

Ministerial Mandate Letters: Relevance to Indigenous Child Welfare and Well-Being

On November 13, 2015, Prime Minister Justin Trudeau broke with tradition by making public his ministerial mandate letters, which outline the policy objectives which his ministers are to pursue during their respective mandates. A number of objectives have a direct bearing on Indigenous child welfare and on Indigenous well-being more broadly.

In the first half of each Minister's letter, Prime Minister Trudeau emphasized his government's dedication to working collaboratively – including with Indigenous peoples:

“We made a commitment[...] to pursue our goals with a renewed sense of collaboration. Improved partnerships with provincial, territorial, and municipal governments are essential to deliver the real, positive change that we promised Canadians. No relationship is more important to me and to Canada than the one with Indigenous Peoples. It is time for a renewed, nation-to-nation relationship with Indigenous Peoples, based on recognition of rights, respect, co-operation, and partnership.”

Two other broad statements made to all Ministers also suggest that important change could be underway regarding development and implementation of Indigenous child welfare policies. Prime Minister Trudeau wrote that his government has “committed to set a higher bar for openness and transparency in government,” and outlined his expectation that his government's “work will be informed by performance measurement, evidence, and feedback from Canadians.” This seems to signal a shift from the approach of Stephen Harper's government which, for example, withheld relevant documents pertaining to Indigenous children's well-being both from the Truth and Reconciliation Commission of Canadaⁱ, and from the parties before the Canadian Human Rights Tribunal in a landmark case on underfunding of on-reserve child welfare services.ⁱⁱ Furthermore, a commitment to policy based on evidence bodes well for change to Indigenous health and social policy, as there is plenty of evidence that health and social programs have been underfunded, that clarity is needed regarding responsibility for

Mandated Highlight.

“Re-engage in a **renewed nation-to-nation process** with Indigenous Peoples to make real progress on the issues most important to First Nations, the Métis Nation, and Inuit communities – issues like housing, employment, health and mental health care, community safety and policing, child welfare, and education.”

WHY THIS IS RELEVANT: Nation-to-nation relationships would mean moving away from relationships of domination and paternalism which have so long characterized the federal government's interaction with Indigenous nations.

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennett.

service funding and provision, and that better coordination is required amongst government departments to mitigate against service gaps.ⁱⁱⁱ

Mandated Highlight.

“Establish a **new fiscal relationship** that **lifts the 2% cap on annual funding increases** and moves towards sufficient, predictable and sustained funding for First Nations communities.”

WHY THIS IS RELEVANT: This funding cap, in place since the 1990s, has meant that funding for First Nations communities has failed to keep pace with inflation and population growth^{iv} – meaning communities have been asked to do more with less. A move towards “sufficient, predictable and sustained funding” would be a huge step forward.

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennet, and Minister of Finance, Bill Morneau.

WHY THIS IS RELEVANT: Depending on how broad the scope of the Crown’s obligations to consult and accommodate are, this review could impact health and social services. There has been longstanding disagreement between First Nations and the Canadian government regarding the existence and source of obligations to provide public services to First Nations.^v

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennet, in consultation with Minister of Justice, Jody Wilson-Raybould.

Mandated Highlight.

“**Undertake, [...] in full partnership and consultation with First Nations, Inuit, and the Métis Nation, a review of laws, policies, and operational practices** to ensure that the Crown is fully executing its consultation and accommodation obligations, in accordance with its constitutional and international human rights obligations, including Aboriginal and Treaty rights.”

Mandated Highlight.

“**Review [Canada’s] litigation strategy.** This should include early decisions to end appeals or positions that are not consistent with our commitments, the Charter or our values.”

WHY THIS IS RELEVANT: This could signal a shift away from litigation strategies that have greatly damaged the relationship between the federal government and First Nations, including in cases dealing with access to public services – such as the attempt to have a Canadian Human Rights Tribunal case dealing with alleged racial discrimination in the provision of child welfare services thrown out on technical grounds.

WHO IS TASKED WITH THIS: Minister of Justice, Jody Wilson-Raybould.

WHY THIS IS RELEVANT: While no specific mention is made of First Nations in this mandate, the issue of timely access to benefits is a pressing one for First Nations, who often face structural barriers to accessing services, above and beyond those that other Canadians face. Jordan’s Principle was developed as a mechanism to ensure such access for First Nations children.

WHO IS TASKED WITH THIS: Minister of Public Services and Procurement, Judy Foote, and Minister of Families, Children, and Social Development, Jean-Yves Duclos.

Mandated Highlight.

“[S]et transparent service standards so that Canadians **get timely access to the benefits to which they are entitled.**”

Mandated Highlight.

“Develop [...] an approach to, and a mandate for, an **inquiry into murdered and missing Indigenous women and girls in Canada.**”

WHY THIS IS RELEVANT: In the last few decades, over 1,100 Indigenous women and girls have been murdered or gone missing in Canada – an alarming and tragic pattern that has had significant repercussions on children, families, and communities.

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennett, and Minister of Justice, Jody Wilson-Raybould, with the support of Minister of Status of Women, Patricia Hajdu.

WHY THIS IS RELEVANT: Education outcomes for First Nations children and youth living on reserve has long lagged far behind those of children and youth living off reserve, and funding for on-reserve schools has been inadequate to respond to needs.^{vi}

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennet.

Mandated Highlight.

“Make significant new **investments in First Nations education to ensure that First Nations children on reserve receive a quality education** while respecting the principle of First Nations control of First Nations education.”

Mandated Highlight.

