Joint Position Paper of the First Nations Chiefs of Police Association ("FNCPA"), Indigenous Police Chiefs of Ontario ("IPCO"), and Quebec Association of First Nation and Inuit Police Directors ("QAFNIPD")

Re: Federal Indigenous Policing Legislation

This paper represents the joint position adopted by the FNCPA, IPCO, and QAFNID with respect to the development of federal legislation on Indigenous policing, and the designation of Indigenous policing as an "essential service."

This position paper has been prepared in response to the separate but complementary engagement processes chaired by (1) the Government of Canada (Indigenous Services Canada ("ISC") and Public Safety Canada ("PSC")) and (2) the Assembly of First Nations ("AFN"), designed to support the co-development of federal First Nations police services legislation.

Overview

The FNCPA, IPCO, and QAFNID are the recognized experts in Indigenous-led, Indigenous-centered policing and peacekeeping in Canada. Together, our organizations jointly represent 36 standalone First Nations police services, operating in more than 100 First Nations communities. This joint position represents our shared interest in ensuring the delivery of adequate, effective, and culturally responsive policing to all First Nations.

This position paper focuses on the following elements:

- Declaration of Principles;
- Defining "essential service";
- Reforming the First Nations Policing Program ("FNPP") and revisiting the First

Nations Policing Policy 1996 (the "Policy");
- Equitable Policing and Equitable Funding;
- Fulfilling Canada's Commitments (RCAP, UNDRIP, TRC);
- Our Leadership Role and Supporting Other Communities.

As an initial note, we observe that many, if not most, of the reforms that we outline here can already be found in the original 1996 Policy. In other words, what we are proposing already aligns with what Canada originally committed to over 25 years ago but has failed to fulfil—a conclusion which the Canadian Human Rights Tribunal ("CHRT") also reached in its recent decision, *Gilbert Dominique (de la part des Pekuakamiulnuatsh) v. Sécurité publique Canada*, 2022 CHRT 4.

Declaration of Principles

To begin with, we insist that any federal legislation on this topic contain a preamble Declaration of Principles (the "Declaration") clearly setting out Canada's commitment to ensure adequate, effective, and culturally responsive policing for all Indigenous communities, regardless of the policing service provider and understanding the uniqueness of each First Nations community.

This Declaration should contain, at a minimum, the following elements to be acknowledged and entrenched:

- The Aboriginal, Treaty, and Inherent Rights of all First Nation peoples;
- The inherent right of self-government of all First Nation peoples, including the inherent jurisdiction of all First Nation peoples to adopt their own laws on all matters related to community safety and well-being;
- A commitment to fulfil all obligations set out in the United Nations Declaration on the Rights of Indigenous People and the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*, Bill C-15 (Royal Assent, June 21, 2021);
- A commitment to fulfil all Truth and Reconciliation Commission ("TRC")'s Calls to Action related to community safety and well being;
- A commitment to fulfill the Calls to Justice that relate to Justice as stated in "Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls"; and
- An explicit statement that nothing in the legislation derogates or in any way departs from existing Crown obligations towards Indigenous peoples including, but not limited to, the Honour of the Crown, the fiduciary duty, and the Duty to Consult and Accommodate.

"Essential Services" Designation

The purpose of the federal initiative is to co-develop federal legislation recognizing First Nations police services as essential services. However, the meaning of "essential services" has not been defined and it remains an open question for the ongoing processes.

From our joint perspective as representatives of standalone First Nations police services, essential services designation entails, at minimum:

- Funding that is "A" based and not a Funded Program through Grants and Contributions. Movement from "Program" status will ensure long-term financial commitment to provide effective and culturally responsive policing services to our communities.
- First Nations should have input in determining the level and quality of the police service they are provided. Communities must be included in the work to ensure equality and cultural responsiveness.
- First Nations Police Services providing policing services to First Nations communities.

As we work toward a definition of "essential services" we must ensure that our communities are included in this work to ensure that the best quality of services are provided.

In the next section, we discuss how this legislative initiative can and must involve a major overhaul of the main program intended to support Indigenous policing, namely the FNPP.

