

**MINISTRY OF ATTORNEY GENERAL
COURT SERVICES BRANCH
BRIEFING NOTE**

PURPOSE: For DECISION of Richard J.M. Fyfe, QC
Deputy Attorney General

ISSUE:

Continue accepting credit card payments over the phone until May 31st, 2021 to allow users to make urgent filings and payments without attending the registry.

DECISION REQUIRED/ RECOMMENDATION:

Continue to accept credit card payments until May 31st, 2021.

SUMMARY:

- Counter service was temporarily suspended during the pandemic. Court users were asked to use mail, E-mail, drop boxes or fax filing and Court Services Online (CSO).
- The Court Services Branch accepted credit card payments over the phone, at a cost of 1.8% per transaction from April 15th, 2020 until November 30th, 2020. This permitted urgent filings and bail payments to proceed without attending the registry.
- The Branch has paid \$2,200 in banking fees for credit card payments.
- The Branch proposes credit card payments be accepted for an additional six months to ensure that urgent filings and bail can proceed in the event that a court user cannot attend the registry.

BACKGROUND:

CSB currently collects the following fees:

- **Filing fees** are established in the court rules to offset the cost of filing documents. Filing fees must generally be paid prior to scheduling a hearing.
- **Probate fees** are established in the *Probate Fees Act* and do not prevent users from accessing court services.
- **Sheriff fees** are recovered from bailiffs to offset the cost of managing the program.
- **Hearing Day Fees** are collected from civil litigants after a civil trial has exceeded 3 days. Payment is generally made after the trial has concluded.
- **Bail** payments are required to release a prisoner on bail and are very urgent.
- **Execution payments** are made to execute court orders.
- **Maintenance fees** are paid into court for child support and can be very urgent.
- **Restitution and Suitors funds** are paid into court when ordered by a judge.

DISCUSSION:

- Credit card payments have been accepted over the phone since April 15, 2020 and are scheduled to cease on November 30th, 2020. The cost of accepting this payment method is has amounted to \$2,200 to date.

- Provincial Treasury advises that credit card payments can be limited to a payment type, but not to an amount per transaction. Therefore, the Branch limited credit card payments to filing fees for urgent matters, and for urgent trust payments including bail, execution and family maintenance.

FISCAL IMPACT:

The banking fees for using credit cards is 1.8% per transaction, or up to \$4M per year if all fees were collected in that manner. Limited use of this payment method resulted in banking fees of \$2,200 to date.

OPTIONS:

OPTION 1: [RECOMMENDED]

Extend the option to accept credit card payments for self represented litigants making urgent filings over the phone until May 31st, 2021. Additionally, extend the option to permit court users making maintenance and bail payments to use a credit card over the phone to the same date.

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OTHER MINISTRIES IMPACTED/CONSULTED:

- The Ministry of Finance/Provincial Treasury has been consulted and supports credit card payments over the phone.
- Ministry CFO and EFO have been consulted and support this approach.

RECOMMENDED DECISION APPROVED

DATE:



Richard J.M. Fyfe, QC
Deputy Attorney General

November 30, 2020

Prepared by:

Cristian Anghel
Manager, Revenue, Trust and Collections
Court Services Branch
(236) 478-0610

Approved by:

Jenny Manton
Acting Assistant Deputy Minister
Court Services Branch
(250) 419-8836

Appendix A – Payments Received by the Court Services Branch

	\$ per year	Transaction fee if accepted via credit card	Payment Options	Urgency	Recommendation
Court Filing Fees					
Initiations	\$13,300,000	\$236,075	Mail in cheque, money order, bank draft, CSO, fax filing	Urgent if directed by a judge.	FOR FILINGS DEEMED URGENT BY A JUDGE: Direct litigants to use CSO or fax filing for all filings supported by those channels. Only take credit card payment over the phone if a judge has deemed the matter urgent, and the filing would not be supported by CSO or fax filing. Accept credit card over the phone for all self represented litigants. FOR NON-URGENT FILINGS: Direct the litigant to use CSO, fax filing, or mail.
Submissions	9,700,000	172,175	Mail in cheque, money order, bank draft, CSO, fax filing	Urgent if directed by a judge.	
Divorce	2,000,000	35,500	Mail in cheque, money order, bank draft, CSO, fax filing	Not urgent unless court directs an urgent hearing.	
Misc Court Fees	3,100,000	55,025	Mail in cheque, money order, bank draft	Urgent if directed by a judge.	
Probate Fees	103,000,000	1,828,250	Mail in cheque, money order, bank draft	Not urgent	Not urgent. Direct clients to mail in payment. Note that this only applies to estates valued at more than \$25,000.
Sheriff Fees	100,000	1,775			Not urgent. These are recoveries from bailiff firms to offset the cost of the bailiff program.
Hearing Day Fees	1,300,000	23,075	Mail in cheque, money order, bank draft	Not urgent. Hearing day fees are payable after the hearing. Non-payment does not prevent hearing. Only applies to 4 day or longer civil trials.	Generally long period to make payment. Hearing day fees generally collected after the hearing is provided. Direct clients to mail in payment.
Fines and Penalties	8,000,000	142,000	Mail in cheque, money order, bank draft, sometimes ICBC	Consequence of non-payment is potentially refuse to issue. Can pay thru ICBC in this case	Direct Clients to mail in payment or pay through ICBC for all traffic tickets. Direct all other payments to be mailed in by cheque, money order or bank draft.
Trust Payments					
Bail	5,809,406	103,117	Mail in money order, bank draft	Urgent for right to bail	At present, acknowledgement and assignment forms can be faxed. Issue is when bail payments are expensive. Accept payment over the phone in short

					term and discontinue counter service is available.
Civil Jury	739,845	13,132	Mail in cheque, money order, bank draft	Not urgent. Jury trials are on hold.	Direct Clients to mail in payment.
Execution	36,553	649	Mail in cheque, money order, bank draft, sometimes ICBC	Potentially urgent	Allow credit card payments until lock box in place.
Maintenance	37,302	662	Mail in cheque, money order, bank draft	Urgent	Allow credit payments over the phone
Restitution	1,260,126	22,367	Mail in cheque, money order, bank draft	Only urgent if a judge determines.	Direct Clients to mail in payment.
Suitors	78,645,318	1,395,954	Trust payments ordered by a judge before civil hearing	Only urgent if a judge determines.	Direct Clients to mail in payment.
Municipal Ticket payments	730,000	12,958	Mail in cheque, money order, bank draft, sometimes ICBC , Municipalities / city halls	Not urgent	Direct Clients to mail in payment.
Total Collected	\$227,758,550				
	Service Charge	\$4,042,714			

