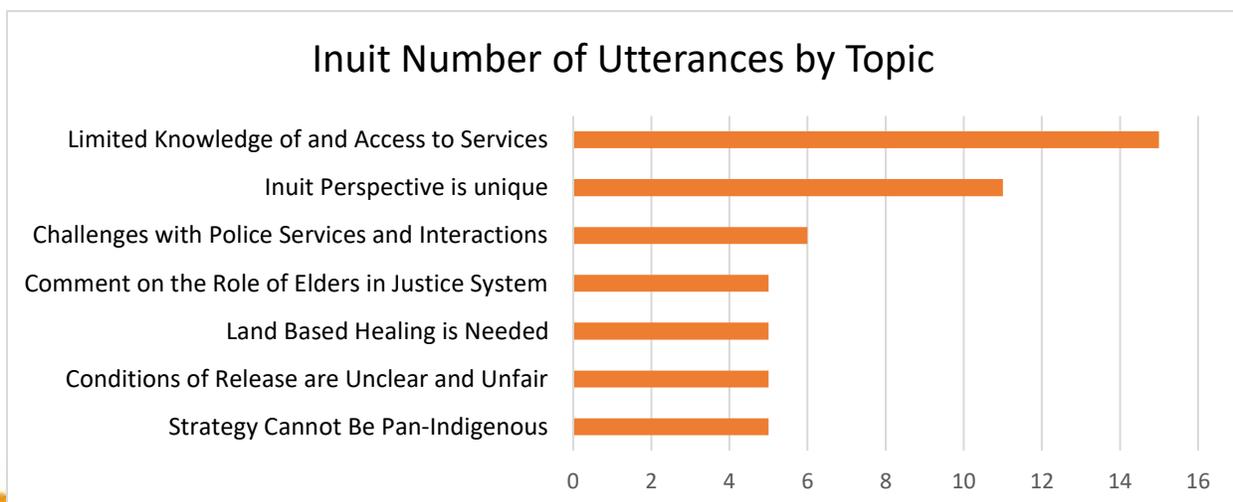


“For myself and I was always told this by my Elders, our treaty documentation are some of the most important, if not under the eye of justice, the most important document in which we assert our rights to governance sovereignty, justice, health, education, homes. Because we have to work from a legality standpoint. It is the scope of which I was always told to work through from first and from that, if we're to determine ourselves in this country as a First Nations body, we need to set up our own governance systems.”

The **need for more stable funding of Indigenous programs and partnerships** was also a central theme heard throughout the meetings hosted with First Nations. In particular, participants made note of the limitations of short-term funding and that inconsistent and unpredictable funding models make program development and sustainability a recurring issue. Over and over again, we heard calls for two things: 1) more stable and longer-term funding of programs and 2) funding structures that leave those same programs under the purview of Indigenous organizations and communities to provide the services that are needed, *in the way* that they are needed.

What We Heard from Inuit

The following chart shows the top eight themes coded from the three Inuit dialogue sessions, not including the key themes identified across all distinctions.





Participants were invited to attend three Inuit-specific discussions where participants highlighted that 25% of Inuit do not live in Inuit Nunangat (“the place where Inuit live”) and that 15% live in major urban centres. This contextualized the conversations, as participants discussed both the unique challenges and needs of Inuit living in the North but also stressed the importance of services and programs being available for Inuit living in the South—echoing the calls that the Strategy not be “pan-Indigenous”.

“We face the same challenge within federal corrections, where oftentimes Inuit are just assumed to be part of this umbrella term ‘Indigenous’. Same culture, same practices, same history, same ceremony. So oftentimes, Inuit, working with their case management, will be offered smudge or various other ceremonies that are typically performed by First Nations. And even correctional programming that is geared towards First Nations so for Inuit within the federal correction system, that’s also a challenge.”

Inuit participants were vocal about the lack of services available for Inuit who come into contact with the justice system. It was generally felt that services were far sparser in the North, and that often individuals have to travel thousands of kilometers to access services that help support personal development, addictions, healing, and reintegration. Justice Canada was urged to develop and support programs and services in many regions across the northern territories to ensure equitable justice outcomes.

“Correctional Services Canada has an obligation, a fiduciary obligation to meet the demands of the Inuit. We have to hold Canada accountable to providing the services that are (sic) offered in the rest of Canada. We need to have these housing services, transitional housing services in each of the Nunavut communities, so that anyone, who are released from their homes can go back into their communities and work and provide for their families and for themselves.”

Building on these insights, reintegration into the community post-incarceration was a key theme heard throughout our conversations with Inuit participants. There was general agreement that contact with the justice system often leads to being removed from one’s home community, both to attend court and serve sentences. It is felt that





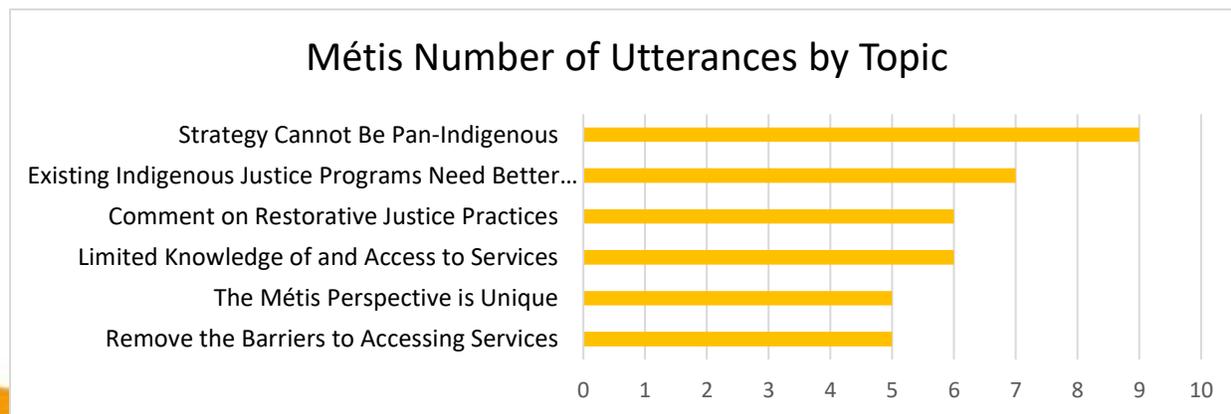
upon release, many Inuit are not given the support they need to return to, and thrive in, their home communities. In particular, participants stressed the need for addictions services, employment support, housing services, and reconnection to culture.

