



MINORITY REPORT

Indigenous Intercultural Competence Education for BC Lawyers

Joint Recommendation Report of the Truth and Reconciliation Advisory Committee and the Lawyer Education Advisory Committee

Tony Wilson, QC
Chair
Lawyer Education Advisory Committee

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INTRODUCTION AND SUMMARY

1. As Chair of Lawyer Education Advisory Committee, I am in agreement with much of the Joint Recommendation Report of the Truth and Reconciliation Commission Advisory Committee and the Lawyer Education Advisory Committee (the "Joint Report"). The members of each committee, together with their respective staff members (particularly Andrea Hilland and Alison Luke) have done a thorough, balanced, well-reasoned and comprehensive report for the Benchers to consider so that an informed decision can be made at the December 2019 Bencher meeting with respect to the issue of mandatory intercultural competency education.
2. I have no issue with the Objectives of the Course referred to in paragraph 52 (i) to (ix), nor do I have a problem with the topics to be covered in the Course, outlined in paragraph 51 (i) to (xi).
3. I have no issue with the current time requirement of the Course (6 hours).
4. The fact that the Law Society will develop the Course internally, and that there will be no charge to members for completing the Course, will go a long way to ensuring "buy in" from the membership.
5. I would gladly take and complete the 6-hour Course, even if it were optional.
6. I believe that many law firms, particularly those who do First Nations related work, will require their lawyers to complete the Course as part of their continued employment, (or pursuant to their partnership agreements) and in such case, the Course would be mandatory as a term of employment or partnership, as the case may be. I have no problem with that. If one's employer or partners require a lawyer to complete particular program of study as a term of one's employment (or as a condition to entering the partnership), then the lawyer must satisfy that obligation.
7. I only write this Minority Report because I have a strong difference of opinion with the other members of the Lawyer Education Advisory Committee and the Truth and Reconciliation Advisory Committee with respect to the Law Society requiring all lawyers in British Columbia to successfully complete six hours of Indigenous Cultural Competency Training **on a mandatory basis, no matter what their area of practice is; even if it is of no practical value to the lawyer or their legal practice.**
8. I appreciate the fact that virtually all the members of each Committee are in favor of the Joint Recommendation. I commend the members of each Committee for taking the position that the Law Society should show leadership on this issue. However, I believe it is within

our "public interest mandate" to consider an approach where the Law Society does not compel every lawyer British Columbia to take the Course on a mandatory basis as a condition of their license to practice law in B.C.; conceivably fining, suspending or even disbaring those who do not. Certainly, some form of discipline will be the logical outcome for those lawyers who do not complete the mandatory Course.

9. Contrary to the conclusions of the Joint Report, I believe that the majority of the Objectives can be accomplished by incorporating the Course within the mandatory ethics component of Continuing Professional Development ("CPD"), and incentivizing British Columbia lawyers to complete the Course as part of "Ethics and Professionalism" rather than compelling lawyers to complete a course that may have no value or bearing on their practice areas.
10. Notwithstanding the Law Society's legal ability to require all lawyers in British Columbia to successfully complete a 6-hour course in Indigenous Intercultural Competency ¹, a mandatory program may not be particularly well received by some members of the profession who do not do any First Nations work. Conceivably, if there is sufficient opposition by those who believe that such a program serves no value to them in their practice, the Law Society could find itself at odds with a profession emboldened by both the Trinity Western University experience in 2014, and by the repeal of the mandatory Statement of Principles by the Law Society of Ontario on September 11, 2019.
11. An emboldened membership in British Columbia could well set back the legitimate and necessary moves towards reconciliation with First Nations. On the other hand, incentivizing the membership to complete Course within the already mandatory ethics and professional responsibility component of CPD would avoid this possible outcome.
12. In a post-TWU world, our Law Society should not underestimate the reality that emboldened members have remedies available to them under the Legal Profession Act, (such as petition, calling for an SGM and a referendum) if enough of them strongly disagree with the Law Society, despite how noble our intentions may be. Likewise, in the post-SOP world, Canadian Law Societies should be circumspect and cautious before going down a path where the Law Societies are, even with the best of intentions, mandating what lawyers should believe.

¹ Green v. Law Society of Manitoba 2017 SCC 20, [2017] 1 S.C.R. 360

BACKGROUND

13. TRC Call to Action #27, states as follows

We call upon the Federation of Law Societies of Canada to ensure that lawyers receive appropriate cultural competency training, which includes the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.

