



**FIRST NATIONS CHIEFS OF POLICE ASSOCIATION
(F.N.C.P.A.) reaction to**

***2014 Spring Report of the Auditor General of Canada
Chapter 5 – First Nations Policing Program
– Public Safety Canada***

- 2014 -

Introduction.....2
FNCPA reaction to the recommendations of the AG Report.....2
FNCPA views on future of the FNPP.....8
Snapshot of the First Nations Chiefs of Police Association.....9
FNCPA mission and mandate.....10
Appendix: Policy Principles of First Nations Policing Policy.....11

Introduction

The First Nations Chiefs of Police Association (FNCPA) has reviewed and discussed the *2014 Spring Report of the Auditor General of Canada, Chapter 5 – First Nations Policing Program – Public Safety Canada* (AG Report), released on 6 May 2014. The FNCPA's reaction to its findings is offered for the information of the Governments of Canada and the provinces, Members of Parliament, the broader policing and police governance communities, and all those who believe that First Nations (FN) communities are entitled to a voice in how policing services are delivered to them.

FNCPA reaction to the recommendations of the AG Report

The FNCPA recognizes that this audit is a performance audit designed to assess how well the government is managing the FNPP. It is not a review of the quality of policing services provided to FN communities, and the scope of the audit does not include the performance of non-federal organizations, FN, or FN organizations. The FNCPA recognizes that, while the AG Report comments on policy implementation, it is not intended to and therefore does not comment on the *merits* of a policy.

The FNCPA supports the eight (8) recommendations of the AG Report and is committed to working with federal and provincial officials and FN communities to ensure continuation, enhancement and a strong and sustainable future for the First Nations Policing Program (FNPP). It is with this intent that the FNCPA offers its reaction to the observations and recommendations presented in the AG Report.

Legislative Framework

The FNCPA supports the AG Report recommendation **5.25**:

Public Safety Canada should work with the Province of Ontario and First Nations to ensure that all self-administered agreements funded through the First Nations Policing Program clearly state that First Nations policing services comply with the provincial legislative framework that applies to all policing services in the province.

FN police services in Ontario and the communities they serve require a legislative framework that regulates policing standards and practices over a range of issues including levels of service, staffing, training, equipment and communications technology, accountability and governance, as well as police detachment and staff facilities.

Principles of the First Nations Policing Policy

The AG Report includes recommendation **5.29**:

Public Safety Canada should take appropriate measures to update the principles of the First Nations Policing Policy and incorporate these updated principles in the First Nations Policing Program's terms and conditions and, as applicable, in the policing agreements.

The AG Report does not speak to the validity of the FNPP policy principles, but addresses whether they are incorporated into the policing agreements that were reviewed; the AG's finding is that not all policy principles were incorporated in the agreements.

The *First Nations Policing Policy* (Minister of Supply and Services Canada 1996) sets out the purpose and scope of the policy, three objectives, and ten policy principles that underpin the policy framework. These principles have been validated and endorsed during each evaluative process undertaken by or for Public Safety Canada since then. Indeed, well before the AG Report was issued, Public Safety Canada's 2009-2010 Evaluation of the First Nations Policing Program examined the relevance of the FNPP from both policy and performance perspectives and came to similar conclusions. On policy, the evaluation concluded that

- the founding principles of the FNPP remain relevant today and the need is greater now than when the FNPP was created. First Nation and Inuit communities continue to have a need for police services that are professional, effective, culturally appropriate, and accountable to the communities they serve.; and
- the FNPP is aligned to the Government's policy initiative of "Keeping Canadians Safe".

In its response to this AG Report recommendation, Public Safety Canada has indicated that the First Nations Policing Policy principles of 1996 are considered "outdated and impractical". They have further indicated that, as the third step in the Comprehensive Review of the FNPP, policy options will be developed to guide the future direction of the FNPP. It is the hope of the FNCPA that the development of policy options will include appropriate *policy* and *operating* principles. In this regard, the FNCPA expresses here its members' support of, and agreement with, the 1996 policy principles.

