

Whitehorse Engagement on the Proposed Elements for Federal First Nations Police Service Legislation

Date: March 7 2024

Location: Kwanlin Dun Cultural Centre

(1171 1st Ave, Whitehorse, YT)

In-Attendance: 30 people attended (7 virtual / 23 in-person) representing the following:

- Elder
- Strategic Policy and Project Advisor
- Director, Public Safety and Investigations
- Manager, Community Safety and Crime Prevention
- Director and Chief Negotiator
- Community Justice and Policing
- Consultant
- Justice Coordinator/Court Worker
- Director of Justice
- Executive Director
- President, Metis Council
- Governance Analyst/Negotiator
- Justice Manager
- RCMP
- Ministry of BC Solicitor General
- Director of Core Governance

Welcome and Opening Remarks

Presentation – Chris Moran, Assistant Deputy Minister, Public Safety Canada:
https://ildii.sharepoint.com/sites/ILDIArchive/Shared%20Documents/EXECUTIVE%20TRAINING/2024/APPROVED%20Proposals/FN%20Policing%20Legislation/FN%20Policing%20Leg%20-%20Documents/IAB_IPTF_PS%20Presentation%20ILDI%20Engagement.pdf

Elements to Inform the Legislation

1. Context

Discussion Question

The context emphasizes that the federal legislation should recognize and support First Nations police services with funding and foster effective partnerships between First Nations, the Government of Canada and the province/territory. Are there other concepts that you feel need to be included in the context to properly set the tone of this envisioned legislation?

Participant Answers

- Because of the effect of it not being there, Yukon first nations haven't been able to access funding through the FNIPP and we have 11 self governing first nations.
- *I am just trying to understand how with the legislation framework, how this can even affect us if our other treaty partner doesn't have the legislation to support it?*
 - This would not take immediate effect in Yukon. It would require them to adopt some sort of a legal framework that permits the creation of police services. For that reason, I think the immediate impact would be quite minimal but there are opportunities for us to consider what that landscape looks like in the future. We are looking to meet the needs of Yukon nations through community safety investments. The short answer is that federal legislation must have a provincial jurisdiction in place and that's not in place in Yukon.
- A lot of us were in FNIPP engagements the last few days and we were told that public safety Canada and Yukon government will only be funding for community officer programs that already are existing for the unforeseeable future.
- We are in the process of doing community safety planning but particularly we had three major emergencies last year where they just sort of got brushed off.
- We are trying to make sure people are trained and there is guidance and they have the equipment they need.
- *Is the funding through this legislation different from the FNIPP and how can we access it if so?*

- The funding would be distinct. This law would basically create a mechanism for self administered police services through this legislation. We are running a pilot project through FNIPP that wasn't a normal expenditure for the program, but it's aimed at gathering info for what we have to do in the future. We will continue to engage with you on what that would look like and where we can make those investments available. We need to ensure there is a broad spectrum.
- *If it's focused on policing, and self-administered, would one of the options be that we contract the RCMP directly and what are some sort of examples from Canada?*
 - The answer is no. That is not a self-administered service. That would be one where there is a first nations led and delivered police service - not contracting to someone else. Contracting directly with the RCMP would be a conversation that has to happen with Yukon - I would hesitate to go there at this moment. We are really talking about first nations led police services. That's an important distinction.
- *So thinking of scale, we're a very small community, would the legislation support a territory wide first nation policing police force that could have members changing between different communities? Would it be all the first nations together administering this, with a board that had members from all the first nations, because I'm from a community of 300 people.*
 - The short answer is yes. If the territory had the legal framework in place, then yes. The where, the when, the how and what, those are decisions between the province and first nations, this legislation would be aimed at governing how we bring funding to the table.
- This legislation would specifically be for the self-administered - in BC there is literally oneself administered agreement in place and the funding that's going to be addressed here will be 52% and this would still be heavily reliant on the provinces to provide their 48%, so just a comment on strengthening the language to make sure that the provinces do in fact contribute their portion and the province and territories do have legislative authorities in policing and they would decide whether or not to support a self-administered policing or not.
- There is a lot of debate in some provinces about having one off patch work with policing services and the support has not been there at times, it would make this legislation mute, if it wasn't supported.
- To ensure that this is very clear this legislation would only apply to Canada's portion of the self-administered agreement.
- *You had mentioned that there are 36 self-administered first nations in Canada - is there a breakdown somewhere of that info that we could look at and any evaluation that's been done for them?*
 - We have a map that shows where they are - most of them are concentrated in QC and ON.
- Of the 36 there are 9 in ON and 21 in QC, 3 in AB and 1 in BC, 1 in SK, and 1 in MB. The ability of both governments to cost share at the same time - has been a limiting factor. With respect to the valuation there is lots of frustration with the way the funding decisions are taken. We have a mixed bag of outcomes.
- Communities served are generally more satisfied and feel better served at a higher degree than other communities. I will note that part of that has to do with the level of trust and expectation.
- *Will municipal police forces and first nations communities be held accountable with this new legislation?*
 - It will not have any bearing on the municipalities or RCMP, it will not alter that. It's about responsiveness. The short answer is no, it will not.
- *Why are there not more self administered police forces in western Canada? There seems to be a lot on the eastern side, but why not the western?*
 - It has to do with the fact that as a cost shared space, we need to be ready to fund at the same time as the province. We have ways to go with predictability and accountability. Part of it is historic as well,

