

Spring 2014



## Report of the Auditor General of Canada

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### CHAPTER 5

#### First Nations Policing Program—Public Safety Canada



Office of the Auditor General of Canada

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## **CHAPTER 5**

### **First Nations Policing Program—Public Safety Canada**

## Performance audit reports

This report presents the results of a performance audit conducted by the Office of the Auditor General of Canada under the authority of the *Auditor General Act*.

A performance audit is an independent, objective, and systematic assessment of how well government is managing its activities, responsibilities, and resources. Audit topics are selected based on their significance. While the Office may comment on policy implementation in a performance audit, it does not comment on the merits of a policy.

Performance audits are planned, performed, and reported in accordance with professional auditing standards and Office policies. They are conducted by qualified auditors who

- establish audit objectives and criteria for the assessment of performance,
- gather the evidence necessary to assess performance against the criteria,
- report both positive and negative findings,
- conclude against the established audit objectives, and
- make recommendations for improvement when there are significant differences between criteria and assessed performance.

Performance audits contribute to a public service that is ethical and effective and a government that is accountable to Parliament and Canadians.

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## Introduction

### Background

**5.1** Under subsection 92(14) of the *Constitution Act, 1867*, provinces have legislative authority over “the Administration of Justice in the Province,” which includes provision of policing services. Pursuant to subsection 91(24), the federal government has legislative authority regarding “Indians, and Lands reserved for the Indians.”

**5.2** In 1986, concerns about policing services in First Nations communities led to the establishment of the Federal Task Force on Indian Policing, which conducted a national review of on-reserve Indian policing policy. Concerns included ad hoc policing arrangements, inconsistent funding, escalating federal expenditures, and the absence of a clear federal policy on First Nations policing.

**5.3** The 1990 Task Force report stated that First Nations communities did not have access to the same level and quality of policing services as did other communities in similar locations. The Task Force also reported concerns about

- poor police response times;
- insufficient crime prevention activities;
- crime rates that were significantly higher than national averages, particularly for violent crimes; and
- inferior training of existing band constables.

**5.4** In 1991, the federal government responded to the Task Force report by introducing the First Nations Policing Policy and the First Nations Policing Program. The creation of the Program was also in response to public order and community safety crises that occurred in First Nations communities in 1989–1990. The purpose of this Policy, which was updated in 1996 and is still in effect, is “to contribute to the improvement of social order, public security, and personal safety in First Nations communities, including that of women, children, and other vulnerable groups.” The Policy applies to First Nations communities on reserves, certain First Nations communities on Crown land, and Inuit communities, and is to be implemented consistently across Canada. Métis, off-reserve, and urban communities are not covered by the Policy.

**Contributions**—Transfer payments that are subject to the performance conditions specified in the funding agreements. Contributions are to be accounted for and are subject to audit.

**Self-administered agreements**—Agreements in which First Nations have established their own policing services under provincial authority and are responsible for managing these services.

**Community tripartite agreements**—Agreements in which dedicated officers from an existing policing service, usually the Royal Canadian Mounted Police, provide policing services to First Nations communities. These agreements result from negotiations under the First Nations Community Policing Services framework agreements.

**Aboriginal Community Constable Program framework agreements**—Agreements in which the Royal Canadian Mounted Police provides policing services to First Nations communities through bilateral agreements between the federal and provincial/territorial governments.

**Band Constable Program agreements**—Agreements in which First Nations communities employ community members to enforce band by-laws and to supplement, not supplant, police forces at the local level. Band constables are not police officers.

**5.5** The First Nations Policing Program is a **contribution** program for the funding and negotiation of policing agreements between the federal government, provincial/territorial governments, and First Nations and Inuit communities. The Program is intended to implement the principles of the Policy and to enhance the existing policing services so that they are dedicated, professional, effective, and responsive to the particular needs of the communities they serve. Costs are usually shared between the federal government (52 percent) and provincial/territorial governments (48 percent). The Program is managed by Public Safety Canada.

**5.6** Most of the funding for the First Nations Policing Program goes to **self-administered agreements** and **community tripartite agreements**. Community tripartite agreements are signed under the umbrella of First Nations Community Policing Services (FNCPS) framework agreements, which are between the federal and provincial/territorial governments. The Program also provides funding for **Aboriginal Community Constable Program framework agreements** and **Band Constable Program agreements**. How well this support is managed can affect the overall safety and security of the First Nations communities participating in the Program.

**5.7** Using Public Safety Canada's unaudited data, we calculated that from the inception of the First Nations Policing Program in the 1991–92 fiscal year to the end of the 2012–13 fiscal year, federal expenditures for the Program totalled approximately \$1.7 billion. The Program's budget for the 2012–13 fiscal year totalled about \$127 million. As of March 2013, according to the Department, 442 of the 593 First Nations communities in all provinces were receiving services from one or more agreements funded by the Program. Exhibit 5.1 lists the number of agreements, funding, and other information for each type of agreement in effect during the 2012–13 fiscal year.

**Exhibit 5.1 Comparison of agreement types funded by the First Nations Policing Program in the 2012–13 fiscal year (excluding territories and Inuit communities)**

|   | Agreement type              |                                |   |                                  |                               |
|---|-----------------------------|--------------------------------|---|----------------------------------|-------------------------------|
|   | Self-administered agreement | Community tripartite agreement | Aboriginal Community Constable Program framework agreement <sup>1</sup> | Band Constable Program agreement | Other agreements <sup>2</sup> |
| <b>Number of agreements</b>                                       | 37                          | 117                            | 2   | 45                               | 8                             |
| <b>Number of First Nations communities served<sup>3</sup></b>     | 162                         | 195                            | 63  | 45                               | 20                            |
| <b>Population of First Nations communities served<sup>3</sup></b> | 163,100                     | 155,240                        | 89,000  | 65,800                           | 13,058                        |
| <b>Number of police officers or constables</b>                    | 781                         | 362                            | 61  | 120                              | 32                            |
| <b>Federal expenditures</b>                                       | \$66.3 million              | \$32.3 million                 | \$3.5 million   | \$2.3 million                    | \$2.8 million                 |

<sup>1</sup> The two Aboriginal Community Constable Program framework agreements are in place in Alberta and Manitoba.

<sup>2</sup> Other agreements include First Nations Community Policing Services framework agreements and municipal agreements, which are quadripartite agreements that involve the Government of Canada, a provincial government, a First Nations community, and a municipality.

<sup>3</sup> Some First Nations communities receive services through more than one type of agreement. Therefore, totalling the row of figures shown would overstate the total numbers of First Nations communities served and of population served.

Source: Public Safety Canada (unaudited data)

## Federal roles and responsibilities

**5.8** Historically, the federal government provided policing services on reserves through the Royal Canadian Mounted Police (RCMP). The nature of the federal role changed in the 1970s, when the Supreme Court of Canada recognized that reserves are not federal enclaves. This decision meant that provincial laws of general application, which include policing legislation, would now apply on reserves.

**5.9** In managing the First Nations Policing Program, Public Safety Canada negotiates and funds the policing service agreements with the provinces and First Nations communities. Department officials work with provincial counterparts to ensure national consistency of the contribution agreements and to monitor compliance by the parties with the terms and conditions of the agreements.

### Focus of the audit

**5.10** Our audit objective was to determine whether the design and delivery of the First Nations Policing Program are consistent with selected principles of the First Nations Policing Policy. As part of this objective, we also examined whether the Program's performance is adequately measured and reported. Our audit focused on agreements related to First Nations communities on reserves.