Accessibility and Transparency

The AG Report addresses accessibility and transparency in recommendation **5.37**:

Public Safety Canada should ensure that the First Nations Policing Program is accessible and transparent, and operated in full compliance with Treasury Board's Policy on Transfer Payments and Directive on Transfer Payments.

This recommendation is based on two sets of observations. First, the AG noted a lack of information about how many and which FN communities have sought access to the FNPP and have submitted an application for this purpose. Second, the AG noted an opaque and undocumented process for assessing applications, choosing recipients and allocating FNPP funds.

With respect to accessibility, it is the experience of the FNCPA that many FN communities express interest in the FNPP and wish to move to a SA FN policing model. The FNCPA welcomes increased accessibility to the program on two fronts: information about the FNPP becoming widely known among FN communities and funding levels that would accommodate new entrants into the FNPP. On the issue of transparency, the FNCPA similarly welcomes the clearer eligibility criteria and selection process as set out in the 2014 Terms and Conditions for Contribution Funding Under the First Nations Policing Program.

Another element of transparency, outside the purview of the AG Report, is the sound financial management of funds received by SA FN police services. On this issue, the FNCPA emphasises that SA FN police services strive to achieve transparency and accountability to governments and to their communities, and pride themselves on adopting the most stringent planning, accounting and reporting practices.

Definition of policing services

The AG Report notes the lack of definition in recommendation **5.44**:

Public Safety Canada should clarify what specific policing services the First Nations Policing Program is intended to fund and should ensure that

- *the Program intent is reflected in the agreements that are funded by the Program, and*
- *policing services funded by the Program are not replacing provincial policing services.*

Public Safety Canada, according to the AG Report, understands that the FNPP “is intended to enhance existing policing services in First Nations communities...[and] not intended to replace core policing services that are normally provided by the provinces”. This distinction between core and enhanced policing services has never been clearly stated, and neither term appears in the First Nations Policing Policy (1996).

The reality of policing in remote FN communities is that the SA FN police service is the primary and first responder to all incidents that arise in the community. This is not to say that the provinces have no responsibility to respond and support, but the reality of the extraordinary demands on SA FN police services must be recognized. FNCPA therefore endorses the clarification of what policing services can be funded under the FNPP as they now appear in the Terms and Conditions for Contribution Funding Under the First Nations Policing Program.

Meaningful FN input into policing agreements

The AG Report makes recommendation **5.50**:

Public Safety Canada should ensure that First Nations have meaningful input when entering into new and renewed policing agreements.

The FNCPA recognizes that governments may prefer to seek input from individual FN communities in the context of new or renewed policing agreements, but suggests that a wider consultation process would be beneficial to both governments and communities. In addressing the membership of the FNCPA as recently as 2013, Public Safety Canada officials stated that it was “critical to hear from you, as First Nation Chiefs of Police, about your priorities, needs and expectations for the next four years...[and] as we consider the future of the Program”.

For FN, policing arrangements represent an important component of the relationship between FN and governments. The FNCPA remains fully committed to offering input in the form of collective views, experiences and perspectives of its members, in the context of the advancement and sustainability of self-administered First Nations’ policing.

Building and policing facility standards

The AG Report findings on policing facilities are expressed in recommendation 5.62:

Public Safety Canada should work with provinces and First Nations to develop mechanisms that will provide reasonable assurance that policing facilities located in First Nations communities and used to support policing services funded through First Nations Policing Program agreements comply with applicable building and policing facility standards.

The AG Report notes the numerous previous occasions in which deficiencies of facilities have been documented. Despite injections of funds for minor capital, the situation prevails and there remain facilities that require replacement or upgrading in order to meet the National Building Code of Canada and the National Fire Code. Accordingly, the FNCPA strongly supports this recommendation.

In addition, the FNCPA notes that adherence to national standards is extremely demanding in remote northern communities, where the costs incurred to deal with the harsh climate, heavy usage of facilities, lack of potable water, and inflated costs for fuel, electricity and technical support impose particular challenges.

