



**Elements and Roles of
the MKO Vision of a Whole of Government Response
Manitoba Keewatinowi Okimakanak, Inc.**

Manto Sipi Cree Nation Intoxicant By-law 2023-08-03

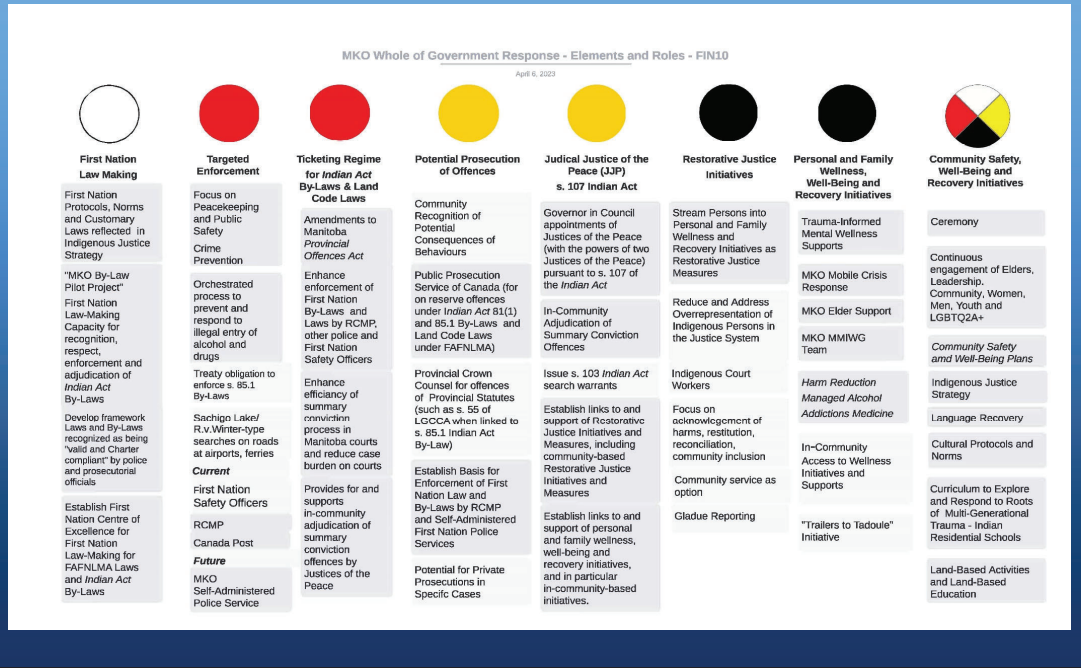
February 13, 2024

Treaty No. 1 Territory, Winnipeg, Manitoba, Canada

**Elements and Roles of the
MKO Vision of a Whole of Government Response**



Elements and Roles of the MKO Vision of a Whole of Government Response



First Nation Law-Making

- First Nation Protocols, Norms and Customary Laws reflected in Indigenous Justice Strategy
- "MKO By-Law Pilot Project"
- First Nation Law-making Capacity for recognition, respect, enforcement and adjudication of First Nation laws and *Indian Act* By-laws
- Develop Framework Laws and By-Laws recognized as being "valid and Charter compliant" by police and prosecutorial officials
- Establish First Nation Centre of Excellence for First Nation Law-Making for FAFNLMA Laws and *Indian Act* Bylaws

Targeted Enforcement

- Focus on Peacekeeping and Public Safety
- Crime Prevention
- Orchestrated process to prevent and respond to illegal entry of alcohol and drugs
- Treaty obligation to enforce s. 85.1 Intoxicant By-Laws
- Sachigo Lake/ *R.v. Winter*-type searches on roads, at airports, and ferries
- Current:
 - RCMP
 - First Nation Safety Officers
 - Canada Post
- Future:
 - MKO Self-Administered Police Service

Ticketing Regime for Indian Act By-Laws & Land Code Laws

- Amendments to Manitoba *Provincial Offences Act*
- Enhance enforcement of First Nation By-Laws and Laws by RCMP, other police and First Nation Safety Officers
- Enhance efficiency of summary conviction process in Manitoba courts and reduce case burden on courts
- Provides for and supports in-community adjudication of summary conviction offences by Justices of the Peace