**5.11** During the audit, we visited 16 First Nations communities and had discussions with police officers in detachments, provincial government officials, and six First Nations organizations to obtain their views and perspectives. We also surveyed 10 chiefs of First Nations self-administered policing services.

**5.12** The audit scope did not include

- Inuit communities or First Nations communities located in the territories;
- a detailed review of the quality of policing services provided to First Nations communities; or
- the performance of non-federal organizations, First Nations, or First Nations organizations.

**5.13** The audit covered the period between 1 October 2012 and 17 December 2013. More details on the audit objective, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### Program design

**5.14** The First Nations Policing Program is guided by the 10 principles of the First Nations Policing Policy. In our review of the Program's design, we determined that 5 of these principles are key to achieving the Policy's objectives of strengthening public security and personal safety, increasing responsibility and accountability, and building new partnerships. We examined whether these 5 principles had been incorporated in policing agreements funded by the Program:

- Legislative Framework,
- Quality and Level of Service,
- Responsibilities and Authorities,
- Responsiveness to First Nations Cultures and Needs, and
- Police Accountability and Independence.

5.15 We reviewed a sample of 18 agreements (Exhibit 5.2).

**Exhibit 5.2** Number of agreements reviewed for each agreement type

| Agreement type  | Number reviewed |
|---|-----------------|
| Self-administered agreement                                   | 5               |
| Community tripartite agreement                                | 4               |
| Aboriginal Community Constable Program framework agreement    | 2               |
| First Nations Community Policing Services framework agreement | 2               |
| Band Constable Program agreement                              | 5               |
| Total   | 18              |

**Some policing agreements do not clearly require full compliance with the applicable provincial legislative framework**

5.16 A key principle of the First Nations Policing Policy concerns the **legislative framework** that provides the foundation for First Nations policing services:

First Nations policing services should be founded on a legislative framework that enables First Nations to establish, administer, and regulate their policing services, and appoint police officers, consistent with provincial norms and practices. The federal government will work with the provinces/territories and First Nations to promote legislation in support of First Nations policing where appropriate.

5.17 The First Nations Policing Policy states that it is to be implemented consistently across Canada through tripartite agreements negotiated among the federal government, provincial or territorial governments, and First Nations. Provincial governments are responsible for policing legislation in their jurisdictions. Therefore, in our view, when policing agreements are negotiated between all applicable parties, the agreements should contain requirements to ensure that the delivery of policing services to First Nations comply with the provincial legislative framework that applies to all policing services in the province. A legislative framework regulates policing standards and practices in such areas as service levels, staffing, training, equipment, and facilities. Policing standards also support accountability, interoperability, and improvement in working practices across policing services.

**Legislative framework**—A framework consisting of federal and provincial laws, and associated regulations. It may also include judicial decisions, orders-in-council, decisions by regulatory bodies, by-laws, agreements, and policies.

**5.18 Clarity of requirements in agreements.** We examined five self-administered agreements in Ontario, Manitoba, and Alberta to determine whether the wording clearly required that the policing services provided to First Nations communities comply with provincial policing legislation and standards.

**5.19** In Alberta and Manitoba, we found that all three self-administered agreements that we examined clearly required policing services funded by the Program to comply with provincial policing legislation and standards.

**5.20** For the two agreements we examined in Ontario, we found that there was no clear requirement for First Nations self-administered policing services to fully comply with provincial policing legislation and standards. Our findings included the following:

- Consistent with provincial legislation, the agreements required that officers of these policing services receive recruit training. However, the agreements did not require further training for police officers after their recruitment, so the agreements do not ensure full compliance with provincial standards.
- Ontario's *Police Services Act* includes a number of requirements regarding equipment (for example, firearms and other weapons, ammunition, and motor vehicles). We found that the agreements included clearly worded provisions for compliance with these requirements. The Act also requires compliance with provincial standards for infrastructure, which include standards for communication systems and policing facilities. However, we found that the agreements did not include provisions for compliance with infrastructure standards.

**5.21 Clarity of requirements in legislative frameworks.** Because of the weaknesses we found in the wording of the self-administered agreements in Ontario, we reviewed the provincial legislative framework that regulates all policing services in Ontario. We also reviewed the legislative frameworks for Manitoba and Alberta. We found that the frameworks for Manitoba and Alberta explicitly recognize First Nations self-administered policing services and require their compliance with provincial oversight mechanisms and police standards in such areas as qualifications, training, staffing levels, equipment, and facilities. However, in Ontario, we observed that the legislative framework does not explicitly recognize First Nations self-administered policing services or state that these services must fully comply with its requirements.

**5.22** In our view, the lack of a clear requirement in the agreements for First Nations self-administered policing services to comply with Ontario's legislative framework is not consistent with the First Nations Policing Policy, and it increases the likelihood that these policing services will not comply with applicable standards. These conditions present potentially serious health and safety risks to police officers, detainees, and members of communities. We noted that a 2009 inquest report also raised concerns about the need to comply with provincial policing standards and with building and fire codes, and about whether funding was sufficient to allow compliance with these standards. The report was prepared in response to the deaths of two First Nations community members in Ontario. The report also identified injuries to police officers of the First Nations self-administered policing service in the community. The report recommended that all signatories to the self-administered agreement work together to establish a legislative framework to ensure that the material and equipment used by this policing service comply with applicable standards.

**5.23 Concerns of police chiefs in Ontario.** Three chiefs of First Nations self-administered policing services in Ontario stated that provincial policing legislation and standards do not apply to their policing services. They also told us that they did not receive a level of funding necessary to deliver policing services in accordance with provincial standards. Officer complement and communications were identified as two areas of concern that could adversely affect the health and safety of officers:

- *Officer Complement.* The Ontario Provincial Police requires that two uniformed officers be assigned to respond to serious incidents, such as crimes in progress, domestic confrontations, or the use of an offensive weapon. However, one uniformed officer is allowed to take action before assistance arrives. According to police officers and the chief of a self-administered policing service in Ontario, it is difficult to assign two uniformed officers to respond to serious incidents in remote First Nations communities. We observed that these communities were served by small detachments of two or three officers. We were told that they sometimes needed to be absent from the community for other policing purposes, such as court appearances or training, so that it was not always possible to meet the provincial police standard.
- *Communications.* An Ontario policing regulation specifies that policing services must have use of a communications centre 24 hours a day to maintain a constant two-way voice capability with police officers who are on patrol or are responding to

emergency calls. According to an official of a self-administered policing service in Ontario that serves 24 fly-in First Nations communities, only one of these communities has a detachment with a radio system that meets this standard.

**5.24** These same issues have been identified on various occasions. In 2012, the Ontario Ministry of Community Safety and Correctional Services expressed urgent concerns to Public Safety Canada about the lack of radio communications and police officer backup in remote First Nations communities. In 2013, the chief of the largest self-administered policing service in Ontario informed the First Nations signatory to the policing agreement that the lack of a proper radio system imposed an unacceptable health and safety risk to the officers. This police chief also testified in 2013 before the House of Commons Standing Committee on Public Safety and National Security that officers often worked alone in communities for extended periods of time, which contributed to a high incidence of post-traumatic stress disorder in the policing service.

**5.25 Recommendation.** Public Safety Canada should work with the Province of Ontario and First Nations to ensure that all self-administered agreements funded through the First Nations Policing Program clearly state that First Nations policing services comply with the provincial legislative framework that applies to all policing services in the province.

**The Department's response.** Agreed. As self-administered agreements funded through the First Nations Policing Program in Ontario are renewed, Public Safety Canada will continue to work with the Province of Ontario, to the extent that the Province is willing, and First Nations to develop agreed-upon wording that appropriately reflects the relevant legislative and/or policy framework.

