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# Standing Committee on Indigenous and Northern Affairs

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Chair: Mr. Bob Bratina





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• (1105)  
[English]

**The Chair (Mr. Bob Bratina (Hamilton East—Stoney Creek, Lib.)):** We have quorum, and accordingly, I call this meeting to order, acknowledging first of all that in Ottawa we meet on the traditional, unceded territory of the Algonquin people.

Pursuant to Standing Order 108(2) and the motion adopted on April 29, 2021, the committee is continuing its study of enforcement on first nations reserves.

To ensure an orderly meeting, these are the practices to follow.

Listen and speak in the official language of your choice. At the bottom of the screen, the globe icon is where you can select either floor, English or French audio. As you present your testimony, you can switch from one language to another without bothering to adjust the icon, so just carry on.

When speaking, ensure that your video is turned on. Please speak slowly and clearly. When you're not speaking, mikes should always be on mute.

Pursuant to the motion adopted on March 9, 2021, I must inform the committee that all technical pretests have been carried out.

With us today, for the first hour, are the witnesses from the Department of Indigenous Services: Christopher Duschenes, Stephen Traynor and Jacques Boutin. Maybe not everyone is here yet, but that will be the panel. From the Department of Justice we have Margaret McIntosh, Jacques Talbot, Stephen Harapiak and Andrew Ouchterlony. From the Department of Public Safety and Emergency Preparedness we have Douglas May and Julie Mugford. From the Office of the Director of Public Prosecutions we have Jeff Richstone and Marke Kilkie.

Thank you all for taking the time to appear.

You have three minutes each, in the following order. We will start off with the Department of Justice.

I'm not sure who's speaking, but please go ahead, for three minutes.

**Ms. Margaret McIntosh (General Counsel, Aboriginal Law Centre, Aboriginal Affairs Portfolio, Department of Justice):** Good morning, Mr. Chair.

My name is Margaret McIntosh. I'm from the Aboriginal Law Centre in the Department of Justice. I'm joined today by several colleagues from departmental legal services units with expertise in various aspects of the laws, policies and programs that this commit-

tee will be examining in relation to the challenges with enforcement of first nation laws and bylaws.

I'm pleased to be sharing opening remarks with officials from Indigenous Services Canada, Public Safety and Emergency Preparedness and the Public Prosecution Service of Canada.

Gaps in enforcement have been highlighted during the COVID-19 pandemic, when first nations looked for measures to protect their communities. While many first nations took direct action to ensure the safety of their communities during the pandemic, uncertainty with respect to enforcement has had adverse impacts on the safety and well-being of indigenous peoples.

Gaps associated with enforcement are not limited, however, to the COVID-19 context. Enforcement issues vary significantly across first nations and reflect a complex landscape of different governance models, access to health and social services, traditions and cultures, relationships with federal and provincial governments, and financial resources.

For instance, some communities experience challenges in enforcing Indian Act bylaws related to drugs and alcohol, leading to serious social problems on reserve. Other communities face difficulties with the enforcement of eviction laws pursuant to the First Nation Lands Management Act, forcing them to seek costly private prosecutions.

Additionally, many first nations seek the development of approaches that restore their traditional laws and legal traditions. These may require new approaches to enforcement that are different from those currently available under the criminal justice system.

The federal government has an important role to play in this area. However, making significant progress requires extensive co-operation between first nations, provinces and the federal government, given the complexity of the issues and the number of players involved.

Long-term solutions must be grounded in indigenous self-governance and leave room for flexibility to reflect the diverse realities, experiences and circumstances of individual communities.

Likewise, provinces are necessary partners given the shared jurisdiction over administration of justice and the need to facilitate coordination across justice processes in Canada.

At the federal level, the Minister of Justice has responsibility—shared with the Minister of Public Safety and Emergency Preparedness in the areas of policing and corrections—for the federal policy on administration of justice, including with respect to indigenous peoples.

Recognizing that Justice Canada can play a helpful coordinating role in this area, we've been seeking opportunities to work with indigenous nations, federal departments and interested provinces, including Ontario and B.C.

On January 15, the Minister of Justice received a supplementary mandate letter in which he was tasked with the development of an indigenous justice strategy in consultation and co-operation with a number of federal ministers, provinces, territories and indigenous partners.

While we're still in the early days in the work on developing this strategy, which will require extensive engagement with indigenous peoples, we believe it could also provide an opportunity for discussions on the enforcement of first nation bylaws and laws with first nation leaders and partners.

At the community level, Justice Canada is also exploring how we can better support indigenous communities. The negotiation of administration of justice agreements provides a potential forward-looking response to this demand.

These tailor-made or stand-alone administration of justice agreements could provide practical, on-the-ground solutions and incubation of innovative approaches that could be part of longer-term solutions to address enforcement and prosecution gaps.

In closing, Justice Canada is committed to working with first nations, provinces and federal departments, since a coordinated and focused approach will be necessary to resolve the gap in enforcement and prosecution of first nation bylaws and laws.

Thank you. My colleagues and I would be pleased to respond to members' questions.

• (1110)

**The Chair:** Thank you very much.

Next we go to the Department of Public Safety, Douglas May and Julie Mugford. Ms. Mugford will speak.

Please, go ahead.

**Ms. Julie Mugford (Senior Director, Corrections and Criminal Justice Directorate, Aboriginal Policing Policy Directorate, Department of Public Safety and Emergency Preparedness):** Hello. Thank you very much for inviting me to speak today.

My name is Julie Mugford. I'm a senior director in the crime prevention, corrections, criminal justice and aboriginal policing policy directorate within Public Safety. My responsibility lies in the area of policy relating to the first nations policing program. Today I'm pleased to be accompanied by my colleagues, Douglas May from

the emergency management and programs branch of Public Safety, and Jacques Talbot from legal services.

I recognize how important the effect of enforcement and prosecution of laws on first nations reserves is for advancing self-determination. I also understand that closing the enforcement prosecution gaps is required for a true nation-to-nation relationship. However, the current patchwork of overlapping interests and responsibilities in relation to first nation laws and bylaws between federal government departments, provinces, territories and first nation communities themselves has led to challenges in their enforcement and prosecution.

Making progress on this matter requires effort by many partners, including representatives in the federal, provincial, territorial and first nation governments. Policing in first nation communities is a shared interest beyond just the federal government. Provinces and territories are key partners in this area and have jurisdiction over the administration of justice.

Although Public Safety Canada does not have a direct mandate regarding the enforcement of laws or their prosecution, it does have a role to play regarding how they may be enforced by police services, when relevant. This is as a result of its first nations policing program, which invests in indigenous policing, as well as with contract policing, which allows provinces and municipalities to retain the services of the RCMP as a provincial or local police force.

As mentioned, the administration of justice, including policing, is an area of provincial jurisdiction. However, Public Safety Canada works with provinces, territories and municipalities through contract RCMP policing services to ensure the effective administration and management of police services agreements.

Public Safety is responsible for the first nations policing program. This program is cost shared with provinces and territories, most of which also hold agreements with Canada for the delivery of provincial and territorial police services by the RCMP, with the exception of Ontario and Quebec.

The Government of Canada recognizes the need to strengthen and expand culturally responsive policing in indigenous communities. This is evidenced by Minister Blair's mandate commitment and the recent funding commitment announced in budget 2021, which announced \$861 million over five years beginning in 2021-22, and \$145 million ongoing to support culturally responsive policing and community safety services in indigenous communities. It also includes \$43.7 million over five years to co-develop a legislative framework for first nations policing that recognizes first nation policing as an essential service, and \$540.3 million over five years and \$126.8 million ongoing to support indigenous communities currently served under the first nations policing program and to expand the program to new indigenous communities. There are \$108.6 million over five years to repair, renovate and replace policing facilities in first nation and Inuit communities. The budget commitment also includes \$64.6 million over five years and \$18.1 million ongoing to enhance indigenous-led crime prevention strategies and community safety services, and \$103.8 million over five years for Indigenous Services Canada to support a new "pathways to safe indigenous communities" initiative to support indigenous communities in developing more holistic, community-based safety and wellness models.

To advance this important work, collaboration and engagement with first nation communities and organizations, provinces and territories, police organizations and others is crucial. We know we have a lot of work ahead of us. It's very important and we are looking forward to advancing this very important mandate commitment.

Again, I thank you for inviting me to speak today. I'm available for subsequent questions.

• (1115)

**The Chair:** Thank you very much.

Next we go to the office of the director of public prosecutions. Who would like to go ahead?

[*Translation*]

**Mr. Jeff Richstone (Director General and Senior General Counsel, Office of the Director of Public Prosecutions):** Thank you, Mr. Chair.

My name is Jeff Richstone. I am the Director General and Senior General Counsel in the HQ Counsel Group of the Office of the Director of Public Prosecutions, the PPSC. With me this morning is my colleague Marke Kilkie, General Counsel in our group.

I will start by speaking in general terms about the act that establishes our service and about our mandate. Mr. Kilkie will talk about the protocol we have established to help Indigenous Communities combat the pandemic. Pursuant to the Director of Public Prosecutions Act, the PPSC is an independent federal entity that initiates and conducts federal prosecutions on behalf of the Attorney General of Canada.

There has existed for many years a gap with respect to the prosecution of Indigenous Community laws. Those laws are enacted by communities under a number of law-making authorities, but the common theme is the nation-to-nation relationship that Indigenous Communities share with Canada.

The prosecution of these laws is not part of PPSC's mandate. Essentially, our function is to conduct prosecutions of federal statutes on behalf of the Attorney General of Canada. Reconciling the unique law-making authorities of Indigenous Communities with the traditional criminal justice system is a complex issue engaging the mandates of several federal departments, provincial and territorial governments, as well as Indigenous Communities themselves.

Despite our limited statutory role, PPSC is committed to working with partners to explore options and develop long-term solutions. To that end, prior to the pandemic, PPSC was in the early stages of initiating discussions with other stakeholders to see how to bring this issue to the forefront, in the hope of identifying solutions to fit the needs of Indigenous Communities.

I will now hand the floor to my colleague Mr. Kilkie, who will continue with our opening remarks.

Thank you, Mr. Chair.

• (1120)

[*English*]

**Mr. Marke Kilkie (General Counsel, Office of the Director of Public Prosecutions):** Mr. Chair, in light of the urgent need presented by the COVID-19 pandemic and in particular a situation brought to our attention in Saskatchewan, PPSC has agreed to conduct the prosecution of violations of bylaws passed pursuant to the Indian Act and which are directly related to addressing the COVID-19 pandemic.