some services were in existence when it was established and have continued. Some are very small and some are large. There is a vast range of metrics.

- *Because this is federal legislation and police forces are operating under it, is the indigenous police service able to enforce laws?*
 - Yes, it comes up a lot. One thing I want to stress is you do not need to have a first nations police service in place to get that done.
- So that is not the case in Yukon. RCMP do not enforce laws. We have our self-governed agreements that allow us to draw down jurisdiction. It has effectively frozen us to be able to develop anything - we can't legislate any of those areas until we have the ANA signed. When we have a community safety crisis, or the justice system releasing dangerous people back to the community, we are held back by our own self-government agreement. If any legislation we pass is in conflict with Yukon or RCMP legislation, they will not enforce it. There is no enforcement on anything that we set as a community.
 - This is part of the challenge. Ensuring that the first nations law is enforceable within the jurisdiction.
- *Can we ensure there are endless funds for training and prevention?* I think we need to ensure the mental wellness of this field. How can we have a healthy relationship in the community? Healthy Policing strategies?
 - It would include training, mental health support, the short answer is yes. We are contemplating something more towards the needs directly. Right now, we aren't able to do that given the way funding is right now.
- Just to flag to everyone that the charter is the reason that if we pass any legislation that puts the rights and safety of the community above an individual, they can't enforce it. It really asks, can we get a definition on how section 25 of the charter works? *Can we put the rights and safety of our community above the safety and rights of an individual?* This is where we run into issues with enforcement. If someone goes to jail and they come back to our community, have they taken steps to improve themselves to be able to live around women and children? They are limited to the charter for what they can do. That is something that I would like for you to hear and consider with this legislation.
- I am aware that there were two Yukon first nations who had self-governing agreements, the first one they banned two citizens for violence in the community, they were banned a few years ago and have come back. A drug dealer was banned and self-governing agreements do go a long way.

2. Purpose and Funding Arrangements

Discussion Question 1

What are your views of the roles and responsibilities of the Government of Canada, First Nations and the provinces/ territories as articulated in the Elements?

Discussion Question 2

Do you have any suggestions for how to increase the likelihood that funding arrangements will be successfully concluded?

Participant Answers

- *Does Yukon's legal framework need to be in place first and does this program fund feasibility studies?*
 - I would expect that we would require Yukon to agree. We do fund feasibility studies. We require the support and concurrence and contribution of provinces or territory. When we're moving into the adoption and implementation, we would expect to continue studies.
- We were told by Yukon government reps that there may be 6 new FNIPP in the new budget that's being announced very soon. There was very strong dissatisfaction with the CTA. I understand CTAs are being reviewed but we have not been involved in that. It comes down to a trilateral relationship. When it's

presented to each first nation, it's not really fair because we don't have the ability to come together and look at the entire framework. *Does it make sense to increase the funding to the CTA or for Yukon to go back and draft this legislation and do feasibility study?*

- This is a conversation that does need to occur at the local level. I would note that while I recognize some dissatisfaction, we do want to hear about how that can work better - more support for community planning and bringing everyone together. I know that many people are not fully satisfied but we are committed to ensure it works better. Given the way that policing operations work, we don't have the ability to direct the policing, we can only offer additional service. We are hearing from first nations and we have started making appointments with first nations on how we can improve communications bilaterally.
- *Can anyone from the Yukon government talk about the territory's role?*
 - I think I'm going to say it's important to know that the government of Yukon is here to listen and hear what first nations interests are regarding policing and we don't have any particular plan or options for anything that's started as we are still working on listening and hearing in the conversations and the interests that have been raised. We are open to those conversations at the table.
- *With regard to the federal contribution, and how important that the provinces and territories are - why under the federal FNIPP program there are two main tiers, and why does this initiative not include the CTA as well?*
 - It's one we have struggled with. In terms of recognition as an essential service, we are funded through a grant and contribution program. It's about funding and recognizing essential services. It's aimed at providing self-administered services. It's an enhanced level of policing we are looking at. Those two streams operate in a very different way, like oranges and apples.
- In our first engagement session in MB, they did a lot of work on the relationship with the province and federal government. They spent a lot of time developing strategies for that. I would encourage you to take a look at that info, it's on our website at ILDI.
- When it came to CTA talks, what would happen in Nova Scotia, is the province and the feds would come into Old Crow and they would make agreements. They would engage individually and equally. I find it a little different here the way it works, it's a bit awkward and inefficient. It's like anything, you get great teachers and bad teachers.