#### **Selected elements of the First Nations Policing Policy principles are not fully incorporated in policing agreements**

**5.26** For the four remaining principles of the First Nations Policing Policy that we selected, we examined whether elements of the principles were incorporated in the agreements that we reviewed. We found that not all elements were incorporated in the agreements. Exhibit 5.3 presents our findings for the Legislative Framework principle as well as for the other selected principles.

**5.27** As indicated in Exhibit 5.3, with respect to the principle of Quality and Level of Service, we found that none of the 13 agreements that we examined contained a provision that policing services to

**Level of service**—The number of police officers who provide services in a community, and the hours that the services are available. Factors such as population size, historical crime rates, and the special needs of a community are used to determine the minimum service level for a community.

Source: Royal Canadian Mounted Police

**Terms and conditions**—Requirements that must be approved by the Treasury Board before a department can create or renew a transfer payment (contribution) program.

First Nations communities should be equal in quality and **level of service** to policing services found in communities with similar conditions in the region. Consequently, in our view, the condition reported by the 1990 Task Force may continue to exist—that is, policing services for First Nations communities may continue to be lower in quality and level than the services offered to nearby communities.

**5.28** According to Public Safety Canada, the principles of the 1996 First Nations Policing Policy are outdated and impractical, and the First Nations Policing Program has evolved since these principles were endorsed. The Department plans to update the principles of the Policy and incorporate them in the Program’s **terms and conditions**.

**Exhibit 5.3** Not all agreements fully incorporated selected elements of the First Nations Policing Policy principles

| Selected principle of First Nations Policing Policy*  | Elements of the principle selected for examination  | What we found  |
|---|---|--|
| <p><b>Legislative Framework.</b> First Nations policing services should be founded on a legislative framework that enables First Nations to establish, administer, and regulate their policing services, and appoint police officers, consistent with provincial norms and practices. The federal government will work with the provinces/territories and First Nations to promote legislation in support of First Nations policing where appropriate.</p> <p>(Note: This principle applies to self-administered agreements.)</p>   | <p>First Nations policing services should be founded on a legislative framework that enables First Nations to establish, administer, and regulate their policing services, and appoint police officers, consistent with provincial norms and practices.</p> | <p>Not clearly incorporated in 2 of the 5 agreements</p> |
| <p><b>Quality and Level of Service.</b> First Nations communities should have access to policing services which are responsive to their particular needs and which are equal in quality and level of service to policing services found in communities with similar conditions in the region. First Nations should have input in determining the level and quality of the police services they are provided.</p> <p>(Note: This principle does not apply to the Band Constable Program agreements because band constables are not police officers.)</p>   | <p>Policing services to First Nations communities are equal in quality and level of service to policing services found in communities with similar conditions in the region.</p>  | <p>Not incorporated in any of the 13 agreements</p>      |
| <p><b>Responsibilities and Authorities.</b> Police officers serving First Nations communities should have the same responsibilities and authorities as other police officers in Canada. This means they should have the authority to enforce applicable provincial and federal laws (including the <i>Criminal Code</i>), as well as Band by-laws.</p>  | <p>Police officers have to enforce Band by-laws.</p>  | <p>Incorporated in 13 of the 18 agreements</p>           |
| <p><b>Responsiveness to First Nations Cultures and Needs.</b> First Nations communities should be policed by such numbers of persons of a similar cultural and linguistic background as are necessary to ensure that police services will be effective and responsive to First Nations cultures and particular policing needs.</p> <p>(Note: This principle applies to the community tripartite agreements, but not to the First Nations Community Policing Services [FNCPS] framework agreements. It also does not apply to the Band Constable Program agreements, because band constables are not police officers.)</p> | <p>Policing services to First Nations are responsive to First Nations cultures.</p>   | <p>Incorporated in 9 of the 11 agreements</p>            |
|   | <p>Policing services to First Nations are responsive to First Nations policing needs.</p>   | <p>Incorporated in all 11 agreements</p>                 |

\* Wording of principles is verbatim from the First Nations Policing Policy, 1996 (excluding parenthetical notes).

**Exhibit 5.3 Not all agreements fully incorporated selected elements of the First Nations Policing Policy principles (continued)**

| Selected principle of First Nations Policing Policy*   | Elements of the principle selected for examination   | What we found                                |
|--|--|--|
| <p><b>Police Accountability and Independence.</b> First Nations communities should have an effective and appropriate role in directing their policing service. Therefore, First Nations policing services should include police boards, commissions and advisory bodies that are representative of the communities they serve. In addition to police management and accountability, these bodies should ensure police independence from partisan and inappropriate political influences.</p> <p>(Note: This principle applies to self-administered agreements because they contain a provision about police oversight, and to community tripartite agreements because they contain a provision about community consultative groups.)</p> | <p>Police oversight bodies are established to ensure independence of police officers.</p>                            | <p>Incorporated in all 9 agreements</p>      |
|  | <p>Members of oversight bodies are given training and instruction to ensure the independence of police officers.</p> | <p>Incorporated in 5 of the 9 agreements</p> |

\* Wording of principles is verbatim from the First Nations Policing Policy, 1996 (excluding parenthetical notes).

**5.29 Recommendation.** Public Safety Canada should take appropriate measures to update the principles of the First Nations Policing Policy and incorporate these updated principles in the First Nations Policing Program’s terms and conditions and, as applicable, in the policing agreements.

**The Department’s response.** Agreed. Public Safety Canada will take appropriate measures to update the First Nations Policing Policy principles for the First Nations Policing Program, and will incorporate these updated principles into the Program’s terms and conditions and in the policing agreements, as applicable.

**Program delivery**

**5.30** In examining the delivery of the First Nations Policing Program, we looked at whether

- the First Nations Policing Program was accessible and transparent,
- the First Nations Policing Program funds enhanced policing services as intended,
- First Nations were meaningfully included in the negotiations of applicable agreements,
- Public Safety Canada had reasonable assurance that policing facilities in First Nations communities were adequate, and
- Public Safety Canada could demonstrate that funding for real property provided to First Nations communities under the Program was being used economically.

### **The Program is not accessible or transparent to all First Nations**

**5.31** Treasury Board's Policy on Transfer Payments and its Directive on Transfer Payments require departments to have in place service standards, criteria for assessments, and methodology for determining the amounts of contributions. The Directive also states that potential recipients should have ready access to information about the contribution program, and that a description of the contribution program should be made public. The program's description should include application and eligibility requirements, and the criteria against which applications will be assessed.

**5.32** According to departmental documentation, the First Nations Policing Program funding has not changed significantly between the 2007–08 and the 2012–13 fiscal years. However, across all provinces during the same time period, there were 196 agreement renewals, 23 agreement terminations, and 22 new agreements. The terminated agreements were not necessarily replaced by the new agreements, especially in the case of Band Constable Program agreements.

**5.33** We examined whether eligible First Nations that wanted to participate in the First Nations Policing Program could access the Program. We also looked at whether Public Safety Canada had a transparent process for assessing applications, selecting recipients, and allocating Program funds.

**5.34 Accessibility.** We asked officials at Public Safety Canada how many First Nations wanted to access the First Nations Policing Program and had submitted an application. We also asked whether the Department had estimated the required funding for these applicants to join the Program. We found that the Department had this information for only one province.

**5.35** We also found that the Department did not have records of applications that had been denied or not answered. We noted that since 2006, 16 First Nations communities that had passed official Band Council Resolutions to join the First Nations Policing Program had been formally notified that they were not able to join or were still waiting for a reply to their applications. According to Department officials, Program funding does not provide resources to expand the Program.