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Withheld pursuant to/removed as

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**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for Richard J. M. Fyfe, QC
Deputy Attorney General

ISSUE:

- Meeting of Federal-Provincial-Territorial Ministers Responsible for Justice and Public Safety and Ministers Responsible for Indigenous Relations with National Indigenous leaders and other Indigenous representatives on November 12, 2020, regarding the United Nations Declaration on the Rights of Indigenous Peoples.

SUMMARY:

- The Federal Deputy Minister of Justice and Federal Deputy Minister of Crown-Indigenous Relations convened an ad-hoc Federal-Provincial-Territorial (FPT) Deputy Ministers (DM's) table to engage in discussions about proposed federal legislation on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).
- DM's met on October 8 and October 22, 2020 to discuss the federal government's proposed legislation on UNDRIP and engagement plan. DM's also discussed planning for an FPT Ministerial-level meeting with national Indigenous leaders and other Indigenous representatives. This meeting has been scheduled for November 12th.
- Deputy Attorney General, Richard Fyfe, will attend the November 12, 2020 meeting on behalf of British Columbia's (BC) Attorney General as BC is currently in a transition period and Cabinet has not been sworn in. Executive Council member, Honourable Scott Fraser, who was Minister of Indigenous Relations and Reconciliation at the time of dissolution of the BC Legislative Assembly, will also attend as a co-chair.

BACKGROUND:

- Federal Deputy Minister of Justice, Nathalie Drouin and Deputy Minister of Crown-Indigenous Relations and Northern Affairs, Daniel Quan-Watson, convened an ad-hoc FPT DM's table to engage with provincial/territorial (PT) DMs on the proposed federal legislation on UNDRIP.
- DM's met on October 8 and October 22, 2020 to discuss the federal government's proposed legislation on UNDRIP; an engagement plan; and planning for an FPT Ministerial-level meeting with national Indigenous leaders and other Indigenous representatives. This meeting is scheduled for November 12, 2020.

- Speaking points have been prepared to support Deputy Attorney General, Richard Fyfe's attendance (See Attachment 1).
- The meeting will be co-chaired by David Lametti, Minister of Justice and Attorney General of Canada, Carolyn Bennett, Minister of Crown-Indigenous Relations Canada, and Scott Fraser, who was recently Minister of Indigenous Relations and Reconciliation British Columbia.
- Doug Caul, Deputy Minister and Jessica Wood, Assistant Deputy Minister of the BC Ministry of Indigenous Relations and Reconciliation, will also be in attendance.
- The meeting will be attended by national Indigenous leaders and other Indigenous representatives, including:
 - Natan Obed, President, Inuit Tapiriit Kanatami;
 - David Chartrand, President, Métis National Council;
 - Perry Bellegarde, National Chief, Assembly of First Nations;
 - Representatives of the British Columbia First Nations Leadership Council;
 - Abel Bosum, Grand Chief/Chair, Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government; and
 - Dana Tizya-Tramm, Chief, Vuntut Gwich'in First Nation
- The agenda for the meeting (see Attachment 2) will include:
 - A discussion of the objectives and priorities for the federal legislation on UNDRIP and its implementation;
 - An overview of the proposed federal legislation and results of the engagement process (see Attachments 3 and 4); and
 - A roundtable on provincial and territorial views on opportunities and challenges for implementation of UNDRIP across Canada.
- Following the DM-level meetings, PT Deputy Ministers of Justice and the Council of the Federation Steering Committee drafted a letter to the federal Deputy Minister of Intergovernmental Affairs and the federal Deputy Minister of Justice outlining concerns with the federal draft legislation and engagement plan (see Attachment 5). These concerns include:

- The current draft of the legislation suggests that some of its provisions would have effects on PT law;
 - The draft legislation lacks clarity with respect to the federal intention for UNDRIP to be a strictly interpretive source and its implications for modern treaty relationships;
 - The draft legislation has the potential for disruption to established jurisprudence, constitutional provincial authority and the legislative authority devolved to the territories;
 - The federal engagement approach is too compressed and does not provide sufficient and meaningful opportunities for FPT discussion or engagement with Indigenous groups; and
 - The current engagement process is inconsistent with previously established Council of the Federal principles of intergovernmental work between Canada and the PTs.
- The letter calls for a revised engagement plan that more fully respects provinces as equal orders of government and allows for meaningful engagement as the federal government moves ahead with this legislation.
 - The letter also contains a footnote that acknowledges that as BC is currently in an interregnum period, this letter does not reflect the view of this jurisdiction.
 - The letter was signed by executives from Quebec on behalf of PTs and sent to the federal government on November 4, 2020.

DISCUSSION:

s.13; s.14; s.16

s.13; s.14; s.16

INDIGENOUS PEOPLES CONSIDERATIONS:

- This relates to Canada's commitment to implement UNDRIP and will be of significant interest to Indigenous peoples throughout Canada, including in BC.

OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Indigenous Relations and Reconciliation – Consulted

Prepared by:

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Approved by:

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Approved by:

Kurt J.W. Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch
778 974-3689

Attachment(s):

Attachment 1: Speaking points for Deputy Attorney General's attendance at November 12, 2020 FPT Ministers Meeting with national Indigenous leaders and other Indigenous representatives on UNDRIP

- Attachment 2:** Agenda for November 12, 2020 meeting
- Attachment 3:** Proposed federal legislation on UNDRIP
- Attachment 4:** Federal government UNDRIP legislation and engagement presentation
- Attachment 5** Letter from PTs to federal government (re: UNDRIP legislation and engagement) – November 4, 2020

Attachment 1 - Speaking points for Deputy Attorney General

Videoconference of Ad Hoc Table of Federal-Provincial-Territorial Ministers and Indigenous Leaders United Nations Declaration on the Rights of Indigenous Peoples

SPEAKING POINTS FOR DEPUTY ATTORNEY GENERAL

NOVEMBER 12, 2020 – 1:00 p.m. to 4:00 p.m.	
1:00 p.m. to 1:20 p.m.	<p>1. Opening remarks and introductions</p> <ul style="list-style-type: none"> • Housekeeping • Elders' Addresses • Remarks <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada</i> <i>Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada</i> <i>Minister Scott Fraser, Minister of Indigenous Relations and Reconciliation British Columbia</i></p> <p><u>Suggested Speaking Points:</u></p> <ul style="list-style-type: none"> • Hello everyone. My name is Richard Fyfe, Deputy Attorney General for British Columbia. I would like to acknowledge that I am speaking from the traditional territory of the Lekwungen speaking peoples, including the Songhees, Esquimalt, and WSÁNEĆ peoples who have been stewards of this area for many generations and whose historical relationships with the land continue to this day. • I am grateful for the opportunity to be here with Ministers and Indigenous leaders today. I think we all have a valuable opportunity to listen and learn from each other and I am looking forward to this conversation.
1:20 p.m. to 2:20 p.m.	<p>2. Objectives and priorities for federal legislation on United Nations Declaration on the Rights of Indigenous Peoples and its implementation</p> <p><i>President Natan Obed, Inuit Tapiriit Kanatami</i> <i>President David Chartrand, Métis National Council</i> <i>National Chief Perry Bellegarde, Assembly of First Nations</i> <i>Representatives of the British Columbia First Nations Leadership Council</i> <i>Grand Chief/Chair Abel Bosum, Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government</i> <i>Chief Dana Tizya-Tramm, Vuntut Gwich'in First Nation</i></p>
2:20 p.m. to 2:25 p.m.	Virtual break
2:25 p.m. to 3:05 p.m.	<p>3. Overview of proposed federal legislation and results of engagement process</p> <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada</i> <i>Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada</i></p>

3:05 p.m. to
3:50 p.m.

- Roundtable on Provincial and Territorial views on opportunities and challenges for implementation of the UN Declaration across Canada

Minister David Lametti, Minister of Justice and Attorney General of Canada

Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada

[Note Deputy: You may wish to remind colleagues that BC is currently in a transition period and therefore, your comments may be short.]

Suggested speaking points:

- Having adopted the *Declaration on the Rights of Indigenous Peoples Act* in BC in November 2019, we are supportive of our federal colleagues' endeavours to introduce similar legislation.
- On June 30th, we released our first annual report, which covers the first four months of work to implement the legislation.
- The report was developed in very close consultation and cooperation with Indigenous peoples, including the BC First Nations Leadership Council. We are very grateful to the BC FNLC and our Indigenous partners for their support.
- These discussions helped shape the annual report and will continue as work moves ahead to develop an action plan and begin to align provincial laws with UNDRIP.
- The annual report highlights examples of the progress our government and Indigenous peoples have made together, including investments in language revitalization; Indigenous housing on- and off-reserve; and sharing long-term, stable revenues with First Nations.
- With regard to justice, we have made significant progress on BC's Indigenous Justice Strategies.

	<ul style="list-style-type: none"> • The BC First Nations Justice Strategy was endorsed by the Province and the BC First Nations Justice Council in March. It is the first justice strategy written by, and for, First Nations people. • A separate Métis Justice Strategy is being developed by the Métis Nation BC Justice Council. • An example of one of the actions under the BC First Nations Justice Strategy is the development of Indigenous Justice Centres, also known as IJCs. • IJCs focus on providing Indigenous clients with legal supports in criminal law and child welfare matters. Each IJC will uniquely reflect the needs and approaches of Indigenous peoples in their regions and will provide important legal advocacy and wraparound services to all Indigenous people. • The first three centres have already been established in Prince George, Prince Rupert and Merritt. The initial three centres were developed in partnership and through co-location with other Indigenous organizations through enhancing existing services. • Based on our experience in BC, we think it's important to ensure that engagements with Indigenous communities and with the provinces and territories are broad and meaningful. • Our experience in developing BC's legislation demonstrates the importance of early and ongoing engagement. In BC, our government and the First Nations Leadership Council started engaging with Indigenous leaders and organizations, business and labour leaders and municipalities throughout the province in early 2019. • We continue to actively engage with First Nations, negotiating partners, modern treaty nations, Indigenous leaders and the First Nations Leadership Council on next
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	<p>steps for consultation and implementation.</p> <ul style="list-style-type: none"> • Early and ongoing engagement has been essential to the success of our legislation, in both its development and its implementation, and I think this is important to keep in mind as our federal colleagues move forward in their work. • Thank you.
3:50 p.m. to 4:00 p.m.	<p>4. Closing remarks</p> <ul style="list-style-type: none"> • Remarks • Elder's Address <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada</i> <i>Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada</i> <i>Minister Scott Fraser, Minister of Indigenous Relations and Reconciliation British Columbia</i></p>

Videoconference of Ad Hoc Table of Federal-Provincial-Territorial Ministers and Indigenous Leaders United Nations Declaration on the Rights of Indigenous Peoples

PROPOSED AGENDA

NOVEMBER 12, 2020 – 1:00 p.m. to 4:00 p.m.

