

BRIEFING NOTE FOR DECISION

DATE: April 1, 2015

PREPARED FOR: Honourable John Rustad, Minister of Aboriginal Relations and Reconciliation

ISSUE: Proposal to hold BC Family Gathering for Missing and Murdered Aboriginal Women

RECOMMENDED OPTION:

Option 1: BC Family Gathering held in Prince George (November 2015)

BACKGROUND:

- The National Roundtable on Missing and Murdered Indigenous Women was co-hosted by the National Aboriginal Organizations in Ottawa on February 27, 2015. A Family Gathering was held on February 26, 2015; a Peoples' Gathering was held on February 27, 2015.
- The Minister of Aboriginal Relations and Reconciliation hosted a private reception for BC family members who attended any of the events on February 26, 2015; a follow-up debrief with the Minister and family members was held on March 4, 2015 via teleconference.
- Participants in the debrief identified the need to hold an event in BC that would provide an opportunity to hear the stories of family members about their loved ones and support healing.
- The Minister indicated that he is supportive of bringing families together in advance of the next National Roundtable (to be scheduled before end of 2016) so that the Province can report out on its efforts (see Appendix 1 for other upcoming events related to Aboriginal women, including a national event proposed by Manitoba in Fall 2015).

DISCUSSION:

- Ministry of Aboriginal Relations and Reconciliation (MARR) staff have had preliminary discussions with Justice and the Provincial Office of Domestic Violence about hosting a BC Family Gathering, and have identified the following considerations for ensuring a successful event:
 - Determine the balance between a focus on healing or a focus on business (i.e. following up on existing recommendations) to set agenda/format of the Family Gathering;
 - Ensure culture and ceremony are at the centre of the event;
 - Ensure cultural safety by including Elders and support workers in the Family Gathering, both pre and post event;
 - Include family members in all aspects of the event planning, implementation, and evaluation;
 - Engage the federal government;
 - Host/co-host with an Aboriginal organization (i.e. MACAW, Joint Partners' Table); and,
 - Hold in advance of the 2nd National Roundtable (to be scheduled before end of 2016);
- If a single event is held in Prince George, MARR staff estimate that approximately 300-500 family members may want to participate and cost approximately \$269K. Should four regional events be held, MARR staff anticipate that each event may attract approximately 100 family members and cost \$300K. Anticipated costs for supporting 400 family members to attend proposed national event in Manitoba is \$400K. It is anticipated that family members may require travel subsidies to participate (see Appendix 2 for Proposed Budget).
- There is no confirmed funding at this time for the BC Family Gathering.
- The Chair of the Minister's Advisory Council on Aboriginal Women (MACAW) has indicated her support of a BC Family Gathering; it has not yet been discussed by the whole Council.

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APPROVED / NOT APPROVED



Hon. John Rustad
Minister of Aboriginal Relations and Reconciliation

May 4, 2015
Date

Attachments:

- Appendix 1: Upcoming events related to Aboriginal women
- Appendix 2: s.13
- Appendix 3: s.13
- Appendix 4: *Memorandum of Understanding Regarding Stopping Violence Against Aboriginal Women and Girls*
- Appendix 5: *Declaration on Stopping Violence Against Aboriginal Women and Girls*
- Appendix 6: Draft Workplan for BC Family Gathering

PREPARED BY:

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REVIEWED BY:

Laurel Nash, Assistant Deputy Minister,
MARR
Neilane Mayhew, Associate Deputy Minister
MARR

INITIALS:

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Appendix 1: Upcoming events related to Aboriginal women

Upcoming events related to Aboriginal women include:

- Aboriginal Affairs Working Group meeting – May 2015
- One-year anniversary of the signing of the MOU to end violence against Aboriginal women and girls – June 2015
- National Wiping Away the Tears (hosted by Manitoba for all family members across Canada) – September 2015 (TBC)
- All Chiefs Meeting – September 2015 (TBC)
- **Family Gathering in Prince George– November 2015 (recommended option)**
- **Family Gathering in 4 regions – November 2015-February 2016 (alternative option)**
- Giving Voice Forum – Spring 2016 (TBC)
- Aboriginal Affairs Working Group meeting – May 2016 (TBC)
- 2nd National Roundtable on Missing and Murdered Indigenous Women – before the end of 2016

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MEMORANDUM of UNDERSTANDING Regarding STOPPING VIOLENCE Against ABORIGINAL WOMEN and GIRLS

Between:

THE GOVERNMENT OF BRITISH COLUMBIA
(Represented by the Premier of British Columbia and
the Minister of Aboriginal Relations and Reconciliation, on behalf of all ministries)

THE FIRST NATIONS SUMMIT, the UNION OF BC INDIAN CHIEFS, and the
BC ASSEMBLY OF FIRST NATIONS, in collaboration as the FIRST NATIONS LEADERSHIP COUNCIL

MÉTIS NATION BRITISH COLUMBIA
(Represented by the President)

The Parties recognize that Aboriginal women and girls suffer disproportionately high levels of violence and that research indicates that the root causes can be linked back to years of colonial policies and practices that sought to exclude Aboriginal people economically and socially, and attempted to destroy their cultures.

