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# AFN Issue Updates

October 2018

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**CHILD WELFARE****OVERVIEW**

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In 2007, the Assembly of First Nations (AFN), in partnership with the First Nations Child and Family Caring Society (Caring Society), launched a case at the Canadian Human Rights Tribunal (CHRT) alleging that Canada discriminates against First Nations children by underfunding First Nations Child and Family Services programs on-reserve. On January 20, 2016, the CHRT found that the federal government did indeed discriminate against First Nations children in the provision of services on the basis of race. The CHRT ordered the federal government to immediately and completely overhaul its on-reserve child and family services program.

The AFN fought for nearly nine years to advocate for First Nations children at the CHRT, and continues to do so in filing non-compliance rulings due to inaction on behalf of the federal government.

The CHRT has issued four compliance rulings – one on April 26, 2016, a second on September 26, 2016, a third on May 26, 2017, and a fourth on February 1, 2018. The April 2016, ruling required Canada to immediately take measures to address a number of its findings and articulated a clear definition of Jordan’s Principle to apply to all First Nations children and all jurisdictional disputes. The September 2016 ruling set out additional measures that Indigenous Services Canada (ISC) was to take, to comply with the CHRT’s findings. The May

2017 ruling reaffirmed the CHRT’s findings and again set out the measures needed for ISC to comply with the CHRT’s findings. The February 2018 ruling set out further measures for ISC to comply with the CHRT’s findings, and ordered Canada to enter into a Consultation Protocol with the Parties.

The AFN continues to advocate for a complete overhaul of the First Nations Child and Family Services program, which must be informed by the work of the National Advisory Committee (NAC), as well as the Consultation Committee on Child Welfare (CCCW) and the Child Welfare Legislation Working Group (CWLWG).

At the December 2017 Special Chiefs Assembly, the AFN Chiefs-in-Assembly passed Resolution 92/2017, *Support the Spirit Bear Plan to End Inequities in all Federally Funded Public Services for First Nations Children, Youth and Families*. This resolution supports a whole-of-government approach to reforming services for First Nations children, youth and families, including the full and proper implementation of the CHRT decision.

On January 25 and 26, 2018, the National Chief, the AFN Executive Committee and Regional First Nations leadership, attended the Emergency Meeting on First Nations, Inuit and Métis Child and Family Services alongside representatives from Inuit and Métis partners. The leaders were joined by the Minister of ISC,

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Jane Philpott, Minister of Crown—Indigenous Relations (CIR), Carolyn Bennett, and provincial and territorial Ministers and Deputy Ministers of health, social services, children's services, and Indigenous relations. Experts, practitioners, leaders, youth, Elders and grandmothers shared their experiences working with and being part of the child and family services system.

At the Emergency Meeting, Minister Philpott announced Canada's commitment to six points of action to address the overrepresentation of Indigenous children in care.

- 1) Continuing to implement the CHRT orders, including Jordan's Principle, and reforming child and family services funding to a flexible funding model.
- 2) Working with partners to shift program focus to culturally-appropriate prevention, early intervention, and family reunification.
- 3) Working with partners to support communities to "draw down" jurisdiction

over child and family services (including exploring the possibility of co-developing federal legislation).

- 4) Participating and accelerating the work of tripartite and technical tables.
- 5) Supporting Inuit and Métis leadership to advance reform on child and family services.
- 6) Creating a data strategy with provinces/territories and Indigenous partners.

Reference was also made at the Emergency Meeting to a commitment to work with Indigenous partners by the FPT Child and Youth in Care Working Group, made by Working Group co-chairs Minister Couteau (ON) and Minister Fielding (MB).

Budget 2018 was released on February 27, 2018, and announced \$1.4 billion for First Nations Child and Family Services to fully implement the CHRT orders, address funding pressures for agencies, and increase prevention resources.

## UPDATE

The CHRT released a fourth compliance ruling on February 1, 2018, (2018 CHRT 4). This ruling summarizes Canada's actions towards compliance with the initial and subsequent CHRT rulings, stating that, while some effort has been made, full compliance has yet to be seen. These orders must be fulfilled in consultation with the AFN, Caring Society, and interested parties in a timely manner to reduce the adverse impacts on children. This ruling also called for Canada to enter into a Consultation Protocol with the Parties to the CHRT (AFN, Caring Society, Nishnawbe Aski Nation, and Chiefs of Ontario) to oversee the

consultations required by this and previous CHRT rulings.

Canada, the Canadian Human Rights Commission, and the Parties to the CHRT have entered into a Consultation Protocol as per the 2018 CHRT 4 ruling. The Consultation Protocol's goal is to improve communication, transparency and understanding, and to ensure proper consultation with the Parties over matters related to the CHRT in order to eliminate the systemic discrimination substantiated by the CHRT. Consultation areas include immediate relief, mid- to long-term relief, and compensation.

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The Consultation Protocol established a Consultation Committee on Child Welfare (CCCW) consisting of all the parties to the CHRT case. The CCCW had its first meeting on May 10, 2018. At this first meeting, the Terms of Reference were reviewed along with other pressing matters, including discussions on ramp up funding allocations and the First Nations Child and Family Services Program Terms and Conditions.

The CCCW has had further meetings on June 22, July 9, August 2, and September 5, 2018. These meetings were structured to provide updates from Canada on implementation of all CHRT orders. Discussions included a review of the revised program terms and conditions, program funding, Jordan's Principle activities, training, mental health gaps and compensation. The CCCW Terms of Reference were approved and finalized at the August 2, 2018, meeting.

A NAC meeting was held on September 18 and 19, 2018, in Ottawa. An update from the Institute of Fiscal Studies and Democracy (IFSD) on the development of a new funding model was provided. The IFSD is expected to

have a first draft of the funding model by mid-November 2018. A presentation and discussion on options for new federal legislation in child welfare was also a key focus of the meeting.

At the Special Chiefs Assembly on May 1, 2018, the Chiefs-in-Assembly passed AFN Resolution 11/2018, *Federal Legislation on First Nations Child Welfare Jurisdiction*. The Resolution directs the AFN to establish a working group to begin this important work.

The Child Welfare Legislation Working Group (CWLWG) has now been established and has met twice on August 16, 2018, in Vancouver and August 30, 2018, in Calgary. As well, there were conference calls on September 27 and October 17, 2018. At these meetings, the Terms of Reference were reviewed, an overview of child welfare legislative options in other jurisdictions was presented, and an Options Paper on rights-based legislation was reviewed with comments/revisions provided. There was a full discussion on First Nations regional perspectives on Federal Child Welfare legislation.

### NEXT STEPS

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- Continue to advocate for immediate, mid, and long-term relief measures.
- Move forward with the NAC work to completely overhaul the on-reserve Child and Family Services program.
- The next meeting of the CCCW was set for October 23, 2018. A critical agenda item for this meeting will focus on compensation for those affected by the CHRT findings.
- A further meeting of the NAC has been scheduled for November 26 and 27, 2018, to continue providing input and advice on the work being done by the IFSD on a new child welfare funding model.
- The CWLWG is scheduled to meet bi-monthly to continue its important work.
- Continue advocating for trilateral processes in every province and territory. There are over 40,000 First Nations children in provincial care and it is time for all jurisdictions to do their part in addressing this national crisis.





## **SAFETY AND SECURITY OF INDIGENOUS WOMEN AND THE NATIONAL INQUIRY INTO MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS**

### **OVERVIEW**

For many years the Assembly of First Nations (AFN) pressed for the establishment of a national inquiry into the crisis of missing and murdered Indigenous women and girls. The AFN supported the establishment of a national inquiry which would support families and ensure that all governments and policing services met their obligations to protect the fundamental human rights of Indigenous women and girls.

In September 2016, the Government of Canada established an independent National Inquiry under the federal Inquiries Act. Its mandate is complemented by provincial/territorial Orders-in-Council. The National Inquiry into Missing and Murdered Indigenous Women and Girls (National Inquiry) has authority to look into matters under federal, provincial and territorial jurisdictions. The Commissioners have been asked to examine underlying historical, social, economic, institutional and cultural factors that contribute to violence experienced by Indigenous women and girls and their greater vulnerability to this violence. They will examine and report on the systemic causes of all forms of violence against Indigenous women and girls in Canada by looking at patterns and underlying factors.

The National Inquiry will make recommendations to eliminate systemic causes of violence and to assure the safety of Indigenous women and girls in Canada. They will also recommend ways to honour and commemorate missing and murdered Indigenous women and girls. The National Inquiry's final report is due November 2018.

During the July 2017, AFN Annual General Assembly, the Chiefs-in-Assembly passed Resolution 57/2017, *Support for the National Inquiry into Missing and Murdered Indigenous Women and Girls*. The AFN was directed to take the following action:

- Call upon the federal government to reset and change the mandate and process of the National Inquiry and if necessary, provide additional funding to the National Inquiry.
- Call upon the federal government and the Privy Council Office to remove any barriers that inhibit the ability of the National Inquiry to allocate funds and carry out its mandate.
- Call upon the government to expand the scope of the National Inquiry's mandate to include policing practices and policies.
- Call upon the government to fund family engagement, healing processes, and support for families still at risk.
- Call upon the National Inquiry to be less "legalistic" to move away from top down, colonial approaches and include more local culturally based processes, improve outreach to family members.
- Call upon the National Inquiry to develop and disclose its accountability framework, financial reports, how it is structured, and provide an interim report with an evaluation process.

The Interim Report of the National Inquiry entitled "*Our Women and Girls are Sacred*" was released on November 1, 2017.

During the December 2017, Special Chiefs Assembly, Chief Commissioner Buller provided an update on the work of the National Inquiry. The Chiefs-in-Assembly passed Resolution

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78/2017, *Support for the Extension of the Inquiry into Missing and Murdered Indigenous Women and Girls* which directed the AFN to take the following action:

- Direct the AFN to support the Commissioners' request for an extension of their mandate and appropriate budget allocation for the continuation of the National Inquiry for a minimum of another 2 years, on the condition that the Commissioners make a formal commitment to fully implement prior to the extension and replacement of the Chief Commissioner, all of the calls for action contained in AFN Resolution 37/2014, *Support for Families First*, and Resolution 57/2017, *Support for the National Inquiry into MMIWG*.
- Direct the federal government to reset the National Inquiry by replacing the Chief Commissioner, and reappoint the Chief Commissioner through a process with full engagement with Indigenous survivors and families of MMIWG.
- Call upon the federal government to ensure that hearings occur within the appropriate First Nation lands and territories so that it is further accessible to families.
- Call upon the Commissioners to hold family hearings in locations recommended by the families of MMIWG and to adapt their process so that it is safe and suitable to the traditions and languages of First Nations lands and territories to ensure connections to the lands are maintained.

### UPDATE

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On June 5, 2018, the federal government announced that it granted the Commissioners of the National inquiry an extension of their mandate. The Commissioners now have until April 30, 2019, to complete their final report and until June 30, 2019, to wind down the National Inquiry's operations.

On August 21, 2018, The National Inquiry announced the dates for its final public hearings. The dates and topics include the following:

- September 10 to 13, 2018, Iqaluit, NU - Colonial Violence – Socio-economic, health and wellness impacts.
- September 17 to 21, 2018, Quebec City, QC - Criminal Justice System – oversight and accountability.
- October 1 to 5, 2018, Winnipeg, MB - Family and Child Welfare – Family supports and domestic violence.
- October 15 to 18, 2018, St-John's, NL - Sexual Exploitation – human trafficking and sexual violence.

### NEXT STEPS

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- The AFN continues to express its willingness to provide advice on the diverse regional perspectives of First Nations and to advocate that a “families first” approach be incorporated into all aspects of the National Inquiry's work.
- In accordance with Resolution 57/2017, *Support for National Inquiry into Missing and Murdered Indigenous Women and Girls*, and Resolution 78/2017, *Support for the Extension on the National Inquiry into Missing and Murdered Indigenous Women and Girls*, the AFN will continue to press for changes to the National Inquiry's mandate and processes.
- The AFN will continue to advocate for immediate measures to ensure the safety and security of Indigenous women, girls and LGBTQ2S, as well as, continued investments for culturally appropriate healing and support services for survivors and families.

**FIRST NATIONS LANGUAGES****OVERVIEW**

On December 6, 2016, Prime Minister Justin Trudeau announced that the Government of Canada would jointly develop legislation for the revitalization and recovery of First Nations, Inuit, and Métis languages.

On June 14, 2017, Canadian Heritage, the Assembly of First Nations (AFN), the Inuit Tapiriit Kanatami (ITK), and the Métis National Council (MNC) jointly announced the intention to work collaboratively to co-develop First Nations, Inuit, and Métis languages legislation.

Resolution 77/2017, *Support for Continued Co-Development Work on the Indigenous Languages Act*, was passed at the December 5 and 6, 2017, at the AFN Special Chiefs Assembly (SCA). The Resolution provides further support for the joint development of an Indigenous Languages Act and identifies a set of 11 principles establishing the essential expectations of what legislation should address. The principles adopted by the Chiefs-in-Assembly are:

1. Recognition of the importance of Indigenous language to land, culture, traditional knowledge, worldview, participation in the economy, and domestic and global relations.
2. Acknowledgement of the need and importance of redress of harm by colonization, destructive policies and laws.
3. Affirmation of commitment to Truth and Reconciliation Commission Calls to Action, United Nations Declaration on the Rights of Indigenous Peoples, and other key human rights instruments and principles.
4. Affirmation of the various approaches to languages recovery, revitalization and maintenance, and the critical role of education and lifelong learning in the opportunities for language learning.
5. Articulation of objectives for the protection and support of Indigenous languages and related rights, including intellectual property rights, cultural appropriation and others.
6. Affirmation of First Nations jurisdiction over Indigenous languages.
7. Articulation of enforceable individual and collective rights.
8. Articulation of specific federal obligations, duties and authorities to protect and support Indigenous languages including funding.
9. Acknowledge the need for proficient Indigenous controlled systems and capacities for the archiving of, and for the provision of access to language data.
10. Authorities to establish suitable institutions to advance Indigenous languages objectives and rights, that such institutions will not displace existing First Nations institutions.
11. Establishing annual reporting and a five year review requirement.

### UPDATE

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These principles provide AFN representatives with guidance and instruction in the co-development process, including direction in relation to consultation expectations, the Memorandum to Cabinet (MC), and legislative development work.

Over the summer of 2018, Canadian Heritage conducted a series of intensive engagement sessions across Canada requesting First Nations input for the content of the proposed legislation. The AFN supported participants through the organization of preparatory engagement sessions in advance of the Canadian Heritage sessions. The engagement period (including online and written submissions) concluded on September 12, 2018.

A number of recurring themes emerged throughout the engagements. These themes echoed commentary previously expressed at Canadian Heritage's and the AFN's early engagements. Highlights include:

- First Nations language rights must be recognized and actively respected.
- Funding must be consistent, adequate, sustainable, and predictable.
- First Nations jurisdiction over languages must be recognized.
- Existing First Nations languages institutions should not be displaced.
- The role of a potential Commissioner should be limited and clearly defined.

### NEXT STEPS

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Approval of the Memorandum to Cabinet, will provide drafting instructions for the Indigenous languages Bill and the inclusion of the Indigenous representatives in the drafting process.

Upon preparation of the draft Bill, the Cabinet will review to provide approval for its introduction as a government Bill to the House of Commons in November-December 2018.

