PUTTING INDIGENOUS COURTWORKERS' LEARNINGS FROM COVID TO WORK

TOWARDS INDIGENOUS-INFORMED AND CLIENT-CENTRED 'VIRTUAL' SERVICE PROVISION

PREPARED BY:

NATIVE COURTWORKER
AND COUNSELLING ASSOCIATION OF BRITISH COLUMBIA

NCJER Nanaimo Centre for Justice
Education and Research

Project in support of the Tripartite Working Group (TWG) on the Indigenous Courtwork Program.

Towards Indigenous-Informed and Client-Centred 'Virtual' Service Provision: Putting Indigenous Courtworkers Learnings from COVID to work.

**Recommendations and Final Report**

Prepared by

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Indigenous Courtworker Co-Researchers of
Alberta, British Columbia, Northwest Territories, Ontario, Québec, and The Yukon

And

Nanaimo Centre for Justice, Education and Research.
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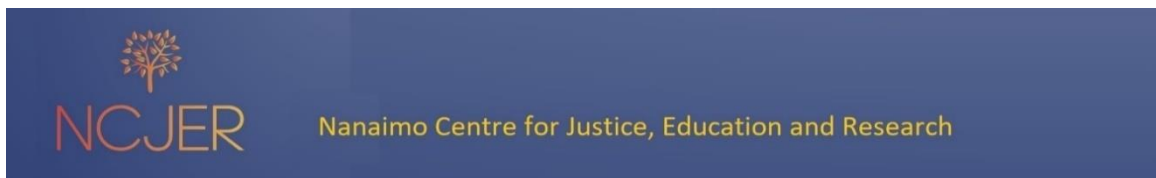
<u>**Executive Summary**</u>

*The purpose of this research was **to draw on the knowledge and experience of Indigenous Courtworkers (ICWs) to form recommendations for training** that will prepare current and new ICWs to work as effectively as possible to support clients in the new reality of virtual and hybrid service.*

The Indigenous Courtwork Program (ICP) was established in 1978 to provide funding to each participating province through five-year bilateral contribution agreements (Department of Justice 2018, p.12). Provincial and territorial ministries are responsible for establishing the framework for the Program within their jurisdiction. In each province and territory, the Program is delivered through a relatively small network of geographically decentralized Courtworkers who usually work independently, providing services and building relationships with their local communities (Department of Justice 2018, p.8).

In their role as ICWs, Courtworkers engage in activities to support Indigenous people who have been charged with an offence, including providing legal information, providing referrals to appropriate legal resources, social medical services, and education and employment services. Furthermore, ICWs provide referrals to Indigenous community supports to address underlying problems that may have contributed to charges. ICWs also aid other Indigenous peoples involved with the criminal justice system, such as victims, eyewitnesses, and family members.

The ICP is guided by a Federal, Provincial and Territorial (FPT) Working Group and a Tripartite Working Group (TWG), which serve as policy forums for ongoing monitoring of interjurisdictional issues that concern the Program. This project was supported by Federal contributions to support the ICP and the mandate of the Tripartite Working Group (TWG).

The delivery of Indigenous Courtwork services differs across provincial and territorial jurisdictions, with the majority of Indigenous Courtwork services delivered by Indigenous agencies contracted by respective provincial and territorial governments. Additionally, some Indigenous Courtwork services are delivered by employees of the provincial/territorial government, or through legal services clinics.

For most ICWs across the country, working within the constraints imposed by COVID has changed their daily work in significant ways.

The research for this project was compiled by a team of front-line Co-Researchers comprised of practicing Indigenous Courtworkers selected from across Canada. The research was facilitated by the Nanaimo Centre for Justice, Education and Research (NCJER). The contract and oversight of the research project was held by the Native Courtworker, and Counselling Association of

British Columbia (NCCABC) represented by Darlene Shackelly (former Executive Director of NCCABC).

The ICW Co-Researchers are:

Esther Armstrong – Yukon
Shari Olsen – Northwest Territories
Robert Patton – Québec
Ronda Gauthier – Alberta
Carmen Williams – British Columbia
Nancy McBride – Québec
Patti Bova – Ontario
Laurie Julian – Nova Scotia

NCCABC Staff Liaison:
Darlene Shackelly

NCJER Staff:
Andrew Thornton, Principal Researcher
Lorna Beecroft, Administration and Logistics
John McCormick, Managing Director

Through the ICP National Directors committee, regional and provincial managers were asked to nominate ICWs to be 'Co-Researchers' on the project. The regional and national directors were also instrumental in communicating with front line staff who were potential Interviewees to inform them of the presence, purpose, and intent of the project. This was essential as ICW Co-Researchers were contacting frontline staff from communities other than their own to request they take part in interviews.

We'd also like to acknowledge the support of Robyn Scott, Co-Chair of the National Directors Committee. Robyn attended the initial working meetings with the ICW Researchers where the research team developed the general approach for the collection of data and began to formulate questions for the interviews with ICWs. And the Research Team was supported throughout the project by a sub-committee of National Directors comprised of Darryl Shackelly (Executive Director, NCCABC), Karen Wilford (Executive Director, NWT Legal Aid Commission) and Marcelle Thibaudeau (Directrice Générale Les Services Parajudiciaire Autochtones Du Québec). Marcelle was instrumental in recruiting a Quebec based ICW to conduct interviews with French speaking ICWs. Although some of the Interviewees did not have English as a first language but no one reported that language was a barrier to participation.

The impact of COVID on Canada's federal and provincial/territorial justice system practices was profound – leading to the speedy implementation of virtual justice processes both in the administration of justice, and in correctional settings. While it is the case that some regions and some components of the ICW role were already based on 'virtual' service, especially in more remote areas prior to COVID, the emergency measures resulting from COVID drove the nationwide implementation of virtual platforms, transformed the everyday work of ICWs almost overnight.

Based on the data from our interviews, and the first-hand experience of the ICW Co-Researchers who co-led the research, there has been inadequate recognition of the speed and breadth of this transformation. Indeed, ICW Researchers have reported that as the justice system swings toward the re-introduction of more in-person services, practitioners feel like 'it's like starting all over again' – especially in re-establishing working relationships with court and Corrections officials.

It is worth noting that within correctional settings the way ICWs serve clients varies considerably. Implementation of the recommendations will need to consider the differing impact of these contexts. It is important to note that Provincial and Federal prisons function in ways that differentially affect the work of ICWs. For example, it was noted by several Interviewees that physical access to clients in some Provincial prisons was completely cut off during COVID when these correctional centres were designated as "medical facilities". This was not however the case with all Corrections facilities. Awareness of this variability in working environments will need to be embedded in the implementation of the recommendations that follow.

The evidence from the project shows that the use of virtual methods and platforms has not diminished the value and impact of the work of ICWs. Rather, the data shows that the committed and inventive approaches used by *ICWs has amplified the value of the work they do in supporting clients*. In the absence of ICWs commitment and abilities to work in 'virtual' spaces, Indigenous individuals navigating the Canadian legal system would be more institutionally disempowered and the Courts would not be functioning as effectively or efficiently.

In fact, the data from this project shows that the role(s) and core work of ICW's has changed in ways that add substantial value to the clients they support and the legal systems within which they operate. As such, the pre-COVID role of ICWs has expanded substantially post-COVID, and the hybrid model makes their work that much more important and indispensable.

The Recommendations contained in the report will serve to provide a framework for training that will enable ICWs to continue to meet the challenges of this new reality.

Introduction: What was done.

This project arises from issues that were originally surfaced in the report *Indigenous Resilience and Adaptability: The National Indigenous Courtwork Program Response to COVID-19.*[1] A key theme that emerged from that report shows that ICWs adapted well to these changes but that there was much work to be done to act on the learnings from their experience. One of these learnings was that ICWs did an excellent job of adapting, literally *overnight*, to the shift to 'virtual' and or 'hybrid' service delivery. However, ICWs expressed a need for both a greater understanding of, and training in, how to best support clients in the new reality of changes to their work that was brought about by COVD-19.

ICWs reported in the previous study that the lack of direct face-to-face contact with clients was not good for building the type of relationship that is necessary to best do their work. In fact, they reported that the distancing created by virtual, or hybrid service caused considerable challenges for both their support of clients and their client's participation in justice system proceedings and processes.

Yet there were some positives as well. For example, the use of virtual court procedures for bail hearings reduced the amount of travel for both clients and ICWs to attend. These findings are consistent with the data from this project, but our data suggests that the work of ICWs, especially the use of virtual methods, continues to evolve.

