



Training, Mentorship & Professional Development

# Understanding the Components of Enforcement Systems under the Framework Agreement

**Law Enforcement National Workshop**  
March 11-12, 2020



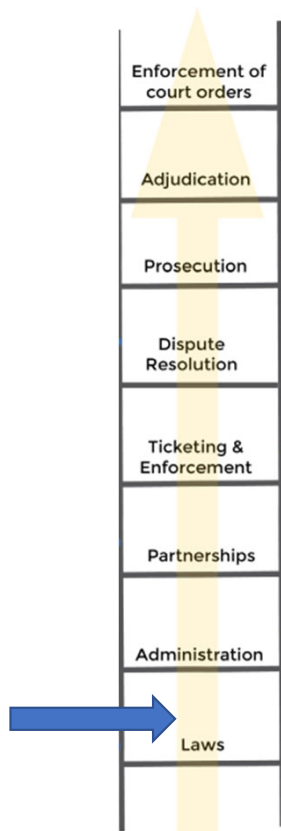
## BASIC BUILDING BLOCKS OF ENFORCEMENT

- Laws
- Administration
- Partnerships
- Ticketing & Enforcement
- Dispute Resolution - First Nation Traditional Resolution Processes
- Prosecution
- Adjudication
- Enforcement of Court Orders

LINKS:

 [Framework Agreement](#)

## BUILDING BLOCKS – LAWS

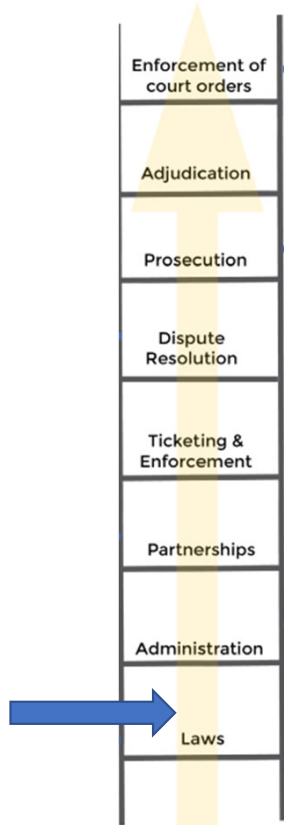


Framework Agreement provides for offences punishable on summary conviction – it is up to each First Nation to decide what laws to enact and the applicable offences within the limits of the Framework Agreement

- Consider what you want written in your laws – and what you leave to customs and traditions
- Consider how best to build the support of members – does this law reflect your First Nation’s culture and traditions?
- Consider the FA and your own land code before enacting laws
- Consider developing your basic core of land laws first e.g. enforcement law, zoning, land-use, granting interests, environment, and MRP

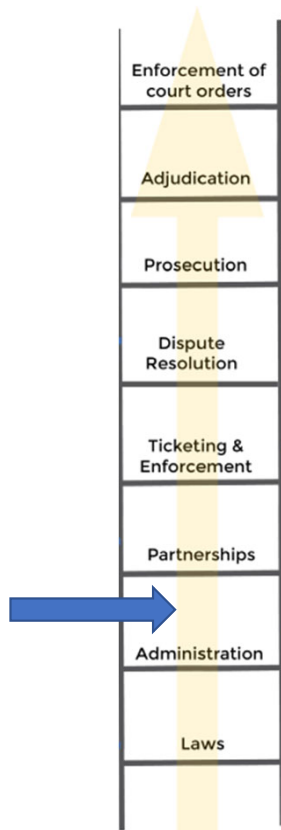


## BUILDING BLOCKS – LAWS (cont.)



- Gather input from your community – typically through a Lands Committee
- Templates and precedents are useful – but carefully consider the needs of your First Nation, particularly with respect to enforcement issues
- Consider plain language (e.g. avoid: Notwithstanding section 9.3.11 but subject to any exceptions in Part 2 and/or Part 4 and any other exceptions, or specific orders issued by an Inspector as appointed under section 6.3.12 or another person acting on their behalf.....)
- “Test drive” the law with hypothetical scenarios and examples to see if it will work

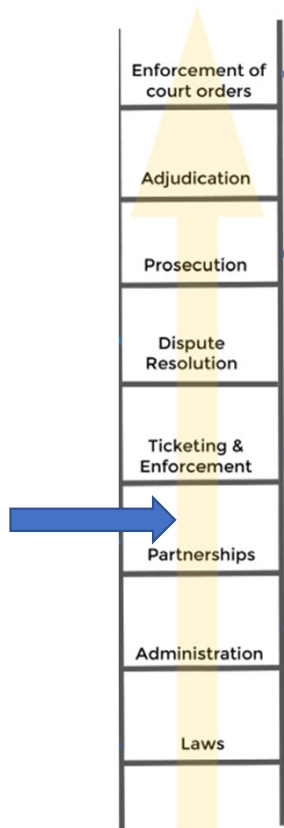
## BUILDING BLOCKS - ADMINISTRATION



- Creating administrative policies, guidelines, forms, notices....
- Records management systems – storing of electronic reports, documents, and pictures
- Appointments under First Nation laws: e.g. environmental officers, building inspectors etc.
- Training of environmental officers, building inspectors etc.
- Education and awareness
- Connections between laws and land instruments (e.g. leases)
- Exercise caution in using other First Nation laws as templates – might impose procedural requirements your First Nation cannot follow
- Enforcement could fail if mandatory procedural requirements are not followed

