



# Action Committee on Modernizing Court Operations

*The following text is provided as a template for courts, service-delivery organizations, or others who may wish to develop public education materials for Indigenous people who may benefit from an Indigenous Courtworker. We recognize that each jurisdiction and service-delivery agency operates their program and services independently and may use different terminology when referring to courtworkers or supports they offer. This model text has been adapted from the Action Committee on Modernizing Court Operations' guidance on the [Role of Indigenous Courtworkers](#) – organizations may wish to adapt or build upon it to reference the specific services, programs, and practices in their jurisdiction.*

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## Who Are ICWs?

Indigenous Courtworkers (ICWs) help Indigenous people understand and find their way through the Canadian court system.

ICWs have three main goals:

1. Help Indigenous people understand the charges against them, how the court system works, and their right to speak for themselves or to ask for a lawyer.
2. Help people who work in the court system understand and welcome Indigenous values, customs, and languages, and be aware of social and economic conditions.
3. Solve communication problems that can happen between Indigenous people and people in the court system.

ICWs can help Indigenous people in court because they understand both Indigenous culture and how the court system operates. ICWs are not lawyers and do not give their clients legal advice. Instead, they support their clients, help them to communicate with the court, and help the court to come to a culturally sensitive result in any proceeding concerning their client.

ICWs are available in almost every province and all three territories, but do slightly different work in each place. ICWs mostly work in criminal courts but they also work in family courts in some places.

## What Can ICWs Do?

If you are an Indigenous person who must go to court, an ICW can help you understand the legal process and connect you to helpful services in a way that respects your culture. An ICW might be able to:

- Make sure you get all the information you need early in the process.
- Connect you to the right legal and social resources to tackle the issues that brought you to court.
- Help judges and lawyers better understand your background and community.
- Help other Indigenous witnesses, your family, and your community members understand how the court system works and what supports might be available to them.



# Action Committee on Modernizing Court Operations

## Throughout the Court Process

ICWs act as bridges and guides between Indigenous people and the court system. Even though ICWs can't provide legal advice, they can be especially useful if you do not have a lawyer. An ICW can:

- Make sure the court understands and considers your unique situation.
- Explain the legal process as well as what you have to do and what is expected of you.
- Help you tell your story or express your thoughts in court, if you would like to speak.
- Help you feel more comfortable and manage stress or trauma during court.
- Help you get to court, so you can avoid problems like missed court dates.
- Help you and your lawyer understand each other better, especially when there are language barriers.
- Help bridge gaps in relevant social services and systems. For example, they can help you to get the identification documents you need to apply for a program or provide access to a computer if any part of your court process is online.
- Connect you with community resources and supports.
- In certain areas, provide in-depth support that focuses on your well-being. This might mean slowing down the court process and taking more time in court to lower the chance you'll commit another crime by helping you heal.

While ICWs mainly help accused people, they can also sometimes assist victims. If an ICW is going to help both the accused person and the victim in the same case, they will be careful to avoid conflicts of interest. For example, they can support the victim by guiding them to services made for their needs. This can ensure a human response and warm transition to the right services, without conflicting with any support the ICW is providing to the person who has been accused of the crime.

## Bail

ICWs can help during bail proceedings by working with lawyers and services to create a bail plan that supports you. For example, this could involve finding you a place to live and someone who knows you and can assure the court you will attend your trial or connecting you with support services and programs. Bail plans, which are approved by a judge, are put in place so you stay in the community and out of prison while waiting for your trial. An ICW may also help you to get referred to a program that allows you to stay in the community and outside of jail but requires supervision by probation officers or other organizations whose job it is to supervise bail programs.

ICWs play an important role in organizing what is needed when someone is asking for or is given bail, especially in communities with limited resources and transportation challenges. ICWs act as resource persons to help people given bail find their place and fit back into the community in a good way.



## Action Committee on Modernizing Court Operations

### Legal Aid

If you need a lawyer, an ICW could help by asking the judge for more time to find one. If necessary, an ICW could talk to duty counsel or legal aid services to make sure you can connect with legal support. An ICW can also help you fill out applications and gather paperwork to apply for Legal Aid or to ask Legal Aid to look at your application. This help can be very useful in remote areas where you have to plan ahead because the court doesn't visit very often.

### Diversion

If you have been accused of a crime, ICWs can play an important role, in addition to your lawyer, in suggesting you be moved to a diversion program like an Indigenous restorative justice program instead of going through the regular court process. Many of the agencies ICWs work for either offer these programs themselves or have close connections with organizations that do. These programs can move you away from the mainstream court system and towards Indigenous ways of reaching justice and healing within the community, such as land-based healing programs.

### Sentencing and Resolving Cases

During sentencing and resolving cases, an ICW can work with your lawyer to provide the court with important information about who you are and your circumstances as a whole person. Having this information can help the judge make a decision that helps you in areas you may be struggling with.

An ICW can also assist in suggesting a sentence that will work for both you and your community, helping you and your lawyer get a *Gladue* report, organizing a sentencing circle based on your community traditions, or helping you follow your probation order to find your place and belonging within your community in a good way.

*If you want to learn more, you can read the Action Committee on Modernizing Court Operations' information for judges on the [Role of Indigenous Courtworkers](#).*