Reforming the First Nations Policing Program and Revisiting the First Nations Policing Policy (1996)

In many ways, the present FNPP—and its reliance on unjust, oppressive Terms and Conditions—is diametrically opposed to the original Policy and Canada's commitments through that Policy. As the CHRT observed in its recent decision:

The evidence shows that the implementation of the FNPP perpetuates existing discrimination, rather than eliminates it. The FNPP's objective of substantive equality has not been met. It is impossible for the FNPP to meet this objective due to the very structure of the FNPP itself. This is underscored by the difference between the stated objectives of the Policy – notably, the commitment to ensure First Nations benefit from a professional standard of policing adapted to their needs – and, on the other hand, the actual impacts of the Program as implemented.

In this section, we highlight the need for long overdue reform of the FNPP in line with that original Policy. In our view, the underlying principles of the Policy are a good starting point for both the federal legislation under development, as well as a necessary overhaul of the FNPP itself. The underlying Policy contains a clear statement of a progressive, culturally responsive vision for Indigenous policing in this country, especially when compared to the restrictive, unjust FNPP Terms and Conditions, last updated in 2017 ("T&Cs"). Unfortunately, the Policy seems to have taken a backseat to these oppressive T&Cs, which exacerbate the inadequacies faced by Indigenous communities.

If Indigenous policing is going to be treated as a legitimate "essential service", then ridding the FNPP of its restrictive colonial failings is a necessary precondition. It is not enough that Canada has belatedly acknowledged the "inadequacies" of the FNPP; we insist on concrete commitments to reform the FNPP, ensuring it delivers on what the Policy promised, while also ensuring it is forward-looking and reflects contemporary realities.

We note that in addition to aligning with the Policy, these reforms also align with the findings of the 2019 Expert Panel report, *Toward Peace, Harmony, and Well-Being: Policing in Indigenous Communities*; Calls to Justice as stated in *Reclaiming Power and Place: The Final Report of the*

National Inquiry into Missing and Murdered Indigenous Women and Girls and the recent CHRT decision in *Pekuakamiulnuatsh*.

The Status Quo

Criticisms of FNPP inadequacies have been repeatedly raised by First Nation communities, and Canada has acknowledged that the program is overdue for an update. As mentioned, the CHRT expressly criticized the FNPP for failing to fulfil the Policy and for entrenching inequality and discrimination in the provision of policing.

This criticism should come as no surprise. While communities have for decades demanded FNPP reform, in 2019 Canada's own Expert Panel on Indigenous Policing, chaired by the Honourable Kim Murray, identified a host of challenges with the FNPP. The Expert Panel report observed, among other criticisms, that:

- The negotiated multi-year agreement model under the FNPP is costly and inefficient;
- There is a lack of ongoing and appropriate fiscal support for communities;
- That standalone Indigenous police services have difficulty recruiting and retaining talent due to lower compensation;
- That, for a variety of reasons—underfunding and remoteness in particular—conditions for officers in standalone Indigenous police services are more stressful than in non-Indigenous services.
- There are insufficient funds and resources to deploy and retain an adequate number of officers to communities;
- That officer mental health and well-being is a significant challenge for Indigenous police services;
- That the lack of adequate policing resources and facilities through the FNPP is particularly problematic in the many remote and isolated Indigenous communities which receive FNPP funding; and
- That both standalone Indigenous police services (i.e. those represented in our membership) as well as those RCMP detachments which receive FNPP funding through so-called "Community Tripartite Agreements" suffer from infrastructure issues (including facilities and buildings that are in disrepair and do not meet security standards), inappropriate communication systems, poor maintenance of police equipment, insufficient IT support, and shortages of officer housing.

In its report, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, one of the Calls to Justice that must be implemented is:

5.4 We call upon all governments to immediately and dramatically transform Indigenous policing from its current state as a mere delegation to an exercise in self-governance and self-determination over policing. To do this, the federal government's First Nations Policing Program must be replaced with a new legislative and funding framework, consistent with the international and domestic policing best practices and standards, that must be developed by the federal, provincial, and territorial governments in partnership

with Indigenous Peoples.

i. Indigenous police services must be funded to a level that is equitable with all other non-Indigenous police services in this country. Substantive equality requires that more resources or funding be provided to close the gap in existing resources, and that required staffing, training, and equipment are in place to ensure that Indigenous police services are culturally appropriate and effective police services.

In other words, the FNPP itself is the source of serious problems for the standalone Indigenous police services which receive funding through it. This is exactly what the CHRT found in its recent decision, and it is along this theme that we lay out the following proposed reforms.