Potential Prosecution of Offences

- Community Recognition of Potential Consequences of Behaviours
- Renewal of “broader” *Protocol* agreement beyond COVID for all By-laws under s. 81(1) and 85.1 of *Indian Act*
- Public Prosecution Service of Canada (for on reserve offences under Indian Act 81(1) and 85.1 By-Laws and Land Code Laws under FAFNLMA)
- Provincial Crown Counsel for offences of Provincial Statutes (such as s. 55 of LGCCA when linked to s. 85.1 Indian Act By-Law)
- Establish Basis for Enforcement of First Nation Law and By-Laws by RCMP and Self-Administered First Nation Police Services
- Potential for Private Prosecutions in Specific Cases

Judicial Justice of the Peace (JJP) s. 107 Indian Act

- Governor in Council appointments of Justices of the Peace (with the powers of two Justices of the Peace) pursuant to s. 107 of the *Indian Act*
- In-Community Adjudication of Summary Conviction Offences
- Issue s. 103 *Indian Act* search warrants
- Establish links to and support of Restorative Justice Initiatives and Measures, including community-based Restorative Justice Initiatives and Measures
- Establish links to and support of personal and family wellness, well-being and recovery initiatives, and in particular in-community-based initiatives.

Restorative Justice Initiatives

- Stream Persons into Personal and Family Wellness and Recovery Initiatives as Restorative Justice Measures
- Reduce and Address Overrepresentation of Indigenous persons in Justice system
- Indigenous Court Workers
- Focus on acknowledgement of harms, restitution, reconciliation and community inclusion
- Community service as an option
- Gladue reporting

Personal and Family Wellness, Well-Being and Recovery Initiatives

- Trauma-Informed Mental Wellness Supports
- MKO Mobile Crisis Response
- MKO Elder Support
- MKO MMIWG Team
- Harm Reduction
- Managed Alcohol
- Addictions Medicine
- In-Community Access to Wellness Initiatives and Supports
- "Trailers to Tadoule" Initiative

Community Safety, Well-Being and Recovery Initiatives

- Ceremony
- Continuous engagement of Elders, Leadership, Community, Women, Men, Youth and LGBTQ2A+
- Community Safety and Well-Being Plans
- Indigenous Justice Strategy
- Language Recovery
- Cultural Protocols and Norms
- Curriculum to Explore and Respond to Roots of Multi-Generational Trauma - Indian Residential Schools
- Land-Based Activities and Land-Based Education

Manto Sipi Intoxicant By-Law 1989

- There is currently in force the “God’s River Intoxicant By-law # 2” that was enacted on January 16, 1989.
- The Manto Sipi Cree Nation is a “dry reserve”.
- For the past 34 years, it has been unlawful to be in possession of alcohol, to sell, barter or traffic alcohol or to be intoxicated on the Reserve lands of the Manto Sipi Cree Nation.
- The “God’s River Intoxicant By-law # 2” has the force and effect of a federal regulation and is to be enforced by police and offences are to be subject to prosecution.

Manto Sipi Intoxicant By-Law 1989

- Section 85.1(4)(a) of the Indian Act provides that the penalty for the sale, barter, supply or manufacture of intoxicants on the reserve of the Manto Sipi is a fine of not more than one thousand dollars or to imprisonment for a term not exceeding six months or to both.
- Section 85.1(4)(b) provides that the penalty for being intoxicated or to be in possession of an intoxicant on the Reserve lands of the Manto Sipi Cree Nation is a fine of not more than one hundred dollars or to imprisonment for a term not exceeding three months or to both

Manto Sipi Intoxicant By-Law 2023-08-03

- Manto Sipi Intoxicants By-law 2023-08-03 continues the basic prohibitions, offences and penalties of the God's River Intoxicant By-law # 2 and adds:
- Notice that all persons entering and leaving the Reserve lands will be required to declare whether they are in possession of intoxicants.
- Notice that Enforcement Officers may search any persons where there are "reasonable and probable grounds to believe that any person on a Reserve may be committing an offence against this by-law".

Manto Sipi Intoxicant By-Law 2023-08-03

- Manto Sipi Intoxicants By-law 2023-08-03 also adds:
- Notice of the intention of the Manto Sipi Cree Nation to post signs at the airport and on roads and points of access that intoxicants are prohibited, as well as at air terminals in Winnipeg, etc.
- These signs would also include Notice that Enforcement Officers may search any persons where there are “reasonable and probable grounds to believe that any person on a Reserve may be committing an offence a against the by-law”.