The Parties recognize that the legacy of these policies and practices has contributed to social problems that continue to exist in many communities today and may include the expression of trans-generational violent behaviour (e.g. lateral violence), believed to not normally be found in pre-colonial Aboriginal communities; and additionally, that these colonial policies and practices have contributed to racist and sexist beliefs towards Aboriginal people, and females in particular, which are seen manifested as lateral, stranger and societal violence.

By undertaking this MOU, the Parties are seeking to ensure that indigenous women and children enjoy the full protection and guarantees enjoyed by all citizens, against all forms of violence and discrimination and recognize that particular attention should be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

The Parties acknowledge that the *New Relationship Statement of Vision*, the *Transformative Change Accord* and the *Métis Nation Relationship Accord* are all based on shared commitments to reconcile the historical Aboriginal-Crown relationship in British Columbia which has given rise to the present socio-economic disparity between Aboriginal peoples and other British Columbians.

The First Nations Leadership, Métis Nation British Columbia Leadership, and the Provincial Government (The Parties) acknowledge that the Province is developing a coordinated framework to address violence against women and girls and that, while various actions are being undertaken to address the problem, the levels of violence against Aboriginal women and girls remain unacceptable; as such, Parties agree that a focused, collaborative, coordinated approach needs to be taken by all parties to address the disproportionate levels of all types of violence experienced by Aboriginal women and girls:

1. The Parties agree to work together, or through their delegates to identify shared priorities, core relationship and implementation principles, intended outcomes, actions required to achieve the outcomes, targets, indicators of success and accountabilities.
2. The Parties agree that success is a shared responsibility with shared accountabilities and to report on the collective progress in stopping violence against Aboriginal women and girls.
3. The Parties, or their delegates, agree to meet annually or more frequently as required to ensure the agreed upon work is proceeding, that the reporting is on track and to make additions or amendments to the priorities as the work evolves.

JUNE 13, 2014

HONOURABLE CHRISTY CLARK
Premier of the Province of British Columbia

HONOURABLE JOHN RUSTAD
Minister of Aboriginal Relations and Reconciliation
Province of British Columbia

GRAND CHIEF STEWART PHILLIP
(Stas'Wit)
President, Union of BC Indian Chiefs

CHIEF BOB CHAMBERLIN
(Owa'di)
Vice-President, Union of BC Indian Chiefs

KUPERI JUDY WILSON
Secretary-Treasurer
Union of BC Indian Chiefs

GRAND CHIEF EDWARD JOHN
(Akile Ch'oh)
First Nations Summit Task Group

ROBERT PHILLIPS
(qwilqen)
First Nations Summit Task Group

CHERYL CASIMER
(7aqismaknik p'leak palkiy)
First Nations Summit Task Group

REGIONAL CHIEF PUGLAAS
(JODY WILSON-RAYBOULD)
British Columbia Assembly of First Nations

PRESIDENT BRUCE DUMONT
Métis Nation British Columbia



DECLARATION ON STOPPING VIOLENCE AGAINST ABORIGINAL WOMEN and GIRLS

PURPOSE

This Declaration is intended to broadly and publicly signal that Aboriginal peoples, communities and organizations in British Columbia are uniting with a common vision and purpose—to act individually, collectively and with all interested parties—to stop all forms of violence against Aboriginal women and girls.

This Declaration respects the United Nations *Declaration on the Rights of Indigenous Peoples* which was adopted by the United Nations General Assembly during its 62nd session at UN Headquarters in New York City on September 13, 2007; and specifically, Article 22 which states:

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

As the original Peoples of this land, We DECLARE:

We respect and honour women and girls;

We are sustained by the values, teachings and laws passed to us by our ancestors who cared for and protected all of our peoples;

We recognize the damage and disruption colonization brought to our communities and families through residential schools, foster care and other assimilation policies that replaced our ancestral ways;

We acknowledge that lateral violence, domestic violence, systemic violence, stranger violence and racism are not "normal" behaviours for our communities to experience but have become "normalized";

We recognize that all forms of violence require action, and that a holistic approach that provides support across the life-span is required;

We are strong, resilient and courageous and we will heal ourselves and lift our families up; we will reclaim our healthy ways of caring for each other and create safe families and communities wherever we may live;

We will empower our Aboriginal men and women to take up our rightful and traditional roles and to be the solution to healing ourselves, our families and our communities;

We acknowledge that if we do not stand up against violence we are condoning it through our silence and inaction; as such...