After passage in the House of Commons it would proceed to the Senate. In both the House of Commons and the Senate, the Bill will be studied and reviewed by the appropriate Committee in each chamber. The intention remains for suitable legislation to be passed before the next federal election in 2019.

Currently, the AFN is working on an advocacy strategy and an implementation work plan. The work plan would be discussed in the next phase of the co-development process. The work plan will speak to many issues, including funding, Language Commissioner operationalization, developing required policies, developing required regulations, etc.



## **UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES**

### **OVERVIEW**

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The United Nations Declaration on the Rights of Indigenous Peoples (the UN Declaration) was adopted by the UN General Assembly on September 13, 2007. The UN Declaration sets out minimum human rights standards that are necessary 'for the dignity, survival and well-being of Indigenous Peoples'.

Governments and Indigenous Peoples from around the world worked together for decades to achieve this success. First Nations played a key role in this work.

Canada is now part of eight consensus resolutions of the United Nations affirming the UN Declaration. This includes working with Indigenous peoples to develop national action plans and other measures to support implementation.

The AFN has passed numerous resolutions calling for the full and meaningful implementation of the UN Declaration including development of a federal legislative framework to support implementation (e.g. Resolution 97/2017, *Support for Bill C-262, An Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples*).

Under the Canada-AFN MOU on Joint Priorities, signed on June 12, 2017, Canada has committed to "work in partnership on measures to implement the United Nations Declaration on the Rights of Indigenous Peoples, including co-development of a national action plan and discussion of proposals for a federal legislative framework on implementation".

In 2016, MP Romeo Saganash tabled Private Members Bill C-262, *The United Nations Declaration on the Rights of Indigenous Peoples Act*. This Bill would require Canada to work with Indigenous peoples to ensure federal law is consistent with the UN Declaration and to work with Indigenous peoples to develop a National Action Plan. First Nations have expressed strong support for Bill C-262.

In January 2018, National Chief Bellegarde wrote to Prime Minister Trudeau to acknowledge the government's expressed support for Bill C-262 and the need for engagement with First Nations respecting Canada's stated interest in additional initiatives.

### UPDATE

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National Chief Bellegarde presented on the UN Declaration at the House of Commons Standing Committee on Indigenous Peoples and Northern Affairs on March 27, 2018. National Chief Bellegarde maintained that Bill C-262 would help advance Canada's commitment to work with First Nations on a national action plan to achieve the

objectives of the Declaration, and to report annually on the progress.

On May 30, 2018, Bill C-262 passed third reading in the House of Commons. All members of Parliament voted in favour of Bill C-262, with the exception of the Conservative Party of Canada.

### NEXT STEPS

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- Bill C-262 is currently in the first reading in the Senate.
- The AFN will continue to call for support from all Members of Parliament and Senators, and inform First Nations of developments.
- The AFN has put forward several clarifying amendments that are consistent with the principle of the Bill. These additions consist of the inclusion of the doctrines of discovery and terra nullius in the bill when recognizing doctrines of superiority. Secondly, an addition in the preamble to include the four principles that guide the approach to working with First Nations: Recognition of rights, respect, cooperation and partnership. Thirdly, the importance of Treaties and other agreements should be highlighted consistent with the UN Declaration.
- With regards to Canada's proposed Recognition of Indigenous Rights Framework, National Chief Perry Bellegarde convened a successful AFN National Policy Forum on Affirming First Nations Rights, Title and Jurisdiction in Gatineau, Québec, in September 2018. AFN Resolution 39/2018, *First Nations Determination to the Path to Decolonization, calls for the halt of the current Federal initiative, the Recognition*

*and Implementation of Indigenous Rights Framework, and also the development of a First Nations-led negotiation process to ensure implementation of the UN Declaration.*

- First Nations, with the support of the AFN, are pressing for a reset of the current government process and a shift to a First Nations-led process. Getting it right means working together in ways that truly affirm and implement First Nations rights, title and jurisdiction.

**REPORT CARD**  
**TRUTH AND RECONCILIATION**  
**COMMISSION'S 94 CALLS TO ACTION****OVERVIEW**

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In its final report the Truth and Reconciliation Commission of Canada (TRC) called on governments, educational and religious institutions, civil society groups and all Canadians to take action on the 94 Calls to Action (CTA).

Of the 94 CTA's, 46 require a direct response from the Government of Canada, 30 are shared by federal, provincial, territorial, municipal and Indigenous governments, and the remainder are the responsibility of other organizations.

To fulfill CTA #53, an Interim Board was created in December 2017 to establish a National Council for Reconciliation (NCR). On June 12, 2018, the Interim Board, chaired by Grand Chief Wilton Littlechild, recommended an independent, multigenerational institution to monitor, evaluate and report on reconciliation and act as a catalyst for innovative thought, dialogue and action. This institute would be financially independent and separate from the Government and would be governed by a Board of Directors and supported by an Executive Director and staff.

**UPDATE**

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The Assembly of First Nations (AFN) provided preliminary comments to the Interim Board on the structure of the NCR prior to the release of the June 2018 report. The AFN suggested the voices of the survivors must be reflected in the NCR's work, and that the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration) should be the framework for the NCR to measure government commitments.

The AFN is working with First Nations leadership and technicians, in partnership with the Government of Canada, to co-develop initiatives that address the Calls to Action. This includes reforms to First Nations Child Welfare, the creation of Indigenous Languages Legislation, amendments to the Citizenship Guide and the Oath of Citizenship, and a national action plan to implement the UN Declaration.

**NEXT STEPS**

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The AFN will continue to advocate for concrete actions to address the Calls to Action and will report on progress to the AFN Executive Committee and Chiefs-in-Assembly. As per

Resolution 01/2015, *Support for the Full Implementation of the Truth and Reconciliation Commission of Canada's Calls to Action*, Chiefs-in-Assembly call on Federal, Provincial,

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Territorial and Municipal Governments to take immediate steps to fully implement all of the Calls to Action. Resolution 01/2015 also mandates the AFN Secretariat to report back to the Chiefs-in-Assembly by way of a progress report.

On May 3, 2018, Crown-Indigenous Relations launched a progress report on a government website. There have been some significant

commitments from Canada in areas such as child welfare and language revitalization. The AFN is currently engaged in advancing 33 of the 94 Calls to Action. The AFN will continue to monitor progress and advocate for full and meaningful implementation of all the Calls to Action. Commitments and action are needed particularly in the areas of justice, equity in the legal system and missing children.

### Progress on 94 Calls to Action by Subject Area

Calls to Action (C2A) by Subject Area	No Action	In Action	Some Action	Action Complete
Child welfare (C2A 1-5)	2		1, 3, 4, 5	
Education (6-12)	6, 9, 10, 12		7, 8, 11	
Language and Culture (C2A 13-17)	15	14	16, 17	13
Health (C2A 18-24)	18, 19, 20, 21	22	23, 24	
Justice (C2A 25-42)	25, 26, 32, 33, 34, 35, 36, 37, 38		27, 28, 29, 30, 31, 40	39, 41
UN Declaration (C2A 43, 44)	44		43	
Royal Proclamation (C2A 45-47)	45, 46, 47			
Settlement Agreements (C2A 48, 49)			48, 49	
Equity in the Legal System (C2A 50-52)	50, 51, 52			
National Council for Reconciliation (C2A 53-56)	55, 56	53, 54		
Professional Development (C2A 57)			57	
Church Apologies (C2A 58-61)	58		60, 61	59
Education for Reconciliation (C2A 62-65)	64		62, 63, 65	
Youth Programs (C2A 66)			66	
Museums and Archives (C2A 67-70)	67, 68	69, 70		
Missing Children (C2A 71-76)	71, 72, 73, 74, 75, 76			
National Centre (C2A 77-78)			77, 78	
Commemoration (C2A 79-83)	79, 80, 81		82	83
Media (C2A 84-86)			86	84, 85
Sports (C2A 87-91)	89	87, 90	88, 91	
Business (C2A 92)			92	
Newcomers to Canada (C2A 93, 94)		93	94	



## **AFN/CANADA MEMORANDUM OF UNDERSTANDING ON JOINT PRIORITIES**

### **OVERVIEW**

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On December 15, 2016, Prime Minister Justin Trudeau responded to the Assembly of First Nations' (AFNs) call for a high level mechanism to discuss First Nations' priorities by agreeing to a process for dialogue with the AFN.

Following review of internal drafts of a Memorandum of Understanding (MOU) by the AFN Executive Committee in February and May 2017, the National Chief was mandated by the Executive Committee to finalize a MOU with Canada. Accordingly, the National Chief and the Prime Minister signed the AFN/Canada MOU on Joint Priorities at the first meeting held in June 2017.

### **UPDATE**

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The third meeting under the MOU on Joint Priorities took place March 26, 2018. The following Ministers were in attendance: Carolyn Bennett, Minister of Crown-Indigenous Relations (CIR), Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada and Jane Philpott, Minister of Indigenous Services. Parliamentary Secretaries from Canadian Heritage, Indigenous Services Canada (ISC) and CIR also attended the meeting.

The meeting served as an opportunity to discuss the 2018 federal budget commitments, hear updates on joint work to close the socio-economic gap, and discuss the Government's proposed Recognition and Implementation of Indigenous Rights Framework (RIIRF).

Regarding RIIRF, concerns were expressed about the engagement not being conducive to rights recognition. Full and meaningful engagement is required with rights holders. Legal and political

change is needed to keep Canada in line with the UN Declaration. The government expressed the view that its duty is to create the space that allows First Nations to breathe life into articles of the UN Declaration and s.35 of the Constitution.

The MOU is a simple agreement to meet a minimum of three times a year, with one of those meetings chaired by the Prime Minister. Current priorities for dialogue include: community safety and policing, co-development of a languages act, co-development with First Nations of measures to support implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UN Declaration), establishment of a joint law and policy review, implementation of the Truth and Reconciliation Commissions' (TRC) Calls to Action, continuing work to develop options for Chiefs for a new fiscal relationship, and measuring the progress to close the socio-economic gaps.

A detailed account of the dialogue and agenda from March 26, 2018, is included in the AFN Bulletin '*Meeting on AFN-Canada Memorandum of Understanding on Joint Priorities*', which can be found at [www.afn.ca](http://www.afn.ca) under 'News & Media'.

Many positive developments have occurred related to the joint priorities identified in the MOU.

On November 20, 2017, the Minister of Justice, Jody Wilson-Raybould announced government support of Private Members Bill C-262, *An Act to ensure that the laws of Canada are in*

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*harmony with the United Nations Declaration on the Rights of Indigenous Peoples.* Bill C-262 is currently in the Senate.

- The Fiscal Relations work continues and has already resulted in helpful changes like the ability to carry over funding. Next steps include the implementation of 10-year grants instead of unpredictable annual contribution agreements. Almost 40% of First Nations have expressed interest in the grant. It is anticipated that the target for grant implementation will be significantly exceeded.
- In the spring of 2018, the Interim Board of the National Council for Reconciliation, invited the AFN to provide input on how to implement Calls to Action 53 and 54. These two Calls to Action propose the establishment of a National Council for Reconciliation as an independent oversight body. In his response, the National Chief included that the next steps for developing the legislation to establish the NCR and its mandate must better reflect partnership and cooperation, through a transparent process of co-development between Canada and Indigenous peoples.
- The Interim Board of Directors for the National Council for Reconciliation released its report in June 2018 which calls for the development and implementation of a multi-year National Action Plan for Reconciliation, including the implementation of the Truth and Reconciliation Commission of Canada's Calls to Action to advance reconciliation.
- On December 14, 2017, the National Chief and Minister Philpott met to discuss First Nations budget priorities in areas relating to the Minister's mandate including priorities relating to housing and infrastructure.
- On January 10, 2018, the Minister of Public Safety, Ralph Goodale announced \$291 million of additional funding to support police services on First Nations and in Inuit communities.
- On February 14, 2018, the Prime Minister reiterated support for Bill C-262, announced the replacement of the Comprehensive Claims Policy and the Inherent Right Policy and most notably, indicated that a new approach to rights recognition and implementation to be developed "in full partnership" with First Nations, including new mechanisms to recognize First Nations' systems of governance and ensure consistent, meaningful implementation of Treaties and other agreements.
- On February 27, 2018, Budget 2018 was announced. The budget includes a total investment of \$4.76 billion over five years for Indigenous peoples and First Nations. This represents a running total of \$16.6 billion in investments in the past three budgets, an unprecedented commitment from the federal government.
- Over the summer of 2018, the AFN continued its co-development of the *Indigenous Languages Act*. The Act is expected to be introduced to Parliament in the fall of 2018.
- On August 28, 2018, the federal government announced the creation of a new Cabinet Committee on Reconciliation, tasked with building on the work previously undertaken by the Working Group of Ministers on the Review of Laws and Policies Related to Indigenous Peoples. The Cabinet Committee is chaired by Minister of International Trade Diversification, Jim Carr.

### NEXT STEPS

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- The next ministerial level meeting on joint priorities is planned for January 2019 and will be co-chaired by the National Chief and Prime Minister Trudeau.
- The MOU prioritizes the joint work to decolonize and align federal laws and policies with the UN Declaration and First Nations inherent and Treaty rights. As such, Canada's proposed Recognition and Implementation of Indigenous Rights Framework will be added as an agenda item for the next meeting.



## **FIRST NATIONS POLICING AND PUBLIC SAFETY**

### **OVERVIEW**

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The Assembly of First Nations (AFN) and Canada signed a Memorandum of Understanding on Joint Priorities in June 2017, which identified policing and community safety issues affecting First Nations as the first joint priority. To accomplish this task, the AFN has initiated discussions with Public Safety Canada (PSC) and Emergency Preparedness to ensure the interests of First Nations are kept safe, while protecting the rights of First Nation citizens.

The Justice Portfolio, held by Regional Chief Terry Teegee, is focused on reducing the high rate of First Nations individuals involved in the criminal justice system, as well as eliminating gaps in government services provided to First Nations.

First Nations policing and public safety has been championed by Regional Chief Ghislain Picard. He has advocated for program and funding enhancements of the First Nations Policing Program to enable First Nations police agencies to provide services comparable to that of the Royal Canadian Mounted Police (RCMP) and other provincially regulated agencies.

On June 12, 2016, the AFN and the RCMP signed a Relationship Building Protocol. The AFN and RCMP are working towards jointly identifying possible incidents and issues of discrimination in the RCMP and developing a long-term strategic response. The AFN and RCMP are also assessing possible enhancements in services provided to First Nations.

At present, PSC is currently funding the First Nations Policing Program (FNPP) in the amount \$522.5 million. There are 185 police service agreements covering 1,299 negotiated police officer positions in over 450 First Nations and Inuit communities across Canada.

A number of AFN resolutions call on the federal government to address gaps in First Nations policing. Resolution 01/2017, *Four Corner Table Process on Community Safety and Policing*, calls for the establishment of a multilateral table to promote community safety and eliminate racism and violence encountered by First Nations in urban areas.

### **UPDATE**

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On January 10, 2018, the Honourable Ralph Goodale, Minister of Public Safety and Emergency Preparedness, announced that the federal government will invest additional funds for the FNPP. An additional \$291.2 million will become available in 2018 to address past chronic underfunding for equipment, salaries and infrastructure. The federal funding commitment is

long-term in scope and will include a 2.75% annual escalator to address inflation.

