

## BACKGROUND

First Nations count on the rule of law to protect their members, lands, and investments on reserve, including protection against trespassing, nuisance, illegal dumping, unsightly premises, and unlawful business activities. Improving the enforcement of First Nation laws supports community safety, protection of housing and the environment, and is necessary to attract business investment.

Through the *Framework Agreement on First Nation Land Management*, land code First Nations have the authority to enact laws punishable on summary conviction. However, community safety, respect for the rule of law, and compliance break down when police and prosecutors routinely refuse to enforce these laws.

## PROVINCIAL RESPONSIBILITIES AND FINANCIAL CONSIDERATIONS

The Lands Advisory Board (LAB) is pressing provinces to recognize enforcement of First Nation laws under provincial laws (e.g. summary conviction offence procedures) and in provincial machinery (prosecution agreements, court procedure directives etc.).

Provinces (and land code First Nations) are rightly concerned about already over-burdened courts. Efficiencies can be created through effective ticketing systems, First Nation appointed justices of the peace, and First Nation alternative dispute resolution. However, these efforts will fail if individuals know that the courts will never enforce First Nation laws.

Provinces are likely to press Canada to fund policing, prosecutions, and enforcement. The LAB is pushing provinces to build the machinery required first, but a signal is needed from the federal government that they will be partners providing adequate funding.

## MOVING FORWARD IN THE FIRST 365 DAYS

There is an opportunity in the first 365 days of a new government to put an end to endless discussions and make concrete progress on enforcement:

- Appoint a ministerial advisor to the Attorney General to focus accountability for getting the federal job done.
- Identify enforcement of First Nation laws as a priority within the funding devoted to the RCMP and First Nation policing.
- Consider short legislation to clarify RCMP and federal Prosecution Service authority.
- Establish regional First Nation Prosecution Services, which would cost less than private prosecutions.
- Federal backing for funding in future years where First Nations and provinces are ready to implement cost-effective enforcement machinery.
- Fix enforcement in the very near term separately from more complex justice challenges such as high rates of incarceration.

## FUNDING

Very little funding is required in the near term because only a handful of cases need to go to court to prove that First Nation laws will be enforced. We seek a cost-shared approach, partially supported by First Nation ticketing revenues, partnerships amongst land code First Nations, and, where possible, provincial contributions. Funding required will vary by population and the level of business activity. We have already launched new enforcement machinery at Whitecap Dakota First Nation in Saskatchewan with a contribution from us at \$250K per year to unlock matching provincial funding, though there is no stable commitment to future funding. We will seek economies of scale if more First Nations can take on enforcement.