**5.36 Transparency.** We found that Public Safety Canada's systems and practices for assessing applicants, selecting recipients, and allocating First Nations Policing Program funds were not transparent. We found that the Department has not put in place the systems and practices to meet the Treasury Board requirements as stated in

paragraph 5.31. For example, we observed that the Department's website does not provide information on the application process. We also found that assessments and selection decisions were not adequately documented. Consequently, decisions related to the Program are not transparent to First Nations and could be considered arbitrary.

**5.37 Recommendation.** Public Safety Canada should ensure that the First Nations Policing Program is accessible and transparent, and operates in full compliance with Treasury Board's Policy on Transfer Payments and Directive on Transfer Payments.

**The Department's response.** Agreed. Public Safety Canada has developed updated terms and conditions for the First Nations Policing Program. The new terms and conditions, which will take effect on 1 April 2014, ensure that contribution agreements under the Program operate in full compliance with the Treasury Board's Policy on Transfer Payments and Directive on Transfer Payments. Guidelines based on these terms and conditions are expected to be made available on the Public Safety Canada website in spring 2014.

#### **Program funds are often not used for enhanced policing services as intended**

**5.38** According to Public Safety Canada, the First Nations Policing Program is intended to enhance existing policing services in First Nations communities. It is not intended to replace core policing services that are normally provided by the provinces.

**5.39** We examined whether the First Nations Policing Program funded enhanced policing services. We found that Public Safety Canada has not defined what constitutes enhanced policing services for First Nations communities. None of the 13 applicable agreements from our sample of 18 (excluding the Band Constable Program agreements) and other Program documents that we examined, including the Program's terms and conditions, contained a definition of enhanced or core policing services. Public Safety Canada has acknowledged that enhanced policing services are additional to core policing services.

**5.40** In 2010, Public Safety Canada conducted a comprehensive review of the First Nations Policing Program, which found that the provinces did not all share the same understanding of the intent of the Program. While Program funds were used in some provinces to deliver enhanced policing services in First Nations communities, enhanced policing services were not being delivered in other provinces. Furthermore, the review found that Program funds were used for core policing services and, in one province, Program funding was used for existing police positions.

**5.41** We surveyed 10 chiefs of First Nations self-administered policing services. Of this group, 5 chiefs told us that their policing services have replaced the provincial policing services in their communities, and that their services are therefore providing core policing services. Furthermore, we visited a Royal Canadian Mounted Police (RCMP) detachment whose commanding officer told us that core policing services are provided, as needed, by the police officers who are funded through a community tripartite agreement and an Aboriginal Community Constable Program framework agreement.

**5.42** In our view, the lack of clarity in the agreements and among the involved parties about what constitutes enhanced policing services—which the First Nations Policing Program is intended to fund—creates ambiguity in the delivery of those services. Furthermore, when Program funds are used for core policing services, the Program is in effect subsidizing the provincial policing services.

**5.43** Two initiatives in Maskwacis (commonly known as Hobbema), Alberta—the Hobbema Community Cadet Corps and the HUB—are examples of how enhanced policing services are being delivered (Exhibit 5.4).

**Exhibit 5.4 The Royal Canadian Mounted Police delivers core and enhanced policing services to Maskwacis, Alberta**

The Royal Canadian Mounted Police (RCMP) defines core policing activities as crime prevention, law enforcement, protection, intelligence, and service to communities and to other law enforcement agencies. The RCMP states that enhanced services are intended to advance community safety through strategies that address the root causes of criminal behaviour. These strategies include community engagement and mobilization, victim services, school visits, youth interactions, interagency cooperation, and liaison with the community.

Maskwacis, Alberta, is a community made up of four First Nations reserves. This community has a history of gang-related homicides and serious violence, with high incidences of domestic violence and substance abuse.

On three of these reserves, the RCMP detachment delivers policing services under a community tripartite agreement signed in 2006. This agreement provides funding for 12 police officers to supplement the existing 26 RCMP officers who provide provincial policing services.

According to the RCMP, the detachment focuses on providing a culturally sensitive policing service and developing the community's capacity to prevent crime. Crime prevention activities by the RCMP include giving educational presentations in schools about how to resist substance abuse, participating in community events to build trust, and supporting other community initiatives.

**Hobbema Community Cadet Corps.** In 2005, the RCMP began the Hobbema Community Cadet Corps in Maskwacis. This crime prevention initiative is designed to provide youths with an alternative to gang involvement by providing positive social development, leadership, and communication skills in a disciplined environment. In 2012, Public Safety Canada funded an evaluation of the initiative, which stated that some cadets and others closely associated with the initiative clearly believed that it was beneficial for the young people involved, and that the initiative was successful. According to the RCMP, Cadet Corps have been established in 12 other First Nations communities in Alberta where the RCMP

provides policing services through community tripartite agreements and the Aboriginal Community Constable Program.

**HUB initiative.** In 2012, the RCMP introduced the HUB model to a reserve in Maskwacis as a supplemental initiative for crime prevention. It intends to expand the HUB initiative to other First Nations communities. The HUB is a working group of community service organizations and government departments that work together with the aim of preventing social issues from becoming criminal issues. Typical cases often involve situations that cannot be completely addressed by a single agency and instead require multiple HUB participants, including the RCMP, to work together to find sustainable solutions. Some typical actions taken by the HUB participants in Maskwacis have been referrals to counselling services, traditional healing circles, housing inspections, and additional tutoring outside school hours. According to the RCMP, it is too early to evaluate the effectiveness of this initiative.

**RCMP-occupied facility in Maskwacis, Alberta**



Source: Royal Canadian Mounted Police

Before 2008, the community was served by an RCMP detachment located outside the community. In 2008, the RCMP moved into a new building in the community that was paid for by one of the First Nations signatories to the agreement.

According to the RCMP, having a detachment in the community has improved call response times, police accessibility, and relationships with the community.

**Room for counselling by elders in the RCMP-occupied facility**



Source: Royal Canadian Mounted Police

The building contains a room set aside for community elders to meet and counsel offenders.

**5.44 Recommendation.** Public Safety Canada should clarify what specific policing services the First Nations Policing Program is intended to fund and should ensure that

- the Program intent is reflected in the agreements that are funded by the Program, and
- policing services funded by the Program are not replacing provincial policing services.

**The Department's response.** Agreed. Public Safety Canada commits to ensuring that First Nations Policing Program funding is used to support the delivery of policing services in keeping with the following definitions in the Program's new terms and conditions, which will take effect on 1 April 2014:

- For Program agreements where the Royal Canadian Mounted Police (RCMP) is the police service provider, the Program is meant to enable a level of policing services that supplements the level that has been agreed to pursuant to each Provincial or Territorial Police Service Agreement where the RCMP is used or employed for aiding in the administration of justice and in carrying into effect the laws in force in those jurisdictions.
- For Program agreements where the police service provider is a First Nations or Inuit police service, the Program is meant to enable these police services to provide the day-to-day policing services to the First Nations or Inuit community (or communities) specified in the agreement. These police services, however, do not provide specialized services, such as specialized investigation teams and forensic services. Such specialized services continue to be provided by the provincial or territorial police of jurisdiction on an as-needed basis.

The Department also commits to ensuring that agreements under the Program are not replacing provincial/territorial policing services provided by the RCMP under contract with the provinces or territories.

