

Information Note

Electricity Regulation in the Yukon

Justice

Issue

- The Yukon Utilities Board (“the Board”) recently issued its decision on ATCO Electric Yukon’s “Application for Rate Relief in the Yukon.”
- The Board determined that this application to refund certain money to customers is acceptable, subject to a significant change to one of the proposed rebates.

Background

- On July 18, 2022 ATCO Electric Yukon (AEY) applied to the Board for approval to rebate excess revenue accumulating in certain regulated deferral accounts to certain classes of customers.
- The application included two proposals:
 1. **Rider Y refund proposal:** To refund excess revenue in the Rate Case Reserve account (\$1.3M) to residential and commercial customers. Money in this fund is derived from Rider Y and is intended to cover the utility’s hearing costs.¹
 2. **Rider R relief proposal:** To divert excess revenue being collected from industrial customers under an existing rider (Rider R) into a new deferral account from which will be redistributed on an ongoing basis to residential and commercial customers (\$0.9M).
- On November 7, 2022 the Board issued an order responding to the application, and providing reasons for its decision:

¹ The Rate Case Reserve Fund was authorized in 2017 by Board Order 2017-01. It is a deferral account in which money collected from customers is placed in the account for hearing costs. Money in the account can be used for no other purpose. This account collects \$0.3M annually. See Yukon Utilities Board Order 2022-13, Appendix A: Reasons for Decision, p 8.

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- the Rider Y refund proposal was accepted in part. The Board agreed that the excess should be distributed back to customers, but determined it should be distributed to all customer classes, and not only to residential and commercial classes (as AEY had proposed).²
 - the Rider R relief proposal was accepted as put forward.
- As a result of this decision, the board issued order 2022-13 which directs AEY to make a compliance filing by November 30, 2022 that will reflect the Board's findings.

The Board's reasons

- In the Board's view, refunding the Rider Y amount solely to residential and commercial customers would be unjust discrimination between customer classes, which is contrary to principles governing utility rate regulation.³ Such discrimination can only occur if there is a sufficient rationale to justify different treatment, and the Board did not find the reasons put forward by AEY sufficient to meet that standard.⁴

Context of the application and decision

- It is a standard practice for utility regulators to separate customers into three general classes and create rates for each class; these are the residential, commercial, and industrial classes.
- Principles of rate setting include the premise that each class of customer should pay according to the proportion of use by that class. This prevents

²*Ibid*, p 9.

³*Ibid*.

⁴*Ibid*, p 8.

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what regulators call “cross-subsidization”, a situation where certain types of customers are unfairly saddled with paying costs that are not linked to their use of electricity.

- The proportion each class should pay is re-calculated during a General Rate Application (GRA) process, which occurs roughly every 3 years at the utility’s request. AEY, however, has not requested a GRA in over 5 years.
- Failure to request a GRA contributes to excess revenues or deficits that must be corrected with riders as previously accepted rates increasingly fall out of step with current economic conditions.
- The deferral accounts involved in this review are strictly regulated by the Board. They were created by order in 2017 as a result of AEY’s last GRA and cannot be altered except by board order.

AEY’s position and the Board’s response

- AEY argued that revenue in Rider Y from industrial customers can justifiably be refunded to residential and commercial customers (but not industrial customers) because
 - doing so aligns with the Government of Yukon’s policy, demonstrated by the Inflation Relief Rebate; and
 - some amount of cross-subsidization must be expected and has been acceptable in the past as a result of requirements in OIC 1995/90 [the Rate Setting Directive].⁵

⁵ Ibid, p 6.

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- The Board did not accept these reasons as sufficient and directed AEY to refund the excess revenue from Rider Y to all customer classes, including the industrial class. The Board stated that:
 - existing cross-subsidization due to OIC 1995/90 is mandated by that legislative instrument and not by government policy; and
 - although the Government of Yukon's policy applies to certain classes, it does not override the principle that all customers be treated equally.⁶
- In contrast, the Board accepted differential treatment in the Rider R relief proposal. The Board stated that distribution to residential and commercial customers only was acceptable in this proposal because:
 - AEY was not incurring greater costs related to increased industrial operations in Yukon Energy Corporation's service territory (the main source point of the unplanned revenue); and
 - disbursements from this account are properly considered rate relief and not refunds.

Other issues discussed

Intervenors and experts provided evidence on other, related issues that the Board considered out of scope for this review. Although their recommendations and evidence had no bearing on the Board's conclusion, the positions provide context for the review and future decisions.

- AEY's failure to request a General Rate Application:

⁶ *Ibid*, p 9.

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- John Maissan concluded that AEY was overdue for a review of its costs and revenues as it had not applied for a GRA in over five years and there has been substantial growth in industrial and residential electricity use in that time. They recommended expanding the rebates and that the Board, or alternatively the Minister, should order AEY to come forward with a 2023-24 GRA.⁷
- The Board's authority to order grant further rate relief within this application:
 - The Utilities Consumer Group (UCG) argued that the proposals were not enough and recommended increasing rate relief by \$4.5M to cover all of AEY's excess earnings. UCG's view was that the *Public Utilities Act* gives the Board authority to do that within this application.⁸
 - AEY argued that the Board's powers were limited by the application before it and that the issue of other earnings should be dealt with in a future GRA.
 - The Board commented that its jurisdiction was to make decisions on applications before it, and the larger question of rates raised by UCG was out of scope.⁹

⁷ *Ibid*, p.5

⁸ *Ibid*, p 6.

⁹ *Ibid*, p 8.

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Cooperation Agreement Signed Between SCAN Unit and Teslin Tlingit Council

Justice

Issue

- The Safer Communities and Neighbourhoods Unit (SCAN Unit) has entered into a cooperation agreement with Teslin Tlingit Council (TTC).

Background

- On January 22, 2022, the TTC General Council passed a resolution, issuing a state of emergency in response to the opioid crisis within the Teslin Tlingit community.
- The First Nation identified a need for prevention services, increased monitoring, and educational tools to improve public safety and protect the vulnerable population within the Teslin Tlingit community.
- TTC entered an agreement with the SCAN Unit to access additional supports to increase public safety, and to collaborate with the SCAN Unit in conjunction with other TTC health-related programs and services meant to assist their citizens.
- Both the SCAN Unit and TTC share a common interest in creating safer communities by addressing habitual illegal activity that negatively affects community safety.

Communication History

- The cooperation agreement was signed by TTC on October 25, 2022, and signed by the Director of Public Safety and Investigations on October 31, 2022.
- Legal discussions between the Government of Yukon and TTC began in March 2022, and continued until the signing of the agreement.
- On February 1, 2022, (by invitation) the SCAN Unit delivered a presentation to TTC's Executive Council and answered questions the Executive Council had about the operations of SCAN. It was at this meeting that a cooperation agreement was discussed.
- In April 2013, the SCAN Unit first met with TTC and delivered a presentation to the Chief and Council about the operations of SCAN. The SCAN Unit has continued to communicate with various leaders of TTC over the next several

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Cooperation Agreement Signed Between SCAN Unit and Teslin Tlingit Council

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years, responding to questions about SCAN and how the *Safer Communities and Neighbourhoods Act* could be implemented on TTC Settlement Lands.

Details of Agreement

- The purpose of the cooperation agreement is to assist TTC with the application of the *Safer Communities and Neighbourhoods Act* and the work of the SCAN Unit in responding to complaints of illegal activity at Teslin Tlingit properties on TTC Settlement Lands.
- The agreement will be guided by the principles of respect for both parties and a commitment to work together in an inclusive, open, cooperative, and transparent manner that fosters trust.
- The agreement also recognizes the importance of working in collaboration to achieve and promote improved public safety and protect the vulnerable population within the Teslin Tlingit community.
- The parties have agreed to meet annually to review the terms of the cooperation agreement and make amendments if necessary.

Next Steps

- The Public Safety and Investigations Branch will coordinate, at the request of TTC, a signing ceremony and information session for TTC regarding the new agreement. A date for this event is pending.
- The Minister of Justice or delegate will be invited to the ceremony.
- It is recommended that the Government of Yukon publish a news release at the conclusion of the ceremony.

Information Note

First Nation of Na-Cho Nyäk Dun's Community Policing Initiative

Justice

Issue

- On October 28, 2022, First Nation of Na-Cho Nyäk Dun's (FNNND) Director of Justice and Governance, Rob Gillan, provided a presentation on FNNND's community policing vision to Department of Justice officials.

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Background

FNNND's Community Policing Initiative

- FNNND's seeks to increase community and public safety supports that are designed, led and implemented by the community, primarily due to the prevalence of drug trafficking, and associated harms within the community that include ongoing victimization of FNNND's female citizens.
- Key elements of the proposal are:

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Information Note

First Nation of Na-Cho Nyäk Dun's Community Policing Initiative

Justice

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- We were advised that both FNNND's Chief and Council and citizens support the community policing initiative in principle. FNNND will begin community consultation on the initiative and undertake exploratory discussions regarding the policing function in January 2023.
- FNNND's representative has requested a meeting with the Government of Yukon's Minister of Justice to present the proposed initiative and a follow-up meeting at the officials' level in the coming months.
- Rob Gillan has an extensive background in policing and has held positions across Canada as an RCMP officer. He has also worked as a private consultant in several jurisdictions across Canada, and overseas on policing and enforcement matters. He has committed to work for FNNND for two years, starting May 2022.

Considerations

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First Nation of Na-Cho Nyäk Dun's Community Policing Initiative

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Further information: Administration of Justice Agreement

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- AJA negotiations are tripartite negotiations between the Government of Yukon, the Government of Canada and a First Nation.

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First Nation of Na-Cho Nyäk Dun's Community Policing Initiative

Justice

- In AJA negotiations, some Yukon First Nations have clearly articulated their interests in establishing future self-administered police forces and having their land and resource enforcement officers and CSOs be appointed as peace officers.
- Enforcement of First Nation laws and laws of general application are coming up in other conversations 76(1), 74(1)(a)

Further Information: Community Safety Officers

- FNNND had previously posted employment opportunities for CSOs. 76(1), 74(1)(a)

Further Information: Policing Resources

- The Village of Mayo and the FNNND are both served by a three-member RCMP detachment located in Mayo.
- Two of the Mayo RCMP detachment full-time equivalent employees (FTEs) are deployed under the TPSA and are considered core Territorial Police Service resources.

Information Note

First Nation of Na-Cho Nyäk Dun's Community Policing Initiative

Justice

- The third Mayo RCMP detachment FTE is deployed under the FNIPP and obligates the RCMP to provide services as set out in a CTA between the Government of Canada (which funds 52 per cent), the Government of Yukon (which funds 48 per cent), and FNNND.
- Due to the limited number of staff and operational requirements for 24/7 policing coverage, the Yukon's RCMP "M" Division currently employs a "whole detachment" approach to meeting the obligations of their CTAs with Yukon First Nations, in which all detachment employees are expected to fulfil CTA requirements, rather than requirements being fulfilled by one dedicated member.

76(1), 74(1)(a)

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Next Steps

- At FNNND's request, Justice officials have agreed to meet again with FNNND's Director of Justice and Governance to further discuss and understand their proposal and to potentially explore short-term solutions to address some of the FNNND's interests related to CTAs.
- Ongoing national conversations surrounding sustainable funding for CSO programs, the future of First Nation police services, AJA negotiations and Self-Government Agreements will factor into long-term solutions available to the community. As the outcomes are currently unknown, Justice officials will work with the FNNND to identify interim solutions.

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Fall 2022

Budget (Significant Changes)

Justice

Recommended response:

- The Department of Justice promotes a high quality and cost-effective justice system, where Yukon laws are fair, accessible and impartially administered.
 - We build relationships with our partners to support good governance; encourage innovation; foster safe communities; and support culturally relevant services.
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Context:

- Questions may be raised with respect to the Department of Justice's budget and expenditures.
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Background:

Negotiations of Administration of Justice Agreements

- The Government of Yukon has directed an ongoing increase of \$654,000 to resource the territorial government's participation in Administration of Justice Agreements and justice-related negotiations with First Nations governments and the Government of Canada (Canada). This increase began in the 2020–21 fiscal year.
- This funding supports a new government approach and paradigm shift to justice-related matters and negotiations with First Nations governments and is expected to result in more justice-related agreements, as well as capacity-building initiatives.

Family Information Liaison Unit (FILU)

- The Family Information Liaison Unit (FILU) provides centralized, coordinated supports for family members of Missing and Murdered Indigenous Women, Girls and Two-Spirit Plus People, and assistance to access information related to their loved one's case.

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1**Fall 2022**

Budget (Significant Changes)

Justice

- FILU is funded by Canada through an agreement that will be in place until March 31, 2023. For 2022–23, The Government of Yukon will receive \$285,000 from Canada with funds 100 per cent recoverable.

Historical Case Unit (HCU)

- The Government of Yukon has earmarked \$420,000 for the Territorial Police Services budget for the HCU.
- This funding was provided in 2018–19 for three years and was supposed to end on March 31, 2021.

Gun and Gang Violence Action Fund (GGVAF)

- The Government of Yukon has approximately \$773,000 allocated for the 2022–23 fiscal year in time-limited funding for the GGVAF.
- This funding is 100 per cent recoverable from Canada.
- The GGVAF Contribution Agreement has enhanced the Government of Yukon's capacity by training enforcement personnel, improving information sharing, seeking to prevent gang involvement and increasing local awareness of gang-related issues.

Community Safety Officer (CSO) Program

- The Government of Yukon has allocated a one-year extension of \$400,000 for the 2022–23 fiscal year for the CSO program with Kwanlin Dün First Nation (KDFN).
- Canada and the Government of Yukon have agreed to cost share funding for KDFN and Selkirk First Nation for 2022–23 and 2023–24.
- The recovery from Canada for this additional funding is 52 per cent.

[Cross reference -
BN #140 AJA Negotiations,
BN #100 FILU,
BN #60 Community Safety Officers]

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Fall 2022

Budget (Significant Changes)

Justice

Approved by:



Acting Deputy Minister, Justice

2022-10-20

Date approved

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Fall 2022

COVID-19 Measures and Response

Justice

Recommended response:

- The Government of Yukon has a Pandemic Coordination Plan, and the Department of Justice is working with all government departments to protect the health and safety of our staff, clients and the public.
- The Department of Justice's Business Continuity Plan was updated to assist the department in managing the COVID-19 pandemic, while also continuing to provide essential services.

Context:

- The Department of Justice has taken measures to manage the pandemic. These measures have resulted to changes to service delivery.
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Background:

- On March 11, 2020, the World Health Organization identified the COVID-19 outbreak as a pandemic. The Yukon Government Pandemic Co-ordination Plan (the Plan), was implemented by the Yukon Emergency Measures Organization with policy guidance provided by the Executive Committee on Pandemic Preparedness.
- On March 27, 2020, the Government of Yukon declared a state of emergency under the *Civil Emergency Measures Act* (CEMA). This state of emergency ended on August 25, 2021. A new state of emergency was declared on November 8, 2021. This state of emergency ended on Thursday, March 17, 2022.
- The following is an update on pandemic management by branch.

Yukon Corrections

- Throughout the COVID-19 pandemic, the Corrections Branch has provided a fulsome outline of all precautionary measures implemented at the Whitehorse Correctional Centre (WCC), as well as those in place in Yukon Community Corrections, in publicly available memorandums (issued March 23, 2020, April 1, 2020, May 12, 2020, June 16, 2021, and June 30, 2021).
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2**Fall 2022**

COVID-19 Measures and Response

Justice

- Although there were temporary suspensions of client programming facilitated by external contractors and community partners, programs facilitated by correctional officers and the First Nations Liaison Officer, as well as internal work and recreational opportunities, were not suspended during the COVID-19 pandemic.
- A number of spiritual/cultural practices continued to be available for clients throughout the pandemic. These include smudging, fire ceremonies, beading and talking circles.
- On June 23, 2021, WCC received its first COVID-19 positive client admission.
- Between June 23, 2021 and July 25, 2021, WCC had a total of four clients test positive for COVID-19. All were new admissions, and there was no spread within the correctional institution.
- On December 13, 2021, as a result of one client and multiple staff illnesses, the Chief Medical Officer of Health (CMOH) declared an outbreak at WCC.
- Nursing staff visited each inmate twice daily to assess for any symptomatic cases. All in-person professional visits were suspended and rescheduled to phone or zoom meetings where appropriate until all test results were returned.
- Inmates who tested positive for COVID-19 were housed in the isolation unit away from the general population.
- Secure professional and personal visits for WCC resumed on December 22, 2021.
- As a result of an increase in staff and inmate illnesses, CMOH declared an outbreak for the clients of D unit at WCC on April 28, 2022.
- Following consultation with Yukon Communicable Disease Control and the CMOH, WCC resumed unobstructed personal visits for clients on June 20, 2022, with masking provisions in place. Visits had been restricted to utilizing a physical glass barrier since March 2020.
- In response to increased community spread, and to help reduce chance of transmission within the client population, WCC implemented front entrance symptom screening of staff. This was previously being done as a verbal screening at each shift by supervisors, but now replaced through staff questionnaire and temperature checks. The use of a front entrance screener concluded June 30, 2022, with symptom screening reverting back to supervisors and managers.

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Justice

COVID-19 Measures and Response

- On July 21, 2022, the CMOH declared an outbreak at WCC due to COVID-19 transmission amongst the custodial population. This status remained in place until August 8, 2022.
- WCC continues to be affected by increased staff illnesses as a result of community spread of COVID-19, which has resulted in impacts to daily operations and unlock times for clients. Front line staff continue their efforts to ensure maximum unlock time and service delivery for clients. During the outbreak, WCC was impacted, but has returned to regular operations.

Victim Services

- The Victim Services Branch has returned to normal operations, including normal travel to rural communities.

Compliance and Investigations Unit (CIU)

- To support of the response to the public health emergency from COVID-19, the Public Safety and Investigations Branch established a team of investigators to follow up on public complaints, conduct local patrols and ensure compliance with the *Civil Emergency Measures Act* (CEMA) and health protection orders.
- A total of 177 charges for non-compliance were laid against 137 individuals during the states of emergency.

Legal Services

- The solicitors and drafters from the Legal Services Branch have been responsive to requests for the drafting of Ministerial Orders in support of CEMA and the *Public Health and Safety Act*.

Court Services

- Staff members with the Court Services Branch are taking the necessary precautions to support the delivery of essential court services.
- Yukon Courts have the discretion to establish health and safety protocols for court proceedings. The latest information can be found online at yukoncourts.ca.

Corporate Services

- Human Resources staff are working to support a healthy work environment for every public servant by managing work-from-home arrangements and providing guidance on workspace usage and workplace cleaning procedures.

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Justice

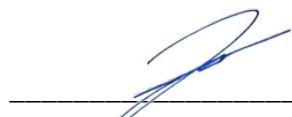
COVID-19 Measures and Response

- Staff continue to manage operations across the organization to a level that meets the needs of Yukoners.

Regulatory Services

- Safety measures and social distancing practices have been implemented so that all essential public services may continue.

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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3
Fall 2022

Departmental Accomplishments

Justice

Recommended response:

- The Department of Justice continues to work diligently towards ensuring a responsive and culturally relevant justice system.
- Our efforts are focused on supporting healthy, vibrant and safe communities through strategic investments.

Additional response:

- Our government is committed to continually improving the quality of life for Yukon citizens by fostering healthy and safe communities.

Context:

- Questions may be raised on the status of initiatives.
- Concerns may be raised about the prioritization of initiatives.

Background:

The content in this section is divided by subject to support the information contained in the recommended responses.

Modernizing Yukon laws

- Two new pieces of legislation that focus on protecting and providing support to Yukoners received assent during the spring 2022 sitting.
 - The Act to Amend the Safer Communities and Neighbourhoods (SCAN) Act (2022) supports a review of the Safer Communities and Neighbourhoods (SCAN) Act. Once the review is complete the amendments require the resulting report be tabled in the legislature.
 - The Act to Amend the Legal Profession Act, 2017 (2022) has been amended to support the healthy operation of Law Society of Yukon processes. This amendment allows the Society to permit out-of-territory

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3
Fall 2022
Justice

Departmental Accomplishments

corporations to practice in the Yukon, therefore increasing access to justice for Yukoners.

First Nations Policing – Community Tripartite Agreements and the First Letter of Expectation completed

- In 2020 and 2021, our government partnered with Public Safety Canada and 11 Yukon First Nations governments to sign new tripartite agreements for the provision of community policing services through the First Nations and Inuit Policing Program.
- These Community Tripartite Agreements (CTAs) come with a requirement for RCMP detachments and First Nations governments to formalize the expectations, desired working relationships, and the community's policing priorities through co-developed Letters of Expectation (LOEs).
- LOEs give partnered First Nations governments greater input and oversight on how their communities are served and policed by the RCMP.
- Kwanlin Dün First Nation was the first Yukon First Nations government to implement a completed LOE. This document was signed by all parties on July 21, 2020.
- Eight of the 11 Yukon CTAs have a signed LOE in place, with two of the remaining three actively progressing toward completed LOEs.
- In many cases, the COVID-19 pandemic has complicated and delayed the process of CTA partners working together to create LOEs.

76(1), 74(1)(a)

- Since 2020, the Government of Yukon has made \$5,000 in annual funding available to each Yukon First Nations government with a CTA to support work toward identifying the community's policing interests and facilitating the drafting, review and monitoring of LOEs.
- This funding support is expected to be replaced by federal funding in late 2022.

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Fall 2022
Justice

Departmental Accomplishments

AJA Negotiations

- The Government of Yukon has implemented a new approach to justice-related negotiations with Yukon First Nations governments. It is based on recognizing and respecting First Nation jurisdiction, governance and legal principles; providing new opportunities for collaborations and partnerships; and promoting incremental and capacity-building initiatives.

Restorative Justice

- The Government of Yukon is committed to supporting the growth of integrated community-based justice programming and advancing the use of restorative justice approaches and practices throughout the territory.
- In 2020, the Government of Yukon approved the creation of an Integrated Restorative Justice Unit to improve the Government of Yukon's restorative justice service delivery, increase engagement with First Nations governments and better support community-designed and community-led restorative justice initiatives.
- This unit has combined dedicated youth justice and adult justice resources, along with a manager, to provide consistent program delivery across the Yukon.
- This initiative allows our government to enhance and support existing restorative justice services and practices as we continue to work in partnership with Yukon First Nations governments and through the Yukon Forum on our joint priority of restorative justice.
- On October 27, 2021, the Adult pre- and post-charge Diversion Protocol for federal offences was signed between the Public Prosecution Service of Canada and the Government of Yukon. This agreement authorizes the Integrated Restorative Justice Unit to be an approved Alternative Measures Program with legislative authority to accept pre- and post-charge referrals for adults.
- The Government of Yukon continues to work with First Nations governments, the Government of Canada and other territories and provinces to share best practices and to increase the use of restorative justice nationally.

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Fall 2022

Departmental Accomplishments

Justice

SCAN

- Protocols are in place between the SCAN Unit and nine First Nations governments, which facilitate communication and enforcement activities when the SCAN Unit is investigating complaints on First Nation Settlement Land.
- The SCAN Unit has signed protocols with Champagne and Aishihik First Nations, Kluane First Nation, Carcross/Tagish First Nation, First Nation of Na-Cho Nyak Dun, Kwanlin Dün First Nation, Selkirk First Nation, Tr'ondëk Hwëch'in First Nation, Vuntut Gwitchin First Nation, and Little Salmon/Carmacks First Nation.
- The SCAN Unit has received over 1,200 complaints since 2006, including 112 complaints in 2021. In the first six months of 2022, the SCAN Unit received 45 complaints.

Modernization of the Yukon Land Titles Office

- The Department of Justice has implemented the new Yukon Land Titles Registry (YLTR) computer system for the Land Titles Office (LTO).
- The new YLTR system creates efficiencies in the land title registration process by enabling users to search registry data.
- To date, the project has accomplished the following:
 - decreased the average time for the Land Titles Office document registration and processing from nine weeks to five to 10 days;
 - developed a process and prescribed forms to enable Yukon First Nations governments to register Category A or Category B Settlement Land in the Land Titles Office;
 - completed beta testing of the online search function in preparation for live public searches with very positive feedback;
 - completed conversion of 70 per cent of active titles and title history from paper form to electronic data; and
 - opened the customer portal to the public to do online searches effective December 1, 2021.

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Justice

Departmental Accomplishments

- The current focus of the project is the implementation of phase one with a focus on the Condominium Act 2015 and Regulations which are set to come into force October 2022.

Sexualized Assault Response Team (SART)

- SART launched in Whitehorse in March 2020.
- The Department of Justice, through the Victim Services Branch, plays a key role in SART by providing victims of sexualized violence with specialized accompaniment and support services from trained SART support workers.
- Victims of sexualized violence can call the confidential support line to explore options, including requesting that a support worker accompany them to SART locations, such as the hospital and police station.
- Key components of SART include supports in three broad areas: victim supports, medical supports, and legal/criminal supports.
- Work is underway to conduct a public engagement on expanding SART services across Yukon communities.

Family Information Liaison Unit (FILU)

- FILU provides centralized, coordinated supports for family members of missing and murdered Indigenous women and girls, and assistance to access information related to their loved one's case.
- FILU is funded by the Government of Canada, and program funding has been extended to March 31, 2023.
- Providing supports for families remains an important component of the Government of Yukon's work to contribute to the Changing the Story to Upholding Dignity and Justice: Yukon's Missing and Murdered Indigenous Women, Girls and Two-Spirit+ People (MMIWG2S+) Strategy.

Independent Legal Advice (ILA) Program

- The ILA Program, delivered through Victim Services, provides confidential and independent legal advice for victims of intimate partner violence and sexualized violence.

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Fall 2022
Justice

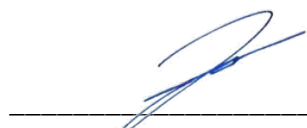
Departmental Accomplishments

- Victims of all genders and ages can access independent lawyers to assist in making informed choices, such as when a victim is deciding whether to report the incident.
- The ILA Program aims to make the legal system more accessible to victims and is another step toward improving services for victims of violence in the Yukon.
- Initially a one-year pilot program, the Government of Canada has provided funding to support the program for an additional five years.
- The ILA Program also supports training for lawyers and service providers focused on positive social responses for victims of sexualized violence and intimate partner violence.

Supervised housing for justice-involved men – Connective

- The Department of Justice supports 24/7 non-custodial supervised community housing that enables justice-involved men to gradually reintegrate or remain supervised in the community. Community supervision is a critical component of the criminal justice system and contributes to a safer, healthier Yukon.
- The Department of Justice is confident that its partnership with Connective will lead to positive outcomes for justice-involved clients as well as for Yukoners more broadly.
- Connective began operating its Supervised Housing and Reintegration Program for justice-involved men on May 1, 2020, and has provided programming to 75 clients. Connective has provided services to 71 bail and probation clients and four federal parole clients.

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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Session Briefing Note

Departmental Principles

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Justice

Recommended response:

- There are five key principles that shape the work and guide the direction of the Department of Justice. These principles are reconciliation with Yukon First Nations; working as a team; identifying and meeting our clients' needs; initiative and innovation; and communications.
- These principles support our commitment to continued excellence and success in the delivery of our programs and services.
- These principles are a tool used to guide our work and carry out our mandate.

Context:

- The principles speak to how the department delivers upon its mandate.

Background:

- The following five guiding principles are used to direct the work of the Department of Justice:

Reconciliation with Yukon First Nations

- We commit to embracing the spirit of the Final Report of the Truth and Reconciliation Commission of Canada entitled *Honouring the Truth, Reconciling the Future*, by conducting ourselves in our day-to-day business in a manner that embodies the purpose of reconciliation with our First Nations members in Yukon.
- We recognize the importance of employee education on the history of First Nations peoples and encourage innovative thinking by all Department of Justice personnel in our ability to effect meaningful change towards true reconciliation.

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Departmental Principles

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Working as a team

- We value working together as a team within the department, while respecting our individual roles in the administration of justice, to work as one entity to meet our collective objective of serving the public.
- We are mindful of the impact of our actions on the people around us both in proximity and in the larger department, and we strive to ensure that we exemplify the best of the department in our approach to our work.

Identify and meet our clients' needs

- Department of Justice personnel have a wide variety of responsibilities and an equally diverse clientele, internal and external to government.
- We are committed to ensuring that our clients know we work for them and that we treat them with empathy, inclusion, integrity, respect and professionalism.

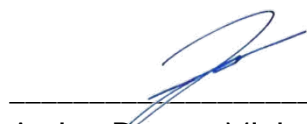
Initiative and innovation

- Management will encourage department staff at all levels to think innovatively and to take the initiative to improve the work we do and services that we provide, allowing for positive change and creativity in the workplace.
- Management will encourage department personnel to reconsider our approach to the services we provide and adapt to the changing environment.

Communications

- We are committed to improving the way we communicate internally with one another and externally to the public to better perform as a team, share information and ideas with each other and ensure that the public understands the work we do.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Session Briefing Note

5
Fall 2022

Role of the Attorney General

Justice

Recommended response:

- The Attorney General of Yukon has a similar role to that of the Attorney General of Canada, but the structure of prosecutions is not the same in the two jurisdictions.
- In the Yukon, prosecutions under the *Criminal Code* and other federal statutes are the responsibility of the federal Department of Justice.
- The Yukon does not have legislation allowing for deferred prosecution agreements.

Context:

- There are concerns that having a dual role office of Attorney General and Cabinet Minister does not support prosecutorial independence. The concerns flow from the SNC-Lavalin deferred prosecution agreement.
- In March 2019, the Prime Minister appointed a special advisor to look into whether the roles should be reformed. The advisor's report was released in August 2019. It concluded that no separation or structural change was needed and recommended that certain protocols and procedures be implemented.
- The federal Attorney General and Minister of Justice has stated that the federal government will not split the role of Justice Minister and Attorney General, but it will pursue the special advisor's recommendations and move to clearly define the separation between the two.