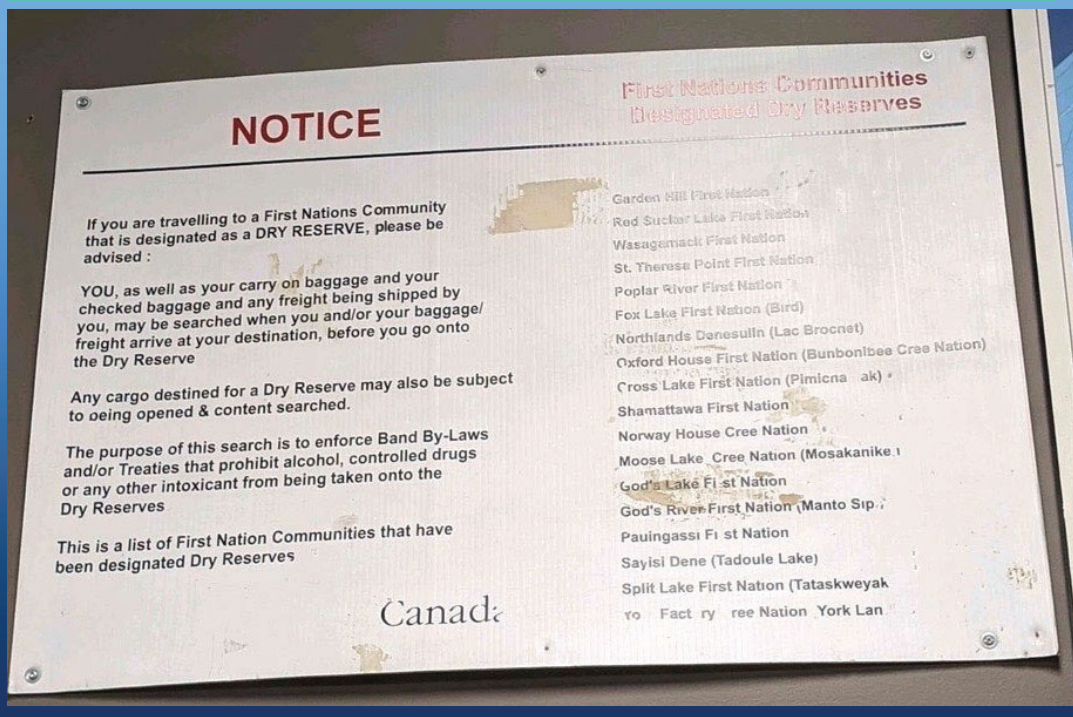
Manto Sipi Intoxicant By-Law 2023-08-03

- Manto Sipi Intoxicants By-law 2023-08-03 also includes:
- Reference to the ability for Enforcement Officers to issue tickets for offences under the By-law further to recent amendments to the *Provincial Offences Act* and the regulations.
- Authorization for Manitoba to designate the Manto Sipi Intoxicant By-law 2023-08-03 as an enactment which a First Nation Safety Officer may enforce with the powers and protections of a peace officer further to recent amendments to the *Police Services Act*.

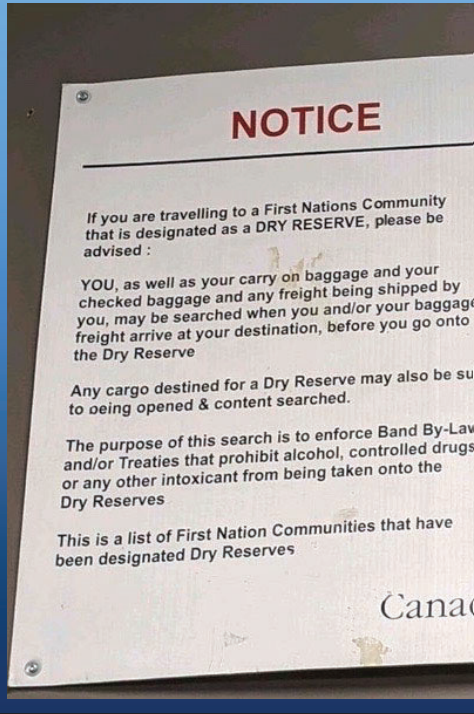
Manto Sipi Intoxicant By-Law 2023-08-03

- The “Notice of Search” provisions are intended to address the “reasonable expectation of privacy” protected by the Charter of Rights and Freedoms and provide a lawful basis for warrantless searches of persons.
- In basic theory, this is very similar to the notices posted by the Government of Canada advising that persons who wish to board a commercial flight must consent to a voluntary search or a person may voluntarily decline to board the flight.
- The “notice of search” provisions in the Intoxicants By-law of the Sachigo Lake First Nation was upheld as being effective by the Ontario Superior Court of Justice in its decision in *R. v. Winter*.

