

RECONCILIATION RESPONSE PLAN FOR LAW FIRMS



BRITISH
COLUMBIA

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INTRODUCTION

In September 2018, the Canadian Bar Association, BC Branch (“CBABC”) published [Taking Action on Reconciliation](#), an action plan in response to the [Calls to Action](#) released by the Truth & Reconciliation Commission of Canada (“TRC”) in June 2015. Indigenous and non-Indigenous members of CBABC through the Truth & Reconciliation Working Group developed the plan over an 18-month period.

Taking Action on Reconciliation directed CBABC to build a resource that helps law firms respond to the Calls to Actions through a Reconciliation Response Plan (“RRP”). To create a RRP, a firm determines its own values while identifying the plan’s necessary components, action items and targets to support its purpose. The RRP aligns with a business plan to increase awareness across an entire corporate team as it strives to advance reconciliation, justice and equality for Indigenous people across the legal system.



About the artist: Debra Vincent is a bear clan member of the Mohawks of the Bay of Quinte and resides on the Tyendinaga Mohawk Territory, Ontario. She has enjoyed drawing and painting since childhood and after a lengthy administrative career decided to return to her passion of art full time.

WHY DOES A RECONCILIATION RESPONSE PLAN (RRP) MATTER?

The TRC addressed crimes committed against children and their families, while also addressing intergenerational trauma and broad impact on Indigenous societies and cultures as a result of Indian Residential School (“IRS”). The “IRS” legacy of institutional child abuse and separation of children from their families and parents and culture, continues to be reflected in the grossly disproportionate representation of Indigenous people in the child welfare, corrections and criminal law systems, high levels of violence against and amidst Indigenous peoples and communities, and violence against Indigenous women, girls and two-spirited people.

The TRC observed that the legal systems played, and continues to play, a very important role in the inequality of Indigenous peoples within Canadian society. The Canadian legal system is based on “failed notions of assimilation”, an unwillingness to recognize the legal reality that indigenous societies, laws and legal orders existed pre-Crown sovereignty, and a restricted view of what law is, which largely excludes Indigenous laws and legal orders. As a result, a fractured relationship continues between the legal profession and Indigenous peoples.

As noted in the TRC Report, reconciliation is a process of “coming to terms with events of the past in a manner that overcomes conflict and establishes a respectful and healthy relationship among people going forward.” Reconciliation must both “support Aboriginal peoples as they heal from the destructive legacies of colonization” and “inspire Aboriginal and non-Aboriginal peoples to transform Canadian society so that our children and grandchildren can live together in dignity, peace and prosperity on these lands we now share”. Reconciliation requires listening, truth-telling, and a commitment to move forward in a better way “with concrete actions that demonstrate real societal change”. Reconciliation requires us to move from conflict to collaboration, and to consider how we contextualize the provision of legal services and the administration of a justice system in the spirit of reconciliation.

CBABC acknowledges with much regret the significant harm done to Indigenous peoples, families, communities and individuals as a result of the role the legal system, and the legal profession itself, played in the implementation and enforcement of harmful laws and policies. For over a century, Canada pursued policies aimed at eliminating Indigenous government, laws and traditions and ignoring Indigenous rights. Canadian law reflects and enforces these policies. The establishment and operation of IRS was a central element of these policies best described as “cultural genocide”.

Establishing an RRP in your firm is one way to respond to Call to Action #92:

92. We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.*
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.*
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law.*

An RRP also can help respond to Call to Action # 27 that calls upon the legal community to:

27. "...ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal-Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights and anti-racism."

By developing and implementing a RRP in your firm, you can help build awareness of the negative experience of Indigenous people in Canada and the role of the legal system in that experience, and take steps to improve relationships with Indigenous people in your community.

PLAN COMPONENTS

Your RRP may include:

- building cultural capacity in your firm
- performing pro bono work to support the development of Indigenous communities
- promoting Indigenous legal systems
- creating employment and educational opportunities for Indigenous people
- supporting the development of Indigenous owned businesses
- advocating for reconciliation in the legal profession

VALUES & PURPOSE

Identify your firm's values, understand the purpose of your RRP, and align it with your firm's mission, vision and strategic business goals.

WHY DEVELOP A RRP?