Police services and interactions with the police were also top of mind for participants throughout the Inuit dialogues. There was a general agreement that Inuit communities are over-policed and that the police are tasked with many roles that would be better served through mental health supports and social workers. The challenging historical interactions between Indigenous people and the Royal Canadian Mounted Police (RCMP) can make the available policing resources feel unsafe and adversarial rather than supportive. Participants stressed the need for policing to be more culturally aware and open to alternative justice models.

“It's sort of in line with the defund police movement, but taking a different approach and I want to say re-tasking. In the historical context of how RCMP operated historically, that when responding to emergency situations, whether it's a mental health crisis or anything like that, RCMP still respond first. That's not really the appropriate response to somebody who's having a mental health crisis.”

What We Heard from Métis

The following chart shows the most commonly coded themes across all Métis dialogues, not including those themes that were identified as being shared key themes across all meetings.





In particular, participants identified the need for Justice Canada to **improve access to services for Métis individuals living in urban centres, as well as helping to fund Métis-specific programs**, rather than creating services that try to be pan-Indigenous. Having culturally appropriate supports in place from the beginning of the interaction with the justice system is a key part of ensuring that Métis people are treated fairly and are aware of their rights when they come into contact with the justice system. Moreover, these supports must be specifically run by and staffed by Métis people. Participants felt that in particular, services such as Gladue Reports need to be tailored to Métis perspectives and needs.

“I'd really like to echo that sentiment of having an advocate there, especially from the beginning. A lot of these systems are not friendly. They're often hostile. They're often confusing and unfamiliar. [We]...advocated for something we refer to as system navigators. And that's not even just criminal justice specific. That can be child welfare, that can be health care, that can be education, but especially with criminal justice system helping to navigate through the courts, helping to navigate through arrest and policing and detention and bail and all of those things. Something that we heard, is that Métis especially aren't given opportunities to self-identify. If they're even able to get a Gladue report, if there's a Gladue writer available, it's often the judge that determines whether their Métis-specific, Gladue factors are mitigating enough.”

Those who participated in the Metis dialogues advocated passionately for **restorative justice models**. Participants noted two major hurdles with regards to restorative justice programs: inconsistent access to restorative justice, and a need for restorative justice models to provide **holistic, beginning-to-end wrap-around services**. Métis living in rural areas were vocal about the ways in which where a person is charged affects the options that person has when navigating through the justice system.





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

It was suggested that the wrap-around services needed to offer effective restorative justice programs are also deeply entwined in place and setting. In rural environments, gaining access to the appropriate programs and being able to serve individuals' needs within the community can be complicated. Conversely, making someone travel for services or having to remove them from their community so they can access the specialized help they may need, can also lead to negative impacts and outcomes. Participants spoke of the importance of developing and funding programs that could provide these types of services in each community, so that regardless of where a person is living, they can have access to the resources and supports they need when they interact with the justice system.

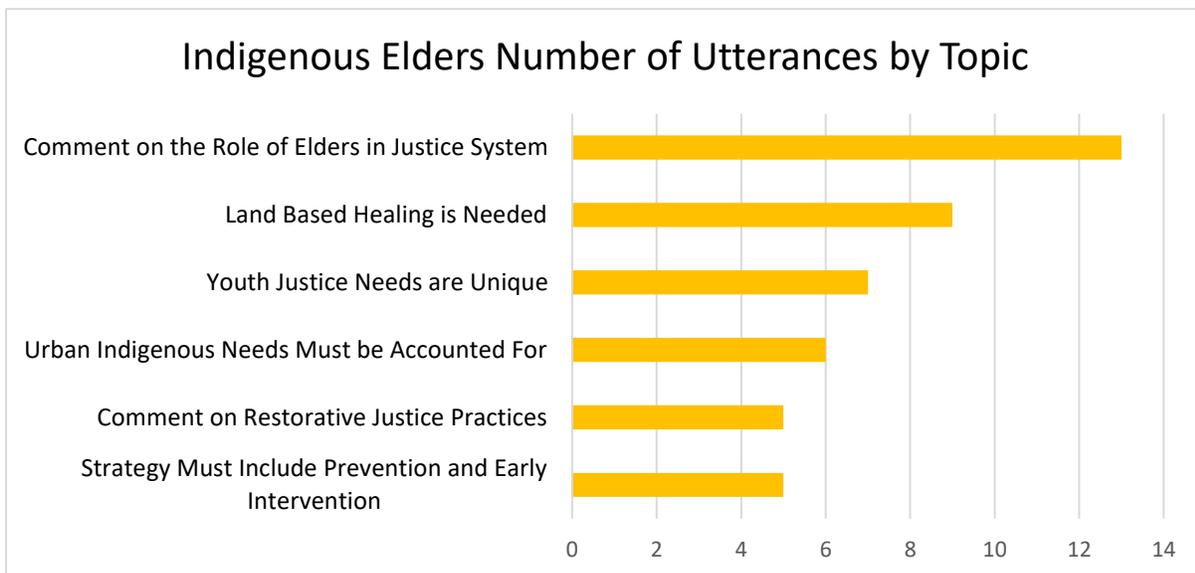
“I'll just add that when you're looking at a restorative justice program and I can only speak from a rural perspective like this, when you're implementing a restorative process, the end goal is usually to have some sort of agreement or plan that you can provide wraparound services to the individuals involved in the restorative process. I think better support in developing your restorative justice program in your own community and knowing how to reach out to mental health support, the addiction support, the health support housing, knowing where to reach out to the resources that you need to build into those plans is something that's really important.”