Background:

- Under the Government of Yukon's *Department of Justice Act*, the Minister of Justice is also the Attorney General of Yukon.
- The following presents an overview of the core functions.

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5
Fall 2022
Justice

Role of the Attorney General

Prosecutions

- Under the *Department of Justice Act*, prosecutions for violations of Yukon laws are carried out under the overall authority of the Attorney General of Yukon.
- By longstanding practice and convention, the exercise of prosecutorial discretion (such as whether to prosecute or not, what evidence to call, what sentence to seek or whether to accept a plea bargain) is left in the hands of the lawyer from the Government of Yukon's Department of Justice assigned as the prosecutor, guided by the Public Prosecution Service of Canada Deskbook policies.
- Prosecutions under the *Criminal Code* and other federal statutes are the responsibility of the federal Department of Justice.

Separate Roles

- In the Yukon, the formal roles of the Attorney General and the Minister of Justice are set by the *Department of Justice Act*.
- Under section 3 of that Act, the person appointed to serve as the Minister of Justice also automatically serves as the Attorney General.
- This "dual office" structure is the norm in Canadian jurisdictions, including the federal level of government.
- In some Westminster-style parliamentary systems, the offices of Attorney General and Minister of Justice are separated.
- In addition, in some countries, the Attorney General is, by statute or by convention, not a member of Cabinet.
- In the United Kingdom, the Attorney General is, by convention, a non-cabinet Minister (although several Attorneys General were in Cabinet from 1915 to 1928).
- In Ireland, Article 30 of the Constitution explicitly prohibits the Attorney General from being a member of the government.
- Finally, in some countries (for example, Ireland, Israel and many Caribbean countries), the Attorney General is not an elected official at all but is appointed.

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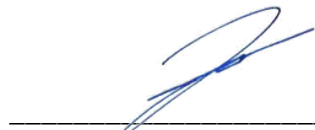
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Justice

Role of the Attorney General

Guardian of the Public Interest

- At common law, an Attorney General is considered to have an inherent power to intervene in legal proceedings or otherwise act as the “guardian of the public interest.”
- Courts have often included a duty to support the rule of law as “an inherent part of his ancient office.”
- These aspects of the Attorney General’s role are codified in section 7(a) of the *Department of Justice Act* under which the Attorney General “is entrusted with the powers and charged with the duties that belong to the Attorney General and Solicitor General of England by law or usage.”

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

Session Briefing Note**Fall 2022****Support for Burial Sites
Investigations**Executive Council
Office

Recommended response:

- The Yukon government recognizes the lasting and widespread trauma caused by the residential school system.
- We continue to support the Yukon First Nation Governments' Burial Sites Investigations Committee in their efforts to bring to light and record the history and impacts of residential schools.
- We remain available to the Committee as they lead this important work and will assist if requested, in ways that support healing and reconciliation.

Additional response:

- Funding for this important work is being provided by both Yukon and Canada and is administered by the Council of Yukon First Nations.
-

Context—this may be an issue because:

- There was extensive media coverage of the discovery of unmarked graves on the grounds of former residential schools in other jurisdictions in Canada. This spurred interest in the investigation of all residential school sites in Canada.
 - There were media inquiries about the Yukon government's (YG's) financial contributions to investigations of former residential school sites in the Yukon.
 - The Yukon First Nation Governments' Burial Site Investigation Committee (the Committee) provided an update on their work at the Council of Yukon First Nations (CYFN) General Assembly in June 2022.
-

Background:

- There were six residential schools in the territory and one in northern British Columbia (BC) for Yukon First Nations students: Chooutla School in Carcross; Coudert Hall, Yukon Hall and Whitehorse Baptist Mission in Whitehorse; the Shingle Point School in Shingle Point on Yukon's Arctic coast (predecessor to All Saints (Aklavik Anglican) School in Aklavik); St. Paul's Hostel in Dawson City; and the Lower Post School in northern BC.
 - At the Yukon Forum on June 4, 2021, the Yukon government (YG) committed to provide supports to Yukon First Nations (YFNs) for the investigation of Yukon residential school sites.
-

Session Briefing Note**Fall 2022****Support for Burial Sites
Investigations**Executive Council
OfficeYukon First Nation Governments' Burial Site Investigation Committee

- The Committee was established by Kwanlin Dün First Nation (KDFN) Chief Doris Bill and the previous Carcross/Tagish First Nation (C/TFN) Haa Shaa du Hen, Lynda Dickson. The Committee has formal representation from nine YFN governments and continues to correspond with transboundary and Yukon First Nations and the Inuvialuit Regional Corporation. YG and Canada attend Committee meetings to assist in project planning when invited, though neither are official members of the Committee.
- The Committee's mandate is to identify and locate unmarked graves at former Residential School sites in the Yukon, and to implement a work plan on behalf of all 14 YFNs and transboundary Nations with the short- and long-term goals of resolving issues related to residential schools.
- In 2021, the Committee submitted a funding request to Canada and YG for fiscal years 2021/22 to 2024/25. The initial work plan focuses on C/TFN's ongoing work at the Choooutla residential school site in 2021/22, to be followed by work at the Whitehorse sites with KDFN starting in 2023/24, and work at the northern Yukon sites with Tr'ondëk Hwëch'in and the Inuvialuit Regional Corporation starting in 2024/25.
- YG committed \$225,000 in 2021-22 for the first year of operation of the Committee and \$595,000 in 2022-23 for the second year of the project.
- On May 27, 2022 the administration of the funding for the Committee was transferred from C/TFN to CYFN, with the full agreement of all parties including the Committee, YG, and Canada.
- YFNs will lead the search for potential burial sites, as provided for by the Umbrella Final Agreement (UFA) and the *Historic Resources Act* which specifies that activities related to burials are at the discretion of YFNs.

Approved by:

Deputy Minister, Executive Council Office_____
Date

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Session Briefing Note

10
Fall 2022

Condominium Act and Regulations

Justice

Recommended response:

- The *Condominium Act, 2015* came into force on October 1, 2022.
- The amended Act will provide a balance between economic development objectives and consumer protection measures.
- The accompanying regulations set out a legislative framework for the creation of bare land, leasehold, phased and converted condominiums, as well as condominium governance and reserve fund requirements.

Additional response:

- The new Act and regulations provide a new legal framework that will provide additional rights and protection measures to condominium corporations, unit owners, developers, Yukon First Nations governments and professionals involved in condominium development in the Yukon.
- To help inform partners, stakeholders and the public of the legislative changes, the Department of Justice has launched an education campaign on the new condominium legislation and regulations.

Context:

- The *Condominium Act, 2015* is the product of years of consultation with our partners and various stakeholders, including the Law Society of Yukon, the City of Whitehorse and the Association of Canada Lands Surveyors.

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Session Briefing Note

10
Fall 2022
Justice

Condominium Act and Regulations

Background:

- In 2015, the *Condominium Act, 2015* was passed unanimously by the Yukon Legislative Assembly, but was not brought into force.
- On November 27, 2018, the Department of Justice launched a public engagement on the condominium regulations. This original engagement period was set to run until the end of January 2019.
- On January 22, 2019, the draft regulations were released and the engagement was extended to March 1, 2019.
- The engagement period included the following activities:
 - four public meetings held in January and February, with an approximate total of 100 attendees (including one meeting specifically for condominium owners);
 - an online survey that resulted in 117 responses and written submissions; and
 - seven meetings held with developers, property managers and condominium owners.
- The outcome of the engagement on the draft regulations was shared in a What We Heard Report with the Stakeholder Advisory Committee and the Drafting Advisory Group for their consideration.
- Between January 2019 and January 2022, the Department of Justice spent significant time reviewing and revising the *Condominium Act, 2015* and the draft condominium regulations.
- This work included editing for errors and omissions, addressing consistency issues and developing solutions to respond to concerns raised during the engagement process.
- Targeted engagement on the policy for the condominium regulations was conducted with the Land Titles Office Stakeholder Advisory Committee between January and March 2021. Members of the Yukon Real Property Bar did not participate in the engagement meetings; instead, they requested an opportunity to review and comment on the draft regulations prior to finalization.

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Fall 2022

Condominium Act and Regulations

Justice

- The Department of Justice shared the revised draft regulations with the Land Titles Office Stakeholder Advisory Committee and a group of individuals who are members of the Law Society of Yukon for their final feedback. This engagement was concluded on July 30, 2021.
- On February 10, 2022, the Government of Yukon approved the following regulations for the *Condominium Act, 2015*:
 - the Condominium General Regulation;
 - the Condominium Reserve Fund Regulation;
 - the Bare Land Condominium Regulation;
 - the Condominiums on Leasehold Land Regulation;
 - the Phased Development Regulation; and
 - the Converted Building Condominium Regulation.
- The *Condominium Act, 2015* came into force on October 1, 2022. The proclamation of the legislation in the fall will support the building season without unnecessary disruption and provide time for stakeholders to prepare before the enactment of the law.
- The Department of Justice has launched an education campaign to provide partners, stakeholders and the public with more details on the legislative changes. The education campaign includes a dedicated campaign web page with frequently asked questions, prescribed forms and fact sheets on various condominium-related topics. The education campaign also includes conducting information sessions with developers, condominium corporations, unit owners and potential buyers.

Policy / Legal Advice

- 67(3)(b), 73(b)(i)
- The Department of Justice is proposing to bring forth a Technical Amendments Act in fall 2022. This will include technical amendments to the *Condominium Act, 2015* to rectify minor errors, inaccurate cross-references and regulatory provisions that are no longer applicable.

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Fall 2022

Condominium Act and Regulations

Justice

- As the popularity of condominiums continues to grow in the Yukon, it is expected that condominium legislation will continue to evolve over the years to respond to the ever-changing and expanding condominium market.

[Cross reference: BN#16 Technical Amendments]

Approved by:



Acting Deputy Minister, Justice

2022-08-31

Date approved

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Session Briefing Note

11
Fall 2022

Corrections Act, 2009 Amendments

Justice

Recommended response:

- The Government of Yukon is committed to a people-centered approach to justice that emphasizes wellness and respects the human rights of those in custody.
- The Government of Yukon's amendments to the *Corrections Act, 2009* and the *Corrections Regulation* have positioned the Yukon as a leader in segregation reform.
- These amendments came into force on June 19, 2020, and include the addition of definitions, establishment of parameters for the use of segregation, delineation of prohibitions on the use of segregation and the creation of oversight and accountability processes.
- In addition to the segregation amendments, the Act now permits the creation of regulations that would establish "alternative housing."
- The Department of Justice is developing a framework for how it might use "alternative housing" to support clients identified as either vulnerable or as candidates for more specialized programming.

Additional response:

- Alternative housing would establish "individualized" housing for justice-involved clients who require accommodations or services that cannot be provided within the general population.

Context:

- The Department of Justice is seeking to establish alternative housing for justice-involved clients.

Background:

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Justice

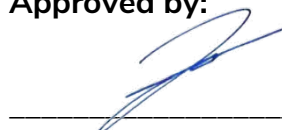
Corrections Act, 2009 Amendments

- In the *Sheepway v Hendriks* decision released on September 19, 2019, then Chief Justice Veale found that the Whitehorse Correctional Centre did not have the statutory authority to create the Secure Living Unit and cannot keep inmates in the Secure Living Unit without following regulations ensuring procedural fairness for inmates in separate confinement.
- Amendments to the *Corrections Act, 2009* and *Corrections Regulation*, specific to the use of segregation and restrictive confinement, came into force on June 19, 2020.
- These progressive amendments follow the United Nations' Nelson Mandela Rules.

Policy / Legal Advice

- 67(3)(b), 73(b)(i)

Approved by:



Acting Deputy Minister, Justice

2022-08-22

Date approved

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Session Briefing Note

12
Fall 2022
Justice

Legal Profession Act Amendments

Recommended response:

- The Government of Yukon is tabling amendments to the *Legal Profession Act, 2017*, ensuring that the Yukon's legal professionals are well supported by a modern legislative and regulatory scheme.
- The amendments will provide liability protection for Law Society staff and will address administrative issues arising from the complaint dismissal process.

Additional response:

- These amendments support the healthy operation of Law Society of Yukon processes.
- The amendments will allow the Law Society's Complaints Investigation Committee to dismiss a complaint that lacks evidence of wrongdoing without referral to the Society's Discipline or Fitness to Practice committees.
- Other amendments will provide liability protection for Law Society executives and staff, similar to protections in place for other regulatory organizations in the Yukon, as well as those found in statutes governing Law Societies across Canada.

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Session Briefing Note

12
Fall 2022
Justice

Legal Profession Act Amendments

Context:

- Regulation of the Yukon's legal profession is a matter of public interest.
- The Law Society of Yukon has requested the proposed amendments to the Act.

Background:

- The *Legal Profession Act, 2017* came into force on February 6, 2020. This followed assent in 2017, and preparation and approval of the associated regulations and the Law Society of Yukon's updated Rules.
- In May 2021, and through follow-up communications, the Law Society of Yukon informed the Government of Yukon's Department of Justice that language in the *Legal Profession Act, 2017* has led to administrative issues for the Society's Executive and its Complaint Investigation Committee.
- The issues are:
 - language that does not permit a complaint to be dismissed by an investigator when there is insufficient evidence or when the evidence does not disclose conduct deserving of further disciplinary action; and
 - the absence of statutory immunity from legal actions for persons acting on behalf of the Law Society leaves the Society and its staff as vulnerable to vexatious lawsuits for actions or decisions made in good faith while acting in the course of their duties.
- The Law Society and the Government of Yukon are seeking to resolve these issues through legislative changes now because:
 - if the complaint dismissal issue was dealt with by a new rule issued by the Society, rather than a change to the Act, dismissals would not be subject to the right of appeal under the Act; and

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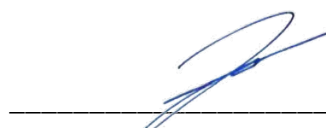
Legal Profession Act Amendments

- the Law Society has expressed concern that exposure to spurious lawsuits will prevent its staff and volunteers from acting effectively in the public's interest.
- Other issues brought forward by the Law Society have been addressed through the *Act to Amend the Legal Profession Act, 2017 (2022)*, which came into force on March 24, 2022. This amendment allowed extra-territorial law corporations to register and operate in the Yukon.

Policy / Legal Advice

- A bill to amend the *Legal Profession Act, 2017* is expected to be tabled during the fall 2022 Session of the Legislative Assembly, subject to Cabinet approval.

Approved by:



Acting Deputy Minister, Justice

2022-09-09

Date approved

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Session Briefing Note
Missing Persons Regulation

13
Fall 2022
Justice

Recommended response:

- The Government of Yukon is developing regulations to support the Missing Persons Act.
- The Missing Persons Regulation will provide the forms and information needed to bring the Act into force, ensuring that the RCMP have additional tools to help them locate someone when they are reported missing.

Additional response:

- The Missing Persons Regulation will put in place privacy protections for people involved in these investigations, while still ensuring that the RCMP can act quickly to locate a person when they are reported missing.
- The Government of Yukon views missing persons legislation as an important component of addressing the complex and very serious matter of Missing and Murdered Indigenous Women, Girls and Two-Spirit+ People.
- In developing the regulation, the Government of Yukon sought feedback from First Nations governments and stakeholder groups, including several women's advocacy groups.

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Fall 2022

Missing Persons Regulation

Justice

Context:

- Consultation on the Missing Persons Act in 2017 showed concern from the public for proper protections of individuals' privacy rights. Women's advocacy groups also raised concerns about how the legislation may impact women's shelters.
 - Missing persons legislation is a high-profile initiative.
-

Background:

- The Yukon's Missing Persons Act received assent in November 2017. The Act cannot come into force until the regulation is complete.
 - The regulation will provide forms and rules for RCMP members to use and follow while gathering and handling personal information collected during an investigation.
 - It will also set out reporting requirements to track RCMP use of powers given by the Act and describe circumstances in which RCMP may use certain powers to locate vulnerable people who are at a high risk of harm.
 - An engagement process was held from January 7, 2020, to February 17, 2020. First Nations governments and stakeholder groups, including women's advocacy groups, were invited to provide feedback on proposed options for the regulation. In-person meetings were held with women's advocacy groups and their feedback was considered during development of the regulation.
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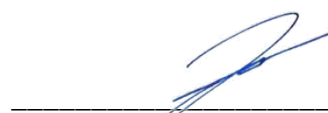
Policy / Legal Advice

- 67(3)(b)
 - Once the regulation is approved by Cabinet, the Missing Persons Act may be brought into force.
-

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Missing Persons Regulation

13
Fall 2022
Justice

Approved by:



Acting Deputy Minister, Justice

2022-09-09

Date approved

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14
Fall 2022
Justice

Public Utilities Act Amendments

Recommended response:

- The Government of Yukon is reviewing the *Public Utilities Act* to identify amendments that will support an efficient and modern process for regulating electricity in the territory.

Additional response:

- Changes being considered may include provisions that allow the Yukon Utilities Board to look at how projects and electricity rates would affect greenhouse gas reduction goals and the Yukon's supply of affordable renewable energy.

Context:

- The review forms part of the Government of Yukon's implementation of *Our Clean Future*, a strategy to address the climate crisis.
- The review supports several key initiatives in *Our Clean Future* by allowing the Yukon Utilities Board to consider a project's renewable energy and climate change implications in decisions involving electricity rates and upcoming energy projects.

Background:

- The Yukon Utilities Board is an independent regulator of electricity that receives its mandate from the *Public Utilities Act*, its regulations and Orders-in-Council. This legislation gives the board authority to set rates that may be charged for electricity and to oversee capital expenditures of public utilities.
- In exercising these powers, the board is currently limited to assessing the safety, reliability and affordability of electricity services to be provided, and issuing orders that are within the public interest.

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Public Utilities Act Amendments

Justice

- In July 2021, the board released its report on the Battery Energy Storage System (BESS) project, in which it stated that it did not have authority to consider renewable energy and climate action goals associated with the project. These aspects of the project correspond with goals identified in *Our Clean Future*.
 - Specific *Our Clean Future* goals include a 30 per cent reduction in greenhouse gas emissions from 2010 levels; that 93 per cent of electricity generation in the Yukon's grid come from renewable sources; that diesel generation be substituted with renewable alternatives; and that the use of fossil fuels for electricity generation be reduced.
-

Policy / Legal Advice

74(1)(a), 67(3)(b)

- Between June to September 2022, the Department of Justice engaged with the Yukon Utilities Board, Yukon Energy Corporation, ATCO Electric and other key stakeholders on the amendments. The purpose of this engagement was to determine the scope and nature of the upcoming amendments.
- Once policy options for the amendments have been developed, a broader engagement will take place with First Nations governments, stakeholders and the public.

[Cross-reference: BN#30 – BESS – Battery Project]

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Public Utilities Act Amendments

Justice

Approved by:



Acting Deputy Minister, Justice

2022-09-09

Date approved

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15
Fall 2022

SCAN Act Review

Justice

Recommended response:

- The *Safer Communities and Neighbourhoods Act* provides civil remedies to investigate and resolve complaints of illegal or dangerous specified activities occurring on a property.
- The Government of Yukon is committed to completing a comprehensive review of the *Safer Communities and Neighbourhoods Act*, or the SCAN Act, by 2027.
- This review is proposed to begin in 2023. We anticipate completing the review prior to 2027, but want to provide adequate time for First Nations governments, communities, the public and other stakeholders to provide input into the review process.

Context:

- The SCAN Act has received significant attention.
- The constitutionality of one provision in the Act is being challenged in *Wright v Yukon*, with a hearing anticipated in September 2023 (see *Litigation Note #19*).

Background:

- The SCAN Act enables members of the public to file a complaint with the SCAN Unit when there is suspicion that illegal or dangerous activity is occurring habitually on a property and negatively affecting their neighbourhood or community.
- The SCAN Unit can investigate specified uses of property that are identified in the Act, including: activities related to prostitution; illegal drug, cannabis and alcohol activities; activities of criminal organizations; illegal possession of firearms, explosives or other restricted weapons; and the sexual exploitation of children.
- The SCAN Unit supports community safety by responding to the concerns of Yukoners and disrupting illegal activities that adversely impact communities.

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Fall 2022

SCAN Act Review

Justice

- The use of civil (rather than criminal) remedies increases the public's access to justice by providing a confidential and timely means of seeking redress.
- The work of the SCAN Unit also relieves pressure on territorial law enforcement and court resources.
- The SCAN Unit works closely with First Nations governments. Nine Yukon First Nations governments have protocols in place with the SCAN Unit for the implementation of the legislation in their communities.
- All SCAN Unit activities are initiated by a complaint from a community member, after which the SCAN Unit will assess if the complaint can be substantiated. The SCAN Unit will take action only on the basis of sufficient evidence.
- The number of complaints received by the SCAN Unit increases annually, with 105 complaints investigated in 2020. Illegal drug activities are the most common type of activity for which complaints are received and investigations undertaken.
- Most commonly, issues are resolved by a warning. A few times per year, properties are closed through either assisting a landlord with terminating a tenancy agreement or by applying to the court for a Community Safety Order.
- 67(3)(b)

Approved by:



Acting Deputy Minister, Justice

2022-09-09

Date approved

CONFIDENTIAL

Session Briefing Note

Technical Amendments

16
Fall 2022
Justice

Recommended response:

- The Technical Amendments Bill will amend the *Land Titles Act, 2015*, the *Condominium Act, 2015* and the *Corrections Act, 2009*.
- The purpose of the technical amendments is to:
 - correct errors and inaccurate cross-references;
 - repeal regulatory provisions that are no longer applicable or require minor adjustments to align with the operational requirements of the Yukon Land Titles Registry system; and
 - support the separation of facility-based corrections and community corrections.

Context:

- The *Condominium Act, 2015* and its regulations came into force on October 1, 2022.

Background:

Land Titles Act, 2015

- The Yukon Land Titles Registry (YLTR) system is part of the Yukon Land Titles Modernization Project. The YLTR system is now operational with Land Titles Office (LTO) staff entering transactional data into the system from paper forms submitted by customers.
- The technical amendments to the *Land Titles Act, 2015* will align the legislation with the operational requirements of the YLTR system.
- The technical amendments to the *Land Titles Act, 2015* include the elimination of:
 - issuing and recording provisional numbers in the daybook;

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Technical Amendments

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- register's manual signature on the certificate of title, instrument or caveat; and
- recording of the day, hour and minute on an instrument received for registration.

Condominium Act, 2015

- On February 10, 2022, the Government of Yukon approved the regulations for the *Condominium Act, 2015*.
- The technical amendments to the *Condominium Act, 2015* include:
 - correction of minor errors and inaccurate cross-references; and
 - repeal of regulatory provisions that have not been proclaimed and did not come into force on October 1, 2022.

Corrections Act, 2009

- The proposed amendments to the *Corrections Act, 2009* will allow for the separation of facility-based corrections and community corrections.
- This legislative change will enable the Department of Justice to provide for more effective oversight of community corrections and facility-based corrections.

[Cross reference: BN#10 Condominium Act and Regulations]

Approved by:



Acting Deputy Minister, Justice

2022-10-07

Date approved

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Funding for Justice Organizations

Justice

Recommended response:

- The Department of Justice funds the justice-related work of several community organizations and First Nations governments.
- We discuss the funding with the respective organizations regularly, and each organization works actively with the Department of Justice to ensure accountability of funding used to deliver programs.

Additional response:

- The department does not automatically add a set amount for inflation adjustments. Instead, we regularly discuss ongoing funding pressures and can address these issues through one-time or ongoing funding increases.
- Funding is available to support Gladue report writing for the next four years; the amount available for the 2022–23 fiscal year is \$175,000.
- The governments of Canada and Yukon signed a five-year agreement in July 2022 to support Legal Aid in the Yukon; \$1,356,000 will be available for the 2022–23 fiscal year.
- Under the new Access to Justice Agreement with the Government of Canada, \$163,000 will be available for the Yukon Public Legal Education Association in the 2022–23 fiscal year. A new agreement for next year has not been signed yet.

Context:

- Funding for organizations are of public interest.

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Justice

Funding for Justice Organizations

Background:

- The Department of Justice works with the following organizations created or governed by statute: the RCMP, Yukon Legal Services Society, the Yukon Utility Board, the Yukon Review Board and the Yukon Human Rights Commission.
- The department also funds the Family Law Information Centre, the Indigenous Court Worker Program, Crime Stoppers, Supervised Community Housing, the Justice Wellness Centre and the Sexualized Assault Response Team.
- Like the statutory organizations, these organizations have funding agreements in place. They regularly discuss the appropriate level of funding required each year to meet program needs with the Department of Justice.
- The Department of Justice is providing approximately \$37.9 million to the following organizations for justice-related initiatives for the 2022–23 fiscal year:
 - \$33,086.067 to the RCMP (includes: Territorial Police Service Agreement, First Nations and Inuit Policing Program and 911 services);
 - \$2,708,000 to Legal Aid;
 - \$658,000 to the Yukon Human Rights Commission;
 - \$648,000 to Yukon First Nations for the Indigenous Court Worker Program;
 - \$550,000 to Connective for supervised community housing programming;
 - \$307,000 to community justice projects;
 - \$270,000 to the Yukon Utility Board;
 - \$175,000 commitment to the Council of Yukon First Nations for the Gladue project;
 - \$165,134 to the Yukon Review Board (amount includes the salary for an administrative employee);
 - \$70,000 to the Yukon Aboriginal Women's Council; and
 - \$10,000 to the Yukon Community Crime Stoppers Association.

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Justice

Gladue Report Writing Project

Recommended response:

- Gladue reports provide the courts with important background on Indigenous offenders to inform fit sentences. The information may include the effects of residential school, systemic discrimination, and economic and social disadvantage.
- The Government of Yukon continues to support the Gladue Report Writing Project to meet the needs of Indigenous offenders and the courts.
- The program is administered by the Council of Yukon First Nations and is carried out by trained Yukon First Nation Gladue writers.
- The federal government has committed to funding the Gladue Report Writing Project through the Access to Justice Funding Agreement.

Additional response:

- A joint management committee provides oversight to the Gladue Report Writing Project. This committee is comprised of the Council of Yukon First Nations, the Public Prosecution Service of Canada, Kwanlin Dün First Nation, the Yukon Legal Services Society, and the Government of Yukon.

Context:

- The Government of Yukon has continued to support the development of the Gladue Report Writing Project.
- The Government of Canada has committed to ongoing funding for the Gladue Report Writing Project through the Access to Justice Funding Agreement – the umbrella agreement for Legal Aid, Yukon Public Legal Education Association, and Indigenous Courtworkers.

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Fall 2022

Gladue Report Writing Project

Justice

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- The Council of Yukon First Nations (CYFN) currently reports that, to date, 86 reports have been completed, with 30 having been completed since January 2022.

Background:

- Indigenous adults are overrepresented in admissions to provincial and territorial correctional centres. In 2013–14, Indigenous adults accounted for nearly one quarter (24 per cent) of admissions, while representing only three per cent of the Canadian adult population.
- In 2013–14, Indigenous adults represented 20 per cent of admissions to federal correctional centres. In *R. v Gladue*, the Supreme Court of Canada referred to their overrepresentation as “the tip of the iceberg.”
- In the Yukon, between 2016 and 2019, First Nations citizens represented 66.5 to 68.4 per cent of admissions to the Whitehorse Correctional Centre, while Yukon First Nations make up about 23 per cent of the Yukon’s overall population. This is a significant overrepresentation. (Note: data on First Nations admissions is based on self-reporting.)
- The high rate of incarceration for Indigenous peoples has been linked to systemic discrimination and attitudes based on racial or cultural prejudice, as well as economic and social disadvantage, substance use and intergenerational loss, violence and trauma.
- In 2015, the CYFN, the Law Society of Yukon and the Public Prosecution Service of Canada (PPSC) approached the Government of Yukon with a report and recommendations to establish a formal report writing service.
- These recommendations were put to the Government of Yukon and received approval in early 2018.
- Under the leadership of CYFN and the Gladue Management Committee, the program has developed and is now recipient of ongoing federal funding.
- The program has seen a roster of Yukon First Nations Gladue writers trained to provide the court with Gladue reports as requested.

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Justice

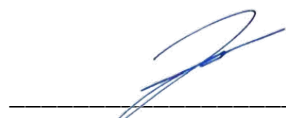
Gladue Report Writing Project

- Annual Gladue Report Writer training sessions have been held, and a Gladue Report Writer mentoring program has been developed.
- A report template has been developed and serves as a guide for Gladue reports.
- Initially, there was a prerequisite that applicants had to be Yukon First Nations. The prerequisite was changed in November 2018 to allow for all Indigenous applicants (First Nation, Inuit and Métis).
- CYFN is proactively engaging with others, including Victim Services and Yukon Community Corrections, to improve collaboration and services for Yukon First Nations citizens.

Legislation

- Gladue reports support Indigenous accused (adults and youth), the judiciary and justice personnel in applying the sentencing principles set out in section 718.2 (e) of the *Criminal Code of Canada* and section 38 (2)(d) of the *Youth Criminal Justice Act*. Both indicate a court that imposes a sentence on an Indigenous offender shall also take into consideration the following principles:
 - all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of Indigenous offenders;
 - the unique systemic or background factors that may have played a part in bringing the particular Indigenous offender before the courts; and
 - the types of sentencing procedures and sanctions that may be appropriate in the circumstances of the offender because of their Indigenous heritage or connection.

Approved by:



Acting Deputy Minister, Justice

2022-08-31

Date approved

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Fall 2022

BESS – Battery Project

Justice

Recommended response:

- On October 1, 2021, an Energy Project Certificate was granted to Yukon Energy Corporation allowing it to begin construction of the Battery Energy Storage System in Whitehorse.