“[A]llow charities to do their work on behalf of Canadians free from political harassment, and modernize the rules governing the charitable and non-for-profit sectors. This will include clarifying the rules governing “political activity,” with an understanding that **charities make an important contribution to public debate and public policy.** A new legislative framework to strengthen the sector will emerge from this process.”

WHY THIS IS RELEVANT: This could have a significant impact on advocacy organizations, such as the First Nations Child and Family Caring Society, who saw funding cut by the previous federal government after taking public stances against federal policies.^{vii}

WHO IS TASKED WITH THIS: Minister of National Revenue, Diane Lebouthillier, and Minister of Finance, Bill Morneau.

WHY THIS IS RELEVANT: Many First Nations communities, as well as Inuit communities, are located in areas where the Northern Benefit Deduction applies.

WHO IS TASKED WITH THIS: Minister of Finance, Bill Morneau, and Minister of Indigenous and Northern Affairs, Carolyn Bennet.

Mandated Highlight.

“Enhance the Northern Benefit Deduction to help northern Canadians with the high cost of living and support the growth of northern economies.”

Mandated Highlight.

“Work with residential school survivors, First Nations, Métis Nation, Inuit communities, provinces, territories, and educators to **incorporate Aboriginal and treaty rights, residential schools, and Indigenous contributions into school curricula.**”

WHY THIS IS RELEVANT: To date, school curricula have largely failed to inform students about these important topics, meaning many politicians and professionals working with First Nations have not understood the historical and legal basis of the Crown/First Nations relationship or of the country, nor the havoc that the residential school system wreaked on so many individuals, families, and communities. Incorporation of this material into curriculum features in the TRC’s Calls to Action.^{viii}

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennet.

WHY THIS IS RELEVANT: Aboriginal people are severely over-represented in the criminal justice system, a system which has been found to be hostile to, and unrepresentative of, Aboriginal worldviews and needs.^{ix} There is a need for culturally appropriate and sensitive services within the criminal justice system.

WHO IS TASKED WITH THIS: Minister of Indigenous and Northern Affairs, Carolyn Bennett, Minister of Public Safety and Emergency Preparedness, Ralph Goodale, and Minister of Justice, Jody Wilson-Raybould.

Mandated Highlight.

“[A]ddress gaps in services to Aboriginal people and those with mental illness throughout the criminal justice system.”

Mandated Highlight.

“[L]aunch consultations with provinces and territories and Indigenous Peoples on a National Early Learning and Childcare Framework as a first step towards delivering affordable, high-quality, flexible and fully inclusive child care.”

WHY THIS IS RELEVANT: Affordable and inclusive child care is an important step in promoting gender equity and family well-being.

WHO IS TASKED WITH THIS: Minister of Families, Children, and Social Development, Jean-Yves Duclos, and Minister of Indigenous and Northern Affairs, Carolyn Bennett.

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ⁱ E.g. see Canadian Press (30 January 2013), “Ottawa ordered to provide all residential schools documents”. Retrieved from <<http://www.cbc.ca/news/politics/ottawa-ordered-to-provide-all-residential-schools-documents-1.1345892>>

ⁱⁱ E.g. see Laura Payton (4 July 2013), “Ottawa rebuked for holding back First Nations documents”: CBC News. Available at <<http://www.cbc.ca/news/politics/ottawa-rebuked-for-holding-back-first-nations-documents-1.1362202>>

ⁱⁱⁱ E.g. See Jordan’s Principle Working Group (2015), *Without denial, delay, or disruption: Ensuring First Nations children’s access to equitable services through Jordan’s Principle*: Assembly of First Nations. Retrieved from

<http://health.afn.ca/uploads/files/jordans_principle_english.pdf>

^{iv} E.g. see Canadian Centre for Policy Alternatives (2015), “First Nations” in *Delivering the goods: Alternative federal budget*. Available at

<https://www.policyalternatives.ca/afb2015chapters/First_Nations.pdf>; Standing Senate

Committee on Aboriginal Peoples (June 2015), *On-reserve housing and infrastructure: Recommendations for change*. Available at

<<http://www.parl.gc.ca/Content/SEN/Committee/412/appa/rms/12jun15/Report-e.htm>>.

^v E.g. Commission on the Future of Health Care in Canada (2002), *Building on values: The future of health care in Canada - Final report (“Romanow Report”)* at p. 212; Health Canada & Assembly of First Nations (2012), *Your health benefits: A guide for First Nations to access Non-Insured Health Benefits*, at p. 2. Retrieved from <http://www.csfs.org/documents/REPRINT-AFN-NIHBJointReport_EN_FINAL.pdf>.

^{vi} E.g. see First Nations Education Council (February 2009), *Paper on First Nations education funding*. Available at <http://www.cepn-fnec.com/PDF/etudes_documents/education_funding.pdf>

^{vii} E.g. see Maria Gergin (2011), “Silencing dissent: The Conservative record”. Retrieved from <<https://www.policyalternatives.ca/publications/commentary/silencing-dissent-conservative-record>>

^{viii} E.g. see Call to Action #62 and #63 in Truth and Reconciliation Commission of Canada (2015), *Truth and Reconciliation Commission of Canada: Calls to action*. Retrieved from <http://www.trc.ca/websites/trcinstitution/File/2015/Findings/Calls_to_Action_English2.pdf>

^{ix} E.g. see Aboriginal Justice Implementation Commission (2011), *Report of the Aboriginal Justice Commission of Manitoba*. Available at <<http://www.ajic.mb.ca/volume.html>>