3. Dispute Resolution

Discussion Question

How successful do you think the proposed dispute resolution processes will be in supporting the resolution of disputes? Do you have any suggestions that may help the Government of Canada, First Nations and provinces/territories work together to respectfully resolve disputes?

Participant Answers

- I like the idea of a mediator and I think it would be helpful to consult with each first nation, because there could be more than one way of dispute resolution and clearly outlining the perimeters of it.
- A parallel example might be in our agreements, I think one of the reasons is that it involves our aboriginal rights and we are still interpreting our agreements and one of the reasons it goes to court often instead of using dispute resolution is it provides more clarity and resolution with the other parties.
- When it comes to high stakes or things that might affect other communities, it's difficult to ask that they be resolved, it just depends what content and what the stakes are. An appeal to the courts should be included.
- I really wanted to be in this conversation, going forward I would love the opportunity to meet with people in person.

- We are looking to align with the framework that's in place with the jurisdiction. This issue has provoked the most amount of discussion. We are looking to find a collaborative approach.
- *The concern is what mechanism is in place to ensure that Canada can't just say no every time?*
 - The whole heart of the legislation is really about our conduct and doing better where we bring funds to the table. I would say it would be contrary to the spirit in what we are doing here to say no. There is a conversation between the first nation or the police commission, the province and the federal government, to meet the standards of that jurisdiction, with a collaborative approach.
- Maybe there can be language that speaks to that intent.
- There is still much work to do. I think trying to capture all of the messaging that we are receiving across the country is quite a huge undertaking, and we are trying to find that balance for how the legislation may look. Legislation itself from time to time is amended but the end game for many of us moving forward is looking to introduce treaty law. It's a colonial structure that's been based upon us. We are hoping this legislation would eventually find some balance. It may not be the right fit for all. My personal opinion on it though is things need to change. They want that support. It's a difficult process for sure.
 - Change is required. We're talking about a better way moving forward. It's a complicated space but there is a long history of leadership in First Nations and we need to respond to that. While the legislation is just about police services, we recognize that the community safety sphere would benefit from some changes as well. How are we creating that spectrum of support that drives to better outcomes overall? We are not going to arrest our way out of certain problems.
- One of the big challenges is recruitment and retention. The problem is we do have a lot of our young people that are interested in policing, the challenge though is they don't get on par with other police jurisdictions. So, they lose a lot of members to different police services. That also has to be addressed because the justice system is full of indigenous people that shouldn't be there, there may be a different way of policing and I'm sure that a different approach within our communities is culturally ingrained. The biggest challenge is the funding, to be able to recruit and keep retention and having more of our people choose this as a career path. In our language the word for policeman means "to pick up something", and there was always this sense of fear of the people that are policing you, when the opposite should be you feel a sense of security with your police services. Even us, we have to change the narrative of how we identify our police service members in our community.
- I understand that most FNs will have agreements or MOUs that will be unique to their region or nation. *This is just a framework to make up the CTA and make our relationships stronger. Can we ensure we have the flexibility to do so?*
 - The idea of flexibility and responsiveness is at the heart of this. We are aiming to ensure flexibility where the policing is involved. We do know we want to see something that is meeting the needs of communities better. So the idea of flexibility is something we will take on board.
- Regarding dispute resolution, I would prefer an open appeal process, this is public money being discussed, it would help having the information public.
- We need to affect change, how do we go about doing that? A lot of our communities run rampant with drug dealers. People are continuously dying from fentanyl overdoses. Rebuilding human lives is what's most important. There's a sense of fear sometimes from the governments that they are losing control, when in fact they should be looking at this as a positive development. We all know it's created an environment of dysfunction.

4. Implementation

Discussion Question 1

Do you have any other ideas that could help support the implementation of a First Nations police services legislation?

Discussion Question 2

The Elements envision that First Nations would be significantly involved in the implementation of the legislation. What is needed to support First Nations participation in this implementation?