A primary goal of this report is to create recognition within the Courts and Corrections that since the start of COVID there has been a fundamental change in the conditions of ICWs work, especially with regards to client engagement in virtual environments.

Importantly the results demonstrate that ICWs made proactive adaptations to COVID that have *already* increased their capacity and effectiveness to deliver service. Significantly, the evidence in this study shows that, even in the face of massive challenges, ICWs commitments are first to ensuring the best support possible to clients. By providing recommendations on training and a training framework this report will deploy the learnings of ICWs to further enhance the supports that they provide to clients via virtual and hybrid service.

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[1] Reciprocal Consulting (2021) *Indigenous Resilience and Adaptability: The National Indigenous Courtwork Program Response to COVID-19 NCCABC Report.*

Research methodology: Participatory Action Research

The NCJER Research team approached the formulation of the project proposal based on the principles and practices of Participatory Action Research (PAR). Following the work of Paulo Freire and those who employ PAR generally, we sought to, 'learn from those on the margins and form partnerships with them to address pressing social issues' (Freire, 2009:66).[2]

The Indigenous Courtwork Program (ICP) and ICWs work at the interface of Indigenous communities and the Canadian Legal system. ICWs are keenly aware and knowledgeable of the ways in which Indigenous communities and individuals are marginalized and disempowered within these systems. In fact, ICWs work is defined specifically by the goal of redressing the inequities inherent in the Canadian Legal system:

> The focus of the ICP is to support Indigenous people involved in the criminal justice system to "obtain fair, just, equitable and culturally relevant treatment."[3]

Kemmis and McTaggert (1990, cited in Masters, 1995) describe PAR as 'a form of collective self-reflective inquiry undertaken by participants in social situations to improve the rationality and justice of their own social or educational practices, as well as their understanding of these practices and the situations in which these practices are carried out'.[4]

PAR attempts to make those who are normally the object of study -- those who are written about – into the authors who write and define the research and its outputs. A key aim of Participatory Action Research is a focus on equitably sharing knowledge gathering, interpretation, representation, and management of data. Significantly, PAR seeks to encourage marginalized populations and those that collaborate with them to generate and control their own knowledge. By using a PAR approach in this project, our goal was to centre the knowledge of ICWs as well as use their knowledge in the formulation of key research questions and in the processes of data gathering and analysis. Indeed, our main goal was to enable ICWs as members of the Research Team to formulate and formally present the Final Recommendations to the National Directors Committee.

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[2] Paolo Freire (2009) *Pedagogy of the Oppressed: 30th Anniversary Edition.* New York: The Continuum International Publishing Group.
[3] Government of Canada - Indigenous Courtwork Program: Overview. Accessed at: https://www.justice.gc.ca/eng/fund-fina/gov-gouv/acp-apc/index.html
[4] J. Masters (1995) 'The History of Action Research' in I. Hughes (Ed) *Action Research Electronic Reader,* The University of Sydney. Accessed at http://www.behs.cchs.usyd.edu.au/arow/Reader/rmasters.htm

Developing the Research Agenda

NCJER Staff organized a series of three online facilitated Project Workshops with the ICW Researchers in May, June, and August. Derek Johnston (Face Value Communications) was contracted to provide facilitation services for the workshops expressly so that the NCJER was freed to focus on relationship building and learning about and from the ICW Researchers. The resulting three (3) facilitated workshops were specifically designed to provide a staged process that guided Co-researchers along a learning curve of gaining the specialized skills to be highly productive, insightful and impactful research colleagues.

In the first workshop NCJER presented an outline of the project and its goals. All the ICWs, as well as the Staff from NCJER and our project lead from NCCABC introduced ourselves and our roles on the project. The meeting was intended to provide a space for some team building and for the ICWs from different regions and provinces to begin to get to know each other. The first workshop also provided space for NCJER staff to provide initial guidance on 'tasks, timeframes, and expectations' for ICW Co-Researchers. NCJER staff also reviewed the rationale (and theoretical background) for the chosen research methodology, Participatory Action Research. Robyn Scott also participated in the first workshop.

The first workshop laid the groundwork for formulating the key questions for Interviews. After that workshop Andrew Thornton prepared a Research Booklet which included draft questions based on our discussions up to that point (See Appendix A). In the Second Workshop in June, we revised the questions and split them into two groups "Core Questions" And "Optional Questions" (See Appendix B). The optional questions were to be used if the Core Questions did not garner adequate responses from Interviewees. Each ICW Co-Researcher was expected to complete 5 Interviews.

In the 3rd and final workshop NCJER staff and the ICW Co-Researchers collectively analyzed the interview data which forms the basis of the Final Report and Recommendations.

Many Stories, One Voice

As a National Study we sought to have a representative sampling of Interviewees from each province and territory. Our goal was to interview 35 ICWs from across the country with attention also to their location: Urban, Rural or Remote.

We based the distribution of Interviewees on the total number of ICWs in each province[5]. This total was converted into a percentage of the total number of ICWs nationally and multiplied by 35 to arrive at the proportionate number of Interviewees. For example, in the previous study (Reciprocal Consulting, 2021) approximately 20.5% of the total number of ICWs who responded to the project's survey were from Ontario. Based on this figure we aimed to have 20.5% of the 35 Interviewees be from Ontario which equalled approximately 7. At a minimum we also aimed to have at least one Interviewee from every province or territory whether the calculation suggested the proportion was too small to warrant inclusion (See full details Table A at end of report).

Province / Territory	% / National TOTAL ICWs	% x 35 Interviewees (Rounded to 1.0)	
		IDEAL	ACTUAL
British Columbia	16.5	6	6
Alberta	26.7	9	6
Saskatchewan	5.1	2	1
Manitoba	1.1	1*	0
Ontario	20.5	7	7
Québec	10.8	4	5
Nova Scotia	4.5	2	0
Nunavut	6.8	2	2
NWT	4.5	2	3
Yukon	3.4	1	3
TOTAL	99.90%	36	33

Generating a comprehensive list of Interviewees with up-to-date contact details proved to be problematic due to the varied structure of ICW programs within each province or territory. This issue did slow the project down in the initial stages but was eventually resolved. Many thanks especially to Paula McLenaghan, former Evaluation Manager (Department of Justice Canada) for sharing her ICW contact list which she was collating as part of the ICP National Evaluation. Thanks as well to all the regional program managers and supervisors for granting permission for us to interview their staff and smoothing the way for ICW Co-Researchers to complete the Interviews.

To enable ICW Co-researchers to obtain as much control as possible over the project we asked each of them to *treat their assigned group of five interviews as their own independent Case Study*.

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[5] Percentages and figures drawn from *Indigenous Resilience and Adaptability: The National Indigenous Courtwork Program Response to COVID-19 NCCABC Report*, page 29: Table 5: Survey respondents – by province (DRAFT VERSION, September 2021)

These individual case studies formed the bases of the Final Report and Recommendations. Each Co-Researcher identified key themes and findings from the interview data from their individual group of five interviews. During our third *Research Workshop* in mid-August each Co-Researcher presented a summary of their individual case study. The Co-Researchers had prepared and submitted summaries of their initial findings prior to the workshop which allowed us to review everyone's work as a group. The group discussion of each case study allowed us to begin to identify common themes and unique issues and *formulate a collective picture of what ICWs from across the country were doing* and what they recommended for training to support better virtual/hybrid service.

Then along with the NCJER Research Team and Darlene Shackelly (NCCABC) the NCJER team analysed and synthesised all the individual case studies into one final report. Andrew Thornton drafted the initial report and shared it with all the Co-Researchers for feedback and amendments.

The Recommendations, interview data and supporting analysis presented in this report are based on the collective wisdom of the ICW Co-Researchers and ICWs in the field.

Forming the Recommendations: A synthesis of data, dialogue, and analysis

The outcomes of this project identified recommendations for an approach and content to create *Training for ICWs* that will build upon their existing knowledge and skill base in Virtual and Hybrid Service to enable them to best support the people they serve. The data to support the Recommendations comes from interviews of ICWs from across Canada (33 in total). The Recommendations have been categorized under three broad headings:

- Using technology to Build Better Relationships
- Policy and Practice
- Systems Change

Under each of these broad headings there are several individual Recommendations that support the general theme. Each of these is followed by an analysis and discussion of the interview data which aims to illustrate the rationale for how we framed the Recommendations.

