

1992

FIRST NATIONS POLICING POLICY

I

INTRODUCTION

In June 1991, the federal government announced a new on-reserve First Nations Policing Policy with more money to improve on-reserve policing services - an extra \$116.8 million over five years, starting in 1991-92. "On-reserve" includes Indian reserves, certain Indian communities on Crown lands and Inuit communities.

The policy is a major step toward realizing the Prime Minister's commitment to Canadians that "...this government will find practical ways to ensure that aboriginal communities can exercise greater control over the administration of justice."

The First Nations Policing Policy provides a practical way to improve the level and quality of policing services for First Nations communities through the establishment of policing agreements. The policy provides guidelines for the federal government to negotiate and implement tripartite agreements between the federal and provincial/territorial governments and First Nations communities and regional organizations such as Tribal Councils.

The new policy is the outcome of a review completed in early 1991, which included two rounds of extensive consultations with a large cross-section of First Nations communities across Canada, many existing First Nations police forces and all provincial/territorial governments. The review revealed a growing demand for improved First Nations policing services.

The new policy creates a single First Nations policing program under the authority of the Ministry of the Solicitor General of Canada. The transfer of responsibility from the Department of Indian Affairs and Northern Development (DIAND) to the Solicitor General was effective April 1, 1992.

II

OBJECTIVES OF THE FIRST NATIONS POLICING POLICY

The purpose of the First Nations Policing Policy is to improve the administration of justice, the maintenance of social order, public security and personal safety in on-reserve communities. The objectives of the policy are:

- To provide First Nations communities with on-reserve policing services equal in quality to those provided in non-First Nations communities.
- To provide First Nations communities with police services suited to their needs and that respect their culture and beliefs.
- To accommodate local and regional variations in policing services.
- To ensure that First Nations policing services are responsible for enforcing all laws normally assigned to police officers.
- To ensure implementation of new policing arrangements is undertaken in a planned and coordinated manner to guarantee a high probability of success.
- To ensure First Nations policing services are consistent with generally accepted practice and due process related to public complaints, grievances and redress.
- To support and encourage evolving self-government in First Nations communities.
- To ensure on-reserve police services are independent of the First Nation or band governance authority, yet accountable to the communities they serve.

III

ROLES

Until aboriginal and treaty rights on the administration of justice are clarified, the federal, provincial/territorial governments and First Nations communities and organizations each have a legitimate role in the provision of on-reserve policing services:

- First Nations communities and organizations should be increasingly involved in the administration and management of policing services.
- The federal government will provide money and expertise to support First Nations policing programs within the guidelines outlined in the new policy.
- Provincial/territorial governments have primary responsibility for the administration of justice within their boundaries, including First Nations reserves.

The federal, provincial/territorial governments and First Nations communities and organizations will work in partnership and share responsibilities to develop professional First Nations policing services.

IV

PROGRAM GOALS

In keeping with the First Nations Policing Policy, the key goals of the new policing program are:

- To develop a single comprehensive First Nations Policing Program.
- To increase First Nations communities satisfaction with their policing services.
- To ensure that First Nations communities in Canada have more equitable access to First Nations policing services.
- To ensure funds are spent in a cost-effective and responsible manner.

It is anticipated that funding will provide 80 per cent of the on-reserve population with First Nations policing services by 1995-96. This recognizes that although present funding may not meet all the aspirations of First Nations communities, it will go a long way toward meeting their needs over the next four years.

V

POLICY PRINCIPLES

Quality and Level of Service

First Nations communities should have policing services that respect their culture and beliefs and which are equal in quality to policing services found in similar communities elsewhere in their region.

First Nations communities should play a key role in shaping the level and quality of police service they receive.

Jurisdiction and Responsibilities

Police officers serving First Nations communities should have the full range of policing responsibilities and the authority to enforce provincial and federal laws (including the *Criminal Code*), and Band by-laws.

Responsive to First Nations Culture

There should be enough First Nations police officers in each service to ensure that policing will be responsive and sensitive to First Nations culture and beliefs.

Type of Police Service

First Nations communities should play a key role in choosing the type of police service that best suits their needs.

Selection Process

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

Implementation of New Arrangements

New First Nations-administered police services should be phased in over a number of years to ensure success.

Police Accountability and Independence

Police boards, commissions and advisory bodies should be set up to ensure that First Nations police services are responsive to the communities they serve. These same bodies should also ensure police independence from inappropriate partisan and political influences.

Police Governance and Oversight

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

Legislation

New legislation for First Nations policing should recognize that the provinces have primary responsibility for the administration of justice. The federal government should keep its legislative role to ensuring that First Nations communities have the clear legal authority to sign tripartite policing agreements.

Cost-shared Arrangements

The federal and provincial governments, because they share jurisdiction, should share the cost of First Nations policing services. The federal government should also contribute enough money to promote and sustain national standards.

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FUNDING FRAMEWORK

Under the new policing policy, funding for all types of First Nations police services will be provided under a single program based on tripartite agreements between the federal and provincial/territorial governments and First Nations communities and organizations. Tripartite agreements would provide that the federal government pay 52 per cent and the provincial/territorial government 48 per cent of the government contribution toward the cost of First Nations policing services for First Nations communities. The ability of the community to pay for its own police services, or some part thereof, will be discussed during negotiations.