**First Nations are not meaningfully included in negotiations of agreements**

**5.45** In examining the delivery of the First Nations Policing Program, we looked at two principles of the First Nations Policing Policy that identify the need to include First Nations in the negotiations of agreements. The Police Service Options principle states that First Nations communities should “have input in determining the model appropriate to their community.” The Quality and Level of Service principle states, “First Nations communities should have input in determining the level and quality of the police services they are provided.” Effective inclusion of First Nations communities in the negotiations of agreements brings all parties together during the design stage and allows meaningful input to determine community policing needs and priorities. Public Safety Canada states that it works closely with provincial partners to ensure that First Nations communities are engaged and consulted when renewing agreements.

**5.46** In 2010, Public Safety Canada held a series of community engagement sessions as part of a required comprehensive review of the Program. During the review, community participants noted that the process to negotiate the policing agreements was “not a real negotiation.” The communities informed Public Safety Canada that they were constantly presented with a final agreement and were told that they would not receive funding for policing services if they did not sign it.

**5.47** We examined whether First Nations communities had meaningful input in the negotiations of new and renewed policing agreements. From our sample of 18 agreements, we selected 9 to assess whether the First Nations had meaningful input into negotiations of policing agreements. All of these agreements were negotiated at least once between 2006 and 2013. For 7 of these agreements, we found no documented evidence of the nature and extent of input by First Nations.

**5.48** Furthermore, in one self-administered agreement that we examined, a specific clause required the parties to begin negotiations in good faith one year in advance of the expiry date, and to strive to complete negotiations within six months. However, no such process was followed in the renewal of the 2009–13 agreement, which extended the agreement until 31 March 2014. With less than four weeks before the existing agreement was to expire, Public Safety Canada told the First Nations organization (the signatory to the agreement) that the federal and provincial governments had negotiated an extension to the current agreement and that the First Nations organization had to sign the extension.

**5.49** We found that this was not an isolated case. According to Public Safety Canada, negotiations of new or renewed agreements have been affected by uncertainty over the level of funding to the First Nations Policing Program. This has limited the Department's ability to engage with provinces and First Nations communities regarding the terms, funding amounts, and duration of agreements that were coming up for renewal. We found that 30 agreement holders had less than one month's notice to complete negotiations of agreements that would have otherwise expired on 31 March 2013. On 4 March 2013, the Minister of Public Safety Canada announced a new funding level for the Program for the next five years.

**5.50 Recommendation.** Public Safety Canada should ensure that First Nations have meaningful input when entering into new and renewed policing agreements.

**The Department's response.** Agreed. Public Safety Canada will continue to work with First Nations to provide the opportunity for meaningful input when entering into new and renewed policing agreements.

**Public Safety Canada does not have reasonable assurance that policing facilities in First Nations communities are adequate**

**5.51** Adequate policing facilities are integral to the delivery of the First Nations Policing Program. Under some agreements, First Nations are responsible for providing policing facilities on reserves. Public Safety Canada officials are responsible for working with their provincial counterparts to ensure national consistency of the contribution agreements and to monitor compliance of the parties with the terms of agreements. According to First Nations Policing Policy principles and Public Safety Canada documents, the policing facilities should be designed, built, and operated in conformity with provincial standards for policing facilities, and to the applicable building standards in the respective province.

**5.52** We examined whether Public Safety Canada has reasonable assurance that policing facilities in First Nations communities meet provincial policing facility standards and applicable building standards.

**5.53 Previously identified deficiencies of facilities.** In 2003, Public Works and Government Services Canada (PWGSC), on behalf of Public Safety Canada, inspected 140 policing facilities on reserves across the country and found that 33 of these policing facilities were in poor or very poor condition. In its resulting report, PWGSC observed that there were a growing number of inadequate policing facilities in

First Nations communities. It noted some cases in which the deficiencies presented serious health and safety risks to police officers, detainees, and community members. The report also noted that there was an inconsistent and incremental approach to policing facility planning and funding, with little or no oversight by any level of government. The report recommended that actions be taken immediately to address health and safety deficiencies and to implement a framework for funding real property.

**Minor capital expenditures**—Costs incurred for the purpose of prolonging the capital asset's period of usefulness or improving its functionality. These include expenses for operational fit-ups (modifications of space or equipment for particular purposes) or facility restorations. The terms and conditions of the First Nations Policing Program also classify temporary, transitional accommodations as minor capital expenditures.

**5.54** According to Public Safety Canada, the Department modified the First Nations Policing Program's terms and conditions in 2004. This was intended to allow limited contribution funding for **minor capital expenditures** to support the delivery of policing services provided in the agreements. In 2009, the terms and conditions were again modified to permit a one-time initiative, totalling \$15 million, to fund major repairs and new construction. However, the Department informed us, and our work confirmed, that some First Nations and provinces continue to raise concerns regarding the state of policing facilities in First Nations communities. We note again that a 2009 inquest report in Ontario also identified deficiencies in policing facilities.

**5.55 Incomplete information on the condition of facilities.**

We found that Public Safety Canada does not systematically collect information about whether policing facilities maintained by First Nations (who are party to the policing agreements) comply with

- the National Building Code of Canada,
- the National Fire Code of Canada, or
- applicable provincial standards for policing facilities.

In our sample of 18 agreements, we expected that 9 agreements would require First Nations to provide an independent inspection report to Public Safety Canada on whether policing facilities located on reserves are in compliance with the appropriate federal and provincial codes and standards. We found that only 4 of the 9 agreements had this requirement and further found that the Department's records of these required inspections were incomplete or absent. The other 5 agreements did not contain the required provision for independent inspections.

**5.56** The Department's information management system for the Program does not contain complete information about the condition of policing facilities used by the Program's service providers. Moreover, where such records existed, we found that the building condition assessments were compiled by Public Safety Canada officials who are

not professionally qualified to assess building conditions and compliance with standards. Without inspection reports by qualified professionals on all facilities, the Department does not have assurance that these facilities meet the applicable standards.

**Real property**—Any right, interest, or benefit in land or immovable improvements, such as buildings or other permanent structures, on or below the surface of the land.

**5.57 No real property framework in place.** We also found that Public Safety Canada had not established a framework for providing sustained funding for **real property** used by policing services on reserves, as recommended by PWGSC in 2003. This framework would provide information on the condition of policing facilities on reserves, the work that is needed to bring them up to standards, and the funding required to do the work.

**5.58 Examples of deficiencies of facilities.** In 2013, the First Nations Policing Program's largest self-administered policing service informed the First Nations organization that is the signatory of the agreement that 7 of its 34 policing facilities needed to be replaced or upgraded to meet the National Building Code of Canada, the National Fire Code of Canada, and Ontario's Fire Code. Exhibit 5.5 illustrates deficiencies at one of the policing facilities we visited.



**Housing for police officers.** During our visit to Kashechewan First Nation, we observed that the housing for police officers needed improvements.

**5.59** In our visit to six fly-in First Nations communities in Ontario that receive policing services through this self-administered agreement, we observed instances in which officers were living in houses that were crowded, contained mould, and were in a state of disrepair.

**5.60** In some First Nations communities that do not have a police presence, band constables serve as first responders. According to Public Safety Canada, cases that require detention of an individual are to be referred to the nearest RCMP detachment because band constables are not authorized to operate detention facilities. However, we found that transport of detainees is not always feasible because travel between First Nations communities and RCMP detachments by boat or road can be difficult or impossible at certain times of the year. In Manitoba, two inquest reports (2005 and 2009) investigating the deaths of two members of different communities each included an observation that the deceased had been detained by band constables in facilities that did not meet policing facility standards.

**5.61** In summary, until the problems we have identified are addressed, Public Safety Canada does not have reasonable assurance that policing facilities in First Nations communities are adequate.