Each individual Recommendation is also supported by wording and ideas drawn from the individual 'Case Study' summaries presented by ICW Co-Researchers at *Research Workshop #3* (held in August). Some of the Recommendations are identical to the wording presented by Co-Researchers and others have been edited and shaped into actionable ideas or policies for Training. However, in many cases the ideas are quite clearly couched in language that can be translated into actionable policy. For example, one of the Interviewees stated:

> **I think we need to focus our training on the clients**. Courtworkers and the court have learned to use technology and have court by Zoom, but no one has trained the clients on how it works.

This lucid statement made it relatively easy to convert the idea into a Recommendation for Training. And this and similar quotes support one of the most important Recommendations in this report; namely, providing supports to ICWs so they may train their clients to participate better, appropriately, and more comfortably in virtual proceedings.

The Recommendations are based on a synthesis of a close review of the Interview Data, Research Team dialogues in the Project Workshops, meetings between the NCJER staff and individual Co-Researchers and their written submissions.

It should be noted that some of the sections are much longer than others. This does not denote the relative importance of the ideas or issues under review. Rather, some of the Recommendations require more depth and detail to adequately demonstrate their logic. Some of the sections may appear lengthy but material included is intended to represent and honour as fully as possible the words and knowledge of our informants.

USING TECHNOLOGY TO BUILD BETTER RELATIONSHIPS: RECOMMENDATIONS

RECOMMENDATION: ICP programs through their Provincial representatives need to be provided the funding (time, training, and equipment) to allow them to provide Training for ICWs to learn how to train their clients to participate in Virtual Justice Processes.

Every ICW who was interviewed mentioned in one way or another that the switch to or increasing dependency on virtual engagements *was more of a problem for clients* than it was for the ICWs.

> *I think we need to focus our training on the clients.* Courtworkers and the court have learned to use technology and have court by Zoom, but no one has trained the clients on how it works … (MD Urban/EA1-Alberta)

> Another challenge are clients with hearing impairments, or other disabilities. This can prove difficult in ensuring that they are fully aware of what is going on and that they understand everything. (LS Remote/RG2-ALberta)

> *Zoom is totally foreign to most people,* even if they had access to the technology people wouldn't know how to use it. (MD Urban/EA1-Alberta)

> Where if the individual was in person, much of this stuff could easily be verified, as the intake would be completed together. *When a client walks away from a virtual interview, they can still leave feeling unfamiliar or unsure of what just went on* or satisfied that they have been helped. (WLA Urban/RG1-Alberta)

These few representative comments show that clients may not be able to follow proceedings online due to lack of skill or experience using computers or cell phones, and or various physical or learning disabilities. The effect as illustrated in the final quote is that clients often walk away from virtual proceedings not knowing what has happened. Obviously, these and other effects of virtual proceedings are deleterious to fair and equitable outcomes for those who come before the Courts.

A related major issue which needs to be addressed by the Courts, Corrections and the ICP is finding ways to address clients' lack of access to adequate technology, internet, and wireless service. Whether remote, rural, and even in urban contexts it was reported that clients did not have phones, access to reliable internet service and or had problems with computer literacy.

Many of our client base are vulnerable and some do not have phones. Often these clients do not have phone plans and rely on texting apps and limited Wi-Fi to communicate technologically. (BK Urban Rural/RP4-Ontario)

Our clients with FASD or those living with addictions find it hard to hang on to a phone. They always have a new phone or a new number. (RR Rural/EA3-Alberta)

There was no solution, only when in person appointment/appearance were allowed did it stop. If clients didn't' have phones I could not contact them, I could only wait and hope they would call. If the clients had phones, I could get in touch with them. Clients that didn't have their own phones would sometimes leave phones numbers where messages could be left. (LG Remote/RG6-Yukon)

We were *granted some funding to purchase technology for clients and it has made a significant difference* in keeping clients connected to us for supports… (NC Urban Rural/RP5-Ontario)

While ICWs reported that there were clearly problems assisting clients without adequate technology it was evident from our interviews that many agencies and staff have already learned certain methods of enabling clients to participate in virtual court processes:

The Friendship Centre has *basically been holding court in our building,* as we make space for everyone to zoom in… At one point, we had a staff member going from home to home with her phone so that people could call in to court…We have also had court from the parking lot… (MF Rural/EA2-Ontario)

It was reported by almost every ICW we interviewed that attending to legal matters in virtual environments has added substantially to the difficulties of clients participating fully and equitably in most proceedings. For example, older clients were unfamiliar with virtual technology, there were problems with hearing, difficulties with knowing the precise time of meetings, and often virtual proceedings were run too quickly to follow what was going on.

Some clients are older and [for many English is a second Language] and do not have access to internet. Some clients, do not have access to a telephone so that was very challenging, some have to borrow a phone just to make a phone call… (WCA Rural Remote/CW3- Alberta)

Court on Zoom is a mess. They now go based on seniority of the lawyers, it used to be alphabetical, so people have no idea when their name is going to be called.

It is hard to follow court on Zoom because it goes so fast. It is done before we even know what happened. *If I can't follow it myself, then I am sure most people I am working with have no idea what's going on.* (MD Urban/EA1-Alberta)

These staff are connected to a public network not a secure network, and *when they need to be on our organization's network, they have to physically unplug equipment and plug in* into the Courts network. Further, when plugged into the Courts network, their organization's networks are down (email, Teams, phones and even the printer). *They are currently unable to be on both networks at the same time.* (WLA Urban/RG1-Alberta)

When the Alberta Courts rolled out the new virtual court attendance, they did not provide any training to its outside stakeholders… (WLA Urban/RG1-Alberta)

If we didn't open our office for court most of our clients would be in jail for breaching, *it isn't fair for someone to be breached over access to technology.* **(**MF Rural/EA2-Ontario)

Attending to some of these barriers has transformed how most ICWs did their work. The comment below from a rural based ICW suggests that working virtually can take more time than in person but still allows for supporting clients fully and appropriately. While there are 'efficiencies' to be found for collaborating with clients virtually it may be that ICWs will require a resource commitment from their managers to allow them adequate time to work with clients. This is not a training issue per se, but it may be creating a change in practice that is brought about by training.

…having to meet them outside of work due to limited number of people allowed in certain areas.

To overcome many barriers, I added in extra steps in my procedures and preparation of clients for appearances. What would be a quick 15-to-20-minute interview/conversation with a client in person going through all their paperwork, now became a much longer process over the phone or virtual. Therefore, going through everything 'with a fine-tooth comb' to ensure that clients were fully prepared… (LS Remote/RG2-ALberta)

There were a lot of kinks that needed to be worked out. Doing intakes and interviews with clients was hard to get or pull valuable information when going to speak to the client's matters*. Because it's not that face-to-face meeting that you're getting with that individual where you can get a lot more from them*. (WLA Urban/RG1-Alberta)

There was also considerable evidence from our interviews to show that attending court in a virtual format has led to some clients not taking the proceedings seriously enough. In essence,

the feedback from interviewees was that ICWs need to be enabled (and encouraged) to train clients to understand and accept the basic function(s) of court etiquette.

> People take it more seriously when we meet in person, because they know if they don't follow through that they are letting me down*… People's accountability doesn't follow through on the phone*. On the phone, they can tell the judge "Yes, yes I will be there". But then they don't come. (RR Rural/EA3-Alberta)

> *Clients have become too comfortable with non-appearances, [i.e., not in person]* losing respect for court and its processes…clients are 'desensitized from court'…Court used to be 'scary' because there's a lot of Authority, like the Sheriffs, the Crown, Judges etc., *now they are just a voice over the phone*. (LS Remote/RG2-ALberta)

Interviewees reported that that the lack of the usual physical and verbal cues made it difficult for clients to be able to participate in virtual proceedings fully and appropriately.

There were concerns expressed by the Co-Researchers that there may be some in the justice system that would argue for a reduction in the use and number of ICWs due to the 'efficiencies' of virtual court. However, it seems clear from our frontline ICWs feedback that their work in building client's awareness of etiquette in virtual court needs to play an even bigger role than in person court*. This idea, by extension, sheds light on the value and importance of the work of ICWs for the entire legal and justice system.*

The interview outcomes support the idea that *there should be more ICWs made available to support clients* due to the added quantitative and qualitative burdens of participating in 'virtual court.

RECOMMENDATION:
A: Training for ICWs to be enable them to <u>prepare</u> clients for participating in virtual justice proceedings.

B: Training in how to collaborate with Clients <u>during</u> a court proceeding so they can function in a virtual setting.

The training in this regard will use a Case study curriculum that is based upon approaches that are solution focussed and enhance people skills for helping clients to (among other issues) maintain their composure in virtual justice proceedings.