Meaningful FNPP Negotiations

The FNPP is currently administered through so-called "tripartite funding agreements", co-signed between the government of Canada, relevant provincial governments, the First Nation(s), and, in certain cases, the corporation of the Indigenous police service itself. Canada is responsible for funding 52% of an agreement while the province is responsible for the remaining 48%.

The negotiation of such agreements is deeply flawed, following a longstanding pattern of Canada/provincial funders forcing First Nations to sign pre-drafted agreements without negotiation. As the CHRT observed in its recent decision, the "absence of real negotiation" in the preparation and signing of these agreements is one of the major criticisms of the FNPP.

In parallel to implementation of federal legislation, Canada must make a firm commitment to meaningfully negotiate all future tripartite agreements. This requires, at minimum, the establishment of a properly funded and resourced funding negotiation table for each round of negotiations; the assignment of actual decision-makers with the authority to make decisions on behalf of the relevant authority (i.e. no low-ranking bureaucrats, as is currently the case); opportunity for the First Nation(s) and police services to present on their actual, on-the-ground funding and resourcing needs; and an end to the misguided and disrespectful practice of forcing First Nations to accept funding increases based on a rote, percentage-based "accelerator."

Fulfilling the Requirements of the First Nations Policing Policy (1996)

As the CHRT held in its recent decision:

The very essence of the FNP Program is to implement the FNP Policy, which has a stated policy objective of ensuring First Nations benefit from police services which are adapted to their needs, and in accordance with qualitative and quantitative policing standards.

However, as noted above, one of the gravest flaws of the FNPP is how it operates contrary to the original First Nations Policing Policy, in effect blocking the fulfilment of Policy commitments made by Canada over 25 years ago. Even though, by law, the FNPP is supposed to fulfil the original Policy, Canada instead claims that the FNPP is governed by the T&Cs, a more recent and yet far more regressive document. The result is that the original Policy is no longer factored

in when it comes to all discussions, public documents, and negotiations under the FNPP. Indeed, in 2014 Public Safety Canada even told the Auditor General of Canada that the T&Cs were intended to replace the original Policy:

According to Public Safety Canada, the principles of the 1996 First Nations Policing Policy are outdated and impractical, and the First Nations Policing Program has evolved since these principles were endorsed. The Department plans to update the principles of the Policy and incorporate them in the Program's terms and conditions.

This response came after the Auditor General examined the FNPP and came to the following conclusions: "that Public Safety Canada's First Nations Policing Program is not adequately designed to deliver and does not adequately ensure that policing services on First Nation reserves are delivered in a manner that is consistent with the principles of the First Nations Policing Policy". Another conclusion of the Auditor General is that "Public Safety Canada needs to work with the provinces, First Nation communities, and policing service providers to guide the future direction of the Program".

The Auditor General's report also examined whether the First Nations Policing Policy principles were incorporated within policing agreements funded by the Program. When examining the principle of Quality and Level of Service – "First Nations should have input in determining the level and quality of the police service they are provided", it was discovered however that none of the agreements examined by the Auditor General had evidence of First Nation community involvement in determining quality or level of service to their communities.

The expected update was that the principles of the First Nations Policing Policy were to be aligned with the new T&Cs to guide the future direction of the Program. As we discuss below, the supposedly evolved T&Cs are, in fact, far more restrictive than the original Policy. The T&Cs block Indigenous communities from certain basic elements of policing available to non-Indigenous communities while also imposing outdated, *Indian Act*- style restrictions on access to legal counsel. These restrictions do not exist in the original Policy and should be immediately removed.

The disappearance of the Policy and the outsized role of the T&Cs has resulted in a policing landscape in which the Policy is largely forgotten. An example as recently as 2021 and before the parliamentary Standing Committee on Indigenous and Northern Affairs, the Panel was wholly unaware of even the existence of the Policy. The Standing Committee was surprised that the Policy existed, and doubly surprised to learn what it promised. A copy of the Policy was provided to the Panel and team of researchers at that time, as they did not have their own copy.

We remain deeply concerned over the failure of Canada to adhere to its own Policy. It is time for Canada to go back to that original Policy, see what it requires of the FNPP, and do away with the restrictive T&Cs. Below, we highlight some of those key Policy commitments.

Policy Principle #1: Equitable Policing Standards

The stated purpose of the Policy is to ensure equal levels and quality of policing for First Nations

as compared to non-Indigenous communities:

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

Clearly, the present-day FNPP does not fulfil this commitment. Indeed, the T&Cs today only commit Canada to fund "professional, dedicated and responsive" policing. That is a striking difference compared to what Canada promised through the Policy.