...we commit to standing up to end violence against Aboriginal women and girls and call on political, organizational and community leadership everywhere to join us.

WHAT CAN WE DO?

1. Take a public stand against violence.
2. Identify and support community champions.
3. Identify partners; find ways to work together.
4. Find out what resources, people and supports are available in your community, region, provincially or beyond.
5. Start a men's support group.
6. Listen to your women, young men, young women, children and Elders—they will tell you what is needed.
7. Celebrate success.

This Declaration may be adopted or adapted by all leaders, communities, organizations or individuals who commit to stopping violence against Aboriginal women.

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BRIEFING NOTE FOR INFORMATION

DATE: April 15, 2015

PREPARED FOR: Honourable John Rustad, Minister of Aboriginal Relations and Reconciliation

MEETING: With Chastity Davis, Minister's Advisory Council on Aboriginal Women

ISSUE: Update on key priorities of the Minister's Advisory Council on Aboriginal Women

KEY MESSAGES:

I want to start by acknowledging your leadership over the past couple of months, particularly at the National Roundtable on Missing and Murdered Indigenous Women in Ottawa. It was a very important and meaningful event; I look forward to determining how we can work together to host a BC Family Gathering.

I also want to let you know while it is disappointing that Kim Baird stepped down from the Council, I am pleased that Annita McPhee agreed to join the Council. I am grateful that we have the guidance of such a remarkable group of women.

I understand you recently met with both First Nations Leadership Council and Metis Nation BC as we establish the Joint Aboriginal-Government Partners Table to move forward on the Memorandum of Understanding (MOU) commitments, and look forward to hearing more about these meetings.

Giving Voice has been very successful supporting community projects, and I look forward to the Women's Forum. I hope that we will be able to work with other ministries to identify Giving Voice funding in 2015/16, as we have done the past two years.

This year, nearly 70% of the civil forfeiture funding for a total of \$3.4 million, is being provided to organizations to begin work on implementing the Violence Free BC Strategy, including projects supporting Aboriginal women and girls. Moving forward, government has made a commitment to dedicate a portion of civil forfeiture funds to support the Vision for a Violence Free BC strategy in future years.

I know you are looking forward to a strategic planning session at the end of April 2015; I am eager to work with the Council to build on its exceptional work to date so that we will see an improvement in the quality of life for Aboriginal women across BC.

BACKGROUND:

Following the National Aboriginal Women's Forum in June 2011, the Minister of Aboriginal Relations and Reconciliation announced the creation of the Minister's Advisory Council on Aboriginal Women (MACAW). In November 2011, the original 10 members were appointed. Current members are listed in Appendix 1.

MACAW is intended to provide advice to government on how to improve the quality of life for Aboriginal women across British Columbia (BC) (Appendix 2: Terms of Reference).

On September 16, 2013, MACAW submitted its report *Direction to Government on Taking Action to End Violence Against Aboriginal Women in BC*.

On June 13, 2014, the Province and Aboriginal Leadership signed the MOU Regarding Ending Violence Against Aboriginal Women and Girls.

The next meeting of the Council is on April 30-May 1, 2015 for a strategic planning session.

DISCUSSION:

Items for discussion/consideration include:

1. **Family Gathering:** Chastity and Minister Rustad are both supportive of organizing a BC Family Gathering in advance of the next National Roundtable on Missing and Murdered Indigenous Women. The meeting will allow the Minister and Chastity to begin to discuss their expectations and potential roles at the event.
2. **Council Membership:** Chastity and the rest of the Council are pleased to have Annita McPhee join the Council. At the upcoming Council meeting (April 30, 2015), Chastity has invited the three out-going Council members (Wendy Grant-John, Charlene Belleau, and Kim Baird) to join the Council for dinner to recognize their contributions to the Council.
3. **Joint Partners' Table:** Chastity has met with the First Nations Leadership Council and Metis Nation BC to update on Council activities, and discuss future opportunities for working together. The Council is committed to engaging Aboriginal political leadership and supporting the commitments outlined in the MOU.
4. **Strategic Planning:** The Council will be working with a facilitator at their next meeting (April 30 - May 1, 2015) to develop a strategic plan to confirm their focus and guide their upcoming activities. In advance of this session, Chastity is meeting with ministries (Justice, Provincial Office of Domestic Violence, and Transportation).
5. **Giving Voice Project:** Funding was provided to 37 projects from across the Province, totalling nearly \$350,000. Given the large number of applicants (160), the Council is eager to secure future funding sources so there can be a third call in 2016.
6. **Provincial Aboriginal Women's Forum:** MACAW directed that \$50K of the \$400K secured by the Province be set aside for a provincial forum; the proposed date for the forum is October 2015. However, Chastity has suggested delaying the Forum if the BC Family Gathering proceeds in Fall 2015. The Council is beginning to develop the Forum objectives and outcomes.