Participant Answers

- Whatever is in the self-government agreement, that would take over. There would have to be a lot of discussion around that, and to what degree would be laid out by the Yukon territory.
- I'm just wondering if because the Yukon is such a small jurisdiction, if there was a collaborative approach with the first nations that are self-governing, how would that work?
- The concept of regionalization is already contemplative under the FNIPP. There is one first nation police service that operates within two jurisdictions, so there is space for multi-jurisdictional operations. We are working in a space where there needs to be a tie to provincial police work.
- My issue is for my small community, it's going to be hard. I am wondering how we are going to address the transboundary issue with our main office being in Watson Lake, our community is 24 clicks away from the Yukon, and so right now we are even working and struggling to find out how we are going to address it, because we have many transboundary issues all over. I am wondering, you say multi communities, but we are of one nation and we are split by borders, in our time, the elders said bloodlines not borders, because we have people related to us right from Ross River to British Columbia. We were at the tables of BC at one point, but that is no longer.
- This is a big job and I work in a justice office and I take care of the people I have in BC and we have our own court circuit that come from southern BC and not only that but our people go over the border and back and forth, so I have many questions in regards to how we will approach this, there's a lot to take in for smaller communities and we struggle with human resources. We have really good key people who want to help and move forward. I always think about who we are and how we connect to the areas we are from.
- How do we construct ourselves in regard to laws? A lot for us to think about, but right now we have the RCMP from Watson Lake drive down if we have emergencies, but often our community has to tend to the emergency before they arrive and then when they are short staffed and we feel it more. We have drugs coming in because we are just off the highway a little bit, so if you're along the roads or highway it's easier access for people to just drive into our communities. We have that in both our communities. So with that, I know there's very good minds here and I'm proud of the young people who are here and I will help our people as much as I can but this is really new to me. I get the concept but we really have to think of how we approach this and our ancestors are going to have to come into play, because we have our old ways.
- From a Yukon self-governing first nation perspective, that does not have a negotiation framework agreement for implementing any agreement under an area of self-justice, we cannot access this funding without Yukon government legislation, so I guess implementation, as far as I know we have never had any funding flow to Yukon, and currently we cannot because Yukon does not have policing legislation. Either we discuss policing through the AJA, which at this time we don't see how we can do that under our current framework agreement, or our Yukon government has to legislate and talk about how this could be implemented in Yukon.
- When I look back, coming to the late 80s, I came home in 1982 and over the years, justice has been an issue, to try and get our own policing to work on our homelands, and to see that this is still a discussion, we had thought we started to get the ball rolling and all the chiefs were on board with it, and back in the 80s too, we had these constables, and I don't know what happened or if there's any positions for the first nations people, but all the ones back then have retired now, and I don't know how many first nations we have here serving us. I would really hope that this legislation can go through and be implemented and how could we

help support doing that to help fast track it? I'm not sure what needs to be done, but if there's a working group that can stay focused on getting it developed towards what we need here and other places, I would like to see that it be sped up, to not have it go on for another 20 years. Because that's the way I see this at the moment, from the 80s to now. We don't need another 20 years of just giving it lip service and not putting forth the whole effort. Fast track it, that's all I have to say.

- We were ready to sign our final agreement in the early 80s, but our chief said no we aren't going to sign until we can self-govern, we ended up signing in 93, but with the negotiation that we would negotiate justice, but we have no new programming or funding or justice since then, we have one justice worker, and that's probably been for ten years.
- *How can we talk about implementation when we can't even access the legislation or the funding?*
- I haven't seen any growth in our justice system in the 13 years I've worked in it. We have to start somewhere, and we have to have a voice in this implementation of the legislation. Just because we aren't signed, we are still part of Yukon and we have a voice and need to see things move forward.
- When you spoke about the implementation and if we don't have first nation policing right now, this is what the legislation is about, but I appreciate your comments here because our teachings are that we have to look 7 generations ahead for the decisions we are making. Most people in the west don't have a first nations police service, but that doesn't mean we stop. We still have to give our knowledge and contribute because it may take a while, and your communities may look at this and want to be a part of this as well, so these discussions are important. This is the groundwork of the legislation we are talking about here. I feel the frustration because you don't have a first nation police force, so you are asking what value we bring to the table, but it is very important, and you are all valuable.
- Hypothetically, if Yukon had legislation and could access this, I think we would like to have funding to be able to do these consults with our community, and have input into how it applies within our legislation framework, how it interplays with all the different service providers, how it affects our administration of justice negotiations, and that would include legal support, which is a big cost, when reviewing legislation.
- We need to consider the cost of delivering these kinds of services in a very remote fly-in community.
- Do we need infrastructure for them? It's difficult to cost out a program without taking into account if we have the infrastructure to have them in an office or have them in a vehicle. We need to understand the full cost of a program like that. Training and all things like that. It's expensive. How much is available to be paid and in comparison, to RCMP? Is it going to be equitable? What's the incentive to do this? It would require coming and talking to our people and getting an understanding of the increased cost.
- I would also wonder what training dollars would look like.