This initiative is being limited to Indian Act bylaws in order to ensure that PPSC has the legal jurisdiction required to conduct these prosecutions. This arrangement can be instituted upon an indigenous community requesting that PPSC conduct these prosecutions and entering into a protocol agreement which makes clear that proceedings are being conducted on behalf of the Government of Canada. This protocol, and in particular the wording "in relation to" proceedings conducted on behalf of the Government of Canada, is required in order to give PPSC jurisdiction to prosecute.

In addition, PPSC will only prosecute bylaws that have been reviewed to ensure that they comply with the Indian Act as well as the Charter of Rights and Freedoms. The PPSC will provide legal advice in respect to investigation and prosecution of these Indian Act bylaws to the applicable law enforcement agency, whether that be an indigenous community's own police service, provincial police or the RCMP, as the case may be.

Currently, PPSC has entered into 11 such protocol agreements with communities in B.C., Alberta, Saskatchewan and Ontario. We are just now starting to see charges referred to under these bylaws. We are currently also in discussion with several communities in various other parts of the country.

To be clear, this is a temporary measure and is not in any way meant to represent the solution to the broader issue of who should prosecute indigenous community laws and the process that should be followed in doing so. This measure is not being imposed on any community and it is not meant to displace arrangements that may already be in place to prosecute community bylaws or to prosecute provincial laws that may apply in a given community.

I will now turn back to Mr. Richstone for some concluding remarks.

[*Translation*]

**Mr. Jeff Richstone:** Thank you.

Solutions to the broader issue of bylaw prosecution will have to be developed through cooperation between policy leaders in federal, provincial and Indigenous governments. PPSC looks forward to participating in these future discussions where they relate directly to our mandate.

Thank you, Mr. Chair.

[*English*]

**The Chair:** Thank you very much.

Next, to conclude our witness testimony, we have the Department of Indigenous Services.

Mr. Duschenes, who will take that?

**Mr. Stephen Traynor (Director General, Lands and Environmental Management Branch, Department of Indigenous Services):** Thank you, Mr. Chair. I'm Stephen Traynor with Indigenous Services Canada, and I will give our opening remarks.

Thank you, everyone, for inviting Indigenous Services Canada to appear before you today.

As noted, my name is Stephen Traynor, and I am the director general for lands and environmental management. With me today are supposed to be Christopher Duschenes, Jacques Boutin and colleagues from our legal services unit, and hopefully they'll join us soon.

The department recognizes that enforcement and prosecution of first nation laws and bylaws is an area of growing concern for communities. We acknowledge that this concern has been amplified across the country in the context of the COVID-19 pandemic.

We want to echo our colleagues' point that this issue is a shared responsibility, where each of us plays a role along the enforcement continuum. ISC works collaboratively to build capacity for first nations to develop their own laws and bylaws; for instance, under the Indian Act and the framework agreement on first nations land management.

With respect to Indian Act bylaws, while recognizing that much remains unaddressed, we understand that, in the context of the

COVID-19 pandemic, the RCMP and the Public Prosecution Service of Canada have committed to work with communities to enter into agreements to support the enforcement and prosecution of Indian Act bylaws.

ISC ministerial oversight and disallowance powers under section 82 of the Indian Act were removed in December 2014 to allow first nations to exercise more autonomy over their governance. However, in the spirit of co-operation, ISC continues to review draft bylaws from first nation communities for comment only, and only when specifically requested by a first nation. However, the decision to enact and the final content of the bylaw remain the responsibility of the band.

In terms of funding for policing, enforcement and prosecution, the department has supported other government departments and agencies in their work to pursue policing agreements and to continue supporting the administration of justice.

ISC's role has generally been to support first nations bylaw development through training, draft review and field support.

I would like to turn to first nations land management. ISC, through partnership with the lands advisory board and resource centre, provides significant support to participating first nations to develop their own land codes to reassert jurisdiction over their reserve lands and environment.

The framework agreement and the First Nations Land Management Act provide robust enforcement and prosecution powers to communities. That said, as first nations reassert their jurisdiction and develop their own laws to govern their lands and environment, participating communities also play a key role in determining how they want to enforce these laws and prosecute offences.

In recent years, we have seen first nations communities taking a leadership role on these issues, and I hope the committee will hear from them in the coming weeks. A leadership example that I would like to highlight today includes, in British Columbia, the K'ómoks First Nation, which set a precedent in 2018 by successfully undertaking a private prosecution of a trespass offence under their land code.

In Saskatchewan, the Muskoday and Whitecap Dakota first nations have entered into an MOU with the Government of Saskatchewan to work together to explore approaches to address the enforcement and prosecution of first nations laws and bylaws.

In addition, a national online conversation on the enforcement of indigenous laws has been led by the First Nations Land Management Resource Centre, supported by ISC, in collaboration with the Department of Justice, the RCMP and Public Safety. The conversation is a series of enforcement webinars promoting dialogue among indigenous governments, provinces and the Government of Canada on how to address the challenges of creating effective and affordable enforcement systems for indigenous laws.

• (1125)

Enforcement and prosecution of first nation laws and bylaws is a complex and multifaceted issue, and our collective effort will be required to move the agenda forward. ISC will continue to work with federal, provincial and first nations partners to better understand the challenges and opportunities related to supporting effective enforcement. We look forward to the contribution of this committee in advancing this work.

[*Translation*]

Thank you.

[*English*]

*Meegwetch.*

**The Chair:** Thank you, all, for your excellent opening testimony remarks.

I know our committee is eager to get to questions.

A six-minute round begins with Mr. Schmale, Mr. Battiste, Madam Bérubé and Ms. Blaney.

Jamie, please go ahead.

**Mr. Jamie Schmale (Haliburton—Kawartha Lakes—Brock, CPC):** Thank you, Mr. Chair.

Good morning, everyone. There is such expertise on this panel today, so I'm excited to get started here.

I want to talk about an issue that is related to indigenous policing, given that our study is exploring a whole bunch of options. Something that is personally of interest to me is restorative justice.

My first question is for Ms. Mugford, but I'll also open it up to the floor because there might be other areas and departments who may want to speak to it.

I have a whole series of questions, so we'll maybe try to keep the answers tight here.

Ms. Mugford, can you or someone on the panel provide a brief understanding of what restorative justice is with respect to indigenous peoples and what role indigenous peoples have in that process?

• (1130)

**Ms. Julie Mugford:** Unfortunately, restorative justice falls out of my area of expertise. I would look to my colleagues who are also on the call today. Failing that, we will also supply some written response to your question.

**Mr. Jamie Schmale:** Is anyone else able to answer that question?

**The Chair:** Please go ahead, Ms. McIntosh.

**Ms. Margaret McIntosh:** I will speak to the idea of restorative justice with respect to the work that the Department of Justice is doing with administration of justice agreements with first nations.

I spoke about it in my opening statements, but this is where we are exploring options with indigenous communities for their own priorities in the area of justice. Very often it's in the form of restorative justice, which is a more traditional form of justice and where they are seeking an off-ramp from the criminal justice system or they wish to enforce their own laws.

I don't know if that's of assistance, but we're certainly doing a lot of work in that area.

**Mr. Jamie Schmale:** Thank you. That is helpful.

I don't know if anyone else wants to answer quickly before I jump to my next one.

**The Chair:** Mr. Richstone, go ahead.

**Mr. Jeff Richstone:** I would say that the public prosecution service is well involved in restorative justice initiatives, in territories both north and south of 60.

We have an internal committee looking at the interaction of indigenous people with the justice system, and our policies are under revision right now, but we do have active initiatives and projects north of 60.

**Mr. Jamie Schmale:** Perfect.

In the models we're seeing is there a role for not only police officers but maybe also elders within the community to help in this process? Are you seeing that in the models that are available and working?

**Mr. Jeff Richstone:** Yes, there is that. We actively involve elders and the police in those initiatives.

**Mr. Jamie Schmale:** What functions do they play?

**Mr. Jeff Richstone:** I'm sure you're aware of the Gladue sentencing principles and the framework there. We have a desk book chapter on that, which sets out a framework as to how we carry out those consultations.

I don't want to be too optimistic and say it's always working, but it's something we're working on and developing with the communities. As you can imagine, it's a work-in-progress. It's certainly a positive development and it's something we're committed to.

**Mr. Jamie Schmale:** If it matters, the feedback I'm getting from indigenous communities I'm speaking with is very supportive of this path. I'm glad to hear your comments on that. I appreciate that.

In a 2020 report found on the Public Safety website on the increasing use of restorative justice in criminal matters in Canada, a number of recommendations were made. Specifically, recommendation number 5 is, "Establish a national dialogue on best practices and standardization, where possible, regarding data collection." It's not clear if that includes indigenous communities as well. I'm guessing it does.

Could the public safety department confirm that? If that is the case regarding indigenous communities, could you perhaps update this committee on the work that's been done to date?

**Ms. Julie Mugford:** Again, I apologize. I am not sure of what is included, but I will get back to you and advise on that.

**Mr. Jamie Schmale:** Chair, I see you getting ready to jump in here. You're muted, but I'm assuming my time is up.

**The Chair:** Okay. Since the age of steam has ended, I'm having problems with the newer digital era.

• (1135)

**Mr. Jamie Schmale:** I'm just bugging you, Chair.

**The Chair:** Oh, oh!

Mr. Battiste is next.

Jaime, please go ahead.

**Mr. Jaime Battiste (Sydney—Victoria, Lib.):** Thank you, Mr. Chair.

Thank you for this study. I think it's very important that we look at enforcement and policing in communities. During COVID I received many calls from chiefs all across Canada who talked about their ability under the Indian Act sections to look out for their communities—bylaws for the enforcement of noxious diseases. They were making bylaws in order to keep their communities safe, yet they were told that in many cases the police in their area would not help them enforce those bylaws.

I'm trying to figure out why a mandate was needed when there is something directly within the Indian Act that says that the chief and council have the responsibility over something; and why, when they make a law to enforce that, they don't receive any help. I too have made calls to the RCMP and wondered what the holdup was.

I understand, Ms. Mugford, that you said there is no direct mandate from the federal government, but doesn't the Indian Act provide that mandate for the enforcement of some laws on reserve?

**Ms. Julie Mugford:** I'm looking at the first nations' policing program more from a policy perspective rather than the operationalization. The enforcement of laws is more of an operational issue, and in terms of enforcement it is done by the police of jurisdiction. I think that would be a question that would be better handled by the RCMP, and I believe you will be speaking with them at a subsequent meeting.