Funding for policing facilities

Related to the previous recommendation, the AG Report addresses the facilities funding issue in recommendation **5.66**:

Public Safety Canada should review whether there are more economical ways than leasing to provide funding for policing facilities to First Nation communities that receive policing services funded under the First Nations Policing Program.

The FNCPA supports this recommendation, recognizing that funding for all government programs is finite and that economies can be achieved without compromising service delivery.

Measuring performance of the FNPP

The AG Report addresses the issue of performance measurement in recommendation **5.71**:

Public Safety Canada should measure and report on the performance of the First Nations Policing Program in a manner that brings together financial and non-financial information to link management of risks, attainment of objectives, and results.

From the perspective of the FNCPA, in considering the future of the FNPP, the most important measure is its effectiveness in achieving the objectives of the First Nations Policing Policy, viz.:

- *Strengthening Public Security and Personal Safety*: To ensure that First Nations peoples enjoy their right to personal security and public safety. This will be achieved through access to policing services that are responsive to their particular needs and that meet acceptable standards with respect to the quality and level of service.
- *Increasing Responsibility and Accountability*: To support First Nations in acquiring the tools to become self-sufficient and self-governing through the establishment of structures for the management, administration and accountability of First Nations police services. Such structures will also ensure police independence from partisan and inappropriate political influence.
- *Building a New Partnership*: To implement and administer the First Nations Policing Policy in a manner that promotes partnerships with First Nations communities based on trust, mutual respect, and participation in decision-making.

However, a series of significant definitional issues remain that apply to policing generally and not exclusively to FN policing:

- to define in some meaningful way what police activities constitute “front-line policing”,
- to develop a formula or mechanism that would allow decision-makers to determine appropriate, measurable and correlated levels of both police resources and police service levels,

- to incorporate factors such as geographic, demographic, social and economic realities and disparities into the determination of resource and service levels,
- to build performance indicators and measures for efficiency and effectiveness.

FNCPA views on future of the FNPP

It is with an eye to the future that the FNCPA emphasises its support for the founding principles of the First Nations Policing Program as set out in the First Nations Policing Policy*. It is the view of FNCPA membership that those policy principles, while in some cases outdated, are essentially sound in their spirit and intent and remain relevant. It is furthermore the consensus of FNCPA members that the effort in the future ought to be in enabling the appropriate application of those principles through

- a permanent cost-shared arrangement that ensures adequate, stable, ongoing funding for a timeframe consistent with that of existing federal-provincial contractual policing agreements;
- recognition of the evolution and increased professionalism of FN policing since the inception of the FNPP;
- respect for the informed choices of FN communities on the manner in which their policing services are provided; and
- appropriate governance structures and processes.

In conclusion, the FNCPA will participate to the fullest extent possible in discussions and development of policy options, in order to provide First Nations with policing services that are professional, effective, culturally appropriate, that meet the particular needs of each community and are accountable to the communities they serve.

* attached as Appendix

Snapshot of the First Nations Chiefs of Police Association (FNCPA)

The FNCPA was formed in 1993 as a non-profit corporation whose purpose is “to serve First Nations police services and First Nations territories across Canada by facilitating the highest level of professionalism and accountability in their police services, all in a manner that reflects the unique cultures, constitutional status, social circumstances, traditions and aspirations of First Nations.”

The mission of the FNCPA is to “speak as one voice for the advancement and sustainability of self-administered First Nations’ policing in Canada, by aiding and developing innovative methods to enhance public safety and wellness, while embracing our communities’ unique cultural and traditional values.”

In 2014 the FNCPA membership is drawn from the 38 First Nations (FN) police services that are self-administered (SA) under the First Nations Policing Program (FNPP), in addition to other police organizations including the Royal Canadian Mounted Police, the Ontario Provincial Police and the Sûreté du Québec. The classes of membership are active, honorary (which includes FN Elders), sustaining, associate (not sworn police officers) and life.