(for convenience, I will collectively call these topic areas “Indigenous Intercultural Competency Training”)

14. It is important to recognize that TRC Call to Action #27 does not specify that all lawyers receive Indigenous Intercultural Competency Training on a mandatory basis. Call to Action #27 only calls on Law Societies to ensure that lawyers received appropriate Intercultural Competency Training. It is the Benchers who decided to make Indigenous Intercultural Competency Training mandatory. Indeed, the Benchers accepted the recommendations of the Truth and Reconciliation Action Plan of May, 2018 which called for mandating:

“...Indigenous intercultural competence education for all Law Society Benchers, staff, and committee members, and all lawyers and Admission Program candidates in British Columbia”

[highlighting is mine]

15. I should also point out that the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Report (“MMIWG”), released on June 3, 2019 did not call for mandatory Indigenous Intercultural Competency Training for all lawyers regardless of their practice areas, but rather, **called for mandatory intensive and periodic training of Crown attorneys, defense lawyers, court staff and all who participate in the criminal justice system.** Like TRC Call to Action #27, the MMIWG inquiry had the opportunity to call for mandatory Indigenous Intercultural Competency Training of all lawyers, regardless of their practice areas, but it did not.

CURRENT INDIGENOUS INTERCULTURAL COMPETENCY TRAINING

16. Many would argue that Indigenous law topics are already mandatory in British Columbia and that new lawyers in B.C. receive fairly compressive exposure to Indigenous law issues in law school and PLTC. Indeed, British Columbia law schools are currently incorporating significant intercultural competency training respecting the history and legacy of residential schools, the UN Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal

Rights, Indigenous Law and Aboriginal-Crown relations on a mandatory basis pursuant to TRC Call to Action #28. In 2018, the Council of Canadian Law Deans published a summary of initiatives that Canadian Law Schools had initiated to respond to the Truth and Reconciliation Calls to Action. The full report is available here. <https://cclld-cdfdc.ca/wp-content/uploads/2018/07/CCLD-TRC-REPORT-V2.pdf>

17. In summary, this is what BC's three Law Schools had instigated, circa 2017²:

- a. Allard School of Law at the University British Columbia. Allard has a long-standing Indigenous Legal Studies program focused on admissions and cultural support and aims to admit 20 Indigenous students each year (in a class of 195). For most non-Indigenous students, this is the most Indigenous community they have ever encountered. There are Indigenous students in almost every classroom, student club, or faculty gathering. Faculty includes 4 tenured or tenure track members who are Indigenous. Several Indigenous members of the legal profession in Vancouver regularly teach for us as Adjunct professors. For twenty years, Allard Law students have staffed the Law School's Indigenous Community Legal Clinic. The clinic serves hundreds of Indigenous clients every year, including approximately 400 full representation files, with 21 student clinicians in each twelve-month period. Beginning in 2011-12, all first year students were required to take a mandatory course in first year on Aboriginal and treaty rights, as a component of their Canadian constitutional law requirement. This is a two-credit course. Following the release of the TRC report, Allard worked on the following new initiatives:
 - an external advisory committee, comprised of eight Indigenous lawyers based in and around Vancouver, to assist Allard with this project
 - designed and piloted a cultural competency certificate program that is running in eight modules throughout the academic year this year with the objective of developing two streams of cultural competency training for Allard students: a mandatory stream for all students and an optional stream for students with a motivation to dig a bit deeper
 - strengthening the academic support programming of Allard's Indigenous Legal Studies Program.
 - changed the format of Indigenous orientation camp held each September every year so that more students can participate.
 - dedicated class time in Allard's mandatory Public Law class to teach about this history of Indian residential schools and the TRC.
 - expanding the Indigenous Community Legal Clinic to 30 student positions annually.

- b. Thompson Rivers University Law School ("TRU").