In addition, \$44.8 million is slated for release beginning in the fiscal year 2019–2020 to recruit up to 110 additional officer positions. Of this amount, a portion over five years will be provided to the RCMP to pay for policing services provided pursuant to Community Tripartite

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Agreements. The remaining portion over five years was added to Self-Administered Agreements and Municipal Agreements to ensure their continued operations.

Self-Administered Police Service agreements were being negotiated before their expiry on March 31, 2018. A one year extension is available in the event that an agreement cannot be reached before that time. In addition, FNCP Services Framework Agreements have been automatically extended to March 31, 2019.

The announcement comes after AFN Resolution 45/2017, *Federal Investments in First Nations Policing Services*, which directed the AFN to urge the Government to ensure First Nations police services are viewed as essential services. Currently, the FNPP is classified as a discretionary program which permits its underfunding in comparison to municipal and provincial police forces.

The AFN is monitoring legislative processes with respect to Bill C-59, *An Act Respecting National*

*Security Measures*. Currently in its first reading in the Senate, the Government's package of proposed measures represents improvements to Canada's national security framework intending to make Canada more secure, its agencies more accountable and its laws more just. In order to ensure First Nations collective and individual rights are respected, the AFN will continue to monitor and participate in legislative processes relating to Bill C-59.

The AFN will continue to monitor Bill C-71, *An Act to amend certain Acts and Regulations in relation to firearms*. This bill proposes changes to the transportation of restricted and prohibited firearms, background checks, transfer of non-restricted firearms, and record keeping requirements in an effort to reduce gang violence. The AFN will continue to monitor legislative processes regarding Bill C-71 and advocate for the protection of our Aboriginal and Treaty rights, such as our right to hunt, that may be impinged under this proposed legislation.

## NEXT STEPS

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- As directed by Resolution 107/2017, *Support of the First Nations Chiefs of Police Association Resolution Calling for First Nations Policing to be Entrenched as an Essential Service* and Resolution 44/2018, *Enhancing and Supporting Tribal Police Services in First Nations in Canada*, urge the federal government to classify First Nations policing as an essential service and fund First Nations police services equitably when compared to other police agencies.
- Continue to participate in discussions regarding the First Nations Policing Program in order to advance the Joint Priority identified in the AFN-Canada Memorandum of Understanding signed in June 2017. A work plan is currently being developed this year to undertake activities to implement Resolution 45/2017, *Federal Investments in First Nations Policing Services* with Public Safety Canada. Further, a protocol between the AFN and Public Safety Canada to enable technical staff to advance policing and community safety priorities is being developed.
- Continue to engage with the RCMP on developing a strategic response to the issues of racism and discrimination as outlined in the AFN-RCMP Relationship Building Protocol (Protocol). This is further supported through the recent agreed upon deliverables outlined in the AFN-RCMP 2018 Annual Report.
- Develop a strategic working relationship with the new RCMP Commissioner, Brenda Lucki, to continue to implement initiatives outlined in the Protocol.

**FISCAL RELATIONS****OVERVIEW**

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First Nations have long sought a fiscal relationship with the Government of Canada that respects the status of First Nations as peoples with governments, inherent rights and jurisdiction.

In response to the Assembly of First Nations (AFN) budget advocacy, the last three federal budgets have invested an additional \$16.6 billion over seven years into First Nations programs and services. Nonetheless, there is much more work to do to provide sufficient funding and close the socio-economic gaps

between First Nations citizens and other Canadians.

The National Chief and the former Minister of Indigenous and Northern Affairs Canada, Carolyn Bennett, signed a Memorandum of Understanding (MOU) at the AFN's Annual General Assembly in July 2016 to develop options for the Chiefs-in-Assembly and Canada to consider.

The Canada-AFN joint report on fiscal relations was presented at the AFN's Special Chiefs Assembly (SCA) in Ottawa in December 2017.

**UPDATE**

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The Chiefs Committee on Fiscal Relations (CCFR) met on April 30, 2018, to review developments concerning the repeal of the First Nations Financial Transparency Act, the creation of an advisory committee on fiscal relations, and the implementation of 10-year grants in 2019-20.

Seven of the CCFR Chiefs have since expressed an interest to serve on the joint advisory committee on fiscal relations. Their names have been put forward for appointment.

In May 2018, all First Nations were sent letters and background information so that those interested in applying to participate in the new 10-year grant as of April 2019 could

do so. Those who do not wish to or are not ready will be given opportunities to apply in future years.

Approximately 246 First Nations have expressed an interest to receive the new 10-year grant. Indigenous Services Canada (ISC) is currently evaluating the applications against pre-established eligibility criteria. Those criteria include an enacted financial administration law and evidence of solid financial performance over the past five years. The Minister of Indigenous Services has not yet announced any decisions but it is expected that at least 100 First Nations governments will be receiving the new 10-year grants in 2019-20.

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## October 2018

Work is underway to develop a revised Comprehensive Funding Agreement (CFA) for 2019-20. It will likely include a schedule for 10-year grant funding along with a schedule

for existing grant and contribution funding. When a draft of the CFA is available, ISC will review it with First Nations before finalizing it for use in the 2019-20 fiscal year.

### NEXT STEPS

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The Advisory Committee on Fiscal Relations is expected to be appointed very soon. The first meeting of the advisory committee is being planned for September or October 2018. By April 2019, the committee is expected to be providing advice about:

- a) a new Fiscal Policy Framework to address sufficiency and identify priority funding areas;
- b) increasing revenue generation opportunities for First Nations, developed in collaboration with provinces and territories;
- c) finalizing new funding arrangement policies to strengthen the commitment to flexible and predictable funding, the reduction of reporting burdens and a shift

- from program to outcome-based reporting, and the elimination of General Assessment Scoring of First Nations in favour of First Nations-led tools; and
- d) finalizing a Mutual Accountability Framework, including a national outcome-based framework based on United Nations Sustainable Development Goals.

Regional engagements about the draft CFA are expected to begin in September 2018.

The AFN will continue its annual budget advocacy, pursuing priority investments in addition to the \$16.6 billion over seven years that was identified in the previous three federal budgets.



**COMPREHENSIVE CLAIMS****OVERVIEW**

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Canada's unilaterally imposed Comprehensive Claims Policy (CCP) has long been criticized by First Nations for failing to reflect Canadian or international law, the prohibitive costs associated with negotiating, the inclusion of extinguishment clauses, and because it can create competing interests between First Nations rights holders.

Following the dissolution of the Assembly of First Nations – Canada Senior Oversight Committee (SOC) process on comprehensive claims in 2013, and the release of the Eyford Report in 2014, Joe Wild, Assistant Deputy

Minister (ADM) for Treaties and Aboriginal Government Sector, received a mandate to begin an exploratory table process with First Nations as an alternative to the CCP/Inherent Right policies.

On February 14, 2018, Prime Minister Trudeau announced the Government would be moving forward with Recognition of Rights Framework Legislation. This framework would form the basis of a new CCP.

AFN was not involved in any of this process.

**UPDATE**

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AFN submitted a work plan and budget to Crown-Indigenous Relations Canada (CIRC) in

2018 to engage on the reforming the CCP. This proposal was rejected by CIRC.

**NEXT STEPS**

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Reforming the CCP remains a priority for the AFN. AFN will continue to pressure CIRC to engage on this important work.



**SPECIFIC CLAIMS****OVERVIEW**

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For decades, First Nations have expressed concern with Canada's ongoing management of the specific claims process, culminating in 2016 with the conclusion of the 5-year review of the *Specific Claims Tribunal Act* and the release of the Office of the Auditor General (OAG) report which found that Canada had failed to meet the goals of *Justice at Last: A Specific Claims Action Plan* (JAL).

Responding to both the 5-year review and the OAG report, the Minister of Crown Indigenous Relations (CIR) committed to work with First Nations and the Assembly of First Nations (AFN) to address their concerns.

In late 2016, the AFN and Canada formed a Joint Technical Working Group (JTWG) with a mandate to examine the specific claims process and develop joint recommendations

for change. The JTWG has been meeting consistently over the past year and a half.

In 2017, the AFN hosted two dialogue sessions with First Nations, one in Ottawa and one in Vancouver. The message that came out of these sessions reflected what First Nations have said consistently over time: Canada's ongoing management and control of the specific claims process constitutes a conflict of interest which can only be addressed through independent oversight.

During the fall of 2017, the AFN Chiefs-in-Assembly passed Resolution 91/2017, *Support for a Fully Independent Specific Claims process*, calling for the creation of an independent specific claims process and support for the work of the JTWG.

**UPDATE**

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CIR officials require a mandate to begin substantive engagement, through the JTWG, with First Nations on an independent process.

It is hoped that they will receive such a mandate for the 2018-19 fiscal year.

**NEXT STEPS**

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The AFN will continue to press for an independent specific claims process at the JTWG and through other forums, while also preparing for substantive engagement efforts with First Nations on an independent process in 2018-19 subject to a federal commitment.



**ADDITIONS TO RESERVES****OVERVIEW**

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Beginning in 2010, the Assembly of First Nations (AFN) and Canada formed a Joint Working Group (JWG) mandated by AFN resolution to jointly reform the 2001 Additions to Reserve (ATR) policy. This work culminated in 2016 with the release of a new 2016 ATR policy.

The key changes in the new policy included the following:

- Clear policy language about adding lands to reserve.
- Updated policy categories.
- Removal of “contiguity” as a land selection requirement.
- Streamlined process with a focus on joint work planning and project management.

At the 2016 AFN Annual General Assembly (AGA) the Chiefs-in-Assembly passed AFN Resolution

17/2016, *Call on Canada to Update the Additions to Reserves Policy (ATR)*, urging Canada to work with the AFN to provide joint policy interpretation and implementation oversight. The previous department, Indigenous and Northern Affairs Canada, accepted a 2016 AFN ATR proposal committing the parties to work together to achieve these outcomes.

Indigenous Services Canada (ISC), the newly formed federal department responsible for ATR implementation, initially proved hesitant to engage with AFN on ATR policy interpretation and implementation oversight. In December 2017, ISC once again signaled a willingness to renew engagement and agreed to provide AFN with limited funding to engage with First Nations on ATR.

**UPDATE**

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ISC expressed a desire to explore legislation that would expand elements of the *Claims Settlement Implementation Acts* (Manitoba, Saskatchewan, and Alberta) nationally.

One major change proposes having an approval process by way of Ministerial Order, rather than an Order in Council, not just for those First Nations pursuant to the Claims Settlement Implementation Act in the prairies, but for all First Nations.

A second major change is having access to pre-reserve designations, access to pre-reserve leases and pre-reserve permits allowing for increased access to economic development opportunities.

ISC is now in the process of drafting legislation and would like AFN to participate in reviewing the draft.

**NEXT STEPS**

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The AFN is engaged in reviewing the proposed draft legislation.





## **NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA) AND TRADE RELATIONS**

### **OVERVIEW**

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The Assembly of First Nations' (AFN) work on the trade relations portfolio supports implementation of Chiefs-in-Assembly resolutions on economic and trade development.

These resolutions affirm First Nations inherent right to trade, mandate efforts to advocate for First Nations economic growth and greater economic independence, and support working with Canada to include an Indigenous Peoples Chapter in all trade agreements. Resolution 36/2017, *First Nations Trade Relations*, Resolution 104/2017, *Establishing a First Nations Advisory Committee under Section 6 of the Department of Foreign Affairs, Trade and Development Act*, and Resolution 38/2018, *Realizing Benefits for First Nations in the Implementation of International Trade and Investment Agreements* all give direction to the AFN on trade.

In August 2017, National Chief Perry Bellegarde was invited to participate on an advisory council to Canada's Minister of Trade on the North American Free Trade Agreement (NAFTA). This provided numerous opportunities for advocacy and a voice to ensure respect of First Nations rights and consideration of First Nations interests. The National Chief has pressed for the inclusion of an Indigenous Peoples Chapter in NAFTA, engagement with First Nations on the potential content of such a chapter, and that a new trade agreement must align with the rights of First Nations under the *Constitution* of Canada and international law.

Since the original NAFTA came into effect in 1994, the legal landscape regarding recognition of the rights of Indigenous peoples has developed significantly, including the adoption of the UN Declaration on the Rights of Indigenous Peoples.

The AFN continues to emphasize that the rights of Indigenous peoples must be respected and adopted as an essential component of modern trade relations for all trade and investment agreements as they are a necessary aspect of sustainable development.

Canada has also established an Indigenous Working Group, with membership from the AFN and other national organizations, modern treaty holders and representatives, and economic technicians.

Negotiations on the new NAFTA began in August 2017 and concluded in September 2018.

In December 2017, Resolution 104/2017, *Establishing a First Nations Advisory Committee under Section 6 of the Department of Foreign Affairs, Trade and Development Act*, was passed directing the AFN to work with the federal government to establish an advisory committee to assist and provide support to the Ministers of Foreign Affairs and International Trade to advocate for First Nations effective participation in trade initiatives and existing trade mechanisms.

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In July 2018, Resolution 38/2018, *Realizing Benefits for First Nations in the Implementation of International Trade and Investment Agreements*, was passed, directing the AFN to work with the federal government to promote First Nations businesses through trade missions

in new markets, developing procurement opportunities, and support First Nations trade capacities through the development of a First Nations centre of excellence on international trade and investment.

### UPDATE

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On September 30, 2018, Canada, the United States and Mexico concluded the renegotiations of NAFTA – renamed as the United States – Mexico – Canada Agreement (USMCA). Prior to this, in August 2018, President Trump and the outgoing President of Mexico, Enrique Peña Nieto, announced that Mexico and the United States had reached a deal. The deal between the US and Mexico did not include an Indigenous Peoples Chapter. All parties must agree on a chapter for its inclusion in an agreement, as such, based on the lack of a chapter for Indigenous peoples in the USA – Mexico deal, it became very difficult for Canada to negotiate an Indigenous chapter, in addition to some other elements such as a Gender chapter, in a trilateral agreement with Mexico and the USA. However, the National Chief was successful in advocating for the addition of provisions to respect First Nations rights and provide preferences for First Nations businesses. New provisions in USMCA that benefit First Nations include: A general

exception for Indigenous Rights which respects inherent and Treaty rights; language that recognizes and upholds the role of First Nations in protecting and preserving the environment, preferences for First Nations in the area of government procurement, state owned enterprises and handicraft textiles.

Building on the work and proposed inclusion of an Indigenous Peoples Chapter in NAFTA, Canada has introduced the concept of a Trade and Indigenous Peoples chapter at the Pacific Alliance Negotiations and in the Mercosur negotiations. The Pacific Alliance Free Trade Agreement is being negotiated with Colombia, Chile, Peru, Mexico, and associated members: Canada, Australia, New Zealand and Singapore. Canada is also negotiating a comprehensive Canada-Mercosur Free Trade Agreement. Mercosur is a South American trading block composed of Argentina, Brazil, Paraguay and Uruguay.

### NEXT STEPS

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- Continue to advocate for the addition of provisions that will respect First Nations rights and provide preferences for First Nations businesses in all trade agreements; continue in NAFTA and towards inclusion of Indigenous Chapters in future Free Trade Agreements (FTAs) to advocate for environmental protection, gender equality, and other measures to be consistent with the rights of Indigenous peoples under the Constitution and international law.
- Continue to update the AFN Executive Committee, the AFN Chiefs Committee on Economic Development and First Nations leadership regarding First Nations involvement in FTAs.
- Continue to monitor any changes to USMCA as a result of the US mid-term elections, and advocate directly Minister Freeland. Advance First Nation priorities on Trade, including a strategy for the enhancement of First Nation trade opportunities.