What We Heard from Elders

We invited Elders to attend the very first engagement dialogue regarding the Indigenous Justice Strategy and share their stories and insights regarding justice challenges and opportunities for Indigenous people from coast to coast to coast. We hosted two discussions specifically for Elders, one on each of the two key themes of Wave 1. These meetings were cross-Distinction and cross-regional meetings, bringing together Elders from all demographics to share their insights.

The following chart indicates the top themes discussed by Elders across both meetings, after removing the general themes already indicated in this report.



Attendees of the Elders sessions made particular mention of **youth and the unique justice challenges that youth face both in the home and in the colonial system**. Elders repeatedly noted that youth come into contact with the justice system because of issues related to intergenerational trauma and the legacy of residential schools.





“For me, it comes down to the root cause of our identity, meaning dealing with that intergenerational trauma, that trauma that still to this day affects our young people. And not just our young people, but all ages.”

The Elders also shared their concerns around the **long-term impacts of the loss of cultural connection** and how this leads youth down the wrong path. They identified the need for more spaces and programs that foster the reconnection of Indigenous youth to their heritage, language, lands, and customs. Elders stressed that without these connections, youth fall through the cracks. Instead, they should be referred to culturally appropriate supports or enter a system that recognizes their traumas and the social determinants of justice that brought them into contact with the system in the first place.

“Something that's (sic) really important is creating that connection for our young people in our communities. Because a lot of our people are coming into the institutions, and they have no cultural connections. They don't know about their culture, who they are, their communities. And I'm not saying that's everybody, some actually do, and they strayed away from their teachings. But it seems to me that there's a lot of importance that needs to be put on our... youth because a lot of our young people are falling between the cracks. And they're getting lost there. And eventually, unfortunately, a high majority of those ones that fall through the cracks are going to come into places like [corrections].”

Many Elders also took the time to emphasize the perspective of the urban Indigenous population, and to **stress the need for the IJS to meet the needs of Indigenous people living away from their communities and in urban centres**. Elders recognized that many urban Indigenous people are not connected to their home territories or nations, and do not have access to the programs and supports that are found in Indigenous communities. Furthermore, there were discussions around the need to connect urban Indigenous people to their culture and traditions before they come into contact with the criminal justice system. Supporting urban Indigenous programming serves to both prevent individuals from criminal activities and offers early intervention when an individual is in need of support or help.



“If you're off reserve, depending upon the family, depending upon the history, you may not be able to access those resources. There's not places where an Indigenous person can go for access to housing, access to medical, access to lawyers, reconnecting to family of origin, different homes and travel supports and medical and all things that we get on our reserves. None of the services that we receive on reserve tends to follow us off reserve.”

Early intervention was also top of mind for Elders. In particular, they noted that Indigenous people who are accused of committing crimes often end up being convicted and given harsher sentences than non-Indigenous persons interacting with the justice system. It was generally felt that intervention prior to charges being laid or—at the very least—support and intervention at the moment that an Indigenous person has to begin navigating the criminal justice system would help ensure that Indigenous offenders are treated fairly and equally.

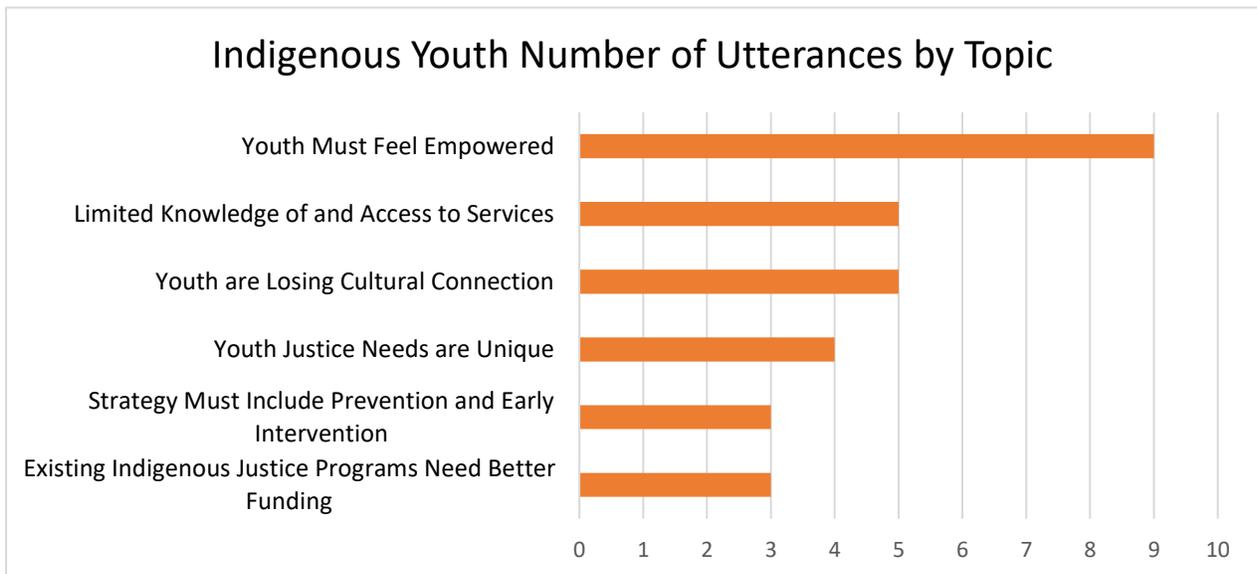
What We Heard from Youth

Youth are often overlooked and unheard. One of the central themes that emerged in discussions with youth is that the **justice system often treats Indigenous youth as adults**. The circumstances of their arrest and the ensuing court processes are rarely explained in plain English. We heard that plain **language must be used**, or legal jargon must be defined so that youths can understand proceedings and be made fully aware of their rights.