This training would also prepare ICW to address court etiquette and the dehumanizing effects of working with Courts and Corrections officials in virtual justice proceedings.

Case studies will be drawn from examples of ICW successes that have encouraged judges, lawyers, and correctional staff to appreciate and work to redress the disempowering impact of online proceedings on clients who are unfamiliar with virtual environments.

Building rapport and trust with clients (and justice officials) is at the core of the work of ICWs. Most interviewees made it clear that working in virtual environments made it more difficult to form good relationships with clients.

Zoom and other online communication platforms are 'cold' mediums, and it is impossible to eliminate all their dehumanizing effects. However, our goal here is to work on developing guidance for training of ICWs to enhance their abilities to do their jobs as well as possible.

> **Question: What have the challenges been for doing virtual and hybrid service? And how did you overcome them?**
>
> I have experienced challenges with making a personal connection with clients…It is important that we *provide a wrap around service model* that maximizes our Friendship Centre and Justice Department relationships with all justice stakeholders while working in a very large geography. (FT Urban-Rural/RP3-Ontario)
>
> Quality of discussion**…***Difficult to communicate depth and emotion*. This is more acute when accused persons are calling in from remote locations giving updates about how they are progressing, challenges they are experiencing etc. (MS Urban/RP1-Ontario)

Most interviewees made similar statements concerning the lack of interpersonal connection that was created by engaging with clients online through virtual platforms like Zoom or Webex.

> …we are conducting intake calls via telephone, and we aren't able to see body language or expressions… further… *Intake calls at the detachment are much more clinical in nature.* (NC Urban Rural/RP5-Ontario)
>
> …it is hard to put a client at ease through a computer. Harder to read body language, not just the clients body language, *but how the client reads the Courtworkers body language.* (WLA Urban/RG1-Alberta)

The knowledge and skills obtained by ICWs from working online over the last two years can and should be used in designing the methods and content of such training. Many ICWs

reported that they are 'fully' back to in person practice. However, from all accounts Virtual and hybrid service are here to stay for many parts of the Courts and ICWs' work. Therefore, every effort must be made to mitigate the negative effects of working in this manner. As represented by the quote below some of Interviewees are wary of service shifting too far away from in person's service:

> I would emphasize that while virtual service delivery is often more efficient and advantageous for communication, there is a danger in relying on it too heavily and in situations where it is not needed. *It is important to prioritize in person meetings when possible…* (MS Urban/RP1-Ontario)

This comment would seem to support the idea of using a 'hybrid' model that balances the usefulness of in person and online methods.

RECOMMENDATION: **All ICWs be provided** technical training **in the fundamentals of using the most common virtual platforms (e.g., WebEx, Teams, Zoom) and how to address access issues when ICWs must use Justice based internet systems. This will include among other issues securing client files and other data management associated with virtual court proceedings. To be most useful this training should be region specific.**

Close to half of our interviewees reported that they still do not have adequate technology to work in virtual environments which had many negative effects on their abilities to do their jobs. Breakdowns in technical/technological features of virtual court or other client engagements in particular leads to the reduction of a quality, fair and equitable treatment of clients.

> **Question: Have you had adequate access to technology? What else do you need? (Computer, internet, cell phone, etc.)**
>
> NOOOO!!! Internet goes down all the time [in our area]. Technical issues quite often. There is feedback on the telephones and the Judges and Crown cannot hear client because they are using the MS Teams applications instead of phones. (MC Remote/RG3-British Columbia)
>
> Hell no … capital N…Computers out of date…Proper printer and scanners, fax machine is needed.   We use our personal cell phone (compensated $25 per month) but if I am in court – I do not like to have a client use my personal cell there are privacy and COVID issues… (GS French Urban/NM 1- Québec)

I think I figured out how to use a hotspot (this gives me better access to the internet through my computer). I'd like to see better Wi-Fi in the courthouses… (MC Remote/RG3-British Columbia)

In my opinion virtual/hybrid services have not improved anything, it is impersonal. In-person appearance better enable people (judges, crown, etc.) to make good first impressions about who a person is, it is hard to do this virtually. It could prove unfavorable for clients. (LH Rural/RG4-British Columbia)

Although most ICWs have been using various forms of technology to do their work since the start of COVID (and many long before that) most Interviewees reported they still feel the need for more formal training in how to manipulate the technology. And some as quoted above still need better basic equipment like reliable and powerful computers.

About two-thirds of our Interviewees reported that they did not receive any technical training on how to use virtual platforms (like Zoom) nor did they initially receive a great deal of support or training from the justice system. Though as some of the quotes below illustrate everyone working in the justice system was 'in the same boat' in the early phases of the pandemic. Significantly, very few reported that they received training in how to connect with clients *interpersonally* through online mediums. The important work of building trust and empathy with clients was made extremely difficult when working online:

Question: Have you had any specific training on how to do virtual and or hybrid service?

Nope, one day we were in court and the next day we were virtual. We flew by the seat of our pants and adapted… We were in a fortunate situation as I have a strong relationship with Judiciary, Crowns, Duty Counsel and Court services and day one of lock down a Court committee was formed, and I was invited. We met virtually morning and afternoon each day (after several months it reduced) and I was able to keep up with rapidly changing processes. (NC Urb Rural/RP5-Ontario)

They had one training and this was for virtual bail. This was technology training, 'how to get to certain stages, how to look for different things and how to talk to people,' not training on what the virtual bail process would look like or be. The training was so fast, that while going through it I missed one step at the beginning of the training, and I found myself lost through the remainder of the training. (MC Remote/RG3-British Columbia)

I never had training with the IT equipment at the courthouse because the project's officer takes care of everything... I learned how to use it by observing and studying the screen. I was self taught, and it helped me. (NLL Remote/RP 8- Québec)

I would like more training on what technology I need to do to make it easier to assist clients. I do not have time to do much learning as this office is always very busy. (SJ Remote/RP6-NWT)

Not really. I started in March [2022], and it was hands on training right from the get-go. We were short staffed, so I just jumped in. My supervisor showed me how to use Webex the first morning, right before court. (RR Rural/EA3-Alberta)

It is clear from the quotes above there are a variety of ways that training or lack of training in virtual environments has impacted their work. The existing training on offer has been of various lengths and quality, and in some cases may not have been rigorous enough to improve the situation for ICW's.

It seems clear that quite a bit of responsibility has been downloaded onto individual ICWs to learn on the fly. A broader and more formal institutional response from agencies is required to best support ICWs.

As shown above, several processes that previously were required to be in person have now become virtual or digitally based, but even though this change has been in place for a while there's much work to be done to minimize barriers to clients.

The main problems of clients vary from urban to rural and remote communities. According to frontline ICWs problems in rural and remote communities tend to be based on client's lack of access to the internet and the resources to manage transport and or travel to distant locales to participate in court or access ICW services. The issue of travel as a barrier to service is in large part beyond the scope of training for ICWs but needs to be communicated (and not likely for the first time) to ICP management and Court Officials.

Question: What have the challenges been for doing virtual and hybrid service? And how did you overcome them?

...clients 'going crazy on the phone.' Clients being inappropriate on the phone (swearing etc.). This is because calls are not scheduled for a specific time, the client would just have to wait all day. The call from the Courts could come at any time of the day between court times. This would prove to be frustrating for the client, and by the time

they got the call they were agitated. Other clients don't have the ability to sit and "wait for six hours for the court to call" for a number of reasons...

...losing audio, being cut off and needing to call back, forgetting to unmute... hybrid: youth getting impatient and bolting when technology slow or not functioning. (RF Urban-Rural/CW4-British Columbia)

Homeless clients...no training can help this – no access to tech. During COVID these clients could not access or get help with drug addictions, alcohol... sexual abuse ... no support for these clients...*The need in urban centres is an outreach worker* – (GS French Urban/NM 1- Québec)

A client can appear virtually to enter guilty pleas, but one of the mandatory requirements is that they have to be seen by the judge. The clients have to have their camera on. (MC Remote/RG3-British Columbia)

I overcame these challenges by using the "telephone application" process and having the Courts contact the clients... *Despite challenges this is a better system for the clients from their remote/rural communities*. Most clients don't live in town, they have to travel. Some from great distances. (MC Remote/RG3-British Columbia)

Court is held at the sports complex in community. If not at the sports complex court is 17 km out of community... Clients walk or hitchhike to make court appearance. Clients have no access to transportation and no public transportation...As a Courtworker I am not permitted to give rides due to liability. (LR Rural-Remote/CW1-Yukon)

The evidence drawn directly from the experience of ICWs shows how important it is that any recommendations for training recognize that *ICWs be adequately resourced and enabled to best support the people they support*. It follows that ICWs will then be better able to train (and support) their clients in the technical, procedural, and interpersonal aspects of participating in virtual court proceedings.