**EDUCATION****OVERVIEW**

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The Assembly of First Nations (AFN) joint work on education is guided by Resolution 16/2016, *Honourable Process to Develop Recommendations to Support First Nations Education Reform*. Five Joint Task Teams have been established comprised of members from Indigenous Services Canada (ISC), the AFN and First Nations regional representatives. January 2018 marks one year since the Joint Task Teams have been in effect. This work is guided by the Chiefs Committee on Education (CCOE) and supported by the National Indian Education Council (NIEC).

Budget 2016 allocated \$2.6 billion over five years for improving primary and secondary education for First Nations children and \$129.4 million over two years for supporting early learning and child care. This has resulted in the co-development of a policy proposal for a new funding approach to First Nations on-reserve education to support students, schools and communities.

**Memorandum to Cabinet K-12 (MC)**

ISC returned to Cabinet with new options for First Nations to access the funds allocated in Budget 2016. Regional First Nations representatives and the AFN have entered into a co-development process of a new policy option to inform the MC in order to ensure *First Nations Control of First Nations Education* and to promote regional authority

and processes. The objectives of the policy option on First Nations education funding is to unlock the existing “Transforming First Nation Education” funding commitments from Budget 2016 (currently limited to school board funding) and implement the actions below:

- Replace ISC’s outdated, inefficient and inadequate proposal-based education programs with regional education approaches and funding models that provide sufficient, predictable and sustainable funding.
- Support First Nations Regions to develop their own education funding model that uses the education funding model of that province as a base calculation, plus adaptations and additions that provide funding for the unique needs of First Nation students, communities and schools.

On December 5, 2017, the Chiefs-In-Assembly resolved to support Resolution 65/2017, *New Interim Funding Approach for First Nation Education*. The Memorandum to Cabinet passed on February 28, 2018, and the co-development on the Treasury Board Submission is underway. The Drafting Team is currently working on the K-12 Terms and Conditions.

Budget 2017 announced an additional \$90 million over two years to support post-secondary students and called for

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collaborative review with Indigenous partners of all current federal post-secondary programs. In July 2017, the Chiefs-In-Assembly resolved to support Resolution 14/2017, *Post-Secondary Education Federal Review*, which would provide a First Nations report and/or submission.

The Post-Secondary Education Review process was led by an independent facilitator and brought 40 First Nations representatives with expertise in Post-Secondary Education and institutes of higher learning together to evaluate current programming and make recommendations.

Post-Secondary Education Review meetings were held in Ottawa in November 2017, January 2018 and March 2018. The review has produced a report with recommendations that went to the Chiefs-in-Assembly at the AFN Annual General Assembly in July 2018.

Chiefs-in-Assembly passed AFN Resolution 29/2018, *First Nations Post-Secondary Education Review Report and Recommendations*, which accepted the *First Nations Post-Secondary Education Review 2018 Interim Report* and directed the AFN, CCOE and NIEC to work in partnership with ISC to develop an honourable joint process that would allow for the development of regional Post-Secondary Education models.

## UPDATE

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### Joint Task Teams

- 1) Statutory Funding** – This Joint Task Team is analyzing legislative and non-legislative education funding options to see which would best meet the fiscal principles that support First Nation education vision. The Team met on May 3 and 4, 2018. The Team decided to focus on the Interim Funding Formula in short-term and create a methodology for annually updating the funding mechanisms. The Statutory Funding Team commissioned a consulting report that looked at various examples of funding mechanisms to review what works best for First Nations.
- 2) Post-Secondary Education (PSE)** – The First Nations PSE Review completed the final stage of the process set out by Resolution 14/2017. The review included the evaluation of appropriate support for both First Nations students and First Nations Institutes of Higher Learning. The *First Nations Post-Secondary*

*Education Review 2018 Interim Report* of the findings and recommendations went to the Chiefs-in-Assembly at the AFN Annual General Assembly in July 2018. Following the AFN Annual General Assembly and the passing of AFN Resolution 29/2018, the AFN Chiefs Committee on Education (CCOE) and the National Indian Education Council (NIEC) are recommending a way forward for First Nations post-secondary education. This recommendation directs AFN to facilitate the co-drafting of new policy for First Nations post-secondary education, with the overall goal to secure adequate funding and supports for post-secondary students and First Nations Institutions of Higher Learning. Together with the NIEC and the CCOE, AFN will bring together First Nations experts and leaders in education to co-draft a policy proposal based on recommendations from a year-long review of current federal programming and supports. The

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NIEC will work together with the federal government to propose policy that will allow for new regional and/or Treaty based funding approaches to be developed by First Nations in order to better support students and First Nations Institutes of Higher Learning and close the attainment gap in post-secondary education.

- 3) Early Childhood Education** – The joint task team is examining regional differences and best practices regarding the implementation of full time K4/K5 in First Nations schools and identifying the requirements needed to support and propose recommendations for early year's education programming for First Nations schools and students. The Task Team met on May 3-4. The delegates reviewed the Task Team's Operational Terms, identified short, medium and long term goals for 2018- 2019 Work Plan, identified gaps in research and proposed that more research be conducted on Developmentally Appropriate Programming. There is a need for focus

on infrastructure, instruction, and activities for regions to expand to full time K4/K5.

- 4) Infrastructure** - Met for the first time May 3-4. Operational Terms will be further developed and emailed to the Team. Identified various issues and integrated them into 2018-2019 Work Plan. An initial meeting with ISC has taken place and the work plan will be implemented for the current fiscal year.
- 5) Unique Needs of Northern and Remote Communities** – This Joint Task Team met on May 3 and 4 and August 8 and 9, 2018. The Team will continue to expand on the work plan and critical path for 2018-2019, including prioritizing the development of a paper around recruitment and retention in remote First Nations schools, and a review and summary of the Remoteness Indicators research.

## NEXT STEPS

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The work of the AFN Education Sector is well underway. In the upcoming months, the following activities will be undertaken directly from or supported by AFN.

- **September 2018** – Treasury Board to approve the Treasury Board submission.
- **September 20-21, 2018** – Infrastructure Joint Task Team meeting.
- **Oct 1-2, 2018** – PSE Working Group Meetings.
- **Oct 9-10, 2018** – PSE Working Group Meetings.
- **Oct 18-19, 2018** – PSE Working Group Meetings.
- **November 2018** – First Nations regional feedback on PSE Policy Proposal.
- **December 4-6, 2018** – PSE Policy Proposal to go to Chiefs via Resolution at AFN Special Chiefs Assembly.



**HEALTH AND WELLNESS****OVERVIEW**

The Assembly of First Nations (AFN) Health Sector continues to advance and promote the First Nations Health Transformation Agenda (FNHTA). The FNHTA sets out 85 recommendations to federal, provincial and territorial governments. These cover a wide range of policy areas all aimed at stabilizing profoundly underfunded health programs, and increasing self-determination of First Nations health in keeping with inherent, Treaty and international rights.

As part of its continuing efforts to advance the regional health transformation initiatives, the AFN presented at the Federal, Provincial and Territorial Health Ministers' Meeting (HMM) in late June 2018. The AFN, along with our Inuit and Métis colleagues, presented on key priority areas on health in order to seek firm commitments to address these priorities. Specifically, the AFN sought commitment on mental wellness and Jordan's Principle implementation. For too long, the provinces and territories have denied their responsibility for ensuring access to services for First Nations. The HMM is an important opportunity to remind all jurisdictions that their Canada Health Transfer dollars include First Nations populations and that they continue to hold a responsibility to ensure First Nations have timely, equitable and culturally-safe care within provincial and territorial systems.

Other areas of work underway to support the implementation of the FNHTA includes, but is not limited to:

- Exploratory work on federal health legislation.
- Advancing the First Nations Mental Wellness Continuum Framework.
- Ongoing efforts by the AFN-First Nations and Inuit Health Branch (FNIHB) Non-Insured Health Benefits (NIHB) Joint Review.
- Developing an NIHB monitoring and evaluation plan to ensure the actions from the Joint Review are carried out and produce the desired outcomes.
- Exploratory work on NIHB Legislation and litigation (as directed by Resolution 126/2016 and 49/2017).
- Enhancing communications with First Nations, government and partners.
- Promoting the AFN Health Partnerships Guide.
- The development of a new AFN Health Sector 4 Year Operational Plan.
- Launching the AFN Opioid Strategy.

The AFN will continue advocacy efforts to improve First Nations health and well-being in areas such as public health, communicable disease, chronic disease, family wellness, mental health, food security and cannabis by pushing for distinctions-based and culturally relevant approaches that are sustainably funded and driven by First Nations.

**UPDATE**

At the December 2017, Special Chiefs Assembly, the AFN received a mandate from the Chiefs in Assembly (Resolution 69/2017, *Exploring a*

*Legislative Base for First Nations Health*) to explore the concept of federal health legislation and develop tools to support First Nations in their own

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deliberations about the potential for legislation. Proposed areas of inquiry include developing basic myth busting about legislation, a risk/benefit analysis, and a discussion around the relationship between Treaty rights and legislation. The AFN has secured legal experts to assist in this work and will share information with local First Nations to support their health transformation activities. The AFN hosted a dialogue session on exploring health legislation at the July AFN 2018 Annual General Assembly, and will share the outcome of that session with the AFN Executive Committee and the Chiefs Committee on Health.

As the work on the AFN-First Nations and Inuit Health Branch's (FNIHB) Non-Insured Health Benefits (NIHB) Joint Review continues and comes closer to completion, it has been recognized that there is the need for First Nations to have ongoing input into NIHB and the work being completed by the Joint Review will be used to help inform the next stage of work required for health benefit transition and transformation as mandated by Resolutions 126/2016, *Ongoing Commitment for the Non-Insured Health Benefits Joint Review*

*Process, and 49/2017, Non-Insured Health Benefits Equitable Access to Health Services.* To support this work, the AFN secured a contractor to develop an NIHB evaluation and monitoring framework to assess and monitor the outcomes and activities of the Joint Review and inform future work on transformative change.

Budget 2018 included significant new investments in Indigenous health in the order of \$1.5 billion over five years starting in 2018–19, and \$149 million per year ongoing. Notable areas of investment include new dollars for Health Transformation (\$235 million), a critical extension of the Indian Residential School Resolution Health Support Program (\$248.6 million/3 years) and investments in addictions treatment centres and staff (\$200 million/5 years). Notably, Budget 2018 signaled that a number of FNIHB programs will be shifted into A-based funding including clinical client care, accreditation, eHealth infrastructure, and the addictions treatment funding. The AFN will continue to seek details on budget implementation including regional allocations.

### NEXT STEPS

A number of key next steps in advancing the AFN health agenda include:

- Finalizing and advancing the AFN-FNIHB shared work plan to support health transformation.
- Sharing the outcomes of the health dialogue session held at the July AFN 2018 Annual General Assembly and associated work with AFN Executive Committee and the Chiefs Committee on Health. This will also include an update on the work being done on options relating to NIHB legislation and litigation. This information will also be provided to First Nations to support their own work as they consider potential health legislation.
- Launching the *First Nations Health Priorities to Reducing Problematic Opioid Use – Discussion Document: A First Nations Specific Opioid Strategy.*
- In order to continue to work towards the conclusion of the AFN-FNIHB NIHB Joint Review, the AFN will convene meetings of the National Navigators Network, the Joint Review Steering Technical Working Group and Implementation Table throughout 2018 and early 2019. These meetings will focus on finalizing the reviews and approvals of the remaining benefit areas that will inform the next piece of work to bring transformative changes in benefit delivery and governance, as well providing input into the development of the NIHB monitoring and evaluation framework.
- An update on the Joint Review Steering Committee and next steps will be provided at the SCA in December 2018.



## **HOUSING AND INFRASTRUCTURE: REVIEW OF INDIGENOUS SERVICES CANADA'S OPERATIONS AND MAINTENANCE POLICY**

### **OVERVIEW**

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The current funding formulas and cost indices as identified in Indigenous Services Canada's (ISC) Operations and Maintenance (O&M) Policy are outdated, inadequate and do not provide sufficient funding for First Nations to protect and prolong the life of their community assets. The federal government only funds a portion of the estimated costs for the O&M of on-reserve community infrastructure such as water and wastewater systems, community buildings, roads and bridges.

Assembly of First Nations (AFN) Resolution 80/2017, *Support for Review of Canada's Operations & Maintenance Policy*, supports the co-development of a new O&M Policy Framework with full involvement of First Nations, the AFN and the Chiefs Committee on Housing and Infrastructure (CCoHI) and other organizations. AFN Resolution 80/2017, *Support for Review of Canada's Operations and Maintenance Policy*, further directs the AFN to jointly develop a Draft Joint Work Plan with ISC.

A Joint O&M Policy Work Plan has been co-developed which includes identifying options for the co-development of a new O&M Policy Framework and formula that will reflect new infrastructure technologies as well as economic and environmental factors that will

contribute to addressing the socio-economic gap in First Nations.

The AFN conducted a face-to-face meeting of O&M experts on March 27 and 28, 2018, in Ottawa, to review and discuss all aspects of O&M including:

- Policy gaps and opportunities for improvements.
- Identification of reporting requirements to ensure proper oversight of O&M infrastructure, while minimizing reporting burden on First Nations.
- Options for funding levels for all assets.
- Cost estimates to operate and maintain assets.
- Cost indices which reflect remoteness factor.

The meeting identified the challenges faced by First Nations in maintaining and operating their assets under the current policy funding restrictions. There was consensus that an asset management based approach be recommended as the new way of identifying the funding needs. It was also recommended that pilot projects be carried out in each region to further understand how an asset-based management approach can be adopted for the future and support a change in the O&M funding policy. A Draft Summary Report was shared with all participants identifying key findings and recommendations.

### UPDATE

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The AFN has received funding to conduct pilot projects to determine best practices for implementation of an asset management approach on-reserve.

The objective of the pilot projects is to demonstrate how an asset management approach would work with the new funding regime which is fully costed maintenance plans. This will also include identification of future upgrades, repairs and renovation work required to maintain and prolong the life of the asset.

This information will assist with identifying the types of assets that should be funded and

the required commitment from the federal government to provide the necessary allocated funding.

The AFN will be developing Terms of Reference for each region to submit proposals to conduct the pilots which will include a fully costed out asset management plan for each First Nation.

The results of these pilots will be compared to the existing funding provided to get an appreciation of the difference in funding requirement now and for the future.

### NEXT STEPS

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A draft report will be developed identifying concerns, challenges, recommendations and next steps on the development of a new O&M Policy Framework.

After the pilots are completed, the AFN will be conducting engagement sessions with O&M technical experts from Tribal Councils, regional organizations and First Nations to ensure the development of a new policy framework meets First Nations' needs.

The AFN will be establishing a Working Group with technical representatives from the Chiefs Committee on Housing and Infrastructure and other invited representatives who have expertise in O&M.

The Working Group will put forward a Draft O&M Policy Framework for consideration by ISC. This will include funding considerations and what is required to adequately fund First Nations to maintain, operate and protect the government's investment in the assets.