Additional response:

- Granting the certificate followed recommendations from the Yukon Utilities Board and is a key step in implementing the *Our Clean Future* strategy.
- The project will reduce the Yukon's dependence on diesel power generation and will support implementation of other renewable energy initiatives in the territory.

Context:

- In its report on the project, the Yukon Utilities Board indicated that it may not approve a portion of project costs for repayment through increases to the rates that Yukon Energy Corporation may charge electricity consumers.
- The board stated in its report that it may not be able to approve aspects of the project linked to greenhouse gas reduction and First Nations governments' economic development policies.

Background:

- An Energy Project Certificate and an Energy Operation Certificate are required to construct and operate any undertaking designated as a "regulated project" under Part 3 of the *Public Utilities Act*.
- The Battery Energy Storage System is a major capital project to be built by Yukon Energy Corporation (YEC). It consists of a large, containerized lithium-ion battery

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Fall 2022

BESS – Battery Project

Justice

system located on a 1.5-hectare site that will be leased from Kwanlin Dün First Nation in Whitehorse.

- In December 2020, the project was designated as a “regulated project” by an Order-in-Council issued under the *Public Utilities Act*.
- Construction began in fall 2021 and is expected to end in winter 2023.
- The expected cost of the project is \$31.7 million, \$16.5 million of which will be federally funded.
- On January 21, 2021, YEC filed an application with the Minister of Justice for the above-noted certificates.
- On June 30, 2021, the board provided its report and recommendations to the Minister of Justice following a review of YEC’s application in a public hearing.
- The board recommended that the Minister grant the certificates. It concluded there was no reasonable alternative to the project that would be publicly acceptable.
- In its report, the board advised the Minister that it lacked authority to consider renewable energy and economic development goals. It indicated that without this mandate it may not allow certain costs of the project to be passed on to consumers through rate increases. The board stated that any disallowed costs would be borne by the Yukon Development Corporation.
- On October 1, 2021, the Minister granted an Energy Project Certificate to YEC. Conditions outlined in this certificate reflect recommendations of the board set out in its report.
- Since November 30, 2021, YEC has filed quarterly reports on the project’s costs and progress, as required by the terms of the certificate. The Minister should continue to receive quarterly reports over the course of the construction.
- Based on YEC’s application and arguments presented during the hearing, the project is a key instrument in meeting *Our Clean Future* goals. This is because the project will replace four diesel generators in Whitehorse and will serve as a reserve for electricity generated by renewable sources across the Yukon’s integrated electrical grid.

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Justice

BESS – Battery Project

- Goals identified in *Our Clean Future* include a 30 per cent reduction in greenhouse gas emissions from 2010 levels; that 93 per cent of electricity generation in the Yukon's grid come from renewable sources; and that diesel generation be substituted with renewable alternatives.
- An Energy Operation Certificate may be issued once construction of the project is complete. The expected completion date is in winter 2023.
- The Department of Justice has begun work on potential changes to the *Public Utilities Act* and regulations that would allow the board to consider goals identified in *Our Clean Future* as part of its process for reviewing applications for rate increases.

Approved by:



Acting Deputy Minister, Justice

2022-09-09

Date approved

CONFIDENTIAL

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Fall 2022

ISO – Investigations and Standards office

Justice

Recommended response:

- The Investigations and Standards Office provides independent oversight through investigations and inspections of the Whitehorse Correctional Centre.
- The investigations carried out by the Investigations and Standards Office have examined a wide range of issues, and the findings and recommendations have helped to improve practices at the facility.
- The Investigations and Standards Office plays an important role in ensuring timely, fair, and impartial review of clients' complaints and disciplinary hearings.

Additional response:

- The work of the Investigations and Standards Office supports the government's commitment to provide a responsive and culturally relevant justice system.
- It helps ensure we are protecting Yukoners, respecting the human rights of incarcerated individuals, and providing for rehabilitation that reduces re-contact rates in the correctional system.

Context:

- Questions may be raised on the issue of independent oversight of the correctional system, as this was the focus of two of the recommendations from the independent inspection performed by David Loukidelis.

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ISO – Investigations and Standards office

Justice

Background:

- The Investigations and Standards Office (ISO) is an independent office created under the *Corrections Act*, 2009.
- The key responsibilities of the ISO include:
 - inspections of the Whitehorse Correctional Centre on a periodic basis;
 - reviews of inmate discipline upon appeal;
 - phone responses to inmate inquiries;
 - investigations of inmate complaints where the inmate is not satisfied with the response from the Corrections Branch; and
 - investigations at the request of the Assistant Deputy Minister of Community Justice and Public Safety or on the Director of the Investigations and Standards Office's own motion.
- In 2021, the ISO received and investigated 10 complaints and 24 inquiries. The ISO also heard 23 appeals of disciplinary hearings. Examples of the ISO's casework are available on yukon.ca within the Office's annual reports.
- The ISO reports through the Regulatory Services Branch, which consists of other arm's length offices.
- British Columbia is the only other jurisdiction with a similarly mandated office.

Approved by:



Acting Deputy Minister, Justice

2022-08-31

Date approved

CONFIDENTIAL

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Yukon Family Mediation Service

Justice

Recommended response:

- The Yukon Family Mediation Service provides a people-centred alternative to Yukoners who want to settle family disputes out of court.
- An experienced family mediator offers free, voluntary and confidential mediation services to help resolve legal issues between separating and divorcing parents.
- Through the program, parents receive the support they need to make decisions about parenting arrangements, child and spousal support.

Additional response:

- The Yukon Family Mediation Service began as a pilot project supported by the Government of Canada's Canadian Family Justice Fund.
- When the pilot project ended on March 31, 2022, the Department of Justice began funding the program to continue offering this important family justice service for Yukon families.

Context:

- The Yukon Family Mediation Service (YFMS) operated as a federally funded pilot project from April 1, 2018, to March 31, 2022.
- The Government of Yukon completed an evaluation of the pilot project and found that the program provided an important service to Yukon families. As a result, the Government of Yukon began funding the program on April 1, 2022.

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Yukon Family Mediation Service

Justice

Background:

- The Canadian Family Justice Fund, a federal initiative to improve access to justice, initially provided pilot funding to operate a family mediation pilot project from April 1, 2018, to March 31, 2022.
- The Department of Justice provided in-kind contributions towards this project during its pilot phase to ensure its success, primarily by contributing office and meeting space, as well as support staff.
- Before the end of the pilot program on March 31, 2022, the Government of Yukon evaluated the program and found that it provided an important service to Yukon families. As a result, the Government of Yukon began funding the program on April 1, 2022.
- YFMS is currently staffed by a full-time family mediator who provides mediation services to Yukon families.
- The YFMS office is located at 301 Jarvis Street in Whitehorse. The service moved to this location in January 2021, providing dedicated mediation space.
- The project has received positive feedback from Yukon Courts and the family law bar.
- While the mediation service is located in Whitehorse, parents from other communities and those at the Whitehorse Correctional Centre can also meet with the mediator in person, by phone or by videoconferencing.
- From March 2021 to June 2022, the YFMS opened 53 new files, representing over 101 individuals – files range from one individual to multiple parties.

Approved by:



 Acting Deputy Minister, Justice

2022-09-06

 Date approved

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Session Briefing Note

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Fall 2022

Yukon Utilities Board - Remuneration

Justice

Recommended response:

- Compensation for Yukon Utilities Board members is being reviewed to consider the complexity and impact of the work completed by the Board.
- The last increase in compensation for the Yukon Utilities Board was in 2008.
- The Yukon Utilities Board makes decisions that affect Yukon's electricity users, businesses, the territorial government and Yukon First Nations governments.
- The Yukon Utilities Board is an independent regulator of electricity: it has the authority to set rates that may be charged for electricity and to oversee capital expenditures of public utilities.

Context:

- The Yukon Utilities Board (the Board) raised the matter of remuneration with the Government of Yukon in early 2021 and has remained engaged on the matter since that time.

Background:

- The Board regulates electrical utilities in Yukon. The Board's role includes, but is not limited to, the review of rate applications, plans for new projects and facilities, and energy supply contracts.
- It is the responsibility of the Board to examine the costs brought forward by the utility that the utility is proposing to charge to the ratepayer. These costs are generally separated into three classes:
 - 1) the costs to the utility to run its operations and maintain its equipment (personnel and materials);

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Yukon Utilities Board - Remuneration

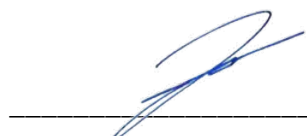
Justice

2) the costs associated with the depreciation of all capital equipment and assets, as updated from time to time; and

3) the return on rate base (costs related to borrowing that portion of rate base financed with debt, plus the costs to provide a reasonable rate of return on that portion of rate base financed with equity).

- As the Yukon's utilities regulator, the Board's decisions can have significant impacts on all Yukoners, governments, businesses and other stakeholders.
- Board orders are reviewable by the Yukon Court of Appeal.
- Through Our Clean Future, the Department of Justice is reviewing the *Public Utilities Act*, including the Board's responsibilities and the factors that the Board must consider when making decisions and recommendations.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Fall 2022
Justice

Bail Supervision

Recommended response:

- We are committed to addressing the overrepresentation of First Nations persons throughout the criminal justice system.
- The Department of Justice works collaboratively with Yukon First Nations governments and justice stakeholders to support the use of bail throughout the territory as an alternative to incarceration.
- In February this year, Kwanlin Dün First Nation resumed its role in administering the bail supervision program for its citizens.
- Yukon Community Corrections worked collaboratively with Kwanlin Dün First Nation to re-establish the support program for their citizens.
- Yukon Community Corrections continues to provide the bail review program for other Yukon First Nations and other Yukoners.

Additional response:

- The Department of Justice will continue to work with First Nations governments, including Kwanlin Dün First Nation, to inform individuals at the Whitehorse Correctional Centre about available supports.
- Probation officers regularly attend bail court to support the court in making bail decisions and to collaborate with the Kwanlin Dün First Nation's Indigenous Court Worker.

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Justice

Bail Supervision

Context:

- The Government of Canada and other partners and stakeholders recognize the need for bail reform.
 - The overrepresentation of Indigenous peoples throughout the criminal justice system has been highlighted in various reports, inquiries and court cases.
-

Background:

- Recognizing a gap in service delivery, Kwanlin Dün First Nation (KDFN) initiated the Bail Verification Pilot Program in 2018. This pilot program allowed individuals who self-identified as or were connected to a Yukon First Nation to request that KDFN court workers conduct a bail assessment.
 - KDFN's bail assessments were intended to help with the verification and development of bail plans for consideration by the court. Bail plans could include items such as:
 - programming options;
 - potential surety or sureties;
 - supervision requirements (for example, a curfew); and
 - considerations around work, if employment was available.
 - Typically, KDFN court workers provided the court with supportive oral statements relating to bail plans for their clients.
 - The Government of Yukon did not directly fund the KDFN Bail Verification Pilot Program. Per the KDFN Indigenous Community Justice work plan, funds from the KDFN Indigenous Community Justice Program were used to support the KDFN Bail Verification Pilot Program. Funds from the Indigenous Court Worker Services Transfer Payment Agreement were also used to support this initiative.
 - In 2019, KDFN raised concerns about continuing the Bail Verification Pilot Program. Instead, they sought to have Yukon Community Corrections (YCC) take on the lead role related to bail verification.
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Fall 2022
Justice

Bail Supervision

- Since managing individuals on bail and preparing court-ordered bail reports are both core functions of probation officers, YCC began to transfer the responsibility of the KDFN Bail Verification Program back to the Government of Yukon in partnership with KDFN. The Bail Verification program transfer to YCC was completed in January 2020.
- The Corrections Branch developed standardized YCC Bail Verification Reports for the court, a corresponding bail verification operational policy and training materials for probation officers.
- While transferring responsibility for the Bail Verification Program to the Government of Yukon, the Corrections Branch met with other justice system stakeholders and participants, including members of the judiciary, the Yukon Legal Services Society and the Public Prosecution Service of Canada, to ensure a seamless transition.

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Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

CONFIDENTIAL

Session Briefing Note

Community Advisory Board

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Fall 2022
Justice

Recommended response:

- In October 2020, the Government of Yukon amended the structure and Terms of Reference of the Community Advisory Board to enhance the effectiveness of the board.
- The changes will support improved outcomes for correctional clients through the board, providing independent community observations and recommendations in relation to the operations of the Corrections Branch.

Context:

- The 2018 Whitehorse Correctional Centre Inspection Report recommended that the Government of Yukon improve the Community Advisory Board, refresh its mandate, take steps to enhance First Nations representation and ensure representative membership from across the territory.

Background:

- The Minister of Justice established the Community Advisory Board (CAB) in September 2013 through Ministerial Order 2013/12.
- The legal authority of the CAB is set out in Part 6 of the *Corrections Act*, 2009. Section 43 of the Act gives the Minister authority to establish one or more community advisory boards to review and make recommendations in respect of:
 - the administration of the *Corrections Act*, 2009 and the Regulations, other than in respect of personnel matters or discipline matters for specific inmates; and
 - any program established or to be established under the *Corrections Act*, 2009 or the Regulations.

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Justice

Community Advisory Board

- The CAB may consist of up to seven members appointed by the Minister. At least two members must be First Nations persons, and the Minister must make best efforts to ensure that the membership of the board is representative of the population of the Yukon.
- In the 2018 Whitehorse Correctional Centre Inspection Report, David Loukidelis, Queen's Counsel, noted that many of those he interviewed expressed support for the idea of an advisory board while expressing concern that, at the time, the board's mandate, representativeness, and function needed to change.
- Loukidelis went on to make the following recommendation with respect to the CAB:
 - (Recommendation 30) - The Minister should refresh the mandate of the Whitehorse Correctional Centre's Community Advisory Board, giving it clear direction to review and make recommendations on programs that Whitehorse Correctional Centre operates and on new programs. The board should be able to retain experts as necessary for its work from time to time. The Minister also should ensure that the Corrections Branch responds to the board's recommendations, and reports on progress in implementing them. The Minister should either establish a new First Nations advisory board for Whitehorse Correctional Centre or enhance First Nations representation on the existing board, to ensure good representation of First Nations from across Yukon. All advisory board reports and recommendations should be published in a timely way, as should Corrections Branch responses and progress reporting.
- In response to this recommendation, the Department of Justice began to revise the CAB Terms of Reference with a view to address the concerns identified in the 2018 Whitehorse Correctional Centre Inspection Report.
- The Whitehorse Correctional Centre Implementation Working Group reviewed, and ultimately endorsed, the revised Terms of Reference for the CAB. The Implementation Working Group, which includes representation from the Council of Yukon First Nations and the Investigations and Standards Office, is responsible for overseeing the implementation of the 2018 Whitehorse Correctional Centre

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Community Advisory Board

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Justice

Inspection Report. They have recommended that oversight for correctional change and improvement shift to the newly restructured Corrections CAB.

- On September 3, 2021, the Minister appointed five members to the CAB.
- On June 16, 2022, the board had its first in-person meeting at the Whitehorse Correctional Centre.
- On July 18, 2022, the Minister appointed an additional two board members, totaling seven current members, resulting in no vacancies for the board.
- On September 22, 2022, the board held its second in-person meeting at the Whitehorse Correctional Centre.

Approved by:



Acting Deputy Minister, Justice

2022-10-07

Date approved

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Probation Officer – Peace Officer Status

Justice

Recommended response:

- The Government of Yukon is committed to working with all parties involved in the criminal justice system to keep the public safe, hold offenders accountable, and support reintegration and healing.
- Work undertaken by the Government of Yukon's Corrections Branch is guided by the principle of least restrictive measures as outlined by the Corrections Act, 2009.
- Significant efforts are underway within the Department of Justice to embed the principle of least restrictive measures throughout correctional operations within the territory.

Additional response:

- In collaboration with the RCMP and the Public Prosecution Service of Canada, the Government of Yukon has implemented a temporary process to support probation officers.
- Probation officers must be able to hold justice-involved clients accountable for failing to comply with court-imposed conditions without compromising the administration of justice.

Context:

- 76(1), 73(a)

Policy / Legal Advice:

Prepared for: Minister Tracy-Anne McPhee
Department of Justice

Date prepared: January 26, 2021
Last updated: August 19, 2022
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Probation Officer – Peace Officer Status

Justice

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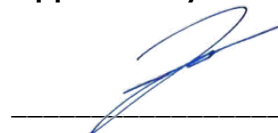
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Approved by:



Acting Deputy Minister, Justice

2022-08-22

Date approved

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Session Briefing Note
Supervised Housing - Men

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Justice

Recommended response:

- Supervised housing is a critical component of the criminal justice system and contributes to a safer, healthier Yukon.
- Our government supports non-custodial supervised housing that enables justice-involved individuals to gradually reintegrate with, or remain supervised in, the community.
- Connective – formerly John Howard Society Pacific – has been operating its Supervised Housing and Reintegration Program for men who are justice-involved.
- Since May 1, 2020, Connective has provided services to 93 bail and probation clients and nine federal parole clients.

Additional response:

Program Evaluation

- The Government of Yukon has worked to strengthen accountability related to supervised housing for men who are justice-involved.
- The Transfer Payment Agreement between the Government of Yukon and Connective requires regular reporting and data collection on program components.

Program Costs

- The Government of Yukon is funding Connective \$550,000 per year to provide 24/7 supervised services and supports for men who are on conditional sentences, mandatory supervision, and temporary absences that do not require high-security custodial care.

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Session Briefing Note
Supervised Housing - Men

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Justice

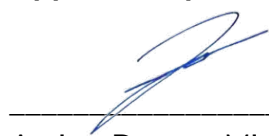
Context:

- The establishment of Connective's supervised housing program, in a co-located, yet separate and distinct, area of the Whitehorse Correctional Centre building, has received significant attention.

Background:

- On December 23, 2019, the Government of Yukon received formal notification that the Salvation Army had decided to discontinue its supervised housing program in the territory. Service provision of the Yukon Adult Resource Centre (YARC) by the Salvation Army ended on April 30, 2020.
- Absent an alternative program, cessation of operations at YARC would have resulted in a gap in critical support and services for justice-involved individuals in the territory.
- The Transfer Payment Agreement, for service provision from Connective to the Department of Justice, was \$504,200.00 for the period May 1, 2020 to March 31, 2021 and \$550,000.00 for the period of April 1, 2021 to March 31, 2022.
- Connective's space has a maximum capacity of 40 beds.
- All residents are subject to general and specific conditions of release, and community, staff and resident safety is ensured through 24-hour staff who provide structure, monitoring and support.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

CONFIDENTIAL

Session Briefing Note

44**Fall 2022**

Supervised Housing - Women

Justice/WGED

Recommended response:

- Discussions with our partners, local stakeholders and subject matter experts have increased our understanding of how we can support the needs of women involved in the criminal justice system in the Yukon.
- The Government of Yukon will soon be providing supervised housing for women.
- We are committed to working with our partners to ensure this program will recognize the unique needs of women involved with the criminal justice system as they transition from custody to the community.

Additional Response:

- The supervised housing program will also provide an alternative to custody and will support women to access services through the Yukon's treatment courts.

Context:

- Supervised housing for men has been provided for over 20 years in the Yukon.
- Currently, no equivalent service exists for women involved in the criminal justice system in the territory.
- Housing limitations within the Yukon create additional barriers for women involved in the criminal justice system.

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Fall 2022

Supervised Housing - Women

Justice/WGED

Background:

- Supervised housing has been available for men in the Yukon since the mid-1980s. Through contract service providers, men have accessed housing programs and community supports as an alternative to custody or a tool to support discharge planning and community reintegration.
- Fifteen years ago, the Salvation Army provided beds for women. Since then, various solutions have filled this service gap intermittently. These have included attempts by the Elizabeth Fry Society to set up housing and funding two beds in the home of a retired social worker. Unfortunately, neither of these options currently exist for women in the Yukon.
- Case managers at the Whitehorse Correctional Centre and the Justice Wellness Centre work with clients to address immediate housing needs.
- In August 2020, the Government of Yukon invited agencies and organizations to submit options for housing locations and program models.
- Some of the community partners and stakeholders engaged to date include the Challenge Disability Resource Group (now called Opportunities Yukon), the Council of Yukon First Nations, the Safe at Home Society, Connective, Yukon Anti-Poverty Coalition, the Women's Transition Home, and Betty's Haven.
- The Minister of Justice's July 5, 2021, mandate letter included the direction to "establish a program to provide supportive community housing to justice-involved women that will be gender-responsive, culturally sensitive, and trauma-informed, with support from the Women and Gender Equity Directorate."
- In January 2022, the Department of Justice received the Management Board's approval to proceed with the implementation of a 24/7, supervised housing pilot program for women with a budget of \$562,000 per year.
- The Department of Justice has identified Takhini Haven as the location for the Supervised Housing Program and has worked with Highways and Public Works to complete renovations necessary for occupancy.
- Work is currently underway to develop a transfer payment agreement with Connective for the provision of client services.


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Supervised Housing - Women

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Justice/WGED

Policy / Legal Advice

74(1)(a)

Approved by:



Deputy Minister, Justice

2022-09-29

[Date approved]

Kelli Taylor

A/Deputy Minister, Women and Gender Equity Directorate

September 27, 2022

[Date approved]

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Fall 2022
Justice

WCC: COVID-19 and Corrections

Recommended response:

- The Corrections Branch has taken a measured, proactive approach, guided by the principle of least restrictive measures, to respond to the COVID-19 pandemic. This approach has been developed in consultation with the Yukon Communicable Disease Centre and the office of the Chief Medical Officer of Health.
- The approach implemented by the Corrections Branch balances the health and safety of correctional staff, clients and the public with values that are integral to the delivery of humane correctional services, including dignity, respect and legality.
- The Corrections Branch continues to carefully monitor and assess the situation presented by COVID-19 to ensure that its response is appropriate to the circumstances and proportional to the level of risk presented as new developments arise.

Additional response:

- To promote transparency, the Corrections Branch has made concerted efforts to provide public updates regarding the precautionary measures it has implemented to reduce the potential for exposure to, and transmission of, COVID-19.
- The Corrections Branch continues to review the individualized circumstances of each person incarcerated at Whitehorse Correctional Centre to determine which, if any, may be released on a temporary absence to be housed in the community without compromising safety. This work is undertaken proactively to ensure that all clients are housed in the most suitable location should there be pandemic-related issues within Whitehorse Correctional Centre.

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WCC: COVID-19 and Corrections

Justice

- The diligence of the measures taken by Corrections Branch to mitigate the introduction and spread of COVID-19, has prevented the spread of COVID-19 within Whitehorse Correctional Centre, despite several outbreaks.

Context:

- Nationally, correctional institutions have been identified as high-risk environments for the spread of COVID-19.
- Various organizations, advocates, members of the public, as well as clients and their families, have expressed concern regarding the vulnerability of the custodial population and the potentially devastating effects an outbreak of COVID-19 may have within a correctional centre.
- Most jurisdictions in Canada have reported confirmed cases of COVID-19 among correctional service employees, as well as within the custodial population.

Background:

- The World Health Organization declared COVID-19 a pandemic on March 11, 2020.
- On March 17, 2020, WCC began providing all individuals incarcerated at the facility with free daily telephone calls to support the maintenance of personal connections with family and friends.
- Throughout the COVID-19 pandemic, the Corrections Branch has provided a fulsome outline of all precautionary measures implemented at WCC, as well as those in place in YCC, in publicly available memorandums.
- Throughout the pandemic, the Corrections Branch continued to participate in discussions with federal-provincial-territorial (FPT) Heads of Corrections and its sub-committees regarding COVID-19 best practices and corrections.
- In January 2021, WCC finalized its formal COVID-19 Outbreak Plan.

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WCC: COVID-19 and Corrections

- In March 2021, Yukon Communicable Disease Control and Environmental Health Services conducted inspections of WCC in relation to COVID-19. All deficiencies identified that could be operationally implemented were immediately addressed.

Additional information pertaining to key operational changes or notable events:

- On January 21, 2021, COVID-19 vaccinations were administered to clients, as well as some correctional staff, at WCC.
- On February 24, 2021, COVID-19 second-dose vaccinations were administered to clients and staff at the correctional centre. In addition to those individuals receiving the second dose, clients and staff interested in getting their first dose were able to participate.
- Between June 23, 2021, and July 25, 2021, WCC had a total of four clients test positive for COVID-19. All were new admissions, and there was no spread within the correctional institution.
- In August 2021, responding to the relaxation of restrictions in the community, WCC reduced the 14-day intake observation period for COVID-19 symptoms to seven days.
- In October 2021, with the support from YCDC, WCC implemented the use of the Abbott ID Now COVID-19 rapid screener for asymptomatic testing of all new inmate admissions.
- On December 13, 2021, because of one client and multiple staff illnesses, the CMOH declared an outbreak at WCC. Clients continued to be screened daily by on site nursing staff with no further spread amongst the custodial population. CMOH declared an end to this outbreak on January 26, 2022.
- As a result of an increase in staff and inmate illnesses, CMOH declared another outbreak at WCC on April 28, 2022, and subsequently declared an end to this outbreak on May 16, 2022.
- Following consultation with YCDC and the CMOH, WCC resumed unobstructed personal visits for clients on June 20, 2022, with masking provisions in place. Visits had been restricted to utilizing a physical glass barrier since March 2020.
- In response to increased community spread, and to help reduce chance of transmission within the client population, WCC implemented front entrance

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WCC: COVID-19 and Corrections

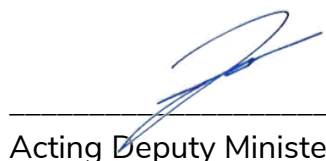
symptom screening of staff, which concluded on June 30, 2022. Shift supervisors now conduct verbal screenings.

- On July 21, 2022, CMOH once again declared an outbreak at WCC due to COVID transmission among the custodial population. This status remained in place until of August 8, 2022.
- WCC continues to be affected by increased staff illnesses because of community spread of COVID-19 which has resulted in impacts to daily operations and unlock times for clients. Front line staff continue their efforts to ensure maximum unlock time and service delivery for clients.

Policy / Legal Advice

- Beginning in April 2021, the Corrections Branch began receiving numerous Access to Information requests, seeking information on Corrections COVID-19 policies, practices, and statistics. Some of these requests appear to be from academic researchers.
- In late November 2021, circumstances related to the territorial COVID-19 response reduced the number of available, trained staff to work with inmates at the facility. Since that time, efforts have been underway, through the Public Service Commission and the Human Resources Management Team, to identify and train suitable Government of Yukon employees to be re-deployed to support operations at the Whitehorse Correctional Centre.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Justice

WCC: Inmate Counts

Recommended response:

- The Yukon has a relatively low custodial population, in comparison to other Canadian jurisdictions.
- The courts control the number of individuals admitted to Whitehorse Correctional Centre, whether remanded or sentenced.
- Total admissions to Whitehorse Correctional Centre have fluctuated between 2009 and 2022. After reaching a high of 823 in the 2012–13 fiscal year, total admissions have generally decreased.
- In the latest reporting year for 2021–22, Whitehorse Correctional Centre saw a decrease in admissions of 26 per cent from the previous year. Specifically, there were 325 admissions in 2021–22 and 399 admissions in 2020–21.
- Notably, an admission is counted each time a person begins custody; therefore, the same person can be included multiple times in the yearly admissions data.
- Of the total admissions in the 2021–22 fiscal year, 22 per cent were for individuals serving a sentence of incarceration, 77 per cent were for individuals on remand and one per cent was for individuals with matters before the Yukon Review Board, those on immigration holds or those who were federally sentenced.
- The high proportion of individuals on remand in the Yukon is consistent with trends in other Canadian provincial and territorial jurisdictions.

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WCC: Inmate Counts

Justice

Additional response:

- Significant efforts are underway within the Department of Justice to operationalize the principle of least restrictive measures and utilize incarceration as a last resort while mitigating risks to public safety.
- The Department of Justice is very sensitive to the overrepresentation of First Nation persons throughout the criminal justice system and is committed to working with Yukon First Nations governments and other partners to address the complex, systemic factors that may contribute to this issue.
- While only 36 clients, or 11 per cent, of the total admissions to the Whitehorse Correctional Centre in the 2021–22 fiscal year were women, the Department of Justice acknowledges the unique needs of incarcerated women and strives to ensure that those needs are appropriately met.

Context:

- In its final report, the Truth and Reconciliation Commission of Canada called upon federal, provincial and territorial governments to commit to eliminating the overrepresentation of Indigenous peoples in custody over the course of a decade.

Background:

- Many factors underlie and influence the rates of both crime and incarceration. The crime rate has been declining nationally over the last decade.
- Inmate admissions are a direct result of policing decisions and court dispositions.
- Between April 1, 2021, and March 31, 2022, approximately 64 per cent of individuals admitted to the Whitehorse Correctional Centre (WCC) self-identified as First Nations. This represents a one per cent increase since last year.

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Justice

WCC: Inmate Counts

- Significant efforts are underway within the Department of Justice to implement the principle of least restrictive measures. Some of the work completed or underway includes the following.
 - Amending the *Corrections Act* to expand the application of the principle of least restrictive measures.
 - Amending WCC's internal classification policy.
 - Amending WCC's policy governing temporary absences.
 - Employing a more individualized approach to supervision conditions used by WCC and Yukon Community Corrections, specifically:
 - utilizing individualized assessments and proactive planning to better support an individual's needs to reduce recidivism and future involvement with the justice system; and
 - improving linkages with First Nations governments, the Council of Yukon First Nations and health providers to support rehabilitation, restorative justice and reintegration.
- While other jurisdictions have reported releasing large numbers of inmates amidst the COVID-19 pandemic, the custodial population at WCC has not changed drastically. This is, in part, due to the concerted pre-pandemic efforts that have been underway to implement the principle of least restrictive measures and utilize incarceration as a last resort.

