



Presentation by the First Nations Police Governance Council of
the Canadian Association of Police Governance to the National
Inquiry into Missing and Murdered Indigenous Women and
Girls

June 4, 2018

Exhibit: *National Inquiry into Missing and
Murdered Indigenous Women and Girls*

Location/Phase: Part 2: Regina

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Add'l info: P02P02P0101

Date: JUN 25 2018

Initials

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Summary Recommendations

1. The First Nations Police Governance Council (FNPGC) recommends a comprehensive approach to community safety as part of Indigenous governance that will help prevent and, if needed, resolve cases of missing women and girls, through:
 - a. Adoption of a public safety model that combines modern police methods with traditional, pre-colonial values of community safety as outlined in this submission,
 - b. First Nations taking control of their public safety by adopting Self-Administered policing models, and
 - c. Effective oversight through sound governance practices as advocated by the FNPGC and Canadian Association of Police Governance (CAPG).
2. This comprehensive approach is based on the principles of self-determination and a model of community safety that combines modern police methods with a contemporary understanding of pre-colonial public safety as outlined in this submission.
3. First Nations should be encouraged by the federal and provincial governments as a matter of policy and by providing resources and training to adopt the Self-Administered model of policing rather than relying upon the RCMP or provincial police services.
4. The federal and provincial government's support to First Nations community safety should be funded on this model rather than simply on the provision of police services to include traditional practice such as the support for elders, mental health services and community supports.

Detailed recommendations can be found at the conclusion of this submission.

Introduction

The First Nations Police Governance Council is part of the Canadian Association of Police Governance (CAPG). The FNPGC represents those First Nations that have their own Indigenous police services, known as Self-Administered police services, which operate independently and are governed by their own people. We want to develop and advance new and more effective ways of integrating community safety practices from a truly Indigenous perspective. As such, we advocate a First Nation-based approach to policing that recognizes and incorporates traditional ways and values into a modern First Nation policing model.

The FNPGC represents First Nations that have entered in to an agreement with the Federal Government under the First Nations Police Program (FNPP) and a Provincial Public Safety Ministry. Provisions within the agreement recognize an independent oversight body comprised of community members who act independently.

We are not police. We are the governors of the police in our Nations. As such, we carry a great responsibility to oversee and direct the police and peacekeeper services on behalf of the

individual or collective FNs, providing a form of forward oversight¹, setting the direction of the service, ensuring community involvement and reflecting community values, ensuring Chief and Council support and evaluating and redirecting the service in the implementation of its mission. As such, this submission will focus on the perspective of the Self-Administered First Nation police and peacekeeper services, although our forward vision entails changes to the current models in favour of a holistic model of First Nation community safety and governance of police and peacekeepers.

Our purpose in making this submission is to ensure important steps are taken in the complex process of rebuilding the flawed system of policing that contributes to such profound problems with First Nations.

Self-Administered (SA) Agreements – Agreements between the Government of Canada, a provincial or territorial government, and one or more Indigenous communities. Under these agreements, the First Nation or Inuit community (or group of communities) is responsible for administering its own police service pursuant to provincial/territorial policing legislation.

In order to overcome many of the systemic flaws in the current justice system that led to some of the tragic incidents that occupy the Commission, First Nations policing needs to:

- Increase resources on the preventive elements of public safety,
- Adopt more culturally sensitive means of policing,
- Improve governance that truly reflects Indigenous values and community engagement, and
- Adopt, as outlined below, a holistic community safety model with both adequate capacity in terms of skills, depth and funding.

The focus of this paper is the governance of policing on First Nations lands. We recognize that the problems being addressed by the Commission must deal with all parts of Canada, most notably the large urban centres where many Indigenous people now live. The CAPG, our national body with membership from police boards and commissions across the country strongly supports improved governance of police and seeks to find means to better equip boards and commissions to oversee the performance of the police services they govern in the area of both sensitivity and more effective response to unique Indigenous safety issues in these centres. However, the fact remains that rates of crime and victimization are significantly higher on

Community Tripartite Agreement (CTA): The Government of Canada and the respective provincial or territorial government can enter into individual tripartite policing agreements (i.e., CTAs) with each Indigenous community (or group of communities) mentioned in the bilateral Framework Agreement. Under a CTA arrangement, the First Nation or Inuit community (or group of communities) receives policing services from a dedicated contingent of police officers from the RCMP.