1:00 p.m. to 1:20 p.m.	<p>1. Opening remarks and introductions</p> <ul style="list-style-type: none"> • Housekeeping • Elders' Addresses • Remarks <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada Minister Scott Fraser, Minister of Indigenous Relations and Reconciliation British Columbia</i></p>
1:20 p.m. to 2:20 p.m.	<p>2. Objectives and priorities for federal legislation on United Nations Declaration on the Rights of Indigenous Peoples and its implementation</p> <p><i>President Natan Obed, Inuit Tapiriit Kanatami President David Chartrand, Métis National Council National Chief Perry Bellegarde, Assembly of First Nations Representatives of the British Columbia First Nations Leadership Council Grand Chief/Chair Abel Bosum, Grand Council of the Crees (Eeyou Istchee)/Cree Nation Government Chief Dana Tizya-Tramm, Vuntut Gwich'in First Nation</i></p>
2:20 p.m. to 2:25 p.m.	Virtual break
2:25 p.m. to 3:05 p.m.	<p>3. Overview of proposed federal legislation and results of engagement process</p> <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada</i></p>
3:05 p.m. to 3:50 p.m.	<p>4. Roundtable on Provincial and Territorial views on opportunities and challenges for implementation of the UN Declaration across Canada</p> <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada</i></p>
3:50 p.m. to 4:00 p.m.	<p>5. Closing remarks</p> <ul style="list-style-type: none"> • Remarks • Elder's Address <p><i>Minister David Lametti, Minister of Justice and Attorney General of Canada Minister Carolyn Bennett, Minister of Crown-Indigenous Relations Canada Minister Scott Fraser, Minister of Indigenous Relations and Reconciliation British Columbia</i></p>

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The United Nations Declaration on the Rights of Indigenous Peoples



Overview

1. Background
2. Context
3. What would legislation on the UN Declaration contain?
4. Discussion
5. Conclusion

Background

- The United Nations Declaration on the Rights of Indigenous Peoples (the “Declaration”) sets out the minimum standards for the survival, dignity and wellbeing of Indigenous peoples, including rights related to governance, health, community, culture, language, lands, territories and resources, and education.
- It sets out both collective and individual rights of Indigenous peoples, including the rights to self-determination, self-government, and non-discrimination.
- Canada is committed to fully implementing the Declaration. Many of its elements are already reflected through a wide range of laws and policies, including the Constitution and human rights legislation.
- However, we know more work is needed to ensure federal laws protect and promote the rights of Indigenous peoples.

Background

- From coast-to-coast-to-coast, Indigenous and non-Indigenous people are expressing the need to build a better Canada. Many have called for implementation of the Declaration as part of this process.
- Both the Truth and Reconciliation Commission and the Inquiry into Missing and Murdered Indigenous Women and Girls recommended using the UN Declaration as the framework for reconciliation.
- Recent events have underscored the prevalence of racism and systemic discrimination Indigenous people in Canada face on a daily basis.
- Introducing legislation to provide a framework for advancing and implementing the Declaration in Canada will help ensure the human rights of Indigenous peoples are recognized and respected.

Context

- The Government of Canada remains committed to introducing legislation to implement the Declaration by the end of 2020.
- To accomplish this, we are committed to working closely with Indigenous Nations, governments, communities, organizations and peoples.
- We will also be working with provinces and territories, and industry leaders to advance this important work.
- Former Private Member's Bill C-262 will be the floor and the basis for engagement.
- We are looking for your views on the elements of C-262 and any suggestions you may have for improvement.

What would the legislation contain?

- C-262 proposed a framework for the ongoing implementation of the Declaration over time. Legislation based on this framework could include:
 - ***A preamble***
 - Preambles refer to principles or ideas that provide context relevant to interpretation of the legislation.
 - ***Interpretive provisions***
 - Legislation often includes clauses that help in interpreting or applying the legislation. In this case, this includes:
 - A definition of Indigenous peoples;
 - A non-derogation clause; and,
 - A clause noting that the Bill does not delay the application of the Declaration in Canada

What would the legislation contain?

- **Other elements:**
 - **Application of the Declaration** – a clause confirming that the Declaration has application in Canadian law as an interpretation source like other international human rights instruments;
 - **Consistency** – a clause requiring the federal Government take all measures necessary to ensure consistency between the Declaration and federal laws, in consultation and cooperation with Indigenous peoples.
 - **Action plan** – a requirement for the federal Government to develop and implement an action plan to achieve the objectives of the Declaration, in consultation and cooperation with Indigenous peoples.
 - **Reporting** – a requirement for the Minister of Crown-Indigenous Relations to report to Parliament on implementation of the Act (harmonization of federal laws and national action plan) for a period of 20 years.

Discussion

Do you have suggestions for improving elements of the draft legislative proposal, including:

- the preamble
- the non-derogation clause
- the action plan or reporting clauses; or
- any other elements of the bill.

Conclusion

- The Government remains committed to introducing legislation on the UN Declaration by December 2020.
- Written submissions can also be made via email to declaration@justice.gc.ca.

THANK YOU FOR YOUR PARTICIPATION!

Attachment 5 - Letter from PTs to federal government (re: UNDRIP legislation and engagement) – November 4, 2020

November 4, 2020

Mrs. Christyne Tremblay
Deputy Clerk of the Privy Council and
Deputy Minister of Intergovernmental Affairs
Government of Canada
80, Wellington Street, room 328
Ottawa, Ontario
K1A 0A3

Mrs. Nathalie G. Drouin, Ad. E.
Deputy Minister of Justice and
Deputy Attorney General of Canada
Justice Canada
284, Wellington Street
Ottawa, Ontario
K1A 0H8

Dear Deputy Ministers Tremblay and Drouin,

On behalf of our fellow provincial and territorial (PT) counterparts from the Justice forum and from the Council of the Federation Steering Committee¹, we are writing you to advance our common concerns regarding the proposed federal United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) legislation, particularly the federal engagement approach and the need for meaningful engagement with PTs in advance of you moving forward with your legislation. This letter should not be taken as the entirety of our concerns with this proposed legislation, but rather a high-level overview. PT governments may communicate additional content to you bilaterally.