## **HOUSING AND INFRASTRUCTURE: FIRST NATIONS NATIONAL HOUSING AND RELATED INFRASTRUCTURE STRATEGY**

### **OVERVIEW**

The AFN Chiefs Committee on Housing and Infrastructure (CCoHI) has been mandated by AFN Resolutions to work in partnership with First Nations and the Government of Canada on the development of a First Nations National Housing and related Infrastructure Strategy. Moving towards First Nations care, control and management of housing and related infrastructure has been the guiding principle. Related infrastructure refers to all infrastructure that is used to support housing, for example, roads, lot servicing, connections to water and waste water systems.

The AFN established a Joint Working Group comprised of the Assembly of First Nations (AFN), CCoHI, Indigenous Services Canada (ISC), Canada Mortgage and Housing Corporation and Employment and Social Development Canada. The Joint Working Group co-developed a Policy Reform Framework towards a First Nations Housing and Infrastructure Strategy.

AFN Resolution 87/2017, *Support for a National Housing and Infrastructure Policy Framework*, supports the Policy Reform Framework to be

included as an Annex in ISC's Memorandum to Cabinet (MC). The Policy Reform Framework sets the groundwork for fundamental reform to federal housing and infrastructure programming.

#### Policy Reform Framework Highlights:

- Understand the true costs of housing and infrastructure.
- Strategic research and data gathering exercise.
- First Nations to decide their own level of governance.
- Ongoing engagement to develop strategies and frameworks based on community needs and priorities.
- First Nations engagement sessions are required to ensure transition process is First Nations led.
- Develop a strategic plan with short, medium and long-term objectives.
- Develop options to start the transition process.

The December 2017 Cabinet date for ISC's MC was postponed but ISC is targeting the fall 2018 to include the Policy Reform Framework as an Annex in their MC.

### **UPDATE**

The joint Working Group co-developed a Draft Strategy which provides a long-term approach for First Nations housing and related infrastructure on-reserve as well as housing for First Nations who live in urban, rural, and northern areas. The Draft Strategy was presented at a Dialogue Session held at the AFN July 2018 Annual General Assembly in Vancouver, British Columbia. The Draft Strategy is a work in progress and will be revised based on the input received.

#### Draft Strategy Goals:

- 1) Establish a First Nations Housing Policy and Research Institute.
- 2) Establish national and regional housing and related infrastructure delivery frameworks to assist in the design of governance models that are independent from political influence.
- 3) Coordinate housing governance delivery systems across all jurisdictions to better serve First Nations members living away from their

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- First Nation in urban, rural and northern areas.
- 4) Secure sufficient, sustainable and predictable funding to support First Nations and First Nations organizations to undertake the care, control and management of housing and related infrastructure.
  - 5) Ensure the new First Nations driven housing systems have funding that is adequate, predictable and long-term that is geared to satisfying First Nations housing needs.
  - 6) Develop ways to leverage government housing and related infrastructure investments to enhance financial opportunities.
  - 7) Identify and develop new financial mechanisms for housing delivery.
  - 8) Maximize funding for housing delivery systems across all jurisdictions to better serve First Nations members living away from their First Nation in urban, rural and northern areas.
  - 9) Ensure First Nations have the skills and capacity to exercise their responsibility, care, control and management over housing and related infrastructure.
  - 10) Hold information sessions with First Nations leadership, communities, technical experts, regional organizations, and underrepresented groups, etc., on strategic considerations of what incremental steps can be taken now, during and after transition.

### NEXT STEPS

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A key component to the Draft Strategy is undertaking a data gathering exercise to determine First Nations housing and related infrastructure needs on-reserve.

This will support First Nations to have their own baseline data to inform their needs and priorities. Having standardized and consistent data will also inform the Government of Canada on what is required to fully address First Nations housing and related infrastructure needs on-reserve.

All First Nations will have the opportunity to participate in a questionnaire. Participation in the questionnaire is of the utmost importance as collecting the most up-to-date and relevant data will assist in identifying solutions to the state of housing and related infrastructure for First Nations.

If there is a low participation rate, the AFN will work with the First Nations Information Governance Centre to develop a sampling strategy to ensure there is a representative sample at the regional and national level.

The AFN will be working with the joint Working Group and the First Nations Technical Services Advisory Group (TSAG) to develop the

questionnaire. The TSAG's electronic data collection tool will be utilized in the data gathering exercise which will ensure quality assurance and integrity of the data collected.

The AFN will be contacting First Nations regional organizations to request a proposal submission on how their organization will administer the questionnaire with each First Nation in their region. The AFN will develop Terms of Reference to assist First Nations regional organizations in developing their proposals.

The AFN would like to seek the assistance from the First Nations Information Governance Centre (FNIGC) to support the analysis and interpretation of the data collected. Their experience and expertise will support the credibility of the analysis of the data collected. Having FNIGC involved will support data stewardship and secure storage of the data ensuring privacy and security measures are maintained.

The data gathering exercise will commence in the fall 2018. The AFN is targeting to present the Draft Strategy and Data at the December 2018 Special Chiefs Assembly.



## **HOUSING AND INFRASTRUCTURE: CMHC ON-RESERVE PROGRAMS AND TECHNICAL SERVICE PROVIDERS**

### **OVERVIEW**

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Despite First Nations opposition, the Canada Mortgage and Housing Corporation (CMHC) made a unilateral decision to change its delivery service and awarded a national contract to a single service provider called OZHI First Nations Professional Services (OZHI), which is to provide progress and physical condition reviews for CMHC's on-reserve programs. OZHI First Nations Professional Services was the successful candidate for a Request for Proposal (RFP) released by the CMHC titled, On-Reserve Technical Services Providers. This RFP closed on December 18, 2015.

This meant that the services provided previously by First Nations, Tribal Councils and Technical Service Providers were no longer required. First Nations expressed concerns with the selected contractor's readiness, responsiveness and capacity to carry out the work in a manner that

meets the required service standards and program deadlines as was previously provided by First Nation Technical Service Providers.

The Assembly of First Nations (AFN) Resolution 28/2017, *Restore Technical Services back to First Nations for CMHC Housing Programs*, passed by the Chiefs-in-Assembly, called for the contract with OZHI to be rescinded and to restore the technical services provided by First Nations, Tribal Councils and First Nations Technical Service Providers.

As a result of the many letters issued by First Nations and their regional organizations and the advocacy work by the AFN, supported by the Chiefs Committee on Housing and Infrastructure, CMHC is finally responding to First Nations' concerns.

### **UPDATE**

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The CMHC asked for a coordinated effort - a regional model that can serve all First Nations in the region. Regional service providers will be expected to have their own internal quality assurance and operational reviews and an important aspect of these proposals is the inclusion of training and capacity building

components. The CMHC has received proposals from Regional First Nations representative organizations based on the CMHC's "Key Expectations for On-Reserve Technical Service Providers" document and the CMHC's Request for Proposal. Both documents serve as guides for the CMHC's outsourcing requirements.

### **NEXT STEPS**

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Regions have and are in the process of submitting their proposals according to the CMHC requirements which will meet the needs of First Nations at the same time. Discussion are

ongoing between Regions and the CMHC on details for the proposals.





## **HOUSING AND INFRASTRUCTURE: SAFE WATER FOR FIRST NATIONS**

### **OVERVIEW**

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In 2013, the *Safe Drinking Water for First Nations Act* (SDWFNA) came into force despite numerous objections by First Nations. First Nations have repeatedly called for the repeal of the SDWFNA.

Indigenous Services Canada (ISC) responded to this sustained advocacy last year, proposing that the Assembly of First Nations (AFN) take the lead in conceptualizing, elaborating, designing and implementing a re-envisioned engagement process for review of the current Act, including exploring co-development of a replacement Act.

Mandated by the Chiefs-in-Assembly via Resolution 88/2017, *First Nations led Engagement Process for Safe Drinking Water Legislation*, the AFN held a National Water Symposium and Tradeshow in Coast Salish territories from February 6 to 8, 2018, to renew and expand the dialogue on how to move beyond the flawed SDWFNA. As mandated, the AFN also developed a multi-year funding proposal to ensure that the process will be adequately resourced.

Building upon the dialogue generated at the inaugural National Water Symposium and Tradeshow, the AFN prepared a Concept Paper outlining options for how to co-develop First Nations safe drinking water legislation in a manner that is respectful of First Nations inherent rights and Indigenous laws, and

meets the spirit and intent of the United Nations Declaration on the Rights of Indigenous Peoples. This concept paper was shared and discussed with the Chiefs Committee on Housing and Infrastructure (CCoHI), the Chiefs-in-Assembly and the federal government.

At the Special Chiefs Assembly on Federal Legislation on May 1 and 2, 2018, after sharing the *Concept Paper on the Process to Develop a New Federal Bill on Safe Drinking Water for First Nations*, the preferred approach to repeal and replace the SDWFNA was identified and affirmed by the Chiefs-in-Assembly via Resolution 01/2018, *First Nations Led Process to Develop New Federal Safe Drinking Water Legislation*. A joint legislative co-development process will proceed, fully mandated by the federal government and in full partnership with First Nations.

In accordance with AFN Resolution 01/2018, the AFN is now in the process of assembling a Chiefs Committee on First Nations Safe Drinking Water Legislation.

This Chief's Committee will advise and support the development of Terms of Reference for a Joint Working Group on Safe Drinking Water for First Nations. This Joint Working Group will be composed of First Nations water experts, as well as individuals with legal, technical and financial expertise, including those familiar

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with water ceremonies and protocols, and the corresponding federal government representatives.

This Joint Working Group will work via consensus and will report back to both the federal government and the Chief's Committee on First Nations Safe Drinking Water Legislation on a consistent and expedited basis

as their work involves co-developing a proposed framework for safe drinking water legislation for First Nations. The CCoHI will be updated on a regular basis and the results will be presented to the Chiefs-in-Assembly for their endorsement.

### UPDATE

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A "First Nations Safe Drinking Water Preliminary Concepts" document has been created by the AFN to outline principles, core interests and stimulate discussion on what foundational elements must be included in this work. The document was presented to the

Chiefs-in-Assembly at the Annual General Assembly on July 26, 2018, in Vancouver. It was formally endorsed via Resolution 26/2018, *Support for a First Nations Safe Drinking Water Legislation Preliminary Concepts*.

### NEXT STEPS

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Resolution 26/2018 mandates the AFN to move forward using the "Preliminary Concepts" document in national engagements with First Nations so that a First Nations Safe Drinking Water Legislation Draft Framework can be created. This First Nations Safe Drinking Water Legislation Draft Framework will form the basis of a co-development process between First Nations and Canada as new First Nations safe drinking water and wastewater legislation is being created. The AFN affirms that this legislation will be developed in a

manner that affirms and ensures First Nations rights, interests, aspirations, inherent rights and laws, standards, guidelines and processes are protected.

Building upon the success and dialogue at the inaugural National Water Symposium and Tradeshow in Coast Salish territories from February 6 to 8, 2018, the AFN will host the second annual National Water Symposium and Tradeshow in February 2019.

**EMERGENCY SERVICES****OVERVIEW**

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Provision of Emergency Services to First Nations continues to be an ongoing issue. First Nations are affected by emergency events to a greater extent due to their remoteness, lack of critical security infrastructure, resources and capacity. There is a substantial disparity between First Nations and Canadian communities of similar size and circumstance under the four pillars of emergency management: mitigation, preparedness, response and recovery. This disparity is further enhanced by the lack of inclusion and engagement of First Nations in the development and signing of the Emergency Service Agreements currently being negotiated between Indigenous Services Canada (ISC) and the provinces.

Severe weather events from climate change will compound these issues and they will continue to impact First Nations in the future. ISC's Emergency Management Assistance Program works with provincial and territorial governments and non-government organizations to support First Nations and ensure they have access to comparable emergency assistance services available to other residents in their respective jurisdiction. First Nations and organizations are able to access this funding for non-structural mitigation projects through this program.

Resolution 03/2015, *First Nations Involvement in Emergency Preparedness*, called on the Government to include First Nations in the development of agreements related to mitigation, preparedness, response and recovery planning as well as continue to ensure ISC and provincial partners work collaboratively with First Nations leaders. First Nations organizations are more

involved, which has been a change in how the Government is now negotiating these Service Agreements.

The Assembly of First Nations (AFN) continues to be involved in Public Safety Canada (PSC) discussions with Federal, Provincial and Territorial (FPT) Ministers Responsible for Emergencies. A dedicated meeting with the five National Indigenous Organizations (NIOs) was convened in St. John's, Newfoundland, on May 25, 2017. The purpose of the meeting was to identify priorities, gaps and challenges.

In March 2017, PSC, on behalf of the Government of Canada, welcomed representatives for the Fifth Regional Platform for Disaster Risk Reduction in the Americas in Montreal, Québec. A key element of the Regional Platform was the Second Meeting of Ministers and High Level Authorities, during which a Regional Action Plan (RAP) was approved. The guidelines for the RAP were endorsed at the First Meeting of Ministers and High Level Authorities in Paraguay in June 2016. The Government of Canada has been working with regional and national partners to assist with drafting the RAP. The AFN ensured First Nations interests were included in the RAP.

PSC has been mandated by the Prime Minister to: "work with provinces and territories, Indigenous Peoples, and municipalities to develop a comprehensive action plan that allows Canada to better predict, prepare for, and respond to weather-related emergencies and natural disasters".

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In response, PSC and Senior Officials Responsible for Emergency Management (SOREM) are developing an emergency management strategy for Canada to advance a whole-of-society approach to strengthen emergency management in Canada.

The emergency management strategy will be framed around the following strategic objectives:

- Enhance whole-of-society collaboration and governance to strengthen resilience.
- Improve the understanding of disaster risks in all sectors of society.
- Increase focus on whole-of-society disaster prevention and mitigation activities.

- Enhance disaster response capacity and coordination and foster the development of new capabilities.
- Strengthen recovery efforts by building back better to minimize the impacts of future disasters.

The AFN was invited to attend the SOREM meeting in Regina, Saskatchewan, on November 15, 2017. At the meeting, participants discussed; updated and reviewed the Inventory of Emergency Management Capabilities in Indigenous Communities; Disaster Mitigation; Response and Recovery in Indigenous Communities; and, Supporting the Involvement of Indigenous Communities in Emergency Management.

## UPDATE

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PSC is planning national engagements with First Nations to seek input and provide information on three key emergency management initiatives—the emergency management strategy for Canada, the Public Safety Broadband Network, and Search and Rescue governance. The AFN will receive funding from PSC to facilitate these engagements. The first workshop is tentatively planned for November 2018, with the subsequent workshops to be organized over the 2018-19 fiscal year.

PSC and the AFN are working together on the Inventory of Indigenous Emergency Management Capabilities Project Description as well as a Project Charter for the Inventory project, and they have provided comments and revisions to the Emergency Management Strategy for Canada. Work is now completed on the methodology for data collection, and the data collection tool for the Indigenous Inventory of Capabilities. The Data Collection Tool will be used during the Phase II engagement sessions with the selected First Nations.

A meeting of Ministers Responsible for Emergency Management and NIOs was held on May 24, 2018, where the NIOs met with the Minister and FPT organizations to discuss the current initiatives and NIO involvement. AFN Regional Chief Marlene Poitras and David Diabo, Special Advisor – Emergency Management, attended this meeting and participated in the discussion and update on the Indigenous Emergency Management Inventory Project. Background was given to the attendees on the rationale, overall intent, need for the National Emergency Management Strategy, and a description of the various components of the Indigenous Inventory. The benefits to the First Nations participating in the inventory project were described to Minister Ralph Goodale, and what the approach is for advancing the project. It was also pointed out that eleven First Nations will be contacted in the near future for participation in a pilot project to test the methodology developed to date, as well as where and how collected data will be stored and accessed in the future.