Attachments/Appendices:

1. MACAW Biographies
2. MACAW Terms of Reference

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REVIEWED BY:

Neilane Mayhew, Associate Deputy Minister
MARR

Doug Caul, Deputy Minister, MARR

INITIALS:

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Minister's Advisory Council on Aboriginal Women – Member Biographies

Chastity A. Davis (Chair)

Chastity Davis is the Principal and Lead Consultant with Chastity Davis Consulting. Previously, she was a Key Account Manager with BC Hydro and prior to that, a Project Manager with Refinery Leadership. Active in the community, Ms. Davis is a Director on the Board of the Minerva Foundation, as well as serves as a Council member for the Combining Our Strength Initiative. In the past, Ms. Davis was the Vice President of the Aboriginal Women's Leadership Association of BC and is a frequent speaker at events, including the Women's World Conference, National Women's Retreat, Healing Our Spirit Worldwide, and BC Institute of Technology's (BCIT) Aboriginal Alumni. Ms. Davis holds her Diploma in Marketing Management and Professional Sales from BCIT, her Bachelor of Arts in Professional Communications from Royal Roads University, and will be completing her Master of Arts in Intercultural and International Communication in the Spring of 2015 from Royal Roads University.

Paulette Flamond

Paulette Flamond, a Métis, has 18 years' experience in business and management, including international business experience. In addition to sitting on several provincial and national boards, Paulette has been the executive director for the Northeast Aboriginal Business Centre for the past 11 years, and currently owns Scoop Boutique, a successful women's clothing store in Fort St. John (www.scoopclothing.ca).

Paulette is a recent graduate of the Ch'nook Aboriginal Management Certificate Program (AMP), as well as Erickson College in Vancouver, where she completed The Art and Science of Coaching program. She is also a graduate of the Native Communications program at MacEwan University (formerly Grant MacEwan College); holds an associate arts degree; has a Life Skills Certificate from the Life Skills Institute in Edmonton; has completed extensive courses in both social work and business management; and is certified as a Professional Aboriginal Economic Developer by the Council for the Advancement of Native Development Officers (CANDO). In 2009 Paulette was named Economic Developer of the Year by CANDO and was presented with the Aurora Award of Distinction as Aboriginal Woman of the Year from Community Futures Peace Liard. She also received a Northern British Columbia Business & Technology Award in 2011.

Paulette is passionate about the work she does and is inspired to help improve communities and individuals by encouraging wellness, training, and entrepreneurship. She was instrumental in starting Walk in Balance, the first-ever Aboriginal wellness conference in northeastern BC. As an Aboriginal woman, she is committed to being a leader and role model, and was recently appointed to the Ministry's Advisory Council on Aboriginal Women by Mary Polak, BC's former Minister of Aboriginal Relations and Reconciliation.

Sophie Pierre

Sophie Pierre is the current Chief Commissioner of the BC Treaty Commission. She led the St. Mary's Indian Band for 30 years as elected Chief and was the administrator of the Ktunaxa/Kinbasket Tribal Council for 25 years. She has also served on the boards of many major organizations, including BC Hydro and the First Nations Financial Authority.

Darlene Shackelly

Darlene Shackelly is a member of the Nooaitch First Nation. Her family origin is from the Kwakwaka'wakw Nation. She has dedicated 32 years to working with the Native Court Worker and Counselling Association of British Columbia, and has been the Executive Director for the past 14 years. Darlene is the author of three women safety guides and sits on many committees to support justice issues that affect Aboriginal people.

Mary Teegee

Mary Teegee is from the Takla Lake First Nation in north-central BC. She is the Executive Director of Child and Family Services with Carrier Sekani Family Services. Mary provides cross-cultural training to agencies and individuals who offer services to the Carrier Sekani people. She believes that community wellness depends on nurturing tradition, cultural values and the environment.

Barbara M. Ward-Burkitt

Barbara Ward-Burkitt is a member of the Fort McKay First Nation and is currently the Executive Director of the Prince George Native Friendship Centre. She has been actively connected in many capacities to the Friendship Centre movement for 43 years. In the past she was a Faculty Mentor in Field Programs at Simon Fraser University and a Native Childcare Worker for the Quesnel School District. Active in her community, Ms. Ward-Burkitt is Vice President of the BC Association of Aboriginal Friendship Centres and President of Prince George Nechako Aboriginal Employment and Training Association. She completed her First Nations Design and Technology Course from Emily Carr Institute of Art and Design and her Masters of Education Degree from Simon Fraser University. Ms. Ward-Burkitt also holds her Provincial Instructor's Diploma from the Vancouver Community College and her Native Adult Instructor's Diploma from the BC Ministry of Education, Skills and Training. Ms. Ward-Burkitt was invested into the Order of British Columbia in 2010.