¹ Andrew Graham, **The Concept of Governance as Forward Oversight as Applied to Police Agencies in Canadian Municipalities**, 2018, Paper delivered to the International Research Society for Public Management Annual Conference, April, 2018

First Nation reserves than off.² Therefore, the focus of this presentation and recommendations is on First Nation policing, most importantly in First Nations that have Self-Administered police services. We do believe that those First Nations that contract their policing, most notably with the RCMP through Community Tripartite Agreements (CTAs), also have legitimate concerns and challenges, working with a policing model that does not take into account their precolonial experience in community safety or the major flaws in focus that can lead to the neglect of such vulnerable groups such as women and girls. We also believe, and are supported by research conducted by Public Safety Canada, that residents of First Nations with Self-Administered police services believe they received more community-based and culturally sensitive policing.³

Our recommendations centre around the creation of a holistic model of First Nation policing that brings the value of pre-colonial public safety to modern policing techniques in a fairly funded way combined with effective governance built on the pillars of traditional values, respect and accountability as exercised through boards and commissions within the overall First Nation governance structure. We firmly believe that community safety is an inherent right (See Test Box below), one protected by Treaty and that we must therefore build our policing system in that context. Such a model is directly relevant to the issue of murdered and missing women and girls and what must be done to prevent these tragedies in the future. It is only through the effective governance of policing and peacekeeping in all First Nations that the vigilance needed over the most vulnerable will be assured.

Public Safety is an Inherent Right Upheld by Treaty: An example of how that inherent right was preserved can be found in Part 7 of Treaty 4: "And the undersigned Chiefs and Headmen, on their own behalf and on behalf of all other Indians inhabiting the tract within ceded, do hereby solemnly behave themselves as good and loyal subjects of Her Majesty the Queen. They promise and engage that they will, in all respects, obey and abide by the law, that they will maintain peace and good order between each other, and between themselves and other tribes and between themselves and others of Her Majesty's subjects, whether Indian, Half-breeds, or whites, now inhabiting or hereafter of inhabit any part of the said ceded tract; and that they will not molest the person or property of any inhabitant of such ceded tract, or the property of Her Majesty the Queen, or interfere with or trouble any person passing or travelling through the said tract, or any part thereof, and that they will assist the officers of Her Majesty in bringing to justice or punishment any Indian offending against the stipulation of this treaty, or infringing the laws in force in the country to ceded."

² Brzozowski, J-A., Taylor-Butts, A., & Johnson, S. (2002). *Victimization and offending among the Aboriginal population in Canada*. Ottawa, ON: Statistics Canada.

³ Kiedrowski, J., Petrunic, M., & Ruddell, R., *Illustrated Case Studies of First Nations Policing Program Models*, Public Safety Canada, Research report 2016-R014.

What We Mean by Police Governance and its Link to MMIWG

It is our view that there is a link between the issues that the Commission is addressing and the notion of First Nation police governance. The issue of missing and murdered Indigenous women and girls is one that involves the whole community when a tragic event happens such as those you are investigating. It is not simply a police matter, although all police services need to take these disappearances seriously and respectfully. The loss of one woman or girl, for whatever reason, is not acceptable. However, there is a cyclical relationship of these losses to underlying issues of safety within a First Nation. Only a community that works towards a holistic view of that public safety, not one driven by a response to incidents alone, but to effective collaborative efforts of the people, their elders, their administrators and their own police working together can hope to ensure that the measures that would prevent these losses are caught well before they occur. Further, only in a community that has control of its own tools to work collectively can there be a response when such a loss takes place.

Police Governance and Indigenous Values

First Nations policing varies considerably across the country, with only a small number of the First Nations taking full control of their policing by becoming Self-Administered services. This statement from Public Safety Canada summarizes the different ways that First Nations can get their policing services. "Through the First Nations Policing Program (FNPP), Public Safety Canada provides funding to support policing services that are professional, dedicated and responsive to the First Nation and Inuit communities they serve. The Program operates in accordance with the First Nations Policing Policy, a national framework for the provision of policing services in First Nation and Inuit communities. Policing services are supported through tripartite policing agreements among the federal government, provincial/territorial governments, and First Nation or Inuit communities. The federal and provincial/territorial governments each provide funding for these agreements.