In November 2017, the AFN was also invited to a National Roundtable on Flood Risk called by

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Minister Goodale, Public Safety and Emergency Preparedness, to discuss understanding risk, access and distribution of flood maps, public awareness of risk, and the financial management of flood risk. An advisory committee on flood risk has been established and the AFN sits on this committee.

As of Friday, August 31, 2018, there is currently a total of 2,749 flooding evacuees, 46 wildfire evacuees, 28 essential service malfunction evacuees, 4 tornado evacuees, and 2,827 total long term evacuees.

### NEXT STEPS

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- As directed by 2015 AGA Resolution 3/2015, *First Nations Involvement in Emergency Preparedness*, and 2017 AGA Resolutions 06/2017, *Support for British Columbia First Nations Affected by Wildfire Crisis*, and 46/2017, *Support for First Nations Emergency Services Society of British Columbia*, the AFN will support First Nations organizations and communities in the development of their emergency management regimes and for First Nations managed and driven mitigation, preparedness, response and recovery activities.
- The AFN will continue to follow up on direction from Resolution 03/2015, *First Nation Involvement in Emergency Preparedness*.
- The AFN has contracted Melissa Hotain as Emergency Services Project Coordinator to help with the PSC projects currently underway.
- The AFN is working with PSC to plan, organize, and facilitate the Community Piloting engagement with selected First Nations to inform the development of the Data Collection Tool for the Inventory of Emergency Management Capabilities.
- The AFN will continue to work with PS to lead the national engagement with First Nations on Canada's National Emergency Strategy, Broad Band Initiative, and Search and Rescue.
- First Nations pilot projects have been developed to test the methodology and data collection instrument using advice, guidance, and recommendations from the selected First Nations communities. Initially, four First Nations were proposed for community piloting: the Mohawks of Kahnawake, QC; Kitigan Zibi Anishinabeg, QC; the Mohawk Council of Akwesasne, ON; and Algonquins of Pikwakanagan First Nation, ON. The list grew to include a number of communities in Saskatchewan: Ahtahkakoop First Nation, Moosomin First Nation, Mosquito Grizzly Bear's Head First Nation, Red Pheasant First Nation, Saulteaux First Nation, Sweetgrass First Nation, and Young Chippewyan First Nation (Stoney Knoll Band). The Community Piloting list has now grown to include the 6 First Nations of the Tsilhqot'in National Government.
- The Data Collection Tool has now been revised and coalesced into a more manageable iteration, and will be delivered to the initial four selected First Nations in the coming weeks.
- The AFN is also collaborating with PSC to organize and plan the second annual AFN National Emergency Management Forum scheduled for March 2019 pending approval for funding support.



**FIRST NATIONS LABOUR MARKET****OVERVIEW**

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The Assembly of First Nations' (AFN) work on a new distinct First Nations labour market strategy is a result of Chiefs-in-Assembly resolutions pertaining to the Economic Portfolio.

These resolutions, including resolution 32/2017, *Distinct First Nations Labour Market Strategy*, provide direction to the AFN; affirm First Nations rights to improved economic and social conditions; mandated efforts to address

personal and systemic barriers to labour market opportunities faced by First Nations; and support access and options to secure greater economic independence.

The Chiefs-in-Assembly mandated the Chiefs Committee on Human Resources Development (CCHRD) to work jointly with Employment and Social Development Canada (ESDC) in the implementation of a new distinct First Nations Labour Market Strategy.

**UPDATE**

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The Government of Canada has acknowledged the importance of a distinctions-based approach that recognizes the unique needs of First Nations. Budget 2018 identified a First Nations stream that will provide \$1.1 billion over 5 years and \$235.7 million ongoing to support a stronger focus on training for high-quality, better-paying jobs, rather than rapid re-employment, and allow for long-term career success.

The CCHRD communicated to the Minister of Employment, Workforce Development and Labour that Budget 2018 is a good starting point on the investments that are needed; however, the budget did not take into consideration inflation and population increases. It also fell short of identifying funds separate from program funding to support the development of a First Nations Labour Market

Council and capacity as recommended by First Nations.

The AFN continues to advocate that resources to support a new governance structure, a First Nations Labour Market Council and Secretariat, be sought outside of First Nations labour market program funds that will be the bridge between First Nations Service Organizations and the Government of Canada, replacing the role of Service Canada and developing needed capacity for the complete transfer of labour market program authority to First Nations.

The AFN Economic Sector has organized four Transition Working Groups comprised of representatives of the 57 First Nations labour market organizations to work with ESDC in the transition and implementation phase.

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A **Labour Market Council (FMLMC) and Secretariat (FNS) Working Group** was established to review the planning, concept and role of a Labour Market Council and Secretariat. It is hoped such an organization would provide leadership and capacity, act at arm's length from the Government of Canada and direct research development and maintain outreach with First Nations labour market partners, organizations and agencies under the control and leadership of First Nations.

A **Financial Model Working Group** will examine and refine the financial model recommended in March 2017 against information received in Budget 2018. The task is to work with ESDC officials to ensure that all information is considered in developing a distribution methodology that is fair and equitable, based on the budget amounts provided by Budget 2018.

A **Communications Working Group** will focus on a strategy that promotes a positive outlook on labour force development for First Nations rights holders, governments and service

organizations. Key products will include background information on the First Nations Labour Market Strategy and details on the proposed policy and governance approach in the transition to a new labour market structure.

A Sub-Technical Working Group, comprised of First Nations regional representatives, has been working with ESDC on new draft terms and conditions for grants and contributions that will guide the implementation of a new First Nations labour market strategy.

In July 2018, Resolution 25/2018, *Next Steps on a Distinct First Nations Labour Market Strategy*, was passed directing the CCCHRD and Technical Working Groups to continue to work with ESDC to respond to the funding impacts of inflation and population growth, financial supports for the development of capacity, and to advance labour market authority and jurisdiction under the control of First Nations Governments.

## NEXT STEPS

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- A First Nations Technical Working Group on Human Resources Development (TWG) National Meeting on the First Nations Labour Market was convened on September 13 and 14, 2018, to report on the progress made in the co-development and implementation of the new framework requirements that will form the new distinct First Nations Labour Market Strategy. The discussions included dialogue on the funding considerations for a First

Nations labour market strategy, the terms and conditions for a new First Nations labour market agreement, and planning for new First Nations agreement holders.

- A second National Meeting on the First Nations Labour Market is planned for late October /early November 2018.
- Seek support for the inclusion of First Nations at the upcoming Federal Labour Market Ministers (FLMM) meeting.

**BILL S-3 – AMEND INDIAN ACT:  
DESCHENEUX VS CANADA****OVERVIEW**

On December 12, 2017, S-3, *An Act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada*, received royal assent. This enactment will enable individuals to obtain Indian status who fall under the following:

- Individuals whose grandmother lost status due to marriage to an unregistered man, when that marriage occurred before April 17, 1985.
- Women who were born out of wedlock of registered fathers between September 4, 1951, and April 17, 1985.
- Minor children, who were born of registered parents or of a registered

mother, but lost entitlement to Indian Status because their mother married an unregistered person after their birth, and between September 4, 1951 and April 17, 1985.

- Children of the above individuals.

The amended legislation also requires the Minister of Indigenous Services Canada (ISC) to initiate consultations on issues related to registration and band membership and to conduct reviews on sex-based inequities under the Indian Act, and to report to Parliament on those activities. Consultations are set to begin in early 2018.

**UPDATE**

Crown-Indigenous Relations Canada (CIRC) estimates that between 28,000 and 35,000 individuals will initially become eligible for Indian status as a result of Bill S-3.

Descendants of the individuals who gained Indian status under Bill S-3 will also be eligible to register under the amended rules set out in the Indian Act. Thus, the number of additional individuals who will gain Indian status as a result of Bill S-3 will increase in the decades to come. Children of those registered under Bill S-3 will gain status under 6(1) if their other parent also had status. Otherwise, they will gain status under 6(2).

The federal government has committed to a comprehensive phase of consultations with Indigenous peoples and organizations before implementing further amendments to correct discrimination in the registration provisions of the Indian Act.

The Collaborative Process will involve at least two, possibly three, phases on further legislative and/or policy reforms:

- 1) The removal of the 1951 cut-off from the *Indian Act* – Pursuant to Clause 15(2) of Bill S-3, Parliament delayed the enforcement of amendments that grant Indian Status to all descendants of Indigenous women who lost Indian status upon marrying a non-

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Indian man between 1869 and 1985 (the 1951 “cut off”). Consultations will focus solely on when this provision will come into force.

- 2) Remaining inequities related to registration and membership under the *Indian Act* – consultations will focus on all remaining non-sex based discrimination in the Indian Registry. These topics include: adoption; the second-generation cut-off; enfranchisement; etc.
- 3) Devolution of the responsibility for determining membership/citizenship of First Nations – Finally, Canada intends to consult on options for First Nations to have exclusive responsibility for the determination of the identity of their members or citizens at a later date. These consultations will take place once 1 and 2 above have been completed.

The consultation process has a number of separate facets:

- a) Call for proposals - First Nations and Indigenous groups were able to apply for funding to organize their own consultation activities beginning September 2018. The deadline to submit proposals was August 17, 2018. A total of 164 proposals were submitted as follows: 131 from First Nations; 15 from political and territorial organizations (PTOs); and 18 from Tribal

Councils. A second call for proposals was announced on August 27, 2018. The deadline for First Nations to submit proposals for the second round is October 5, 2018.

- b) Information sharing – from June to September 2018, CIRC will provide informational materials to First Nations on the Indian Act registration provisions.
- c) Information gathering – From September 2018 to March 2019, CIRC will hold a number of engagement sessions across Canada:
  - Community Sessions - proposal-based and government-organized.
  - Regional Events - up to 15 events will be held across Canada.
  - Online Consultation – conducted through an online survey.
  - Expert panel(s).

To support these activities, a consultation guide will be made available in selected Indigenous languages and discussion papers by third-party experts and academics will be prepared and offered to participants.

- d) At the conclusion of the consultation process in March 2019, an analysis and report outlining recommendations to Parliament will be tabled in June 2019.

## UPDATE

- The Assembly of First Nations (AFN) will continue to provide updates on developments and continue to support First Nations in exercising their inherent jurisdiction over all aspects of First Nations identity.
- The AFN will continue monitoring developments on Bill S-3 and will relay

information to First Nations governments once Canada begins consultations of further reforms to Indian status.

- The AFN has developed a template citizenship law for interested First Nations.
- The AFN will continue to advocate for the removal of federal policy barriers for First Nations women and girls.

**ENVIRONMENT****OVERVIEW**

Relying upon the leadership and direction of the Advisory Committee on Climate Action and the Environment (ACE), and with a direct focus on the advancement of Indigenous Knowledge Systems through the support of the Assembly of First Nations (AFN) Elders Council, the AFN Environment Sector functions to enhance the exercise of First Nations' self-determination and jurisdiction within the context of the natural environment.

The AFN Environment Sector is guided by a wide variety of resolutions passed by the Chiefs-in-Assembly, all of which call upon the AFN to engage in a range of distinct environmental issues. This includes the establishment of several joint AFN-Canada technical committees, as well as providing regional supports through meetings and other information-sharing mechanisms, including a weekly Friday afternoon ACE teleconference.

**UPDATE****Climate Change**

In the face of a rapidly changing climate, First Nations have much to contribute to global climate action. First Nations' collective knowledge as observers, stewards, and interpreters of ecosystems offers invaluable insight to lead and complement action on climate change. Led by the ACE, the AFN Environment Sector is working to support the critical role of First Nations in climate mitigation and adaptation efforts to drive an evolution towards more sustainable growth and economic development. This includes engagement in a joint technical process with Canada framed around the Joint Committee on Climate Action (JCCA), as well as the establishment of a network of First Nations Regional Climate Change Coordinators.

The most recent JCCA meeting was held on August 22 and 23, 2018, in Charlottetown, PEI. It included a trip to the Lennox Island First Nation to learn from their first-hand experience with sea level rise and coastal erosion due to climate change.

**Species at Risk**

The federal *Species at Risk Act* (SARA) provides for the legal protection of wildlife species and the conservation of biological diversity, in accordance with Canada's commitments under an international United Nations agreement – the Convention on Biological Diversity (CBD).

The SARA is the only piece of federal legislation that explicitly recognizes the role of Indigenous Peoples in the administration and implementation of the Act. The AFN Environment Sector is working with officials from Environment and Climate Change Canada (ECCC) to support the direct inclusion of First Nations interests in species/habitat protection, conservation, management and recovery across Canada.

This includes the creation of a new First Nations Advisory Committee on Species at Risk (FNACSAR) which is a First Nation-specific joint technical committee created under *Section 9* of the SARA to advise the Minister of Environment and Climate Change and other Ministers on the application and implementation of the *Act*. The FNACSAR will host

its fourth meeting in the fall 2018 (dates and location TBC).

The AFN has also been engaged in efforts leading up to the re-establishment of the National Aboriginal Council on Species at Risk (NACOSAR), an advisory committee constituted under Section 8 (1) of the SARA to similarly provide technical advice to the Minister of Environment on the application and implementation of the Act. The first meeting of the NACOSAR is tentatively scheduled to take place in November 2018.

### Environmental and Regulatory Reviews

Following fourteen months of federal “engagement”, the Government of Canada introduced Bill C-68: *An Act to amend the Fisheries Act and other Acts in Consequence*; and Bill C-69: *An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act*, to amend the *Navigation Protection Act* and to make consequential amendments to other Acts into the House of Commons. The Environment Sector is involved in this review to engage in a focused dialogue with First Nations to substantively identify and recognize the protocols and for joint processes on the drafting of legislative amendments, policies and regulations.

The AFN Environment Sector continues to host a series of technical sessions across the country in this regard. Working with the ACE, the AFN Environment Sector made a submission to Bill C-69. As Bill C-69 enters second reading in the Senate, the Environment Sector is looking to develop

briefing materials for First Nations to participate in the process. Under the guidance of the ACE, the Sector will likely make a more targeted submission to the Senate. Bill C-68 was handled by our National Fisheries Committee (NFC) and will continue to be advanced by AFN’s newly established Fisheries Sector, under the leadership of its new Director, Ken Paul.

### Indigenous Protected and Conserved Areas (IPCA)

Working as part of Canada’s “Pathway to Canada Target 1” initiative, the AFN Environment Sector is supporting the creation of First Nations’ protected and conserved areas, whereby First Nations are able to exercise their jurisdiction over broad swaths of their territories, and to have these areas recognized in Canada and in an international context.

This comes after the Chiefs-in-Assembly passed Resolution 79/2017, *Indigenous Protected and Conserved Areas*, directing the AFN to engage with the Minister of Environment and Climate Change to ensure the critical leadership role of First Nations in discussing the process for establishing IPCA nationally.

The Pathway Initiative is currently in a period of transition as the lead role shifts from the Parks Canada Agency to Environment and Climate Change Canada. The AFN remains in discussions with both departments to ensure the on-going leadership role of First Nations throughout this transition.

## NEXT STEPS

The following confirmed activities have/will take place between August 1, 2018, and October 1, 2018, led by the AFN Environment Sector:

- JCCA meeting, August 22 and 23, 2018 (Charlottetown, PEI).