RECOMMENDATION:

Ceremony and Protocol *in Virtual and Physical Courts*

Train ICWs in how to employ Indigenous based ceremony and protocol for virtual meeting/proceedings that is client specific and locally relevant. This would include making space in the delivery of virtual justice proceedings to include and or improve upon the use of ceremony and protocol to support clients (and staff).

Ceremony and Protocol in Virtual Court *in Community*

The (increasing) use of virtual court in community (not based in a courthouse) will require ICWs to adapt their practice to meet the standards of local ceremony and protocol.

ICWs will need training and increased amounts of community engagement) to understand local community protocols and incorporate the different protocols into the timing and structure of the court. This would include introductions, setting up work, who/when to connect with to determine the best approach locally to "set up" in community, times/days and more.

Several interviewees mentioned that they would like some and or more provision of culturally relevant supports for clients (e.g., smudging). This is an issue that needs ongoing discussion for how it fits within in-person service. And it appears in some places there has been little success or acceptance of employing cultural supports in person. Therefore, there may not be support for doing them online, but this would have to be explored:

> Can't smudge in office with clients…Put in written request and had 10 meetings for it and not going to implement and cannot smudge and need to give 7 days' request to smudge. (DT Urban Rural/CW2-Saskatchewan)

However, it is also clear that many Interviewees also saw that virtual environments have mitigated against using cultural supports appropriately. As described below there are issues of the maintenance of the integrity of cultural practices:

> *We have a program at our Nation where people can go through mediation or mentoring with Elders.* They can also access counselling and support sessions. This is only for summary charges right now**.** *If court stayed virtual, the integrity and purpose of this program would be lost*. How would it still have meaning? You wouldn't get the same value if you were meeting with Elders online. How would you have land-based activities? No one would take this program seriously if it was online, it would just been seen as going the easy way out. You'd lose all the programs' integrity. (RR Rural/EA3-Alberta)

This is a complex issue that requires dialogue among ICP staff and managers about what is currently being done and what else could be done in person. Employing and maintaining the integrity of the ceremonial supports in virtual environments can also serve to support the more general discussion of how to provide culturally appropriate supports to clients in general.

POLICY AND PRACTICE RECOMMEDNATIONS

RECOMMENDATION: National Working group of ICWs be formed to share knowledge, experiences and (formally) advise the ICP on implementation of the features of Virtual and Hybrid Service that have been developed and shown to work since the start of COVID (e.g., the use of 'virtual court' for simple procedures).

The National Working Group will also consist of ICWs with advanced Technology Skills who will be trained and supported to assist in training other ICWs with technical aspects of virtual work. (Train the Trainers structure). Identify and fund a local/regional/provincial ICW as a trainer in virtual and hybrid service.

This group can also communicate and track ongoing changes to the role of the ICWs due to the implementation of Virtual and Hybrid Services.

At the beginning of the COVID pandemic most ICWs according to our interview data were sent home with their laptops or supplied with one shortly thereafter and left to figure out how to use various online methods of communicating. Most ICWs now report that they do have adequate equipment to work online. Though it is worth noting that a few of our Interviewees did report that even now they do not have adequate hardware or training in how to use virtual platforms. The provision of adequate hardware is an issue that will need to be addressed on a program or regional basis.

However, it was recommended by both the ICW CO-Researchers and many Interviewees that one way to address the need for more training was to use the skills and knowledge acquired by other ICWs to train their colleagues.

> *I just finished my last two years of my degree through the pandemic and on-line* learning, so when I started this role, I was very well versed in working virtually with MS Teams and Zoom. (MR Urban/SO2-British Columbia)

> I had no specific training as to how to work virtually as a CW. *My nieces and nephews helped me figure out how to use zoom*. There was a phone conversation with directions on how to contact the Court virtually. (LC Urban-Rural/SO4-Ontario)

As these contrasting quotes illustrate there seems to be a divide in the comfort and skill base of the current ICW contingent. Rather than seeing this as problem sharing knowledge in this context is an opportunity to build rapport among staff while expanding the collective skill base of ICWs regionally and nationally.

The ICW Co-Researchers through this project were able, many for the first time, to meet and dialogue with other ICWs from across the country. The ICWs who were co-researchers on this project collectively agreed that they would benefit from communicating and sharing knowledge with other ICWs from outside their own region or province. Many of the interviewees also recommended that a dedicated forum for sharing knowledge and best practice, especially around virtual service would be valuable. This might include regional or national conferences; Online curriculum; Online facilitated chat rooms on specific topics and regular regional or national check-ins.

A key component of this recommendation is to simultaneously develop training for ICWs in how to share knowledge and skills effectively. This will require both a regional and national focus to address variations in ICW roles and ICP programs.

> I think *before we can make recommendations* about how to improve the ability of ICWs to do virtual work, *we need to learn more about what their roles look like* [now]. What does working virtually actually mean to/for them? In the small sample I had, the work was quite different, both during COVID and currently as we are (maybe?) transitioning back to the pre-COVID world. I think some more information sharing across regions would be very helpful. (Esther Armstrong, Project Co-Researcher)

> So now that they are back in the courthouse, and in person, *it is like starting anew, because people changed, and we have to build new relationships again*… (OR Rural-Remote/RG5-Alberta)

> *I think it would be great if the ICWs had their own national network program.* Courtworkers would have an access code to a secure site, and it would be readily available. In the network, there would be training videos, what other Courtworkers are working on and issues they are dealing with. Keep the ICWs connected. (JL Urban-Rural/SO5-Yukon)

There are several problems with virtual and hybrid service that featured prominently in the ICWs interviews and some of these existed before the COVID pandemic. However, it was truly clear from the interview data that *there are many features of virtual and hybrid service that make supporting clients better, more efficient, and effective for all involved.*

> **Question: What, if anything, has improved your capacities in virtual or 'hybrid' service delivery?**

I am able to work from the office and allow for drop ins for my clients while court is in session. I have been able to quickly move among different courtrooms virtually if I have clients in different courts on the same day. We work closely with Duty Counsel and Court Admin to ensure they have any updates for our clients calling in. (BK Urban Rural/RP4-Ontario)

… on court appearance days, many clients preferred a phone in court date mainly because of the travel distances. (GA Rural Remote/RP7-Alberta)

Opened the door to the networking process. Networking is faster, because now everyone is "plugged in." It also makes networking quicker and easier, less travel. More access to people. (WLA Urban/RG1-Alberta)

But *in my previous job I did training on how to facilitate meetings on-line*. I found that helpful. I got to shadow a co-worker in a court room one day and found that very beneficial, as it also helped with meeting court personnel. (AE Rural Remote/SO6-Yukon)

Almost every ICW we interviewed reported numerous positives in the use of virtual or hybrid proceedings and service. Among other positives they reported that virtual processes can save time and expense on travel for ICWs and clients, allow ICWs the comfort of working at home on occasion, provides access to remote sources of training and learning, and allows for the possibility of multi-tasking that is not available when doing in person service or court.

Question: What has virtual service allowed you to do that you otherwise (or previously) would not have been able to do?

I believe that virtual work is the new era for my location because I'm within the community and I am readily available to them via telephone, internet, social media etc. and at public places. The clientele I serve contact me through emergency and survival mode and that is mainly after hours not when I'm sitting at the desk in an office. (MD French Rural/NM2- Québec)

It's allowed me to attend more trainings, as they are online so I can do them from the office and don't have to pay travel costs… makes it easier for me to observe our Courtworkers, as I can Zoom in with them and just watch what they do…
…improved our access to cultural opportunities. For example, we can join a zoom teaching from someone in the States. (MS Urban/RP1-Ontario)

...having so many meetings virtually has increased my capacity to speak on camera! (GD Rural Remote/SO3- British Columbia)

Clients can stay in community. Many clients have low income, don't drive, no vehicle, no license. If they do get a ride, they get left in town which sometimes is 3 hrs away potentially [coming into conflict with the law] Or they have to pay for a ride which they can't afford being on a fixed low income. (MC Remote/RG3-British Columbia)

Indeed, many agencies had been doing some form of virtual and or hybrid service for some time before the advent of COVID, especially those in rural and remote areas. The use of cell phones could be seen as a component of 'hybrid' service.