**Mr. Jaime Battiste:** Yes. I've spoken to the RCMP, and they've basically indicated that there was nothing to do. I'm trying to figure out what kind of mandate is needed from a federal government to enable the enforcement of laws that are already recognized, within the Indian Act, as a chief and council responsibility? What is the obstacle for the local enforcement, whether it's provincial or RCMP or communities, in enforcing those laws?

Anyone can step in and answer this question.

Okay, let me try something else. I know there are very different departments on this. I'm trying to figure this out. How often do you collaborate on how we can better serve enforcement on reserve and prosecution by chief and councils?

**The Chair:** Ms. McIntosh.

**Ms. Margaret McIntosh:** I think all the departments that are here today have mentioned that collaboration is extremely important. As a matter of fact, we have different groups at different levels within our organizations, and we meet frequently. We also work often with our indigenous colleagues.

We are aware of the issues. We are working internally and we are working with our external colleagues on a regular basis in trying to respond to these issues. It's certainly not something we're not aware of. They're just difficult questions and there are many players involved, including provinces.

**Mr. Jaime Battiste:** Okay, I understand that, as I come from a reserve. I see someone else's hand is up. Can you comment quickly on that one?

**The Chair:** Mr. Harapiak.

**Mr. Stephen Harapiak (Legal Counsel, Legal Services, Department of Justice):** One of the issues we've been working on in conjunction with our colleagues over at PPSC, of course, is the protocol agreements. We've been reviewing some of the draft bylaws at the request of first nations, to provide them some guidance and to assist. Those would be the bylaws that are being enforced. Without the power of disapproval, some of the problems that can come up are whether a bylaw is within the scope of the authority of the Indian Act, or whether it is charter-compliant, as required since 2011. Those are some of the concerns. We would need particular bylaws to give you a definitive answer as to why a particular bylaw could not be enforced.

**Mr. Jaime Battiste:** Can you give me a sense of timelines with regard to how a community casts a bylaw and what the ultimate determination is in terms of whether it's in compliance?

• (1140)

**Mr. Stephen Harapiak:** That's for the first nation itself to determine.

Prior to 2014, of course, under section 82 of the Indian Act, all bylaws had to be submitted to the minister for review, and there was a power of disallowance. If the bylaws were not charter-compliant, the minister would typically disallow them at that point.

Since that power has been removed, the minister has no oversight authority over those bylaws, so it is up to first nations to determine the content of those bylaws, and they no longer have to submit them to the department for review, approval, disapproval or any process like that.

**The Chair:** You have one minute, Jaime.

**Mr. Jaime Battiste:** I guess my question wasn't how the process on the reserve works, because I'm familiar with that process. My question is, once a community has determined that this is a bylaw, where does it go next? I understand that it doesn't go to the minister now, which I think is a good step. How does it get to the point where they can get a review and get enforcement of that, and what are the timelines?

**Mr. Stephen Harapiak:** There's a requirement that the bylaw be published under section 86 of the Indian Act. Once it is published and comes into force, it is presumed enforceable.

**The Chair:** That will pretty much take our time.

Jaime, thank you.

Madam Bérubé, you have six minutes.

[*Translation*]

**Ms. Sylvie Bérubé (Abitibi—Baie-James—Nunavik—Eeyou, BQ):** Thank you, Mr. Chair.

I am from the traditional territory of the Cree and Anishinabe in Abitibi—Baie-James—Nunavik—Eeyou, in Quebec. My thanks to all the witnesses who are joining us today.

My question goes to Mr. Traynor.

Earlier, you talked about the issues of concern in terms of police force funding in the pandemic.

Could you explain the challenges you had to face when applying the Indian Act?

[*English*]

**Mr. Stephen Traynor:** Thank you very much.

With regard to funding, we provide some funding through an operational funding formula through the First Nations Land Management Act, which allows for a notional amount for enforcement and prosecution. It is not up to us to determine how that is spent on reserve with regard to those activities, but we provide some moderate capacity for the communities to use it as they see fit. It's up to them to sort out their best solution in terms of how they will deal with a flexible community approach regarding enforcement, and to identify any issues with regard to that aspect.

[*Translation*]

**Ms. Sylvie Bérubé:** Is it difficult to enforce other types of laws on First Nations reserves, such as the Criminal Code?

[*English*]

**Mr. Stephen Traynor:** That's something I would have to defer to another department on, as we generally work with the communities to provide some funding for their band base to be able to operate and some amount of monies for the first nations land management. On those other aspects, I would have to defer to my colleagues for a response.

[*Translation*]

**Ms. Sylvie Bérubé:** Could someone answer, please?

[*English*]

**The Chair:** Mr. Talbot.

[*Translation*]

**Mr. Jacques Talbot (Senior Counsel, Legal Services, Public Safety Canada, Department of Justice):** Generally, police services like the RCMP, the Sûreté du Québec, the Ontario Provincial Police or the Indigenous police forces themselves, are in a position to enforce the Criminal Code in Indigenous communities. That is not a problem. However, it becomes more of a problem in cases that are not within the responsibility of the police services. Some band council regulations are not of the same type as those that police services generally enforce, in the same way as some municipal, provincial or federal regulations are not enforced by police services.

However, I invite you to discuss the issue with an Indigenous police chief or a member of the RCMP. They would be able to describe the kind of operational problems they face on the ground.

I hope that answers your question.

• (1145)

**Ms. Sylvie Bérubé:** Thank you.

I also have a question for Mr. Richstone.

In the light of the main study on the COVID-19 pandemic and the problems experienced by First Nations, what difficulties did they have to overcome in having the bylaws related to COVID-19 enforced? I am referring to the bylaws that subsequently required them to enter into permanent agreements with the PPSC to have offenders prosecuted.

**Mr. Jeff Richstone:** What we did, Ms. Bérubé, is to establish a kind of pilot project. We had considered taking some steps even before the pandemic, but we established this pilot project in order to handle the crisis. The protocol is renewed to match the impact of the pandemic among the First Nations.

Mr. Kilkie, do you want to add anything about the protocol?

[*English*]

**Mr. Marke Kilkie:** No. I'm good with that. Thanks.

[*Translation*]

**Mr. Jeff Richstone:** Okay.

Does that answer your question, Ms. Bérubé?

**Ms. Sylvie Bérubé:** Do you know whether the communities might prefer the bylaw enforcement agreements to be maintained after the pandemic?

**Mr. Jeff Richstone:** I have no answer for that, but, as we said in our opening statement, we remain ready to take part in any kind of long-term solution. We are not the only player, but, if a measure seems to be helpful or effective for the communities, we will continue to work together with our partners to try and establish a longer-term agreement.

You know very well that we are dealing with a large number of communities, more than 600 First Nations. Agreements that may be helpful for one community may not be for another. We are going to need some creativity in the solutions we adopt.

[English]

**The Chair:** Thank you very much.

Ms. Blaney, please go ahead for six minutes.

**Ms. Rachel Blaney (North Island—Powell River, NDP):** Thank you, all, for being here to testify today. I found your testimony very informative and I really appreciate it.

I will start my questions by making a statement that, I reassure you, I don't need any of you to respond to.

In my opinion, this is a serious form of systemic racism, because the systems are so confusing, so convoluted and so all over the place, and the people who are paying for it are indigenous communities across Canada. That's not a personal attack; it's something we should all reflect on. The fact that these systems are in place and the way they are in place are devastating to communities.

I remember being a foster parent on reserve and trying to get the police to make sure the child in my care was protected. It was absolutely impossible because the jurisdiction of the restraining order was provincial, and we were in federal. It's so complex. I want to acknowledge that it is really complex.

Mr. Kilkie, you talked about protocol agreements, which are agreements with indigenous communities around prosecution. I'm wondering if any of those are public and if that's something the committee could look at.

**Mr. Marke Kilkie:** I will have to check on that. We have 11 of them to date, and they are agreements directly with the community itself and the police of local jurisdiction. I will certainly look into that.

**Ms. Rachel Blaney:** That would be so appreciated. Thank you so much.

If I could come to you, Mr. Richstone, you talked earlier about, prior to COVID, working with key stakeholders around identifying solutions regarding prosecution. Was that with a particular region? Was it all across Canada? Who are the stakeholders?

**Mr. Jeff Richstone:** When we're talking about stakeholders, particularly at the federal level, about the federal government stakeholders....

As you may know, the issue of what kind of jurisdiction the Public Prosecution Service or the federal Crown has with respect to Indian Act bylaws is something that was very much questioned and had to be thought through and clarified. With the assistance of and in collaboration with our federal partners, we clarified our mandate to the extent that we felt we could offer and propose a pilot project with respect to the pandemic and with respect to the limited mandate we have been given by both the Director of Public Prosecutions Act on the one hand and the Criminal Code on the other. This is how we tried to design something we thought could work.

• (1150)

**Ms. Rachel Blaney:** Thank you, I really appreciate that testimony.

I see that there are a lot of resources in the 2021 budget. We had them read out to us, so I appreciate that.

Please just unmute and respond if you are the person answering the question.

One of the things I'm concerned about is, what does it mean to declare first nations policing an essential service? I need clarity on that. There are some nations that have their own police, and there are other nations that have partnerships and agreements with other police or the RCMP. I'm just wondering what it means to make it an essential service.

**Ms. Julie Mugford:** I would invite any of my colleagues to provide comment afterwards.

Basically, as we try to co-develop legislation that looks at first nations policing as an essential service, that's one of the things we want to look at and work with partners at defining and better understanding—

**Ms. Rachel Blaney:** You don't know. Does it mean ongoing funding? I sort of associated it directly with funding that comes every year, so it's something that nobody has to fight for.

**Ms. Julie Mugford:** You're correct. Currently, the program is grants and contributions. It's discretionary funding. It has been oversubscribed for a period of time. There is pressure on the funds available. What we are looking to do is to remove that discretionary nature. Again, we don't want to impose a system on folks. We want to work in collaboration and co-develop what it means.

**Ms. Rachel Blaney:** Thank you.

The other thing is that these funding resources are there. I'm just wondering how much money is actually dedicated to building capacity within first nations communities to develop policing skills or expertise.

One of the challenges, of course, is that you have leaders that are doing everything that federal, municipal and provincial governments do within their own communities. Then, on top of that, we're asking them to figure out how to navigate a complex system of policing.

I'm just wondering how much of these resources are actually going to go into the community, so we say, "Here's some money to help you have the resources to actually figure this out."

Can someone answer that question?

**The Chair:** You have one minute. Please go ahead.

**Mr. Stephen Traynor:** With regard to the funding, I can speak to the very limited capacity we provide under the First Nations Land Management Act. I don't have the full total amount, but certainly, in 2018, we had an operational funding formula that allowed communities to receive funding for their policy analysts for lands. We also had a small amount of funding for an enforcement officer under that act.