Manto Sipi Intoxicant By-Law 2023



Manto Sipi Intoxicant By-Law 2023



NOTICE

If you are travelling to a First Nations Community that is designated as a DRY RESERVE, please be advised :

YOU, as well as your carry on baggage and your checked baggage and any freight being shipped by you, may be searched when you and/or your baggage/freight arrive at your destination, before you go onto the Dry Reserve

Any cargo destined for a Dry Reserve may also be subject to being opened & content searched.

The purpose of this search is to enforce Band By-Laws and/or Treaties that prohibit alcohol, controlled drugs or any other intoxicant from being taken onto the Dry Reserves

This is a list of First Nation Communities that have been designated Dry Reserves

Canada

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Canada

Manto Sipi Intoxicant By-Law 2023-08-03

- The Ontario Superior Court also decided in *R. v. Winter* that illicit drugs that were incidentally discovered by an Enforcement Officer during a lawful search for alcohol was admissible as the basis for a charge and for prosecution of an offence pursuant to the federal *Controlled Drugs and Substances Act*.
- That is, while a First Nation Safety Officer may not directly enforce the federal *Controlled Drugs and Substances Act* at this time, the authority of an FNSO to search for alcohol may incidentally lead to the discovery of illicit drugs which may then be turned over to police.

Manto Sipi Intoxicant By-Law 2023-08-03

NOTICE TO ALL PERSONS AND TRANSPORT PROVIDERS

BE ADVISED that the MANTO SIPI CREE NATION has a By-law in force which prohibits the possession, use or sale of Intoxicants on the Reserve lands

If you are traveling to the **MANTO SIPI CREE NATION**, which is designated as a **DRY RESERVE**, please be advised **YOU**, as well as your carry on baggage and your checked baggage and any freight being shipped by you may be searched when you and/or your baggage arrives at your destination, **BEFORE** you go onto the Dry Reserve

All cargo and packages destined for the MANTO SIPI CREE NATION are also subject to being opened and contents searched

The purpose of this search is to enforce Band By-Laws and/or Treaties that **PROHIBIT** alcohol, controlled drugs or any other Intoxicant from being taken onto the Dry Reserves

Under The Liquor, Gaming and Cannabis Control Act it is an offence carrying a **\$2,500 fine** to deliver or to attempt to deliver alcohol to a location where alcohol is prohibited, including to the MANTO SIPI CREE NATION



Manto Sipi Intoxicant By-Law 2023-08-03

- Manto Sipi Intoxicants By-law 2023-08-03 also includes:
- Restorative Justice provisions in which provide the MKO First Nation communities – including the Manto Sipi Cree Nation - with an alternative program that supports court diversions from the court system for youth and adults facing criminal charges.
- all offences by a Member under this by-law may be examined in accordance with the principles and objectives of the MKO First Nations Justice Strategy Program regarding the appropriate penalties for the offence.

Manto Sipi Intoxicant By-Law 2023-08-03

- Manto Sipi Intoxicants By-law 2023-08-03 also provides that:
- a person who is not a Member or Resident of the Reserve, who is pleads guilty or is convicted of an offence under this by-law may be deemed to be trespassing and on the Reserve for a prohibited purpose and without lawful authorization;
- may be ordered by the Enforcement Officer to immediately leave the Reserve lands;
- should the person who is not a Member or Resident of the Reserve fail to leave the Reserve, an Enforcement Officer may take immediate steps to remove the person from the Reserve

Manto Sipi Intoxicant By-Law 2023-08-03

- Recent developments that enhance and support the enforcement of the Manto Sipi By-law are:
- The May 30, 2023 amendments to the *Police Services Act* which clearly confer the powers and protections of a peace officer on First Nation Safety Officers are proclaimed into force as of February 5, 2024
- The May 30, 2023 amendments to the *Provincial Offences Act* which create a ticketing regime for offences under *Indian Act* By-laws – including the Manto Sipi Intoxicant By-law 2023 - as well as Land Code Laws are proclaimed into force as of January 1, 2024

Manto Sipi Intoxicant By-Law 2023-08-03

- Recent developments that enhance and support the enforcement of the Manto Sipi By-law are:
- The regulations pursuant to the amendments to the *Police Services Act* are very nearly complete and are expected to be enacted within and become operational within the next two weeks.
- The regulations pursuant to the amendments to the *Provincial Offences Act* to operate the ticketing regime for offences under *Indian Act* By-laws – including the Manto Sipi Intoxicant By-law 2023 - are in effect as of January 1, 2024

