

Law Development & Enforcement

RC Training, Support & Resources Workshop

March 18, 2021



Introduction

A First Nations organization dedicated to serving and supporting First Nations communities who want to re-establish control over their lands, natural resources, and environment through the historic government-to-government *Framework Agreement on First Nation Land Management*.

RC was established by the LAB to undertake its technical responsibilities to FNs, through:



"Supporting First Nations to exercise their Inherent Right to govern their Lands, Environment and Resources."

Presenters



Gail Starr
Environment &
Enforcement Advisor
BC



**Kevin
Broughton**
Enforcement Advisor
East

1. Creation of Laws
2. Resources and Support for Law Development
3. Enforcement and Adjudication
4. Dispute Resolution
5. Legal Advice
6. Enforcement Project Funding



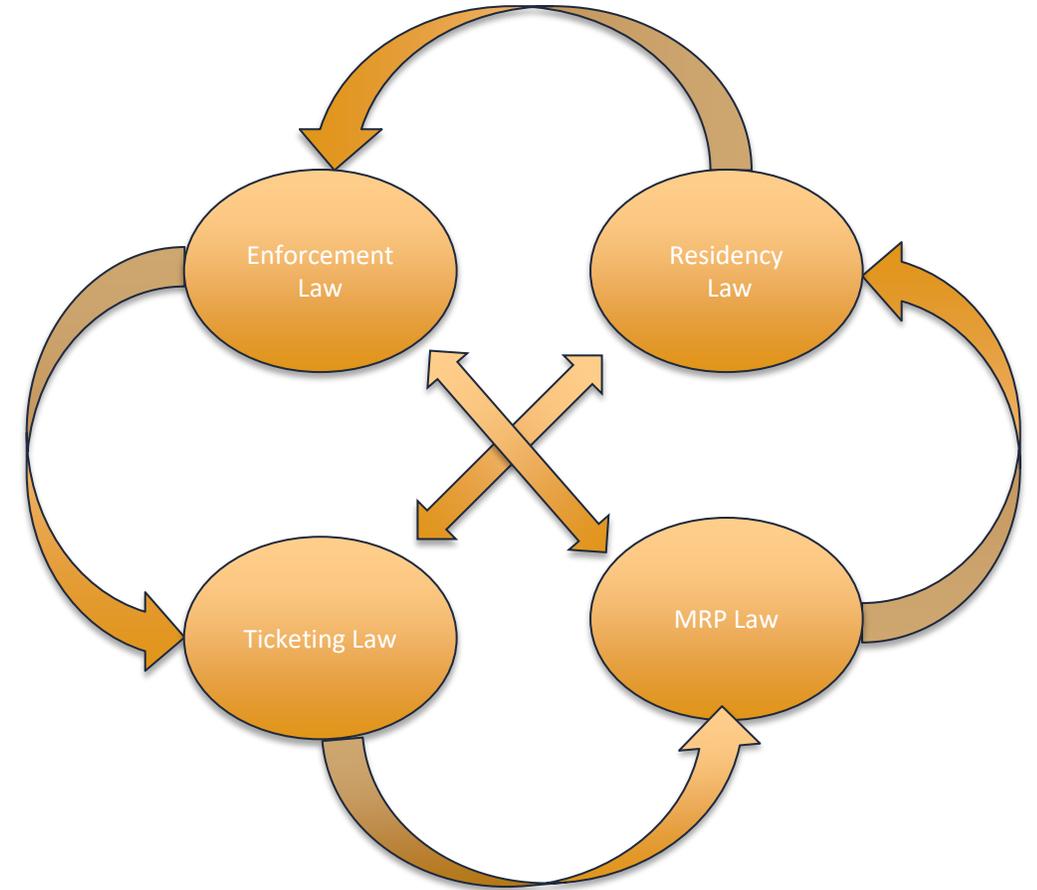
Assisting how to prioritize and organize laws to be developed.

1. Does the community have existing laws or By-laws?
2. Is a law needed to address the issue?
3. How does the community wish to enforce those laws
 - a. Ticketing
 - b. Inspections through the conditions of a permit, authorization, or other contractual agreement?
 - c. Provincial Court.
 - d. Customs or traditional means.



