

National Claims Research Directors

c/o Union of BC Indian Chiefs
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Standing Committee on Access to Information, Privacy, and Ethics
Sixth Floor, 131 Queen Street
House of Commons
Ottawa ON K1A 0A6
Canada

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October 16, 2017

Re: OPEN LETTER Submission on Bill C-58, *An Act to Amend the Access to Information Act and the Privacy Act and to Make Consequential Amendments to Other Acts*

Dear Members of the Standing Committee,

Please accept this submission and attachments by the National Claims Research Directors pertaining to your review of Bill C-58, amendments to reform Canada's *Access to Information Act*. Our submission outlines our grave concerns about the content of Bill C-58 and provides reasons why we strongly oppose the bill as currently drafted.

The National Claims Research Directors is a national body of technicians who manage over thirty centralized Claims Research Units, representing over 400 First Nations. Much of our work is focused on the development of claims against the Government of Canada related to its breach of lawful obligations against First Nations, pursuant to the federal Specific Claims Policy and the *Specific Claims Tribunal Act*, as well as on other disputes related to Treaties and Aboriginal title and rights. We work closely with First Nations communities, legal counsel, funding administrators, Canada's Specific Claims Branch of Indigenous and Northern Affairs (INAC), claims negotiators, and the Specific Claims Tribunal. In our work, we must routinely access information from federal government departments and agencies.

Bill C-58 has been developed unilaterally, without any effort to consult First Nations, contrary to Canada's commitment to a Nation-to-Nation relationship and to working in equal partnership with First Nations. Bill C-58 and the unilateral process through which it has been developed clearly violates several of the *Principles respecting the Government of Canada's relationship with Indigenous peoples* announced by Justice Minister and Attorney General of Canada Jody Wilson-Raybould in July 2017, and contravenes the Government of Canada's commitment to reconciliation with First Nations.

Bill C-58 will greatly impair the ability of First Nations to document their claims, grievances, and disputes with the Government of Canada and will significantly impede First Nations' access to justice in resolving their claims. The Bill will obstruct efforts by Canada to meet the standards of redress for historical wrongs articulated in the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), as it significantly undermines First Nations' existing rights of access to information.

The Office of the Auditor General of Canada (OAG) recently conducted an audit of Canada's specific claims process. The OAG's report, released in November 2016, concluded that Canada's department of Indigenous and Northern Affairs introduced numerous barriers that hindered the resolution of claims, including by restricting information.

Yet if passed into law, Bill C-58 will impose substantive new barriers to the resolution of First Nations' claims. It will also provide legislative authority for the suppression of evidence which First Nations require to pursue their claims against Canada. Revisions to the Act will enshrine into legislation overly prescriptive and inappropriate requirements for applicants seeking records, as well as providing legislative grounds for government bodies to deny access to records vital to First Nations.

In keeping with Canada's commitment to reconciliation, the UNDRIP, and access to justice for First Nations, we call on the committee to withdraw Bill C-58 and engage in full and meaningful consultation with First Nations regarding legislative reforms to access to information. We also fully endorse the recommendations to improve Bill C-58 made by the Information Commissioner of Canada in her September 2017 report.

Please direct questions or comments to Jody Woods, Research Director, Union of BC Indian Chiefs, via email (jwoods@ubcic.bc.ca) or phone (604-684-0231, ext. 241).

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