There are two main types of policing agreements under the FNPP:

- Self-Administered Agreements, where a First Nation or Inuit community manages its own police service under provincial policing legislation and regulations; and
- Community Tripartite Agreements, where a dedicated contingent of officers from the Royal Canadian Mounted Police (RCMP) provides policing services to a First Nation or Inuit community.

In 2014-2015, the FNPP provided over \$120 million in funding for:

- 186 policing agreements, policing a population of approximately 416,000 people; and
- 1299 police officers in 455 First Nation and Inuit communities. ⁴

A number of the Self-Administered First Nations police services agreements serve a number of different First Nations with a single police service and, therefore, a single commission. In 2015-16, the federal government reported that there were 38 Self-Administered Agreements, serving

⁴ Accessed at <https://www.publicsafety.gc.ca/cnt/cntrng-crm/plcng/brgnl-plcng/index-en.aspx>

170 communities with 170,000 people. By contrast, in the same period, there were 136 Community Tripartite Agreements, serving 280 communities with 250,000 people.

Agreements Funded by the First Nations Police Program at end of Fiscal 2015-16

Overview	SA Agreements	CTAs and ACCP Agreements*	Municipal Quadripartite Agreements
Number of Agreements	38	136	3
Number of Communities Served	170	280	3
Population of Communities Served	168,968	250,870	1,989
Federal Expenditures	\$78.5 million	\$41.9 million	\$0.679 million
Provincial Expenditures	\$72.4 million	\$38.7 million	\$0.627 million
Total Expenditures	\$150.9 million	\$80.6 million	\$1.3 million

Source: Public Safety Canada (2016a). *A small portion of the agreements in this column includes the remaining Aboriginal Community Constable Program (ACCP) agreements. The ACCP is a legacy program established in the 1970s, where the federal and provincial/territorial governments entered into bilateral agreements to provide RCMP services in First Nation and Inuit communities. Since the First Nation or Inuit community (or group of communities) is not a signatory to ACCP agreements, the intent has been to transition the ACCP to tripartite FNPP agreements.

Focusing specifically on those First Nations that have chosen to administer their own policing, the requirement for special oversight and governance must arise from the will of the First Nation itself. Having a unique authority to oversee the police service is important, but it must do its work within a broader context that affirms the values inherent in the original models of social health and order outlined in this submission. It is easy to pay lip service to those values, but what does it mean for those on governing boards? Each First Nation will have to answer this itself as circumstances are so different across the country, but here are some thoughts to reflect upon this question:

- The focus of police is on both social health and social order. Police therefore are an arm of a greater force and must work collaboratively within the First Nation.
- Effective modern Indigenous policing depends upon the overall health of the community and not simply the technical capacity of the police service itself.
- The independence of the governing commission, while vital for some functions, must be tempered by the need to work with other organizations and individuals to address social health and order.
- While police commissions have specialized functions and must be free to make decisions, they are also partners within communities that are often under stresses that the commissions need to understand.
- Police commission members must communicate, listen to and also give advice to the political leadership of the First Nation, to the many other agencies that contribute to

social health and order and to many people involved. They cannot isolate themselves for the sake of their independence.

It is our position that First Nations that choose to administer their own police services under an agreement are making an important move towards greater self-determination in general. While it involves a considerable investment of time and energy to do so, taking control of this key element of the fibre of a community is important. The challenges are considerable and are found in the very nature of how First Nations have faced such marginal existence in the current paradigm. Perhaps the greatest challenge is that of size of the First Nation and its capacity to attract those who would serve as police officers over a long period of time. We have seen some promising developments that show that First Nations can overcome these challenges, especially if they find ways to collaborate and adapt their police strategy by moving towards a more comprehensive view of public safety.

Achievements and Gaps in First Nations Policing and Governance

Achievements

First Nations governance practice has developed in a number of First Nations across Canada. Much has been learned by those Nations that have their own policing services, either for a single geographical jurisdiction or in partnership with a number of geographically-dispersed First Nations. Some of the lessons that have been learned are:

- Community safety needs to be driven from within the community, not just an external requirement of federal legislation.
- Building an effective model of Indigenous policing takes time, consistency and wisdom.
- While the positive results draw upon the inherent strength within the community, there have also been challenges along the way, specifically:
 - The size of the First Nation creates problems of adequate scope of policing resources.
 - Chiefs and Council often interfere with policing activity even when a police commission is present.
 - Retention of good police officers is a challenge.
- Success in community safety is generally realized when there is a broader focus than policing itself.
- Police governance provides a link to the community as a whole that builds the model.