I also like that if a client has a court date in another jurisdiction that they can attend virtual court from our office. If we had to find a way to get them to another community that would be very difficult. Whereas now we can call into any court. (RR Rural/EA3-Alberta)

To be honest our work in attending court became much easier in a virtual model. For example, we can attend court on zoom but be sending emails, making phone calls, and supporting clients until our matter is called. Bail court virtually was better in some ways for our clients as they could be released with their property from arresting detachments in their home community. (NC Urb Rural/RP5-Ontraio)

I sees value in continuing with the hybrid model, this would save me time, e.g.: on days when I only have one or two clients in court because I can do other things plus attend court virtually (instead of most of the workday being lost to waiting in person for a case or two to be called) ... (HL Rural-Remote/RG5-Alberta)

The discussion here also supports the recommendation that there be ongoing dialogue between ICWs, the Courts and Corrections staff to improve service delivery on all sides.

It is crucial that ICWs maintain as much in person contact with clients as possible. However, this commitment should not mean that the ICP and ICWs abandon the useful and effective features of virtual service. A 'hybrid' model, using virtual tools in combination with in-person engagement, has been shown to improve the organizing of ICWs everyday tasks, and for some aspects of court proceedings enables a simpler and more efficient experience for clients and the Courts.

RECOMMENDATION: Led by ICW National/Regional Working Groups develop local and national protocols to enhance access to and safety of client information and court documents in Virtual Service procedures.

Virtual and hybrid service creates problems for accessing and safe-guarding client files and information. For example, many ICWs reported that they were saving client and court documents on their personal computers and or phones. All agencies in the ICP will have privacy policies and practices (e.g., FOIPPA directives) in place but given the transformations in practice brought about by virtual practice, issues of the safety of client information need to be re-examined in detail.

> One thing that was needed while we worked virtually was the ability to access client information virtually and we began using an online database called EMHware to ensure we could easily update client profiles. A lot of our work now is paperless… (BK Urban Rural/RP4-Ontario)

> I have no problems accessing the technology *because I have my own laptop*, I have zoom and teams installed, the phone service is with the courthouse I can call long distance from there and *I also have my personal cell phone that I use for work purposes…* (NLL Remote/RP 8- Québec)

> Holding court via Zoom/WebEx/Microsoft Teams opens a host of confidentiality and privacy issues. While these issues are not unique to the work of ICWs they also need to be addressed in a concerted and formal manner by the ICP and legal system(s)

SYSTEMS CHANGE RECOMMENDATIONS

<u>**RECOMMENDATION**</u>**: Invite non-ICP agencies and staff in the Courts and Corrections systems to participate and or co-design professional development related to virtual and hybrid service. This will require both a regional and national focus to address variations in ICW roles and ICP programs.**

ICWs should also be invited to collaborate with any Judiciary based committees/forums about how to best conduct and improve virtual/hybrid court. Provincial government Directors who form part of the TWG should be able to help provide support for this action.

Most ICWs are now essentially 'experts' in virtual service delivery and 'virtual court'. Therefore, the ICW Co-Researchers recommended ongoing dialogue with Justice and Corrections officials to work together to address at the very least some of the basic shared technical issues (Using Zoom/Webex efficiently) and court etiquette (How and when to address Court in virtual proceedings).

As mentioned, there is considerable regional variation in the way programs and agencies are organized and funded. Therefore, some aspects of the value and impact of virtual service will need to be closely evaluated on a regional basis:

> One of the main things that created an almost unfixable issue for the COVID closure times, is the lack of access to our client files. But what *this highlight is the ongoing need for Ontario Courtworkers to have a database.* (VJ Rural/PB1-Ontario)

> Same issues from 20 years ago are issues that we still have. We are not government, we all have different employers and government has independent contracts with Metis, bands, tribes… We all have different roles across the board. We cannot even complain to government. Hard to get even basic services, boss is 3 hours away and secretary is in yet another community. (DT Urban Rural/CW2-Saskatchewan)

The following quotes represent some of the most common problems that need to be addressed across all regions and agencies. Interviewees pointed out that virtual meetings are not secure, Document sharing needs to be carefully considered and staff shortages in the Courts and Corrections can impact even the possibility of holding Virtual meetings.

> …they were all learning as they went along, not just our organization's ICW's, but the Courts and all other stakeholders. They did provide a court etiquette guideline. *This,*

however, was just a guideline on how to enter your title and/or name so that senior council and lawyers etc. would have their matters heard first.

The chat function is shared by all those attending, no private chats or group chats. *Document sharing, how to share, and being mindful of what you can and cannot share.* For example, Crown, and Defence Lawyers can be on these chats so being mindful not to share documents that would normally not be shared. Also being mindful of confidential information. (WLA Urban/RG1-Alberta)

Shortage of staff on the other end. Like prisons and different organizations have a staff shortage with creates a difficult if not impossible way to keep a time schedule or meetings. (GS French Urban/NM1- Québec)

Working collaboratively with non-ICP staff and agencies should provide an excellent opportunity to build better working relationships between the Courts and Corrections the ICP as a whole and ICWs as individuals. There was a need expressed by more than one Interviewee that ICWs are often barred from accessing the Internet via Wi-Fi on Court premises and or there are often significant limits on access to direct hardlines to the internet.

Establishing stronger connection between courthouses and Courtworkers would enable greater information sharing and therefore client support. In terms of training for virtual and hybrid services, which would include access to the in-custody meeting system and training for this, virtual courtroom coordinates and passwords list so we may attend and be easily available for client support if needed. (VJ Rural/PB1-Ontario)

There were only two plugins for hard wired [direct line to the internet] at the courthouse and the court officials won't give internet password to anyone who is not a government employee [in order to access wi-fi]. (DT Urban Rural/CW2-Saskatchewan)

The communication and understanding of the Court have been slow to change. Courts are not releasing disclosures to unrepresented clients. (GD Rural Remote/SO3- British Columbia)

[working online ICWs were] unable to speak with the Crown or the client's counsel prior to an appearance to resolve any issues or discuss a matter before the actual appearance in court. [ICWs were] unable to quickly access crown and/or counsel. Another challenge was having several clients waiting in their [local] office… waiting in line to appear virtually, whereas before they could wait in the courthouse for their turn in court. (LH Rural/RG4-British Columbia)

Ongoing dialogue between ICWs and court officials should provide a valuable opportunity to redress these and other issues that are causing problems for clients, ICWs and the Courts.

RECOMMENDATION: Provide training necessary to enable ICWs to be conversant with the ways to employ and manage the most common types of digital documents. This will require the programs to examine existing ICW documentation and begin Digitization of documents related to ICW and court procedures.

Several ICW interviewees also mentioned that their agencies did not have digital copies of common paperwork and that getting signatures from clients on hard copies of court documents caused a lot of problems. Many of the ICWs interviewed mentioned the awkwardness and difficulties associated with using hard copy forms in virtual contexts. Again, this is not unique to the work of ICWs, but it has particularly important impacts in the context of virtual and hybrid service delivery given the existing difficulties with access to technology.

> One thing that I learned was the *necessity to make Intake forms 'fillable' (digitally)* as we often assist our clients with referrals to other programs/agencies and filling them out online is efficient. (BK Urb Rural/RP4-Ontario)

> *Can't get hardcopy paperwork to clients*. Staff have to go to office scan them in then email them, or "air drop" them, by taking pictures of them then "air drop" them. No in person contact even for trials, judges are appearing virtually. However, trials are supposed to be in person. (MC Remote/RG3-British Columbia)

> *It's a combination of Crown going paperless and clients appearing via MS Teams*. When clients come for their first appearance and don't have representation, and nobody to get their paperwork done for them electronically, then how do they get the information and paperwork they need? (MC Remote/RG3-British Columbia)

Conclusion: The ongoing work of Decolonization

This research proceeded with the hope of contributing in some small way to the work of decolonization in Canada. The very existence of the Indigenous Courtwork Program speaks to the ongoing inequity, and oppressive treatment of Indigenous people in Canada, especially by Canadian Legal Systems.

> Any legal order is going to reflect the society that it's a part of… Law is a distinct mode of governance; it's never separate from the economy; it's never separate from how we manage our politics and how we organize ourselves. So, we have to decolonize Canada in order to decolonize law. In order to create new dynamics that law can reflect, we have to create a new Canada.
>
> – Val Napoleon, Saulteau First Nation, Treaty 8-British Columbia.
> Co-founder and Director: Indigenous Law Degree Program, University of Victoria[6]

There were several recommendations (listed below) that emerged from our Research Workshops and Interview data that speak directly to the need to identify and address the wider and ongoing impacts of colonialism.