² This is a summary only, extrapolated from the information provided to Council of Canadian Law Deans by each Law School in approximately 2017, and edited by me for brevity and relevance. There is no intention here to minimize or understate the considerable efforts by BC's Law Schools to deal proactively with Call for Action #28

- TRU's approach to implementing Call to Action #28 of the Truth and Reconciliation Commission is grounded in Secwepemc'ecw (the territory of the Secwepemc Nation that includes Kamloops), with efforts to incorporate Secwepemc knowledge and history into TRU's program since its first year of operation in 2011. TRU Law adopted a statement committing it to implementing Call to Action #28 in July 2015. Initial work included surveying existing content across the curriculum and has since focused on specific efforts to address the biggest gaps and to take students out of the classroom to learn about Indigenous history, rights, culture, and law as well as the residential experience from Secwepemc partners.
- The annual 1L class visit to the former Kamloops Indian Residential School (KIRS) and Secwepemc Museum and Heritage Park has become an important feature of TRU Law School's program. The former KIRS is located across the South Thompson River from downtown. The Tk'emlúps te Secwepemc (TtS) offices are now located in this building along with the First Nations Tax Commission and other local services. The program has evolved from a contextual introduction to the Aboriginal rights and title portions of the 1st year Constitutional and Property Law courses, to a stand-alone program focusing on the residential school experience. It is integrated into the program with introductory and debriefing classes as part of the mandatory Legal Perspectives course. Learning objectives include knowledge of residential schools as an intergenerational experience, ongoing relevance and impacts of the experience, empathy to practicing law and reconciliation, and the knowledge foundations for anti-racism and cross-cultural skills. The one-day visit has become a full partnership with TtS, with leadership from Councillor Viola Thomas, who carries the education portfolio and worked with the TRC. The day involves speakers, tours of the building, and a visit to the Secwepemc Museum, which houses artefacts from Secwepemc culture and the residential school. Students have the opportunity to learn from survivors directly. Feedback from past visits has indicated that this has been a unique and eye-opening learning experience for our students.
- TRU Law plans to build the site-visits into the second and third year programs on a permanent basis, with learning objectives that focus on other aspects of Call to Action #28 that are not already covered in other mandatory courses.
- In Fall 2017, TRU Law held the first 2nd year site visit to Pipsell/Jacko Lake with a focus on Indigenous law, anti-racism and cross-cultural skills. Through this 3-year program, TRU Law aims to equip students with the knowledge, skills and disposition required to contribute to reconciliation in their legal careers.
- Individual faculty members have also worked to increase and incorporate Indigenous perspectives, Aboriginal and Indigenous law content into their individual courses some of which are mandatory. Efforts include guest speakers, student presentations, Indigenous Law Students' Association events, site visits to Tk'emlúps reserve and salmon fisheries in Secwepemc territory, working with Kamloops-based experts from the First Nations Tax Commission and regular visits

to the First Nations Court sitting in Kamloops. The Faculty has also hired a local Indigenous lawyer and TRU Alumna to work with and support Indigenous students in TRU's program as well as to advise the Faculty on future efforts in this regard.

c. University Victoria Law School (UVic)

- UVic's compulsory, full-time, two-week introductory Legal Process class includes a half-day introduction to Indigenous legal traditions, and two mornings devoted to the history and legacy of residential schools and the TRC Calls to Action. In 2017, all first-year students participated in the KAIROS Blanket Exercise adapted for law students.
- 1/3 to 1/2 of all first-year students participate in the Aboriginal Cultural Awareness Camp, a 3 to 4 day residential camp held within and delivered in collaboration with a local First Nation.
- Substantial Indigenous content including Indigenous legal traditions, the history and legacy of residential schools, Treaties and Aboriginal rights, and Aboriginal-Crown relations is incorporated into compulsory courses in Constitutional Law, Criminal Law, Law, Legislation & Policy, Legal Research & Writing, Property, Torts, Administrative Law, Business Associations and Legal Ethics & Professionalism, and elective courses such as Family Law, Intellectual Property, International Human Rights and Dispute Resolution and Taxation.
- Courses specifically focused on Aboriginal peoples and the laws include (but are not limited to) Indigenous Lands, Rights and Governance, new courses in Critical Issues in Restorative Justice and First Nations Taxation, and a ground-breaking intensive summer course in Indigenous Legal Methodologies.
- The Faculty's Academic and Cultural Support Program ("Amicus Program") provides direct support for Indigenous students, and organizes seminars and workshops on matters bearing on intercultural competency, conflict resolution, human rights, and anti-racism.
- The Faculty's Indigenous Law Research Unit works with Indigenous communities researching those peoples' legal traditions. This work develops curricula for teaching Indigenous law and trains students in how to work with Indigenous communities in the development of their law.
- UVic Law is working with the WSÁNEĆ School Board to offer a semester-long intensive field course in the Re-emergence of WSÁNEĆ law in the fall 2018 term.
- The JD/JID transsystemic dual degree program in Canadian Common Law and Indigenous Legal Orders was approved by the university's Senate and Board of Governors. Inseparable from the JD/JID program is the Indigenous Legal Lodge, a national forum for critical engagement, debate, learning, public education, and partnership on Indigenous legal traditions and their refinement, and reconstruction. The JD/JID program and the Indigenous Legal Lodge directly respond to TRC Calls 28 and 50. Their establishment is a faculty and university priority