The FNCPA holds an Annual General Meeting in accordance with the corporation’s By-Laws. The membership elects executive officers every two years with consecutive terms of two years maximum. The 2014-2016 Executive, elected in October 2014, is:

- Chief Doug Palson, President (Dakota Ojibway Police Service)
- Chief John Domm, Vice-President (Rama Police Service)
- Chief Debra Doss-Cody, Vice-President (Stl' atl' imx Tribal Police)
- Chief Dwayne Zacharie, Secretary-Treasurer (Kahnawake Peacekeepers)
- Chief John Syrette, Past President (Anishinabek Police Service)

The FNCPA has grown during the lifetime of the FNPP and has developed strong professional relationships with the Canadian Association of Chiefs of Police (FNCPA representative elected to Board of Directors; Policing with First Nations, Inuit and Métis Peoples Committee), the Canadian Association of Police Governance, other police services and many other national and provincial organizations.

The FNCPA Strategic Plan sets out the organization’s priorities, arrived at by consensus of the membership:

- 1) Renewal and revitalization of the FNCPA, moving beyond situations and circumstances of the past towards stability and sustainability. Re-brand FNCPA as the authoritative voice of FN policing, speaking for self-administered police services under the FNPP.
- 2) Effective policing on First Nations territories, building on effective partnerships.

FNCPA mission and mandate

The primary focus of the FNCPA is on supporting the continued evolution, professional growth and sustainability of existing self-administered First Nations police services. However, the FNCPA mission goes beyond the status quo—to “speak as one voice for the advancement and sustainability of self-administered First Nations’ policing in Canada, by aiding and developing innovative methods to enhance public safety and wellness, while embracing our communities’ unique cultural and traditional values”.

This commitment to advancing FN policing forms the mandate of the FNCPA: “to serve First Nation police services and First Nation territories across Canada by facilitating the highest level of professionalism and accountability in their police services, all in a manner that reflects the unique cultures, constitutional status, social circumstances, traditions and aspirations of First Nations”.

Quality and level of service

First Nations communities should have access to policing services which are responsive to their particular policing needs and which are equal in quality and level of service to policing services found in communities with similar conditions in the region. First Nations communities should have input in determining the level and quality of the police services they are provided.

Responsibilities and Authorities

Police officers serving First Nations communities should have the same responsibilities and authorities as other police officers in Canada. This means they should have the authority to enforce applicable provincial and federal laws (including the *Criminal Code*), as well as Band by-laws.

Responsiveness to First Nations Cultures and Needs

First Nations communities should be policed by such numbers of persons of a similar cultural and linguistic background as are necessary to ensure that police services will be effective and responsive to First Nations cultures and particular policing needs.

Police Service Options

First Nations communities should have access to at least the same police service models that are available to communities with similar conditions in the region. They should also have input in determining the model appropriate to their community.

Selection of Police Service Model

The selection of a particular model of police service should balance the need for cost-effectiveness and the particular policing needs of First Nations communities.

Implementation of New Arrangements

New First Nations administered police services should be phased in over a number of years to facilitate a successful transition.

Police Accountability and Independence

First Nations communities should have an effective and appropriate role in directing their policing service. Therefore, First Nations policing services should include police boards, commissions and advisory bodies that are representative of the communities they serve. In addition to police management and accountability, these bodies should ensure police independence from partisan and inappropriate political influences.

Police Oversight

Policing arrangements for First Nations communities should include: mechanisms for impartial and independent review of allegations of improper exercise of police powers and violations of codes of conduct; and mechanisms for grievance and redress on matters related to discipline and dismissal.

Legislative Framework

First Nations police services should be founded on a legislative framework that enables First Nations to establish, administer and regulate their police service and to appoint police officers, consistent with provincial norms and practices. The federal government will work with the provinces/territories and First Nations to promote legislation in support of First Nations policing where appropriate.

Cost-shared Arrangements

The federal and provincial governments, because they share jurisdiction, should share the cost of First Nations policing services. Within the funds available, the federal government should provide funding support as is necessary to promote national standards and to support the aforementioned principles on the basis of consistent and equitable funding arrangements.