Marjorie White

Marjorie White, a citizen of the Huu-ay-aht First Nation, is an Elder Advisor and former Executive Director of Circle of Eagles Lodge Society. Currently, she serves as Founder and member of the BC Association of Friendship Centre Elder Council, past-President of Aboriginal Mother Centre, Senator of the National Association of Friendship Centres, Vice President of Luma Native Housing, Chair of the Vancouver Aboriginal Justice Advisory Committee, member of the Pacific Association of First Nation Women, the Vi Fineday Transition Society, Huu-ay-aht Government, and Vancouver Aboriginal Transformative Justice Service Society. Ms. White is the recipient of the Queen's Golden Jubilee Commemorative Medal, the International Year of the Volunteer Award from Correctional Services Canada, Women Making a Difference Award from the Vancouver Society of Immigrant and Visible Minority Women, Volunteer Recognition Award from Volunteer Vancouver, the Women of Distinction Award from the YWCA, the Gold Feather Award from the Professional Native Women's Association, and the Courage Award from the Vancouver Aboriginal Community Policing Centres Society, to name a few. In addition, she was previously appointed to the Langara College Board, Citizenship Courts, the Vancouver Police Commission, and the Safer Cities Task Force. Ms. White has two daughters, four grandchildren, and three great-grandchildren.

Debbie Williams

Debbie Williams is the Executive Director of Hiiye'yu Lelum (House of Friendship) Society, the Friendship Centre in Duncan, and brings an urban Aboriginal focus. She has served in this position for 27 years and is the longest-serving Friendship Centre Executive Director in the province. Debbie is a member of Cowichan Tribes, was born and raised in Somena village and carries the traditional name of Lateethiya.

She serves on Coast Salish Employment and Training Society Board of Directors and the Makola Housing Society Board of Directors.

Lorna Williams

Lorna Williams is the current Chair of the First Peoples' Cultural Council. She is a member of the Lil'wat First Nation of Mount Currie. Until her retirement in 2013, she was the Canada Research Chair in Indigenous Knowledge and Learning, an Associate Professor in Indigenous Education, Curriculum and Instruction and Linguistics, and former Program Director of Aboriginal Education at the University of Victoria. Before joining the University of Victoria, Ms. Williams worked at the Ministry of Education as Director of the Aboriginal Education Enhancement Branch. Prior to this appointment, she worked as a First Nations Education Specialist with the Vancouver School Board. Ms. Williams received her Doctorate in Education at the University of Tennessee. She has co-directed a series of videos called *First Nations: The Circle Unbroken* and has written children's books, teachers' guides and developed Lil'wat language curriculum to teach people to read and write the Lil'wat language. Ms. Williams was invested into the Order of British Columbia in 1993 in recognition for her work in education.

Annita McPhee – Vancouver/Kensington

Annita McPhee is an accomplished consultant and indigenous leader who has demonstrated a strong commitment with her underlying philosophy, to advancing the economic prosperity of her people while protecting their lands and way of life in northern British Columbia. She is a member of the Tahltan Nation located in Northwestern British Columbia. This philosophy has guided Ms. McPhee to take cutting edge approaches to aboriginal engagement in the resource sector resulting in the removal of communication barriers between First Nations and Industry.

Now running her own consultancy, Ms. McPhee provides strategic advice to industry and First Nations in energy and resource development while specializing in Aboriginal engagement including facilitation and negotiation.

Ms. McPhee is the former President of the Tahltan Central Council (TCC), the administrative governing body representing the Tahltan Nation, having served three terms leading the Nation through some of the most challenging and exciting opportunities in its history. During her term as President, she was instrumental in negotiating more than \$2 billion worth of agreements on behalf of the Tahltan Nation for BC Hydro's Northwest Transmission Line and AltaGas' run of river projects

In 2012, Ms. McPhee became the first Aboriginal woman to join the board of the Prospectors and Developers Association of Canada and is currently a Director of the Legal Services Society, a member of the Vancouver Board of Trade's Aboriginal Affairs Committee and BC Hydro's Strategic Aboriginal Engagement Committee. She holds her Bachelor of Law and a Bachelor of Social Work from the University of Victoria, and studied Public Relations at BCIT. Ms. McPhee has received many prestigious awards, including Indigenous Leadership Award from Ecotrust, *Aboriginal Woman of Distinction* Award, and was named National Native Role Model in 2000 by former British Columbia Governor General Adrienne Clarkson, for her commitment to community and service and aboriginal youth.