While Indigenous youth are considered adults in the eyes of the courts, they are treated like children once placed in institutions. They are not afforded the opportunity to learn life skills, and once released into the community, they are left on their own without proper knowledge and understanding of the world they are trying to reintegrate into.



The chart below shows unique topics brought up by youth throughout the engagement session.



It was emphasized that **early intervention and preventative programming are essential**. This includes programs that help keep youth off the streets and invested in their culture and community, but most youth focused on the interventions that occur once first contact with the criminal justice system has been made: programs that divert charges, focus on community service, and allow youth to continue pursuing educational opportunities rather than incarceration. The many challenges of youth are that they might not be exposed to healthy lifestyles without violence or addictions, and growing up in dysfunction can lead to more dysfunction. The youth called for funding for early interventions and prevention programs that employ traditional healing methods, on-the-land experiences and connection to culture through Elders and Knowledge Keepers. Participants suggested that education programs regarding youth justice could focus on reducing social disparities, such as education, addiction treatment centres be designed for youth and life skills programs. Referenced by various youth in the session was a need for more resources, which could be provided through friendship and community centres.





Youth spoke to the fact that they feel they need to be **empowered while being guided by Elders and youth organizations**. We heard that youth want to better understand the roles of Elders in the community. Some youth mentioned that not all Elders are supportive or create safe spaces, particularly for 2SLGBTQI+ youth. They felt that a vetting process needs to be adopted to ensure that the services that youth are accessing are healthy and safe, as well as creating easier access to resources.

“I think a gentler and more open approach with youth helps with empowerment, like more access (sic) to ceremony, also harm reduction approach. Going to ceremony is directly tied to my sobriety, but I was not sober when I first began getting involved with ceremony. Harm reduction and being open and more welcoming to our LGBTQIA2S members as well, we need to grow to accommodate our members who may not be sober and may not be living a healthy life because the end goal is that they do. And then also welcoming of like all identities.”

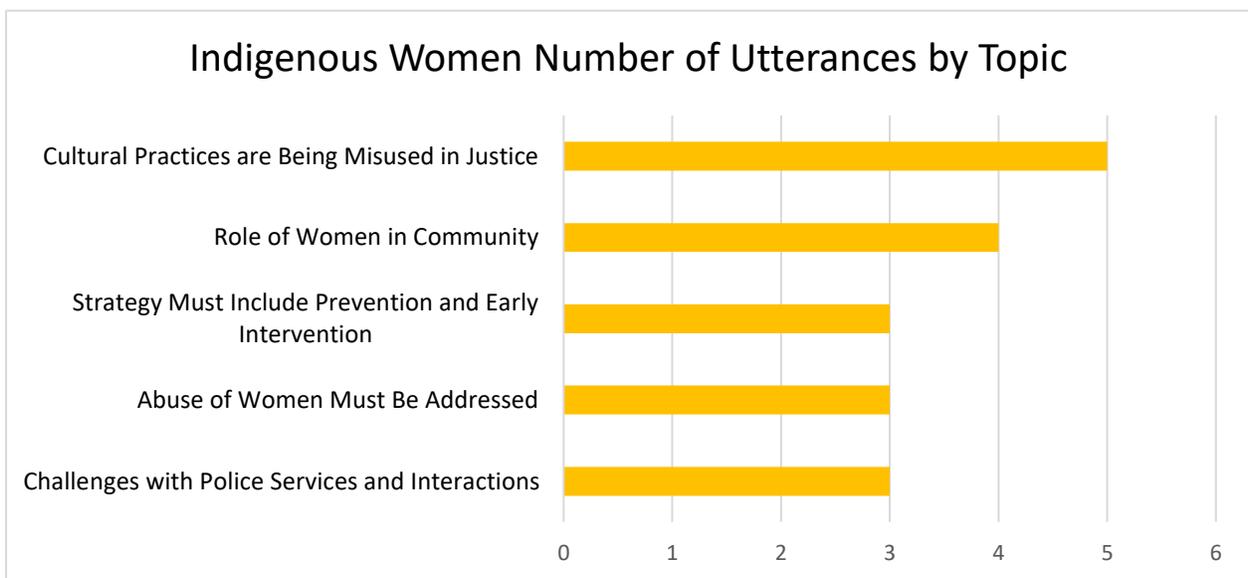
From the one session that was hosted for Indigenous youth, we were able to gain valuable insight. It became clear from listening to participants that there is a need for access to resources, consistent treatment, the adoption of plain language, and to better understand the roles of Elders in their community.





What We Heard from Women

The following chart shows the most commonly coded themes from the Women’s Session. Some themes that were identified as key themes overall have been removed.



It is important to note that we hosted only one dialogue session specifically addressing the unique challenges and issues faced by Indigenous women in the Canadian justice system. During that session, we heard from provincial and territorial governments, women’s political and justice agencies, tribal governments and Indigenous councils, community-based restorative justice groups, women working in prevention and education, women’s correctional facility staff, women’s healing organizations, as well as women Elders, knowledge holders and ceremonialists. Although the conversation explored many topics and ideas, it was indicated by participants that further discussions are required and would be welcomed.

Many participants commented that women come into contact with the criminal justice system due to issues associated with poverty and lack of resources. Many social





determinants of justice, including addictions, partner abuse, mental health challenges, and unemployment were highlighted as areas where better programming and support would prevent women from entering the criminal justice system. In turn, this would help keep families together and help heal generational trauma that continues to split up Indigenous mothers from their children.