- ACE meeting, October 1 and 2, 2018 (Ottawa, ON).
- FNACSAR meeting, Fall 2018 (date/location TBC).

**FISHERIES****OVERVIEW**

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The Assembly of First Nations (AFN) Fisheries Sector provides support to the National Fisheries Committee (NFC). The NFC provides advice to the National Chief and the Chiefs-in-

Assembly on First Nations fisheries, as they exercise their inherent rights and peacefully enact their jurisdiction(s) and management of their natural resources.

**UPDATE**

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Inherent Rights to Fish

The Chiefs-in-Assembly recently passed Resolution 75/2017, *National Day of First Nations Fishing Rights*, recognizing the first Monday immediately preceding May 25, 2018, as a National Day of First Nations Fishing Rights to reaffirm and exercise First Nations inherent rights to fish and manage First Nations resources.

Canadian Legislation, Law & Policy

Resolution 04/2018, *First Nations Role in Changes to the Fisheries Act*, outlines the First Nations advocacy work to protect Section 35 rights within the legislative process that seeks to amend Canada's Bill C-68, Fisheries. In particular, these changes will impact First Nations fishers who are actively participating in the fishing industry.

Resolution 05/2018, *First Nations Oceans Working Group and the Oceans Act and Marine Protected Areas*, directs the AFN to oversee the First Nations Oceans Working Group through its National Fisheries Committee in the discussions on the development of Marine Protected areas by the Department of

Fisheries and Oceans (DFO) Canada and its engagement plan for Canada's Bill C-55, Oceans Act. The Fisheries sector held its first national Oceans Working Group on March 27 and 28, 2018, in Montreal, QC.

Resolution 06/2018, *Engaging First Nations on Marine Vessels and Salvage Operations*, directs the AFN to call on the Government of Canada to provide First Nations with long-term capacity as well as respect and recognition of First Nations jurisdiction over their traditional marine areas and to work jointly on marine coast protection particularly with Transport, Fisheries and Oceans and Canadian Coast Guard under the Oceans Protection Plan.

Resolution 34/2018, *Support for Intervention in their appeal of the justification decision within Ahousaht Nation v. Canada*, directs the AFN to seek resources to apply for intervenor status for the five nations as well as other First Nations who wish to intervene in this case.

Resolution 18/2018, *Support for further study on the targeted management of seal and sea lion populations and the development of*

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*targeted management strategies*, directs the AFN to work with DFO to create an action plan on the explosive seal and sea-lion population growth that co-occurs with the decline in salmon and herring stocks for the entire BC coast.

The Fisheries Sector welcomes its new Director, Ken Paul, a member of the Maliseet First Nation in Tobique, NB (*Wolastoqwey*

*Neqotkuk*). Ken has worked 10 years as an engineer with Canada Hydrographic Service and 10 years with Parks Canada. Before coming to the AFN, he served the past 5 years as the Director of Fisheries and Integrated Resources for the Atlantic Policy Congress of First Nations Chiefs Secretariat.

### NEXT STEPS

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The following confirmed activities will take place in upcoming months:

- National Fisheries Committee – October 31 and November 1, 2018, Musquem, BC
- Oceans Working Group (TBD)
- National First Nations Fisheries Forum
- National Policy Analysis Group (Inland Fisheries) – November 27 and 28, 2018, Winnipeg, MB
- National Aquaculture Working Group meeting – November 19 and 20, 2018, Halifax, NS



**EARLY LEARNING  
AND  
CHILD CARE****OVERVIEW**

At the 2016 Assembly of First Nations (AFN) Annual General Assembly in Niagara Falls, Chiefs-in-Assembly passed AFN Resolution 39/2016, *First Nations National Working Group on Early Learning and Child Care (ELCC)*. This resolution provided the mandate for the creating a First Nation Experts National Working Group (FNWG) on Early Learning and Child Care (ELCC). This working group is to guide the development of the First Nations component for an Indigenous framework for ELCC. Development of this component is to be facilitated through the coordination of regional engagements and research.

Budget 2016 included a commitment of an additional \$100 million for ELCC in Indigenous communities, which would roll out in 2017-18. Budget 2017 further committed an additional \$7 billion over 10 years for ELCC programs and services nationally (including provinces and regions). Beginning in 2018-19, Employment and Social Development Canada (ESDC) officials have indicated that there will be an additional \$130 million available for ELCC in Indigenous

communities. The anticipated National Indigenous ELCC (NIELCC) framework is expected to guide spending for ELCC beginning in 2018-19.

The First Nations ELCC Framework was endorsed by Chiefs-in-Assembly in December 2017 through AFN Resolution 83/2017, *Support for National First Nations Early Learning and Child Care Policy Framework*. The resolution calls for the First Nations ELCC Framework to stand as the First Nation component within the co-developed National Indigenous ELCC Framework, which also includes distinction based components for Inuit and Métis. The resolution outlines support for implementation of the First Nations ELCC Framework which would also include continuing support from the FNWG on ELCC and First Nations direction and leadership as required.

The resolution also calls for the AFN to work with the Government of Canada to secure additional funding for existing ELCC programs, new investments for capital funding and to fully and separately fund capacity development related to implementation of the framework.

**UPDATE**

The NIELCC framework was formally announced in a joint event with the AFN, the Inuit Tapiriit Kanatami (ITK), the Métis National Council (MNC) and federal partners on September 17, 2018. The NIELCC Framework announcement was accompanied by a commitment of \$1.7 billion over 10 years to support Indigenous ELCC, including a specific commitment of \$1.02 billion over 10 years

for First Nations ELCC. The NIELCC Framework intends to act as a guide for Indigenous peoples to achieve their vision of high quality ELCC for their children and families, according to their own priorities, principles and goals. The NIELCC Framework takes a distinctions-based approach, and is flexible and adaptable to meet the realities and interests of Indigenous children and families.

### NEXT STEPS

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The FNWG on ELCC will support the development of regional implementation plans and make recommendations on the regional split of the First Nations-specific funding, to be taken forward to First Nations leadership for decision.





## **INDEPENDENT ASSESSMENT PROCESS AND RECORDS**

### **OVERVIEW**

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On October 6, 2017, the Supreme Court of Canada upheld an Order of the Ontario Court of Appeal that recognizes that Independent Assessment Process and Records (IAP) claimants have a choice to preserve their records, or have them destroyed. All IAP documents will be retained for 15 years, during which time IAP claimants have the opportunity to direct the Chief Adjudicator to transfer their records to the National Centre for Truth and Reconciliation (NCTR) or another archive of their choice. The 15 year archival deadline begins for the individual when their claim was settled or a final decision was rendered. The default position is that the records will be destroyed, unless the claimant agrees to share their information.

On July 4, 2018, the Ontario Superior Court of Justice approved a Notice Plan to be administered by the Chief Adjudicator of the IAP. All IAP Claimants are to be provided with notice of their ability to preserve their IAP records, subject to required redaction, with the NCTR.

The Chief Adjudicator of the IAP will develop a number of communication products for public distribution. These products will be consistent with the Court-approved Consent Form, and will include a multi-media campaign, a pamphlet, a poster, a postcard, and videos about the IAP, the consent form, and the NCTR. The 15-year Retention Period for IAP documents has been set from September 19, 2012 until September 19, 2027.

### **UPDATE**

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The overall objective of the Notice Program is to notify all IAP and Alternative Dispute Resolution (ADR) Claimants about their options regarding their IAP & ADR records. The intent is not specifically to obtain requests for copies of records or for archiving of those records - which ultimately will be the choice of each claimant - but rather to ensure that all claimants are informed of their right to determine what is done with their records.

All individuals who applied for compensation under the IAP have the following choices for the final disposition of their records:

- do nothing: their records will remain confidential and will then be destroyed on September 19, 2027;
- get a copy for themselves to keep or share with others;

- preserve them for history, public education and research at the NCTR; or
- get a copy for themselves *and* preserve them for history, public education and research at the NCTR.

For those individuals who decide to preserve their records at the NCTR, they have a choice of two ways to do that: restricted access or open access. In either case the NCTR will use and share their records for public education and research to promote reconciliation. The NCTR is committed to the respectful and dignified use of records and of doing no harm:

- **Restricted access** means the NCTR may use and share records with the public for purposes such as education, but only if the NCTR removes all personal and identifying information. Personal

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information means information that identifies a person or could be used to identify the Claimant. Personal information will be held by the NCTR and may be made available to researchers, but only under strict confidentiality conditions. Personal information will not be available to the public and will not be published. One's family will not be allowed to see the records.

- **Open access** means the NCTR may use your records and personal information, including your name, for education and research to promote reconciliation, including by sharing

with the public (which may include your family). However, the NCTR will not disclose certain personal information, such as your address, phone number or First Nation to the public.

Records archived at the NCTR are managed according to Manitoba laws, including *The National Centre for Truth and Reconciliation Act*. IAP records will not be disclosed through access requests under *The Freedom of Information and Protection of Privacy Act*. IAP records will ONLY be made available as permitted by the consent signed by a former student of an Indian Residential School.

## NEXT STEPS

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During the fall of 2018, training will be provided to Indigenous organizations that provide services under the Resolution Health Support Program (RHSP), as well as other organizations, such as the NCTR, the Records Agent - Crawford, the Assembly of First Nations (AFN) and members of the Inuit Representative, which will have roles in the Notice Program.

Commencing January 1, 2019, the distribution phase will begin where information will be disseminated to claimants. The distribution phase is further broken down into four sub-phases, as detailed below.

**Phase 1 – Multi-media Campaign:** Notice of information will be distributed through various print, television, radio and social media. A dedicated website [www.MyRecordsMyChoice.ca](http://www.MyRecordsMyChoice.ca) will be launched, and the Secretariat's toll-free IAP Information Line, which has been in use for the last 10 years, will continue to be maintained.

The AFN will also have dedicated staff to answer any questions Claimants may have. The AFN has set up a toll free number (1-833-212-2688) and email address ([iapdesk@afn.ca](mailto:iapdesk@afn.ca)) for claimants to contact our staff. These will remain in effect for two years.

**Phase 2 – Distribution of Posters and Information Packages:** Information packages, posters, and postcards will be sent to First Nation, Métis & Inuit communities, Indigenous & Inuit Organizations, Friendship Centres, Correctional Centres, Tribal Councils, and other partners/stakeholders. Further mail-outs may occur throughout the distribution phase. To protect claimants' confidentiality, these will be provided in bulk in a general-distribution approach.

**Phase 3 – Community notices:** The Secretariat staff will reach out and partner with Indigenous communities across Canada to provide notice on local radio stations, local newsletters and links on their websites. These notices will be in the language of the community media type.

**Phase 4 – Ongoing Information for the Duration of the Record Retention Period:** The dedicated website and information line will be maintained throughout the 15-year Record Retention Period, to continue to provide information to claimants. The mailing address for Consent Forms will be updated to include the processing centre of the Records Agent – Crawford.

**WORKING GROUP ON CANNABIS****OVERVIEW**

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Bill C-45 will legalize and regulate the sale, distribution and taxation of cannabis for recreational use in Canada. Furthermore, Bill C-46, which amends the Criminal Code of Canada and other legislation to reflect these changes, is also set to be enacted. The Bills collectively increase penalties for offenders who grow, distribute and sell cannabis outside of the legal framework. The Bill received Royal Assent on June 21, 2018, and came into force on October 17, 2018.

In response to the impending legalization of cannabis and its potential impacts on First Nations, the establishment of a national Task Force has been developed to manage emerging issues related to the decriminalization of cannabis. The mandate of the Task Force is to provide advice, develop informational materials and make recommendations. The Task Force will take into account health and safety, social, jurisdiction and economic factors to First Nations.

**UPDATE**

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- The responsibility for regulating cannabis distribution rests with the provinces, who are free to set more stringent limits than the federal minimums. Most provinces have set the minimum age for purchasing cannabis at 19 while the federal minimum stands at 18. Other restrictions may apply, with Quebec and Manitoba choosing to ban any cannabis cultivation in private homes. It has also announced a zero tolerance policy with respect to impaired driving.
- Some provinces, such as Alberta and British Columbia, will permit the public consumption of cannabis anywhere smoking is permitted, unless children are present. Conversely, in the Yukon, consumption will be restricted to private homes. Certain jurisdictions, namely Manitoba, Quebec and the Northwest Territories, have indicated that municipalities will be able to restrict the sale of cannabis if they so choose. Only Nunavut has proposed that dry communities will not be permitted. This would impair First Nations control over their own territories and communities.
- Encouragingly, the governments of Ontario and Quebec have expressed their willingness to enter into agreements with First Nations to share profits from the sale and distribution of cannabis.
- The national Assembly of First Nations (AFN) Task Force on Cannabis is currently chaired by Regional Chief Ghislain Picard, as well as representatives from the AFN's Youth Council, Women's Council and Elder's Council. There are also representatives from a First Nations Health Agency and a First Nations Police Agency.

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- The AFN Working Group on Cannabis, had their inaugural meeting on June 8, 2018. The task force has been working to facilitate communications, coordinate dialogue and engagement with First Nations to better consider implications related to the legalization of cannabis.
- To date, preliminary discussions have begun with the Non-Insured Health Benefits Joint Review Steering Committee to add medical cannabis to the formulary.
- Supporting documents have been developed including a literature review of medical cannabis, a cannabis primer and infographics on medical and recreational cannabis.

### NEXT STEPS

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- Developing a tri-lateral round table including federal, provincial and territorial governments.
- Distribution of cannabis infographics and informational materials to First Nations.
- The AFN Working Group on Cannabis will be developing a national summit for input and feedback from First Nations, awareness building and recommendations. This is expected to occur in the fall of 2018/early 2019.



**GAMING****OVERVIEW**

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The federal and provincial governments share concurrent jurisdiction over gaming. The federal government has jurisdiction over gaming under section 91(27) of the *Constitution Act, 1867*. Provincial governments have jurisdiction over gaming and the licensing of gaming activities pursuant to sections 92(7), (9) and 13) of the *Constitution Act, 1867*.

Although Aboriginal and Treaty rights defences are typically advanced in response to *Criminal Code* charges for conducting unlawful gaming activity, to date no court in Canada has been willing to recognize a First Nation section 35(1) Aboriginal or Treaty right to regulate gaming on First Nations lands on application of existing Canadian legal tests. First Nations have asserted inherent jurisdiction over gaming. However, where First Nations, in an exercise of their inherent or Treaty rights, establish or conduct gaming operations on First Nations lands, they inevitably find themselves in court defending charges for *Criminal Code* offences. Some First Nations have applied for provincial licenses to conduct gaming operations on First Nations lands. Others have entered into agreements with provincial governments to share revenues from gaming operations located on and off First Nations lands.

***Criminal Code of Canada***

As all forms of gaming are considered illegal, unless the gaming activity or operation falls

within the exemptions set out at section 207 of the *Criminal Code*, at a minimum, the *Code* will have to be amended to create an exemption for a First Nations entity to manage and conduct gaming operations on First Nations lands.

***1985 Federal/Provincial Agreement***

In 1985, the Government of Canada and the Provinces entered into an agreement regarding the management and conduct of gaming. Under the 1985 agreement, the federal government agreed to “refrain from re-entering the field of gaming and betting ... and to ensure that the rights of the provinces in that field are not reduced or restricted.” To implement the 1985 agreement, the federal government amended the *Criminal Code* to divest itself of any capacity to conduct lottery schemes, which include casino table games, card and wheel games, slot machines and bingo games.

