

**First Nations Court of
New Westminster
and the
Aboriginal Family Healing
Court Conferences**

Judge Garth Smith
Provincial Court of British Columbia
November 18, 2021

First Nations Court of New Westminster

DEVELOPMENT AND COMMENCEMENT

- began in November 2006 by Judge Marion Buller
- developed in consultation with Elders from across Canada representing First Nations locally and across Canada, Community Corrections, crown counsel, defence lawyers, and other support service groups like the Native Courtworker and Counselling Association of British Columbia
- an “urban” court that accepts waivers from across Canada

First Nations Court of New Westminster

OUR GOALS

- the focus is holistic, recognizing the unique circumstances of First Nations offenders within the framework of existing laws
- Elders are encouraged to contribute to the court proceedings
- providing support and healing to assist in rehabilitation and to reduce reoffending
- we seek to acknowledge and repair the harm done to victims and the community

First Nations Court of New Westminster

THE MODEL

- a sentencing court for adults and youths from across Canada who self-identify as Indigenous
- we use a holistic approach for healing to reduce criminal behaviour, considering causes of an offender's crime and criminal behaviour
- Indigenous offenders must accept responsibility for their criminal behaviour and plead guilty to a criminal charge (most of the time)
- all charges are considered except for murder, but must be approved by the crown for inclusion in the First Nations Court
- provincially prosecuted offences and federally prosecuted offences are considered for inclusion in the First Nations Court
- the court typically sits every fourth Thursday
- no pre-court meetings occur, for transparency of decisions

First Nations Court of New Westminster

HOW DOES A FIRST NATIONS COURT OPERATE?

- we start the court session with a prayer
- all people in the courtroom identify themselves, and are welcomed
- we describe teachings of the Four Directions, or the Medicine Wheel to help clients to develop their healing plans
- we refer to the offender as a “client” of the court
- at the accused person’s first appearance in the First Nations Court of New Westminster, guilty pleas are taken or confirmed if given in courts previously, and the First Nations Court Judge orders a Pre-sentence Report with a Gladue component, to be prepared by a Probation Officer for each sentencing that is to occur in First Nations Court
- Defence counsel and crown also can request a Gladue Report

First Nations Court of New Westminster

HEALING PLANS (SENTENCING)

- within approximately eight weeks from the date when the Pre-sentence Report is ordered, the client appears in the First Nations Court of New Westminster again for sentencing
- the First Nations Court Judge imposes a sentence which we refer to as the healing plan, considering the Pre-sentence Report, sometimes a Gladue Report, and with input from Elders, defence counsel, crown counsel, Native Court Workers, and possibly victims, their families and support people and people attending court
- a healing plan typically is community-based to create balance for the client, the client's family and also for the community

First Nations Court of New Westminster

HEALING PLAN REVIEWS

- after the community-based sentence has been imposed, review hearings occur every three to six months, for the client to return to court to speak to the First Nations Court of New Westminster's Judge, Elders, the Native Court Workers and other members of the community who attend the court session
- during the review hearings, we consider the healing plan, hear from the client and determine if problems with the healing plan need to be corrected

First Nations Court of New Westminster

COMPLETION AND GRADUATION

- a client can apply to the court to cancel the remainder of the sentence if the client has completed the healing plan before the expiration of the sentence
- if the crown prosecutor agrees, the First Nations Court of New Westminster's Judge may terminate the sentence early
- clients who complete their healing plan may graduate from the First Nations Court of New Westminster, with a blanketing ceremony occurring for the client in the courtroom
- each graduation is greatly rewarding for the client, the client's family, the community and the court team

First Nations Court of New Westminster

TIPS FOR CREATING EFFECTIVE HEALING PLANS

- the community has a direct and immediate effect on the sentencing and monitoring processes
- what are each client's individual circumstances?
- focus on the Four Directions:
 - Physical needs
 - Emotional needs
 - Mental needs
 - Spiritual needs
- each client's challenges
- some typical conditions

First Nations Court of New Westminster

OUR SPIRITUALITY IS ESSENTIAL FOR HEALING

- Elders are our spiritual advisors

THE SEVEN GRANDFATHER'S TEACHINGS

To cherish knowledge is to know **WISDOM**

To know **LOVE** is to know peace

To honour all of creation is to have **RESPECT**

To face life with courage is to know **BRAVERY**

To walk through life with integrity is to know **HONESTY**

HUMILITY is to know yourself as a sacred part of creation

TRUTH is to know all of these things

Aboriginal Family Healing Case Conferences

A BRIEF INTRODUCTION TO ABORIGINAL FAMILY HEALING CASE CONFERENCES

- commenced in March 2017 as a three-year pilot program
- developed through cooperation of many BC Government departments, the judiciary and Elders
- mediations led by a provincial court judge for Aboriginal parents and children who are involved in child protection court proceedings
- the court operates in New Westminister
- scheduled to sit every fourth Wednesday

Aboriginal Family Healing Case Conferences

Family Case Conference (Mediation)

- hearings are closed to the public and are confidential
- includes Elders who work with each family throughout the mediation processes, Indigenous support services agency, social workers, family and their support network, legal counsel and a judge
- monthly reviews
- resulting in reduction in removal (apprehension) of children

TO OUR ELDERS

we thank you

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QUESTIONS FOR OUR DISCUSSION?