These recommendations are beyond the scope of the project's focus on Training to improve Virtual service skills. However, we would be remiss if we did not include them in this report as a reminder that it is the Canadian Legal System, the people and government of Canada that have the most work to do in the processes of decolonization.

1: The ICP should advocate for the necessary resources to translate court documents into local Indigenous, Aboriginal, First Nation, Inuit, Métis language(s).

In our final Research Team Workshop, it was pointed out that while there are translations of (some) court documents into French, Chinese, Arabic, and other languages there were few or no translations of documents available in Indigenous, Aboriginal, First Nation, Inuit, or Métis languages. It's unclear if this is entirely accurate in all regions and provinces but does raise a largely unnamed problem: The need for the translation of documents in local community's language(s):

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[6] Kaymi Yoon-Maxwell (2019) Recognizing Multiple Legal Systems: Decolonizing our Understandings of "the" Law with Val Napoleon. Accessed at: https://www.westcoastleaf.org/2019/07/17/decolonizing-our-understandings-of-the-law/

On court days we contact them by phone when a client needs translation, or they contact me through texts during court. (NLL Remote/RP 8- Québec)

This issue can be a major barrier to participating equitably and in an informed manner in legal proceedings. ICWs are aware of the client need for access to service and documentation in their own language.

It may be that acting on theTruth and Reconciliation Commission of Canada (TRC) Calls to Action on Language and Culture, as specifically identified by Call to Action 14 (and generally the Calls to Justice 25-42) would contribute to ICWs ability to support Clients.[7]

2: ICWs recommended more and more comprehensive Cultural sensitivity/competency training for Corrections and Court officials

3: Training for ICWs and Court and Corrections officials in effective communication and conflict resolution including responding to and addressing sexual harassment and racism in all working environments.

This research informs the ongoing development of the practice of ICWs in response to the structural evolution of the justice system. The justice system has in large part been based upon an in person process acted out in real time that has not changed for generations. Yet in the span of mere months COVID forced the justice system to transform itself in ways that have significant implications for everyone who works in it and everyone who is affected by it, especially for Indigenous people who come before the courts in 'virtual' environments. It may in fact be too early to say what the full range of impacts will be but based on the insights of ICWs in the field and our Co-Researchers it has improved outcomes for Indigenous people.

The lessons learned from this project will inform future training and professional development that can serve to contribute to the process of decolonizing the justice system.

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[7] Truth and Reconciliation Commission of Canada, & McGill-Queen's University Press, (2015).

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Co-Researchers Booklet

Putting Indigenous Courtworkers Learnings from COVID to work:

Towards Indigenous-Informed and Client-Centred 'Virtual' Service Provision

(Includes feedback from Workshop # 1: May 7, 2022)

Project Objectives:

- o evaluate and identify what supports will be required so that ICWs 'virtual' and hybrid service delivery can become an even more effective tool in providing services to clients.

- o provide recommendations for training to best support improvements in ICW service.

- o identify content, platforms, and processes to ensure ICWs service is Indigenous, and client centred.

- o Identify the skills that ICWs need and the supports those clients will need to work in virtual environments.

The purpose of this project is to provide recommendations for training and what needs to be put in place to enable the training. The goal is *not* to design the actual training or curriculum.

The Research Framework and Data Management: 7 Case Studies = One Big Story

We are asking each CR to *treat their group of five interviews as their own independent Case Study*:

You will identify key themes and findings from your interview data to develop your own Case Study (which will provide a broad perspective for each of you) and then along with the NCJER Research Team we will analyse, compare, and contrast the resulting 7 Case Studies as a whole and then develop in collaboration a national/community perspective on Recommendations.

Andrew will work with each CR to analyse and interpret their individual data. This will enable each CR to take more control over the data and analysis. We hope each CR attains a sense that they are doing their own project instead of merely adding data to the larger data set.

Seven sets of Individual data (from each group of five interviews) will be collated into one large report:

- Each CR will document and summarise their findings to form an individual case study
- Then we will collectively compare and contrast <u>ALL 7 case studies</u> to create a vision/map/outline of the overall findings
- Keep the interviews focussed on the MAIN RESEARCH QUESTION(S) as much as possible
- Take notes during Interview if you are comfortable doing so: Tell Interviewee 'I will be taking notes,' but I am listening
- Stick to time limit: 30 minutes (approximately)
- Immediately make notes after interview: Impressions and details: These do not necessarily need to be part of your file on Monday.com

➔ ***After each interview and on a rolling basis begin to formulate your analysis and identify major themes and supporting examples.***

➔ *As you go along in the process from Interview 1 to Interview 5:*
- Document Direct quotes from each interviewee that show what is interesting or relevant to our main question(s)
- Identify common and unique themes and examples
- What did all your interviewees point out?
- What were unusual or surprising comments/examples/ideas?
- Based on this group of interviews what would your recommendations be?

➔ Complete *Interview Template* (Below) For Each Interview

SUBMIT each completed *Interview Template* to Monday.com

Follow up with Andrew (or others) after submitting each template (optional, but recommended)

PROJECT FOCUS:

The purpose of this project is to provide to the National Directors *sound* recommendations *for the methods and content of training to further improve ICWs virtual and hybrid service delivery.*

What we want to learn is what ICWs recommend from their own experience and expertise, in virtual and hybrid service practice. We hope to transform that knowledge into training for all ICWs to enable them to do their jobs best, and to *best serve clients*. Better engagement or

relations with the Courts and Corrections is relevant but the most important focus is improving ICWs skills and knowledge to best support clients.

Therefore, the focus of our interviews will be on gathering ideas, experiences, and knowledge about the content of (future) training and recommended methods for that training (e.g., independent learning versus in class group work).

People generally do not use this type of abstract language to talk about what they do, so you will need to ask fairly general questions and explore interviewees responses.

Documentation and Interviewing

We want to be able to document what people are saying in relation to the focus of the project: Recommendations for content and curriculum (i.e., the structure and methods of teaching and learning).

We do not need a word for word account of what people are saying. Though it is often useful to provide a direct quote or a detailed story to illustrate someone's insight.

In this regard we would ask that you record your interviews (unless the Interviewee does not agree): Most computers and cell phones have the capability to digitally record people speaking. If you are using a computer to contact your interviewee you can use a phone to record the conversation. And if you use a phone to contact your interviewee you can then use a computer as the recording device.

Before you conduct your first interview you should practice making a digital recording until you are comfortable doing it, including retrieving, labelling, and storing it.

- o *Important: These recordings are confidential and should not be shared with anyone else.*
- o Do not submit the recordings to NCJER staff.
- o Please permanently delete the recordings from your device once you finish reviewing and documenting their contents.

Informed Consent

(NOTE: Do we want to create a formal consent form? let me know I have one in draft from - Andrew)

Please tell your interviewee and have them agree either verbally or by signing consent form that:

- o you will be recording the interview and or taking notes
- o their comments are confidential, and you will not share the recording with anyone

- if you use any of their responses in any format then all their identifying details will be removed
- They can choose not to answer any question at any time
- They may withdraw from the study at any time during or after the interview
- If they wish to withdraw, they must inform you in writing (email is adequate for this purpose)
- If they do not feel comfortable telling you that they wish to withdraw they may contact Project Liaison Darlene Shackelly (NCCABC) CONTACT or their local Director/Supervisor who will inform the project Team via Darlene or Andrew Thornton, (NCJER) Principal Researcher for the project.

Good Research Practices

Once you complete each of your interviews you should double check that you have an audible recording. It is easy to forget to press the record button or have the device turn itself off.

Once you finish you should immediately make notes about what you think you heard; What seemed most interesting/unique/important. (You should also make notes while you are speaking with your informant. Let them know if you do so.)

Then you should review the recording and or your handwritten notes and fill in the Interview Template which is currently in *draft* form BELOW. Provide only as much detail as is needed to be clear.

Doing the Interviews

Pre-Interview 'MEET AND GREET'

Based on the discussion in the workshop it was agreed that you would contact your interviewees for a short 'meet and greet' introductory and relationship building conversation before the formal data collecting interview. This is to ensure that there is no breech of protocol and to respect the individuality and diversity of community.

Formal Interview

All of you will be familiar with formal and informal ways of conducting an interview and documenting the results. The method and purpose of a 'research' interview is not particularly different from interviews for other purposes. You should draw on your existing knowledge and interview skills, such as 'active listening,' in doing this research.

The questions below are RESEARCH QUESTIONS to be answered: Some are closed questions and others are open ended. Start with the closed 'information' questions first (e.g., How long have you been an ICW?)