It's up to the community to determine how best it's going to utilize it, based on what flexibility it's going to have in terms of how it's going to enforce it.

That is strictly—

**Ms. Rachel Blaney:** Thank you.

The problem is, of course, that the RCMP often don't think they can enforce it. They do all of that work, and then the communities get the RCMP coming in saying, "Sorry, we can't do anything." I know that's what all of you are hearing.

Thank you for that time.

**The Chair:** Thanks very much, Ms. Blaney.

We go now to the five-minute round of questioning. We'll start with Mr. Viersen, followed by Ms. Damoff.

Arnold, please go ahead, for five minutes.

**Mr. Arnold Viersen (Peace River—Westlock, CPC):** Thank you, Mr. Chair, and I want to thank all the witnesses for coming here today. I appreciate their time.

Enforcement is really a part of justice. Equal enforcement is important, regardless of the situation, if the enforcement happens in the same.... The other part about it is the time from enforcement to prosecution. Those are important pieces of justice. Something I notice in the vast riding I represent is that the time from an infraction or an enforcement to the time it's resolved sometimes can be years. Sometimes the prosecution takes place hundreds of kilometres away from where the infraction took place.

Those things don't necessarily lead to a community that functions, mostly because of the timing. There doesn't seem to be justice because, for example, there's an incident; we try to enforce it; there's an infraction with fines and charges laid, and then two years later it's somewhat resolved, but everybody's forgotten about it by that time.

I think I'll start with you, Mr. Traynor. I'm not very familiar with the First Nations Land Management Act and how that works. If there is an infraction and there's enforcement on it, how long does that take to be resolved, typically?

• (1155)

**Mr. Stephen Traynor:** I would not be in a position to let you know. I'd have to go back and see if I can find out.

Generally, it's up to the flexibility of how the system is operated by the choice of the community, so it would depend on what the community chooses in terms of how it's going to manage that and which services it provides. You would be better placed to ask either the policing on reserve or others from the community who would be better able to respond to that for you.

**Mr. Arnold Viersen:** This is always one of the interesting things that happens with reserve lands. Is justice an indigenous service, or is justice a responsibility of the justice department?

Mr. Traynor, I'm going to start with you again on that, and then I'll turn it over to the justice department.

**Mr. Stephen Traynor:** I'd have to defer to our justice department to respond to that question. Thank you.

**Mr. Arnold Viersen:** Okay. Ms. McIntosh.

**Ms. Margaret McIntosh:** I think you said the word "discrimination". Is that the element you're looking at?

**Mr. Arnold Viersen:** No, I just.... It's always an interesting thing for me when it comes to reserve lands or people who live on re-

serve. Is justice a responsibility of Indigenous Services Canada, or is it a responsibility of the justice department of Canada? Are you following what I'm trying to ask there?

To some degree, I would like to see courts and tribunals happening on the reserve, so that we don't have to go far away to resolve some of these issues, and also, then, we could speed up the entire process.

Does the justice department of Canada see that as its responsibility or does it see that as an Indigenous Services responsibility? Which department does that fall into?

**Ms. Margaret McIntosh:** I think every federal department that's represented today has a little piece of the picture here. That's part of the problem. There are so many different players and so many issues.

I've already talked about administration of justice agreements, where we're trying to fix some of these problems by working with individual first nations to bring all the players to the table together. We have the opportunity to develop tribunals on reserve or to enhance enforcement and prosecution issues on individual reserves, but it is a very complex system. The provinces are very much involved as well, and the police forces are a key to resolving these issues.

**The Chair:** Thanks, Mr. Viersen.

We'll go to Mr. Powlowski for five minutes.

**Mr. Marcus Powlowski (Thunder Bay—Rainy River, Lib.):** Like everyone else, I find this very complicated. My understanding is that laws of general applicability apply on reserves. Although the Criminal Code is a federal jurisdiction in general, generally speaking it's the province that prosecutes Criminal Code offences, right? This isn't under the PPSC, and it isn't normally federal prosecutors who would prosecute Criminal Code offences on reserve.

**Mr. Jeff Richstone:** That's correct, sir, except if it's north of 60, but there are no reserves north of 60.

**Mr. Marcus Powlowski:** You talked about the prosecution of bylaws under the Indian Act and the problems with doing so. My understanding is that you've worked out a process whereby you can prosecute those, but first of all you have to review those bylaws for constitutionality and you have to come up with an agreement with the first nation before you enforce them, right? My understanding is that this is a new process.

• (1200)

**Mr. Marke Kilkie:** That's right. It's a new process and is just in place for the pandemic.

**Mr. Marcus Powlowski:** I'm a little confused here, in that the Indian Act, I think, is from 1876. It has been 145 years since it was written. I know it has been amended numerous times; however, I would think that the provisions related to control of infectious diseases were in there from the beginning. What has been happening in 145 years? Have they just been sitting there unprosecuted for 145 years?

**Mr. Marke Kilkie:** I won't pretend there isn't a gap. A gap has existed for decades. We recognized that gap, and before the pandemic came upon us we had undertaken to work with our partners to find solutions.

The solution we have in place now is very much a stopgap approach, a risk-managed approach. We still need a broader solution that brings together the various partners, including very much the provinces—the provincial attorneys general, the provincially appointed police officers, and frankly the provincial courts, where these offences have to be prosecuted.

**Mr. Marcus Powlowski:** Now, these new agreements.... I've spoken to Chief Peter Collins of Fort William First Nation numerous times since the beginning of the pandemic. He has repeatedly voiced his frustration with the inability to enforce bylaws he's made under the Indian Act. I would suggest, but perhaps I'm wrong, that the fact that the bands, the first nations, can make these agreements with PPSC isn't something that's broadly known among the chiefs.

What has your ministry done in order to inform the chiefs that this is an option that is open to them? As I say, they don't seem to know, and this is the first time I've heard anything about this.

**Mr. Marke Kilkie:** I am not surprised by that. We are not reaching out. We don't have that capacity. We're not a typical department with that kind of outreach or programs. We are here to act on behalf of the Attorney General. We're a very small department. We have put this in place knowing that it's not perfect, and have been doing it when approached by communities.

No, we have not issued a blanket communications strategy to let people know that this is available. We're doing it through word of mouth, primarily through the RCMP.

**Mr. Marcus Powlowski:** Finally, you said these bylaws have to be reviewed, first to make sure they can do this under the terms of the Indian Act, and second to make sure these bylaws are constitutional. I know many municipal bylaws are made by municipalities and the power is delegated to them by the province to make the bylaws. Are these subject to the same requirement—that before somebody's going to prosecute those bylaws, some parent organization has to review them and make sure they're constitutional?

**The Chair:** Please be brief.

**Mr. Marke Kilkie:** I can't speak to that, because we don't prosecute municipal bylaws. We prosecute federal statutes on behalf of the Attorney General of Canada. We're looking for the same kind of review that all federal bills and legislation go through before they go to Parliament, so that we can be applying the same standard on behalf of the Attorney General that we do in all the other situations in which we prosecute.

**The Chair:** Thank you very much.

Madam Bérubé, you have two and a half minutes.

[*Translation*]

**Ms. Sylvie Bérubé:** Thank you, Mr. Chair.

My question is about First Nations police services. Earlier, Ms. Mugford talked about Indigenous police services, about self-determination and about protecting their territory.

What training have members of First Nations police services received?

• (1205)

[*English*]

**Mr. Douglas May (Acting Director General, Programs Directorate, Emergency Management Programs, Department of Public Safety and Emergency Preparedness):** I'm Douglas May with Public Safety Canada.

The training first nations officers get depends on the kind of model or agreement the first nation is subject to. If it is a community tripartite model, which is where essentially the RCMP are the police of jurisdiction, then that training is done through the RCMP depot, etc. If it is through a self-administered police agreement whereby the police services are authorized or established by the provincial or territorial government, it's the jurisdiction that would be responsible for that training. For example, in B.C. it would be the justice institute and in Ontario it would be the OPP, etc. It depends largely on the jurisdiction in that regard.

[*Translation*]

**Ms. Sylvie Bérubé:** Many studies refer to systemic racism.

What is the situation for First Nations police services? Is there any trust in that regard?

[*English*]

**Mr. Douglas May:** That is something I cannot speak to. I apologize.

**The Chair:** Mr. Talbot, did you wish to speak to that?

[*Translation*]

**Mr. Jacques Talbot:** I can clarify a little.

The policing agreements signed with Indigenous communities to fund their police services are tripartite agreements signed with provincial governments. They establish their training requirements in those agreements. The principle is that Indigenous police officers receive the same training as non-Indigenous officers.

In Quebec [*inaudible*] or Ontario, the provinces also require cultural sensitivity training that officers must receive. Very often, the First Nations themselves play a role in establishing the programs designed for them.

The Government of Quebec has some very interesting initiatives. Of course, the people responsible would be in a much better position than we are to talk about them, particularly about what being is done at collegiate level or at the Institut de police du Québec in Nicolet. The Royal Canadian Mounted Police training depot also...

[*English*]

**The Chair:** We'll have to interrupt there. I'm sorry. We're just about out of time.

We'll go to Ms. Blaney for two and a half minutes.

**Ms. Rachel Blaney:** Thank you so much, Chair.

Mr. Traynor, if I could, I'll ask you a question. I'm hoping you're the right branch.

I guess what I'm trying to understand a little more is that there has been some money announced in the 2021 budget. What will be the mechanism for getting those resources to indigenous communities, to first nations communities? Will there be an application process? Will there be a rating? What will be the criteria?

As has been said a few times, it is a complex multi-jurisdictional challenge, so I'm wondering how will it be rolled out and in what kind of program. Do you know that answer at this point?

**Mr. Stephen Traynor:** At this point in time, I'd have to get back to you on that question. I do not have any information about it but will endeavour to get back to you.

**Ms. Rachel Blaney:** Thank you.

If I could come back to you again, Mr. Traynor, you talked about the K'ómoks situation. I represent K'ómoks and know Hegus Rempel quite well. You described it as a success and I'm curious about that, because that nation of course spent \$178,000 of its own resources to fight this in court. They won, but this is one of the challenges when we talk about so many different things that the nations themselves are having to find a way to resource, and it keeps them financially unable to build up their own economic independence.