**Exhibit 5.5 Policing facilities at Eabametoong First Nation are deficient**

Eabametoong First Nation is an isolated fly-in community located about 360 kilometres north of Thunder Bay, Ontario. Its 1,300 residents are served by the Nishnawbe-Aski Police Service, which is funded through a self-administered agreement.

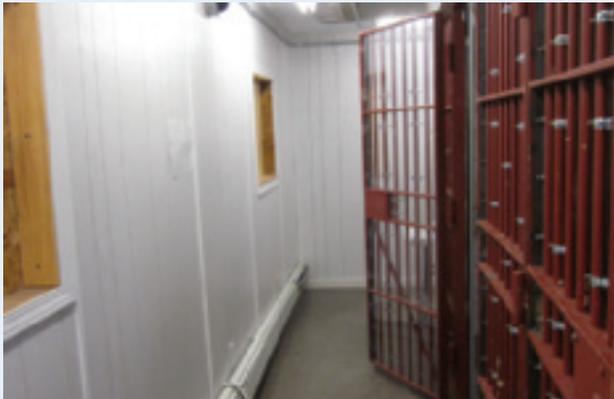
Before 2001, this community provided two buildings, one for use as a police station and the other as a residence for police officers. In 2001, the poor state of the station led the community to move it into half of the police residence.

In 2012, the regional commander of this policing service declared the residence unfit because oil spills had caused oil to seep into the crawl space beneath the foundation, which then posed health risks. Consequently, the police officers were sent to reside in the community's hotel, and the community converted two trailers into its police station.

According to the First Nations band council, these trailers were intended to be a temporary measure until 2013, with the understanding that the policing

service would be able to obtain additional funding from the Program to allow the policing service to rent a new police station that the community would build. To obtain a loan to finance the construction of a new police building, the community needed a commitment from the policing service that it would lease the new building. However, Public Safety Canada and Ontario informed the community that they would not commit to this arrangement.

**Detention area in Eabametoong's police station**



During our visit to the Eabametoong First Nation, police officers told us that these trailers do not meet standards. They mentioned the following examples:

- Halls in the detention area are too narrow for the safety of officers and detainees.
- Detention cells are smaller than the minimum cell size specified by policing standards.
- Hard, clear plastic walls were added to the detention cells because the cells had contained exposed bars that were not compliant with standards. As a result of this modification, inadequate ventilation to the cells posed yet another risk to detainees.

**Police work area in Eabametoong's police station**



During the same visit, we toured the police work area and observed that it

- lacks reception and community meeting rooms, which are required by policing standards; and
- is not finished.

**5.62 Recommendation.** Public Safety Canada should work with provinces and First Nations to develop mechanisms that will provide reasonable assurance that policing facilities located in First Nations communities and used to support policing services funded through First Nations Policing Program agreements comply with applicable building and policing facility standards.

**The Department's response.** Agreed. Public Safety Canada will work with provinces, territories, and First Nations and Inuit communities to consider and develop mutually acceptable mechanisms that will provide reasonable assurance that policing facilities located in First Nations communities and used to support policing services funded through First Nations Policing Program agreements comply with applicable building and policing facility standards. As these discussions proceed, the Department will work with these partners to develop a better understanding of the state of existing policing infrastructure in First Nations and Inuit communities that receive policing services funded under the Program.

#### **Real property funds are not necessarily used economically**

**5.63** The Program provides operating funds to First Nations communities that may be used by them to secure commercial financing for building real property policing infrastructure on reserves. The First Nations can then lease these policing facilities to the policing service providers, including the RCMP. We calculated that federal expenditures for leases to First Nations in all provinces during the 2012–13 fiscal year were about \$8.8 million (Exhibit 5.6).

**Exhibit 5.6** Federal expenditures for leases under policing agreements in all provinces for the 2012–13 fiscal year (excluding territories and Inuit communities)

| Agreement type  | Expenditures 2012–13 (millions) |
|---|---------------------------------|
| Self-administered agreements  | \$7.5                           |
| Community tripartite agreements and Aboriginal Community Constable Program framework agreements | \$1.3                           |
| <b>Total</b>  | <b>\$8.8</b>                    |

Sources: Public Safety Canada and Royal Canadian Mounted Police (unaudited data)

**5.64** We examined whether Public Safety Canada could demonstrate that these funds were being used economically because financial performance is an important element of Program delivery.

**5.65** We noted that the cost of borrowing capital for the Government of Canada is normally less than that available to commercial lenders. Therefore, if the Government of Canada provided capital funds directly to First Nations to build policing facilities on reserves, this may be, with appropriate management of risks, more economical than the current practice of First Nations securing funding from commercial lenders. We found, however, that Public Safety Canada has not reviewed whether this approach could be more economical.

**5.66 Recommendation.** Public Safety Canada should review whether there are more economical ways than leasing to provide funding for policing facilities to First Nations communities receiving policing services funded under the First Nations Policing Program.

**The Department's response.** Agreed. Public Safety Canada will review whether there are more economical ways than leasing to provide funding for policing facilities to First Nation communities that receive policing services funded under the First Nations Policing Program.

## Measurement and reporting

**5.67** We examined whether Public Safety Canada adequately measures and reports on the performance of the First Nations Policing Program.

### Performance measurement and reporting are incomplete

**5.68** Performance information is used to determine the extent to which expected results of programs are achieved. A 2010 evaluation of the Program found that Public Safety Canada needed to strengthen its ability to measure the achievement of the Program's objectives and take steps to assess whether its objectives are achieved effectively and efficiently.

**5.69** We found that Public Safety Canada adequately measures and reports on the financial performance of the Program. Measuring and reporting non-financial information of policing services is challenging. We found that Public Safety Canada reports to Parliament on the activities of the Program, such as the number of signed agreements, the number of police officers funded, and the numbers of communities and community members served.

**5.70** However, we found that the Department does not measure and report on whether the purpose and principles of the First Nations Policing Policy, and the objectives of the First Nations Policing Program, are being achieved. For example, it is not yet able to measure and report on whether the Program has improved social order, public security, and personal safety within First Nations communities. Nor has the Department been able to measure and report on whether First Nations people have access to policing services that are responsive to their needs and that are consistent with provincial standards with respect to the quality and level of policing service. We also found that the Department did not report on the extent to which the Program is achieving its intent of providing enhanced policing services. Furthermore, the Department does not report on costs and risks arising from inadequate policing infrastructure.

**5.71 Recommendation.** Public Safety Canada should measure and report on the performance of the First Nations Policing Program in a manner that brings together financial and non-financial information to link management of risks, attainment of objectives, and results.

**The Department's response.** Agreed. Public Safety Canada will continue to refine the Performance Measurement Strategy of the First Nations Policing Program in keeping with the requirements of Treasury Board policies, directives and standards, to ensure that credible and reliable performance data are being collected to allow the Department to monitor and assess the results of the Program. These efforts will include the completion of a revised Performance Measurement Strategy in 2014–15 and the preparation of annual internal performance reports.

## Conclusion

**5.72** Overall, we concluded that Public Safety Canada's First Nations Policing Program is not adequately designed to deliver and does not adequately ensure that policing services on First Nations reserves are delivered in a manner that is consistent with the principles of the First Nations Policing Policy that we examined.

**5.73** We also concluded that the Department adequately measures and reports on the financial performance of the First Nations Policing Program, but it does not measure and report on the implementation of the First Nations Policing Policy's purpose and principles, or of the Program's objectives.