Minister's Advisory Council on Aboriginal Women

Terms of Reference

Background:

The Province of British Columbia wishes to work respectfully and in partnership with Aboriginal women, organizations and leadership to improve the quality of life for Aboriginal women. Following the June 15 – 17, 2011 *Collaboration to End Violence: National Aboriginal Women's Forum* and respecting the theme x̱simíwən ct ʔiʔ θəyθət ct (We are courageous and we are healing ourselves), the province is committed to work with Aboriginal women and key informants to develop the necessary framework and support systems to address the risks and violence that many aboriginal women are currently exposed to. The overarching goal of the advisory council is to provide advice to government on how to improve the quality of life for Aboriginal women across British Columbia. The establishment of the advisory council will support the successful implementation of this commitment and work to empower those women.

Members:

Core membership will include key British Columbia Aboriginal leadership, organizations and women, and other organizations or individuals based on their unique ability to contribute to the work of the council.

Goals:

1. Develop and review an inventory of current programs available to support Aboriginal women.
2. Identify outcomes needed to improve quality of life for Aboriginal women.
3. Develop targets to achieve outcomes of Goal 2.
4. Maintain the baseline and update outcomes annually.

Tasks:

1. Provide advice to government to ensure programs supporting Aboriginal women will respond to their needs, build on effective practices and success, and be supported by key partners.
2. Review, revise and help implement an engagement plan if required (e.g. co-hosting discussions with partners and communities).
3. Review, revise and maintain a progress report on outcomes.

Governance

- The council will report to government through the Minister of Aboriginal Relations and Reconciliation.
- The Minister of Aboriginal Relations and Reconciliation will appoint the chair and council members.

- The council will consist of up to ten members, including one position designated for an Elder.
- The council will utilize a consensus decision making model founded on the principles of shared responsibility and cooperation.
- The Ministry of Aboriginal Relations and Reconciliation will provide administrative support for the council with support from a cross-ministry team.

Term

The term will be for up to two years and the Council will meet quarterly, or as determined by the chair, and at least twice a year with the minister.

KEY EXCERPTS FROM THE EYFORD REPORT

General Comments

Crown-Aboriginal relations are frequently adversarial, the underlying problems complex, and progress elusive. Aboriginal organizations are often distrustful of and skeptical about Crown initiatives that are intended to address Aboriginal and treaty rights.

Acrimony and mistrust are the consequences of a historically difficult relationship. A rapidly evolving legal environment has added to the instability and uncertainty. There is not an obvious path or immediate fix, although the importance of constructive dialogue cannot be overstated. This will require determined efforts by Crown and Aboriginal representatives to develop and maintain relationships and work through conflicting perspectives and difficult issues.

Although there is not a consistent Aboriginal perspective on all issues, there is a general consensus that Canada is inflexible in its approach to Aboriginal interests and endeavours to meet its minimum legal obligations, nothing more. Canada is seen as unresponsive to Aboriginal interests and rigid in its application of the comprehensive land claims policy. There is also a widely held view that federal policies lag behind legal developments.

Canada requires a variety of policies and initiatives to reconcile constitutionally protected Aboriginal and treaty rights in a way that meets the interests of all Aboriginal groups. Canada should continue its efforts to complete modern treaties but comprehensive land claims should not be Canada's sole focus for advancing reconciliation. There are other, more timely initiatives that meet the strategic interests of both Canada and Aboriginal groups.

Treaties

General Comments

There is general support for the comprehensive land claims process among Aboriginal groups pursuing modern treaties. Empirical and anecdotal information demonstrate that modern treaties promote improved socio-economic outcomes in Aboriginal communities. Modern treaties provide Aboriginal communities with the means to pursue political, social, cultural, and economic independence. They also benefit all Canadians by clearly defining the ownership and jurisdiction of land and resources within claimed traditional territories. Treaty-making is supported by industry, which sees modern treaties as the best and preferred way to establish a legal framework to clarify the attributes and geographic extent of Aboriginal rights, thereby contributing to a more stable, competitive, and predictable environment for economic and resource development.

Treaty-making has, however, progressed at a glacial pace and at significant cost. Modern treaty negotiations in British Columbia began in 1993. At the time, it was anticipated that treaty-making would be completed by 2000. After more than 20 years of negotiations, it is clear those expectations were overly ambitious if not unrealistic.

In British Columbia, many smaller First Nations entered negotiations on their own and not as part of larger aggregations as initially anticipated. Shared territories and overlapping claims add complexity to the process. Geography, climate, and the reserve creation policy in British Columbia led to the creation of a comparatively large number of *Indian Act* bands with small populations. The bands are creatures of statute and in many cases are subsets of larger historical, cultural, and linguistic affiliations. The reality of numerous First Nations with small populations has presented challenges in terms of capacity to

negotiate and implement treaties and in the number of negotiations in which the Crown must participate.