During the 2017 Assembly of First Nations (AFN) Annual General Assembly, a gaming dialogue session was organized which provided the participants with an opportunity to discuss inherent jurisdiction over gaming. Many participants shared their perspectives on engaging with the provinces, the federal government and law enforcement as well as the implications of the 1985 Agreement and the possibilities for trilateral discussions between First Nations, the federal and provincial governments.

### UPDATE

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AFN National Chief Bellegarde and the AFN Executive Committee held the first Chief's Committee on Gaming on March 20, 2018, at the Dakota Dunes Casino in Whitecap, SK. This meeting brought together Chiefs from across Canada, various gaming operators and regulators. Participants discussed gaming

operations and the various challenges First Nations experience under current legal frameworks. Furthermore, they discussed ways to engage with governments and possible options for First Nations to assert their inherent rights and take full advantage of the economic possibilities gaming offers.

### NEXT STEPS

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The Chief's Committee on Gaming will meet again to discuss options to remove the existing barriers for First Nations in asserting their inherent jurisdiction over gaming and options for First Nations to fully participate in

the gaming economy in Canada. This will involve discussions on amending s. 207 of the Criminal Code with representatives from the Department of Justice.





## **NEED FOR FIRST NATIONS ACCESSIBILITY (DISABILITY) SUPPORTS**

### **OVERVIEW**

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The Assembly of First Nations (AFN) has been raising awareness and gathering the views of First Nations persons with disabilities (FNPWD), First Nations governments, and other organizations, on topics related to accessibility needs and distinct legislation. This discussion links to Bill C-81, *An Act to ensure a barrier-free Canada, (Accessible Canada Act)* which received First Reading on June 20, 2018. The Bill will be debated in the fall of 2018 in Parliament before receiving Royal Assent. The Act would apply, generally, to groups under federal responsibility, including banking and financial sectors, government departments, Parliament, federal funded organizations, and others. The Act is expected, if passed, to develop, implement and enforce accessibility standards, and monitor outcomes in priority areas. These accessibility standards include: employment; procurement of goods and services; program and service delivery; transportation; the built environment; and information, communications and technology.

The AFN's work supports the implementation of several Chiefs-in-Assembly resolutions on disability related matters. These include AFN Resolution 55/2016, *First Nation Federal Accessibility Legislation*, which calls on the federal government to support a distinct First Nations engagement process, and AFN Resolution 105/2016, *Establish an Office of Disabilities Unit at the AFN*, which recommends dedicated policy supports and to

develop a Regional Advisory Disability Task Force. AFN Resolution 98/2017, *Distinct First Nations Accessibility Legislation*, directs the AFN to work with Employment and Social Development Canada (ESDC) to develop distinct legislation to support First Nations unique accessibility needs and to secure resources from the federal government to carry out this work.

More recently, AFN Resolution 24/2018, *Increased Focus on Disabilities Centered on Human Rights*, and AFN Resolution 38/2018, *Ensuring Accessibility at the Assembly of First Nations*, were passed at the AFN Annual General Assembly in Vancouver, July 24 to 26, 2018. AFN Resolution 8/2018, *Resources for Engagement on Distinct First Nations Accessibility Legislation*, was passed at the AFN Special Chiefs Assembly (SCA) on Legislation on May 1 and 2, 2018, in Gatineau, Quebec.

AFN Chiefs-in-Assembly mandated the Chiefs Committee on Human Resources Development (CCHRD) to work with ESDC to secure long-term funding to support FNPWD and First Nations governments. This is in addition to advocating for regional level funding for capacity building to meaningfully inform distinct First Nations accessibility legislation and further policy work along with the inclusion of American Sign Language as

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part of the AFN future assemblies and conferences.

Budget 2016 allocated \$2 million over two years, starting in 2016–2017, to support the participation and input of Canadians with disabilities towards the proposed legislation. The AFN submitted proposals to ESDC to secure funding for two fiscal years, 2016-17

and 2017-2018; to receive input from FNPWD, First Nations governments, and organizations on varying disability related themes. The AFN has undertaken a number of activities to engage FNPWD and First Nations governments to inform this development; including three national webinars, several surveys, key informant interviews, and reports posted on the AFN website at [www.afn.ca](http://www.afn.ca).

### UPDATE

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- In January 2018, ESDC confirmed additional funding for fiscal year (2018-2019) to support further engagement with FNPWD and First Nations governments.
- The activities mandated by AFN resolutions are: to develop distinct First Nations accessibility legislation; to establish a Regional Task Force on Disabilities to support and build a national framework; identify regionalized funding for regional capacity building; advocate for culturally safe programs/ services; and to set up a centre of excellence, and other directives.
- Continue to work with ESDC as a lead department toward implementation of the UN Sustainable Development Goals (SDGs), Agenda 2030 - *leaving no one behind*.

### NEXT STEPS

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- The AFN Economic Sector continues to work with ESDC to ensure mandated disability related work receives the necessary attention and investments to inform distinct First Nations accessibility legislation and other activities.
- The AFN Economic Sector continues to update the Chiefs Committee on Human Resources Development (CCHRD), along with AFN leadership opportunities to meet with Minister Carla Qualtrough, the Minister responsible for the accessibility portfolio; and leadership opportunities to present to the House of Commons and/or Senate of Canada on Bill C-81 being debated in the fall of 2018.

**JORDAN'S PRINCIPLE****OVERVIEW**

In 2007, the Assembly of First Nations (AFN), in partnership with the First Nations Child and Family Caring Society (Caring Society), launched a case at the Canadian Human Rights Tribunal (CHRT) alleging that Canada discriminates against First Nations children by underfunding First Nations Child and Family Services programs on reserve and called for the full implementation of Jordan's Principle. On January 26, 2016, the CHRT ruled that Canada's failure to ensure First Nations children can access government services on the same terms as other children via a mechanism known as Jordan's Principle was discriminatory and contrary to the law.

The CHRT has issued four compliance rulings and the April 2016 ruling required Canada to immediately take measures to address a number of its findings and provided a clear definition of Jordan's Principle to apply to all First Nations children and all jurisdictional disputes. As a result of these orders from the CHRT, Jordan's Principle is now a legal principle. Jordan's Principle requires the federal government to provide services to all First Nations children regardless of where they live, within 12 to 48 hours, ensuring there are no gaps in government services for First Nations children, and the removal of jurisdictional disputes so that children do not have to wait for services while government departments determine who pays for the service. When a government service is not

necessarily available to all other children the government must still evaluate the needs of the child to ensure substantive equality.

As per Resolution 83/2016, *National Advisory Committee on INAC's Child Welfare Reform Engagement Strategy*, the National Advisory Committee on Child and Family Services Program Reform (NAC) was re-established and provides key recommendations for medium- and long-term relief related to the Tribunal decisions, and provides general advice on program reform, including the application of Jordan's Principle. In an effort to organize their work, the NAC has created Action Tables each with its own area of focus, including a Jordan's Principle Action Table.

The Jordan's Principle Action Table is oriented towards proposing policy options for the extension of federal program authorities, support for service delivery models, and funding to fully implement Jordan's Principle. This work is being done with representatives of the Government of Canada and representatives of First Nations across Canada, including the AFN.

In July 2016, the government of Canada announced \$382M in new funding to implement Jordan's Principle and created an interim three year approach called the Child First Initiative (CFI). The CFI is a needs-based approach meant to ensure access to services

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without delay or disruption, and is in place until 2019, at which time Canada has made an ongoing commitment to an inclusive national engagement process that will yield a

sustainable, long-term approach to Jordan's Principle. The Jordan's Principle Action Table is informing this work.

### UPDATE

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- Since June 2017, the Jordan's Principle Action Table has been supporting the co-development of long-term policy options for Jordan's Principle, which will inform a Memorandum to Cabinet in fall 2018.
- The Jordan's Principle Action Table has proposed a phased approach to the implementation of the full definition of Jordan's Principle recognizing that First Nations have not had sufficient time to determine how they want to implement the Principle. The Action Table is, therefore, proposing to seek a mandate and funding to support First Nations-led dialogue. This will support dialogue, visioning, needs assessment and planning for what is still unknown in terms of service needs, how First Nations want to organize to deliver services, or how they want to implement Jordan's Principle for themselves.
- The long-term policy options being proposed for Jordan's Principle will call for greater First Nations control of services for First Nations children and families in addition to enhanced and ongoing funding for child-centered, needs-based and First Nation-based programs and services. The Action Table has emphasized that First Nations should not be limited by current program authorities and eligibility, and a more holistic policy authority would be a means to facilitate a single transfer of funding to First Nations to plan for and realize their vision for children and families.
- In July 2018, Chiefs-in-Assembly passed Resolution 27/2018, *Support for the long-term implementation of Jordan's Principle*, and the work of the Jordan's Principle Action Table.
- The AFN hosted a two-day Jordan's Principle Summit on September 12 and 13, 2018, in Winnipeg, MB, to share best practices and innovative approaches to implement Jordan's Principle and discuss the long-term approach to Jordan's Principle as defined by First Nations.

### NEXT STEPS

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- Move forward with the Jordan's Principle Action Table work.
- Co-development of policy options for a fall 2018 Memorandum to Cabinet to inform the full implementation of Jordan's Principle, as directed by regional discussions and the Jordan's Principle Action Table.
- Call on Canada to continue to invest in and implement Jordan's Principle beyond March 31, 2019, as well as to invest in capital costs required for the local delivery of health, social, and education programs and services for First Nations children and families.



## **ON-RESERVE INCOME ASSISTANCE PROGRAM & ASSISTED LIVING PROGRAM**

### **OVERVIEW**

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The On-Reserve Income Assistance (IA) and Assisted Living (AL) Programs are social programs funded by Indigenous Services Canada (ISC). The IA Program provides income assistance to eligible persons living on a First Nation to meet their basic needs. The IA Program also employs an active measures approach, known as Pre-Employment Supports (PES), which provides programming to help individuals move from income assistance to education and employment. The AL Program provides non-medical social support services to help eligible First Nations persons maintain their independence.

In 2017, ISC announced that it was going to be making changes to the IA and AL Programs. Notably, ISC suggested making changes to the Data Collection Instrument (DCI), which is the data and information collection mechanism that First Nations use to track IA and AL client information, and to report that information to ISC.

At the December 2017 Special Chiefs Assembly, in Gatineau, Quebec, Chiefs-in-Assembly passed Resolution 108/2017, *Case Management Services for Income Assistance Recipients*. This resolution speaks to the PES component of the IA Program, and the work to support IA clients access services to help them transition from income assistance to education and employment.

Following this resolution being passed, the federal government announced in the 2018 Federal Budget that it was going to provide \$78.4 million over two years (2018/19-2019/20) to continue supporting PES. The 2018 Budget also announced that it would provide \$8.5 million over two years (2018/19-2019/20) to fund engagement processes to improve the IA Program, and make the program more responsive to the needs of First Nations.

As a result of this announcement, there have been a number of meetings between ISC officials and First Nations social development technical experts, most recently in June 2018. At the last meeting in June 2018, ISC officials and First Nations social development technical experts discussed changes and developments to the IA and AL Programs. They also discussed the need to firmly establish a Technical Working Group on Social Development.

At the July 2018 Annual General Assembly in Vancouver, British Columbia, Chiefs-in-Assembly passed Resolution 28/2018, *Support for the Establishment of a Technical Working Group on Social Development*. This resolution calls upon the AFN to support the creation of a Technical Working Group on Social Development, and asks AFN regional chiefs to appoint a representative to the Working Group's membership.

### UPDATE

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After ISC announced that it was going to make changes to the DCI, ISC proceeded to engage First Nations across Canada between October 2017 and April 2018 to receive their input on potential changes to the DCI. Having now completed the engagement processes, ISC has stated they are going to implement the changes to the DCI in light of the feedback and input they received from First Nations.

Beyond the DCI, there are other proposed changes to the IA Program. More specifically, ISC has proposed to change the IA Program to make it more relevant to the needs of First Nations. This includes making the program compatible with regional conditions, local economies, as well as improving support for individuals who are moving from income assistance to education and employment. Before ISC goes through with these changes,

however, ISC will engage First Nations to gather their input on what changes to the program should look like.

The 2018 Budget announced \$8.5 million for the IA Program reform engagement processes over two years (2018/19-2019/20). These engagements are set to begin in September 2018, and run through until April 2019. These engagement processes will be First Nations-led, with ISC providing support when needed.

On September 25-26, 2018, the newly established Technical Working Group on Social Development will meet with ISC officials in Ottawa, Ontario. They will discuss upcoming changes to the IA and AL Programs, as well as address any remaining issues and challenges before the IA Program Reform engagements begin.

### NEXT STEPS

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The AFN Social Development Secretariat will continue to advocate for improving the social condition of First Nations. This includes helping organize opportunities for the newly established Technical Working Group on Social Development to meet with ISC, as well as providing support to First Nations regions and communities.

The Social Development Sector is currently helping organize the next meeting between the Technical Working Group and ISC officials in Ottawa, Ontario, on September 25 and 26, 2018. At this meeting, in addition to discussing issues and changes to the IA and AL Programs, the Technical Working Group will also help determine the date of their next meeting with

ISC officials. They will also help in determining the setting and date of the next National Forum on Income Assistance, which will take place sometime in 2019.

The first National Forum on Income Assistance was held in February 2018 in Ottawa, Ontario. It brought together government officials, First Nations leaders, income assistance support workers, as well as current and former income assistance clients. The purpose of the National Forum was to have participants listen to guest speakers, share best practices, and network. Participants at the February 2018 National Forum emphasized the success of the Forum, and stated they would like to attend subsequent ones in the future.



## **INDIGENOUS PEOPLE'S HOUSE**

### **OVERVIEW**

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The Assembly of First Nations (AFN) is working with partners to develop a vision for the future use of the Indigenous Peoples House.

On June 21, 2017, Prime Minister Justin Trudeau announced that the former American embassy would become a space for Indigenous peoples, with its function and use to be determined in partnership with AFN, Inuit Tapiriit Kanatami (ITK), the Métis National Council (MNC) and Canada.

The Indigenous Peoples House project will encompass the 100 Wellington Street building, 119 Sparks Street (currently a CIBC bank), and a future infill to connect the two existing buildings.

Chiefs-in-Assembly passed Resolution 29/2017, *100 Wellington Street*, in July 2017, giving the AFN a mandate to initiate a process to determine the most effective use of the 100 Wellington street space as an Indigenous Peoples House.

Resolution 29/2017 also directed the AFN to make sure that the appropriate protocols with the Algonquin Nations are engaged and to ensure Algonquin involvement.

In February 2018, the Department of Crown Indigenous Relations convened representatives from the AFN, ITK, and MNC to provide an update on the potential timing and resourcing for the project.

### **UPDATE**

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The AFN has engaged the Algonquin First Nations, to discuss and identify appropriate protocols.

The AFN circulated a video update on the project and a survey in July 2018 to gain First Nations input on the vision and use of the future Indigenous Peoples House.

Preliminary survey results indicate the desire to use the facilities as an embassy function for First Nations whereby public relations and public education could be facilitated.

### **NEXT STEPS**

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The AFN is proactively engaging with other project partners on preferred approaches for governance, vision, and timing.

The AFN will continue to engage the Algonquin First Nations to continue a respectful process.

The AFN is actively pursuing resources to support the development of a vision for the Indigenous Peoples House project and support Algonquin engagement in the project.