18. Students within the Law Society's mandatory Professional Legal Training Course ("PLTC") are also receiving Intercultural Competency Training that includes education in the history and legacy of residential schools. The current enrollment of PLTC is approximately 600 students per year. Currently, students must attend a workshop on the history and legacy of residential

schools and Canadian colonial laws and policies. They are also required to reflect on their previous knowledge and on their experience during the workshop. In the first week of PLTC all students attend an interactive 1.5 hour session: “Residential Schools and Colonialism Workshop.” In PLTC’s examinable Practice Material on Professionalism, a section “Supporting Indigenous Lawyers” that discusses the Law Society’s Truth and Reconciliation Action plan is included. PLTC updated coverage of Gladue principles in the Activity Plans, and added more on it in the examinable Criminal Practice Material. Material on Grand Chief Ed John’s report on Indigenous child welfare is included in PLTC’s examinable Family Practice Material (chapter 8), and the examinable Family Practice Material print includes further updates reflecting changes to both provincial and federal law that impact Indigenous child welfare. PLTC also added more information on the Royal Proclamation and the history of Aboriginal title which is examinable in the Real Estate Practice Material. PLTC is working with the Indigenous Law Research Unit at UVic and with UBC law faculty to develop course materials on Indigenous laws and intercultural competence.

OTHER CANADIAN LAW SOCIETIES

At this point in time, no other Law Society has taken the step of introducing Indigenous intercultural competence training for all lawyers on a mandatory basis. A summary of all Canadian law societies on this issue (as of June, 2019) is summarized below:

- **Alberta** is creating a larger education program for all Law Society Members offered by the Law Society. It is currently incentivising but not yet mandating CPD on Indigenous issues and is adding TRC content to CPLED, its bar admission course.
- **Saskatchewan** is offering CPD on Indigenous issues. TRC related CPD activities qualify for ethics hours. As well, they have revised the criteria for “Ethics Hours” in their CPD Policy to specifically include cultural competency training. Saskatchewan’s Admissions & Education Committee considered whether TRC training should be mandatory for all members, but ultimately decided it would not be mandatory but should be offered at a discounted registration price. (Incentivising but not yet mandating CPD on Indigenous issues.) As with Alberta, TRC content is being added to CPLED.
- **Manitoba** has general recommendations that support Calls to Action #27 and #28 in terms of cultural competence education for Law Society staff, Benchers and Committee as well as practising members. They are integrating Indigenous issues throughout CPD courses, and incentivising but not yet mandating CPD on Indigenous issues. The possibility of mandating cultural competence training is still on the table but before that decision is made the committee would like to have a better understanding of what cultural competence means. As with Alberta and Saskatchewan, TRC content is being added to CPLED

- **Ontario** has mandatory CPD on equality, diversity and inclusion (not specifically on Indigenous intercultural competence). Lawyers in Ontario are required to complete three hours of accredited programming focused on equality, diversity and inclusion by the end of 2020. Lawyers will be required to complete one EDI hour per year of accredited programming thereafter. Ontario has an optional a Certified Specialist designation in Indigenous Legal Issues.
- **Quebec** is considering mandatory CPD on Indigenous issues based on geographic location. Lawyers who are providing legal services in regions of the province with high Indigenous populations may have Indigenous intercultural competence training requirements. [The Barreau du Quebec has increased its regional CLE offerings related to TRC issues and has added TRC content to the Bar admission program. However, there are no plans yet for mandatory CPD relating to TRC.
- **Nova Scotia** may require mandatory CPD on Indigenous issues, but only based on area of practice. Accordingly, lawyers who are practicing in areas of law that have a high number of Indigenous clients might be required to have Indigenous intercultural competence training. Nova Scotia has not yet made decisions or plans about mandatory CPD relating to Indigenous issues. Nova Scotia is adding TRC content to its bar admission program.
- **New Brunswick** is working on developing a plan to meet the requirements of Recommendation # 27 in conjunction with Recommendation # 28. They are surveying members to determine their knowledge of Aboriginal rights, and consulting with First Nations to develop educational components. It's not clear whether the education will be mandatory.
- **Prince Edward Island** held a training session on TRC and the Calls to Action in February 2019 in conjunction with a meeting of the membership. Although it was not mandatory, members were strongly encouraged to attend. PEI's Law Society has formed a committee, which would like to make TRC-related CPD mandatory, however no decision has been made yet.
- **Newfoundland** would like to provide more CPD on Indigenous issues, but has not yet considered mandating such courses.
- **Nunavut** supports mandatory CPD. However, mandatory 12 hours of CPD does not include a TRC-related requirement. Its bar admission program has required readings in intercultural competency. The Law Society is working with the Pirurvik Centre in Iqaluit to develop its own cultural competency training with an online component to make it accessible to all the membership. The Law Society has a framework that it is using as a foundation.

