



## What is the history of this issue and how does it impact First Nations?

Among First Nations Peoples, matters of justice have historically been administered in accordance with each Nation's laws and systems of governance. However, due to the imposition of *Indian Act* policies and discriminatory beliefs and actions against First Nations, First Nations people are vastly over-represented in Canada's justice system. According to Statistics Canada, Indigenous adults accounted for 30 percent of admissions to provincial or territorial custody and 29 percent of admissions to federal custody while only representing approximately four percent of the Canadian adult population. Meanwhile, Indigenous youth aged 12-17 made up of 43 percent of admissions to correctional facilities even though they represented only eight percent of Canada's youth.

The over-incarceration of First Nations people has only worsened. Since 2007/08, Statistics Canada reports a 30 percent increase of Indigenous people admitted to provincial custody and a 31 percent increase for those in federal custody since. The rates for Indigenous youth have risen nearly 40 percent within the same timeframe.

Past efforts have failed to reverse these growing incarceration rates and the negative interactions First Nations people experience with the justice system. First Nations people continue to be vastly overrepresented in the criminal justice system; much greater commitments are needed to address this and other manifestations of systemic racism.

Although funding has been announced for the work on the Indigenous Justice Strategy (IJS), development and implementation of a national IJS requires greater resources and the support from provincial and territorial governments.

## How has the AFN's recent advocacy affected this area?

In accordance with **Resolution 06/2020**, *Support for Advocacy on Systemic Racism in Canada*, the AFN continues to advocate for a First Nations component of the federal government's Indigenous Justice Strategy (IJS), which would not only work to mitigate the inequities First Nations face in Canada's justice system, but to assist First Nations in the reclamation of their traditional legal and justice systems.

In December 2021 First Nations-In-Assembly passed **Resolution 36/2021**, *Call for Recommitment, Funding and Clear Timeline for Development and Implementation of a National First Nations Justice Strategy*, directing the AFN to advocate and work with the Minister of Justice and Attorney General of Canada and relevant ministries to urgently co-develop a strategic framework to



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develop and implement a National First Nations Justice Strategy. The strategy would include adequate funding to support regional and community-based, self-administered, wholistic approaches to justice that are grounded in First Nations principles, protocols, laws, and traditions, including ensuring the framework is consistent with the minimum standards in the United Nations Declaration on the Rights of Indigenous Peoples. The AFN will advocate for a clear timeline and funding for a First Nations Justice Strategy from the Department of Justice. We will also draw from existing work on justice system transformation being championed by First Nations across the country, including the British Columbia First Nations Justice Strategy.

In March 2022, the AFN was advised that it has been funded through Justice Canada's Indigenous Justice Strategy (IJS) program to create a Chiefs Committee on Justice and to carry IJS engagement through national justice forums. The AFN plans to engage with First Nations leadership and experts who will lead the development and implementation of the First Nations component of the federal government's IJS. Working directly with the regions and First Nations is the first step in identifying what issues need to be addressed, as we understand every First Nation faces a set of unique circumstances.

On April 7, 2022, the AFN held a National Forum on Restorative Justice that invited panelists and participants to discuss First Nations customary laws and legal traditions, First Nations courts and creating effective restorative justice programs. Also discussed were the need to revitalize restorative justice programs to better meet the needs of First Nations, and the development of strategies for reclaiming First Nations legal traditions and laws.

The AFN will continue discussions with the federal government regarding the development of a First Nations component to the IJS. The main objective of these discussions is to ensure that the IJS addresses issues such as systemic racism within Canada's justice system, fuller implementation and expansion of the Gladue principle (including the establishment and funding of First Nations and Gladue Courts), improving jury selection processes, and recognizing First Nations' jurisdiction over justice.

### Where do we hope to go in the future?

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The AFN will carry out its mandate to advocate on matters regarding Justice and the First Nations Justice Strategy through the AFN Justice Sector that was established in early 2020. Continued dialogue with First Nations will guide the AFN's advocacy to create substantial reforms to Canada's criminal justice system to address systemic discrimination and the problem of overrepresentation in provincial, territorial and federal corrections.