You're specifically involved in land management. I'm wondering what is the gap that creates a situation such that indigenous communities, first nations communities, can do all the work and create the bylaws, and yet when they call, they can't get those bylaws enforced. I've heard many stories about how, if a community has a good relationship with the local RCMP—and for my riding, that is what it is—the RCMP will show up and stand there. They can't really do much, but they're there in solidarity, in the hope that the policing that now the chief and council are also taking on, on top of everything else....

What is the gap? Why can't they enforce their own bylaws?

• (1210)

**The Chair:** Answer very briefly, please.

**Mr. Stephen Traynor:** It is certainly a long-standing challenge. The best I can let you know is that we continue to work with the provincial governments and all our federal colleagues to better understand not only the gap but what the challenges are in reducing that gap.

**The Chair:** Thank you very much.

Hopefully, members of the committee, some of the questions that were difficult to have completely answered might be answered in our follow-up panel. In the interests of time and getting a fulsome committee hour in, we'll suspend for the moment, change our panels and then return.

Our committee is now suspended.

• (1210)

(Pause)

• (1210)

**The Chair:** I call this meeting back to order.

With us in the second hour are the following witnesses: Hegus—Chief—Nicole Rempel, from K'ómoks First Nation, and Chief of Police Keith Blake, vice-president, west, of the First Nations Chiefs of Police Association.

Chief Rempel, please go ahead for a six-minute presentation.

**Chief Nicole Rempel (K'ómoks First Nation):** Thank you to everyone here for the invitation to speak on a matter of great importance to my community, which is the K'ómoks First Nation, and in fact to all indigenous communities, whether they are under the Indian Act, land code, or are self-governing under a modern treaty.

I'd like to start with the following statement.

Self-government and the rule of law are meaningless and empty slogans if first nation laws cannot be enforced. The Crown has the necessary tools to enforce its laws. Federal and provincial governments are well financed and equipped with police forces, prosecutors and courts to ensure their laws are enforced. Enforcement of first nation laws is complex because the right enforcement tools are not available and capacity for enforcement is not yet developed with first nations.

In British Columbia, the RCMP will generally not enforce first nation laws because the provincial prosecution service will not prosecute offences under first nation laws, whether they are bylaws under the Indian Act, land code laws, or laws enacted by treaty nations. This is because they are not enactments for the purposes of provincial law.

The K'ómoks First Nation helped fill this jurisdictional void by addressing the unenforceability issue head-on in court in 2018 with the K'ómoks First Nation v. Thordarson and Sorbie decision. K'ómoks had a lessee, Ryan Thordarson, and his wife, Amelia Sorbie, who refused to pay rent to their landlord, who held a certificate of possession. Their lease was terminated and they were evicted. However, they still refused to leave. By refusing to leave, they had committed a land code offence because they had no lawful right to be on our lands. They were thus issued a notice of trespass by me under our land code, which is a quasi-criminal offence.

I should state that the difference between Indian Act bylaws and land code is that the authority is transferred from Canada to first nation land code nations to develop laws and to have those enforced. That's where this confusion seems to come in.

The RCMP said they could not remove Thordarson or charge them under the land code offence. They would attend and keep the peace as our laws were not “real laws”. The Crown would not prosecute as it didn’t recognize our laws or the authority we had to create these laws. These are not bylaws; these are laws.

K’ómoks had a difficult decision. We had someone squatting on our land illegally, so we decided the only way forward was to charge and prosecute the offence itself via Criminal Code provisions that allow for a private prosecution of a criminal offence. This was unheard of.

The court was baffled and unfamiliar with the land code and the authority granted to develop and enforce laws under the framework agreement of the First Nations Land Management Act. After 10 months in court proceedings, the court eventually got to the understanding and ordered the police to remove the trespasser. This carried significant costs to K’ómoks in legal fees for private prosecution, in the ballpark of \$178,000. The trespassers got 10 months of free rent and were fined \$1,000 each. This was hardly an equitable decision. It was an extremely costly process. We should not have had to go to court to get that court order.

Just this week—today, in fact—we have another trespasser on reserve who was issued a notice of trespass by me and an RCMP officer two days ago. We are not hopeful that he will leave. In fact, he has dared us to take him to court. We could potentially be looking at another costly court case.

With the court decision in Thordarson in favour of K’ómoks, the question of enforcement should be a non-issue and the RCMP should be there to enforce the matter. However, we’ve been told by the RCMP lawyer that they have not been granted that direction from higher-ups within the RCMP. While our relationship with the RCMP has drastically improved due to a change in inspectors, their hands are tied at the moment with regard to enforcing laws, because of the lack of direction from above.

A big selling feature of the land code framework agreement is being self-governing on our reserve lands, with the ability to create our own laws and have them enforced and recognized in courts, which wasn’t happening under the Indian Act. Funding also remains an issue to develop laws and enforcement.

A secondary issue that we have is that K’ómoks is also in the ninth year of stage five treaty negotiations. We recently held a forum on first nation law enforcement in partnership with the BC Treaty Commission. This forum included land code nations, nations negotiating treaties and self-governing nations, as well as police officers and representatives from the offices of the attorneys general, both federal and provincial.

● (1215)

What we learned was that nations such as Maa-nulth and Tla’amin have been struggling with enforcement issues as treaty nations, and neither has successfully prosecuted a single offence under their laws.

To date, the only modern treaty nation to successfully address an enforcement issue is the Tsawwassen First Nation, which has a very costly enforcement agreement with the Delta municipal police.

To be self-governing, first nations need to have proper enforcement tools, including an adjudicative body, enforcement services and capacity for policing, and mechanisms that harmonize with the provincial court administrative systems.

We are trying to achieve the above through our land code by creating things like community protection laws, adjudication laws and a justice tribunal, and also through our treaty negotiations because we are very close to voting on a treaty. If we’re dealing with this under the land code as a self-governing portion under the Indian Act, then how is this going to work out for a treaty? So far, modern-day treaties provide only the first of these tools, and that is law-making. It’s the same with the land code.

Before closing, I just want to refer back to the enforcement forum that was hosted by the BC Treaty Commission. It had a number of recommendations. I’m happy to provide these to you, to whomever I need to provide them to, so that they can be shared. There are a number of recommendations, including needing language in the treaty to ensure that first nations laws under treaty can be adjudicated under a first nations justice tribunal.

With regard to the mechanics of enforcement, we need to change the treaty language and provincial law to clarify that first nations laws are “enactments” for the purpose of the Provincial Court Act. That will allow the filing of a first nations justice tribunal order and enable it to come to the order of a court to trigger court enforcement mechanisms.

With regard to policing and enforcement agencies, we have tried for years to negotiate a tripartite agreement with the Province of B.C. and the RCMP, and we have been told repeatedly that they no longer do these tripartite agreements. I understand that may be changing, and I really hope it does. The issues we’re facing here in K’ómoks with drug dealers, people trespassing....

● (1220)

**The Chair:** We’re at time, Chief Rempel.

**Chief Nicole Rempel:** I shouldn’t be in these people’s faces.

Thank you for your time.

**The Chair:** I’m sorry for interrupting. It’s all important, but we want to make sure we get a full round of questioning in.

Chief Blake, you have six minutes. Please go ahead.

**Chief Keith Blake (Vice-President, West, First Nations Chiefs of Police Association):** Good afternoon, everyone.

*[Witness spoke in Tsuut’ina]*

[English]

My name is Keith Blake. I'm the chief of police of the Tsuut'ina Nation. I'm also an executive member of the First Nations Chiefs of Police Association and am proud to represent 36 self-administered first nations police services across our country.

First, I want to thank you for this opportunity. It's a critically important discussion, and our communities have been speaking long and loud in relation to this very topic.

As this discussion relates to the enforcement of first nations, which really falls under the police jurisdiction, I thought it would initially be important to touch on the first nations policing program. I was fortunate enough to hear some of the other panellists, and this was a discussion point. I thought it might be good, however, to put it through a first nations policing lens.

The FNPP is over 35 years old and is in dire need of immediate change. The program is a signed funding agreement—in our case a tripartite agreement between the nation, the province and the federal government—which unfortunately creates inequities and unfair restrictions for first nations police services that are not experienced by the traditional mainstream policing services.

The FNPP has not yet been designated as an essential service and it falls under, as was mentioned earlier, the grants and contributions program. The funding is neither long-term nor sustainable, and our funding agreements, specifically in our case, are really year-to-year extensions.

This funding model truly does not allow us to properly prepare and strategize for the community's needs and public safety. It's also funded only for what could be termed core policing function—that is, responsive models. We're not funded to have community programming, prevention or the specified and specialty units other police services have.

It's important and, I think, really critical to note that former public safety minister Ralph Goodale stated that the program “does not cut the mustard” and is in dire need of change. The current minister, Bill Blair, stated that the FNPP needs updating.

Canada has a responsibility to improve first nations policing by making it an essential service and providing adequate funding for the nations to build and sustain proper infrastructure, including governance models.

This unstable funding model has really created an air of instability within our services, whereby our officers and our staff members don't feel that this is a program that will be sustained, and therefore feel that perhaps their profession and their jobs may not be sustained.

This disparity also includes what we receive in our salaries and in our pension and benefits. We end up usually losing our really high-quality officers to more mainstream policing services that have a sustainable funding model at a higher rate.

To sum up, our first nation police services are underfunded and understaffed and face unfair barriers and impediments; yet we still see unprecedented successes in effective, efficient and culturally appropriate community-based policing.

I will also state that we were very happy to hear of the infusion into the program in the last federal budget. We're guardedly optimistic that it will bring some needed support and changes within the program.

Speaking to the enforcement side, the enforcement role that the police undertake is just one important part of the structure of the justice system in our communities. There is the legislative piece, the enforcement piece, the prosecution and the adjudication component. Though we recognize that not many communities have the direct ability to change the way funding and the justice systems correlate, it is important to consider the historical traumas experienced by indigenous peoples, throughout our country and for generations, while considering the ongoing harm that inadequate funding causes in the justice resources that government bodies provide; it is to one of the most vulnerable populations within our country.

Nation-legislated offences are an important aspect of self-determination. They are created from a community lens to address the individual nation's self-identification and the specific needs of the community and the challenges they face.

A key piece of the justice framework is the prosecution of lawfully enacted nation legislation. Most jurisdictions across the country do not recognize or prosecute nation-legislated offences. The challenge most indigenous communities face in this country is the refusal or the reluctance to have provincial crown prosecutors or federal prosecutors undertake the prosecution of these nation-legislation cases.

Although this is unfortunately the situation that most communities find themselves in, there are glimmers of hope. In this instance I'm going to provide a brief glimpse into our Tsuut'ina Nation justice model.