RC can provide support for the development of a wide variety of laws within the authority of the Framework Agreement

- An Enforcement Law, Ticketing Law, Residential Law or Matrimonial Real Property Law, environmental laws, etc.
- Development of emergency laws such as COVID-19 to deal with urgent situations that threaten the health and safety of the community (in accordance with your Land Code).





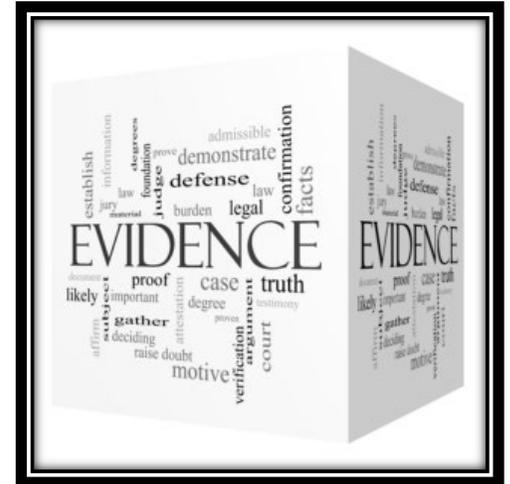
- RC Staff from the Enforcement Team and Technicians can work with the Lands Manager, Committee or group charged with the development of those laws
- The Enforcement team can work with your legal counsel using existing laws or samples. Each law should be individual to the community.
- Staff can meet with Chief and Council or the committee to assist with the development of your laws, discuss possible investigations and charges.
- Our staff has compiled sample laws that can be modified to meet the needs and requirements of your community.
 - Avoid using the samples as templates (i.e., avoid cutting and pasting the name of your First Nation into the sample law).
 - Samples of Emergency Management laws and Emergency Plans (RC Website)

RC staff can assist in specific areas of enforcement and adjudication affecting your First Nation.

1. Educate
 2. Inform
 3. Develop and promote relationships
- Provide training through workshops and develop support mechanisms providing an in-depth understanding of Enforcement and Adjudication under the Framework Agreement both at the local level and at the Provincial Court level.
 - On a case-by-case basis, provide both operational guidance and financial support (subject to approval) to assist in prosecutions.



- Provide advice on potential cases to determine if the evidence supports charges and has a high probability of conviction.
- Assist the enforcement officers as a Case Manger (not an investigator), to advise on the collection of evidence, compiling of documents and reports and assembling a court brief.
- Under the direction of the Prosecutor, help to prepare First Nation staff for court appearances.
 - The Enforcement team has extensive knowledge and experience when testifying in all level of courts.



National Online Conversations on Indigenous Laws:

Series of enforcement webinars, promoting dialogue between Indigenous governments and the Government of Canada, on how to address the challenges of creating effective and affordable enforcement systems for Indigenous laws

www.indigenouseenforcement.com

- Indigenous Laws in response to the COVID-19 pandemic
- The Federal Contraventions Act
- Enforcement of Indigenous Environmental Laws
- Ticketing and Summary Convictions
- Matrimonial Real Property Enforcement

Engage police, municipal and regional managers providing information, education and potential working agreements and programs.

- Animal Control
- Crime Prevention through Environmental Design



National Online
Conversations on
INDIGENOUS LAWS

RC Enforcement Staff continues to meet and work with enforcement agencies, federal and provincial governments to promote the recognition, enforcement and adjudication of First Nation laws.