Appropriate FPT engagement that allows for open and frank discussions between the federal government and PTs is critically important. The federal engagement approach concerning its proposed UNDRIP legislation is too compressed and does not provide sufficient and meaningful opportunities for FPT discussion or engagement with Indigenous groups. The current process is also inconsistent with previously established Council of the Federation principles of intergovernmental work between Canada and PTs.

The current draft of the legislation suggests that some of its provisions would have effects on PT law, lacks clarity with respect to the federal intention for UNDRIP to be a strictly interpretive source and its implications for modern treaty relationships, and has the potential for disruption to established jurisprudence, constitutional provincial authority and the legislative authority devolved to the territories. These fundamental questions remain unresolved concerns for many jurisdictions. A robust engagement process built on the principles of meaningful responses to PT feedback and dedicated FPT discussion at the ministerial level is essential to provide the necessary opportunities to share perspectives on this critical matter.

We all are in agreement about the importance of advancing reconciliation. Provinces and Territories are engaged in this work within their own jurisdictions, in close collaboration with local and regional Indigenous communities and leaders. We are committed to working towards lasting solutions that improve social and economic outcomes and that uphold constitutionally-

¹ Following the recent B.C. election, B.C.'s government remains subject to the caretaker convention pending the swearing in of a new cabinet. Accordingly, this letter does not reflect the views of this government at this time.



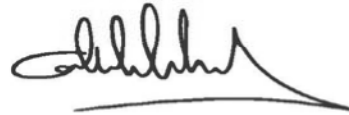
protected rights. Fostering strong relationships respecting rights and culture, building trust and constantly improving frameworks for consultation and partnership are central to our approaches.

We look forward to seeing a revised engagement plan that allows for meaningful engagement with provinces and territories prior to you moving forward with this legislation.

Sincerely,



Line Drouin
Sous-ministre de la Justice
Ministère de la Justice
Gouvernement du Québec



Gilbert Charland
Secrétaire général associé
Ministère du Conseil exécutif
Gouvernement du Québec



**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
DECISION BRIEFING NOTE**

PURPOSE: For DECISION of Richard J. M. Fyfe, QC
Deputy Attorney General

ISSUE: In accordance with section 6 of the Administrative Tribunals Act (ATA), the Chair of the Mental Health Review Board (MHRB) must consult with the Minister before making a temporary appointment.

RECOMMENDATION:

Agree to support the chair's request to reappoint three part-time members to six-month temporary terms under section 6 of the ATA.

SUMMARY:

- A MHRB chair competition is in progress and it is expected that a recommendation for a new chair will be made in late December 2020.
- The chair is seeking the temporary reappointment of three part-time members, whose terms expire on January 05, 2021 in order to provide stability during the transition between chairs.
- The MHRB needs to retain these members during the transition to assist in meeting the demands of the board's schedule.
- The temporary terms would also provide maximum flexibility to the new chair, who may wish to make alternative recommendations after the temporary terms expire.
- There is no budgetary impact associated with this request.

BACKGROUND:

- The MHRB conducts review panel hearings under the *Mental Health Act* for patients admitted by physicians and detained involuntarily in provincial mental health facilities in a manner that is consistent with the principles of fundamental justice and section 7 of the *Charter of Rights and Freedoms*.
- The board has 92 part-time members and conducts an average of 72 hearings per month across the province.

- The chair requests permission to temporarily reappoint the following part-time members:
 - Dr. David Coulter
 - Dr. Carl Graves
 - Dr. Harry Karlinsky
- By way of this request, the chair is fulfilling the consultation requirement. There is authority for the Deputy Attorney General to complete the consultation as caretaker during the Interregnum period. The chair's request is attached as Appendix A.
- CABRO has no concerns with this request, and the ministry supports the request.

DISCUSSION:

- If the Deputy Attorney General agrees with the request, the chair will issue temporary reappointment letters to the members. No Order in Council is required in this case.

INDIGENOUS PEOPLES CONSIDERATIONS:

- No specific issues relevant to Indigenous People's considerations.

OPTIONS:

- **Option 1: Support the Chair's request (recommended option)**

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OTHER MINISTRIES IMPACTED/CONSULTED:

- Crown Agency and Board Resourcing Office consultation complete.

RECOMMENDED OPTION APPROVED

DATE:

Richard J. M. Fyfe, QC
Deputy Attorney General

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Approved by:

Kurt J.W. Sandstrom, QC
Assistant Deputy Minister
Justice Services Branch
250 356-0383

Attachment Appendix A – Chair Request

From: Juricevic, Diana AG:EX <Diana.Juricevic@gov.bc.ca>
Sent: Monday, November 16, 2020 9:45 AM
To: Valentine-Pickett, Alanna AG:EX <Alanna.ValentinePickett@gov.bc.ca>
Cc: Nash, Andrea AG:EX <Andrea.Nash@gov.bc.ca>
Subject: s. 6 Appointment Requests

Hello Alanna,
I hope you had a wonderful weekend.
As promised, I am reaching out to you in the hope that we may be able to move forward with:
One s. 6 appointment request for **Amber Prince effective January 4, 2021** for the **Human Rights Tribunal**. This would bridge her until her Order-in-Council appointment.
Renewals of three s. 6 appointments for medical members at the **Mental Health Review Board** whose terms are expiring on January 5, 2021. The renewal requests are for:
Dr. David Coulter effective January 6, 2021
Dr. Carl Graves effective January 6, 2021
Dr. Harry Karlinsky effective January 6, 2021

Thank you again for all of your support, I really appreciate it. Please let me know what I can do to help move these requests forward. I am happy to help in any way that I can.
Thank you,

Diana
Diana Juricevic, Chair (she/her)
BC Human Rights Tribunal
BC Mental Health Review Board
Direct: 778-609-2183

The British Columbia Human Rights Tribunal acknowledges the traditional territories of the many diverse Indigenous Peoples in the geographic area that we serve. The Tribunal's office is located on traditional unceded territories of the Coast Salish peoples, including the territories of the xʷməθkʷəy̓əm (Musqueam), Skwxwú7mesh (Squamish), and səliłwətaʔ (Tsleil-Waututh) Nations.