Innovative community safety strategies have also developed among many First Nations that have adopted the SA model. Here are a few examples:

- Rama First Nations and United Chiefs and Councils of Mnidoo Mnising (UCCM)–community navigators.
- File Hills – Special Constable Program.
- Dakota Ojibway Police Service – First Nations cadet program.

- Kahnawá:ke – adoption of Peacekeeper model, peacekeeper law and court system, responsibility for parole supervision.
- Nishnawbe-Aski Police Service: networked policing across a large geographical space.

Community Feedback on the Benefits of Self-Administered Policing

A series of research studies over the past decade have affirmed that SA policing brings some unique benefits to the First Nation as identified in surveys in that research. In summary, the main benefits identified are:

- Policing styles in SA communities more focused that CTAs on social development and community development,
- CTA policing more focused on law enforcement over conflict resolution,
- Higher attrition rate of police officers serving SA communities than those work in CTA communities.
- SA police spend more time answering calls for service, gathering local information and patrolling than CTA communities, all significant forms of crime prevention.
- SA policing emphasized culturally appropriate policing.
- In general, SA agreements were perceived as doing a better job keeping citizens safe, protecting property, being visible and responding quickly.
- In most SA communities subject to any research, crime rates and the Crime Severity Index has declined but remains significantly higher than Canada's overall rates.

Gaps

Funding and capacity needs have never been met. The gap is greater because of the historical damage of colonialism, residential schools, etc. Many argue that First Nations policing policy ignored the major cultural, structural and capacity impediments to success, especially in Self-Administered, leading to their failure in many First Nations.⁵

Governance is seen as important but is not supported, funded or given capacity (funds, training, consistent support). A need for governance training for First Nations policing authorities was

The Auditor General's Report, tabled in Spring 2014, reported that "First Nations communities should have an effective and appropriate role in directing their policing service."

identified in 2014 when CAPG surveyed the 37 Self-Administered police services. Of the 23 governance bodies that participated in the collection of information, they all agreed that no formal governance training had taken place for almost 10 years and that they have clearly defined needs and interest for support, tools and training to assist them in their governance and oversight roles. The Auditor General of Canada reported that not all of incorporated agreements are currently provided with training and instruction to ensure that programs are being delivered efficiently.

Participants of the 2010 National Report from the Community Engagement Sessions specifically identified a lack of training in leadership and board governance.

The FNPGC undertook a survey and consultations with First Nation governing bodies in 2014. In our consultations it became clear that:

- Oversight is complicated, often involving people who know each other and have many roles to play;
- Oversight, management and governance can overlap and become confusing;
- Distinctions between policy setting and operations is a continual problem;
- Policing challenges are complex with few easy answers;
- There are little to no resources for training;
- Many of the challenges of governance do not fit into yes/no categories, but require wisdom and contextual sensitivity;
- Many board members feel ill equipped to do their jobs;
- There is instability of membership and the turn-over can kill collective memory;
- There is poor sharing practice, especially around best practices;
- There is no clear vision of what to do;
- The type of training/learning has to be tailored to the community it serves; and
- The need for training is continuous, not just on appointment and it needs to be adaptable and culturally sensitive around process and decision making.

⁵ John Kiedrowski, Nicholas A. Jones & Rick Ruddell (2017): 'Set up to fail?' An analysis of self-administered Indigenous police services in Canada, *Police Practice and Research*, DOI: 10.1080/15614263.2017.1363973

As the First Nations Policing Program (FNPP) reaches the end of its mandate (2018), a full review of the First Nation policing is timely. This is an opportunity for the Commission to have an impact on that review and, as such, strengthen community safety for vulnerable groups such as First Nation women and girls. Timing is important. The program has advanced efforts at community-based policing but is so flawed in terms of resourcing and controls, that many agree with the statement made by Nishnawbe-Aski Nation Grand Chief Alvin Fiddler, in commenting on the release of the Auditor General's Report on First Nation Policing⁶: ***"The inevitable conclusion of the Auditor General's report is that First Nation communities in Ontario do not receive the same level of policing that the rest of the province does. This report shows that First Nations have been set up for failure and the federal approach to First Nation policing is seriously flawed."***⁷

Until First Nations take control of their own community safety needs, many of the gaps in protecting vulnerable groups cannot be addressed. To that end, the FNPP must be radically changed to:

- Abandon the paternalistic model of contribution agreements and move to a funds transfer model that is long-term, and not based on annual "Take it or leave it" processes,
- Recognize the inherent right and duty of First Nations to design and operate their own community safety models,
- Fund a more comprehensive program with an end goal of public safety, not a specific set of policing activities,
- Provide support to building effective governance of this model.