Manto Sipi Intoxicant By-Law 2023-08-03

- Recent developments that enhance and support the enforcement of the Manto Sipi By-law are:
- The First Nation Safety Officer Operating Agreements will be amended to extend the area in which the authority of First Nation Safety Officers will apply and will be exercised to include:
 - Provincial airports, provincial ferries and provincial roads adjacent to, within or crossing a First Nation reserve
 - the traditional territories of the MKO First Nations as set out in a map to be attached to the amended Operating Agreement

Manto Sipi Intoxicant By-Law 2023-08-03

- Recent developments that enhance and support the enforcement of the Manto Sipi By-law are:
- The Public Prosecution Service of Canada (PPSC) is developing and delivering training to First Nation Safety Officers and RCMP on the effective enforcement of the First Nation By-laws as a key element of the Two-Year Pilot Project between PPSC, RCMP and the MKO First Nations
- The initial training session took place at the Manto Sipi Cree Nation in December, 2023
- PPSC is applying the “lessons learned” from the initial training sessions to refine and further develop the training, in collaboration with MKO, the Public Interest Law Centre, Manitoba Justice and RCMP

MKO Self-Administered First Nation Police Service

- MKO Resolution 2022-08-07, “**Reiteration of Support for Establishing an MKO Regional Police Force and MKO Policing Program**” confirmed and renewed support for Resolutions 2010-08-09 and 2013-08-05, and called for the earliest establishment of a self-administered MKO First Nation Regional Police Service in each MKO First Nation which desires it
- MKO has an arrangement with Public Safety Canada and Manitoba Justice which supports a two-year MKO initiative to develop an Implementation and Policing Transition Plan for an MKO Self-Administered Police Service during 2023-2024 and 2024-2025
- Project activities were initiated by MKO in 2022-2023

MKO Self-Administered First Nation Police Service

- Participants in the RCMP & MKO Symposium held on May 31 and June 1, 2023, heard that the core Policing Model of the Nishnawbe Aski Police Service (NAPS) in northern Ontario is to have at least one police officer in every First Nation served by NAPS on a full time basis
- There are strong cultural, linguistic, and locational commonalities such as remoteness between the MKO First Nations and the First Nations served by NAPS
- There are also strong commonalities between the MKO and NAPS First Nations in the severity and frequency of reported crimes, including violent, alcohol, drug and addictions-related crime

MKO Self-Administered First Nation Police Service

- The current approach of MKO in the development of the Implementation and Policing Transition Plan for the MKO First Nation Police Service assumes that the facilities and deployment plan will be based on a core Policing Model of at least one police officer being posted in every MKO First Nation on a full time basis
- MKO is also been looking at means to accelerate the recruitment, training and on-the-job skills and experience development of MKO First Nation citizens as police officers in order to have a group of qualified police officers available to serve in the MKO First Nation Police Service

First Nation Policing as an Essential Service

- MKO included a definition of “essential service” in MKO’s recommendations for the Action Plan pursuant to the *United Nations Declaration on the Rights of Indigenous Peoples Act*:
- Adapt the definition of “essential service” that appears in the *Federal Public Sector Labour Relations Act*, SC 2003, c 22, s 2 to establish a statutory obligation on the part of all departments of the government of Canada to deliver essential services to Indigenous peoples in a manner that is subject to:

First Nation Policing as an Essential Service

- defined standards of substantive equality
- reasonable comparability
- adequacy and effectiveness
- against which the achievement of such standards are subject to monitoring, evaluation, audit and enforcement

First Nation Policing as an Essential Service

- MKO has recommended the following definition:
- *“essential service” means a service, facility or activity of an Indigenous governing body, an Indigenous organization or Indigenous peoples for which the Minister or Government of Canada exercises a policy objective or statutory obligation to support that is or will be, at any time, necessary for the safety or security of the Indigenous governing body, Indigenous organization or Indigenous peoples and shall be subject to defined standards of substantive equality, reasonable comparability, adequacy and effectiveness against which the achievement of such standards are subject to monitoring, evaluation, audit and enforcement.*