**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
INFORMATION BRIEFING NOTE**

PURPOSE: For INFORMATION for Richard J. Fyfe, QC
Deputy Attorney General

ISSUE: Working Group Report on an Access to Justice GC (A2JBC) Family
Justice Leadership Strategy

SUMMARY:

- A2JBC is requesting comments on a report proposing a strategy to lead the family justice system in addressing the negative impacts on children of certain adverse childhood experiences (ACEs).
- The report makes 6 recommendations, the principle one being that A2JBC lead a “highly aligned and loosely coupled” collaborative.
- Feedback is requested by November 30, 2020 so that it can be brought to an A2JBC Steering Committee meeting on December 17, 2020.

BACKGROUND:

- In October 2019, the A2JBC Leadership Group directed a working group to develop a practical leadership plan to address the negative impact on children of parental conflict and anxiety during parental separation.
- The working group made six recommendations that are attached to this note.
- The main recommendation is to announce an intention to create a “Transform the Family Justice System Collaborative” (the Collaborative) led by A2JBC. The other five address the purpose, structure and promotion of the Collaborative.
- The Collaborative will follow a “highly aligned and loosely coupled” approach – adopted from the tech industry – that sets common goals and strategies but allows participant individuals and organizations to determine how to advance those goals based on their own unique leadership, resources and mandate.
- Although joint action amongst participants is possible, the Collaborative’s primary objective is to inspire and coordinate action at the provincial and community level.
- A “re-articulation” of A2JBC’s October 2019 Statement of Commitment (attached to the report) is recommended that would change its language from a focus on “child” well-being to a focus on “family” well-being, and would expand the scope of the Collaborative to include child protection issues.

- The report notes that a re-articulation will increase the complexity of the initiative and raise a need to engage the Ministry of Children and Families and the First Nations Health Authority, but explains that the change is important to acknowledge the experience of children whose ACEs are based on involvement in the child protection and youth justice parts of the systems.
- The report also suggests that the re-articulation is important to reflect an understanding of family that is beyond the narrow “nuclear” definition and in that way increase the relevance of A2JBC’s work with Indigenous individuals and groups.
- The report recommends inviting Indigenous leaders to co-develop a “separate-but-integrated” strategy to transform the family justice system for Indigenous families that is “in sync” with the BC First Nations Justice Strategy.
- The report notes that the case for focusing on family well-being in changing the justice system is particularly strong when it comes to Indigenous families because the consequences of colonialization and the residential school policy means Indigenous children have inherently high ACEs. It also notes a low level of trust in Indigenous communities that a “non-Indigenous dominated Collaborative” will identify the best solutions for Indigenous children.
- The report emphasizes A2JBC’s commitment to support a shift in the justice system towards evidence-based reforms in recommending the use of a strategy map framework that can link the Collaborative with organizations across many sectors such as health and education.
- A strategy map is described as a “visual representation of an aligned set of strategies intended to bring about change” that can develop common measures to be used by different organizations working towards the same objective.
- A2JBC’s strategic coordinator and some of working group members collaborated with leaders of the Alberta Re-imagining the Family Justice System initiative and a US-based organization, Insight Formation, on developing a “transform the family justice” objective in the context of a larger, cross-sectoral ACEs and Resilience Strategy Map zoomable template.
- The strategy mapping and associated tools can track actions of organizations in the Collaborative and generate data to provide an understanding of progress towards shared objectives.
- As noted, the report recommends only that the announcement of an intention to create the Collaborative in order to allow time to create the conditions necessary for the Collaborative’s success. The report recommends that steps to create those conditions should begin now and should include:
 - developing a communications strategy;
 - conducting an “ACEs Awareness to Action” campaign in the justice sector;

- developing a 'Transform the Family Justice System' Strategy Map;
 - building relationships with potential partners in other sectors and "tying into the government's *Pathway to Hope* initiative"; and
 - developing and implementing a fund-raising strategy for the Collaborative.
- The report's final recommendation is to convene a "transform the family justice system" conference to launch the Collaborative. The conference would be timed to coincide with the successful laying of a foundation for the Collaborative, which will be given priority during 2021.
 - The conference will also be an opportunity for individuals, groups and organizations to come together as a step towards developing engagement on the objective to transform the family justice system and showing commitment to a Collaborative.

DISCUSSION:

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INDIGENOUS PEOPLES CONSIDERATIONS:

- The report recommends engagement with Indigenous individuals, communities and organizations as an important next step. It is relatively transparent that the recommended expansion of scope is targeted at encouraging this engagement.
- The report suggests that the development of a separate reform strategy for addressing the negative impacts of ACEs on Indigenous children and families will be done as a complement to BC's First Nation Justice Strategy and in partnership with the First Nations Justice Council and other Indigenous leadership organizations.

OTHER MINISTRIES IMPACTED/CONSULTED:

- The following ministries are impacted by the Collaborative and need to be consulted:
 - MCFD
 - Ministry of Education
 - Ministry of Health
 - Ministry of Indigenous Relations and Reconciliation
- The Ministry of Attorney General has indicated to A2JBC's strategic coordinator that it has limited capacity to lead this kind of broad cross government initiative at this time.