Policy / Legal Advice

67(3)(b), 74(1)(a)

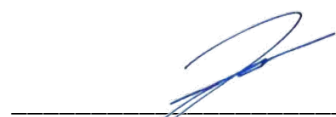
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WCC: Inmate Counts

Justice

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Justice

WCC: Inspection

Recommended response:

- The Government of Yukon is committed to implementing the recommendations from the 2018 Whitehorse Correctional Centre Inspection Report.
- The recommendations made in the Inspection Report fall broadly into four main categories: those related to mental wellness; segregation practices; programming and services for First Nations; and justice system initiatives.
- The Implementation Working Group, which provided input and supported the fulfillment of the Inspection Report's recommendations, has recommended that the continued oversight shift to the Community Advisory Board.
- To date, 29 recommendations made in the Inspection Report have been completed, and work is currently underway towards completing and implementing a further ten recommendations.

Additional response:

- The 2018 Whitehorse Correctional Centre Inspection Report provides valuable guidance on how we can work with our partners to increase confidence in facility operations and enhance the administration of justice in the territory.
- The Department of Justice continues to evaluate the delivery of programs and services within corrections by collaborating with Yukon First Nations governments, the Council of Yukon First Nations, other government departments and community-based non-governmental organizations.
- The Department of Justice has published the Implementation Working Group progress reports on yukon.ca.

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WCC: Inspection

Context:

- R. v Nehass brought to light challenges associated with the treatment options for inmates with mental illnesses, as well as issues associated with the use of separate confinement and segregation for this vulnerable population.
- The issuance of the 2018 Whitehorse Correctional Centre Inspection Report garnered significant coverage.

Background:

- On November 22, 2017, the Minister of Justice appointed David Loukidelis, Queen's Counsel, to inspect the policies and practices of the Whitehorse Correctional Centre (WCC) that involve, affect, or may impact the mental health of inmates, including the use of separate confinement and segregation for inmates with mental illnesses.
- Loukidelis presented the final report to the Department of Justice on May 15, 2018. The department provided its initial public response on August 15, 2018.
- The first action item of the Department of Justice was to create an implementation working group to ensure effective and meaningful fulfillment of the recommendations.
- The Implementation Working Group was chaired by the Assistant Deputy Minister of Community Justice and Public Safety and included core representation from senior officials from Kwanlin Dün First Nation, the Council of Yukon First Nations, the departments of Justice and Health and Social Services and the Investigations and Standards Office.
- The Implementation Working Group provided six progress reports. The most recent Letter of Report was submitted in December 2020 and was accompanied by a Matrix of Recommendations and Responses that thoroughly outlined the status of each recommendation.
- In the most recent and last Letter of Report, the Chair of the Implementation Working Group deemed its work complete and recommended that continued

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WCC: Inspection

oversight of efforts in correctional reform shift to the Community Advisory Board, given its ability to provide independent advice and recommendations to the Minister of Justice on a regular basis.

- Of the 40 recommendations made in the Inspection Report, 12 were related to mental wellness. The Implementation Working Group determined that seven of those recommendations were complete, four were underway, and one was under consideration. The group considered recommendation 11, which calls upon the Government of Yukon to work toward establishing a new secure forensic unit at the Whitehorse General Hospital and removing WCC's statutory designation as a hospital, to be particularly complex in scope and in need of significant government consideration.
- Fourteen of the recommendations made in the Inspection Report are related to segregation practices. The Implementation Working Group determined that 13 of those recommendations were complete and work was currently underway towards completing and implementing the single outstanding recommendation in this category.
- Ten recommendations made in the Inspection Report centered on programming and services for First Nations clients. The Working Group determined that seven of these recommendations were complete and two were underway. The group noted that one recommendation in this category, namely, recommendation 35 that calls upon the Corrections Branch to cease charging clients for local or long-distance phone calls, would lead to adverse consequences if it were implemented. It was not supported by the Working Group.
- Subsequently, due to the COVID-19 pandemic, free 20-minute phone calls were provided daily to all inmates at WCC. Now, WCC has permanently implemented this recommendation.
- The final grouping of recommendations made in the Inspection Report focused on broader justice system initiatives. Of the four recommendations, the Implementation Working Group determined that one was complete and two were underway. The group noted recommendation 39, which calls upon the government to undertake an expert assessment of the need for more residential treatment facilities, required broader consideration given that implementation would involve various justice, health and First Nations partners.

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Justice

WCC: Inspection

- The Corrections Branch continues to make progress towards the 40 recommendations of the Inspection Report. To date, the following areas have seen improvement.
 - WCC has implemented a more robust suicide screening process on intake that includes a two-step review by correctional officers, followed by a Health Services review.
 - WCC has contracted an alcohol and drug use counsellor to work with both remanded and sentenced clients and support through Narcotics Anonymous, which is now available for clients.
 - Free 20-minute phone calls, provided to each inmate daily, encourage contact with family and community contracts for supports.
 - WCC implemented a peer support team with support from the Canadian Mental Health Association – Yukon Division to support staff wellness.

Policy / Legal Advice

- Some of the recommendations made in the 2018 Whitehorse Correctional Centre Inspection Report overlap with, and have been addressed through, remedies included in settlement agreements with the Yukon Human Rights Commission.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Fall 2022

Whitehorse Correctional Centre: Inspection – Designation as a Hospital/Facility

Justice

Recommended response:

- The Whitehorse Correctional Centre's statutory designation as a hospital will be maintained for the purpose of detaining individuals found Not Criminally Responsible or Unfit for Trial on a short-term basis to ensure public safety.
- The complex needs of individuals who require forensic care, as well as the limited availability of crucial resources throughout the Yukon, have presented challenges in the delivery of forensic services and therefore require the Government of Yukon to maintain the hospital designation for Whitehorse Correctional Centre.
- The Government of Yukon continues to explore alternatives that would facilitate the successful implementation of removing Whitehorse Correctional Centre's designation as a hospital without compromising client care or public and institutional safety.
- Whitehorse Correctional Centre does not have the capacity to house individuals who require forensic care on a long-term basis. Individuals who require complex care are more appropriately placed in accredited psychiatric facilities that can provide appropriate healthcare by medical professionals who specialize in the delivery of forensic services.

Additional response:

- The Government of Yukon is committed to ensuring that individuals are housed humanely, in the least restrictive conditions required to maintain public and institutional safety based on their individualized needs and current presenting behaviour.

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Whitehorse Correctional Centre: Inspection – Designation as a Hospital/Facility

Justice

Context:

- The Supreme Court of Yukon has recommended that the Whitehorse Correctional Centre's status as a hospital be revoked.
- The 2018 Whitehorse Correctional Centre Inspection Report recommended that the Government of Yukon immediately revoke the institution's statutory designation as a hospital.

Background:

- On October 25, 1993, pursuant to section 672.1 of the *Criminal Code*, the Minister of Health and Social Services ordered that the following facilities be designated as hospitals for the custody, treatment or assessment of an accused in respect of whom an order, a disposition or a placement is made under the *Criminal Code*:
 - Whitehorse General Hospital;
 - Mental Health Services, Health Canada; and
 - Whitehorse Correctional Centre (WCC).
- WCC provides all clients with medical and mental health assessments upon intake and makes appropriate referrals as needed to the institution's Health Services team, the Department of Health and Social Services' Forensic Complex Care Team or the physician on contract for further evaluation.
- In 2019, contracted psychiatry and psychology services for WCC clients were transferred to the Department of Health and Social Services' (HSS's) Mental Wellness and Substance Use Services.
- In October 2020, the psychiatry team providing services to WCC's clients via contract with the HSS withdrew from their contract with Mental Wellness and Substance Use Services. The Corrections Branch was able to retain psychiatric services for WCC's clients, without a break in service, by collaborating directly with the psychiatrists and entering into a new billing arrangement with HSS.

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Whitehorse Correctional Centre: Inspection – Designation as a Hospital/Facility

Justice

- In April 2021, WCC established a contract with a dedicated psychiatrist to provide routine on-site psychiatric services for clients. This new contract replaced the previous billing arrangement with HSS.
- WCC contracted physician, contracted psychiatrist and case management staff work closely with community resources, the Forensic Complex Care Team and the Yukon Review Board (YRB) to secure appropriate services and maintain a continuity of care for individuals with complex mental health needs.
- WCC is not considered a hospital under the *Mental Health Act*. Therefore, clients cannot be forced to take medication, including medications to treat mental illness.
- Pursuant to orders of the YRB, only four people have ever been detained at WCC under the institution's statutory designation as a hospital. The first instance took place prior to 2010, the second instance occurred in May 2020, the third was in October 2021, and the fourth was for the same individual on two separate occasions – in January and March of 2022.
- In late 2019, the Corrections Branch was involved in discussions with the Yukon Hospital Corporation and HSS regarding the design and program model for a new secure medical unit at the Whitehorse General Hospital (WGH).
- In March 2021, the Corrections Branch participated in a discussion with the Centre for Addiction and Mental Health regarding a recommendation to improve the secure medical unit operations at WGH while the new secure medical unit is being built.
- WGH is designated for detaining individuals found Not Criminally Responsible or Unfit for Trial pursuant to the *Criminal Code* but has been reluctant to admit and detain such individuals, therefore leaving WCC as the only other adequate alternative.

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**Whitehorse Correctional Centre:
Inspection – Designation as a
Hospital/Facility**

Justice

Policy / Legal Advice

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74(1)(a)

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Session Briefing Note
Community Safety Officers

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Justice

Recommended response:

- Community safety initiatives, such as the Community Safety Officer programs developed by Kwanlin Dün First Nation and other Yukon First Nations governments, have been successful in improving citizens' feelings of safety in their respective communities.
- We are committed to working with First Nations governments and the Government of Canada to support community-designed and community-led initiatives like Community Safety Officer programs.

Additional response:

- We recognize the value and impact that Community Safety Officer programs have in keeping communities safe.

Context:

- Currently, four Yukon First Nations governments are operating Community Safety Officer (CSO) programs in their communities to address community safety issues and complement existing law enforcement: Kwanlin Dün First Nation (KDFN), Selkirk First Nation (SFN), Teslin Tlingit Council (TTC), and Carcross/Tagish First Nation (CTFN).
- Other Yukon First Nations governments have expressed interest in establishing, or are currently implementing, CSO programs.
- There have been various requests from Yukon First Nations governments for funding for CSO programs. Funding provided to date has been ad hoc in nature. Some First Nations governments may question why funding for CSO programs is not available through an announced community safety planning funding program.

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Justice

Community Safety Officers

Background:

- In the Yukon, CSO programs are led, designed and implemented by First Nations governments. The Government of Yukon (YG) has no role outside of providing cost-shared funding with the Government of Canada (Canada).
- YG has supported KDFN's CSO program since 2016. Since 2019, YG has cost-shared that funding with Canada.
- In 2021–22, YG secured a commitment from Canada to cost-share funding for SFN's CSO program starting in the last quarter of the 2021–22 fiscal year.
- 76(1)
- There is no permanent source of funding for CSO programs in Canada. However, there may be new opportunities for federal funding under the First Nations and Inuit Policing Program (FNIPP) starting in 2023–24 (see BN #74).
- The 2021 federal budget contained substantial new funding to stabilize and enhance the FNIPP, including \$540 million over the next five years.
- It included \$127 million in ongoing funding, including funding for Indigenous community safety initiatives and expanding initiatives that may be funded, such as CSO programs.
- Federal-Provincial-Territorial (FPT) FNIPP discussions to determine how funding from Budget 2021 would be allocated in 2022–23 concluded in July 2022. Due to the funding available nationally and future implications of funding decisions on YG, YG committed significant time and resources into this process.
 - Priority for these allocations was to support and stabilize existing agreements and initiatives currently underfunded by the FNIPP.
 - YG requested funding for one additional FNIPP RCMP resource and one Yukon First Nation CSO program but was not successful in either request.
- YG will have further opportunity to advocate for FNIPP funding in subsequent FPT meetings. Discussions regarding funding for 2023–24 will commence in fall 2022.
- YG continues to advocate for funding for Yukon First Nations governments' CSO programs in FPT forums.

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Community Safety Officers

Justice

- Canada is co-developing a legislative framework with First Nations governments that recognizes First Nations policing as an essential service and expands the number of communities served by First Nations policing. Canada has stated the focus of such legislation will be on core policing initiatives, and not alternative police service delivery such as CSO programs.
- The Department of Justice is currently considering how to address funding requests from First Nation governments for CSO programs in a fair and transparent manner.
- There may be additional requests for funding for CSO programs once YG implements its Community Safety Planning funding program.

Kwanlin Dün First Nation

- KDFN designed a CSO pilot program to address its community safety concerns. YG provided funding for KDFN's CSO pilot program from 2016 to 2019.
- In 2019, YG agreed to cost-share funding with Canada, on a 48/52 per cent basis respectively, for an additional two years to allow KDFN to extend the pilot and conduct a program evaluation.
- In December 2020, KDFN forwarded a copy of its CSO program evaluation and requested continued and increased annual funding for an additional three years (2021 to 2024).
- Since then, YG and Canada have agreed to cost-share funding for KDFN's CSO program in 2021–22 and 2022–23 on an annual versus multi-year basis but have not met KDFN's interest for a significant increase in funding in order to hire more CSO officers.
- KDFN's value-based evaluation of its CSO program reports it to be a successful, culturally-responsive community safety service that has led to positive outcomes for KDFN, its citizens and the broader community.
- KDFN's CSO program is well known internationally and has received a lot of media attention. Many First Nations governments in Canada have also contacted KDFN to discuss the merits of its CSO program model.
- KDFN Chief Bill has been a strong advocate for KDFN's CSO program. Chief Bill has presented to the House of Commons Standing Committee on Indigenous and

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Community Safety Officers

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Justice

Northern Affairs to speak about KDFN's CSO program

76(1)

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Selkirk First Nation

- Following a presentation on its community safety planning process to the Yukon Minister of Justice and senior departmental officials in summer 2019, SFN submitted a request to YG for annual funding for three years to implement a CSO program.
- In March 2020, YG provided SFN with a small amount of funding to purchase equipment for its CSO program but did not provide any further funding.
- In December 2021, after consistent requests from YG, Canada agreed to cost-share funding for SFN's CSO program for the balance of the 2021–22 fiscal year and the 2022–23 fiscal year.

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- YG is working with Canada and SFN to put funding in place for 2022–23.

Teslin Tlingit Council

- In September 2020, as part of Administration of Justice Agreement (AJA) implementation negotiations, TTC expressed interest in negotiating an agreement with Canada and YG to establish a CSO program.
- The Parties had concluded an agreement regarding the implementation of enforcement provisions of the TTC AJA in 2019, and that agreement was signed in March 2021. TTC's interest to establish a CSO program came after those negotiations, so CSO funding is not included in that agreement.
- TTC established a CSO program in 2021, which is currently operational.
- In fall 2021, TTC requested funding for its CSO program as part of social impact funding for the Nisutlin Bay Bridge Replacement Project. YG advised TTC that it could not provide funding outside of a cost-sharing agreement with Canada.

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- YG advocated for funding for TTC's CSO program for 2022–23 through the FPT FNIPP Federal Budget 2021 stage one allocations, but was unsuccessful.

Carcross/Tagish First Nation

- In January 2022, Carcross/Tagish First Nation established a CSO program on a part-time basis.

Other Yukon First Nations governments

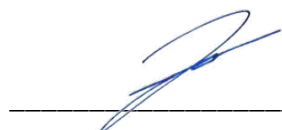
- Several other Yukon First Nations governments have expressed interest or are currently taking steps to establish CSO programs, including:
 - Vuntut Gwitchin First Nation;
 - Champagne and Aishihik First Nations;
 - Little Salmon/Carmacks First Nation;
 - Kluane First Nation;
 - First Nation of Na-Cho Nyäk Dun; and
 - Ross River Dena Council.

[Cross Reference BN #61 – Community Safety Planning]

[Cross Reference BN #74 – First Nations and Inuit Policing Program]

[Cross Reference BN #140 – AJA Negotiations]

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Justice

Community Safety Planning

Recommended response:

- The Government of Yukon continues to prioritize support for safer and stronger communities across the territory.
- We are committed to ongoing collaboration with the Government of Canada, First Nations governments and municipalities to support community safety planning processes and implement community safety initiatives.
- For Yukon First Nations in particular, we recognize that the development of community safety plans and initiatives must be specific to each community's culture and use Traditional Knowledge to ensure safer communities.

Additional response:

- A community safety planning process was used at 405 Alexander Street to identify concerns of surrounding businesses, allied stakeholders, members of the public and shelter clients.

Context:

- Yukon First Nations governments and municipalities have expressed interest in community safety planning and implementing community safety initiatives.
- The Minister of Justice's 2021 mandate letter directed the Minister to enhance the Community Safety Planning program to ensure consistent funding to community safety planning activities across the Yukon and investigate how this approach might apply to municipalities and urban neighbourhoods in Whitehorse.

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Community Safety Planning

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Justice

Current Situation:

- The Department of Justice issued a news release on March 14, 2022, announcing that Phase One of a Community Safety Planning funding program would make funds available in 2022.
- The release commits to providing up to \$200,000 for each First Nation to support community safety planning or related implementation activities.
- In April and May 2022, the Department of Justice reached out to Yukon First Nations for input to aid in developing the Community Safety Planning program guidelines and receive updates on their current safety planning.

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Community Safety Planning

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Community Safety Planning

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Justice

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Background:

- In September 2017, the Yukon Forum approved its Action Plan, which prioritized “working with identified First Nations and the Government of Canada to support the development of Community Safety Plans within the Public Safety Canada framework.”
- In December 2020, the Yukon Advisory Committee released Changing the Story to Upholding Dignity and Justice: Yukon’s Missing and Murdered Indigenous Women, Girls and Two-spirit+ People Strategy (the Strategy) to address violence against Indigenous Missing and Murdered Indigenous Women, Girls and Two-spirit+ People (MMIWG2S+).
- The Strategy includes an action item to “Conduct community-based safety assessments designed by communities to identify factors contributing to the ongoing perpetuation of violence and unsafe conditions in each community” and “Develop and implement Community Safety Plans that address these factors and conditions.”
- In 2021, the First Session of the 35th Yukon Legislative Assembly Speech from the Throne committed the Government of Yukon to “keep working with partners to make all Yukon communities safer. [The government would] enhance our

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Community Safety Planning

community safety planning program and ensure a consistent approach to funding community safety planning activities across the territory.”

Government of Canada - Aboriginal Community Safety Planning Initiative:

- In 2010, PSC created the Aboriginal Community Safety Planning (ACSP) initiative to support Indigenous communities in developing individually tailored approaches to community safety that reflect their concerns, priorities and unique circumstances.
- The ACSP initiative also addresses the Government of Canada’s commitment to addressing the high numbers of MMIWG2S+ people and enhanced accessibility to restorative justice programming.
- PSC has evaluated the ACSP initiative and concluded that communities that participated in community safety planning reported strengthened community relationships, focus and preparedness to address community safety issues.
- However, the federal ACSP program has two significant limitations:
 - PSC requires that First Nations use facilitators that PSC has trained for this purpose. This can create a barrier for Yukon First Nations, where the preference is to work with someone with local knowledge and experience.
 - While the Government of Canada has committed to providing \$1.3 million annually for Aboriginal community safety planning, the federal government discontinued the funding for implementing those plans in the 2020–21 fiscal year.
- The Department of Justice continues to engage with our federal partners on their Aboriginal community safety planning initiatives.

Policy / Legal Advice

76(1)

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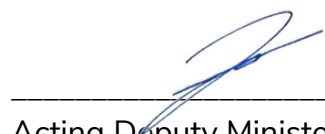
Community Safety Planning

- As LACs are not incorporated, they are not legal entities and do not have the authority to operate independently from the Minister of Community Services. This means they are unable to contract services. Therefore, the department will require additional time to explore alternative avenues to support LACs.

- 67(3)(b)

- 74(1)(a)

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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Decriminalization of Opioids

Recommended response:

- The criminal law around controlled drugs and substances is under the purview of the Government of Canada.
- Our government has been working with partners to address the substance use health emergency, including support for a range of harm reduction initiatives aimed at reducing overdose deaths and curbing stigma around drug use.
- The Government of Yukon is gathering information and carefully considering available options for further action.

Additional response:

- We continue to support enforcement-based approaches to address illegal trafficking and toxic drug supply in the territory.
- Representatives from the Government of Yukon have been working with the Federal/Provincial/Territorial Working Group on Simple Possession to identify current policies and practice, as well as implications of potential alternatives to charging, prosecuting and sentencing simple possession.
- Yukoners are acutely impacted by the presence of illicit drugs in our territory, and we are committed to continuing our work to address this substance use health emergency.

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Justice

Decriminalization of Opioids

Context:

- The Government of Yukon declared a substance use health emergency on January 20, 2022.
 - The substance use emergency was a topic of discussion at the August 2022 Inaugural Indigenous Community Safety Summit, held in Whitehorse.
-

Background:

- Under a decriminalization regime, possession of drugs for personal use remains illegal; however, instead of criminal sanctions, non-criminal responses, such as fines and warnings, may be applicable for designated activities.
 - In 2021, the Yukon's Blood Ties Four Directions Centre, with support from the Canadian Drug Policy Coalition and Health Canada, facilitated a Yukon community dialogue about experiences and perspectives on drug policy and the overdose crisis, culminating in a public Getting to Tomorrow report. Themes included:
 - fear of police involvement, arrest, discrimination and racism in healthcare preventing people from calling 9-1-1 during an overdose;
 - stigma around drug use, preventing people from seeking care and support;
 - criticisms of the *Safer Communities and Neighbourhoods Act*;
 - gaps in harm-reduction and treatment services, especially in the Yukon's rural communities; and
 - impacts of housing insecurity (and policies) on people who use drugs.
 - The Government of Yukon declared a substance use health emergency on January 20, 2022, and is working closely with partners to advance a range of harm reduction initiatives in response to the emergency.
 - In February 2022, the Government of Yukon hosted the first phase of a Mental Wellness Summit to discuss the health emergency and is planning a second phase of the summit in fall 2022.
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Decriminalization of Opioids

- In May 2022, upgrades to the Yukon's Supervised Consumption Site were completed to accommodate inhalation-based consumption.
- The Yukon's Member of Parliament, Brendan Hanley, has publicly expressed support for decriminalizing "simple possession" of narcotic drugs and other controlled substances.
- Multiple law enforcement bodies, including the Canadian Association of Chiefs of Police, the British Columbia Association of Chiefs of Police, and Yukon's RCMP 'M' Division, have also expressed conditional support for possession-related drug decriminalization, endorsing an "integrated approach" with appropriately resourced health-based services.
- The Yukon Coroner's Service released updated information on August 8, 2022, stating that 17 Yukoners have died so far in 2022 due to illicit drugs.
- The Yukon's Chief Coroner has advocated for decriminalization and work to create a safe supply of drugs.
- According to Statistics Canada, there were 60 police-reported criminal incidents for possession of illicit drugs in the Yukon in 2021 and 211 police-reported incidents for drug trafficking.

Federal legislation and jurisdictional exemptions

- Health Canada has approved decriminalization for possession of small amounts of drugs for personal use in British Columbia. Effective January 2023, adults will no longer be arrested or charged for possessing small amounts of drugs for personal use. The total amount of drugs must be equal to, or less than, 2.5 grams.
- On December 15, 2021, Bill C-216, "An Act to amend the Controlled Drugs and Substances Act and to enact the Expungement of Certain Drug-related Convictions Act and the National Strategy on Substance Use Act", was tabled.
 - Bill C-216 sought to rescind a provision of the *Controlled Drugs and Substances Act* that makes it an offence to possess specified substances.
 - On June 1, 2022, the House of Commons voted, and Bill C-216 was rejected at second reading.

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Decriminalization of Opioids

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Approved by:



Acting Deputy Minister, Justice

2022-09-09

Date approved

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Fall 2022

Firearms – Federal Changes

Justice

Recommended response:

- The *Criminal Code of Canada* and the *Firearms Act* are under the purview of the Government of Canada.
- The federal government has proposed changes in Bill C-21 that focus on organized crime; supporting violence prevention programs for youth; and taking measures to combat gun-related domestic violence and self-harm.
- The federal government also continues to work toward regulating handgun ownership and prohibiting specific firearm models, mostly those identified as "assault-style" weapons.
- There is an amnesty period in place before prohibitions come into effect, and a federal buy-back program is expected to be launched in 2023.

Additional response:

- This spring, the federal government extended the amnesty period for the new weapons prohibitions until October 2023.
- Legal owners of the newly prohibited models of firearms will be able to participate in a federal buy-back program, or apply to keep their firearms under new, more restrictive conditions.
- Our government supports the lawful ownership of firearms and will continue to protect the rights of owners of legal firearms in the Yukon.

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Firearms – Federal Changes

Justice

Context:

- On July 27, 2022, the department provided a formal response to the Official Opposition's letter requesting that the Yukon's Minister of Justice oppose Bill C-21.
 - Owners of legal firearms within the Yukon have expressed concerns about the changes to federal firearms legislation, new handgun regulations and the prohibitions on specific firearms.
-

Background:

- On June 21, 2019, the federal government's *An Act to amend certain Acts and Regulations in relation to firearms* (Bill C-71) received Royal Assent. This resulted in changes to pre-ownership background checks and documentation relating to firearms sales, forfeiture of firearms, and transferring and transporting certain firearms.
 - In a letter to the federal Minister of Public Safety and Emergency Preparedness dated March 4, 2020, the Government of Yukon's Justice Minister noted the following:
 - firearms are an important part of a subsistence lifestyle;
 - Yukoners, Yukon First Nations governments and Yukon municipalities would like an opportunity to comment on changes to federal legislation; and
 - the considerations of law-abiding firearms owners should be taken into account when decisions about personal and public safety are made.
 - On May 1, 2020, the Government of Canada announced new prohibitions on more than 1,500 models of assault-style firearms and specific firearm components. This was accompanied by a temporary *Criminal Code* amnesty order.
 - The Government of Canada has stated it will introduce a buy-back program in early 2023, allowing owners of prohibited firearms to receive fair compensation for turning firearms over to the authorities.
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Firearms – Federal Changes

Justice

- Businesses will be able to choose to turn firearms over to the Government of Canada for compensation, or return them to the manufacturer.
- Exceptions are in place for Indigenous peoples exercising Aboriginal or treaty rights to hunt or trap for sustenance (per s. 35 of the *Constitution Act, 1982*). These exceptions allow for the continued use of previously non-restricted firearms, in limited circumstances, until a suitable replacement can be found.
- Under Self-Government Agreements, self-governing Yukon First Nations also have the legislative authority to control or prohibit the possession or use of firearms, other weapons and explosives on Settlement Land (SGA 13.3.21).
- On November 30, 2020, Public Safety Canada announced that the existing *Firearms Marking Regulations* under the *Firearms Act*, scheduled to come into force on December 1, 2020, had been deferred until December 1, 2023.
- The deferred regulations are designed to enable law enforcement to trace guns used for criminal purposes and to function alongside the ban on assault-style firearms as part of Canada's firearms strategy to protect public safety.
- On February 16, 2021, the federal government introduced the first Bill C-21. This bill contained amendments to the *Criminal Code* and *Firearms Act*, including new "red flag" and "yellow flag" laws that allow people to apply to a court for the removal of someone's firearm if there is cause to fear for personal or public safety.
- Other changes included measures to combat gun-related organized crime; provisions allowing municipalities to ban handguns through bylaws; violence prevention programming; stronger border controls for firearms offences; stricter criminal penalties; and technical amendments to federal authorities.
- On March 16, 2022, the federal government announced the extension of the assault-style weapons prohibition amnesty order until October 30, 2023.
- This extension also came with several amendments:
 - **allowing firearms to be transported so that they can be repaired and used safely** for subsistence hunting or for those exercising a right under section 35 of the *Constitution Act, 1982*;
 - **protecting those who would alternatively store a newly-prohibited firearm** or an owner who transports it for that purpose;

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Firearms – Federal Changes

Justice

- protecting individuals who lawfully purchased, or entered into an agreement to purchase, a **formerly restricted firearm** up until and including April 30, 2020, and who did not receive a registration certificate by that date as required by the Amnesty Order;
- protecting businesses that take possession of the prohibited firearms in order to deactivate them on behalf of an owner; and
- providing the Bank of Canada, a Crown entity, with the flexibility to use its full inventory of firearms that best addresses its security needs.
- On May 30, 2022, the federal government tabled a 'new' Bill C-21 - "An Act to amend certain Acts and to make certain consequential amendments (firearms)". This Bill re-introduced many elements fo the former Bill C-21 while adding new provisions to:
 - reduce firearm-related family violence and self-harm;
 - prevent most individuals from buying, selling and transferring handguns;
 - strengthen border controls and authorities to combat firearms smuggling, trafficking and related offences;
 - establish new firearm-related offences and strengthened penalties;
 - prohibit mid-power "replica" firearms; and
 - enhance the security of federal entities and solidify the administration of firearms control.
- The new Bill C-21 passed second reading on June 23, 2022 and has been referred to the Standing Committee on Public Safety and National Security for further consideration.

Statistics

- Statistics Canada reported a national increase in violent and non-violent firearm offence rates for the seventh consecutive year in 2021, rising by 4 per cent. This includes discharging a firearm with intent (up eight per cent) and using a firearm in the commission of an indictable offence (up three per cent).