It allows your firm to contribute meaningfully to reconciliation by setting targets and implementing actions to meet the goals of reconciliation. It demonstrates your commitment to a civil society and a clear path to a better future, and it sets up aspirational and testable indicators and outcomes. It allows your firm to be a leader in the promotion of equity.

WHAT DOES IT DO?

It strategically supports your business plan and corporate development, and includes practical objectives, actions and targets to contribute to reconciliation internally, and in the community. It helps build supportive relationships and opportunities with respect to increasing access to justice, and developing business, employment and educational opportunities for Indigenous people.

Law firms should appoint a committee or person to oversee RRP implementation, to promote it internally and for periodic progress reports. Firms will innovate and create new ideas for RRP benchmarks. Your RRP can evolve and is for sharing within your community.

SIX ASPECTS

Your RRP will include various elements to develop, implement and endorse. Consider including the following six aspects in your plan.

> RECOGNITION

We must recognize:

The legacy of Canada's residential school system is deeply rooted within the country's history of colonialism, a history that included taking land from Indigenous people - action supported by law.

The unceded traditional territories of BC's Indigenous people.

Indigenous people possess distinct cultures and identities, with unique relationships to the land, waters and resources.

Indigenous laws and duties.

Cultural, linguistic, economic and geographic barriers between Indigenous people and the legal system.

Diversity among Indigenous peoples.

Over-representation of Indigenous people in Canadian prisons.

Under-representation in the legal profession.

CULTURAL COMPETENCY

Learn more about your employees by capturing baseline data on their understanding of Indigenous history, culture and contributions to help inform the design of appropriate educational curriculum.

Provide education to increase understanding of diverse Indigenous culture, law and practices

Work with human resources to ensure employment policy presents no barrier to participation in important cultural events.

Hire Indigenous people to lead cultural awareness training for your staff.

Develop a cultural protocol to raise awareness of the meaning and significance of a welcome and acknowledgement of traditional territories.

Demonstrate sincere and tangible signs of respect at your workplace by adopting a relevant oral “land acknowledgement” for use when appropriate.

Install a relevant permanent land acknowledgement, for example a plaque.

Promote and support Indigenous artists through a relationship with a local Indigenous art dealer or arts collective.

Commission local Indigenous artists to create art for display in the halls or on the walls of your location.

Appropriately employ Indigenous techniques or practices such as a Talking Circle or smudging ceremony.

> INCREASE ACCESS TO JUSTICE

Connect with Indigenous advocacy groups to reach those needing legal assistance.
Develop an approach to prioritize your pro bono activity in support of Indigenous people.

Conduct litigation involving Indigenous communities in accordance with principles of reconciliation, including being mindful of unique Indigenous cultural and social concerns.

Ensure your employees and counsel are aware of the availability of culturally appropriate justice forums, and pursue court advocacy opportunities for Indigenous litigants.

Advise the Court or other counsel of Indigenous laws or cultural considerations where appropriate.

> INDIGENOUS EMPLOYMENT & EDUCATIONAL OPPORTUNITIES

Create a strategy to increase recruitment and retention of Indigenous people, including students, into all roles within the legal profession. This helps remove policies and practices that are barriers to Indigenous employment and retention.

Adopt a policy of hiring at least one Indigenous articulated student each year.

Provide annual funding for an Indigenous law student to attend a legal conference or event of the CBA, CBABC or Aboriginal Lawyers Forum (ALF).

Mentor Indigenous law students through the Indigenous legal clinic, the LSBC Indigenous mentoring program or ALF.

Explore how your firm can help one Indigenous student each year undertake non-legal educational opportunities to develop business knowledge, profile and leadership capability including corporate board training.

Provide employment opportunities for Indigenous lawyers.

> SUPPORT INDIGENOUS-OWNED BUSINESSES

Engage your decision-makers in a policy of supplier diversity.

Create a list of Indigenous-owned suppliers of required materials, services and facilities to enable your firm to work with Indigenous businesses and suppliers when possible.

Provide pro bono training to boards of Indigenous economic development corporations.

> ADVOCATE FOR RECONCILIATION WITHIN THE LEGAL PROFESSION

Change starts within. Communicate your RRP to staff and clients to engage them in reconciliation initiatives, and give regular RRP progress updates to all staff and encourage their participation.

Invite clients or other stakeholders to collaborate thereby promoting reconciliation within the greater legal community.