It is usually not necessary to ask interviewees every single question on the list. Often interviewees will answer other questions in the flow of answering a single initial question. For example, you might ask an interviewee "What worked best to make virtual service easier for you to do?" In their answer they will also likely tell you what made it 'harder.' Therefore, you do not need to specifically ask an interviewee "What made virtual service hard for you?" as they will almost always have answered that in their previous response.

In your interviews stay focussed on your questioning, and <u>listening,</u> to *whether you are getting the data or responses that we want for the purpose of the project*. For this project do not worry about asking every single question:

 Pay attention to whether you are getting relevant, interesting and or clear responses.

We want responses that enable us to answer our main question: What do we recommend the content and method of training be to improve virtual / hybrid service?

After your interview review your notes and or recording and provide details for each of the question. You can fill in specific details after you complete your interview, but also, if you can manage it, as you go along.

<u>**FORMAL INTERVIEW TEMPLATE (Draft)**</u>

The questions below are in DRAFT form at this point. Please read through them closely and amend, add, or delete and return to Andrew. We'll arrive at the final set of questions collectively. Bearing in mind that our focus is tight we need only a few well-structured questions to find the information we want.

The goal of the interview is to ensure you cover the issues of interest to the purpose of the research.

Keep in mind as you review and edit the questions below that there will be a lot of material in your interview that will be very interesting and important, but it may not be relevant to the goals of the project: Finding evidence or ideas to support recommendations for developing training that improves the skills of ICWs.

The list below reflects questions that were suggested during the workshop. (We may have missed some.) However, we (likely) will only need a few questions to get useful data. Also, the more questions we add the harder it will be to maintain focus.

The Project Background to **READ TO INTERVIEWEE:**

> For the last two years ICWs across the country have had to change to using more technology based or virtual service. This has created major changes in how ICWs engage with clients, Courts, and Corrections.

> ICWs who took part in a previous study expressed a need for greater knowledge and skills to best assist clients when using virtual or technology-based service. The current project is looking to find evidence to support recommendations for training in virtual and 'hybrid' service. That is why the project is titled ***Putting Indigenous Courtworkers learnings to work***: We want to gather the knowledge gained by ICWs during COVID to support recommendations for training that will further improve their capacities to do their jobs.

==**DRAFT QUESTIONS:**==

Objective/Information Questions

WHERE DO YOU WORK?

> Province / Region / Community / Nation:

> Remote / Rural / Semi-Rural / Urban (check one)

> In an Office: On Reserve /Off Reserve / Both

> At Home: On Reserve / Off Reserve / Both

How long have you been an ICW? (Some individuals have different titles)

How long have you been doing virtual and or hybrid service delivery?

0-6 months / 6 mos to 12 mos / 12 -18 mos/ 24 mos (Since start of COVID) / Always been part of my role

What percentage of your overall work is **now** 'virtual'? 0-25% / 25-50% / 50 – 75% / 75-100%

NOTE: WHAT OTHER INFORMATION MIGHT WE WANT TO KNOW HERE?

OPEN ENDED QUESTIONS

Please put the responses from your interviewees in the spaces below each question: Use as little detail as needed to provide a clear picture of the responses.

OPEN-ENDED interview Questions begin here:

For Co-Researchers: Please review and revise the questions below. We only want questions that will provide clear relevant answers and that are not repetitive. There are probably too many questions already and some of the questions will follow in the natural flow of your conversations, so you won't need to ask them. *You should feel free to suggest that we **remove** some of these questions if they seem irrelevant, too vague, or too broad.*

These questions are open ended, but we want to be very focussed on gathering data that will support our goal: Formulating recommendations for what is needed for training (content and curriculum) to improve all ICWs capacity to do their work.

1. In what ways, if any, have you used virtual or hybrid (technology based) service since the start of COVID? (Note: Hybrid Service is based on using both in person and virtual service methods).

2. What have the challenges been for doing virtual service? And how did you overcome them?
3. What, if anything, has improved your capacities in virtual or 'hybrid' service delivery?
4. Have you had adequate access to technology? What else do you need? (Computer, internet, cell phone, etc.)

5. What kinds of software or program are you using for virtual court or other virtual service?
6. Have you had any specific training on how to do virtual service? What was it? Did it help?

7. In what ways have your clients struggled in relation to virtual service delivery? How might we better address that through training?

8. What has virtual service allowed you to do that you otherwise (or previously) would not have been able to do?
9. What do you see the value and role of virtual work being for you in the ICW role? What would you need for your vision of the role to work?
10. What *content* would *you* include in training to improve upon your and others virtual / hybrid service delivery?
11. What *methods* of training (teaching and learning) would *you* recommend for improving doing virtual / hybrid service?

OVERALL MESSAGE / UNIQUE RESPONSE(S)

Appendix B: Interview Template (Revised June 30)

INTERVIEW TEMPLATE

Putting Indigenous Courtworkers Learnings from COVID to work:

Towards Indigenous-Informed and Client-Centred 'Virtual' Service Provision

June 2022

Background:

Due to COVID ICWs across the country have had to change how they work, and many are now using much more technology or online tools to do their jobs. This has created major changes in how ICWs engage with clients, Courts, and Corrections.

A research team of ICWs (approximately 7) will be interviewing ICWs from across Canada about their experience and knowledge of doing virtual and hybrid service. The project is being led by the Native Courtworkers and Counselling Association of British Columbia (NCCABC), in partnership with the Nanaimo Centre for Justice, Education and Research (NCJER).

The goal of this project is to provide recommendations for training that can best support improvements in ICW training that reflect the evolution towards 'virtual' and hybrid service delivery (which includes a combination of face to face and virtual contact with clients and the Courts.)

This project is supported by the ICP National Directors and follows on from the study that was conducted in 2021. The goal is *not* to design the actual training or curriculum.

Background Information Questions

WHERE DO YOU WORK?

       Province / Region:

       Remote / Rural / Semi-Rural / Urban (check one)

       In an Office: On Reserve /Off Reserve / Both

       At Home: On Reserve / Off Reserve / Both

How long have you been an ICW?

How long have you been doing virtual and or hybrid service delivery?

0-6 months / 6 mos to 12 mos / 12 -18 mos/ 24 mos (Since start of COVID) / Always been part of my role

What percentage of your overall work is now 'virtual'? 0-25% / 25-50% / 50 – 75% / 75-100%

Open Ended Questions

What types of virtual and hybrid service are you doing at the moment?

What have the challenges been for doing virtual and hybrid service? And how did you overcome them?

Have you had adequate access to technology? What else do you need? (Computer, internet, cell phone, etc.)

Have you had any specific training on how to do virtual and or hybrid service? What was it? Did it help?

What *content* would *you* include in training to improve upon your and others virtual and hybrid service delivery?

In what ways have your clients struggled in relation to virtual service delivery? How might we better address that through training?

OPTIONAL /BACK UP QUESTIONS

In what ways, if any, have you used virtual or hybrid (technology based) service since the start of COVID? (Note: Hybrid Service is based on using both in person and virtual service methods).

What kinds of software or program are you using for virtual court or other virtual service?

What, if anything, has improved your capacities in virtual or 'hybrid' service delivery?

What has virtual service allowed you to do that you otherwise (or previously) would not have been able to do?

What do you see the value and role of virtual work being for you in the ICW role? What would you need for your vision of the role to work?

What *methods* of training (teaching and learning) would *you* recommend for improving doing virtual / hybrid service?

Table A: Distribution of Interviewees

Province / Territory	% / National TOTAL ICWs	% x 35 Interviewees (Rounded to 1.0)		Rural	Remote	Rural and Remote	Urban
		IDEAL	ACTUAL				
British Columbia	16.5	6	6	1		3	2
Alberta	26.7	9	6	2			4
Saskatchewan	5.1	2	1				1
Manitoba	1.1	1*	0				
Ontario	20.5	7	7	5			2
Québec	10.8	4	5	2	1		2
Nova Scotia	4.5	2	0				
Nunavut	6.8	2	2		1	1	
NWT	4.5	2	3		1	2	
Yukon	3.4	1	3	1	1	1	
TOTAL	99.90%	36	33	11	4	7	11

Percentages drawn from *Indigenous Resilience and Adaptability: The National Indigenous Courtwork Program Response to COVID-19 NCCABC Report*, page 29: Table 5: Survey respondents – by province (Reciprocal Consulting DRAFT VERSION, September 2021)

* Calculation for Manitoba results in a figure less than 1, but there must be at least one ICW interviewed from each Province/Territory. Therefore, the total is + 1 over Ideal.