**5.74** The Department recognizes that the First Nations Policing Program has evolved since its introduction in 1991. In our view, Public Safety Canada needs to work with the provinces, First Nations communities, and policing service providers to guide the future direction of the Program. This includes the need to update the principles of the First Nations Policing Policy, incorporate these principles in the terms and conditions of the First Nations Policing Program, and align the design and the delivery of the Program with the approved Policy principles and the Program's terms and conditions.

**5.75** These steps would help clarify for all parties the purpose of the Program, the parties' respective roles and responsibilities, the required level of resources, and how the Program, through its support for policing services, is expected to contribute to social order, public security, and personal safety in First Nations communities.

## About the Audit

The Office of the Auditor General’s responsibility was to conduct an independent examination of the First Nations Policing Program to provide objective information, advice, and assurance to assist Parliament in its scrutiny of the government’s management of resources and programs.

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set out by the Chartered Professional Accountants of Canada (CPA) in the CPA Canada Handbook—Assurance. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

As part of our regular audit process, we obtained management’s confirmation that the findings reported in this chapter are factually based.

### Objective

Our audit objective was to determine whether Public Safety Canada’s First Nations Policing Program, including legacy First Nations policing programs, is designed to deliver and provides policing services on First Nations reserves in a manner that is consistent with selected principles of the First Nations Policing Policy and its performance is adequately measured and reported.

We examined the following six principles of the First Nations Policing Policy:

- **Legislative Framework.** First Nations police services should be founded on a legislative framework that enables First Nations to establish, administer and regulate their police service and to appoint police officers, consistent with provincial norms and practices. The federal government will work with the provinces/territories and First Nations to promote legislation in support of First Nations policing where appropriate.
- **Quality and Level of Service.** First Nations communities should have access to policing services which are responsive to their particular policing needs and which are equal in quality and level of service to policing services found in communities with similar conditions in the region. First Nations communities should have input in determining the level and quality of the police services they are provided.
- **Responsibilities and Authorities.** Police officers serving First Nations communities should have the same responsibilities and authorities as other police officers in Canada. This means they should have the authority to enforce applicable federal and provincial laws (including the *Criminal Code*), as well as Band by-laws.
- **Responsiveness to First Nations Cultures and Needs.** First Nations communities should be policed by such numbers of persons of a similar cultural and linguistic background as are necessary to ensure that police services will be effective and responsive to First Nations cultures and particular policing needs.
- **Police Accountability and Independence.** First Nations communities should have an effective and appropriate role in directing their policing service. Therefore, First Nations policing services should include police boards, commissions and advisory bodies that are representative of the communities

they serve. In addition to police management and accountability, these bodies should ensure police independence from partisan and inappropriate political influences.

- **Police Service Options.** First Nations communities should have access to at least the same police service models that are available to communities with similar conditions in the region. They should also have input in determining the model appropriate to their community.

The audit was divided into three sub-objectives:

- To determine whether the First Nations Policing Program, which includes two legacy programs, is designed to deliver and provides policing services to First Nations in a manner that is accessible to applicant and recipient First Nations communities.
- To determine whether the First Nations Policing Program provides policing services that are professional and responsive to recipient First Nations.
- To determine whether Public Safety Canada has systems and practices in place to measure and monitor the Program's performance and whether Parliament receives adequate reports on the Program's performance.

### **Scope and approach**

The audit focused on Public Safety Canada's management of the First Nations Policing Program for First Nations on reserves. The audit also took into account, as appropriate, the roles and responsibilities of the Royal Canadian Mounted Police (RCMP).

The audit scope did not include

- Inuit communities or First Nations communities located in the territories;
- a detailed review of the quality of policing services provided to First Nations communities;
- the performance of non-federal organizations, First Nations, or First Nations organizations; or
- any specific policing event in detail, although the audit reviewed reports on specific events.

The audit involved reviewing key documents, interviewing Department officials, analyzing selected data and costs, reviewing selected systems and practices of the Department, and examining consistency between the First Nations Policing Policy and the terms and conditions of a judgmental sample of 18 Program agreements that were active in the 2011–12 fiscal year. These agreements represent about 30 percent of Program funding. Information was gathered from Public Safety Canada, RCMP headquarters, and selected regions in Ontario, Manitoba, and Alberta.

Sample of First Nations Policing Program agreements examined

| Province     | Agreement type              |                                |  |   |                                  |
|--------------|-----------------------------|--------------------------------|--|---|----------------------------------|
|              | Self-administered agreement | Community tripartite agreement | Aboriginal Community Constable Program framework agreement | First Nations Community Policing Services framework agreement | Band Constable Program agreement |
| Ontario      | 2                           | N/A                            | N/A  | N/A   | 0                                |
| Manitoba     | 1                           | 2                              | 1  | 1   | 3                                |
| Alberta      | 2                           | 2                              | 1  | 1   | 2                                |
| <b>Total</b> | <b>5</b>                    | <b>4</b>                       | <b>2</b>   | <b>2</b>  | <b>5</b>                         |

N/A—Not applicable because the Royal Canadian Mounted Police is not a policing service provider to First Nations in Ontario.

In addition, the audit included visits to 16 First Nations communities on reserves, discussions with police detachments, provincial government officials, and six First Nations organizations to obtain their views and perspectives. We also surveyed 10 chiefs of First Nations policing services.

Criteria

| Criteria  | Sources   |
|---|---|
| <b>To determine whether the First Nations Policing Program, which includes two legacy programs, is designed to deliver and provides policing services to First Nations in a manner that is accessible to applicant and recipient First Nations communities, we used the following criteria:</b> |   |
| Eligible First Nations that want to participate in First Nations Policing Program agreements and legacy programs can access the Program.  | <ul style="list-style-type: none"> <li>• First Nations Policing Policy, 1996</li> <li>• Approved Terms and Conditions for the Contribution Funding under the First Nations Policing Program, the Band Constable Program, the Aboriginal Community Constable Program, 2006, and as revised 2009</li> <li>• Policy on Transfer Payments, Treasury Board, 2008</li> <li>• Directive on Transfer Payments, Treasury Board, 2008</li> </ul>  |
| Agreements for policing services are consistent with selected elements of the First Nations Policing Policy, First Nations Policing Program terms and conditions, and Treasury Board policy.  | <ul style="list-style-type: none"> <li>• First Nations Policing Policy, 1996</li> <li>• Approved Terms and Conditions for the Contribution Funding under the First Nations Policing Program, the Band Constable Program, the Aboriginal Community Constable Program, 2006, and as revised 2009</li> <li>• Policy on Transfer Payments, Treasury Board, 2008</li> <li>• Directive on Transfer Payments, Treasury Board, 2008</li> <li>• First Nations Community Policing Services framework agreements, Aboriginal Community Constable Program framework agreements, Band Constable Program agreements, community tripartite agreements, and self-administered agreements</li> </ul> |