“It’s a lot to do with addiction, mental health, trauma, relationships with the wrong character, all of those things. Even in terms of poverty we’ve noticed for a lot of the women that crimes of poverty or survival are kind of what they’re being incarcerated for. So that whole spin has to change in terms of this restorative approach is that we have to look at ways to kind of avoid penalizing people for those things and have more community-based programming that’s preventative and intervention programs from that court level so that individuals aren’t actually being incarcerated.”

“There’s typically children involved so there’s family that has to be considered and so when women end up in prison they lose their source of income they lose their children they lose their housing and then trying to get back into the community and to regain that all is really challenging.”

When women do enter the criminal justice system, the participants noted the harm that arises from taking mothers away from their children. Programs that allow mothers to care for their babies while incarcerated and work to keep families connected were cited as being extremely helpful in lowering recidivism and strengthening cultural and community ties after release.

“We’ve dealt with different scenarios where we did have one young girl, I think she was 13, 12 maybe, was traumatized by the fact that her mother came to jail because she envisioned the facility as what you saw on TV. She was absolutely traumatized by the fact that her mother was in jail and going through this horrific experience according to what you saw on TV. We brought the girl in to spend the weekend with her mother. So the mother got to cook with her daughter in the kitchen.”





She got to socialize with the daughter and just so that the daughter could go home and feel okay because she was (sic) very concerned about the mother.”

Women in the dialogue session were outspoken about the ways in which the justice system tries to incorporate “Indigenous” cultural practices into their systems and programs. For instance, there were concerns around improper vetting of the Elders that are associated with the system. We heard that Elders need to be recommended by communities and nations rather than selected by Justice Canada, and that training needs to be made available to Elders working in the system to ensure that re-traumatization doesn’t occur due to insensitive or old-fashioned perspectives.

“Get better training, get better training for yourself, for your elders, for the administration. Because I found out over the years that administration is the most passive aggressive, completely detrimental and aggressive and do not want to listen to anything else but themselves and their own peers.

“I think that the people who are the cultural team and the older generation need to have better training on how to be more warm and inviting and encouraging to younger generation as well because they are very skeptical and they're very negative. I find they're very aggressive and stern because of the trauma they endured. And it's so normalized... a strict grandmother or they're a strict auntie or strict uncle, but they're not strict, they're actually abusive and detrimental for mental health.”

Throughout the session, we heard about the role of women in modern Indigenous society, and the cultural understandings and misunderstandings that lead to the mistreatment of women by both perpetrators of crime and the criminal justice system. Women expressed that they do not feel valued, whether by those in positions of power or those who patrol and police their communities. Women in the session noted that they often feel objectified, sexualized, and tokenized, and that the result of those perceptions is that they are not respected at any point in the system.

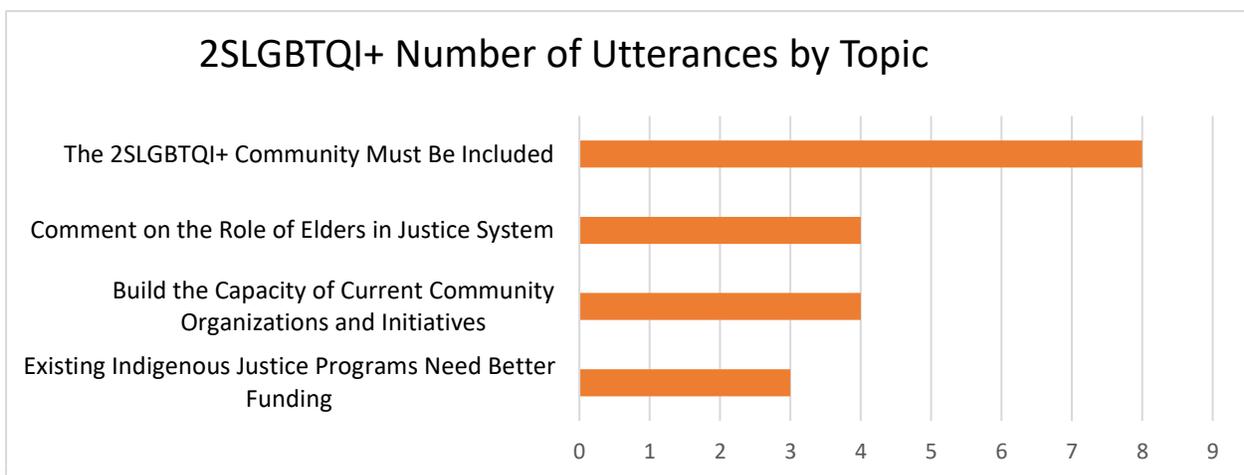
"I get tokenized, I get utilized for my cultural relevance and my knowledge, but I'm not even being honoured or acknowledged and I'm tired of just being hired because I'm Indigenous."

"So women in all levels and all economic barriers are seen as a commodity for sexual gratification. That normalization has to stop."

The women we heard from believe that a concerted effort must be made to re-model the system of security risk classification. Not simply to better reflect the whole individual, but to ensure that women's access to services and programs are not limited due to their designation. Further, women who spoke to this issue described the long-term effects of security risk designation when aiming to reunite with their children post-incarceration and how difficult it is to navigate past these labels. Women want a justice system that truly supports Indigenous families.

What We Heard from 2SLGBTQI+

We hosted one meeting with organizations, advocates, and individuals representing the 2SLGBTQI+ Indigenous communities. In particular, organizations supporting two-spirited and transgendered Indigenous people engaged with us during the dialogue, being sure to stress the importance of including two-spirited and Trans support systems in the IJS.