Prepared by:

Darryl Hrenyk
Legal Counsel
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Approved by:

Nancy Carter
Executive Director
Justice Services Branch
(778) 974-3687

Attachments:

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**MINISTRY OF ATTORNEY GENERAL
JUSTICE SERVICES BRANCH
DECISION BRIEFING NOTE**

PURPOSE: For DECISION of Richard J. M. Fyfe, QC
Deputy Attorney General

ISSUE: Legal Aid BC 2021/22 Budget Management Plan

DECISION REQUIRED/RECOMMENDATION:

- It is recommended that the Deputy Attorney General send the attached letter to the Legal Aid BC (LABC) Board Chair requesting a budget management plan (BMP) for the next three fiscal years.

SUMMARY:

- Each year, the Attorney General sends a letter to the LABC Board Chair setting out the elements to be included in the BMP. The suggested due date for LABC to submit the BMP to the Ministry is January 15th, 2021.
- It is recommended that the letter be signed by the Deputy Attorney General this year so that LABC can start work on their BMP as soon as possible.

BACKGROUND:

- Section 18 of the *Legal Services Society Act* states that LABC must provide a budget for the Attorney General's approval when directed.
- Each year, the Attorney General sends a letter to the LABC Board Chair setting out the elements to be included in the BMP.
- The suggested due date for LABC to submit the BMP to the Ministry is January 15th, 2021, which:
 - accords with anticipated timelines around Crown service plans for ministry and central agency review and LABC Board approval; and
 - provides time to work with LABC on budget strategies and priorities in advance of next fiscal year.
- A comprehensive BMP shows any potential pressures in the context of the comprehensive budget and service delivery priorities, rather than isolated pressures. This has helped build confidence with Treasury Board staff (TBS) during the budget approval process, providing a reference source of information concurrent with Crown and Ministry service plan development.

DISCUSSION:

- Ministry approval of the BMP in recent years has been subject to the commitment of the Chair:
 - to manage the budget to the bottom line and to the individual tariff line items in the budget; and
 - to prioritize tariff services ahead of administrative and operational spending.
- As part of the BMP, LABC identifies any forecast budget pressures, along with a mitigation plan. Forecast pressures this year are expected to include:
 - a tariff increase of 2% effective April 1, 2021, for which no additional funding is expected;
 - addressing a potential backlog of cases resulting from the court slowdown caused by the COVID-19 pandemic;
 - the cost of the newly developed pre-trial conference tariff item for which no additional funding is expected; and
 - the implementation of the new Provincial Court Family Rules and the roll out of Surrey as an early resolution registry.
- During the first two quarters of this fiscal year, there was a significant reduction in demand for legal aid services as a result of the COVID-19 related court slowdown. This resulted in LABC not requiring access to their approved contingency funding. However, as demand for legal aid services returns to normal, it is expected that those funds will be required for the 2021/2022 fiscal year.

INDIGENOUS PEOPLES CONSIDERATIONS:

- LABC has a dedicated Indigenous Services Division and currently provides numerous services to Indigenous persons, including Gladue services.
- The BC First Nations Justice Strategy calls for:
 - the transition of legal aid services for Indigenous peoples from Legal Aid BC to a First Nation-controlled entity; and
 - the transition of Gladue services from Legal Aid BC to a First Nation-controlled Gladue implementation agency.
- The transition plan for both these services is still under development and no timelines have been established. It is not yet clear how these transitions will impact LABC's budget.

NEXT STEPS /TIMELINE

To meet timelines, the attached letter should be sent as soon as possible. Although the letter is typically signed by the AG, it is recommended that the letter be signed by the DAG this year so that LABC can start work on their BMP as soon as possible.

- **By January 15th, 2021:** LABC submits proposed BMP to Ministry staff, who review it against the budget information received from TBS during their review of the Crown and Ministry Service Plans through early January.
- **By February 12th, 2021:** Ministry staff provide the AG with a standard response letter to LABC to advise that their budget cannot be approved until after Budget Day (currently anticipated to be March 23, 2021) and asking them to work with Ministry staff to adjust their plan if required, depending on preliminary TB decisions and AG requests.
- **After Budget Day:** LABC will submit an updated BMP for final review by Ministry staff and AG approval, to be finalized as soon as possible so that LABC can confirm spending plans for the new fiscal year.

OPTIONS:

Option 1 (RECOMMENDED): Approve the attached letter requesting the BMP from LABC and send to the Board Chair as soon as possible.

- Implications: This option will give LABC more time to start work on their BMP in advance of the suggested January 15th, 2021 submission deadline.

Option 2: Do not approve the letter; provide alternative direction.

- Implications: Direction to LABC regarding the BMP may be delayed. The LABC budget submission may not align with anticipated timelines around Crown service plans for ministry and central agency review and there may not be time to work with LABC on budget strategies and priorities in advance of next fiscal year.

OTHER MINISTRIES IMPACTED/CONSULTED:

- Ministry of Finance (Treasury Board Staff)

OPTION ____ APPROVED

DATE:

Richard J. M. Fyfe, QC
Deputy Attorney General

Prepared by:
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Senior Policy Analyst
Justice Services Branch
250-952-1315

Approved by:
Wendy Jackson
Executive Director
Justice Services Branch
778-974-3680

Approved by:
Kurt Sandstrom
Assistant Deputy Minister
Justice Services Branch
778-974-3689

Attachment:
Appendix A: Recommended DRAFT letter from the DAG to the LABC Board Chair

Appendix A: Recommended DRAFT letter from the DAG to the LABC Board Chair

Ms. Jean Whittow
Chair, Board of Directors
Legal Aid BC
400 – 510 Burrard Street
Vancouver, BC V6C 3B9

Dear Ms. Whittow:

I write with respect to the preparation of the 2021/22 budget management plan (BMP) for Legal Aid BC (LABC). Given the timing of the recent election, it is anticipated that Budget Day will be later than the third Tuesday in February, although no concrete date has yet been set. As you prepare the BMP, I ask that you ensure certain elements, as set out below, are included and that it is submitted to me and Ministry staff by January 15th, 2021. This will allow us to work toward understanding the funding requirements and options in advance of the final service plan and budget decisions.