We have a signed agreement with the Province of Alberta for what is termed our peacemakers court, which is unique. Across this province there are no other communities that have this agreement, so we are unique. Our court is configured in a healing circle and is mandated to have an indigenous crown prosecutor, an indigenous judge and indigenous court workers.

● (1225)

It also has a peacemaker present, who oversees this process. The peacemaking process can be utilized if the offence falls under certain criteria. Some offences are ineligible—things like manslaughter or sexual assault. The individual can be recommended throughout the peacemaking process and can be recommended by the Crown, by the judge or by the defence, and the recommendation can occur any time throughout that process, pre-charge or post-charge.

The process requires the approval of the victim. It is also an agreement that the offender must enter into. It requires the offender to appear before a peacemaking tribunal. That tribunal will consist of formally mediated, trained community members and elders. It's designed to be restorative and less punitive, and it really does look at the root causes of crime.

This peacemaking process enables the justice system to address what I spoke to earlier—the root cause of crime—as well as both Criminal Code offences and nation-legislated offences, through a traditional value system that provides the community a voice in determining what an appropriate resolution may be.

Although there are still many challenges and still much work to be done in indigenous communities across the country, I want to thank the committee for giving me this opportunity. I'm happy to answer any questions you may have.

**The Chair:** Thank you, Chief. I know we're eager to get to those questions.

Mr. Vidal, you're up for six minutes. Please go ahead.

**Mr. Gary Vidal (Desnethé—Missinippi—Churchill River, CPC):** Thank you, Mr. Chair.

I want to thank both Chief Rempel and Chief Blake for being with us today. Your testimony and knowledge and experience are very helpful as we pursue some answers to this question about policing as an essential service.

The mandate letters for the Minister of Public Safety and Emergency Preparedness and the Minister of Indigenous Services both refer to co-developing a legislative framework to recognize first nations policing as an essential service. In our last panel—I'm not sure if you were both observing the first hour panel—we had officials from four different federal departments on the panel. If I recall, I believe it was Ms. Blaney who asked the question about defining essential services. I'm not sure we actually got an answer to that question from the department officials. We have this mandate that talks about policing as an essential service. I'm not sure anybody is telling us or defining for us what that is in the jurisdictional quagmire we seem to find in the federal departments.

I'm going to start with Chief Blake, and then, Chief Rempel, ask if you'd be prepared to answer the same question.

Would you, in your terms, take a moment and define for me, in your experience at the level of work that you both do, what defining police service as an essential service would mean as a difference in the communities you serve?

**Chief Keith Blake:** Thank you. I appreciate that opportunity.

Again, I'm very much wanting to understand what essential services means in the definition from Public Safety Canada and the federal government, because that hasn't been clearly defined in any of the meetings I have attended.

I think what's key and critical is to ensure that again we're not under a grants and contributions program under which funding cannot be sustained or secured. We need to recognize and realize that we are not asking for anything more in our funding, but we certainly don't want anything less. Our communities deserve it, and we want to ensure that our service officers and staff are treated in the same manner that other police services often take for granted.

The term “essential service”, I know, is something that needs to be spoken to and addressed, but I hope it relates to sustainable long-term funding that can be secured and assured to our communities, and that there is the recognition that policing isn't just a

responsive model. It needs to address the root causes of crime through crime prevention and preventative programming, as well as providing us opportunities to grow our police service and have those specialized units that can address the problems within our communities for which we have support only through outside agencies: the RCMP in provincial policing jurisdictions, the OPP and the Quebec police service.

Those are just some of my comments, and thank you for that.

**Mr. Gary Vidal:** Thank you.

Chief Rempel, do you want to add your comment to that question? Then I will have one more for you, hopefully, if the chair gives me time.

• (1230)

**Chief Nicole Rempel:** Certainly, and thank you to Chief Blake for those comments. I echo those.

As well, I would just add recognition of authority from the RCMP as well as the provincial courts. Our people expect the same services as the general population, and we are not getting that response from the RCMP or from the courts.

There's funding as well. If first nations enforcement is an option to create our own first nations authority, I think that would be wonderful and maybe alleviate some of the issues we are having.

I would really like to hear the federal and provincial definition of essential service as well.

**Mr. Gary Vidal:** Thank you. I appreciate that from both of you.

I'm going to follow up again with just another question along that same line. The federal government talks about this co-development process. I'm just curious whether you, Chief Blake, in your role with the association, and Chief Rempel, in your role as the chief of a first nation, know of people within your organizations—colleagues or peers—who have been involved or been asked to be involved in the co-development of this process?

**Chief Keith Blake:** I can advise you that the First Nations Chiefs of Police had a teleconference with Minister Blair last week, and we discussed initially how that might look and what's required. Previous to that, I know the AFN was involved in that framework discussion.

I really hope that the subject matter experts in first nations policing are at the table to discuss the challenges, the successes and the framework. That's so vitally important because, without those consultations, I don't think it will be the success that everyone's hoping it can be.

**Mr. Gary Vidal:** Chief Rempel, I want to be a bit more specific with you. I'm curious if you're aware of any chiefs at the local level who have been asked to be involved with this process.

**Chief Nicole Rempel:** No, I am not currently aware of any. I would certainly like to participate in that and have that opportunity.

It's important to note that while the AFN provides a great service to first nations, it does not accurately, in my opinion, represent every first nation. There may be a reliance on engaging with these larger groups, but they don't necessarily represent my nation, so nation-to-nation discussions are also critically important.

**Mr. Gary Vidal:** I suspect that in conversation with your peers, I might hear that same answer from any of them. Would that be fair, in your opinion?

**Chief Nicole Rempel:** I'm sure it would, yes.

**Mr. Gary Vidal:** Thank you.

Mr. Chair, I think I'm pretty close. I'll cede the rest of my time.

**The Chair:** Thank you very much.

Mr. van Koeverden, you have six minutes. Please go ahead.

**Mr. Adam van Koeverden (Milton, Lib.):** Thank you very much, Mr. Chair, and thanks to both of our witnesses in this hour for providing your very valuable insight and perspective on this.

Chief Rempel and Vice-President Blake, we really appreciate your being here today. Thank you.

My question is focusing on the path forward and the next three to five years. Budget 2021 proposes to provide almost a billion dollars over the next five years, and in particular over half a billion dollars to support indigenous communities currently served under the first nations policing program and to expand that program to new communities.

In addition to that, there are over \$100 million to repair, renovate and replace a lot of the policing facilities that have no doubt worn the test of time in first nations and Inuit communities in Canada. In addition to that, there are over \$100 million over the next five years for a new pathways to safe indigenous communities initiative, and to develop a more holistic and community-based safety and wellness model.

Given that you would like and indeed deserve deep consultations on these expenditures and investments in indigenous communities, I would love to hear your reflections on how these investments would and potentially could positively impact your communities with better outcomes for your constituencies, as well as any recommendations you have.

Vice-President Blake, I see that your mute is off, so I'd ask you to go first and provide enough time so that Chief Rempel is also able to reflect. Thank you.

**Chief Keith Blake:** Thank you, sir, for this opportunity.

I can speak from experience in the past. Of course, the program itself depends upon our federal and provincial funding partners, 52% from our federal partners and 48% from our provincial partners.

The problem with this type of funding is that if we don't have that 52% or 48%, we just don't get it. Again, provincially, we're facing some challenges in the province of Alberta. I don't know if their 48% would be available to us.

The other challenge I've seen in the past is that it pits our first nations police services against each other. We're vying for all the

dollars that are available, and I think we're all in dire need of that money. Again, it's about the best business case. Really, it's not the way I would like to see it. I would like to see evaluations that are more objective and that provide us all accessibility to the funds that are needed.

Again, it is welcome, and we are guardedly optimistic that it will make a difference. Ultimately, however, just to give you some perspective, our service received an additional resource two years ago, and prior to that, it was 12 years before we had any funding for an additional resource. That's far too long, and I'm sure you can appreciate the fact that, for that period of time, we needed growth. Our communities are the fastest-growing communities in Canada, and we have the largest youth population, which needs preventative programming, prevention and engagement. It's hard to do it when all you're doing is responding to calls.

• (1235)

**Mr. Adam van Koeverden:** Thank you, Vice-President Blake. Having worked a lot on the sports side, both on the indigenous sports side and with Sport Canada, I can reiterate how competitive the application process is between sports. I see some similarities there. I would also agree that, between 2005 and 2015, investments in various community-serving programs were very limited in this country.

Chief Rempel.

**Chief Nicole Rempel:** Thank you.

This is a complicated question for me because we don't receive funding, as far as I know, for these matters. We rely on the RCMP to deal with enforcement and justice, and unfortunately, with the province not doing tripartite agreements, it's very difficult for me to really answer this question.

When we have an issue, we call the RCMP and we are told consistently that they cannot deal with that, that it's not a real issue. Tripartite agreements are things that should be looked at within the Province of British Columbia to assist us in being able to address the concerns we are having. As well, I would recommend cultural sensitivity training for all RCMP officers, and again, preventative programs and such, which Chief Blake also mentioned.

**Mr. Adam van Koeverden:** Thank you. I was quite frankly unaware that your community might be ineligible for some of these funding programs and opportunities.

What are some methods by which we might consider expanding eligibility to include your community?

**Chief Nicole Rempel:** I'm not sure what the eligibility requirements are at this point. I've never actually heard of any of these programs, so it's new to me.

I've been in this role since 2017, dealing with a lot of issues on reserve and not getting a lot of help. I'm looking forward to talking more about the FNPP and tripartite agreements to see where we can get. However, we have asked for these programs before and been told no.

**Mr. Adam van Koeverden:** With an investment of over \$800 million over the next five years, I sincerely hope that your community will be included and that we can work together to ensure that the eligibility is there.

Mr. Chair, I cede my time to you.

**The Chair:** Thanks very much, Mr. van Koeverden.

Madame Bérubé, please go ahead.

[*Translation*]

**Ms. Sylvie Bérubé:** Thank you, Mr. Chair.

My thanks to the witnesses for joining us today.

Your testimony and the questions we ask shed light on the subject for us.

My question is for Mr. Blake.

According to what you were saying earlier, you are underfunded. I would like to know how the new legislative and financial framework will be able to help with the security and well-being of First Nations communities.

[*English*]

**Chief Keith Blake:** Again, it's difficult for me to project that in not knowing what framework is going to be involved. We hope that what it does is increase our funding levels to longer-term opportunities.

Just for perspective purposes, first nation police services are averaging about 25% to 30% less funding than our mainstream competitors across the country. It depends on the region you're in as to those funding levels, but that would be approximately what we see as a funding gap that's there. I do hope, once again, that the monies that are being considered are being done through the lens of what support can be provided to our communities.