We heard that the colonial system has changed the traditional ways that communities viewed and accepted 2SLGBTQI+ peoples, and that in order for these individuals to thrive in community, **education will be a key factor**. This education piece was discussed from two different angles: educating those who work in the justice system regarding the needs and considerations of 2SLGBTQI+ individuals, and re-educating Indigenous communities on the traditional and cultural significance of 2SLGBTQI+ individuals that has been lost in the colonial worldviews.

“The biggest part of this journey is educating, re-educating our own people about who we are as Indigenous Queer Two-Spirit people, because our communities have been so influenced by colonizers’ beliefs and constructs, and that homophobia is a really big, live, ugly thing in our communities, whether on or off reserve.”

Furthermore, 2SLGBTQI+ advocates spoke to the need for **greater funding for programs specifically designed for the 2SLGBTQI+ community**, and that this funding stream be separate from other funding streams. Ideally, participants would like to see a model where funding is not “competed over”, and instead there are different funds allocated for the needs of individual communities.

“That there should be a separate stream of funding for Indigenous men, a separate stream of funding for Indigenous boys, a separate stream of funding for Indigenous women, a separate stream of funding for Indigenous girls, and a separate stream of funding for Indigenous queer Two-Spirit people so that we don’t have to continue to fight these battles amongst our own relatives, and I think it’s important to remember.”

2SLGBTQI+ people also spoke to the **anxieties they face when needing to interact with police, and the lack of understanding that the system seems to show to 2SLGBTQI+ individuals**. It was noted that many 2SLGBTQI+ Indigenous individuals carry even more trauma and have experienced even greater stigmatization and isolation, and that trauma-informed care and approaches to healing and justice are





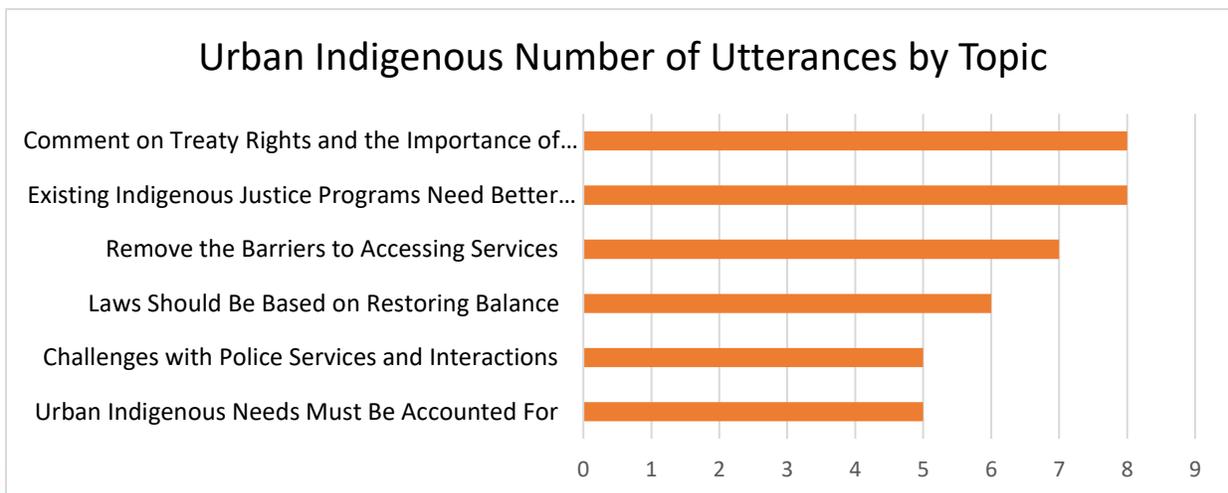
potentially even more important for 2SLGBTQI+ Indigenous persons as they are for non-2SLGBTQI+ Indigenous persons.

“I've learned about the two-spirited people and to appreciate them and to appreciate their gifts. I also know that colonization has had a huge impact on that. From the discrimination, to lack of understanding, to see the brutality towards two-spirited people, to not understanding, to having the impacts of intergenerational trauma and even our own people. Because that had been taken from us. That understanding, the understanding of acceptance of others. Colonization has had a huge impact on our people. Need to see how trauma-informed care affects two-spirited people.”

What We Heard from Urban Indigenous People

We invited urban Indigenous communities to attend an engagement dialogue regarding the IJS and share their stories and insights regarding justice challenges and opportunities for Indigenous people from coast to coast to coast with us in a virtual meeting.

The chart below displays unique topics raised by Urban Indigenous people throughout our conversation.





The session started with a discussion regarding Indigenous laws. Participants acknowledged that the colonial legal system does not see legal responsibilities in the same way that Indigenous worldviews think of laws and legal structures. We heard that there is a greater emphasis on balance and responsibility in the Indigenous legal traditions, and that it is important that any reclamation of Indigenous legal structures respect the community-mindedness and restorative justice frameworks that underpin Indigenous laws. Participants also noted that while laws are often said to stem from the stories passed down from Creator to the Ancestors, the legal traditions of Indigenous people have always adapted and developed to suit modern times, and that traditional Indigenous law can be effective and applicable today.

“Not all of our laws started with Creation. We can adapt our laws based on what’s needed for our communities and what we learn from our communities and what we need to do to live life in a good way and in balance and with respect of all of our relations, being all of creation.”

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

It was further explained that for a system of Indigenous and Canadian laws to coexist and work together collaboratively, there must be tremendous respect for treaties. Participants stressed that treaties still apply to individuals living off-reserve and away from their communities, and that their rights as Indigenous people do not stop because they are living in urban centres. Participants also reminded Justice Canada that many cities are settled on traditional Indigenous lands, and that the treaties that govern those lands have not been respected by the government and need to be reviewed and honoured much like land claims in more rural areas. Overall, we heard a lot of frustration regarding the ways in which treaties have been violated and the path to self-governance and self-determination has been slow and incomplete.