As work on the federal Indigenous policing legislation progresses, it is time to fix the FNPP so that it fully works towards this core Policy principle dating back to the original Policy.

Policy Principle #2: Self-Determination and Adequate Resourcing

The Policy commits Canada to ensuring that First Nations are supported to acquire the "tools to become self-sufficient and self-governing through the establishment of structures for the management, administration and accountability of First Nations police services." The Policy similarly commits Canada to "supporting First Nations to become self-sufficient and self-governing, and to maintaining partnerships with First Nations based on trust, mutual respect and participation in decision-making."

As the CHRT held in its recent decision:

Pursuant to the Policy, the policing models in First Nation communities must be at least equivalent to those offered in nearby communities in similar circumstances. First Nations also have the right to participate in the decision as to which model of policing they wish to receive.

Reforming the FNPP must proceed in an environment of mutual respect and with deference to the right of self-determination of Indigenous communities. That is true both for the reform effort itself, and for the implementation of the FNPP going forward.

Policy Principle #3: Substantive Equality

Pursuant to the Policy, Canada is required to ensure that funding for First Nations policing is "consistent with the calculation of costs for policing arrangements in other communities with similar conditions in the region." As the CHRT recently held, substantive equality requires more than a mere mirroring of, or reliance on, non-Indigenous services. As the Tribunal wrote:

Substantive equality requires consideration of the social, political, and economic context of First Nations. This includes the historic difficulties faced by First Nations in the context of policing and community safety. In Mashteuiatsh in particular, this includes high rates of crime, the types of crime, the level of social disorder, and the workload of police officers in the community.

Note that, although the reference is to the community of Mashteuiatsh, the conditions described could easily apply to First Nations served by all 36 of our FNPCA-member communities.

Policy Principle #4: Legislated Framework for Policing

While the discussion around the development of federal legislation has focused narrowly on the issue of essential service designation, the Policy calls for a much broader legislative framework.

It is our joint position that the federal legislation should seek to ensure that First Nations can benefit from the same, or similar, legislative policing framework which is already available to all non-Indigenous communities. This would bring the legislation in line with the following Policy commitment (not to mention countless inquest recommendations, reports, and inquiries):

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

Next, we discuss how a return to the Policy principles also must include a complete overhaul/removal of the needlessly restrictive FNPP T&Cs.

Removing restrictions from the FNPP T&Cs

In line with the above, it is imperative that the FNPP T&Cs be immediately overhauled to remove the various unjust restrictions imposed on First Nations—restrictions which are not present in the original Policy:

Ineligible Expenditures

For reference, the 1996 Policy contains a general list of eligible funding categories with no restrictions on what aspects or models of policing can receive funding. These funding categories include: program administration, recruitment/training/education, salary and benefits (with no limits on what positions can be recruited by a First Nations police service), and expenditures for operations and maintenance.

In comparison, the 2017 version of the T&Cs imposes a prohibition on several categories of expenditures, deemed "ineligible". This prohibition, as follows, is not in the 1996 Policy, and should be immediately removed as part of the federal Indigenous policing initiative:

Ineligible expenditures for all streams include, but are not limited to, costs related to amortization, depreciation, and interest on loans; legal costs related to the negotiation of the agreement and any dispute related to the agreement or the funding received under the agreement; profit, defined as an excess of revenues over expenditures; and, costs for specialized policing services, such as Emergency Response Teams, Canine Units and Forensic Services."

Among the most problematic of these limitations are the prohibitions on infrastructure ownership and on specialized policing. Many Indigenous police services operate in remote communities where they maintain multiple detachments and office housing—and yet these services are blocked from owning the very buildings they are forced to rely on. At the same time, it is frankly incredible that Indigenous police services are the only police services that are blocked from running specialized police units. No other police service is expected to work without police dogs, especially not in a context where much modern Indigenous policing is, sadly, focused on combatting the major drug crisis in Indigenous communities.

Prohibition on Funding for Legal Representation

In addition to the above, perhaps the most egregious restriction in the T&Cs is the prohibition on "legal costs related to the negotiation of the agreement and any dispute related to the agreement or the funding received under the agreement." The T&Cs prevent standalone Indigenous police services from receiving funding, or using any allocated budget under the FNPP, to hire lawyers to negotiate funding agreements and/or to assist in any disputes related to funding agreements. Canada and the provinces are subject to no such restrictions.