- **NWT** amended the reading requirement for new applicants for membership under mobility to include the recommendations of the TRC and other publications from the TRC. In addition, the CPD committee and members of the Indigenous Bar in the NWT are developing a CPD on the history and recommendations of the TRC to be offered annually, but the CPD is not mandatory.
- The **Yukon** is promoting (but not requiring) a program entitled “Yukon First Nation 101”. The course is organized into five modules, each focused on a different aspect of Yukon First Nations:
 - Module 1 – Regional cultural competence
 - Module 2 – Linguistic groups, Traditional Territories
 - Module 3 – Impacts of contact and colonization
 - Module 4 – Historical events and Yukon agreements
 - Module 5 Yukon First Nations today: culture and values

THE BENEFITS OF OPTION 2 OVER OPTION 1

19. Option 1 will establish, through the Law Society rules, mandatory completion of the Course for all B.C. Lawyers, regardless of their year of call or whether they are part time or full time practitioners. Logically, if a member refuses to complete or otherwise fails the Course, disciplinary action could be taken against the lawyer in the same way that the Law Society can discipline a member for failure to complete their requisite number of CPD credits per year. In short, a lawyer who refuses or fails to complete the mandatory Course could conceivably face fines, suspension or even disbarment.
20. On the other hand, Option 2 provides that completion of the Course is eligible for credit within the two-hour “Ethics” component of the CPD, which is mandatory for all lawyers in the province. Option 2 encourages, rather than compels, lawyers to take Indigenous Intercultural Competency Training. Under Option 2, the Law Society would still develop a series of online modules covering the Topics and ensure this programming is accessible to the membership free of charge. However, rather than establishing the modules as a mandatory stand-alone requirement outside of the CPD program and compelling lawyers to take the Course, lawyers would be eligible (but not required) to obtain CPD credit under lawyers’ existing, mandatory two-hour “Ethics And Professionalism” CPD requirement. Conceivably, if the Course is six hours long, lawyers could be given three years (rather than two years, as proposed in Option 1) to complete it, and then lawyers could count the time spent on the Course toward their annual two hours “ethics” requirements over a three year period.
21. Alternatively, the six hours could be "straddled" to include CPD Ethics credits and non-ethics credits.