Participants noted that urban Indigenous people face different challenges, often needing more support to connect to a community. They must rely on the Indigenous Friendship Centers and other urban programs; therefore, funding for these services and facilities must be a priority. Other program priorities include those that help reconnect with communities and provide access to Elders, Grandmothers and Aunties. As a greater concentration of Indigenous people is found in urban settings than in Indigenous communities, attendees felt that emphasis should be placed on supporting urban Indigenous populations, and that currently programs and policies often focus on Indigenous people who live on or near their home territories.

People stressed that urban Indigenous support programs are essential, and as part of this community support, it was suggested that funding should be allocated for legal aid and justice supports in the form of Gladue and pre- and post-charge diversion program offices that could be located within Friendship Centers. System navigators and court workers need more power to refer clients more easily to programs that may help them move through the system or avoid the justice system altogether, and people coming into contact with the justice system need Indigenous wrap around services that can ensure that they understand what is happening and make informed choices regarding their justice options.

“The higher-level issue of where is the Indigenous community in relation to the justice system? What are their powers of oversight over, where is the accountability that can be taken as far as if there are abuses? One of the things that we constantly get as an organization that represents off-reserve non-status groups they tend to have a lot less official recognition compared band reserve and councils and such. So having that official recognition, having more or of that structure being a formal part of a lot of the proceedings, being able to have that form of accountability.”

Educational campaigns need to help educate people on the colonial systems, its history, and why urban centers have a more significant population of Indigenous people. Because inter-generational trauma is prevalent and often misunderstood, there is a





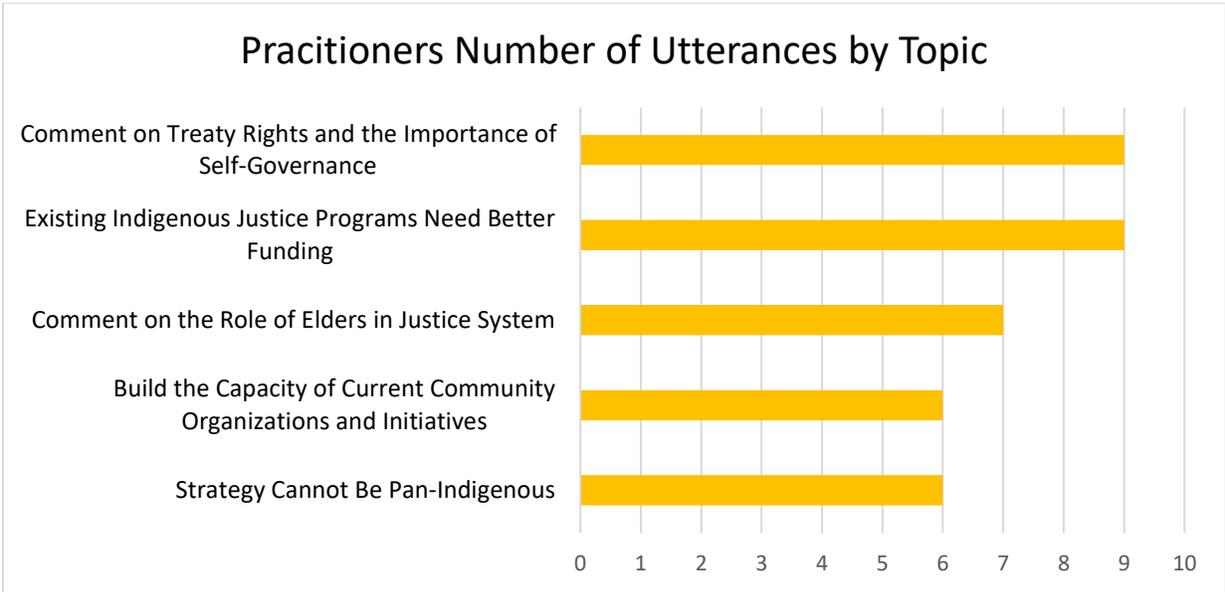
need for pre- and post-charge diversions adapted to the unique needs and challenges of urban Indigenous populations and trauma-informed interventions in safe spaces outside courthouses. From Indigenous perspectives, well-rounded legal education for court workers and paralegals on criminal law, contract and treaty laws, tort laws, and constitutional laws must be mandatory, and more Indigenous court workers should be brought on board. Participants prioritized the integration of trauma-informed approaches. There were also calls for the streamlining of bureaucratic processes that are often impediments to access. For example, there should not be separate processes or individual applications for services; instead, all these services need to be centralized.

What We Heard from Practitioners

During the IJS Wave 1 engagements, we spoke with a broad cross-section of practitioners representing national, regional and community-based organizations both Indigenous-service directed and Indigenous led. We heard from federal and provincial governments, justice agencies, tribal governments and Indigenous councils, community-based restorative justice groups, practitioners working in prevention and education, legal experts and Indigenous law advocates across the country. Consistently throughout the discussions, practitioners spoke to the need for a broader, societal understanding of the effects of colonialism on Indigenous nations and peoples. They stressed the need to re-vamp current funding models to better support First Nations, Métis and Inuit communities as a whole and for holistic and individually focused programs and services for Indigenous people involved in the justice systems.

“I think it’s really important to acknowledge the context of the impact of colonialism on communities and individual accountability is important, but also to acknowledge that people’s involvement with the justice system come out of those experiences of colonialism, including poverty.”





Amongst practitioners, there is far-reaching recognition that **unmet social determinants of justice (i.e. lack of economic stability, limited access to education, diminished access to healthcare, loss of connection to community, destruction of the physical environment) are the underlying cause of over-representation** of Indigenous people in the criminal justice system. In response, the majority of professionals made pleas for consistent and long-term funding for community-based prevention and diversion programs, as well as healing opportunities for both victims and those returning to their community post-incarceration.