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- The 2021 national rate at which a firearm was present during the commission of the offence was 27 per 100,000 population. This rate was five per cent lower compared with 2020.
- The proportion of homicides in Canada that involved a firearm rose from 26 per cent of all homicides in 2013 to 41 per cent in 2021.
- In the Yukon, Statistics Canada reported nine violent *Criminal Code* violations involving firearms in 2021. This is a significant decrease from the 21 incidents reported in 2020.
- According to the 2020 Commissioner of Firearms Report, in 2020, the total number of individual firearms licenses in the Yukon was 8,056. Of those, 2,050 licenses were for restricted firearms and 143 were for prohibited firearms registered to Yukon residents.

Firearms-related Amendments to the *Safer Communities and Neighbourhoods Act*

- Amendments to the *Safer Communities and Neighbourhoods Act* were passed in the fall 2021 legislative session, adding three specified uses that the SCAN Unit can investigate.
- One of these new specified uses is the possession or storage of prohibited, restricted or stolen firearms, restricted weapons, or explosives in contravention of the *Firearms Act*, *Explosives Act*, or any other law.
- During the debate on these amendments, members of the Official Opposition asserted that the SCAN Act amendments were intended to seize firearms that were addressed in the federal changes.

[Cross Reference BN# 65 – SCAN]

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Gun and Gang Violence Action Fund

Justice

Recommended response:

- The Government of Yukon remains committed to ensuring that all Yukoners feel safe throughout the territory.
- Our government is actively working with the Government of Canada, First Nations governments, municipal governments, the RCMP and community stakeholders to combat a spectrum of criminal activity.
- Under the federal government's Initiative to Take Action Against Gun and Gang Violence, the Government of Yukon has received \$2,250,735 in federal funding over the past five years.

Additional response:

- We have used this funding to prevent and disrupt violence experienced in Yukon communities by hiring and training additional enforcement personnel, improving information sharing, funding community-based prevention activities, and increasing local awareness of gang-related issues.
- We are currently in the final year of this funding agreement. The federal government has not yet confirmed whether further funding may be available in future years.

Context:

- Local media reporting has highlighted concerns about crime rates and violent crimes associated with organized crime.
- Yukon's RCMP released a public report on organized crime in the territory in July 2022, analyzing the impacts of the drug trade and its links to organized crime.
- The Government of Yukon declared a substance use health emergency in January 2022, following a drastic increase in opioid-related deaths in the territory.

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Gun and Gang Violence Action Fund

Justice

Background:

- In November 2017, the Government of Canada (Canada) established a five-year Gun and Gang Violence Action Fund (GGVAF) to partner with provinces and territories on the federal Initiative to Take Action Against Gun and Gang Violence.
- The Government of Yukon (YG) entered into a contribution agreement with Canada in 2018 “to support projects that contribute to [...] enhancing efforts to prevent, disrupt and combat gun and gang violence, and increase awareness and understanding of related issues.”

Territorial Funding

- YG’s GGVAF funding agreement averages approximately \$450,000 of federal funding per year over five years, totalling \$2,250,735. The allocated funding per fiscal year is as follows:

2018–19	\$192,715
2019–20	\$198,018
2020–21	\$464,780
2021–22	\$622,572
2022–23	\$772,650
Total over five years	\$2,250,735

- Canada has previously communicated that they may extend support for the Gun and Gang Violence Action Fund to the provinces and territories beyond the initial five-year period.
- As of July 2022, the federal government has not yet released any details regarding a potential continuation of GGVAF funding to provinces and territories.

Key Objectives of Yukon’s Gun and Gang Strategy

- Areas where YG has invested federal funding through the GGVAF include:
 - enhancing the knowledge base in the Yukon related to the prevalence of organized crime and about specific issues, including drug trafficking and illegal firearms trafficking;
 - investing in community-level programs that will help to deter or divert youth from criminal activity and gang involvement, including funding agreements with

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Gun and Gang Violence Action Fund

Justice

the Boys and Girls Club Yukon for their drop-in youth program; backpack (“food vs crime”) program; and a satellite program in Haines Junction;

- investing in partnerships that inform and supply Yukoners with the tools necessary to report crimes and keep their communities safe, including a funding agreement with the Yukon Community Crimestoppers Association for their website and social media development and rural signage;
- developing intelligence-sharing partnerships to enhance intelligence gathering, data capture and analytical capacity;
- adding investigative capacity to the Safer Communities and Neighbourhoods (SCAN) unit, with three additional investigator positions and an analyst; and
- successfully expanding the scope of the SCAN Act in the fall 2021 sitting to include three new specified uses:
 - the sexual abuse or sexual exploitation of a child;
 - the possession or storage of prohibited, restricted or stolen firearms or explosives, in contravention of the *Firearms Act* or the *Explosives Act*; and
 - organized crime.

[Cross Reference BN# 65 – SCAN]

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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SCAN

Recommended response:

- The Safer Communities and Neighbourhoods, or SCAN, Unit supports community safety by responding to the concerns of Yukoners and disrupting specified activities, including drug trafficking, illegal alcohol sales, illegal activities related to prostitution, trafficking of illegal firearms, organized crime, and child exploitation.
- Yukoners may seek relief from recurring crime that negatively affects community safety by reporting their complaint confidentially, without exposure to threats of violence, retaliation or intimidation from those involved in the criminal activity.
- SCAN's operational policies encourage investigators to consider the unique needs of vulnerable persons and to make referrals to other support agencies when the SCAN investigation identifies a need for protection or assistance.

Additional response:

- There are protocols in place between the SCAN Unit and nine First Nations governments.
- These agreements facilitate communication and enforcement activities when the SCAN Unit investigates complaints on First Nations Settlement Land.

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SCAN

Context:

- In the spring 2022 sitting, the Legislative Assembly passed an amendment to add a clause to the *Safer Communities and Neighbourhoods Act* requiring the Government of Yukon to complete a comprehensive review of the Act within five years and to table a report of the review's findings in the Legislative Assembly.
-

Background:

- The *Safer Communities and Neighbourhoods Act* was enacted in May 2006 and is administered and enforced by a team of investigators (the SCAN Unit) who respond to complaints from citizens about specified uses on properties that are having adverse effects on their communities and neighbourhoods.
- Amendments to the SCAN Act were passed in the fall 2021 session, adding three new specified uses.
- The Act defines the types of activity the SCAN Unit can investigate as a "specified use." Specified uses include:
 - the illegal sale of liquor and other contraventions of the *Liquor Act*;
 - contraventions of the *Controlled Drugs and Substances Act* (Canada), the *Cannabis Act* (Canada) and the *Cannabis Control and Regulation Act* (Yukon) and the use or consumption of intoxicants;
 - prostitution and activities related to prostitution;
 - the sexual abuse or sexual exploitation of a child (added in 2021);
 - the possession or storage of prohibited, restricted or stolen firearms, explosives, or other restricted weapons in contravention of the *Firearms Act*, the *Explosives Act* and other laws (added in 2021); and
 - organized crime (added in 2021).

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- If a SCAN complaint indicates that a specified activity is taking place at the property, SCAN will investigate further to determine whether or not the activity is habitual in nature and adversely affecting the community and neighbourhood.
- The SCAN Unit may resolve a complaint by addressing the problem formally or informally with the tenant and/or property owner.
- Formal and informal resolutions take numerous forms and may include, but are not limited to:
 - giving a conversational warning;
 - sending a formal warning letter or agreement to cease illegal activities;
 - serving an eviction notice on behalf of the landlord; or
 - applying to the Yukon Supreme Court for a Community Safety Order, which may include provisions terminating leases, closing the property for up to 90 days, or any other provisions that the court considers necessary to make the order effective.
- The Government of Yukon has added to the investigation and analysis capacity of the SCAN Unit with funding received through the Gun and Gang Violence Action Fund, to address the evolving nature of criminal activity presenting in Yukon communities and neighbourhoods.
- A petition was filed to the Yukon Supreme Court on January 7, 2021. The petition alleges that subsection 3(2) of the Act invoked to serve the petitioner an eviction notice on behalf of the landlord violates the *Charter of Rights and Freedoms*.
- On October 22, 2021, Chief Justice Duncan granted the petitioner public interest standing to proceed with the Charter challenge (See L-19 *Wright v Yukon*).
- The SCAN Unit has received over 1,200 complaints since 2006, including 112 in 2021. In the first six months of 2022, the SCAN Unit received 45 complaints.
- The SCAN Unit has signed protocols with:
 - Champagne and Aishihik First Nations,
 - Kluane First Nation,
 - Carcross/Tagish First Nation,

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- First Nation of Na-Cho Nyak Dun,
- Kwanlin Dün First Nation,
- Selkirk First Nation,
- Tr'ondëk Hwëch'in First Nation,
- Vuntut Gwitchin First Nation, and
- Little Salmon/Carmacks First Nation.

[Cross Reference BN# 15 – SCAN Act Amendments and Review]

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Yukon Police Council

Justice

Recommended response:

- The Yukon Police Council is an independent citizen advisory council that promotes ongoing dialogue to foster positive relationships between Yukoners, the Yukon's RCMP and the Department of Justice.
- Each year, the Yukon Police Council works to collect community perspectives and provide recommendations that inform policing priorities for the Yukon's RCMP.
- The Yukon Police Council provides a valuable service to Yukoners, and as the Minister of Justice, I look forward to receiving their recommendations each year.

Context:

- Current national and international conversations about police use-of-force, substance-use emergencies, ideologically motivated violence and systemic racism in policing highlight the importance of the Yukon Police Council.

Background:

- The Yukon Police Council (the Council) was formed in 2012 following recommendations in the Sharing Common Ground: Review of Yukon's Police Force final report in 2010.
- The Council usually visits several communities annually to meet with First Nations governments, stakeholder groups, RCMP community detachments and Yukoners.
- The Council uses the feedback from these community meetings to advise the Minister on policing issues affecting people in the Yukon.
- The Council suspended community visits in 2020 during the COVID-19 pandemic out of respect for community safety and travel restrictions throughout the territory. To gather feedback from Yukoners, the Council hosted a survey in late 2020.

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Yukon Police Council

- The Council presented a final report summarizing the survey results to the public in early summer 2021. The 1,941 respondents identified these top five areas of concern:
 - gangs and drugs;
 - property theft and break and enters;
 - domestic violence;
 - alcohol and drug offences; and
 - speeding and traffic safety.
- The Council resumed community travel in the fall of 2021, with productive visits to Faro and Ross River.
- The feedback from the 2021 visits and virtual meetings with stakeholders and community groups informed the recommendations from the Council to the Minister of Justice on policing priorities for 2022–23.
- The Council completed community visits to Burwash Landing and Beaver Creek in August 2022.
- Inspire.Reconciliation.Potential (IRP Consulting) has been contracted to complete the Sharing Common Ground review. Council participated in a focus group with IRP Consulting on October 4, 2022, with individual interviews underway for members who were unable to attend.
- The Council is comprised of a Chair and six citizens appointed by the Minister of Justice for a three-year term. The Council includes members from Whitehorse and the Communities, with a minimum of three members appointed from Yukon First Nations.

[Cross Reference BN# 76 – Policing Priorities]

Approved by:

Deputy Minister, Justice

Date approved

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Auxiliary Policing Program

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Justice

Recommended response:

- RCMP Auxiliary constables are members of the public: their voluntary contributions build bridges between police and the community, leading to improved community safety.
- The restructured Auxiliary Policing Program is under review by RCMP national leadership; the program has not been active since 2017.
- The Department of Justice continues to work in partnership with Yukon First Nations governments, communities and territorial service providers to explore community-level initiatives that contribute to community safety.

Additional response:

- The RCMP suspended the Auxiliary Policing Program in 2017 to redesign the program to ensure the safety of auxiliary members.
- The RCMP has developed a Memorandum of Understanding regarding the new, tiered approach for the Auxiliary Policing Program; still, the program has not yet been reinstated in most jurisdictions, including the Yukon.
- When reinstated, the RCMP Auxiliary Policing Program would adopt a tiered approach so that auxiliaries may perform different duties based on their level of training and individual capabilities.

Context:

- Concerns have been raised about the suspension of the Auxiliary Policing Program and the delays in implementing a revised program.

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Auxiliary Policing Program

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- 76(1), 74(1)(a)

Background:

- RCMP Auxiliaries are members of the public who volunteer their time with the RCMP to act as bridge builders between police and the community. They participate in RCMP-supported community events and programs; crime prevention initiatives within schools; traffic control; foot and bicycle patrols; festivals; search and rescue; parades; and other ceremonial events.
- In late 2014, there were several high-profile public safety incidents, including the shooting of an RCMP Auxiliary while on a routine investigation in Alberta on January 17, 2015. These events raised questions about the safety of volunteers who are unarmed but have the potential to be in high-risk situations.
- In 2015, a national review of the Auxiliary Policing Program sought to address concerns raised by the recent incidents. The RCMP National Senior Executive Committee received formal recommendations on January 11, 2016, which included:
 - discontinuing ride-alongs and firearm familiarization training;
 - creating a National Activity Matrix outlining auxiliary duties;
 - forming a National Training Standard;
 - reviewing uniform options; and
 - establishing a comprehensive communication strategy between the divisions and their stakeholders.
- On January 25, 2016, the RCMP National Senior Executive Committee suspended the national Auxiliary Policing Program, pending work to address the recommendations.
- 76(1)

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Auxiliary Policing Program

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Following consultation with the provinces and territories, the RCMP proposed a three-tiered model for auxiliaries.

- Tier one sees auxiliaries providing general community policing services and public education, which will not require auxiliaries to be designated as peace officers. Tier one auxiliaries must contribute a minimum of 60 hours per year to the program.
- Tier two will carry similar duties to tier one but will also include the addition of community presence via foot and bicycle. In addition, tier two will have peace officer status and must contribute 120 hours to the program each year.
- Under tier three, auxiliary duties include all activities described in tiers one and two, with the addition of operational patrols, attending calls, check stops, scene security and searches of persons. Tier three auxiliaries will be peace officers and must contribute 180 hours to the program each year.
- In 2018, the RCMP worked with an independent company to develop an insurance standard for Accidental Death and Dismemberment coverage for auxiliaries. The RCMP have signalled that, moving forward, all provinces and territories implementing tiered auxiliary programs will be required to procure insurance based on this standard.
- In 2019 and 2020, the RCMP developed an MOU to formalize the roles and responsibilities of the RCMP and provinces and territories concerning the revised Auxiliary Program.
- 76(1)
- The requirement for provinces and territories to indemnify the RCMP, while also insuring the auxiliaries, is perceived as problematic because, through the MOU, the RCMP maintains all operational controls related to auxiliary officers, including their deployment, supervision, direction, training and selection.

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Auxiliary Policing Program

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76(1), 74(1)(a)

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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Capital Projects – Detachments

Justice

Recommended response:

- The Government of Yukon continues to work with the RCMP to ensure that the Yukon's policing infrastructure meets the territory's operational requirements and policing needs.
- The Territorial Police Service Agreement includes a capital asset management program called the "Accommodations Program Charge." The RCMP and the Government of Yukon jointly decide on projects under this program in five-year cycles.
- During the second capital cycle, which ended this spring, our government funded three detachment projects: the renovation of Ross River's detachment and the replacement of the detachment buildings in Carcross and Faro.

Additional response:

- Due to pandemic-related supply chain and labour pressures, the Carcross and Faro projects experienced delays and will be completed in the fall of 2022.
- The new buildings in Carcross and Faro employ green technologies, including geothermal heat and photovoltaic electricity, that will reduce their carbon footprint by more than 80 per cent.

Context:

- The Carcross detachment project attracted media attention in July 2021 due to local complaints of blowing debris during demolition.
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Fall 2022
Justice

Capital Projects – Detachments

Background:

Accommodations Program Charge process

- Pursuant to Article 12 of the Territorial Police Service Agreement, the RCMP will manage capital assets through a program that includes: detachment construction and renovations ("Major Capital"); building repairs and upgrades ("Minor Capital"); and the maintenance of living quarters ("Living Quarters").
- This program, known as the Accommodations Program Charge (APC), relies on consultation, negotiation and agreement between the Government of Yukon and the RCMP.
- The APC is structured in five-year cycles, with territorial budget caps established at the beginning of each cycle that are paid out in "smoothed rate" annual installments over each five-year period. Ministerial approval is required at specified decision points in each project.
- A reconciliation process occurs annually and at the end of each five-year cycle.

Previous Capital Cycles

- In Cycle One (2012–17), the Government of Yukon invested \$3,115,114 in policing infrastructure, including \$427,151 toward planning for Cycle Two projects.
- No new detachments were constructed in Cycle One.
- Cycle Two included three major projects: the renovation of the Ross River detachment building and two new detachment buildings in Carcross and Faro.
- The new detachment buildings pioneered a new modular construction method and were manufactured at a factory in Stoney Creek, Ontario. The modules were then shipped to the Yukon and assembled on location at each site.
- The Cycle Two projects encountered delays in the final phase of assembly that were related to COVID-19 supply shortfalls and labour availability. In February 2022, the Government of Yukon's Minister of Justice approved an extension that allowed completion of the projects during the first part of Cycle Three.
- All three major projects for Cycle Two will be fully operational in fall 2022.

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Session Briefing Note
Capital Projects – Detachments

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Justice

[Cross Reference BN# 77 RCMP Capital – Cycle Three Proposals]

Approved by:



Acting Deputy Minister, Justice

2022-10-06

Date approved

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Session Briefing Note

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Fall 2022

Crime Rates

Justice

Recommended response:

- Statistics Canada's annual crime rate data provides an important measure of trends in crime, both nationally and in our territory.
- Newly-released statistics for 2021 indicate that the Yukon is seeing reductions in violent firearms offences, drug-related offences, and impaired driving.
- Despite this encouraging news, we know we have more work to do to improve safety within our communities. We are addressing this together with Indigenous leaders, multiple levels of government, law enforcement and community partners.
- Nationally reported increases in sexualized assault, hate crimes, homicides and gun and gang-related violence have also prompted us to take a closer look at whether these concerning trends have relevance within our territory.

Additional response:

- Our government recognizes that we must respond to crime through a balance of enforcement activities, supportive social programs and prevention-based initiatives that address the underlying causes of crime.
- We will continue to invest in innovative community safety initiatives, restorative justice approaches, systemic reform for victims of sexualized assault, supportive housing initiatives and supports for those with mental health difficulties and substance use challenges.
- We continue to invest significant resources in the Yukon's RCMP, including increased funding for specialized units that investigate homicides, drug trafficking, and organized crime.

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Justice

Crime Rates

Context:

- In 2021, community concerns were raised relating to the increase in Whitehorse-area property crime and the potential need for additional resources and supports for the RCMP.
 - In January 2022, the Government of Yukon declared a substance use health emergency in the territory, following a drastic increase in overdose-related deaths.
-

Background:

- Statistics Canada released its annual Juristat Article, *Police-reported crime statistics in Canada, 2021*, on August 2, 2022.
- Statistics Canada bases the published crime statistics on criminal activity that has been reported to the police.
- Increased awareness of high-profile criminal acts, social movements, media reporting and recent changes to legislation, law enforcement policies and local procedures may influence public reporting practices.
- Yukon statistics often show significant fluctuations in crime indices, as they are calculated per 100,000 population to enable comparison to other jurisdictions.
- Small changes in the numbers of reported criminal activities in the territory may be perceived as large fluctuations when expressed as percentages.

Territorial Highlights and Trends

- In the Yukon, the overall rate of police-reported crime decreased by two per cent in 2021 (by volume) but by less than one per cent (0.68 per cent) as measured by the Crime Severity Index.
 - Yukon's **Violent Crime Severity Index increased by 5.27 per cent**, compared to a national increase of 5.15 per cent. The Violent Crime Severity Index is comprised of all police-reported violent violations committed by adults.
 - Yukon's **Non-Violent Crime Severity Index decreased by 3.41 per cent**, compared to a national decrease of 2.81 per cent. Crimes reported under this index include
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Crime Rates

Justice

property offences, breaking and entering, stolen property, mischief, traffic and theft committed by adults.

- Yukon's Youth Crime Severity Index decreased by less than one per cent (0.68), compared to a national decrease of 4.72 per cent. This index includes both violent and non-violent crimes committed by youth.
- The violations that contributed most significantly to the Yukon's Crime Severity Index decreases were reductions in violent firearms offences, fraud, mischief, drug-related offences, impaired driving and possession of stolen property.
- Territorial increases in homicide, shoplifting of \$5,000 or under, child pornography, and disturbing the peace partially offset the above decreases.
- Violent firearms violations decreased in the Yukon, with nine violations reported in 2021 – a significant decrease from 21 violations in 2019.
- The Yukon's reported numbers of "other" *Criminal Code* violations involving a weapon are stabilizing. There were 61 incidents in 2021, a slight decrease from the 62 incidents in 2020; however, this was still a substantial increase from the 42 reported violations in 2019 and the 13 reported in 2018.
- Yukon's police-reported sexualized assault numbers decreased by three per cent in 2021, compared to a national increase of 18 per cent. This decrease follows a 55 per cent increase in the Yukon's 2019 numbers.

Drug-related Offences

- Offences relating to possession and trafficking of heroin and other opioids generally decreased in the Yukon in 2021, compared to a national opioid offences increase of 13 per cent.
- In total, Yukon drug-related offences decreased by 7.89 per cent in 2021, compared to a national decrease of 8.93 per cent.
- The Yukon's overall number of police-reported impaired driving incidents decreased in 2021 with 615 incidents (there were 786 incidents in 2020 and 845 incidents in 2019).

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Justice

Crime Rates

Property Crime in Whitehorse

- On October 5, 2021, Yukon RCMP published a news release advising the public of a “sharp increase in property crime” (break-and-enters and thefts) in the Whitehorse area.
- According to Statistics Canada’s 2021 crime rate data, the Yukon’s overall property crime rate decreased by 3.76 per cent compared to 2020. Specifically:
 - breaking and entering increased by 3.48 per cent;
 - theft under \$5,000 (non-motor vehicle) increased by 14.53 per cent; and
 - theft over \$5,000 (non-motor vehicle) decreased 14.97 percent.

National Highlights and Trends

- Notable national trends in 2021 include:
 - **an 18 per cent increase in level one sexual assault.** This offence accounted for 40 per cent of the national increase in the violent crime severity index.
 - **a 27 per cent increase in hate crimes over the last year and a 72 per cent increase over the past two years.** The vast majority of hate crimes targeted either religion (67 per cent increase, particularly affecting Jewish, Muslim, and Catholic faiths), sexual orientation (64 per cent increase), or race or ethnicity (six per cent increase, particularly affecting Arab and Asian people).
 - a three per cent increase in homicides (+29 instances). The rate of homicide for individuals identified by police as persons of a group designated as racialized increased by 34 per cent in 2021.
 - a nine per cent decrease in rates of impaired driving.
 - a 13 per cent increase in opioid-related offences, though rates of heroin (down by 32 per cent), ecstasy (down by 25 per cent), methamphetamine (down by 20 per cent) and cocaine-related drug offences (down by 15 per cent) all decreased.
 - Four in 10 (41 per cent) homicides were firearm-related, and almost half (46 per cent) were considered by police to be gang-related.

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Crime Rates

Justice

- Sexualized assault is a highly underreported crime. Statistics Canada estimated in 2021 that only six per cent of sexualized assault incidents experienced by Canadians aged 15 and older in the previous 12 months were brought to the attention of police.
- Hate crimes are also highly underreported. According to self-report data from Statistics Canada's 2019 General Social Survey on Victimization, approximately one in five criminal incidents perceived as hate-motivated crimes are reported to the police.

Policy/Legal Advice

- 74(1)(a)

[Cross Reference BN #77 – RCMP Resources]

[Cross Reference BN #75 – Impaired Driving]

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Session Briefing Note
Federal Policing - Funding

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Justice

Recommended response:

- In 2018, the RCMP announced that the federal policing mandate would be shifting, over time, from conducting investigations to intelligence gathering.
- This change in mandate means that the focus of federally funded RCMP efforts will be re-dedicated to addressing strategic criminal threats that exist in the national and international environment. As such, the responsibility for investigating crime that impacts the Yukon at a regional level, such as transborder drug trafficking, will increasingly fall to police officers that are funded by the Government of Yukon.
- Our government has communicated to the Government of Canada that the proposed change in mandate will disproportionately affect policing in smaller jurisdictions, such as the Yukon.

Additional response:

- The reallocation of federal policing resources increases pressure on contract policing jurisdictions to fund additional officers through the police service agreements.
- After the federal government announced changes to the federal policing strategy in 2018, the Yukon lost the service of three federally-funded police officers.
- Earlier this year, the RCMP advised the Government of Yukon to anticipate further reductions in funding for Yukon-based, federal RCMP positions.
- We have asked the Government of Canada to reaffirm its commitment to a strong federal policing presence in the Yukon and called on the

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Federal Policing - Funding

Justice

federal Minister of Public Safety and Emergency Preparedness to maintain both funding and resource levels for federal policing in the territory.

Context:

- Territorial funding for police is already under significant pressure due to the impacts of new collective bargaining agreements, infrastructure investments and nationally-mandated policy changes.
- 76(1), 74(1)(a)
- 76(1)

Background:

- Unlike the First Nations and Inuit Policing Program and the Territorial Police Service Agreement, which are cost-shared with Canada, federal policing in the Yukon is 100 per cent funded by the Government of Canada and is not subject to an agreement with the Government of Yukon.
- In the Yukon, the Northwest Territories and Nunavut, Federal Investigation Units have historically been assigned the responsibility for investigations related to interprovincial crime and major enterprise offences.
- In August 2018, RCMP Deputy Commissioner Gilles Michaud visited the Yukon and the Northwest Territories to announce changes to the federal policing mandate in the North. He did not address concerns about the resulting reductions to federal policing resources assigned to the territories.
- In October 2018, the Justice Ministers of the Yukon, the Northwest Territories and Nunavut sent a pan-territorial letter that proposed the addition of a sub-activity to the federal policing budget line for a new program called “Northern Federal Policing Enforcement and Sovereignty.”

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Federal Policing - Funding

Justice

- The letter requested that this program be discussed as an avenue to increase federal policing funding. The federal government has not responded to this correspondence.
- On January 24, 2019, the RCMP “M” Division Commanding Officer informed members of the Legislative Assembly that the readjusted budget allocation for the Federal Investigation Unit was \$1,791,000 – down from the previous year’s budget of \$2,045,000 (a 12.4 per cent decrease).
- The budget reductions to the Federal Investigation Unit for 2019–20 resulted in three of the 12 positions in the Federal Investigation Unit remaining unstaffed.
- Federal funding for a further position has been withdrawn in 2022-23. As a direct consequence, RCMP’s “M” Division has requested further increases to their funding and staffing levels under the Territorial Police Service Agreement.

Gun and Gang Violence Action Fund

- In 2019, the governments of Canada and the Yukon announced \$2,250,735 in federal funding to address gun and gang violence in the territory over five years.
- While this funding has supported the territory’s broader approach to combating organized criminal activity, the Government of Yukon remains concerned about the effect of decreased federal police resources.

[Cross Reference BN #77 – RCMP Resources.]

[Cross Reference BN #64 – Gun and Gang Violence Action Fund.]

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Justice

First Nations and Inuit Policing Program

Recommended response:

- The federal First Nations and Inuit Policing Program is an established program that supports law enforcement and community safety efforts in First Nations communities.
- We are currently working with our federal partners on several new First Nations policing initiatives under this program.
- These include augmenting RCMP resources to support additional Yukon First Nations communities, funding Community Safety Officer programs, and contributing to federal engagement about national legislation to recognize First Nation policing as an essential service.

Additional response:

- We are committed to supporting Yukon First Nations' needs and interests related to policing and community safety.
- We are working with First Nations governments and the RCMP to implement funding and resources through this program to build safer communities.

Context:

- First Nations policing requires ongoing participation and collaboration within the Government of Yukon's Department of Justice. In addition, different aspects of this funding overlap with Government of Yukon interests, services and partnerships with Yukon First Nations.

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Justice

First Nations and Inuit Policing Program

Background:

Government of Canada's First Nations and Inuit Policing Program (FNIPP)

- Since 1991, the Government of Canada (Canada) has funded policing for First Nations and Inuit communities through the FNIPP. The program is intended to:
 - ensure First Nations peoples enjoy their right to personal security and public safety;
 - support responsible, accountable policing in First Nations communities; and
 - promote policing partnerships with First Nations based on trust, mutual respect, and participation in decision-making.
- The FNIPP is governed by a bilateral Framework Agreement between Canada and the Government of Yukon (YG), enabling RCMP resource deployment through subsidiary Community Tripartite Agreements (CTAs) with a First Nation.
- In many Canadian jurisdictions, the FNIPP may also fund stand-alone Indigenous police services in First Nations communities. These “self-administered” services are enabled by provincial policing legislation, such as a provincial *Police Act*. Such legislation does not exist in the Yukon.
- Yukon First Nations' Community Safety Officer (CSO) programs are also funded through the FNIPP.
- FNIPP funding is cost-shared between Canada (at 52 per cent) and YG (at 48 per cent).

Framework Agreement Negotiations

- In early 2022, provinces and territories agreed with Public Safety Canada (PSC) to extend the terms of their existing Framework Agreements until March 31, 2023, to enable discussions on an updated national framework.
- The renewed Framework Agreement has been approved through a federal Order in Council since July 2022. Once signed by all partnering parties, the new agreement will come into effect on April 1, 2023.

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First Nations and Inuit Policing Program

- The Yukon's existing CTAs will remain in force under the new Framework Agreement. However, First Nations governments will have the option to renegotiate their existing CTAs after the new agreement comes into effect.

