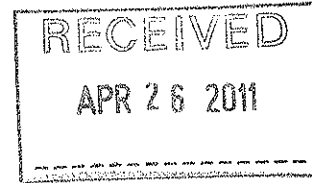




APR 20 2011



Mr. Julian N. Falconer
Falconer Charney LLP
8 Prince Arthur Avenue
TORONTO ON M5R 1A9

Dear Mr. Falconer:

I am writing on behalf of the Honourable John Duncan, Minister of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians, in response to your letter of March 22, 2011, regarding several questions you have posed related to the *Pierre v. McRae* court decision by the Ontario Court of Appeal on March 11, 2011.

In your letter you have quoted a comment by Geneviève Guibert, Indian and Northern Affairs Canada spokeswoman, regarding the Department's position of not releasing Band or Electoral Lists of Ontario First Nations to the Government of Ontario. I would like to reiterate that this is the current position of Indian and Northern Affairs Canada. As stated, it is more appropriate that First Nations themselves decide if their electoral lists are shared with other levels of government.

Please find the following responses to the five questions that you have raised:

- i) *At any time, were First Nations apprised by INAC or the Attorney General, that the INAC decision not to provide band lists to the Ontario Government would have consequences for their communities' inclusion on jury rolls? If so, please advise as to the form of this notice. If not, why not?*

Indian and Northern Affairs Canada did not inform all First Nations that it would no longer provide Band Lists to the Ontario Government for inclusion on jury rolls. Band Lists were, pursuant to a previous agreement, provided to the Ontario Government for inclusion on jury rolls; however, after receiving requests from First Nations to cease this practice in conjunction with a review of the previous agreement from the perspective of the new *Privacy Act*, the Department did not enter into new agreements to share information with the Ontario Government, pursuant to its discretion not to do so. Indian and Northern Affairs Canada assured the First Nations that protested the information sharing that practice would cease as it is the First Nations themselves and not the Department who should decide on the sharing of Band Lists.

.../2

- ii) *Did INAC or the Attorney General seek the consent of the First Nation leadership for the distribution of band lists to the Ontario Government solely for the purposes of their inclusion on jury rolls (i.e. a consent to limited disclosure)? If so, please advise as to the form of this request for a consent to limited disclosure. If not, why?*

No, see response above.

- iii) *What communications did INAC or the Attorney General have with representatives of the Ontario Government over the decision to cease providing Band lists? Did your Ministries seek consent through the Ontario Government for the release of information for the purposes of the compilation of jury rolls? Please advise as to the nature of the communications and whether the compilation of jury rolls was discussed.*

At the time that the issue arose in 2001, the Department advised the Ontario Government that it would stop providing the Band Lists for inclusion on jury rolls.

- iv) *Did the Ontario Government apprise you at any time that your failure to provide Band lists would result in exclusion of First Nations from jury rolls?*

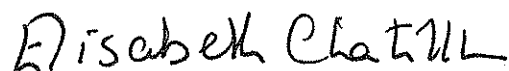
No.

- v) *What other provinces' jury rolls have been affected by the decision to cease providing First Nation Band lists?*

No other province had previously sought Band Lists for inclusion on jury rolls; the Government of Ontario is the only provincial government that had done so.

I trust I have adequately responded to your concerns.

Yours sincerely,



Élisabeth Châtillon
Resolution and Individual Affairs Sector