Chief Rempel is absolutely correct in saying they need to lift the moratorium on this opportunity for communities to have a voice and a say in the police service they wish to have representing and providing public safety to their communities.

I would love to see that opportunity arise for more communities. I can tell you as a chief of police here in Alberta, I receive phone calls weekly from communities asking me, how do we do this? I wish I had an answer and I wish there was an opportunity for them to look and to actually move forward in their own self-administered police service.

• (1240)

[*Translation*]

**Ms. Sylvie Bérubé:** Did you take part in the process?

[*English*]

**Chief Keith Blake:** Again, the process—from my understanding, if that was the question—relies on the provincial government

of jurisdiction. Of course, that is the Province of Alberta here, and so on across the country. It would require them, because they're the ones who have the purview of policing within the province, and then it requires the support of the federal government additionally.

The process is there. Unfortunately, it's a cumbersome process and you really need to get all the partners at the table, which in COVID-19 times is even more difficult. It's not a simple process, but it is certainly something that I hope this money that's projected will go into, because it's needed, necessary, and the communities very much want to have that process available to them.

[*Translation*]

**Ms. Sylvie Bérubé:** Could you tell me about the training you provide for the members of your First Nations police service?

How would you compare it with the training that non-Indigenous police services receive?

[*English*]

**Chief Keith Blake:** Absolutely.

Again, I'll speak on the Tsuut'ina experience, because provincially that will change throughout the country. We have to follow all the legislative requirements that every police service in Alberta does, so we are no different. Our training needs to be at certain levels. We previously would send our officers to Depot, the RCMP training academy, but what we now have is an agreement with the Calgary Police Service whereby our officers will attend their Crowfoot training centre for the six-month duration. They can continue to live here on the nation and travel to and from the training academy in Calgary. It also involves an ongoing training program that we have here.

We have the same qualifications and recertifications. All the things we do are the same as every other service. We have the same accreditation; we have the same authorities as other police services, and we're proud of that. We don't want to be less than; we want to be equal to.

When it comes to the ongoing training, I'm very proud to say that our service also looks to the leaders within the culturally appropriate training. Again, we don't like looking at the culture training; that's a very sterile term. We look at the reframing of our relationships with indigenous peoples. We offer this training to all police services within the provinces, and in fact the country. We held one two weeks ago, for three days. We had the global indigenous model of the situation that Canada has faced. Then we move it down to each region of the country. We also have the lived experiences from people who have suffered as a result of the justice system, and all that we know of. We speak to elders. It's a three-day program, and it's holistic and fulsome.

Again, we host that training every two to three months, and we invite people across the country, law enforcement officials from everywhere, to take that on with us. That's an essential need, and it's something that's missing, I think, in many jurisdictions.

**The Chair:** You have half a minute.

[*Translation*]

**Ms. Sylvie Bérubé:** Has the pandemic led to any recruiting problems?

[English]

**Chief Keith Blake:** I think it has.... The way in which we engage with our possible candidates has been more virtual. Again, it hasn't diminished the interest in policing. As I said, one of the challenges we face is that there's a disparity in the service that first nation policing receives, comparatively.

Again, we don't want to be a feeder system for other police services, whereby we get them trained, and they're great, and we get them engaged, only for them to go somewhere else. Again, that very much needs some support from our funding partners to [*Technical difficulty—Editor*].

**The Chair:** I'm sorry, we've frozen at that point. Perhaps the technology will improve as we move on to our next questioner.

Rachel Blaney, you have six minutes.

• (1245)

**Ms. Rachel Blaney:** Thank you, Chair.

I want to thank both of the witnesses for being here today.

I would like to start with you, Ms. Rempel. First of all, thank you so much for being here with us this morning.

The first thing I will say is, on the recommendations you talked about, please feel free to send those to the clerk, and we'll make sure they're included in the testimony.

The first question I have is around the land code.

It seemed to me from your presentation that when you spoke about that, it was a progressive process of moving toward self-governance. You moved out of something where the RCMP could come in and enforce; you moved to something that was promoted by the federal government, and now you're in a position where you can't enforce it. I just want to make sure I had that right.

**Chief Nicole Rempel:** Yes, that's correct.

I actually developed our land code law prior to being elected as chief. The big selling feature to members who are voting on whether or not to ratify a land code is that we have the ability to create our own laws, and they will be recognized in the courts and enforced by the RCMP. That's basically what the FNLM tells you. We go into this, telling our members that this is a great thing, and then when we get to the reality of it we find that, yes, we can create the laws, but we can't get the enforcement; we can't get the recognition in the courts without going through a costly process, like K'ómoks had to do.

**Ms. Rachel Blaney:** It was an expensive court case, and the representative from Indigenous Services Canada earlier today, in his presentation, called it a success. I'm just wondering if you would describe it as a success. Did this result in any ability of the RCMP to be able to come onto your nation and enforce this bylaw?

**Chief Nicole Rempel:** It's actually a law and not a bylaw. That's an important distinction, for sure.

I'm sorry. What was the question again?

**Ms. Rachel Blaney:** Was it a success, and has the court case made it possible for the RCMP to come and enforce your law?

**Chief Nicole Rempel:** Sadly, no. I would call it a success, absolutely. It is a precedent-setting case across Canada. I've been asked to speak all over Canada about this case. However, I'm facing this issue, literally today, with another trespass issue, and I don't have the confidence that the RCMP will be there to assist in the enforcement of our notice of trespass. Even though the previous orders and decision were that, ultimately, it needed to be enforced by the RCMP, I just don't feel confident that this is going to happen today.

**Ms. Rachel Blaney:** After this court case, did anyone from the federal government, after seeing this success, reach out and talk about how they could support creating solutions for your nation in terms of the enforcement of your laws?

**Chief Nicole Rempel:** No. I've been asked to speak by the Department of Justice in Ottawa, and I've done that with the lawyer several times, doing presentations on that case, but nobody has reached out to see how we could fix it, so today, when I have to go back up there to see if these trespassers have now left, there are no solutions in sight.

**Ms. Rachel Blaney:** Was there any mechanism for you and your nation to recoup any of the costs to the nation to take on this really important court case?

**Chief Nicole Rempel:** It's important to note that the First Nations Land Management Resource Centre ended up reimbursing us for the cost of that court case. Today we will find out if these trespassers are now leaving. If they haven't and we have to go to court again, I'm not sure the resource centre will feel as generous this time around.

I know that in speaking with the inspector here locally, with the RCMP, he's feeling like his hands are a bit tied because there isn't that direction from his higher-ups to enforce. They want to; it's just that they need that direction.

**Ms. Rachel Blaney:** I've heard that as well from local RCMP across the riding. Often they feel very frustrated. They want to help but they can't, because there's not the clear pathway.

In terms of that discussion, how does it feel to be trying to govern your nation, having taken that step towards having a land code, doing all of the work to have your own laws in place, consulting obviously with your membership, and then not being able to enforce? One of the things that really hit me about your presentation today was when you said that in this case that you're dealing with later today, they're literally mocking you and saying go ahead.

How does that feel for you as a leader of your community? How does that resonate within your community?

**Chief Nicole Rempel:** It's absolutely frustrating. We're only speaking of the trespass issues, but I am regularly in the face of crack dealers who are not band members. They are guests of band members living on reserve. Because we have certificates of possession, we can't simply kick people out. They have rights to their homes and their properties.

I'm consistently putting myself in danger, because we can't get the support that is very desperately needed. It's frustrating from a leadership perspective to see how frustrated our members are. They ask why the chief and council aren't doing anything. We regularly have our RCMP liaison officer attend our meetings to try to explain to the membership why the chief and council can't achieve these things—why we can't kick crack dealers off our lands and why we can't deal with trespassers. It's because of the lack of authority given from above to the local RCMP detachments.

**Ms. Rachel Blaney:** There's continuous conflict in your own nation because you cannot enforce what you have tried to create a law for.

• (1250)

**Chief Nicole Rempel:** Yes.

**Ms. Rachel Blaney:** Thank you.

**The Chair:** Thank you so much.

What a conversation this is, members of the committee. I think we can manage an intervention from each of the four parties again. It will require a motion to extend the meeting past one o'clock. There's also a bit of budgetary business that we need to do.

Could I have a motion to extend beyond one o'clock?

**Mr. Jaime Battiste:** I will make that motion.

**The Chair:** Thank you very much. Mr. Vidal seconds it.

All in favour?

**Some hon. members:** Agreed.

**The Chair:** That's carried.

We'll go to Mr. Viersen, Mr. Battiste, and Bérubé and Blaney.

Arnold.

**Mr. Arnold Viersen:** Thank you very much, Mr. Chair. I want to thank our witnesses for being here today.

I'm just wondering, in the respective communities that you operate in and represent, what's the size, in terms of the number of people?

Ms. Rempel?

**Chief Nicole Rempel:** We are a very small nation. K'ómoks First Nation has 345 members currently, with about 112 living on reserve.

**Chief Keith Blake:** Our community has approximately 2,400 band members, of the Tsuut'ina Nation. We have some unique opportunities and challenges. Because we're so close to Calgary, there's a very aggressive and visionary development program here. We were the first nation to have a Costco. We have a very strong commercial development, which sees literally thousands of Calgaryans on our territories each and every day. Although our population may be smaller, comparatively, to some others, and we have some demands and challenges, we also have opportunities that we're very proud of.

Again, our land mass is about 100 square miles. Three of our borders butt up against the city of Calgary.

**Mr. Arnold Viersen:** How many members are in your police force?

**Chief Keith Blake:** Again, we're very fortunate. Our community has taken public safety and community safety to heart.

Ten of our officers are funded through the tripartite agreement. That's 52% from the feds and 48% from the provincial government, and 16 of our officers are fully funded by our nation. Again, we more than doubled the funding amounts that our funding partners within the province and federal governments give. We have 26 officers in total, and 32 total staff members.

**Mr. Arnold Viersen:** Ms. Rempel, just around building capacity, with 112 members on the reserve, in terms of the ability to build a justice system in your nation it looks like you purely don't have the numbers to be able to manage that capacity.

Are you attempting to? What's the process that you're going through?

I have 14 first nations in my area. All of them are dramatically larger than that. They are struggling as well.

Where would you like to see that go, in terms of a tribunal or something, so that we can get some more immediate justice? The timing of the justice in many cases.... Enforcement's an issue, but then if your golf clubs go missing and three years later you finally have some resolution to that, that's three golf seasons gone. You just go to the store and buy new golf clubs. How are you dealing with that in your community?