| Criteria  | Sources  |
|---|--|
| <b>To determine whether the First Nations Policing Program provides policing services that are professional and responsive to recipient First Nations, we used the following criteria:</b>  |  |
| Policing services established by First Nations Policing Program agreements, and legacy programs where relevant, are independent, and are trained and equipped according to policing standards.  | <ul style="list-style-type: none"> <li>• First Nations Policing Policy, 1996</li> <li>• Approved Terms and Conditions for the Contribution Funding under the First Nations Policing Program, the Band Constable Program, the Aboriginal Community Constable Program, 2006, and as revised 2009</li> <li>• First Nations Community Policing Services framework agreements, Aboriginal Community Constable Program framework agreements, Band Constable Program agreements, community tripartite agreements, and self-administered agreements</li> </ul> |
| Policing services established by First Nations Policing Program agreements, including legacy programs, provide responsive policing, including by-law enforcement.   | <ul style="list-style-type: none"> <li>• First Nations Policing Policy, 1996</li> <li>• Approved Terms and Conditions for the Contribution Funding under the First Nations Policing Program, the Band Constable Program, the Aboriginal Community Constable Program, 2006, and as revised 2009</li> <li>• First Nations Community Policing Services framework agreements, Aboriginal Community Constable Program framework agreements, Band Constable Program agreements, community tripartite agreements, and self-administered agreements</li> </ul> |
| <b>To determine whether Public Safety Canada has systems and practices in place to measure and monitor the Program's performance and whether Parliament receives adequate reports on the Program's performance, we used the following criteria:</b> |  |
| Performance of the First Nations Policing Program, Aboriginal Community Constable Program, and Band Constable Program is monitored and measured against Program's objectives.   | <ul style="list-style-type: none"> <li>• Policy on Transfer Payments, Treasury Board, 2008</li> <li>• Policy on Management, Resources and Results Structures, Treasury Board, 2010</li> <li>• Statement of Recommended Practice (SORP-2), Public Performance Reporting, Public Sector Accounting Board, 2006</li> </ul>  |
| Parliament receives reports on Program performance that bring together financial and non-financial information to link management of risks, attainment of objectives, and expected and unexpected results.  | <ul style="list-style-type: none"> <li>• Policy on Transfer Payments, Treasury Board, 2008</li> <li>• Policy on Management, Resources and Results Structures, Treasury Board, 2010</li> <li>• Statement of Recommended Practice (SORP-2), Public Performance Reporting, Public Sector Accounting Board, 2006</li> <li>• Guide to the Preparation of Part III of the 2013–14 Estimates, 2013–14 Report on Plans and Priorities, Treasury Board of Canada Secretariat</li> </ul>   |

Management reviewed and accepted the suitability of the criteria used in the audit.

**Period covered by the audit**

The audit covered the period between 1 October 2012 and 17 December 2013. Audit work for this chapter was completed on 17 December 2013. The audit reached back over longer periods, as required, to gather evidence to conclude against specific criteria.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 5. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

| Recommendation  | Response   |
|---|--|
| <b>Program design</b>   |  |
| <p><b>5.25</b> Public Safety Canada should work with the Province of Ontario and First Nations to ensure that all self-administered agreements funded through the First Nations Policing Program clearly state that First Nations policing services comply with the provincial legislative framework that applies to all policing services in the province.<br/>(5.16–5.24)</p> | <p>Agreed. As self-administered agreements funded through the First Nations Policing Program in Ontario are renewed, Public Safety Canada will continue to work with the Province of Ontario, to the extent that the Province is willing, and First Nations to develop agreed-upon wording that appropriately reflects the relevant legislative and/or policy framework.</p>   |
| <p><b>5.29</b> Public Safety Canada should take appropriate measures to update the principles of the First Nations Policing Policy and incorporate these updated principles in the First Nations Policing Program’s terms and conditions and, as applicable, in the policing agreements.<br/>(5.26–5.28)</p>  | <p>Agreed. Public Safety Canada will take appropriate measures to update the First Nations Policing Policy principles for the First Nations Policing Program, and will incorporate these updated principles into the Program’s terms and conditions and in the policing agreements, as applicable.</p>   |
| <b>Program delivery</b>   |  |
| <p><b>5.37</b> Public Safety Canada should ensure that the First Nations Policing Program is accessible and transparent, and operates in full compliance with Treasury Board’s Policy on Transfer Payments and Directive on Transfer Payments.<br/>(5.31–5.36)</p>  | <p>Agreed. Public Safety Canada has developed updated terms and conditions for the First Nations Policing Program. The new terms and conditions, which will take effect on 1 April 2014, ensure that contribution agreements under the Program operate in full compliance with the Treasury Board’s Policy on Transfer Payments and Directive on Transfer Payments. Guidelines based on these terms and conditions are expected to be made available on the Public Safety Canada website in spring 2014.</p> |

| Recommendation  | Response  |
|---|---|
| <p><b>5.44</b> Public Safety Canada should clarify what specific policing services the First Nations Policing Program is intended to fund and should ensure that</p> <ul style="list-style-type: none"> <li>• the Program intent is reflected in the agreements that are funded by the Program, and</li> <li>• policing services funded by the Program are not replacing provincial policing services. (5.38–5.43)</li> </ul> | <p>Agreed. Public Safety Canada commits to ensuring that First Nations Policing Program funding is used to support the delivery of policing services in keeping with the following definitions in the Program’s new terms and conditions, which will take effect on 1 April 2014:</p> <ul style="list-style-type: none"> <li>• For Program agreements where the Royal Canadian Mounted Police (RCMP) is the police service provider, the Program is meant to enable a level of policing services that supplements the level that has been agreed to pursuant to each Provincial or Territorial Police Service Agreement where the RCMP is used or employed for aiding in the administration of justice and in carrying into effect the laws in force in those jurisdictions.</li> <li>• For Program agreements where the police service provider is a First Nations or Inuit police service, the Program is meant to enable these police services to provide the day-to-day policing services to the First Nations or Inuit community (or communities) specified in the agreement. These police services, however, do not provide specialized services, such as specialized investigation teams and forensic services. Such specialized services continue to be provided by the provincial or territorial police of jurisdiction on an as-needed basis.</li> </ul> <p>The Department also commits to ensuring that agreements under the Program are not replacing provincial/territorial policing services provided by the RCMP under contract with the provinces or territories.</p> |
| <p><b>5.50</b> Public Safety Canada should ensure that First Nations have meaningful input when entering into new and renewed policing agreements. (5.45–5.49)</p>  | <p>Agreed. Public Safety Canada will continue to work with First Nations to provide the opportunity for meaningful input when entering into new and renewed policing agreements.</p>  |

| Recommendation  | Response   |
|---|--|
| <p><b>5.62</b> Public Safety Canada should work with provinces and First Nations to develop mechanisms that will provide reasonable assurance that policing facilities located in First Nations communities and used to support policing services funded through First Nations Policing Program agreements comply with applicable building and policing facility standards. (5.51–5.61)</p> | <p>Agreed. Public Safety Canada will work with provinces, territories, and First Nations and Inuit communities to consider and develop mutually acceptable mechanisms that will provide reasonable assurance that policing facilities located in First Nations communities and used to support policing services funded through First Nations Policing Program agreements comply with applicable building and policing facility standards. As these discussions proceed, the Department will work with these partners to develop a better understanding of the state of existing policing infrastructure in First Nations and Inuit communities that receive policing services funded under the Program.</p> |
| <p><b>5.66</b> Public Safety Canada should review whether there are more economical ways than leasing to provide funding for policing facilities to First Nations communities receiving policing services funded under the First Nations Policing Program. (5.63–5.65)</p>  | <p>Agreed. Public Safety Canada will review whether there are more economical ways than leasing to provide funding for policing facilities to First Nation communities that receive policing services funded under the First Nations Policing Program.</p>   |
| <p><b>Measurement and reporting</b></p>   |  |
| <p><b>5.71</b> Public Safety Canada should measure and report on the performance of the First Nations Policing Program in a manner that brings together financial and non-financial information to link management of risks, attainment of objectives, and results. (5.67–5.70)</p>   | <p>Agreed. Public Safety Canada will continue to refine the Performance Measurement Strategy of the First Nations Policing Program in keeping with the requirements of Treasury Board policies, directives and standards, to ensure that credible and reliable performance data are being collected to allow the Department to monitor and assess the results of the Program. These efforts will include the completion of a revised Performance Measurement Strategy in 2014–15 and the preparation of annual internal performance reports.</p>   |