The prohibition on legal representation is a striking parallel to the old *Indian Act* provision which made it illegal for First Nations people to hire a lawyer. In the late 19th century, First Nations had begun to organize themselves to legally challenge the restrictions imposed on cultural practices such as the potlatch. In response, the Canadian government debuted a revised *Indian Act* in 1927 containing a new section 141 which made it illegal for an "Indian" to hire a lawyer:

Every person who, without the consent of the Superintendent General expressed in writing, receives, obtains, solicits or requests from an Indian any payment or contribution or promise of any payment or contribution for the purpose of raising a fund or providing money for the prosecution of any claim which the tribe or band of Indians to which such Indian belongs, or of which he is a member, has or is represented to have for the recovery of any claim or money for the benefit of the said tribe or band, shall be guilty of an offence and liable upon summary conviction for each such offence to a penalty not exceeding two hundred dollars and not less than fifty dollars or to imprisonment for any term not exceeding two months.

From 1927 until the repeal of section 141 in 1951, it was essentially impossible for any "Indian" to challenge the Canadian government in court. The FNPP T&Cs are a disturbing echo of that restriction and should be immediately struck from the T&Cs. As noted, this prohibition is not even present in the original Policy which the FNPP is required to fulfil.

Equitable Policing and Equitable Funding

In this next section, we discuss the core principle of equitable policing.

Canada committed to ensuring equitable policing standards and funding levels as far back as the original First Nations Policing Policy. The recent *Pekuakamiulnuatsh* decision at the CHRT also affirms the importance of this principle:

The FNP Policy is based on the principle that First Nations communities have a right to benefit from policing services adapted to their needs, and equal in quality and quantity to the services provided to non-First Nations communities in similar conditions. At the same time, First Nations have the right to have a say in the level and quality of policing services that they receive. Police officers in First Nations police services should have the same responsibilities and powers as any other police officers in Canada. In order to ensure effective and culturally appropriate policing, all First Nations police services should be provided an adequate number of police officers who share similar cultural and linguistic backgrounds to the communities they serve.

Meeting this Policy obligation should be the bare minimum for any reform of the federal Indigenous policing landscape. However, ensuring equity goes beyond merely fulfilling, or committing to fulfil, the requirements of the Policy. It is our joint position that the new federal legislative framework must also include the following:

New Funding Formula

As already discussed, the original Policy committed Canada to ensuring that Indigenous communities receive policing "equal in quality and level of service to policing services found in communities with similar conditions in the region." The Policy makes it quite clear that, in addition to a qualitative measure, this level of equality also comes down to the funding formula. As indicated in the original Policy:

Calculating the costs of a policing arrangement for a community should be consistent with the calculation of costs for policing arrangements in other communities with similar conditions in the region.

As Canada has itself admitted, the funding formula relied upon in the FNPP today is woefully inadequate. Indigenous police services are chronically underfunded. It is time to revisit that original funding commitment in the Policy. The federal Indigenous policing legislative initiative is the perfect opportunity to develop a new funding formula.

The ongoing First Nations child welfare settlement discussions are a prime example of the Government of Canada working collaboratively with First Nations to define a new funding formula that reflects the needs of communities, including the unique needs of remote communities.

At this stage, we are not able to definitively propose any funding formula over another when it comes to the Indigenous policing context. However, our position is that serious discussions involving economic experts must be undertaken on a proper funding formula for all future FNPP tripartite funding agreements. We are happy to suggest, and hear suggestions, about the best way to pursue this issue.

Adequate and Effective Standards

The "adequate and effective" standard for policing is common across jurisdictions and can be found in the relevant policing legislation of provinces from British Columbia to Newfoundland and Labrador. While the exact definition of "adequate and effective" varies across jurisdictions, at its core it is the way by which provinces establish the minimum standards expected of each police service for non-Indigenous communities. Each police service operating under these standards is therefore guaranteed funding in order to meet the standards.

Presently, Indigenous police services are excluded from the "adequate and effective" standards. As the CHRT noted in its recent decision, the inability to access such standards is one of the core failings of the FNPP:

> In the view of the Commission, the structure of the FNPP necessarily results in the denial of services, since it is impossible for [the complainant] to benefit from the base police service standards, which are effectively excluded from the funding formula. As a result, funding is arbitrary and insufficient.