Challenges and Opportunities

Federal Government

Canada's claims procedures are cumbersome, requiring Cabinet approval at several stages in negotiations. It is not unusual for each approval to take two years or longer. Today, six treaty tables from across the country are waiting for Canada to either initial or sign their respective agreements-in-principle. Three of the agreements-in-principle have been in the queue for more than two years. Many noted that Canada's negotiators have limited authority to agree to anything unless previously approved within the federal system. As well, Canada's negotiators do not have authority to make commitments on behalf of all federal departments. Aboriginal representatives also observed that momentum is undermined by frequent turnovers in federal and provincial negotiators. A fundamental problem with the current process is the formidable challenge of coordinating the range of federal interests at treaty tables. Treaty-making is not a sufficient priority across the government with the result that many departments and agencies are unresponsive and seldom called to account.

Debt

Some Aboriginal groups are no longer in active negotiations but have not formally withdrawn from the process because of concerns that Canada will seek repayment of their loans. High debt loads also serve as a disincentive for Aboriginal groups to enter into treaty negotiations. Debt remains on the balance sheets of Aboriginal groups and can affect their credit worthiness, potentially interfering with non-treaty activities.

Problems with the current funding approach are not new. The provision of loans has not served as an incentive to expeditiously conclude treaty negotiations. The current funding model is not sustainable and the already high debt burden will escalate if nothing is done.

Funding needs to be linked to negotiation activity and progress. This will require a realistic assessment of where tables are in the process. The combination of loans and contributions should continue for tables that are making headway, but the provision of funding should be based on a more rigorous approach. One option in BC would be the acceptance of new claims only if the Aboriginal group can demonstrate it is the proper rights-holding collective over a specified territory. In turn, the claim and its supporting evidence could be reviewed and an assessment completed, either by the Crown or a reformed BC Treaty Commission, before the parties agree to commence negotiations.

Overlapping Claims in BC

Because the BC treaty process is based on an assertion of Aboriginal rights, at no point does a First Nation have to prove it has Aboriginal rights in the claimed area. The process has been abused, some suggest, by First Nations asserting claim areas beyond their traditional territories that intrude into the territories of others.

There are many examples of Aboriginal groups being unable to resolve their differences about territorial boundaries. The enmity between some groups pre-dates modern treaty-making and is so rooted that efforts to resolve impasses are often futile.

An indirect way to address disputes about shared territories and overlapping claims is to encourage strategic land use and resource development planning exercises. Canada should support initiatives that address common areas of interest between Aboriginal groups including project planning and development, cumulative impacts of economic development, fisheries enhancement strategies, and Aboriginal participation in environmental assessment processes.

Efficiencies

Productivity at treaty tables needs to improve. Too much time is spent parsing chapter language and debating provisions that are well settled by precedent and that the Crown is simply not prepared to change. Efficiencies would be realized if the Crown were to be clear about what it can and cannot negotiate. Canada should consider enacting opt-in legislation establishing the core elements of a modern treaty and have the more detailed, operational elements negotiated in non-constitutionally protected side agreements. Alternatively, Canada could develop a standardized umbrella agreement identifying provisions that are, and are not, open for negotiation. Adopting such approaches would enable Aboriginal groups to decide if it is in their interest to pursue a modern treaty or negotiate discrete topics in incremental treaty or non-treaty arrangements instead.

Another option is a "thin treaty" approach whereby the constitutionally protected agreement would only set out the core operating components of the treaty, including jurisdiction, governance structures, and rights and obligations, but the administrative or technical aspects would be addressed in time-limited, renewable side agreements. This approach could speed up the conclusion of negotiations of the core treaty components and also provide additional flexibility to adapt to changing circumstances.

It is time for candid discussions at each of the 75 existing treaty tables across the country. Not all appear to be heading to successful conclusions. A relatively small number of tables are near or ready to close negotiations. Canada needs to assess and prioritize where to invest its time and resources. Exit strategies should be contemplated and non-treaty initiatives explored for each of those groups.

BC Treaty Commission

I do not believe imposing another structure on what has become an over managed, expensive, and inefficient process would be particularly useful at this point. The British Columbia Treaty Commission already exists in British Columbia. Its ambiguous mandate as the "keeper of the process" does not give it the teeth to meaningfully supervise negotiations. Furthermore, at this stage it would be impractical to re-establish treaty negotiations under a newly minted commission or tribunal.

Since 2009, the Principals have been discussing ways to revitalize the process. Substantial changes are required if treaty-making is to become more effective. The Commission could have an important role in reforming the process but its current mandate may be too limited. The Commission was established by the joint operation of federal and provincial legislation. The Commission's statutory powers and duties include the facilitation of treaty negotiations including assessing the readiness of the parties to begin negotiations. The Commission has not been tasked with the responsibility of assessing the parties' readiness, capacity, or mandate to continue negotiations once commenced. This is an important deficiency given the length of negotiations and the range of developments that affect progress at many tables. There is a critical need for oversight throughout the process, a role the Commission could take on. A reformed Commission could also:

- measure progress at negotiation tables based on established criteria and provide periodic reports to the Principals;

- where the prospect of a treaty is unlikely, explore the feasibility of alternative reconciliation arrangements with the parties;
- assist First Nations with the resolution of shared territory and overlapping claims; and
- continue its reporting, public education, and communication functions.