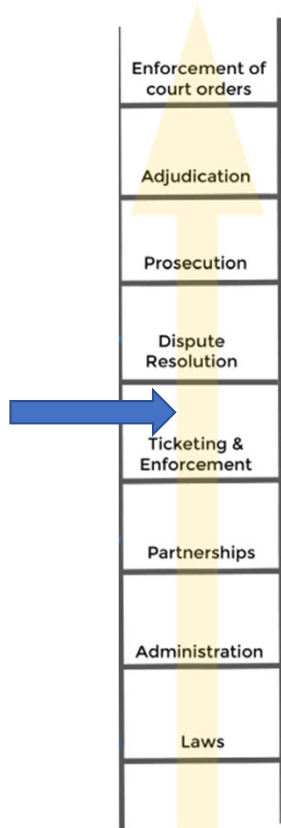


## BUILDING BLOCKS - PARTNERSHIPS



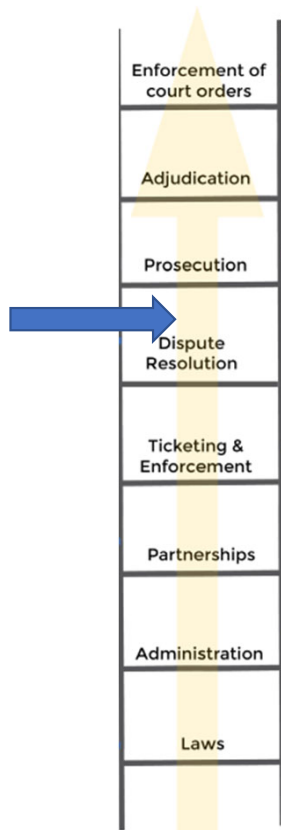
- Security companies under contract or agreement to respond to incidents, monitor and enforce activities on the lands of the First Nation
- Appointment of enforcement personnel working for other First Nations or governments
- Entering into Policing or Enforcement agreements
  - Animal control
  - Building or environmental inspection services

## BUILDING BLOCKS – TICKETING & ENFORCEMENT



- Your laws can provide for issuance of “tickets” and which enforcement personnel can issue tickets
- Typically a “Ticketing and Enforcement Law” will set out requirements for tickets, fines for early or late payment of tickets, process for unpaid (disputed) tickets
- Typically a “Ticketing and Enforcement Law” will include some procedures for issuing offence notices – but much of the procedure for summary convictions is found in the Criminal Code

# BUILDING BLOCKS - DISPUTE RESOLUTION



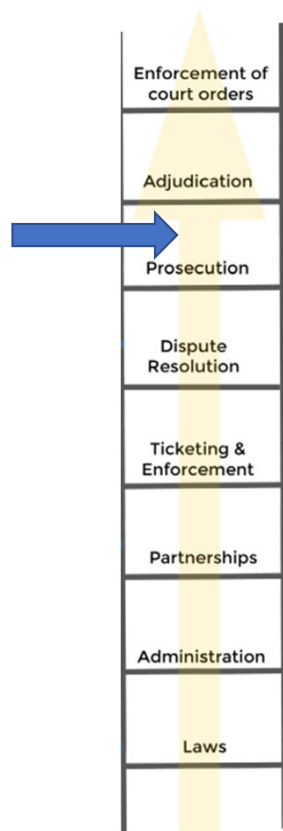
## First Nation Traditional Resolution Processes

- At virtually any stage of the enforcement process, dispute resolution may be appropriate – this may solve the problem without using all the normal steps (building blocks) of enforcement
- Dispute resolution might even apply to some extent after enforcement – how to stop the reoccurrence of the problem in future and heal the community?
- Dispute resolution process can be described in your laws
- Dispute resolution can be designed to respect your culture and traditions, such as use of elder’s circles - what makes sense for your members? businesses?
- Build dispute resolution system before disputes arise – very difficult for example for two parties who have trouble working together to agree on appointment of mediators





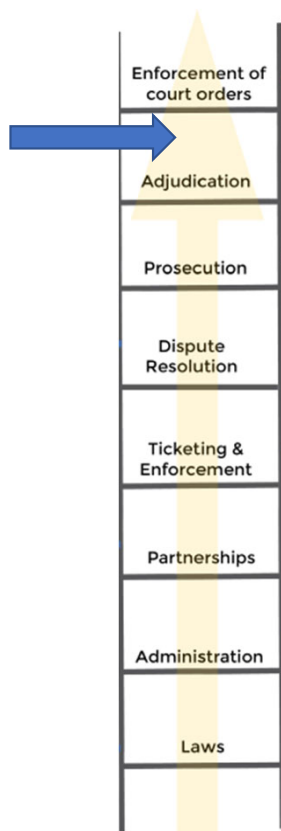
## BUILDING BLOCKS - PROSECUTION



- Private prosecution
- Crown prosecution – by federal or provincial staff prosecutors
- First Nation - Crown prosecution partnership: agents working in private law firms recognized as prosecutors by First Nation and Canada or a province
- Note that Provincial Attorneys General have a discretion to step in and “stay” a private prosecution if they consider it contrary to the public interest
- Resource Centre can help manage investigations, prepare briefs and documentation for prosecutor’s consideration