5. Broader Indigenous Policing and Community Safety Programs

Discussion Question

How can the FNIPP and FNIPFP, as well as other Public Safety Canada programming, better respond to broader policing and community safety needs in your communities?

Participant Answers

- There was a two days session that this was talked about before this, so it may be worth getting info from that. But basically there is a need for accountability on the delivery for what the program is intending to do.
- There are so many things - for example, the police had no idea what it was, the only real thing that they give to the government is the data every month, but it's not very informative, it doesn't report on community engagement, they don't really have any relationship with our council. We can't just talk to them directly most of the time.

- Yesterday, the police chief announced that he does not support tiered policing. There are not enough officers there to do their core policing. So the FNIPP really just subsidizes core policing.
- We discussed if we keep it, we would like more accountability built into the program. There is no reporting to the first nations, we don't see how that money from the FNIPP is actually benefiting our community. We can't validate it. Some other people brought up that the FNIPP should be separated from the TPSA positions, so right now it goes together. So someone brought up that they should actually go back and care about the funding so there is one officer assigned to the FNIPP.
- When it comes to funding, addressing it at the LOE level is not going to help. It will put bandaids on the situation, it is not addressing the actual situations.
- We always like to look at the measure of success and if we need to add more police officers and expand the jails then obviously, we aren't being successful. Hopefully this will be the last time we try to improve our communities. We want more proactive work. Most calls are mental health or addictions, we are trying to put better boots on the ground. We are really taking a proactive reduction approach and the CTA programs and other programs sometimes don't adhere to what our vision is and it makes it very expensive for us to engage. For us, we would like the opportunity to have the ability to say we want the extra police officers because this is what's impacting our community, and proactively working with youth. All we're doing is creating a vicious circle, so we would love to have the opportunity to have the option in this program, for what the boots on the ground look like.
- We need something. The CTA is something. But we all have to agree on that program. We all have to be satisfied with how it's written and what it's there for.
- We have to, in our LOE, put "communication of trust", and I've seen officers that don't even acknowledge the people around them, but to have trust and build a relationship, you need to build that and see more crime being reported and people feeling safe to be able to speak to any member. Every member should know about the CTA the minute they come to the community. They should know the expectations and they should know it well. Maybe there should be a section in monthly reports, showing what expectations they met from the CTA.
- I think doing a community safety assessment will help answer those questions.
- We do have a CSO officer program, and we don't really like that it's called officer and we are looking to change that. Is it 100% prevention focused? It's very customized to what the community's needs are. It's very community centred and community based. These details and this really key relational piece is missing.
- We have people who would never call the cops, they just won't. But they will call the CSOs.
- One of our CSOs got a text, and there were drugs and guns and threats in play, and the individual couldn't step outside to make a call, but they were able to text the CSO number and that resulted in a larger safety response. This is an example of the bridging. This success story would never have happened without the CSO.
- A lot of these conversations, yes, they are important, but for action right now and what Yukon first nations can do... we are handcuffed. We are very much working within the existing system. This is a consultation, and we don't want to be boxes to check, it's important to know that not a lot is going to come out of this, because looking at the three streams, they just don't apply. This is just a matter of fact.
- I agree with the prevention approach. Being handcuffed and being made to fit into a funding program, doesn't help us. The reason we have the CTAs is because it's our only option. We have no other option. My understanding of CSOs is 100% prevention. Because we have chosen to accept funding from the Yukon government, that will lock us in somehow and not allow us to get prevention funding to allow them something else like outreach workers, and I really don't want that to happen. Their role is not enforcement at all. I would like us to not be made to squeeze into boxes that are given to us as our only option. Rather

have the ability to do our own prevention. We want people to not need to interact with police all the time and the justice system. I get calls every day about domestic, violence, drugs, etc and I try to tell people they have to call the RCMP, and they will not. So, nothing gets addressed. We need more of a team of the outreach people that are trusted to do the prevention work and to lessen the job of the RCMP to only serious cases. It's about the safety of children and the vulnerable people. So, we can try to make the CTA and LOE better, but I'd like to see us have a choice to allocate the funding to do better work.

- Public safety Canada would need to take a serious look at the current structure of the CTA and add more resources to the program.

Closing