22. I would suggest that the "Ethics and Professionalism" be renamed "Ethics, Professionalism and Cultural Competency" to acknowledge the change in focus.
23. I believe that lawyers should be strongly incentivized to take Indigenous Intercultural Competency Training offered by the Law Society. This could be done by giving additional "weight credits" to the Course. (For example, three hours of ethics or other CPD credits for every one hour of Indigenous Intercultural Competency Training). But these are details that would be worked out over time.
24. At the "10,000 foot level", the objective of Option 2 over Option 1 is to encourage, incentivize and facilitate lawyers' participation in Indigenous Intercultural Competency Training without forcing all B.C. lawyers to complete the Course; (and by logical extension, penalizing those lawyers who do not with fines, suspension or even disbarment.)
25. I would prefer that lawyers **willingly** take Indigenous Intercultural Competency Training because they are interested in the Course, or they think it will be valuable for their practice areas, or they are incentivized to take it because it is "over-weighted" when compared to other CPD eligible courses that are available in the first two or three years of the program.
26. Option 2 is consistent with Call or Action #27 that calls upon Law Societies "**to ensure that lawyers receive appropriate cultural competency training**". We satisfy this objective by ensuring that new B.C. Lawyers receive Indigenous Intercultural Competency Training through PLTC. Option 2 would further satisfy this objective by including Indigenous Intercultural Competency Training within the mandatory Ethics component of CPD. Option 2 is compatible with Law Society's strategic priorities in relation to truth and reconciliation. Specifically, the 2018-2020 Strategic Plan speaks to "**encouraging**" all lawyers in BC to take education and training in areas relating to Aboriginal law. This approach is also within the purview of the Law Society's authority pursuant to s. 3(c) and s. 28 of the *Legal Profession Act*.
27. Option 2 is responsive to the concern that requiring all lawyers in the province to complete Indigenous intercultural competency education on a mandatory basis is "overreaching" "overcasting the net" or even "mission creep" by the Law Society. Many lawyers have no Indigenous clients, and do not come across Indigenous issues in their practice areas. Mandating a program that has little or no perceived value to them in their practices may cause a reaction that could undermine the Law Society's efforts toward reconciliation. Although many lawyers could greatly benefit from participating in Indigenous Intercultural Competence Training, others will be of the view that the topics and skills addressed in Call to Action #27 have no direct or indirect connection to their delivery of legal services.
28. It may, therefore, be in the public interest to ensure that the finite amount of time a lawyer has to devote to continuing education is allocated to learning that is directly relevant to their practice, based on the lawyer's evaluation of their own educational needs.

29. Further, a mandatory requirement does not align with the increasingly liberalized approach to continuing legal education, as reflected in the Benchers approval of the majority of the recommendations in the Lawyer Education Advisory Committee final CPD review report in 2017. In recent years, the CPD program has made a marked shift toward providing lawyers with greater flexibility as to when and how they satisfy their learning requirements. The Law Society trusts that lawyers will make wise choices in selecting educational programming that will improve their professional competence, which may – or may not – require further training in relation to Indigenous intercultural competence.
30. There is a risk that imposing a mandatory requirement could create controversy that moves the profession further away from reconciliation rather than towards it. Although it is arguable that the Law Society of Ontario showed leadership by requiring that all lawyers in Ontario to "*adopt and abide by and individual statement of principles that acknowledges their obligation to promote equality, diversity and inclusion generally and in their behavior towards colleagues, employees clients and the public*", enough lawyers in Ontario objected to the mandatory prescriptive nature of the Statement of Principles that a well-organized slate of candidates for Benchers campaigned to repeal the SOP, won, and displaced 19 benchers running for re-election who supported the SOP. This resulted in the repeal of the SOP in September, 2019.
31. Perhaps the Law Society of Ontario miscalculated the consequences of mandating the Statement of Principles for all Ontario lawyers. The LSO was also euphemistically accused of “overreaching”, “overcasting the net” and “mission creep” when it mandated the SOP. A colleague of mine in large Toronto firm put the SOP issue this way to me: "*I totally agree to promote equality, diversity, and inclusion towards colleagues, employees, clients and the public, but I don't want my regulator to compel me to do so and effectively threaten to suspend or disbar me if I don't.*" Similarly, it's conceivable that some members of our profession could feel the same way and object to mandatory Indigenous Intercultural Competency Training even though they would be happy to complete such training if it were on a voluntary basis and incentivized.
32. The risk is that mandatory Indigenous Intercultural Training could be overturned by the membership. I believe the process works this way: if a resolution by the members against mandatory Indigenous Intercultural Competency Training passes at a general meeting, and a resolution to that effect is not implemented within 12 months by the Benchers, all that is required is a petition signed by 5% of the membership (approximately 650 lawyers) calling for a referendum on the resolution. Thus, if a sufficient number of emboldened members reject **mandatory** Indigenous Cultural Competency Training, the referendum process could be triggered; dividing the membership as TWU divided it in 2014.
33. This is not helpful for reconciliation, and I would urge Benchers to consider Option 2 instead of Option 1. I believe lawyers in British Columbia would rather be persuaded to

take the Course of their own volition than compelled to take it by their Regulator because they could face fines, suspension and disbarment if they do not. Lawyers are independent thinkers. Lawyers are generally resistant to being told what to do. We lawyers are in the persuasion business. Instead of forcing every lawyer in British Columbia to take Indigenous Intercultural Competency Training no matter what their practice area is, let's persuade the membership that completing the Course is a more attractive option than other educational options available to them; particularly if the completion of the Course is incentivized by the Law Society.