Other Paths to Reconciliation

Modern treaties are not a realistic option for many Aboriginal groups. For example, 99 of the 203 *Indian Act* bands in British Columbia are not part of the treaty negotiation process. Reconciliation processes outside modern treaties are of interest to those Aboriginal groups that are unlikely to conclude a comprehensive land claim.

There are options outside the treaty process that enable Aboriginal groups to influence land and resource decisions and benefit from developments. These arrangements are attractive because they are more affordable than a full comprehensive claim, can be negotiated relatively quickly, and can be used to advance economic development. Some provinces and territories expressed interest in Canada participating in tripartite arrangements, even if the subject matters fall primarily within provincial jurisdiction such as land-use planning agreements.

Tsilhqot'in Decision

Canada's failure to publicly respond to the *Tsilhqot'in* decision has produced what has largely been a one-sided dialogue about the significance of the decision and the attributes of Aboriginal title. Many Aboriginal groups presume the declaration means that they too hold Aboriginal title. Groups in every region contend that their consent is now required for resource development projects. Few have acknowledged the lack of clarity and certainty about limitations on the use of Aboriginal title land. The practical implications of Aboriginal title have also been largely ignored.

The Tsilhqot'in Nation's Aboriginal title is a starting point for discussions with the government of British Columbia and Canada to address a wide range of related issues, many of which are the focus of modern treaty negotiations.

Relevant Recommendations

1. Canada should continue to negotiate comprehensive land claims but barriers and inefficiencies in the treaty negotiation process need to be addressed so agreements can be concluded in a timely manner.
2. Canada should identify the spectrum of reconciliation arrangements, apart from modern treaties, it is willing to pursue with Aboriginal groups, and it should be receptive to proposals from Aboriginal groups and provincial or territorial governments.
3. Canada should focus resources on productive negotiating tables, acknowledge where it is unable to make progress with other groups, and identify groups whose interests would be better suited to other reconciliation arrangements.
4. Canada should consider options to accelerate the conclusion of modern treaties, including opt-in legislative approaches, the negotiation of regional umbrella agreements, the identification of mandatory treaty provisions, and the development of "thin treaties".

5. Canada, the First Nations Summit, and the government of British Columbia should consider changes to the mandate of the British Columbia Treaty Commission to enable the Commission to more effectively assess and facilitate progress in treaty negotiations and, where the conclusion of a treaty is unlikely, assist the parties in exploring other arrangements to advance reconciliation.
6. Negotiation support funding should be tied to progress achieved in negotiations taking into account annual work plans developed and agreed to by the parties.
7. Canada should develop, with the First Nations Summit and the government of British Columbia, entry criteria for new claims in the BC treaty process.
8. The provision of funding should be linked to negotiation activity and progress. This will require jointly developed multi-year work plans that establish clear and measurable milestones and the development of a tariff prescribing the indemnification for specific steps in the negotiation process.
9. Canada, in conjunction with provincial and territorial governments and Aboriginal groups, should establish a roster of retired judges and dispute resolution specialists to address disputes about territorial boundaries.
10. Canada should encourage the First Nations Leadership Council in British Columbia, and regional Aboriginal organizations elsewhere in the country, to pursue aggregations of rights-holding collectives.

NOTE FOR MINISTER RUSTAD

Byron Mallot Bio:



- Byron I. Mallott was born and raised in Yakutat, Alaska, the ancestral home of his mother's Tlingit Indian clan.
- Mr. Mallott has been active in both the public and private sectors in Alaska since 1965, when he was elected mayor of Yakutat at age 22. He later went on to serve as mayor of Juneau.
- Mr. Mallot has knowledge of all aspects of Alaskan life, including commercial fishing, aviation, timber, communications, banking, Alaska Native Corporations and investments.
- He has served as the president of the Alaska Federation of Natives, executive director of the Alaska Permanent Fund Corporation, co-chair of the Commission on Rural Governance and Empowerment, chair of the Nature Conservancy of Alaska and president and CEO of First Alaskans Institute and Sealaska Corporation, the largest of the 12 land-based regional corporations formed under the Alaska Native Claims Settlement Act.
- Mr. Mallott is Clan Leader of the KwaashKiKwaan clan of the Raven tribe of Yakutat. He is married to Toni Mallott. Together they have five children, nine grandchildren, and one great grandchild.