Federal Budget 2021 Investments in the FNIPP

- The 2021 federal budget contained substantial new funding to stabilize and enhance the FNIPP, including \$540 million over the subsequent five years, with \$127 million ongoing.
- Throughout 2021 and 2022, PSC engaged with provinces and territories to develop principles and methodology to guide the allocation of this funding. YG committed significant time and resources to this process due to the nationally available funding and future implications of funding decisions on YG.
- The first round of national funding allocation decisions occurred in July 2022.
 - YG requested funding for one additional FNIPP RCMP resource and one Yukon First Nation CSO program but was not successful in either request.
 - Instead, the first phase of resource allocations prioritized supporting and stabilizing existing self-administered agreements and other initiatives that had been previously underfunded by the FNIPP.
- The Yukon will have future opportunities to advance territorial FNIPP requests during subsequent funding allocation meetings; discussions for the next round of allocations will commence in fall 2022.
- Separate from this initial process, the Yukon has been offered two additional FNIPP officers under a dedicated "Northern Expansion" initiative to expand the program to new communities.
- The Department of Justice is still working with Canada and the RCMP to determine where and when these proposed resources may be deployed.

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First Nations and Inuit Policing Program

Federal Legislation for First Nation Police Services

- In 2020, Canada committed to co-develop, in partnership with First Nations, a legislative framework that recognizes Indigenous policing as an essential service rather than as a discretionary program.
- Canada has identified the Assembly of First Nations as their official co-development partner for this initiative and is limiting the role of provinces and territories to providing jurisdictional input at Federal/Provincial/Territorial (F/P/T) meetings.
- As part of F/P/T meetings, YG has an opportunity to co-develop shared F/P/T principles that Canada will submit for consideration through their process.

76(1)

The Yukon's Community Tripartite Agreements (CTAs)

- YG currently has 11 signed CTAs with Yukon First Nations, which fund 17 RCMP officers throughout the territory.
 - The Teslin Tlingit Council, the Kluane First Nation and the Ta'an Kwäch'än Council are not signatories of a CTA at this time.
 - The Teslin Tlingit Council was previously a partner under the 2014-18 Framework Agreement and continues to host an FNIPP-funded RCMP member under this program.

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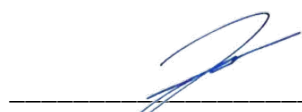
First Nations and Inuit Policing Program

- Under a CTA, First Nation signatories and their local RCMP detachment are meant to formalize both parties' expectations, desired working relationships, and community policing priorities through co-developed Letters of Expectation (LOEs).
- LOEs give partnered First Nations governments greater input and oversight on how their communities are served and policed by the RCMP.
- Eight of the 11 Yukon CTAs have a signed LOE in place, with two of the remaining three are actively progressing toward completed LOEs.
- Since 2020, YG has made \$5,000 in annual funding available to each Yukon First Nation with a CTA to support work toward identifying the community's policing interests and facilitating the drafting, review and monitoring of LOEs.
- This funding support is expected to be replaced by federal funding in late 2022.

[Cross Reference BN #60 – Community Safety Officers]

[Cross Reference BN #140 – AJA Negotiations]

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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Fall 2022

Impaired Driving

Justice

Recommended response:

- Alcohol and drug-impaired driving in the Yukon are public health and safety issues that we must address by working together.
- Since 2018, we have been working closely with Public Safety Canada and the RCMP to identify enforcement issues related to drug-impaired driving and to address the RCMP's enforcement capacity, equipment requirements, testing methodology and training.
- The RCMP's "M" Division has six approved drug screening devices. Federal funding has supported the purchase of these devices and training for officers to use them.

Additional response:

- In 2019, the Government of Yukon received more than two million dollars in funding from the Government of Canada to enhance training, build law enforcement capacity and improve data collection to deter drug-impaired driving.
- The Government of Yukon and Public Safety Canada have extended the original five-year contribution agreement until 2025, making it a seven-year agreement with the same funding envelope.

Context:

- Since the legalization of cannabis in October 2018, the need to address enforcement for drug-impaired driving offences has been a significant priority for provincial and territorial governments.
- The Yukon has the second highest rate of impaired driving in Canada, with some of the least restrictive sanctions.

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Impaired Driving

Justice

Background:

Impaired driving in Yukon

- In the Yukon, there were 615 impaired driving incidents in 2021, down from 786 incidents in 2020 and 845 in 2019. These numbers refer to the total number of all impaired driving incidents in the territory.
- While there have been recent decreases related to the Yukon's impaired driving incidents from 2019–21, these numbers still represent a significant increase compared to the 2011–18 timeframe.
- In 2021, Statistics Canada recorded that 33 out of the 615 impaired driving incidents in the Yukon involved being under the influence of drugs alone. The remaining 582 incidents, involved alcohol or a mixture of both alcohol and drug-impaired driving.

Impaired driving in Canada

- In 2021, of all the *Criminal Code* traffic violations in Canada, 78 per cent were alcohol-impaired driving, 11 per cent were drug-impaired driving, eight per cent were combined alcohol and drug-impaired driving and three per cent were unspecified impaired driving, linked to changing legislation. These changes in legislation resulted in the Uniform Crime Reporting (UCR) Survey creating 19 new violation codes and retiring 15 existing, traffic-specific violation codes.
- Statistic Canada's 2021 Juristat revealed that the police reported just under 71,500 impaired driving incidents in 2021, approximately 6,300 fewer incidents compared to 2020 - a nine per cent drop in national impaired driving offences compared to 2020.
- According to Statistics Canada, their analysis suggests that the COVID-19 pandemic resulted in fewer people leaving their homes and the police devoting more resources to impaired driving offences which, in turn, led to a national decline in impaired driving incidents.
- From March 2020 to February 2021, Canadian police services also reported a 14 per cent decrease in the impaired operation of a motor vehicle and a 33 per cent

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Impaired Driving

Justice

decrease in impaired driving causing death or bodily harm compared to the previous year.

Legislative changes

- Bill C-46, an Act to amend the *Criminal Code*, received Royal Assent in June 2018. Bill C-46 significantly reformed the impaired-driving regime of the *Criminal Code* which should improve prosecution efficiency.
- New federal laws that came into effect on December 18, 2018, included various changes. Most notably, the ability of police to conduct mandatory roadside alcohol breath tests on drivers who are pulled over without the requirement that there be a specific suspicion that the individual had been drinking.
- These changes to the *Criminal Code* also enabled most jurisdictions to designate “Qualified Technicians” for the purposes of drawing blood samples under section 320.4(b) of the *Criminal Code*.
- The Government of Yukon and the governments of the Northwest Territories and Nunavut are in the unique position of requiring the Attorney General of Canada to approve these designations. This process is ongoing.

Trained law enforcement

- As of July 2022, 40 RCMP officers in the Yukon are trained in the use of Standard Field Sobriety Tests (SFST) and ten more are expected to receive this training by the end of December 2022.
- Four officers have also completed the Drug Recognition Expert (DRE) certification and are working as Drug Recognition Experts.
- There have also been 15 “M” Division officers trained to use oral fluid screening devices to test for THC – the component of cannabis linked to impairment.
- “M” Division has 71 officers trained in Basic Impaired Driving Detection, 11 of whom were trained between January 2022 and July 2022.
- Eighty-two “M” Division officers are trained in “Intro to Cannabis,” with two of those trained in the current calendar year.

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- There are 45 approved alcohol screening devices throughout the territory and six approved drug screening devices.
- The RCMP's Pacific Region Training Centre in Chilliwack, British Columbia normally provides "M" Division with SFST and DRE training, but the impacts of the COVID-19 pandemic have impeded delivery of this training.
- In the interim, additional training support has been sought from police departments of Edmonton and Calgary, with the next training session expected to take place in Whitehorse in December 2022.

Policy / Legal Advice

- 74(1)(a)

Approved by:



Acting Deputy Minister, Justice

2022-10-07

Date approved

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Policing Priorities

Justice

Recommended response:

- It is the responsibility of the Minister of Justice to set policing priorities for the Yukon RCMP each year.
- This year's policing priorities are:
 - addressing the opioid and hard drug crisis;
 - increasing public trust;
 - enhancing prevention, investigation, and enforcement in support of addressing the problem of violence against women, girls, and LGBTQ2S+ people;
 - engaging with children and youth; and
 - strengthening relationships with communities to implement community policing initiatives.
- The Department of Justice will continue to engage with the RCMP on progress towards the goals set within the territory's policing priorities.

Additional response:

- In setting policing priorities, we consider the Yukon Police Council's recommendations, which reflect their annual engagement processes to identify policing needs from the viewpoint of Yukoners, communities and First Nations.
 - The Department of Justice also monitors trends in criminal activity and brings this analysis to priority setting.
 - In 2021, virtual engagement sessions and community visits helped shape the policing priorities for 2022–23.
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Policing Priorities

Justice

Context:

- RCMP accountability was identified as an issue in the 2010 report Sharing Common Ground: Review of Yukon's Police Force.
 - In 2022, an independent contractor is conducting an implementation review of the 33 recommendations from Sharing Common Ground.
-

Background:

- The Minister of Justice provided the 2022–23 policing priorities to the Commanding Officer of the RCMP's M Division in the spring of 2022 to provide direction about the unique policing needs of the territory.
 - The Department of Justice also works towards the implementation of policing priorities through other mechanisms, including:
 - administering federal funding to address emerging issues, and
 - administering agreements with Yukon First Nations and the Government of Canada for First Nations Policing.
 - The role of the Minister of Justice in establishing the policing priorities for the Yukon is set out in the Territorial Police Service Agreement with the Government of Canada.
 - The creation of the Yukon Police Council came out of a recommendation from the Yukon's 2010 review of policing, Sharing Common Ground. The council is comprised of six appointed members and a chair.
 - The Yukon Police Council provides advice to the Minister based on their annual community engagement process, which seeks input from a broad range of citizens, First Nations governments and community organizations.
 - In 2020, the Yukon Police Council conducted a territory-wide survey on perceptions of policing in place of in-person community engagement.
 - The RCMP provides the Government of Yukon with quarterly updates on policing activities and progress towards the territorial policing priorities and an annual report each July.
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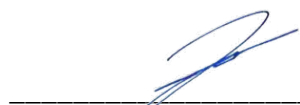
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Policing Priorities

Justice

- Beginning in 2022, the RCMP's Whitehorse Detachment also began conducting its own public survey to inform priorities at the detachment level.
- The RCMP's online survey had 253 respondents. Drug-related offences were the most commonly identified priority (51 per cent of respondents).
- Nationally, the RCMP conducts an annual public opinion survey titled "Canadians' Views of RCMP Policing Services." Results of the 2021 national survey indicate that:
 - the priority that respondents most strongly agreed the RCMP address effectively was "responding to threats to national security" (69 per cent agreed); and
 - the priority respondents least agreed the RCMP address effectively was "advancing reconciliation with Indigenous peoples of Canada" (34 per cent agreed).
- Speaking more generally, 50 per cent of survey respondents viewed the RCMP as "an accountable organization," and 39 per cent viewed the RCMP as "provid[ing] the same quality of service to all citizens."

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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Justice

RCMP Resources

Recommended response:

- The Department of Justice works to ensure the provision of a professional, accountable and appropriately funded territorial police service that is responsive to the priorities of Yukoners and worthy of the public's trust.
- Our government funds significant and ongoing investments in police resources through a Territorial Police Service Agreement with the RCMP.
- The Government of Yukon is committed to supporting the RCMP through a multi-year process to address staffing needs with a focus on priorities such as the substance use health emergency, crime reduction, improving service to victims of sexual assault and delivering appropriate services to individuals that are challenged in relation to their mental health.
- Yukon's multi-year approach to resourcing the RCMP will meet the needs of territorial policing, while ensuring the safety of officers, citizens and visitors to the Yukon.

Additional response:

- This year, our government approved a policing budget increase of over 20 per cent compared to last year.
- This increase renewed our staffing commitment to the Historical Case Unit while adding two officers to the Crime Reduction Unit.

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Justice

RCMP Resources

Context:

- There has been significant public interest in the resource levels required to support effective and responsive policing.
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Background:

- The RCMP forecasts its anticipated human resource, operational funding and capital investment needs to the Government of Yukon through an annual financial planning process.
- Owing to the Yukon's sparsely populated and vast geography, maintaining a responsive policing presence throughout the territory requires more police officers per capita than in the provinces.
- In response to the recommendations of the 2010 Sharing Common Ground policing review, evolving community safety concerns and the requests of RCMP's "M" Division, the Government of Yukon has authorized significant increases in front-line and specialized police resources over the last decade.
- Between 2016–17 and 2020–21, the Government of Yukon increased the operational budget of the "M" Division RCMP by \$3,802,000 (15 per cent), which included funding for eight new RCMP positions over that period:
 - four regular members (RMs) for the Whitehorse detachment;
 - one disclosure clerk, two administrative support clerks;
 - one First Nations and Inuit Policing Program (FNIPP) RM; and
 - a three-member Historical Case Unit (HCU) (see note below).
- Note: the net increase is eight staff, not 11; Provost duties were devolved from RCMP in 2018, which removed three full-time equivalents.
- The approved 2022–23 policing budget included a 20.28 per cent increase from the previous fiscal year. This increase covered significant pay raises due to RCMP member unionization, multiple nationally-mandated policy and rate changes, adjustments due to inflation, new investments in policing infrastructure and several new officer positions. The funding for positions included:

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RCMP Resources

- two term-funded RMs for the Crime Reduction Unit (CRU) to help address the territory's opioid enforcement response; and
- funding for three positions for the HCU.
- Annex A of the Yukon's Territorial Police Service Agreement (TPSA) authorizes "M" Division to have 112 RMs on staff and funds 178 full-time positions in total (including 12 civilian members and 54 public service employees).
- In addition to the above, a further 17 RMs are funded under the FNIPP to provide community policing services in First Nations communities.
- The Yukon also hosts an RCMP Federal Investigation Unit (FIU) funded by the Government of Canada. However, the federal government has frozen or discontinued several of these positions as part of the realignment of federal resources announced in 2018.
- Currently, the total numbers of RCMP RMs assigned to the territory are funded as follows.

TPSA	112
FNIPP	17
FIU	8
Total RMs	137

- The Yukon has the third highest police per capita ratio in Canada, expressed by Statistics Canada as a police strength of 326 officers per 100,000 population.
- Only the Northwest Territories and Nunavut have higher police-per-capita ratios than the Yukon.

Historical Case Unit (HCU)

- The "M" Division HCU was created in March 2018 in response to increasing demand in the Yukon for dedicated resources to investigate historical homicides, missing persons and investigations related to Missing and Murdered Indigenous Women, Girls and Two-spirit+ People. The unit investigates:
 - historical unsolved homicides and suspicious deaths;
 - missing persons cases where foul play is suspected;
 - "M" Division's outstanding missing persons investigations; and
 - cases of unidentified human remains.

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Justice

RCMP Resources

- The three-member unit became operational in February 2019 and was extended for an additional year of operations in the fiscal year 2021–22.
- These three positions continue to be supported in fiscal year 2022–23.

FIU

- The federally-funded FIU supplements territorial policing resources and is tasked with federal policing priorities that include drug investigations, enforcement of federal laws, protective policing, commercial crime investigations, integrated border enforcement and intelligence functions.
- In early 2018, the Government of Canada informed the Government of Yukon that funding for the FIU would be reduced, with the unit shifting focus towards intelligence gathering.
- Three of the 12 positions in this unit were “frozen” as vacant following the 2018 announcement. In 2022, the RCMP informed the Government of Yukon of additional reductions in federally-funded positions, resulting in increased funding pressure on territorially-funded resources.

Additional resources for opioid response

- In 2019, “M” Division created the CRU to address specific issues in the Yukon such as drug trafficking, property theft and organized crime.
- To staff the CRU, “M” Division initially drew resources from other work units, which, in turn, have had to deprioritize their core policing activities.
- In February 2022, funding was approved for two additional RCMP RMs to be temporarily assigned to the CRU for four years, beginning in the fiscal year 2022–23.
- These two RCMP members will support the Yukon's response to the substance use health emergency, driven by opioid use in the territory.

[Cross reference: BN# 73 – Federal Policing – Funding]

[Cross reference: BN# 74 – First Nations and Inuit Policing Program]

Approved by:

Acting Deputy Minister, Justice

2022-10-11

Date approved

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Justice

RCMP Unionization

Recommended response:

- In 2021, the RCMP members' National Police Federation negotiated a 23.8 per cent salary increase in their first Collective Bargaining Agreement with the Treasury Board of Canada.
- The negotiated salary increases resulted in an additional \$1.17 million billed to the territory during the 2021–22 fiscal year.
- The negotiation will also result in a one-time, retroactive payout of an estimated \$4.1 million, which will be billed this year to address salaries and benefits that the RCMP had not adjusted since 2016.
- The Department of Justice has factored ongoing costs related to the new salary levels into the territorial budget that was approved this fiscal year.

Additional response:

- The new salary levels came into effect in October 2021.
- The pay increases were retroactive to 2017; RCMP members received retroactive payments as a lump sum in spring 2022.
- The new agreement raised RCMP salaries to rank within the top 10 of Canada's police forces; before the agreement, RCMP salaries were not within the top 50.

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RCMP Unionization

Justice

Context:

- Due to significant delays in communicating the cost impacts to contract jurisdictions, the Government of Yukon was required to weigh the anticipated territorial liability for RCMP salary increases, against other police-related fiscal pressures in 2021–22.

Background:

- The RCMP provides territorial policing through the Territorial Police Service Agreement (signed in 2012 and in effect until 2032). The Government of Yukon (YG) pays 70 per cent of these costs, and the Government of Canada (Canada) pays 30 per cent.
- YG also funds additional RCMP officers through the First Nations and Inuit Policing Program (FNIPP). YG pays 48 per cent of these costs, and Canada pays 52 per cent.
- Both territorial and First Nations policing agreements have been impacted by the 2021 RCMP collective bargaining agreement.
- During the RCMP's collective bargaining negotiations, YG received periodic updates through an interprovincial RCMP Contract Management Committee, comprised of federal, provincial and territorial officials who manage RCMP policing contracts in Canadian jurisdictions.
- However, the Contract Management Committee was not a party to the negotiations between the National Police Federation and the Treasury Board of Canada.
- The 2021 Collective Bargaining Agreement focused on salaries, salary-based benefits and allowances that had not been adjusted since 2016.
- The Collective Bargaining Agreement was finalized and accepted by the Treasury Board of Canada on August 6, 2021.

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RCMP Unionization

Justice

- New salary rates came into effect in October 2021, and RCMP members received a lump-sum payout for the retroactive portion of the increases in early 2022.
- Throughout the 2021–22 fiscal year, contract jurisdictions sought clarity from Public Safety Canada and the RCMP on the new agreement's financial impacts on provinces, territories, and municipalities.
- The in-year portions of the wage increases were billed to the territory in the third and fourth quarter of the 2021–22 fiscal year, based on the RCMP's in-year estimates.
- In early 2022, Public Safety Canada provided YG with an estimated range for the retroactive portion of the costs that will be billed to the territory. The maximum of this estimated range was \$4.1 million.
- YG continues to wait for final confirmation of the retroactive pay calculations. As such, end-of-year reconciliation processes for the total impacts on the 2021–22 fiscal year are ongoing.
- For 2022–23, YG approved an increase of \$3.36 million to the RCMP's operating budget for salary raises. These increases address the new Collective Bargaining Agreement for RCMP regular members but also cover expected, incremental pay raises for other RCMP support staff, such as public service employees.

Policy / Legal Advice

76(1)

73(b)(i)

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73(b)(i)

Approved by:



Acting Deputy Minister, Justice

2022-08-22

Date approved

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Fall 2022

RCMP Capital – Cycle Three Proposals

Justice

Recommended response:

- The Territorial Police Service Agreement includes a capital asset management program called the "Accommodations Program Charge." The RCMP and the Government of Yukon jointly decide on projects under this program in five-year cycles.
- The third capital cycle of the Accommodations Program Charge (APC) commenced this fiscal year and will end March 31, 2027. While the project plans for this cycle are still being finalized, the RCMP have advised the Government of Yukon that their plans for Cycle Three will include the replacement or renovation of one RCMP detachment building.
- The Government of Yukon continues to work with the RCMP to ensure that the Yukon's policing infrastructure meets the territory's operational requirements and policing needs.

Additional response:

- During the previous capital cycle (2017–22), our government funded three major detachment projects in Faro, Carcross and Ross River.
- Due to pandemic-related supply chain and labour pressures, the Carcross and Faro projects experienced delays and were incomplete at the end of Cycle Two on March 31, 2022.
- As such, the residual funding for Cycle Two has been carried forward to Cycle Three, allowing these projects to be finished in the Fall of 2022.

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RCMP Capital – Cycle Three Proposals

Justice

Context:

- Negotiations for Accommodations Program Charge Cycle Three were concurrent with a number of other RCMP financial pressures, including RCMP salary increases and the overages incurred on Cycle Two projects due to COVID-19 supply chain and labour pressures.

Background:

Cycle Three Project Planning

- Cycle Three of the APC began in April 2022.
- According to the January 2021 Accommodations Program Five-Year Reconciliation Report, 84 per cent of "M" Division buildings are in good condition; 15 per cent are in fair condition; one per cent are in poor condition, and none are in critical condition.
- 76(1)
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- The Minister will be asked to approve the APC Annexes, as required by the Territorial Police Service Agreement, in the fall of 2022.

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RCMP Capital – Cycle Three Proposals

Justice

Previous Capital Cycles

- In Cycle One (2012–17), the Government of Yukon invested \$3,115,114 in policing infrastructure, including \$427,151 toward planning for Cycle Two projects.
- No new detachments were constructed in Cycle One.
- Cycle Two included three major projects: the renovation of the Ross River detachment building and two new detachment buildings in Carcross and Faro.
- However, the new modular construction of detachment buildings for Faro and Carcross experienced delays and cost overruns, due in part to COVID-19 supply chain and labour pressures.
- On February 22, 2022, the Department of Justice approved the budget supplement and time extension required to complete the two outstanding Cycle Two detachment projects.
- These buildings are now due to be completed in the fall of 2022.
- In keeping with the 'smoothed rate' approach to funding the APC, funds required to complete the Cycle Two projects will now be drawn from the funding envelope allocated to APC Cycle Three.

The Accommodations Program Charge process

- Pursuant to Article 12 of the Territorial Police Service Agreement, the RCMP manages capital assets through an Accommodations Program Charge arrangement that includes detachment construction and renovations ("Major Capital"); building repairs and upgrades ("Minor Capital"); and the maintenance of living quarters ("Living Quarters").
- The APC is structured in five-year cycles, with territorial budget caps established at the beginning of each cycle and paid out in "smoothed rate" annual allotments over each five-year period. Ministerial approval is required at specified decision points in each project.
- A reconciliation process occurs annually and at the end of each five-year cycle.

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RCMP Capital – Cycle Three Proposals

Justice

- Under the provision for 'smoothed rate' funding, unused APC funding that remains within the APC at the end of a five-year cycle is typically carried forward to the next APC cycle to enable the RCMP to continue their work on Capital projects without interruption.

[Cross Reference BN# 71 Capital Projects – Detachments]

Approved by:



Acting Deputy Minister, Justice

2022-10-06

Date approved

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Justice

Restorative Justice

Recommended response:

- The Government of Yukon is committed to supporting the growth of integrated, community-based justice programming and advancing the use of restorative justice practices throughout the territory.
- In 2020, our government approved the creation of an Integrated Restorative Justice Unit to improve restorative justice service delivery, to increase engagement with First Nations governments and to better support community-designed and community-led restorative justice initiatives.
- This new unit has combined dedicated youth justice and adult justice resources to provide consistent program delivery across the Yukon.

Additional response:

- This initiative allows our government to enhance and support existing restorative justice services and practices as we continue to work in partnership with Yukon First Nations governments and through the Yukon Forum on our joint priority of restorative justice.
- On October 27, 2021, the Adult Pre- and Post-charge Diversion Protocol for federal offences was signed. This agreement authorizes the Integrated Restorative Justice Unit to be an approved Alternative Measures Program with legislative authority to accept pre- and post-charge referrals for adults.
- The Government of Yukon continues to work with First Nations governments, the Government of Canada and other territories and provinces to share best practices and to increase the use of restorative justice nationally.

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Justice

Restorative Justice

Context:

- In 2018, federal, provincial, and territorial Ministers Responsible for Justice and Public Safety publicly announced their commitment to the goal of a five per cent increase in the use of restorative justice, where possible, by 2021.
- The 2021 Mandate Letter to the Minister of Justice speaks to implementing the principles of restorative justice to better inform service delivery, support community-designed and community-led initiatives, and increase engagement with First Nations governments.
- Yukon Forum commitments include support for the development of First Nations justice programs and participation in federal-provincial-territorial initiatives.
- Restorative justice was one of the six 2021–22 Policing Priorities.

Background:

- In July 2020, Cabinet approved the creation of an Integrated Restorative Justice Unit. This strategy combines existing departments of Justice and Health and Social Services restorative justice resources on a two-year exploratory basis.
- These resources amalgamated in January 2021 under oversight provided by a dedicated manager who reports to the Assistant Deputy Minister of Community Justice and Public Safety.
- This unit will improve the Government of Yukon's delivery of restorative justice services by aligning government initiatives, providing a continuum of restorative justice services to youth and adults, and applying a consistent approach to this work.
- One of the initiatives under the unit was to establish a formal pre- and post-charge Diversion Program for youth and adults with the goal of increasing the use of restorative justice practices throughout the territory and streamlining diversion referrals in a consistent application for youths and adults.

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Justice

Restorative Justice

- The Government of Yukon has signed a diversion agreement authorizing formal pre- and post- charge referrals for federal offences for adults, and it is working to finalize a youth diversion agreement.
- These efforts should contribute to a decrease in the rate of victimization, crime and incarceration among First Nations citizens in the Yukon by addressing the harm caused by crime and by holding offenders responsible.
- The Government of Yukon continues to work with the Government of Canada, Yukon First Nations governments and Yukon communities on a range of community-based Indigenous justice projects and restorative reintegration efforts.
- Principally, the Government of Yukon funds and supports eight Community Justice Workers and 12 Indigenous Courtworkers. Some individuals hold both positions within their home community.
- Community justice services provided in communities reflect the capacity and the direction of each community. Most projects are not purely restorative justice in nature.
- The roles and responsibilities of Community Justice Workers and Indigenous Courtworkers are community specific. Generally, they are responsible for establishing community-based justice processes designed to meet community needs by:
 - promoting community healing;
 - facilitating restorative justice approaches at a community level;
 - developing positive relationships with the community;
 - educating the community about existing justice alternatives;
 - demonstrating accountability to the community about justice matters; and
 - establishing a proactive approach to healing with long-term community wellness.
- The Government of Yukon is committed to advancing restorative justice and building capacity in communities with key partners that include First Nations governments, the Council of Yukon First Nations, the RCMP, the Territorial Court,

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Restorative Justice

Justice

Therapeutic Courts, Corrections and the Government of Canada (Crown-Indigenous Relations and Northern Affairs Canada, Public Prosecution Service of Canada and Correctional Service of Canada).

Policy / Legal Advice

- Section 10 of the *Youth Criminal Justice Act* and Section 717 of the *Criminal Code* of Canada require that Alternative Measures/Extrajudicial Sanctions be authorized by the Attorney General or the Attorney General delegate or authorized by a person designated by the Lieutenant Governor in Council of a province.
- The Chief Crown Prosecutor, as a delegate of the Attorney General of Canada, authorized the Yukon Adult Diversion Program, allowing the Integrated Restorative Justice Unit to accept pre- and post-charge referrals into their program.
- 74(1)(a)
- The funding for the Integrated Restorative Justice Unit (currently running as a pilot project) is ending in November 2022. 67(3)(b)

Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

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Fall 2022

FILU – Family Information Liaison Unit

Justice

Recommended response:

- The Family Information Liaison Unit, known as FILU, provides centralized, coordinated supports for family members of missing and murdered Indigenous women, girls and two-spirit+ people. This service includes assistance to families in accessing information related to their loved one's case.
- Providing supports for families remains an important component of the Government of Yukon's work to contribute to the Changing the Story to Upholding Dignity and Justice: Yukon's Missing and Murdered Indigenous Women, Girls and Two-Spirit+ People (MMIWG2S+) Strategy.
- During the spring of this year, the FILU Coordinator position was vacant, and recruitment took some time. During that time, families continued to receive current court information and supports through the Victim Services team, and consistent and regular supports through the Yukon Aboriginal Women's Council.

Additional response:

- The new FILU Coordinator continues to work in partnership with the Yukon Aboriginal Women's Council to provide coordinated supports for families including outreach, training and healing opportunities for families.
- The Government of Canada funds FILU through an agreement that extends to March 31, 2023. The Yukon Aboriginal Women's Council also receives funding support from the Government of Canada to host on the land healing camps for families. This funding is in place until March 31, 2023.

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FILU – Family Information Liaison Unit

Justice

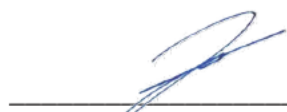
Context:

- The Changing the Story to Upholding Dignity and Justice: Yukon's MMIWG2S+ Strategy was released in December 2020.

Background:

- On August 3, 2016, the Government of Canada (Canada) announced the independent National Inquiry into Missing and Murdered Indigenous Women and Girls. At the same time, the Government of Canada announced that funding would be available for the creation of Family Information Liaison Units (FILU) through each provincial and territorial government.
- Victim Services sought advice related to the development of FILU from internal and external partners (Women and Gender Equity Directorate, Executive Council Office, Department of Justice, Indigenous women's organizations, Kwanlin Dün First Nation, Council of Yukon First Nations, RCMP, Association of Yukon Communities and Women's Coalition).
- Victim Services and the Yukon Aboriginal Women's Council (YAWC) also met with families to seek their advice on the development of FILU.
- The Government of Canada has provided \$285,000 per year starting in the 2017–18 fiscal year. In 2022–23, FILU will enter the sixth and potentially final year, with the agreement set to expire on March 31, 2023.
- We continue to discuss this service with Canada and to advocate for ongoing supports for Indigenous victims of crime.