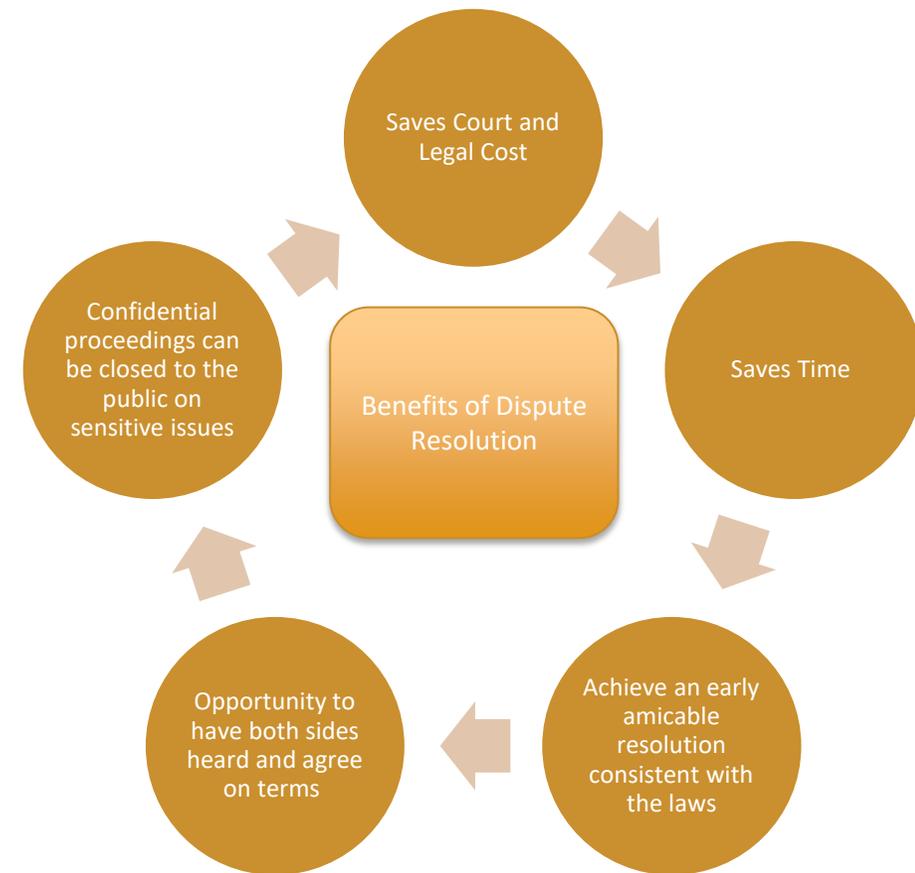
The Enforcement Team participates in letter writing campaigns lobbying both local, provincial and federal ministries.

RC has received a response at the federal level and has applied to sit as a member at a working table in Ontario as a pilot project focused on enforcement for all First Nations.



Engagement with the provincial courts to recognize First Nation Laws in the provincial courts and the appointment of Justices of the Peace to preside over those laws.

- Following either the Dispute Resolution process outlined in your Land Code or under an Enforcement Law, the RC can provide guidance and training to administer a Dispute Resolution panel.
- RC staff have developed training sessions on:
 - Composition and protocol
 - How to read and consider a section in a law
 - Boundaries and consistency
 - Writing a decision
 - Mock sessions for the panel





- RC legal and enforcement support does not replace the need for a First Nation to retain independent legal advice, but can help reduce legal costs for law development and adjudication
- All laws should be reviewed and vetted by the community's legal counsel before submitting to council.
 - It is important to access a legal counsel that has the appropriate background knowledge and expertise (One size does not fit all).



The RC is supporting select enforcement pilot projects to promote recognition and advance the enforcement and adjudication of Land Code laws.

- Pilot projects are First Nations led, innovative, and are selected based on their likelihood to develop effective enforcement procedures, partnerships, or other means to advance the recognition of Land Code laws by policing agencies and court systems.
- Each proposal is carefully screened, evaluated and is limited to available funding.

Pilot projects:

- Komoks Pilot Project: support for private prosecution to establish case law in BC for provincial courts as 'court of competent jurisdiction' to hear cases on Land Code laws
- Whitecap Dakota/Muskoday Pilot Project: Partnership with provincial government to adopt and enforce provincial environmental laws on reserve
- Membertou Pilot Project: to develop good First Nation Laws and promote partnerships with regional policing agencies to assist with the enforcement of First Nation Laws

Questions & Discussion



SUMMARY - How to access support

First Nation Requests Support



**RC Support
Technicians
/ Managers**



Land Code Governance

GIS &
Traditional
Knowledge

Communication
& Public
Relations

Environment

Surveys &
Legacy Issues

Land
Registry

Land Use
Planning

Solid Waste
Management

Law
Development &
Enforcement

LGM &
Knowledge
Path Tools