The creation of federal Indigenous policing legislation is the perfect opportunity to embed a similar set of "adequate and effective" standards for all Indigenous policing. This set of standards should be modelled using existing standards as set out in provincial statutes, modified as appropriate for the Indigenous cultural context. These standards should include but not be limited to: crime prevention, law enforcement, victims' assistance, public order maintenance, emergency response services, and administration and infrastructure. Existing regulations for non-Indigenous police services require that they maintain a 24/7 call response capability, and that police services have capacity in areas such as criminal intelligence, crime analysis, call analysis, and public disorder analysis. Similar standards can and should be set for Indigenous policing, correcting a long running oversight.

Funding Arbitration

The FNPP currently lacks a mechanism for challenging inadequate funding levels. It is our joint position that the new federal policing legislation should enshrine, in statute, a mechanism by which First Nations could move for binding budget arbitration, based on clearly set out policing standards comparable to the "adequate and effective" standard present in provincial policing statutes. As discussed above, we are also proposing that the new federal policing legislation adopt those "adequate and effective standards" directly. However, the standards are ultimately enshrined or established, every Indigenous police service should have recourse to a binding mechanism to claim funding to meet those standards.

A budget arbitrator would take into consideration any additional costs associated with ensuring culturally responsive policing in First Nations communities, even if those costs go beyond what would be expected in a non-Indigenous community. In developing Indigenous policing legislation, Canada and the provinces should be equally alive to the reality that the unique context of Indigenous policing often requires something different, and potentially more costly, than non-

Indigenous policing.

Pension Parity

Finally, as participants in the federal legislative process are already aware, a longstanding issue across Canada has been the lack of pension parity between Indigenous and non-Indigenous police services.

Service members in our 36 standalone Indigenous police services are (a) not able to access the provincial pension fund available to their counterparts in non-Indigenous police services, and (b) do not have access to a pension fund that offers comparable pension payouts. This is an unacceptable situation that creates additional challenges for attracting and retaining talent in a sector where our police services are already perceived as "second-class".

We believe that the federal negotiations on policing legislation should therefore include discussion of ways to improve pension parity. We are open to discussing on whether this means adding Indigenous police services to an existing pension fund(s), like the provincial funds or the RCMP, or whether this would mean ensuring the proper funding of a separate Indigenous police pension fund(s).

Fulfilling Canada's previous commitments/calls to action

In this final section, we call on Canada to ensure that any newly adopted federal legislation respect the commitments, recommendations, and calls to action of previous national exercises along with Canada's international obligations. Below, we highlight a few of those key findings/recommendations.

Royal Commission on Aboriginal Peoples ("RCAP") 1996

We note that the First Nations Policing Policy was first adopted in 1992 and later updated in 1996 in the wake of the RCAP. In the context of community safety, RCAP recommended that Canada ensure increased funding and federal support for Indigenous public safety, victim supports, and protection of vulnerable populations (women and children in particular).

Responding to those recommendations, the updated 1996 Policy more concretely calls for supports for women, children, and other vulnerable groups in Indigenous communities. In particular, the revised Policy Principles include the following:

The purpose of the First Nations Policing Policy is to contribute to the improvement of social order, public security and personal safety in First Nations communities, including that of women, children, and other vulnerable groups.

Policy Objective #1: Strengthening Public Security and Personal Safety: To ensure that First Nations peoples enjoy their right to personal security and public safety.

At a minimum, the new federal Indigenous policing legislation should be sure to reflect these principles, already present in the Policy (1996) but also as a reflection of Canada's commitment to fulfil the recommendations of RCAP, which is now over 25 years old.

UN Declaration on the Rights of Indigenous Peoples 2007 / *UNDRIP Act,* 2021

As of 2021, Canada has committed to implementing the UNDRIP by way of the *United Nations Declaration on the Rights of Indigenous Peoples Act (S.C. 2021, c. 14).* UNDRIP contains a clear statement of the rights of Indigenous peoples to take control of their own internal governance, including on matters of community safety and well-being.

As noted above, we have proposed the creation of a Declaration of Principles at the outset of the federal Indigenous policing legislation that is being developed. This Declaration should refer generally to UNDRIP and Canada's commitment to fulfilling UNDRIP, as well as to the specific rights set out at Articles 4, 5, and 34 as follows:

Article 4: Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 34: Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

TRC Calls to Action 2015

Similarly, the TRC Calls to Action reiterate the recommendations arising out of RCAP, with respect to community safety and in particular support for victims and vulnerable members of communities. As such, federal Indigenous policing legislation should endorse and respond to the TRC Calls to Action related to these issues, and in particular Calls to Action 39 and 40, as reproduced below:

39. We call upon the federal government to develop a national plan to collect and publish data on the criminal victimization of Aboriginal people, including data related to homicide and family violence victimization.