Approved by:



Deputy Minister, Justice

2022-09-07

Date approved

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Independent Legal Advice / Representation for Victims

Justice

Recommended response:

- The Independent Legal Advice Program, delivered through Victim Services, provides confidential and independent legal advice for victims of intimate partner violence and sexualized violence.
- Victims of all genders and ages can access independent lawyers to assist in making informed choices, such as when a victim is deciding whether to report the incident.
- The Independent Legal Advice Program aims to make the legal system more accessible to victims and is another step toward improving services for victims of violence in the Yukon.

Additional response:

- Initially a one-year pilot program, the Government of Canada has provided funding to support the program for an additional five years.
- The Independent Legal Advice Program also supports training for lawyers and service providers focused on positive social responses for victims of sexualized violence and intimate partner violence.

Context:

- Questions may arise about the status of program implementation and ongoing funding, as the program was announced as a pilot in June 2020.

Background:

- The Government of Canada originally provided the Government of Yukon with \$226,000 in funding for fiscal year 2019–20 and an additional \$250,000 in fiscal year 2020–21 for a pilot project.

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Independent Legal Advice / Representation for Victims

Justice

- The Government of Yukon currently has an agreement with the Government of Canada for five years of additional program funding from April 1, 2021, to March 31, 2026.
- Funding for the program ranges from \$273,000 - \$359,000 per year. [Note: this budget amount is not currently in the 2022-23 main estimate budget but is intended for inclusion in this year's supplementary-one budget].
- Annual funding is as follows.
 - 2021-22, an additional \$273,000.
 - 2022-23 an additional \$359,000.
 - 2023-24: an additional ^{75(1)(a)(ii)}
 - 2024-25: an additional
 - 2025-26 an additional
- Program funding allows for contracts for legal counsel, staff to support the program and training for lawyers and service providers on the law related to sexual assault and intimate partner violence.
- The Government of Yukon's model for service delivery combines the approaches of other jurisdictions. The service is partially delivered by a part-time dedicated lawyer (lead counsel), combined with a roster of other interested lawyers.
- Currently, seven Yukon-based lawyers (with one located in a rural Yukon community) are on contract to provide independent advice in their area of expertise, including criminal, family, civil, employment, human rights and residential tenancy law.
- In addition, some of the lawyers who provide advice are located outside of the Yukon, as the availability of lawyers in specific categories of law (such as immigration law) are not always readily accessible in the Yukon.
- Independent legal advice (ILA) can be provided in person or by phone to victims of sexualized assault and/or intimate partner violence across the Yukon.
- Decisions about how and where the ILA is provided will be made between the client and assigned lawyer. The program has a small travel budget and can assist with travel for clients or lawyers as needed. However, given the Yukon's geography, the number of hours the program provides and the current COVID-19 environment, for many clients, advice will be provided by phone.

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Independent Legal Advice / Representation for Victims

Justice

- Legal advice is available in both English and French.
- In addition to independent advice, the Government of Yukon's program has a second component offering representation for victims in hearings associated with sections 276, 278.93 and 278.94 of the *Criminal Code*, which provide the right for victims to have representation.
- The Public Prosecution Service of Canada and victim service workers identify all cases where applications under these sections of the *Criminal Code* have been made by accused in the Yukon and reach out to offer access to an independent lawyer to provide the victim with representation in these hearings.
- Numerous local organizations remain interested in the implementation of this pilot program, including the Council of Yukon First Nations Justice Caucus, the Women's Legal Advocate and the Women's Coalition.
- An Advisory Committee has been established to provide advice and guidance on the implementation of this program in the Yukon and includes members of the legal community, gender equality advocacy organizations, First Nations organizations and the lead counsel.
- An evaluation was recently completed and work has begun to implement the recommendations, with guidance from the Advisory Committee.
- Services associated with the ILA program complement the Sexualized Assault Response Team activities by providing additional resources for victims of sexualized violence.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

CONFIDENTIAL

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Lynx: Child and Youth Victims

Justice

Recommended response:

- The Department of Justice, through Victim Services, is committed to providing specialized and age-appropriate services for children and youth who have experienced crime and are navigating the criminal justice system.
- While progress was made toward implementing national best practices for child and youth advocacy centers through Project Lynx, implementation challenges associated with the Yukon's unique virtual service model has made coordinating supports more difficult.
- As a result of the lessons learned through Project Lynx, Victim Services is currently refining their approach to working with child and youth victims of crime.
- As part of this new vision for service delivery, Victim Services will capitalize on new, upcoming, purpose-built space and will more clearly define, lead and deliver a specialized service for child and youth victims of crime and their families.

Additional response:

- It is important to note that, while Victim Services works to define this new Justice focused and led service, child and youth victims and their families may continue to access supports through Victim Services and all partner agencies.

Context:

- The issue of supports and services for children and youth may be raised in the context of responding to child sexualized and physical abuse.

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Lynx: Child and Youth Victims

Justice

-
- Questions may be raised about the status of Project Lynx. However, the core service continues to provide children, youth and families with coordinated supports.
-

Background:

- Since January 2014, Victim Services has been working to develop a jointly administered and jointly led service, known as Project Lynx, for child and youth victims of crime based on national best practices for child and youth advocacy centres (CYAC).
- National best practices include:
 - multidisciplinary teams responding in a coordinated manner;
 - child-focused settings for service and interviews;
 - culturally sensitive and inclusive services;
 - forensic interviewing;
 - victim advocacy and support services;
 - medical evaluation and treatment;
 - mental health evaluation and treatment;
 - case reviews, conducted in a coordinated manner through a multidisciplinary team;
 - case tracking; and
 - organizational capacity and development.
- Known as Project Lynx, this work has focused on building a collaborative multi-disciplinary team of professionals working together to provide an integrated service system and support for child and youth victims and witnesses, and their families, as they navigate the criminal justice system.
- Original and founding members of Project Lynx included Victim Services (as the coordinator), Child Abuse Treatment Services (now Child, Youth, Family Treatment services), RCMP Specialized Response Unit, Public Prosecution Service of Canada, Council of Yukon First Nations, Court Services and Family and Children's Services.

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Lynx: Child and Youth Victims

Justice

- A critical component of a CYAC model is a physical location that is publicly accessible, identifiable and co-locates staff from many or all of the partner agencies.
- For Project Lynx, however, the decision was made to begin with a virtual model, with the intent of eventually securing space for the multi-disciplinary team to work together.
- The coordinated client response component of the program was established without a formal policy framework or agreement, as the intention was to develop these in tandem with service provision.
- The Victim Services branch has been working to engage partners in an ongoing effort to lead Project Lynx as a multi-agency, coordinated service on behalf of the partner agencies. This has included drafting procedures; hosting joint training; advocating for integrated service change in ATIPP legislation; engaging with multiple other CYACs in mentorship and training roles; holding several facilitated discussions; conducting meetings; and sharing of evaluation recommendations for better coordination.
- However, it has become clear that there are multiple, significant challenges with the Project Lynx model.
- The vision of a jointly administered and jointly led program has been difficult to attain and, as a result, strong coordination of services has also been difficult to achieve.
- Using the many lessons learned, Victim Services will pivot the approach to a justice-led and justice-focused service for child and youth victims of crime, which will continue to incorporate many of the national best practices for Child and Youth Advocacy Centers.
- It is important to note during this transition period, child and youth victims and their families continue to access supports through Victim Services and all previous Lynx partner agencies.
- The modified model will incorporate the following:
 - Victim Services led model, focusing on expertise within the Victim Services mandate;

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Lynx: Child and Youth Victims

Justice

- Responding specifically to child and youth victims of crime and their family and specializing in criminal justice system navigation;
- Clearly defined leadership role of program coordinator and Victim Services;
- Dedicated staff with specialized training related to child and youth victims;
- Child and youth specific space for remote testimony and interviews, and family friendly meeting space (with the potential in the future of adding a facility dog program);
- Individualized service model, based on identified needs and including building support teams for clients; and
- A publicly communicated and identifiable access point.
- Justice partners, including the RCMP, Public Prosecution Service of Canada, Department of Education and potentially Yukon Community Corrections, will be invited to partner with Victim Services.
- Clear process and agreements will be developed so all Justice partners are clear on roles, information sharing and support pathways.
- Counselling and support agencies, First Nations, and community partners will be invited to participate in roles that work with their capacity and mandates. Roles will include partnering as a referral agency and, where a client consents, contributing to individualized, coordinated support teams.
- This will be a Victim Services led process to ensure a consistent response for children and youth and/or their families.
- Funding for the Child and Youth Victims of Crime Initiative, including the coordinator's position, comes primarily from the Victim's Fund through the Policy Centre for Victims Issues, Justice Canada.

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Fall 2022

RCMP Apology to Family of Tootsie Jimmy-Charlie

Justice

Recommended response:

- On August 5, 2022, the RCMP formally apologized to the family of Tootsie Jimmy-Charlie, for the manner in which the RCMP conducted the investigation into her death in 1967.
- Delivered by Chief Superintendent Scott Sheppard, Commanding Officer for the Yukon RCMP, the apology took place during a day-long gathering, with members of the family in attendance.
- I commend the family of Tootsie Jimmy-Charlie for their years-long advocacy related to this investigation.
- This process is a demonstration of the critical importance of Changing the Story to Upholding Dignity and Justice, Yukon's Missing and Murdered Indigenous Women, Girls and Two-Spirit+ People Strategy.

Additional response:

- The family of Tootsie Jimmy-Charlie has additional steps they will take to address their concerns around the investigation and how records were kept.
- I have committed to supporting the family as they move forward by meeting with them directly and through the support of the Family Information Liaison Unit in the Department of Justice.

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Fall 2022

RCMP Apology to Family of Tootsie Jimmy-Charlie

Justice

Context:

- On August 5, 2022, the RCMP issued a formal apology to the family of Tootsie Jimmy-Charlie for the manner in which the investigation into her death occurred.
- The family has outstanding questions about the Coroner's Report of Inquest and wants to see this record changed.

Background:

- On August 5, 2022, the RCMP issued a formal apology to the family of Tootsie Jimmy-Charlie for the manner in which the investigation into her death occurred.
- The Family Information Liaison Unit (FILU) and the Yukon Aboriginal Women's Council (YAWC) worked closely with the family to prepare for this event and continue to provide supports to the family of Tootsie Jimmy-Charlie.
- Tootsie Jimmy-Charlie's death occurred sometime between March and May 1967.
- According to the Coroner's Report of Inquest, her body was discovered at the Porter Creek Dump. Following a police investigation, her death was deemed non-suspicious and therefore became a Coroner's file.
- The family met with the RCMP and Coroner (with supports from FILU and YAWC) on several occasions to learn more about the investigation into her death.
- The family has shared concern and outrage related to the manner in which her death was investigated and the language used in the reports.

RCMP apology

- On behalf of the RCMP, Chief Superintendent (C/Supt.) Scott Sheppard delivered an apology to the family of Tootsie Jimmy-Charlie for the manner in which the RCMP investigated her death.
- In delivering the apology, C/Supt. Sheppard noted, "Your experience was not up to the standards of our policies and procedures today, and we were not the police

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RCMP Apology to Family of Tootsie Jimmy-Charlie

Justice

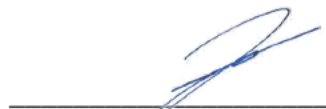
service you needed and deserved. On behalf of the RCMP of that time and the RCMP of today, I am so very sorry."

- The family requested the attendance of media, both during the official apology and later, during a planned press conference.
- The RCMP also released the full apology through direct handouts to the family and media and by issuing a press release following the gathering.

Ongoing work with the family

- The family has noted that the Coroner's Report of Inquest included "several statements that demonstrate negligence in the investigation, as well as abject prejudice towards Indigenous people" (as quoted from the family's press release issued August 4, 2022).
- The family is "now demanding that the racism embedded in the report be removed and that the formal apology acknowledge how it [the report] contributed to the harm and grief the family experienced" (as quoted from the family's press release issued August 4, 2022).
- Minister McPhee met with the family on August 4, 2022 and committed to work with and support the family's interest in addressing the records, and also in supporting the family's interest in meeting with the Government of Canada.
- FILU continues to support the family and, as noted on August 4, 2022, will assist in linking the family to future meetings with the Minister.

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

CONFIDENTIAL**TAB 7****Session Briefing Note****Fall 2022****Expansion of SART Services**

WGED, JUS, HSS

Recommended Response:

- We know that many victims of gender-based violence experience barriers to accessing services. The Sexualized Assault Response Team has broken down some of those barriers in Whitehorse.
- We are now actively planning approaches to expand SART services to communities beyond Whitehorse. We will conduct engagement with community partners this fall and winter, including First Nation governments, Indigenous women's organizations, and service providers in communities.
- Working in partnership will be essential in order to provide creative and sustainable service options, so that victims can access the emotional, clinical, or legal support that they choose.

Additional Response:

- Victims of sexualized assault living in communities outside Whitehorse can access the 24/7 toll-free support line and rapid access to counselling through the Mental Wellness and Substance Use community hubs.

Context - this may be an issue because:

- The July 5, 2021 mandate letters include a commitment to expand the services of Yukon's SART to Yukon communities beyond Whitehorse.
- The number of victims accessing key SART services, including the 24/7 support line, weekend victim support workers and on-call physicians at Whitehorse General Hospital, remains low.

CONFIDENTIAL**TAB 7****Session Briefing Note****Fall 2022****Expansion of SART Services**

WGED, JUS, HSS

Background:

- SART in Whitehorse was publicly announced on March 6, 2020, days before the World Health Organization declared a global pandemic.
- Current SART member agencies include:
 - Women and Gender Equity Directorate;
 - Health & Social Services;
 - Justice, Victim Services;
 - The RCMP's "M"-Division;
 - Public Prosecution Services of Canada;
 - Yukon Women Transition Home; and
 - Yukon Hospital Corporation.
- SART is based on the core principles of:
 - choice;
 - dignity and respect;
 - preventing re-traumatization;
 - cultural safety; and
 - access, equity, and inclusion.
- There are three main components of SART: victim support; legal/criminal justice services; and medical services.
- Two Government of Yukon positions - the SART Victim Support Coordinator and SART Clinical Coordinator – have improved the coordination of existing medical and victim services. They work in partnership to ensure there is continuity of care and wrap-around services for victims of sexualized assault.
- Current priorities for SART in Whitehorse include:
 - SART member agencies continue to coordinate and organize inter-agency trainings;
 - Signing of the inter-agency SART protocol;
 - Continued outreach and engagement with Whitehorse-based First Nations; and
 - Continued communications of SART services.

CONFIDENTIAL**TAB 7****Session Briefing Note****Fall 2022****Expansion of SART Services**

WGED, JUS, HSS

- Rates of police-reported sexualized assault are three times higher in the Yukon than in the rest of Canada. The majority of sexualized assaults are not reported to the police and only a small percentage of victims seek any formal supports or services.

Approved by:

Nicole Morgan

September 6, 2022

 Deputy Minister, Women and Gender
 Equity Directorate

 Date

 Deputy Minister, Justice

 2022-09-08

 Date

 Deputy Minister, Health & Social Services

September 12, 2022

 Date

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Session Briefing Note
Community Wellness Court

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Fall 2022
Justice

Recommended response:

- In April 2007, the Community Wellness Court was implemented in response to the Yukon Substance Abuse Action Plan.
- The Community Wellness Court is a judicially supervised, therapeutic court program aimed at providing treatment and support to clients living with substance misuse, mental health conditions and/or cognitive limitations.
- There is currently an increased number of clients attending the Community Wellness Court who present with complex needs, including opioid use and co-occurring illness.
- Various levels of government and non-government agencies are working together to provide services to Yukoners through the Community Wellness Court.

Additional response:

- Clients opt into the therapeutic court process with a plea of guilty to at least one charge.
- Following several assessments, a therapeutic intervention is developed to meet the individual needs of the client.
- Case management treatment plans for all clients provide access to other needed services, including:
 - Mental Wellness and Substance Use services;
 - psychiatric nursing and psychiatric support;
 - functional and neurological testing with a registered clinical psychologist;
 - psychotherapeutic programming; and
 - referrals to cultural programming.

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Community Wellness Court

Justice

- Client treatment plans are supervised by a case manager at the Justice Wellness Centre, and needs are assessed on an ongoing basis.
 - These assessments help to identify housing, employment, fitness programming and other basic needs for the client.
-

Context:

- The Community Wellness Court (CWC) has applied for additional funding from the federal government for the Drug Treatment Court Funding Program. The funding would be used to expand this therapeutic court into the communities and to identify effective programs to address increased opioid use amongst clients.
 - Federal government funding application assessments have not yet taken place; the CWC anticipates an update on the application status mid 2022-23.
-

Background:

- In 2020, 43 clients participated in the therapeutic court process, and an additional 19 clients engaged in the suitability process but did not enter.
 - In 2021, 38 clients participated in the therapeutic court process, and an additional seven clients engaged in the suitability process but did not enter.
 - Retention rates for the program remained 75 per cent or higher from 2018 to 2021.
 - The CWC received \$100,000 from the Drug Treatment Court Funding Program for a Case Manager position until March 31, 2023.
-

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Community Wellness Court

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Policy / Legal Advice

- It is anticipated that the funding for the Case Manager position from the Drug Treatment Court Funding Program will be renewed to March 31, 2028.

Approved by:



Acting Deputy Minister, Justice

2022-09-06

Date approved

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Session Briefing Note

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Fall 2022

Domestic Violence Treatment Option Court

Justice

Recommended response:

- The Domestic Violence Treatment Option Court was developed in 2001 and is a judicially supervised therapeutic court.
- Innovative treatment programming is used to address the needs of individuals who offend within an intimate partner relationship.
- Clients are showing an increased complexity of needs, including opioid use and co-occurring mental illness.
- To address this, the Government of Yukon has hired an in-house clinical counsellor to support the redevelopment of core programming for the Domestic Violence Treatment Option Court.
- Program developers have also been contracted to oversee the implementation of new programming for clients of the Domestic Violence Treatment Option Court.
- New core programming will include culturally relevant content and be supported by a First Nation cultural consultant in its design and delivery.

Additional response:

- Clients opt into the Domestic Violence Treatment Option process with a guilty plea to at least one charge.
- Assessments are used to help determine the therapeutic intervention required to meet the client's individual needs.

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Fall 2022

Domestic Violence Treatment Option Court

Justice

Context:

- The reduction in Domestic Violence Treatment Option (DVTO) referrals since 2016 prompted a cross-jurisdictional scan on best practices in treating clients with charges of intimate partner violence. Subsequently, an application for federal government funding was made to research, develop and implement more effective treatment models.
 - An ongoing formative evaluation will occur once the new curriculum is developed and implemented. The formative evaluation will ensure efficacy in implementation as the program expands.
-

Background:

- In 2020, 16 clients participated in the DVTO court, averaging 10 months of program engagement. An additional 13 clients attended the suitability process but did not enter the program.
- In 2021, 11 clients participated in the DVTO court, averaging 10 months of program engagement. An additional eight clients attended the suitability process but did not enter the program.
- Retention rates for program participants remain 90 per cent or higher from 2018 to 2021; the national average is about 40 per cent.
- In October 2021, after a five-year absence, the DVTO Court reopened in Watson Lake, at the request of the community.
- The expansion of DVTO programming to Watson Lake has resulted in a successful partnership between the Liard First Nation and the Government of Yukon. The Watson Lake DVTO program has 11 clients receiving coordinated services from the designated DVTO clinical counsellor and cultural programming from the Restorative Justice Branch of Liard First Nation.
- The resulting collaboration has provided the development of several culturally integrated programs for the Watson Lake DVTO court clients. The program has supported more than 16 Elders in a trauma recovery group and has provided training to Elders and community members to co-facilitate each segment of Kaska

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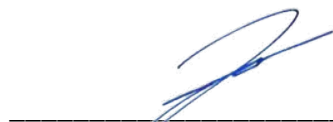
Domestic Violence Treatment Option Court

Justice

Traditional Parenting, Kaska Grandfather teachings and the Medicine Wheel that have been developed to date.

- The following program development is underway in Watson Lake for DVTO clients: Seeking Safety Trauma program and the Kaska Men's Group.
- The Government of Yukon will receive \$150,000 in funding for the DVTO through the federal government's Family Violence Initiative up to March 31, 2026, for a clinical counsellor and a project developer/evaluator.
- An evaluation of the Whitehorse and Watson Lake DVTO court will be conducted in 2025 and will provide an overview of the efficacy of the new program.

Approved by:



Acting Deputy Minister, Justice

2022-09-06

Date approved

CONFIDENTIAL

Session Briefing Note

112
Fall 2022
Justice

Territorial Court Judge Appointment

Recommended response:

- On behalf of the Government of Yukon, I would like to congratulate Judge Phelps on the appointment as a Judge of the Territorial Court of Yukon.
- The appointment of Judge Phelps was recommended by the Yukon's Judicial Council pursuant to the *Territorial Court Act*.
- The Judicial Council is responsible for receiving and assessing applications for the position of Judge of the Territorial Court of Yukon, and for making recommendations with respect to the appointment of Judges.

Context:

- The Minister of Justice may appoint a judge when a vacancy occurs in accordance with the *Territorial Court Act*.

Background:

- On July 14, 2022, the appointment of Mr. John Phelps as a Judge of the Territorial Court of Yukon was announced by the Minister of Justice.
- Judge Phelps's appointment replaces Judge Peter Chisholm, who has retired.
- The *Territorial Court Act* requires the Judicial Council of the Territorial Court to provide a list of between three and eight qualified candidates to the Minister of Justice.
- The Minister of Justice is then required to recommend the appointment of a candidate from the list.

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Justice

Territorial Court Judge Appointment

- Section 32 of the *Territorial Court Act* sets out the composition of the Judicial Council and states:

“The Commissioner in Executive Council shall appoint the council from

- two members nominated by the Minister, one of whom shall be a member of the Law Society of Yukon and the other shall be a lay person;
- two members nominated by Yukon First Nations, at least one of whom shall be a lay person;
- one member nominated by the Law Society of Yukon;
- one member nominated by the chief judge;
- one member nominated by justices; and
- a resident judge of the Supreme Court nominated by the Chief Justice who may, ex officio, participate in the affairs of the council, on matters other than complaints and discipline.”

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Fall 2022
Justice

International Human Rights

Recommended response:

- The Government of Yukon is a contributor as part of the Canadian federation and as a member of the Continuing Committee of Officials on Human Rights and the Senior Committee of Officials on Human Rights.
- Our government is reviewing legislation, policy and practices as they relate to Canada's potential accession to three additional United Nations human rights instruments including:
 - the Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
 - the International Convention for the Protection of All Persons from Enforced Disappearance; and
 - the United Nations Declaration on the Rights of Indigenous Peoples.

Additional response:

- A meeting of the Federal-Provincial-Territorial Ministers Responsible for Human Rights is expected to take place in the spring of 2023.

Context:

- The Government of Yukon is working with Federal-Provincial-Territorial (FPT) officials to identify the implications of Canada's intention to enshrine the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in federal legislation.
- In following up on commitments made during the 2020 Meeting of FPT Ministers Responsible for Human Rights, the Senior Officials Committee on Human Rights (SOCHR) has begun to implement its engagement strategy and protocol by setting meetings with the Canadian human rights commissions, civil society organizations and National Indigenous Organizations.

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Justice

International Human Rights

Background:

- Reporting on international human rights is coordinated through the FPT Coordinating Committee of Officials on Human Rights.
- The following seven conventions have a reporting cycle of three or four years:
 - Convention on the Rights of Persons with Disabilities;
 - International Covenant on Economic, Social and Cultural Rights;
 - Convention on the Rights of the Child;
 - International Covenant on Civil and Political Rights;
 - Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
 - Convention on the Elimination of All Forms of Discrimination Against Women; and
 - International Convention on the Elimination of All Forms of Racial Discrimination.
- When the United Nations committee responsible for the convention has reviewed Canada's reports, they issue "Concluding Observations," which offer both commendations and recommendations. The committee also reports on progress in implementing previous recommendations.
- In August 2018, the Government of Yukon provided formal support for Canada's accession to the Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD).
- At the 2020 FPT meetings of the Ministers Responsible for Human Rights, Ministers reaffirmed their 2017 commitment to strengthen intergovernmental collaboration to implement Canada's international human rights obligations and increase public dialogue on human rights by:
 - formalizing the Forum of Ministers on Human Rights, which will meet every two years, in order to share information, discuss matters related to Canada's international human rights obligations and give direction to the SOCHR and the Continuing Committee of Officials on Human Rights on the fulfillment of Canada's human rights obligations;

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Justice

International Human Rights

- endorsing the protocol for follow-up to recommendations from international human rights bodies and the engagement strategy on Canada's International Human Rights Reporting Process; and
- enhancing public knowledge and awareness and facilitating information sharing among FPTs, through appropriate mechanisms.
- The next meeting of the Ministers Responsible for Human Rights is expected to take place in spring 2023.

Policy / Legal Advice

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Approved by:



Acting Deputy Minister, Justice

2022-08-30

Date approved

CONFIDENTIAL**TAB 6****Session Briefing Note****Fall 2022**
**Yukon's Missing and Murdered
Indigenous Women, Girls, & Two-spirit+
People Strategy**

WGED

JUS

HSS

Recommended response:

- The Government of Yukon is committed to taking action to address the ongoing crisis of missing and murdered Indigenous women, girls and two-spirit people. We continue this work in partnership with Yukon First Nations and Indigenous women's organizations.
- Recent amendments to the *Child and Family Services Act*, development of a First Nations School Board, and the new Community Safety Planning program illustrate our commitment to implementation.
- The Government of Yukon hosted an Accountability Forum in May 2022, attended by more than 200 partners, signatories and affected family members. This event represented the first time since the Strategy was released that partners and contributors were able to hear first-hand from families and survivors.
- The Yukon Advisory Committee continues to lead the work on finalizing the Implementation Plan, which expands on the 31 action items of the Strategy.

Context—this may be an issue because:

- The Government of Yukon, along with federal, municipal and First Nation government leaders, committed to acting on the implementation of *Changing the Story to Upholding Dignity and Justice: Yukon's MMIWG2S+ Strategy* on December 10, 2020.
- At the Accountability Forum in May 2022, the Yukon Advisory Committee (YAC) on MMIWG2S+ released 10 priorities from the Strategy that represent "critical and timely work that must be started immediately."

Background:

- The Yukon Advisory Committee (YAC) on MMIWG2S+ was created in 2015 and

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**Yukon's Missing and Murdered
Indigenous Women, Girls, & Two-spirit+
People Strategy**

WGED

JUS

HSS

includes representatives of the Government of Yukon, Yukon First Nations governments, all three Indigenous women's organizations, LGBTQ2S+ Yukoners and a First Nations Elder.

- The YAC on MMIWG2S+ worked closely with Yukon First Nations, Yukon Indigenous women's groups and family representatives to finalize *Changing the Story to Upholding Dignity and Justice: Yukon's MMIWG2S+ Strategy*, which was released on December 10, 2020, in ceremony at the Kwanlin Dün Cultural Centre.
- As a whole of Yukon strategy, Government of Yukon is only one partner and may not lead or contribute to all actions. Government of Yukon will continue to provide secretariat support to the YAC on MMIWG2S+ and will work with the YAC in recommending options for long-term coordination and the implementation of the Strategy.
- Yukon's MMIWG2S+ Strategy outlines 31 actions under 4 pathways to guide action in response to the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls:
 - Strengthening Connections & Supports;
 - Community Safety & Justice;
 - Economic Independence & Education; and
 - Community Action & Accountability.
- Input from Yukon First Nations on the first draft of the Implementation Framework was sought through the Yukon Forum, Council of Yukon First Nations Health Commission, Justice Commission and First Nations Education Commission. The Yukon Advisory Committee on MMIWG2S+ is now working to finalize the implementation plan.
- The Women and Gender Equity Directorate (WGED) co-chairs the Assistant Deputy Ministers' Committee on Truth and Reconciliation with Aboriginal Relations, which, among other groups, has been mandated to provide leadership and coordination to the Government of Yukon's contributions to Yukon's MMIWG2S+ Strategy.
- WGED is leading an interdepartmental working group to review the 10 priorities and the implementation plan to identify items that require Government of Yukon involvement.
- Government of Yukon has not identified dedicated funding to implement Yukon's

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**Yukon's Missing and Murdered
Indigenous Women, Girls, & Two-spirit+
People Strategy**

WGED

JUS

HSS

MMIWG2S+ Strategy. Government of Yukon's contributions towards implementation of the strategy are being addressed by existing programs and government services.

- The 2022-23 WGED budget includes \$285,000 for Yukon's (MMIWG2S+) Strategy. This funding has been allocated as follows:
 - \$100,000 for research in support of updating the record;
 - \$150,000 for the Yukon MMIWG2S+ Strategy Forum, including a Transfer Payment Agreement with an NGO to coordinate involvement of family members of MMIWG2S+; and
 - \$35,000 to support the ongoing work of the Yukon Advisory Committee on MMIWG2S+.
- The 2022-23 budget also includes a two-year extension of a 1.0 Full Time Equivalent Senior Advisor on MMIWG2S+ to March 2024.

Approved by:

Nicole Morgan

September 6, 2022


 Deputy Minister, Women and Gender
Equity Directorate

Date


 Deputy Minister, Justice

2022-09-08

Date


 Deputy Minister, Health and Social Services

2022-09-12

Date

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Fall 2022

Systemic Racism and Justice

Justice

Recommended response:

- The recent discoveries of unmarked graves at former residential schools across the country, and the rise in attacks and assaults motivated by anti-Semitism, anti-Black racism, misogyny, Islamophobia and/or homophobia, demonstrate that Canada is not immune to the challenges of systemic racism.
- We are committed to ensuring that our workplaces, schools and gathering spaces are inclusive and free from discrimination.
- We support efforts to dismantle systemic racism within the structures of government, including the justice system.
- The Government of Yukon recognizes that the overrepresentation of Indigenous peoples in the Yukon's courts and correctional system is an indicator of systemic barriers and structural racism.