Ideally, practitioners would like to see an **expansion of the Indigenous Court Worker Program** and implementation of wrap-around legal services that offer personalized, linguistically and culturally appropriate pre-charge, in process and aftercare supports. There is a clear need for more Indigenous court navigators to assist individuals throughout the court process, the immediate formation of ‘care committees’ to advocate for individuals post-incarceration, as well as revisions to Gladue Report structures to include a strengths-based, Healing Plan section.





With regard to Gladue reporting, many professionals agree the quality and depth of reports is lacking; they are especially concerned that, due to this inconsistency, judges are not giving Gladue Reports full weight when making sentencing decisions. Practitioners note a clear discrepancy in use, value and outcomes for those utilizing Gladue Reports and believe this system requires serious revision.

Of equal importance, practitioners also see the **need for well-funded programs that focus on healing and wellness**, some see Section 81 of the *Corrections and Conditional Release Act* as a good start, but would like to see broader implementation of Healing Lodges in all justice institutions as well as more accessible, culturally appropriate Land-based programming.

“One of the things I'm thinking about is not so much lawyers but mediators and facilitators. You know to have those individuals working with our Indigenous processes because then you have a different kind of a mindset. You don't have an adversarial mindset. You have more of a community healing restorative perception in those processes.”

During both Wave 1 Theme 1 and 2 dialogues, practitioners shared their experiences in assisting clients throughout myriad justice processes. They described the **burnout that results when the level of individual care is so high**, and articulated how best practices need to be formalized and expanded rather than depending on underfunded and overworked Indigenous organizations to do the work of justice. Despite their exhaustive efforts, practitioners wholeheartedly shared organizational best practices and stories of individuals who triumphed over their circumstances to become advocates and supporters of others involved in the justice system. In every case, at the core of each story we heard, was a sense of hope and the knowledge that when Indigenous people work together a more responsive, equitable system of justice can be created.



What We Heard Online

To support and complement dialogue sessions, Justice Canada and KES launched an online engagement platform. In Wave 1, the platform acted as a companion piece to the virtual dialogue sessions. While virtual sessions provided a space for invited participants to express their input over the course of a three-hour session, the online engagement platform allowed anyone to anonymously express their opinion. Providing an online space was effective in drawing out ideas over time and not restricting people's airtime in a session.

The platform permitted participants to input ideas and comments for just over three months—between November 29, 2022, and March 8, 2023. During this period, there were more than 8500 site visits and 250 users who registered and created an account.

Participants were encouraged to participate in two Wave 1 ideation exercises, which allowed participants who registered for the site to post freely in an open environment where others could read their ideas, reply, like, and share via email and social media. Participants provided input to two questions:

- 1. The purpose of Indigenous Justice Strategy (IJS) is to reduce overrepresentation and systemic discrimination of Indigenous people in the Canadian justice system. Please share your ideas on what key reforms are needed to best advance this engagement objective?**

As with the in-person conversations, many commenters' ideas were aligned with the main themes that emerged through this engagement process. Participants expressed a **significant and clear desire to see a transfer of both authority and funds to Indigenous authorities and Elders**; participants cited that bringing justice solutions within communities would better align with the needs of Indigenous communities.

While participants did present numerous ideas that were directly in line with the main themes, other ideas put forth painted a different picture. While participants did agree that the colonial system does not work for Indigenous people and their needs, several



participants did, however, reference adaptations that could allow the colonial system to better suit Indigenous people. One commenter suggested that the **decriminalization of specific non-violent crimes would have a substantial positive impact on Indigenous people**, suggesting, “decriminalizing simple drug possession [...] would make an immediate impact on the amount of Indigenous people being put into the justice system.” That commenter goes on to suggest that this one change could have a substantial impact:

“At the end of the day, the number of offences that would be “diverted” from the criminal justice system would be immense. Which would then eliminate the rest of the issues, multiple bail orders and conditions, multiple violations, families being broken up due to domestic policies, overpopulated remand centres and correctional facilities, over worked court staffs, overworked probation, etc.”

Another commenter brought forth the idea that **fast-tracking pardon applications** would be a helpful way to improve Indigenous justice:

“Many Indigenous Canadians are not willing to go through the cumbersome process of applying for pardon of criminal charges. The Government of Canada should have assistance available to fill applications at diverse locations and ensure there is a fast-track pathway to remove old charges and ensure clean criminal records to allow for more employment opportunities.”

2. Please share your ideas on how Indigenous laws and justice systems can be reclaimed, acknowledged, and supported as part of an Indigenous Justice Strategy.

Many of the comments validated that participants’ ideas reflected the broad themes identified. While this is the case, various participants identified the need for more education.





“Many Indigenous peoples, including me, do not know their rights when it comes to the Justice system. If there were more educational workshops in First Nations right across Canada that will help us all understand the Justice system better.”

Education is important for all Canadians, not just for Indigenous people:

“I believe to continue to build momentum towards better justice for Indigenous people that education for Indigenous and non-Indigenous people is critical. Many people living in Canada, regardless of their background, do not understand the varied and rich history of Indigenous justice and laws. There are so many lessons from so many Nations that could be helpful in figuring out a path forward and ensuring that all are aware—in a good way—of the past and current.”

Topics for Further Discussion

The Wave 1 dialogues helped identify more targeted themes and objectives for the Indigenous Justice Strategy. In concert with stakeholders and partners, the following four themes have been selected for further discussion during the Wave 2 dialogues:

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



It is anticipated that within these key themes, a number of the topics that have been discussed above will be investigated. In particular, issues such as governance of justice, funding of justice-related programs, ensuring equal access to Indigenous justice programs, and promoting community reintegration and post-incarceration rehabilitation will be topics of interest.