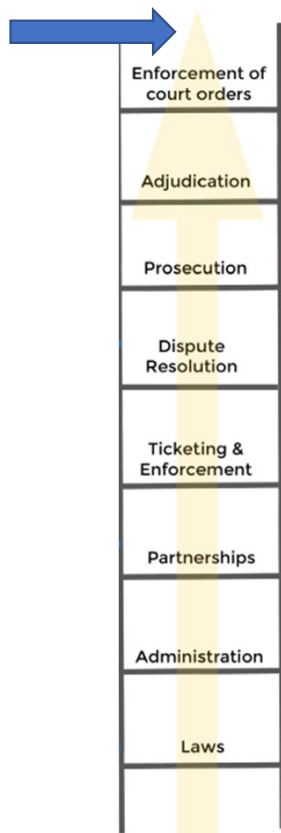


## BUILDING BLOCKS - ADJUDICATION



- Justices of the Peace appointed by a First Nation (or several First Nations)
- Courts – Framework Agreement recognizes jurisdiction of provincial courts to hear the appeals of decisions by Justices of the Peace
- Courts – may vary depending on nature of offence under First Nation law (provincial or supreme court, Family court, small claims court etc.....)
- Justice of the Peace, Judge or Court decides:
  - whether an offence has been committed and
  - the applicable remedy, fine or penalty within the limits of the First Nation law and the Framework Agreement

## BUILDING BLOCKS - ENFORCEMENT OF COURT ORDERS



- Orders of Justices of the Peace can be registered as orders of mainstream court (this requires agreement with provincial court authorities)
- Peace officers (including police) can enforce court orders – defying a court order can become a separate offence
- Provincial governments have systems for enforcement of orders or outstanding penalties (e.g. refusal to renew driver’s licence until fines paid)
- Registration of orders / liens
- Potential to add fines to First Nation imposed property tax debts  
(does not apply if your First Nation does not have a taxation law – no obligation to have any taxation law)

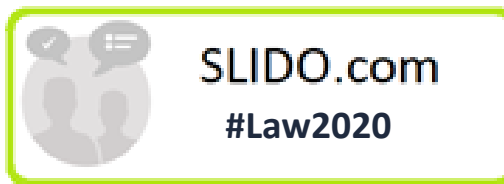
## EXPLAINING ENFORCEMENT

Consider an analogy that will make sense to your members:

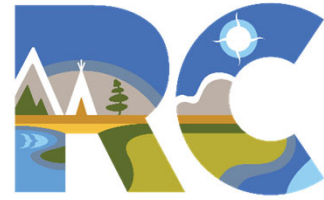
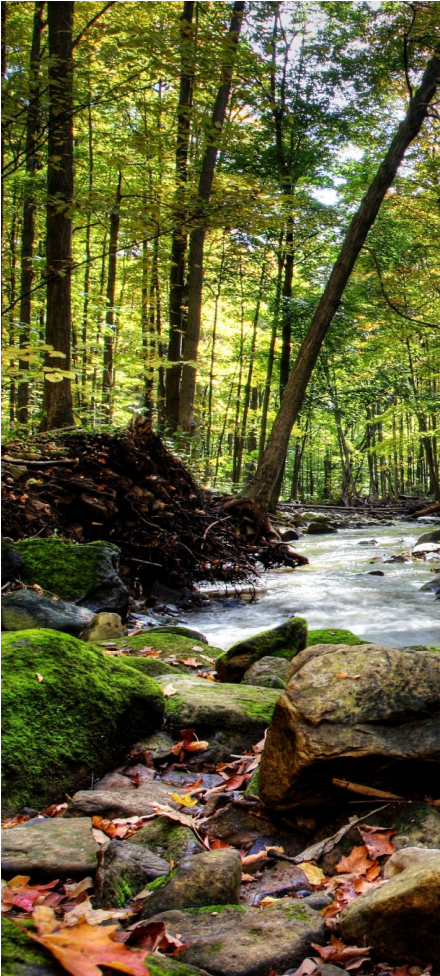
- Enforcement ladder – many steps on the ladder of enforcement – gets tougher the higher you go
- Building on a solid foundation – everything will fall down if one part is wrong
- Chain – the weakest link will prevent enforcement from working
- [Chain Break](#)



# Questions & Discussion







**FIRST NATIONS  
LAND MANAGEMENT  
RESOURCE CENTRE**

**THANK YOU!**

For more information please visit:

**[LABRC.com](http://LABRC.com)**