Additional response:

- As Minister of Justice and the Minister responsible for Human Rights, I recognize that a crucial aspect of the recommendations and the principles behind the Putting People First report is the dismantling of systemic racism within the structures of government.
- This applies to the Department of Justice and to the Government of Yukon as a whole.
- The Government of Yukon commends the Government of Canada for its commitment to combat all forms of racism through the

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Systemic Racism and Justice

Justice

implementation of the Building a Foundation for Change: Canada's Anti-Racism Strategy in 2019.

Context:

- On March 21, 2022, all parties in the Yukon Legislative Assembly recognized the International Day for the Elimination of Racial Discrimination.
- The Government of Yukon and all parties acknowledged the existence and impact of systemic racism in the Yukon.
- Premier Silver has stated publicly that racism and systemic racism exist, and that collective action must be taken against all forms of racism, discrimination and hate. The Premier has also said it is not enough to simply not be racist, but that we must be anti-racist.
- The Government of Yukon does not currently have a whole-of-government approach to anti-racism or actions to address systemic barriers and structural racism.
- Work that the Department of Justice does to address the overrepresentation of Indigenous peoples in the justice system are targeted examples of efforts to address the impacts of systemic racism.

Background:

- Racism and systemic racism are linked but different. Racism is a belief that race is a fundamental determinant of human traits and capacities and that racial differences result in an inherent superiority of a particular race.
- Systemic racism is the systemic oppression of a racial group to the social, economic and political advantage of another. Systemic racism is embedded into the system and is perpetuated by policies and prevalent socialized behaviours that negatively impact racially marginalized peoples.
- Governments have a role in addressing systemic racism by creating or changing policies and legislation to ensure our workplaces, schools and gathering spaces are inclusive and free from all forms of discrimination.

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Systemic Racism and Justice

Justice

- According to the 2016 Census, racialized Canadians constitute over 27 per cent of Canada's total population, and racialized people constitute over 31 per cent of the Yukon's population.

Government of Yukon efforts to address systemic racism

- The Government of Yukon does not have a corporate anti-racism strategy.
- However, there are ongoing initiatives in the Department of Justice to strengthen the relationship between the justice system and racialized Yukoners, including:
 - support of community-led justice initiatives that provide culturally relevant programs and services;
 - partnerships with the Family Information Liaison Unit and Yukon Aboriginal Women's Council to provide support for family members of Missing and Murdered Indigenous Women, Girls and Two-Spirit Plus People;
 - negotiation of Administration and Justice Agreements (AJAs) with Yukon First Nations governments to support the exercise of First Nation authority and jurisdiction over administration of justice matters (see BN #140);
 - support of a Gladue Report writing service, administered by the Council of Yukon First Nations, to provide a mechanism for the courts to consider the unique effects of residential schools, systemic racism, economic and social disadvantage, and intergenerational loss, violence and trauma on Indigenous peoples; and
 - the establishment of the Integrated Restorative Justice Unit to improve the Government of Yukon's restorative justice service delivery, increase engagement with First Nations governments and better support community-designed and community-led restorative justice initiatives.

Government of Canada efforts to address systemic racism

- Through the *Building a Foundation for Change: Canada's Anti-Racism Strategy 2019-2022*, the Government of Canada sought to take immediate steps to combat racism and discrimination nationally.

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Systemic Racism and Justice

Justice

- The strategy was informed by broad engagement with Canadians during 2018–19 and is based on three guiding principles: 1) demonstrating federal leadership; 2) empowering communities; and 3) building awareness and changing attitudes.
- In 2019, the Government of Canada established a Federal Anti-Racism Secretariat to lead and support anti-racism initiatives in the federal government.
- The Secretariat identifies and develops further areas for action through engagement with communities and Indigenous peoples, stakeholders and other levels of government.
- The Secretariat works with provincial and territorial partners to coordinate action against systemic racism and consider the potential impacts of policies, programs and laws on Canadians from diverse communities.
- The Federal Anti-Racism Secretariat plans to release a national anti-racism action plan in late 2022.
- The Federal Anti-Racism Secretariat had proposed creating an Anti-Racism Ministers Action Table (ARMAT), but there is no information regarding its establishment at this time.

Approved by:



Acting Deputy Minister, Justice

2022-09-06

Date approved

CONFIDENTIAL**Session Briefing Note****Fall 2022****United Nations Declaration on the Rights of Indigenous Peoples**Executive Council
Office/Justice

Recommended response:

- The Yukon government continues to support Canada's commitment to the United Nations Declaration on the Rights of Indigenous Peoples.
- The Final and Self-Government Agreements between the governments of Yukon, Canada and 11 Yukon First Nations reflect many principles and themes contained in the Declaration.
- Our government is working with all Yukon First Nations and other Indigenous partners to advance reconciliation by implementing the Final and Self-Government Agreements, negotiating new government-to-government arrangements, and collaborating on shared priorities including modernizing Yukon's mining legislation.

Additional Response:

- The federal *United Nations Declaration on the Rights of Indigenous Peoples Act* is Canada's new legislative framework for improving the lives of Indigenous Peoples and improving and strengthening its relationships with Indigenous governments.
 - The Yukon government is committed to actions that advance reconciliation, while recognizing that each province and territory has its own approach to reconciliation and the Declaration.
-

Context—this may be an issue because:

- The governments of Canada (Canada) and British Columbia (BC) have affirmed in legislation that the United Nations Declaration on the Rights of Indigenous Peoples (the "Declaration") applies to their laws, which has raised expectations that other jurisdictions will adopt similar legislation.
 - Questions about the Yukon government's (YG) intentions with respect to the potential implementation of the Declaration in Yukon have arisen in some contexts, including at the Yukon Forum and in discussions with some Yukon First Nations and the Inuvialuit.
-

CONFIDENTIAL**TAB****Session Briefing Note****Fall 2022****United Nations Declaration on the Rights of Indigenous Peoples**Executive Council
Office/Justice

Background:

- The Declaration, adopted by the UN General Assembly in 2007 and fully endorsed by Canada in 2016, speaks to the individual and collective rights of Indigenous Peoples, taking into account their specific cultural, language, identity, religion, health, education, economic and social circumstances.
- The Declaration is an international set of standards that emphasizes Indigenous Peoples' right to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions, and to pursue self-determined development in keeping with Indigenous needs and aspirations. It has been supported by 151 countries.
- The Declaration was designed as a guiding document rather than a specific legal instrument and may not be directly compatible with or easily implemented in Canadian or Yukon law.
- In 2016, Canada committed to developing legislation to implement the Declaration. In April 2021, the First Nation of Na-Cho Nyäk Dun and Champagne and Aishihik First Nations made submissions to the committee hearings on the federal bill requesting that the federal legislation be made to apply to the Yukon.
- On June 21, 2021, the federal *United Nations Declaration on the Rights of Indigenous Peoples Act* (the Act) came into force. It requires Canada to take all measures necessary to ensure that "the laws of Canada" are consistent with the Declaration.
- YG continues to assess the implications of the federal Act and how its implementation may affect federal laws in the Yukon such as the Yukon Act, the *Yukon Environmental and Socio-economic Assessment Act*, the *Yukon First Nations Land Claims Settlement Act* and the *Yukon First Nations Self-Government Act*.
- On December 9, 2021, Canada informed YG that it was initiating its process of consultation and cooperation with Indigenous Peoples on December 10. As required by the Act, Canada intends to develop an action plan to achieve the objectives of the Declaration by June 2023, to explore measures to ensure consistency of federal laws with the Declaration, and to table annual progress reports in Parliament.
- In that letter, Canada also committed to engaging YG and other provinces and territories, either bilaterally or through existing federal/provincial/territorial processes, during the consultation process.

CONFIDENTIAL**TAB****Session Briefing Note****Fall 2022****United Nations Declaration on the Rights of Indigenous Peoples**Executive Council
Office/Justice

- On January 10, 2022, Minister McPhee confirmed YG's interest in engaging bilaterally on the implementation of the Act. However, Canada has since advised that it is not yet in a position to engage with provinces and territories.

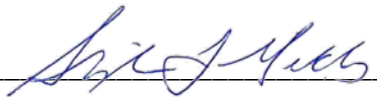
The Yukon Context

- The Yukon Legislative Assembly passed a motion in 2014 supporting Canada's endorsement of the Declaration (when Canada's support was still qualified).
- In September 2021, the Deputy Minister's Review Committee established an Assistant Deputy Ministers Committee on Truth and Reconciliation to consider our approach to the Declaration.
- Once YG has concluded its internal work on this corporate approach, YG will engage with Yukon First Nations and transboundary Indigenous governments on the Declaration. This engagement would be distinct from federal engagement on Canada's Act.

YG's Commitments Related to the Declaration

- Yukon's *Missing and Murdered Indigenous Women, Girls and Two-spirit+ People Strategy* includes a commitment to "explore options to consider the application of the Declaration in the context of Yukon's Final Agreements, other modern treaties, and the evolving relationship with First Nation governments without agreements".
- Strategic Priority 1 of the *Yukon Mineral Development Strategy and Recommendations* is to establish a modern mineral resource management regime that aligns with treaties, Canada's Constitution Act, court-guided agreements, recommendations of the Truth and Reconciliation Commission (TRC), and the principles of reconciliation in the Declaration.
- The July 2021 mandate letters reconfirm YG's commitment to the TRC's Calls to Action, which include a call to federal, provincial, territorial and municipal governments to fully adopt and implement the Declaration as the framework for reconciliation.

Approved by:

	2022 10 05
Deputy Minister, Executive Council Office	Date
Approved with Changes. 	Sept 12, 2022
	2022-09-22
Deputy Minister, Department of Justice	Date

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Session Briefing Note

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Fall 2022

Yukon Land Titles Registry – Land Titles Modernization Project

Justice

Recommended response:

- Commenced in 2012, the Yukon Land Titles Modernization Project has resulted in changes to business processes, policies and legislation.
- The project continues to improve the quality of service so that it meets national standards, while maintaining the Land Titles Office's current high level of accuracy and certainty in title.
- To date, the project has accomplished the following:
 - decreased the average time for the Land Titles Office document registration and processing from nine weeks to five to seven business days;
 - developed a process and prescribed forms to enable Yukon First Nations governments to register Category A or Category B Settlement Land in the Land Titles Office;
 - completed conversion of 85 per cent of active titles and title history from paper form to electronic data; and
 - opened the customer portal to the public to do online searches, effective December 1, 2021.
 - All registration functions required by the *Land Titles Act*, 2015 are operational.
- The current focus of the project is to:
 - continue implementation of phase one with a focus on the *Condominium Act*, 2015 and its Regulations; and
 - complete active title conversion and digitization.

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Yukon Land Titles Registry – Land Titles Modernization Project

Justice

Context:

- The Land Titles Modernization Project has had a very active Stakeholder Advisory Committee, which favours the advancement of this project.

Background:

- Guided by a Stakeholder Advisory Committee comprised of representatives from the Whitehorse Chamber of Commerce, the Real Property Bar, the Association of Canada Lands Surveyors, the Surveyor General of Canada – Yukon Branch, the Association of Yukon Communities, several Government of Yukon departments, First Nations governments and many other members, the Land Titles Modernization Project has been ongoing since 2012.
 - After evaluation of a publicly negotiated Request for Proposal was undertaken, a 20-year Master Services Agreement was awarded to Information Services Corporation (ISC) in 2017. The Yukon Land Titles Registry (YLTR) system is now operational with Land Titles Office (LTO) staff entering transaction data into the system from paper forms submitted by customers. Public access to online searches has been available since December 1, 2021.
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Policy / Legal Advice

75(1)(b)(i), 74(1)(a)

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**Yukon Land Titles Registry –
Land Titles Modernization Project**

Justice

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Session Briefing Note

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Fall 2022

Administration of Justice Agreement Negotiations

Justice

Recommended response:

- We are committed to supporting Yukon First Nations governments to exercise their authority and jurisdiction over the administration of justice as set out in Yukon First Nation Self-Government Agreements.
- In 2020, the Government of Yukon implemented a new approach to justice-related negotiations with Yukon First Nations governments.
- Our approach is rooted in recognition of and respect for First Nations governments' jurisdiction, governance and legal principles.
- This approach provides new opportunities for collaboration and partnerships, and it promotes incremental and capacity-building initiatives for justice-related matters.

Additional response:

- The Government of Yukon wishes to be open and flexible to address First Nations governments' interests related to the administration of justice and justice-related matters.
- We recognize that Yukon First Nations governments' administration of justice powers are fundamental to self-government.
- We therefore remain committed to working with Yukon First Nations governments and the Government of Canada to negotiate and implement Administration of Justice Agreements.

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Administration of Justice Agreement Negotiations

Justice

Context:

- 76(1)

- In March 2021, the Government of Canada (Canada) was the final signatory to sign the agreement between Canada, YG and TTC on the implementation of enforcement aspects of the TTC Administration of Justice Agreement. A joint announcement by the Parties was deferred for discussion when the Parties resume negotiations in 2022.

- 76(1)

Background:

- AJAs relate to the ability of First Nations governments to administer, enforce and adjudicate First Nation laws.
- Section 13.6.1 of each Yukon First Nation SGA commits the parties to negotiate with a view to concluding an AJA.
- YG's Department of Justice is the corporate lead for AJA negotiations.
- The only AJA in the Yukon to date was signed by Canada, YG and TTC in 2011.
- Other First Nations governments that have completed AJA Framework Agreements include KDFN, Champagne and Aishihik First Nations (CAFN), Kluane First Nation (KFN) and Vuntut Gwitchin First Nation (VGFN); 76(1)

- In July 2020, an updated approach for AJAs and justice-related matters was implemented to guide negotiations with Yukon First Nations governments and Canada.

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Administration of Justice Agreement Negotiations

Justice

Status of AJA Implementation Negotiations – Teslin Tlingit Council

- The 2011 TTC AJA Implementation Plan provides funding for TTC's Peacemaker Court but left the implementation of other AJA matters to future negotiations.
- In March 2020, two agreements were signed related to the implementation of the TTC AJA: 1) an agreement with TTC and Canada related to enforcement implementation; and 2) an agreement with TTC on how YG will implement Transitional Measures provisions of the TTC AJA.

76(1)

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Status of AJA Negotiations - Kwanlin Dün First Nation

- KDFN's proposed AJA model contemplates changes to the Yukon's existing justice system, which may impact KDFN Citizens or Yukoners generally.
- Key components of KDFN's AJA model include:

76(1)

Status of AJA Negotiations – Vuntut Gwitchin First Nation

- Preliminary AJA negotiations recommenced in 2018.

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Justice

Administration of Justice Agreement Negotiations

- 76(1)

Interim Justice Provisions Extension Agreements

- Seven Yukon First Nations governments have interim justice provisions extension agreements with YG and Canada.
- These extend YG's obligations to prosecute, adjudicate and provide for any term of imprisonment for violations of First Nation laws until an AJA has been reached.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Fall 2022

Funding for Legal Aid

Justice

Recommended response:

- The Government of Yukon recognizes the importance of predictable funding to ensure the continued operational stability and accessibility of this vital service to low-income Yukoners.
- For the 2022–23 fiscal year, the governments of Yukon and Canada will together provide \$2,608,000 in core funding and \$560,392 in additional funding to the Yukon Legal Services Society.

Additional response:

- Funding the Yukon Legal Services Society provides a stable core budget for its regular operations.
- The Government of Yukon recognizes the critical importance of services provided by the Society to Yukoners and remains committed to ensuring the society has sufficient resources to discharge its mandate.

Context:

- The amount of legal aid funding contributed by the Government of Yukon is a topic of continued public interest.

Background:

- The Government of Yukon is providing additional funding this fiscal year, including:
 - a one-time payment of \$100,000 for the society's Database Project (system upgrades);
 - up to \$150,000 to cover legal costs associated with additional cases; and
 - \$35,000 for Community Wellness Court proceedings.

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Fall 2022

Funding for Legal Aid

Justice

- The Government of Canada is providing additional funding this fiscal year, including \$275,392 in COVID-related support.
- Yukon Legal Services Society provides legal aid services in the Yukon under the authority of the *Legal Services Society Act*. A board of directors appointed by the Minister of Justice governs the Society.
- The Act allows the Society to provide eligible Yukoners with legal services in certain types of criminal, civil, and family court proceedings. The Society also provides poverty law services (advice and representation regarding employment insurance, social assistance benefits, landlord and tenant matters, etc.).
- The Yukon Legal Services Society has four Whitehorse-based clinics and a total staff of 18 (11 lawyers and seven support staff), including an executive director.
- When staff lawyers are unable to provide client representation due to legal conflicts of interest, private lawyers are retained at a set rate to control costs.
- When these costs exceed core budget allocations, the Department of Justice provides additional funding up to an annually agreed-upon cap, pursuant to the Conflict Case Agreement (up to \$150,000 this year).
- In the last year (2021-22) of the previous five-year agreement, the Government of Canada contributed \$1,116,234. Canada provided an additional \$95,207 in COVID-related funding.
- Pursuant to the new five-year agreement, the Government of Canada's contributions will be:
 - 2022-23 \$1,356,163
 - 2023-24 ^{75(1)(a)(ii)}
 - 2024-25
 - 2025-26
 - 2026-27
- For 2022-23, the Government of Yukon will pay 48 per cent of the core funding, i.e., \$1,251,837 of the \$2,608,000 total.

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Funding for Legal Aid

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 Justice

	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27
Canada						
				75(1)(a)(ii)		
Core	\$1,116,234	\$1,356,163				
COVID	\$95,207	\$275,392				
Criminal						
Subtotal	\$1,211,441	\$1,631,555				
Yukon						
Core	\$1,513,864	\$1,251,837				
Conflict cases	\$89,276	\$150,000*				
CWC	\$35,000	\$35,000				
Database	\$50,000	\$100,000				
Subtotal	\$1,688,140	\$1,536,837				
TOTAL	\$2,899,581	\$3,168,392*				

*Up to

Approved by:



Acting Deputy Minister, Justice

2022-09-08

Date approved

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Fall 2022
Justice

Outside Counsel Costs – Government-Wide

Recommended response:

- All legal services to the Government of Yukon are provided by the Department of Justice by an in-house legal team, which contracts with outside counsel as needed.
- In the 2021-22 fiscal year, the Government of Yukon spent approximately \$1.47 million on outside counsel costs.
- As at the end of July for the 2022-23 fiscal year:
 - contract commitments with outside counsel totalled \$1.31 million, including multi-year contract commitments; and
 - expenditures totalled \$200,000.

Additional response:

- Legislative drafting and other matters requiring specialized legal expertise not available within the Department of Justice contribute to outside counsel costs, as do legal matters outside of Yukon.
- By department, contract commitments for outside counsel for the 2022-23 fiscal year are:
 - Energy, Mines and Resources: \$265,583.50
 - Justice: \$238,842.68
 - Health and Social Services: \$146,253.00
 - Public Service Commission: \$135,000.00
 - Economic Development: \$133,340.95
 - Community Services: \$121,227.50
 - Executive Council Office: \$94,971.89
 - Highways and Public Works: \$85,599.57
 - Education: \$70,251.75
 - Yukon Housing Corporation: \$10,000.00
 - Tourism and Cultural Services: \$4,733.93
 - Environment: \$4,005.00

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142
Fall 2022
Justice

Outside Counsel Costs – Government-Wide

Context:

- The amount that the Government of Yukon spends on hiring outside counsel is a subject of public interest.
-

Background:

- “Outside counsel” refers to private bar lawyers hired on contract by the Department of Justice to provide legal services for the Government of Yukon, often in consultation with a client department from which the costs are recovered. All outside counsel contracts are set up through the Legal Services Branch.
- Typical reasons for retaining outside counsel include:
 - the situation is urgent and the requirements to deal with the matter or case exceed available resources within Legal Services;
 - the matter is so large or important that Legal Services would not be able to provide these services while continuing to meet the needs of other clients;
 - the work requires expertise unavailable within Legal Services;
 - the use of a Legal Services lawyer may cause a conflict of interest;
 - using outside counsel is more cost effective than using Legal Services;
 - representation of the Government of Yukon is needed in a legal action started and conducted outside the Yukon; or
 - special circumstances exist that require a particular lawyer or law firm.

Approved by:



Acting Deputy Minister, Justice

2022-09-07

Date approved

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Fall 2022

Yukon Police Council

Justice

Recommended response:

- The Yukon Police Council is an independent citizen advisory council that promotes ongoing dialogue to foster positive relationships between Yukoners, the Yukon's RCMP and the Department of Justice.
 - Each year, the Yukon Police Council works to collect community perspectives and provide recommendations that inform policing priorities for the Yukon's RCMP.
 - The Yukon Police Council provides a valuable service to Yukoners, and as the Minister of Justice, I look forward to receiving their recommendations each year.
-

Context:

- Current national and international conversations about police use-of-force, substance-use emergencies, ideologically motivated violence and systemic racism in policing highlight the importance of the Yukon Police Council.
-

Background:

- The Yukon Police Council (the Council) was formed in 2012 following recommendations in the Sharing Common Ground: Review of Yukon's Police Force final report in 2010.
 - The Council usually visits several communities annually to meet with First Nations governments, stakeholder groups, RCMP community detachments and Yukoners.
 - The Council uses the feedback from these community meetings to advise the Minister on policing issues affecting people in the Yukon.
 - The Council suspended community visits in 2020 during the COVID-19 pandemic out of respect for community safety and travel restrictions throughout the territory. To gather feedback from Yukoners, the Council hosted a survey in late 2020.
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Yukon Police Council

Justice

- The Council presented a final report summarizing the survey results to the public in early summer 2021. The 1,941 respondents identified these top five areas of concern:
 - gangs and drugs;
 - property theft and break and enters;
 - domestic violence;
 - alcohol and drug offences; and
 - speeding and traffic safety.
- The Council resumed community travel in the fall of 2021, with productive visits to Faro and Ross River.
- The feedback from the 2021 visits and virtual meetings with stakeholders and community groups informed the recommendations from the Council to the Minister of Justice on policing priorities for 2022–23.
- The Council completed community visits to Burwash Landing and Beaver Creek in August 2022.
- Inspire.Reconciliation.Potential (IRP Consulting) has been contracted to complete the Sharing Common Ground review. Council participated in a focus group with IRP Consulting on October 4, 2022, with individual interviews underway for members who were unable to attend.
- The Council is comprised of a Chair and six citizens appointed by the Minister of Justice for a three-year term. The Council includes members from Whitehorse and the Communities, with a minimum of three members appointed from Yukon First Nations.

[Cross Reference BN# 76 – Policing Priorities]

Approved by:



Acting Deputy Minister, Justice

2022-10-12

Date approved

Session Briefing Note**TAB 24****Fall 2022****United Nations Declaration on the Rights of Indigenous Peoples**Executive Council
Office/Justice**Recommended response:**

- The United Nations Declaration on the Rights of Indigenous Peoples is being raised more and more frequently by First Nations and other Indigenous governments in the Yukon context.
- As we carefully review the Declaration, a key question we are exploring is "how might the Declaration advance reconciliation in the Yukon?"
- Our government has been committed to advancing reconciliation since first being elected in 2016 and that remains a key priority for us.
- The Declaration is an international human rights instrument and is frequently characterized as a framework for reconciliation. The application of the Declaration needs to take into account the existing context of each jurisdiction.
- The Declaration itself recognizes that "the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration."
- In the Yukon, reconciliation is guided by existing Yukon First Nations Final and Self-Government Agreements.
- When we take into account the 11 Yukon First Nation Final Agreements as well as the Gwich'in Comprehensive Land Claim Agreement and the Inuvialuit Final Agreement.
- The Declaration has never been implemented in a predominantly modern treaty context, so we need to proceed thoughtfully.
- We are also unique in Canada in that Cabinet, the leadership of Yukon First Nations and the Grand Chief of the Council of Yukon First Nations meet together four times each year to define and advance joint priorities. Increasingly we are seeing participation by transboundary First Nations

Session Briefing Note**TAB 24****Fall 2022****United Nations Declaration on the Rights of Indigenous Peoples**Executive Council
Office/Justice

at the Forum and the Inuvialuit may attend in the future as well. That does not happen anywhere else in Canada.

- Our approach to reconciliation at the Yukon Forum is increasingly characterized by comprehensive collaboration between the Yukon government, Yukon First Nations and other Indigenous governments in the development of key new legislation. The recently passed Child and Family Services Act and the current New Mining Legislation process are excellent examples of that.
- These are three illustrations of Yukon's uniqueness in the Canadian federation and why, when it comes to the Declaration, our approach at the Yukon Forum has been to invite a discussion on what the Declaration can add to the process of reconciliation in the Yukon rather than to discuss a kind of "blanket implementation", as if reconciliation was not already very much underway here.
- Reconciliation is an ongoing process. We intend to build on the good work that is already in place and other processes that will support and strengthen the path of reconciliation that we are already walking together.

Additional Response:

- The federal *United Nations Declaration on the Rights of Indigenous Peoples Act* is Canada's legislative framework for improving the lives of Indigenous Peoples and improving and strengthening its relationships with Indigenous governments.
- The Yukon government continues to support Canada's efforts to implement their legislation, while recognizing that each province and territory has its own approach to reconciliation and the Declaration.

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TAB 24

Fall 2022

United Nations Declaration on the Rights of Indigenous Peoples

Executive Council
Office/Justice

Context—this may be an issue because:

- The governments of Canada (Canada) and British Columbia (BC) have affirmed in legislation that the United Nations Declaration on the Rights of Indigenous Peoples (the “Declaration”) applies to their laws, which has raised expectations that other jurisdictions will adopt similar legislation.
- Questions about the Yukon government’s (YG) intentions with respect to the potential implementation of the Declaration in Yukon have arisen in some contexts, including at the Yukon Forum and in discussions with some Yukon First Nations and the Inuvialuit.

Background:

- The Declaration, adopted by the UN General Assembly in 2007 and fully endorsed by Canada in 2016, speaks to the individual and collective rights of Indigenous Peoples, taking into account their specific cultural, language, identity, religion, health, education, economic and social circumstances.
- The Declaration is an international set of standards that emphasizes Indigenous Peoples’ right to live in dignity, to maintain and strengthen Indigenous institutions, cultures and traditions, and to pursue self-determined development in keeping with Indigenous needs and aspirations. It has been supported by 151 countries.
- The Declaration was designed as a guiding document rather than a specific legal instrument and may not be directly compatible with or easily implemented in Canadian or Yukon law.
- In 2016, Canada committed to developing legislation to implement the Declaration. In April 2021, the First Nation of Na-Cho Nyäk Dun and Champagne and Aishihik First Nations made submissions to the committee hearings on the federal bill requesting that the federal legislation be made to apply to the Yukon.
- On June 21, 2021, the federal *United Nations Declaration on the Rights of Indigenous Peoples Act* (the Act) came into force. It requires Canada to take all measures necessary to ensure that “the laws of Canada” are consistent with the Declaration.
- YG continues to assess the implications of the federal Act and how its implementation may affect federal laws in the Yukon such as the Yukon Act, the

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United Nations Declaration on the Rights of Indigenous Peoples

Executive Council
Office/Justice

Yukon Environmental and Socio-economic Assessment Act, the Yukon First Nations Land Claims Settlement Act and the Yukon First Nations Self-Government Act.

- On December 9, 2021, Canada informed YG that it was initiating its process of consultation and cooperation with Indigenous Peoples on December 10. As required by the Act, Canada intends to develop an action plan to achieve the objectives of the Declaration by June 2023, to explore measures to ensure consistency of federal laws with the Declaration, and to table annual progress reports in Parliament.
- In that letter, Canada also committed to engaging YG and other provinces and territories, either bilaterally or through existing federal/provincial/territorial processes, during the consultation process.
- On January 10, 2022, Minister McPhee confirmed YG's interest in engaging bilaterally on the implementation of the Act. However, Canada has since advised that it is not yet in a position to engage with provinces and territories.

The Yukon Context

- The Yukon Legislative Assembly passed a motion in 2014 supporting Canada's endorsement of the Declaration (when Canada's support was still qualified).
- In September 2021, the Deputy Minister's Review Committee established an Assistant Deputy Ministers Committee on Truth and Reconciliation to consider our approach to the Declaration.
- Once YG has concluded its internal work on this corporate approach, YG will engage with Yukon First Nations and transboundary Indigenous governments on the Declaration. This engagement would be distinct from federal engagement on Canada's Act.

YG's Commitments Related to the Declaration

- Yukon's *Missing and Murdered Indigenous Women, Girls and Two-spirit+ People Strategy* includes a commitment to "explore options to consider the application of the Declaration in the context of Yukon's Final Agreements, other modern treaties, and the evolving relationship with First Nation governments without agreements".
- Strategic Priority 1 of the *Yukon Mineral Development Strategy and Recommendations* is to establish a modern mineral resource management regime that aligns with treaties, Canada's Constitution Act, court-guided agreements, recommendations of the Truth and Reconciliation Commission (TRC), and the principles of reconciliation in the Declaration.

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Office/Justice

- The July 2021 mandate letters reconfirm YG's commitment to the TRC's Calls to Action, which include a call to federal, provincial, territorial and municipal governments to fully adopt and implement the Declaration as the framework for reconciliation.

Approved by:

 Deputy Minister, Executive Council Office
2022-11-10

Date


 Deputy Minister, Department of Justice
2022-11-10

Date