Need for a New Model of First Nation Policing

We believe that we will not overcome the impediments to avoiding a situation such as the murdered and missing Indigenous women and girls without a new approach to First Nations policing, or, more to the point, community safety. For, only when the whole community is safe are those most vulnerable safe. At this stage, giving greater detail about that model is difficult without further consideration by First Nations leaders and policy makers. The Council does suggest some key principals:

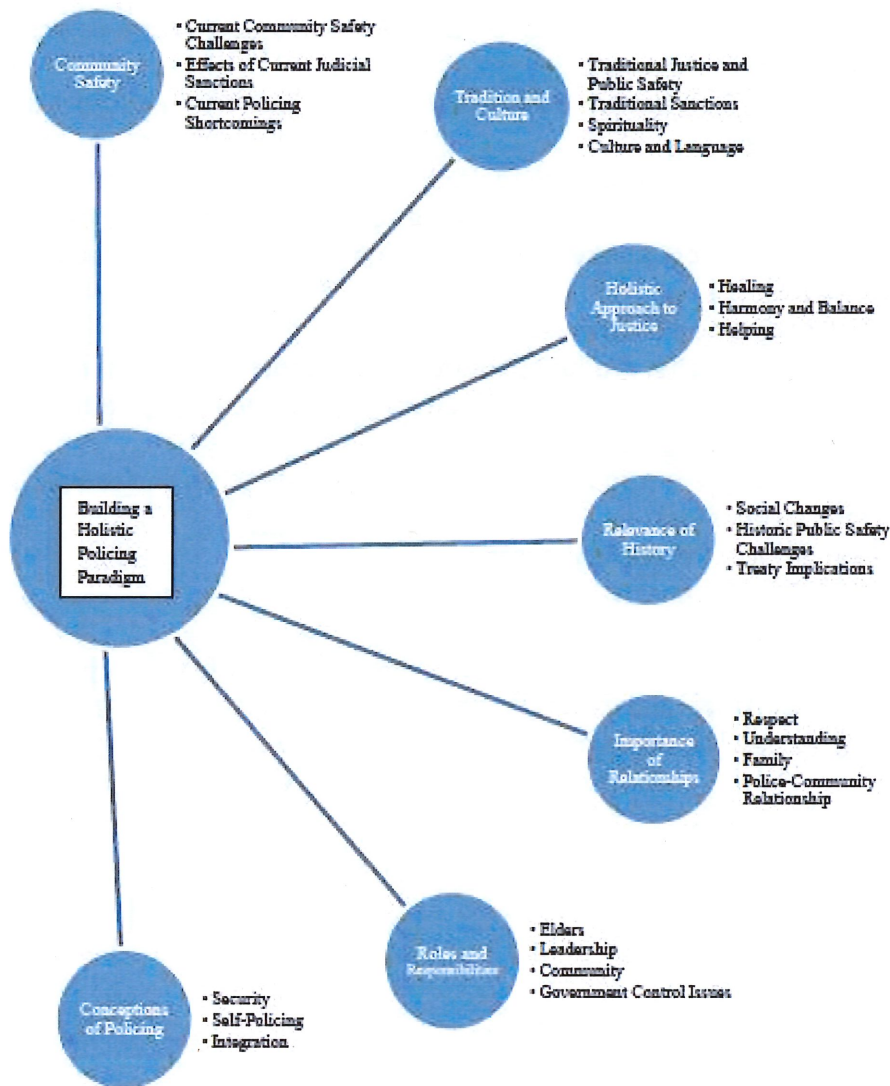
- **Precolonial Models Modernized:** Precolonial community safety should inform self-determined community safety:
 - Seldom did policing exist as a separate part of the social fabric of the First Nation, but was rather integrated into how the society was regulated overall.