First Nation Policing as an Essential Service

- The new federal legislation must apply these “essential service” standards and benchmarks to contract policing in First Nations as the enforceable definitions of “level of policing services” and “professional police standards of procedures” that apply when RCMP are serving First Nation communities as the Provincial Police Service:
- *6.3 The Provincial Minister will determine, in consultation with the Commissioner, the level of policing service provided by the Provincial Police Service.*
- *6.5(c) In determining the professional police standards or procedures in respect of the Provincial Police Service, the Commissioner will harmonize those standards or procedures to be substantially similar to or exceed the comparable professional police standard or procedures applicable to all other police services in the Province (..)*
- *Manitoba Provincial Police Service Agreement, April 1, 2012*

Elements and Roles of the MKO Vision of a Whole of Government Response

MKO Whole of Government Response - Elements and Roles - FIN10
April 6, 2023

First Nation Law Making	Targeted Enforcement	Ticketing Regime for Indian Act By-Laws & Land Code Laws	Potential Prosecution of Offences	Judicial Justice of the Peace (JJP) s. 107 Indian Act	Restorative Justice Initiatives	Personal and Family Wellness, Well-Being and Recovery Initiatives	Community Safety, Well-Being and Recovery Initiatives
<ul style="list-style-type: none"> First Nation Protocols, Norms and Customary Laws reflected in Indigenous Justice Strategy "MKO By-Law Pilot Project" First Nation Law-Making Capacity for recognition, respect, enforcement and adjudication of Indian Act By-Laws Develop framework Laws and By-Laws recognized as being "valid and Charter compliant" by police and prosecutorial officials Establish First Nation Centre of Excellence for First Nation Law-Making for FAFNLMA Laws and Indian Act By-Laws 	<ul style="list-style-type: none"> Focus on Peacekeeping and Public Safety Crime Prevention Orchestrated process to prevent and respond to illegal entry of alcohol and drugs Treaty obligation to enforce s. 85.1 By-Laws Sachigo Lake/ R.v. Winter-type searches on roads at airports, ferries Current First Nation Safety Officers RCMP Canada Post Future MKO Self-Administered Police Service 	<ul style="list-style-type: none"> Amendments to Manitoba Provincial Offences Act Enhance enforcement of First Nation By-Laws and Laws by RCMP, other police and First Nation Safety Officers Enhance efficiency of summary conviction process in Manitoba courts and reduce case burden on courts Provides for and supports in-community adjudication of summary conviction offences by Justices of the Peace 	<ul style="list-style-type: none"> Community Recognition of Potential Consequences of Behaviours Public Prosecution Service of Canada (for on reserve offences under Indian Act 81(1) and 85.1 By-Laws and Land Code Laws under FAFNLMA) Provincial Crown Counsel for offences of Provincial Statutes (such as s. 55 of LCCCA when linked to s. 85.1 Indian Act By-Law) Establish Basis for Enforcement of First Nation Law and By-Laws by RCMP and Self-Administered First Nation Police Services Potential for Private Prosecutions in Specific Cases 	<ul style="list-style-type: none"> Governor in Council appointments of Justices of the Peace (with the powers of two Justices of the Peace) pursuant to s. 107 of the Indian Act In-Community Adjudication of Summary Conviction Offences Issue s. 103 Indian Act search warrants Establish links to and support of Restorative Justice Initiatives and Measures, including community-based Restorative Justice Initiatives and Measures Establish links to and support of personal and family wellness, well-being and recovery initiatives, and in particular in-community-based initiatives. 	<ul style="list-style-type: none"> Stream Persons into Personal and Family Wellness and Recovery Initiatives as Restorative Justice Measures Reduce and Address Overrepresentation of Indigenous Persons in the Justice System Indigenous Court Workers Focus on acknowledgement of harms, restitution, reconciliation, community inclusion Community service as option Gladue Reporting 	<ul style="list-style-type: none"> Trauma-Informed Mental Wellness Supports MKO Mobile Crisis Response MKO Elder Support MKO MMIWG Team Harm Reduction Managed Alcohol Addictions Medicine In-Community Access to Wellness Initiatives and Supports "Trailers to Tadoule" Initiative 	<ul style="list-style-type: none"> Ceremony Continuous engagement of Elders, Leadership, Community, Women, Men, Youth and LGBTQ2A+ Community Safety and Well-Being Plans Indigenous Justice Strategy Language Recovery Cultural Protocols and Norms Curriculum to Explore and Respond to Roots of Multi-Generational Trauma - Indian Residential Schools Land-Based Activities and Land-Based Education

Delivering a Whole of Government Response to Support First Nations' Public Safety, Health, and Well-Being





Kinanaskomitinowow! Masi Cho! Miigwech!