Each year find organizations to work with, to encourage their development and implementation of a RRP and actively participate in community events related to reconciliation.

Consult with Indigenous practitioners, Elders, or teachers about your RRP.

IDENTIFY TARGETS, TAKE ACTION & MEASURE ACCOMPLISHMENTS

With many activities to pursue, consider setting targets to measure your accomplishments through steps taken and time spent on your RRP.

Consider the following:

- In-house education initiatives and training session
- A scholarship
- Indigenous student outreach
- Create learning opportunities regarding (unconscious) bias
- Integration of Indigenous practices within the workplace, where appropriate
- Modify firm policies to include Indigenous concepts such as the definition of family
- Acknowledgement of National Indigenous People's Day & Orange Shirt Day
- Showcase Indigenous speakers & culture
- How many reconciliation events your firm attends/sponsors/supports?
- How many firm members attend "[Understanding the Village](#)" experiential reconciliation workshops on colonialism in Canada?
- How soon could your firm develop a Best Practices Guide for engaging with Indigenous clients?
- How many potential partner organizations has your firm engaged for pro bono services?
- How many Indigenous-owned businesses has your firm patronized?
- Identify demographic benchmarks, create metrics & report on progress
- Develop objective work assignment programs
- Eliminate discretion in talent management programs
- Business and professional development opportunities

IMPLEMENTATION

After developing your plan, put it into action with an implementation committee. The committee should meet regularly to oversee and assume responsibility for enacting various elements on schedule and generating outcomes as intended. The committee will promote RRP within your firm and eventually it will become key firm policy.

Initially, committee meetings should occur bi-weekly so members can learn new processes arising from implementation. Meeting frequency can change to monthly while continuing to ensure goals and targets are on time. Later, meetings can be every few months to assess status of various activities.

Organize a diverse committee to represent as many perspectives and backgrounds as are available within your organization.

Following is an example of implementation from a law firm now operating with its Reconciliation Response Plan in place. The firm led its own eight-month development process followed by action steered by its implementation committee.

In the development phase, the firm identified its values and its purpose for building a Reconciliation Response Plan. It convened four or five meetings to brainstorm and document:

- the “why”- a thorough acknowledgment that reconciliation response is critical to its business and to Indigenous communities
- the values it wanted to promote
- the practicality of targets
- how to integrate action items into operations
- how to collect feedback from within the firm

The firm spent approximately four months writing and editing the content for its plan and shared it with Indigenous communities for additional feedback.

A committee member shared the plan within the firm’s client community and with CBABC. CBABC’s Aboriginal Lawyers Forum assisted with assembling a list for Indigenous review of the plan.

Some of the firm's activities:

- Staff training session on TRC recommendations and on the firm's own RRP.
- Firm members attended further reconciliation-oriented training including "Understanding the Village" workshops on the history of colonialism in Canada, led by Residential School survivors and elders.
- Attendance at "šxʷʔaṁət (home)", a forum theatre production involving Indigenous and non-Indigenous actors on the meaning of reconciliation.
- The firm collaborated with organizations for delivering pro bono services to Indigenous communities and/or organizations.
- Establishment of a scholarship at the University of Victoria Faculty of Law awarded to a graduate student who has shown an interest in, is working or has worked in Indigenous Legal Traditions.
- Modification of firm policies to ensure address issues of cultural sensitivity.
- Patronage of Indigenous-owned businesses.

CONCLUSION

CBABC hopes that this resource will help law firms respond to the Calls to Action by developing Reconciliation Response Plans that reflect their firms' values and align with their business plans.

It is hoped that through taking action, law firms will play a key role in transforming Canadian society by advancing reconciliation, justice and equality for Indigenous people within Canada's legal system.

FURTHER RESOURCES TO UNDERSTAND RECONCILIATION, CALLS TO ACTION, AND THE PROFESSION'S RESPONSIBILITIES

[United Nations Declaration on the Rights of Indigenous Peoples](#)

[Truth & Reconciliation \(TRC\) Commission of Canada](#)

[TRC Calls to Action](#)

[What is Reconciliation? Senator Murray Sinclair, Chair, TRC \(Video\)](#)

[Law Society of British Columbia](#)

[The Continuing Legal Education Society of BC: But I Was Wearing a Suit \(Video\)](#)

[Attorney General of Canada's Directive on Litigating with Indigenous People](#)