40. We call on all levels of government, in collaboration with Aboriginal people, to create adequately funded and accessible Aboriginal-specific victim programs and services with appropriate evaluation mechanisms.

While we acknowledge that some efforts have been made towards better supporting Indigenous community safety and victim supports, we believe that the new federal legislation is a perfect opportunity to embed these principles directly in law. These calls to action are not merely aspirational; they are directives to ensure that Indigenous communities are as safe, respected, and protected as they deserve to be.

MMIWG Calls to Justice 2019

The National Inquiry into Missing and Murdered Indigenous Women and Girls made Calls to Justice specific to the Justice System 5.1 to 5.25 and Police Services 9.1 to 9.11, as stated in *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls.* Supporting the reforms needed to enhance the First Nations Policing is Call to Justice:

5.4 We call upon all governments to immediately and dramatically transform Indigenous policing from its current state as a mere delegation to an exercise in self-governance ad self-determination over policing. To do this, the federal government's First Nations Policing Program must be replaced with a new legislative and funding framework, consistent with international and domestic policing best practices and standards, that must be developed by the federal, provincial, and territorial governments in partnership with Indigenous Peoples. This legislative and funding framework must, at minimum, meet the following considerations:

   i. Indigenous police services must be funded to the level that is equitable with all other non-indigenous police services in this country. Substantive equality requires that more resources or funding be provided to close the gap in existing resources, and that required staffing, training, and equipment are in place to ensure that Indigenous police services are culturally appropriate and effective police services.

A further call focuses policing services in northern and remote communities:

5.5 We call upon all governments to fund the provision of policing services within Indigenous communities in northern and remote areas in a manner that ensures that those services meet the safety and justice needs of the communities and that the quality of police services is equitable to that provided to non-Indigenous Canadians.

Conclusion: Our Leadership Role, and Supporting Other Communities

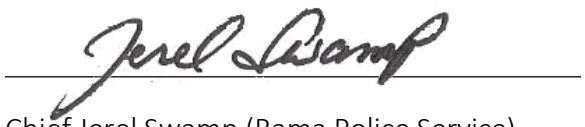
FNCPA, IPCO, and QAFNIPD and our constituent members are all encouraged by Canada's commitment to exploring a legislative overhaul for Indigenous policing. As the recognized leaders in Indigenous policing, we look forward to providing feedback throughout this process. To that end, this position paper represents some initial proposed reforms, all of which would help to bring Canada in line with its original commitments under the First Nations Policing Policy.

We believe that the experiences of our 36 member police services, and the dozens of communities we serve, will be invaluable in informing a productive way forward for Indigenous policing.

Given our extensive experience with the FNPP, dating to its original inception and the important principles in its underlying Policy, we believe we have a unique role to play in developing new policing legislation and in supporting other communities interested in standalone Indigenous policing. We recognize that not all Indigenous communities are served by standalone police services like our own. Nevertheless, we believe that our unique and culturally attuned perspective will be vital for legislative development.

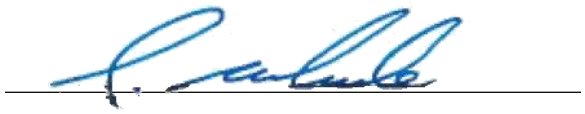
We would also like to invite any interested communities to speak with us about our experiences and about how they too may develop their own Indigenous police services. We have experience helping communities transition away from the RCMP or provincial police services to begin operating their own, and we are more than happy to share that knowledge with others. We are also happy to offer that expertise to the AFN and Canada as they continue to work on development of the new federal policing legislation. As the recognized experts in this sector, we look forward to sharing that expertise with others and providing guidance as the process continues.

Signed,



Chief Jerel Swamp (Rama Police Service)
President, First Nations Chiefs of Police Association

Chief Kai Liu (Treaty 3 Police Service)
President, Indigenous Police Chiefs of Ontario
Secretary-Treasurer, First Nations Chiefs of Police Association



Chief Shawn Dulude (Akwesasne Mohawk Police Service)
President, Quebec Association of First Nation and Inuit Police
Directors Vice-President, First Nations Chiefs of Police Association