I want to thank LABC for its tremendous response to the challenges of this past year. Your agency's collaborative approach and engagement with the Ministry and with the courts during the COVID-19 pandemic are immensely appreciated. I look forward to seeing LABC continue to play an important role as the justice sector develops new procedures to advance justice recovery initiatives during and after the pandemic.

I also appreciate your working closely with Ministry staff to keep them apprised of fluctuations in demand for legal aid services during the pandemic and the subsequent financial implications. I am grateful for your collaborative approach in addressing the fluctuating financial picture this fiscal year.

The principles upon which you based your BMP for this fiscal year should continue to guide the development of your 2021/22 plan:

- to manage the LABC 2021/22 budget to the bottom line and not to the individual tariff line items, unless directed otherwise for any funding and pending upcoming budget decisions; and
- to prioritize tariff services, as outlined in the Memorandum of Understanding between LABC and the Province, ahead of direct and indirect administrative and operational spending.

In your submission, please include:

1. A three-year budget provided in Ministry format (including variance notes), reflecting mostly *status quo* funding, with the following assumptions and breakdowns:

- a. the same revenue and expenditure categories as the 2020/21 submission, for comparability;
 - b. the proposed 2021/22 budget separated between government and non-government funding, including 2019/20 actuals and 2020/21 Q3 forecast expenditure comparisons;
 - c. assumptions, subject to Treasury Board decisions, that the following funding requests that total **\$110.040M** (**\$108.884M** for 2022/23 and **\$108.981M** for 2023/23) will be approved:
 - 2020/21 base funding of \$101.086M to remain status quo which is inclusive of the negotiated tariff funding;
 - \$1.539M for Abbotsford Courthouse Expansion (increasing to \$3.008M in 2022/23);
 - \$0.025M for Crown Led After-hours Bail;
 - \$0.405M for the expansion of the Crown Led Bail Initiative;
 - \$1.315M for Federal I&R base increase from \$0.9M to \$2.215M;
 - \$2.354M for Parents Legal Centres in 2021/22 (increasing to \$2.449M in 2022/23 and to \$2.546M in 2023/24);
 - \$2.9M for maintenance of tariff items agreed to with A.L.L. (2021/22 only);
 - \$0.067M for SSNM PEA increases;
 - \$0.349M for SSNM GEU increases (increasing to \$0.529M in 2022/23); and
 - implications of any adjustments necessary to the Category A, B and C funding thresholds increasing or budget reallocations amongst the criminal categories.
2. A 2021/22 departmental budget by expenditure category compared to 2019/20 actuals and 2020/21 Q3 year-end forecast.
 3. In a separate document, identify any pressures LABC is forecasting, along with:
 - a budget pressure mitigation plan that presents options to manage any pressures, giving priority to maintaining frontline services; and
 - any operational impacts of the pressures and mitigation plans.
 4. A capital and an amortization forecast/schedule for the next ten years, by year and asset type, with the outer year amortization schedule aligning with the outer year capital schedule.
 5. A detailed technology expenditure/spending plan for 2021/22.
 6. A breakdown of the budgeted federal/provincial funding for criminal legal aid, as well as for immigration and refugee funding.

7. A detailed listing of all LABC programs (e.g. Criminal Early Resolution Contract, Gladue Reports, Gladue Submission, First Nations Court, etc.) with costing details for each.
8. A detailed set of assumptions, showing the main cost drivers and formulas used in the calculations. Please show the estimated dollar impacts for each item.
9. A performance metric to measure the accuracy of the LABC Third Quarter Forecast of the surplus, if any, compared to final, actual results.
10. A mutual commitment to reporting information concerning the financial and performance results of Crown agencies that is credible, timely and complete.
11. A breakdown of operating/administrative expenses by indirect and direct costs with clear definitions of what specific expenditures is included in each budget line, as laid out in the spreadsheet provided by the Ministry, as well as, demonstrating progress on the 2020/21 mandate letter priority to reduce administrative expenditures. Include comparison to 2019/20 actuals and 2020/21 Q3 year-end forecast and Q3 YTD expenditures.
12. A high-level FTE budget chart by division/program for 2021/22 and comparing to the 2020/21 FTE budget delegation with explanations of any increased or decreased FTEs.
13. A current organizational chart of each division or working unit listing the position, title and classification. The chart should align with the current FTE count for LABC.
14. A detailed Parents Legal Centres budget for 2021/22, 2022/23, and 2023/24 including 2020/21 Q3 year-end forecast and Q3 YTD expenditures.
15. The BMP should reflect and align with mandate letter and services plan direction and priorities. We recognize that these documents will also be later than the usual timeframe; staff will keep LABC informed as we learn more about anticipated timings.

I understand that Ministry staff worked closely with your financial team to determine the best format and level of detail necessary for transparency of revenue and expenditures. They will provide appropriate budget templates with relevant categories and sub-categories to assist with developing the 2021/22 detailed budget. Specifically, I request that the submission demonstrate clearly how the budget and any budget adjustments are distributed. I look forward to receiving the final BMP in the same format to the final 2020/21 submission including the additional information as requested above.

Should you require further guidance or have any questions regarding the instructions in this letter, please contact Kurt Sandstrom, ADM of Justice Services Branch.

I appreciate the diligence that you, the board and your staff put toward these matters and look forward to working collaboratively.

Sincerely,

Richard J.M. Fyfe, QC

pc:

Kurt J. W. Sandstrom, QC
Tracey Campbell
Mark Benton

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