Policing Options

The following are **examples** of types of on-reserve police services eligible for federal funding:

1. **First Nations Administered Police Service:** organized on a band, tribal, regional or provincial basis.
2. **Special Contingent of First Nations Officers:** within an existing police service, including:
 - a. First Nations officers employed within a provincial or municipal police service with dedicated responsibilities to serve an on-reserve First Nation community.
 - b. A group of First Nations police officers employed through a contractual arrangement to provide a policing service to an on-reserve First Nation community.
3. **A Developmental Policing Arrangement:** designed to smooth the transition from one type of policing arrangement to another.

Assessment of Funding Requirements

The federal and provincial/territorial governments and First Nations communities will assess the level of policing services to be supported by government funding on the basis of:

- the demographic characteristics of the population to be served (i.e. age and number of people)
- how large an area has to be covered
- the police workload in the community, based on crime statistics and crime prevention activity.

First Nations communities will, where possible, be encouraged to help pay for the cost of maintaining their police service, particularly for enhanced services.

Criteria for Funding

To qualify for funding, the following criteria must be met:

- First Nations officers and civilian staff will make up more than 50 per cent of First Nations administered policing services. The exact numbers will be worked out with each community.
- All police officers in non-First Nations administered policing services will be First Nations people allowing, where necessary, for exceptional cases.
- The on-reserve police service must meet the standards of the province or territory in which it operates.
- First Nations police officers must be properly appointed as peace officers.
- The on-reserve police will enforce all applicable laws.

- The police service will be responsive to the community through a Police Board, Commission or advisory body.

Program Components Eligible for Funding

- **Program administration:** this includes First Nations police governance mechanisms (e.g. boards, commissions and advisory bodies), and other administrative services provided by the police service, First Nations Council and/or provincial/territorial departments.
- **Recruiting, training and education:** this includes pre-employment, on the job, and formal in-service training.
- **Salaries and benefits:** this is for on-reserve police officers and civilian staff.
- **Operating and maintenance costs:** this includes equipment, fuel, vehicles, etc.
- **Limited capital expenditures:** this includes, where necessary, expenditures for police facilities.

The cost of First Nations policing arrangements will be consistent with the cost of providing similar policing arrangements for other communities in the region.

Transitional Funding Arrangements

All existing funding arrangements with First Nations Bands and Tribal Councils for Band constables, as well as those between the federal government and the provinces/territories for the RCMP on-reserve Aboriginal Community Constable Program, will continue, at current levels, until replaced by tripartite agreements negotiated under the new policy.

Types of Funding Arrangements

First Nations policing services will be funded through Comprehensive Funding Agreements, Alternative Funding Arrangements or Contribution Agreements, as appropriate. Any special terms and conditions agreed to in the tripartite policing agreement will be reflected in the federal funding agreement.

Provinces, territories or other governing authorities such as municipalities, will be funded through a Contribution Agreement for the services of a contingent of a non-First Nations administered police service.

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APPLICATION PROCEDURES

The advice and assistance of the Ministry of the Solicitor General of Canada will be available to First Nations communities, particularly for the development of policing proposals. The exact way in which tripartite agreements are reached may vary from place to place depending on the needs of the community. Most negotiations will follow the steps described below.

How to Start

The First Nation community will contact the Ministry of the Solicitor General of Canada and the appropriate provincial or territorial Attorney/Solicitor General and say they are ready to set up new policing arrangements or want to improve ones that are already in place. At this time, the community will also name key contact persons.

First Meetings

Federal and provincial/territorial officials will then sit down with the community contacts to review the policing options available to the community and the process for determining community support for a preferred option. (The First Nation community or regional organization should show community support and involvement in the development of the new police service through a Band Council Resolution or some other formal declaration of support).

Policing Proposal

Once a decision has been reached on what type of police service is wanted and how to go about getting it, the details will be set out in writing in a policing proposal.

Negotiations

All three groups will then negotiate the terms and conditions of the tripartite agreement.

Tripartite Agreement

The final tripartite agreement will have to be ratified by the federal and provincial/territorial government and the First Nations community or communities concerned. The agreement will then serve as the base document for the development and maintenance of the new policing arrangements.

Each agreement will be tailored to the needs of the individual First Nation community or regional organization, but agreements could include the following:

- purpose
- legal and constitutional guarantees
- mandate of police service
- police governance authority
- management of the police service
- staffing and training
- supplies and equipment
- finance and administration
- term of agreement
- provisions for the amendment-termination of the agreement.

Aside from terms and conditions, the agreement could also include a step-by-step plan outlining how the new arrangements will be set up and how they will work.

Advisory Committee

In some cases, an advisory committee with representatives from all three parties will be set up to assist in the transition period.

VIII

PROGRAM MANAGEMENT

Effective April 1, 1992, the Ministry of the Solicitor General of Canada has responsibility for the First Nations Policing Program.

The Aboriginal Policing Directorate is part of the Solicitor General Secretariat in Ottawa and will be responsible for the implementation and administration of the program. The Directorate has two divisions:

- the Aboriginal Police Policy and Research Division
- the Aboriginal Policing Program Development and Liaison Division.

Regional coordinators will ensure that local concerns are addressed and that First Nations communities have easy access to the assistance provided by the Ministry of the Solicitor General of Canada, especially in the development of policing proposals. The Solicitor General of Canada will also help integrate the First Nations policing program with other related initiatives in areas such as family violence, Substance abuse and aboriginal justice.

All new policing proposals should be sent to the Director General of the Aboriginal Policing Directorate at the address below.

For more information, please contact the Aboriginal Policing Directorate, Solicitor General Canada, 340 Laurier Avenue West, Ottawa, Ontario K1A 0P8.

Tel: (613) 991-0241