⁶ Auditor General of Canada, First Nations Policing Program, accessible at http://www.oag-bvg.gc.ca/internet/English/att_e_39363.html

⁷ Accessed at <http://www.cbc.ca/news/Indigenous/first-nations-policing-program-slammed-by-auditor-general-1.2633460>

- There is great variety of experience across Canada, among the many First Nations and so generalizations and the notion of one single model of pre-colonial First Nations policing is not realistic.
- Broadly speaking, First Nations maintained peace and dealt with disorder through a mix of strategies:
 - Informal dispute resolution tools,
 - Engagement of elders in guiding disputes within the community, reinforcing community values through stories and as mediators in disputes,
 - Use of ceremonies to end disputes,
 - Use of the warrior groups or societies when order is threatened,
 - Focus on the collective, healing, educating and reconciling rather than an adversarial system of dispute,
 - Use of collective responses such as shaming, ostracism and compensation for a victim's loss,
 - Gift giving to reconcile the victim,
 - Use of banishment in extreme cases.
- **Towards a Holistic Policing Model:** We support the conceptual framework put forward by Professor Nicholas Jones and others in their 2016 study, **Policing First Nations: Community Perspectives**.⁸ A schematic of it is provided below.

⁸ Jones, N.A., Mills, R.G., Ruddell, R., & Quinn, K. (2015). *Policing in First Nation Communities: Community Perspectives*. Regina, SK. Collaborative Centre for Justice and Safety and Jones, N.A., Ruddell, R., Nestor, R., Quinn, K., & Phillips, B. (2014). *First Nations Policing: A Review of the Literature*. Regina, SK: Collaborative Centre for Justice and Safety.



- **A Governance Perspective:** We would add to this model a missing governance perspective. Role of governance of community safety in making all the various pieces work together, in directing and monitoring the peacekeeper functions as both organizations themselves and a key part of the community complex of traditional leadership, elders, community resources for health and safety with the peacekeeper as core. Governance then becomes the hub protector and oversight of the processes.

Recommendations Moving Forward

Strategic Direction

- Recommendations focus on all parties, not just one government. This includes First Nations, the federal, provincial and territorial governments.
- Communities will only be safer and women and girls less vulnerable with community-based holistic solutions.
- The stove-piping inherent in the FNPP must stop and a hybrid model, based on First Nations self-determination must be adopted: that will mean Self-Administered policing with links to other resources such as the RCMP, OPP and SQ as they need.
- Specific recommendations for changes in the FNPP are outlined above.
- Only effective governance of First Nations community safety will ensure the direction and follow through needed, but it too must be community based with traditional values applied.

Specific Changes

- First Nations, individually or collectively, must create a vision of community safety, bringing together the salient features of the precolonial model and contemporary police tools and models.
- First Nations need to develop their legal frameworks for a safety model that creates the necessary governance component. The model should not flow from funding agreements alone, but from the laws and traditions of each First Nation.
- Governments need to foster the creation of these models to ensure that those vulnerable people such as the missing and murdered women and girls do not fall between jurisdictions, systems and people.
- Policing within First Nations should be funded on an equal, fair and consistent manner, recognizing that the efforts to overcome years of damage to the social fibre of those communities will not be achieved without an extra effort.
- Governance capacity needs to be built in all First Nations, building on the experience to date, shared among them in useful ways. This includes further work through CAPG and FNPGC on training tools for governance, greater sharing of stories and experiences and representative models of governance to guide Chiefs and Councils in establishing such governance.
- New models of joint oversight need to be created by large urban police boards, working with First Nations beyond their boundaries, but which have a history of their members moving into the cities and back to improve communications, better support those who want to return to their homes or need great Indigenous support in the city.

In conclusion, we respect that what we have presented to you is just one small part of the immense issue that this Commission is considering. We do believe, however, that the pursuit of self-determination, ownership of community safety by the people in the First Nation, good

governance and adequate funding will yield up safer communities where the vulnerable are taken care of before they feel the need to flee or are harmed beyond any notion of human good. We believe that your favorable support would move this vision forward.

Submitted on half of the First Nations Police Governance Council

Ron Skye,
Commissioner of Public Safety
Mohawk Council of Kahnawá:ke
Chair, First Nations Police Governance Council

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