• (1255)

**Chief Nicole Rempel:** Yes, for sure.

Right now under our land code we are developing a community protection law, an adjudication law and a justice tribunal. It doesn't specifically say we can do that within the framework agreement, but it doesn't say we cannot. Those are the options we're looking at.

We have so many first nation communities adjacent to K'ómoks First Nation, like Homalco, Campbell River, Cape Mudge and others, that are also land code nations. When I was talking with other lands managers, prior to being chief, we kicked around the idea of developing a kind of first nations enforcement department where we could cost-share that among first nations land management nations. That's a possible solution. They would, of course, need the required training and the funding.

That's always been the question. Where does that funding come from? I don't think that the FNLM is as funded as it could be by the federal government for the amount of authority that it has passed on to first nations. I feel that there's a serious lack of funding for the FNLM.

**Mr. Arnold Viersen:** In my area they work with what they call tribal councils. The Lakeshore Regional Police Service is operated through the one tribal council, which is seven first nations in the area. You would have that similar opportunity in your neck of the woods, it sounds like.

**Chief Nicole Rempel:** There's potential for it, for sure.

The Vancouver Island dynamics of the Coast Salish and the Kwakwaka'wakw is always a concern in funding, as K'ómoks First Nation is both Coast Salish and Kwakwaka'wakw. We're always in a tug of war, depending on which side we're on and which funding opportunities we can access. It's all about trying to work together and move forward together, in my opinion. That's just the approach I've always taken.

**The Chair:** That brings us to time.

Mr. Battiste, you have five minutes.

**Mr. Jaime Battiste:** Thank you, Mr. Chair. My initial question is for Chief Rempel.

I'm coming to you from the Eskasoni Mi'kmaq community. We have close to 4,000 band members. One thing is that I've been in a room and have heard the RCMP saying that their hands are tied and they can't help out. I see the same frustration in your statements.

I'm wondering what process you would like to see whereby chiefs and councils can appeal decisions when we hear that local enforcement officers' hands are tied. Do you think that should be part of the \$861 million for five years that we've put towards policing?

**Chief Nicole Rempel:** That's a great question. Thanks for that.

I honestly would really love to see some of that funding go towards tripartite agreements again being offered to first nations in British Columbia. Prior to my being elected chief, the previous chief was trying to negotiate for tripartite agreements as well, so that we could work together on how to address these issues. It has just been a consistent answer of, no, we don't do those anymore. Opportunities like that need to be brought back, because we're never going to address these issues without having those agreements in place and working together.

**Mr. Jaime Battiste:** Can I get a sense from you of where, in your experience, the obstacles lie in terms of your saying that they don't do tripartite? Is it just the provincial government? Would funding make a difference, or is just that they generally don't want to do tripartite agreements with indigenous communities anymore?

**Chief Nicole Rempel:** I'm not sure. I'm not fully involved in the discussion. It comes to my table at the chief and council level just that the response has been no. It would be our band administrator who is trying to negotiate those things.

I'm not sure if it's just the province, or if they're not being funded federally, which could be the issue as well. I know that the RCMP locally would really like to be able to enforce and to assist the first nation, but you know.... I get that sense, anyway, and it depends on the inspector, I guess, because the previous inspector had no interest in helping K'ómoks First Nation anyway. It really does depend as well on who is helming the local detachment.

**Mr. Jaime Battiste:** Okay. I appreciate that.

Chief Blake, you said you were part of processes whereby you meet with police chiefs from other areas. Can you tell me about some of the best practices you're hearing about from across the province and nationally on how indigenous people are able to pass laws and get enforcement of those laws?

**Chief Keith Blake:** Each community is very unique. Each governance structure is very unique. It's very difficult to give a global picture, other than to say that there is a strong desire within all the communities to have legislation that is reflective of their community and their desires on law enforcement, as well as legislation that supports the safe running of their community and the safety of their community members.

When you look for best practices, there are many across the country. Obviously, my familiarity comes with what we have locally, and I think it really takes a Herculean effort to move this to where there's actually buy-in from our province within the provincial court system. Obviously, if it has to deal with the federal side, with the COVID laws that have come in and the Health Act laws, that is being supported through the Public Prosecution Service of Canada, and that's good to see.

Again, what I always like to say is that it's really important to hear from each community as to what their uniqueness is and how their structures support the community. I will say that in our instance here, there's is a strong community connection. Every two years, we reach out to every single house within this nation. We have a series of questions to ask about policing: what's good, what's bad, what we are doing well and what we need to do a lot better. That gives us the understanding not only from our local government, which is very engaged, but it also gives us the understanding of the community, and that's the voice we need to listen to.

Again, what they do is that they tell us where we need to improve, but they also give us advice on some of the areas that seep into the justice system—again, where it's more restorative in nature.

I would honestly say that the nation I work for—and humbly work for—is a best practice, but there are multitudes across this country that are doing an excellent job as well.

• (1300)

**Mr. Jaime Battiste:** Thank you.

I have one last question for you, Chief Rempel. I understand that the Assembly of First Nations has a chiefs subcommittee on justice and policing. Are you involved with that? Have you reached out to them about some of the concerns you have about the national approaches?

**Chief Nicole Rempel:** I have not heard of that, actually.

You know, I am hesitant to participate in these big events, because it seems that there's always a focus on certain first nations and not necessarily all first nations, so I don't feel meaningfully represented by the AFN. It's less so with the BCAFN, and perhaps I should take it to them first and see where we can get some headway with the BCAFN. The Union of B.C. Indian Chiefs might be a good approach as well, but certainly I haven't to date.

**The Chair:** Thank you so much.

That brings us to Sylvie for two and a half minutes.

Please go ahead.

[Translation]

**Ms. Sylvie Bérubé:** Thank you, Mr. Chair.

My question is for Mr. Blake.

A significant number of studies report systemic racism in police services. This results in mistrust of the forces of law and order, and raises issues of the overrepresentation of Indigenous detainees.

How do First Nations police services gain trust in their communities?

[English]

**Chief Keith Blake:** That's an excellent question. I think every organization needs to address it and look at it for what it really is.

Yes, that exists in policing. I was with the RCMP for 24 years prior to coming to the Tsuut'ina Nation Police Service, so I can attest to the importance of recognizing it as the first step. Then it is addressing it, and it comes through.... Again, the component I see as the most important within our service is that approximately 68% of our service officers self-identify as indigenous. Those who don't self-identify as indigenous have a very strong understanding of our community. Our community outreach is part of that understanding of not just indigenous culture but specifically the Tsuut'ina culture, which has its own series of traditions, history, language, all of those things. When you become part of the community or engage with the community, you recognize and understand the importance of respect, and you recognize and understand that you may have different opinions. You may have different thoughts. You have grown up differently, but ultimately the common goal, again, is respect from each other.

As I said, in our instance here, it comes through training and engagement, and I can say that most first nations police services are very reflective of the communities they serve. Perhaps that's not community members. In our case, we have four officers who are from our community, but that poses some challenges as well—to police the community you grew up in. Some people find it very difficult, but we also want to make sure that we are mentoring our community members to consider a profession in policing, because that is where this change will really come into play: when we have more representation in policing.

**The Chair:** That's all. Thank you.

Rachel, close off, please.

• (1305)

**Ms. Rachel Blaney:** I will. Thank you so much, Mr. Chair.

Ms. Rempel, if I could come back to you, I have two questions. I'm going to put them together as one and then just let you answer, since I have only two and a half minutes.

After the court case in 2018, looking back, would you make the same decision to move toward the land code or not? What do you think would be helpful from the federal government so that your nation has better outcomes for exercising policing authority over your own people with your own laws in your own territory?

**Chief Nicole Rempel:** I would, a hundred per cent, still look to the land code. As difficult as it is to have these laws and things enforced and recognized, I believe it is better than the Indian Act. The Indian Act is a very oppressive thing and very limiting to first nations. I have faith in the system, and I have faith that we can work

together to address these issues. It just takes an initiative from the federal and provincial governments to actually not just listen to first nations but hear us, hear what the issues are and work together to address them.

**Ms. Rachel Blaney:** The second part of that was: What would be helpful from the federal government to actually make those outcomes concrete?

**Chief Nicole Rempel:** Better funding specifically for first nations land management and better funding for the issues around enforcement. From a treaty perspective, looking to tighten up the treaty language and ensuring that there is the opportunity for adjudication, enforcement and recognition of our laws as enactments within the provincial system are critical so that we can actually be self-governing. If you don't have the enforcement of your laws, then you're not actually a self-governing nation.

**Ms. Rachel Blaney:** For the last question, you talked about how the last inspector was not very helpful but said that this one is. I just want to ask you this: How does it feel to know that there isn't a system in place to make sure enforcement is supported—to know that it's based on a personality?

**Chief Nicole Rempel:** It's difficult. When we talk about systemic racism, that is most certainly what we were facing prior to this inspector's coming in. Now I would say that we have a wonderful relationship. We have a liaison officer who works very closely with K'ómoks First Nation and is very communicative with myself and the band administrator, and that's been really important. There is a willingness to have cultural-sensitivity discussions within the detachment with the officers in a post-COVID environment, and I think that's really important as well.

**The Chair:** On behalf of the members of the committee, I want to thank our witnesses today for your brilliant testimony and especially for your candour. This is what we really need in panels like this, and we got it in great ways.

Chief Blake, I just want to share with you that the policeman I know best has three university degrees. Before he joined the RCMP he was doing archeological surveys overseen by the first nations. He got to be friends and joined them and was invited to reservations to participate in various activities. Of all the things he did prior to Depot, that may have been the strongest growth experience he had in terms of policing. There are some great people out there. I know that. Thank you for being here.

**Chief Keith Blake:** Thank you.

**The Chair:** Members, just before we sign off, I need your approval for two proposed study budgets. One is for this one—the current enforcement study—otherwise nobody gets paid, and one is for the upcoming sex trafficking study. They were distributed last Friday. You should have them. Is there anyone opposed to the budgets as they were presented?

Seeing no opposition, we'll assume they are adopted.

We will meet next Tuesday with more enforcement witnesses. On Thursday we have our regular meeting, and since our request to extend the regular meeting was denied for very specific technical reasons, we have an extra one-hour panel with additional enforcement witnesses in the evening, from 6:30 to 7:30.

That being said, I have a motion to adjourn, moved by Mr. Battiste and seconded by Ms. Blaney. Thank you, both.

(Motion agreed to)

**The Chair:** Thanks for a brilliant hour.

The meeting is adjourned.

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