

Assembly of First Nations

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ANNUAL GENERAL ASSEMBLY
September 3-4-5, 2025, Winnipeg, MB

Resolution no. 29/2025

TITLE: Transformative Change of the Access to Information Regime

SUBJECT: Access to Information, Data Sovereignty

MOVED BY: Judy Wilson, Proxy, Osoyoos Indian Band, BC

SECONDED BY: Chief Dalton Silver, Sumas First Nation, BC

DECISION Approved by the AFN Executive Committee by consensus

WHEREAS:

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 5: Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.
 - ii. Article 11(2): States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.
 - iii. Article 19: States shall consult and cooperate in good faith with Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.
- B. First Nations have existing rights to their intellectual property and records held by the Government of Canada. Courts have consistently confirmed that the Government of Canada has a corresponding obligation to disclose records to First Nations in a timely and efficient manner.
- C. In 2024, the Senate Standing Committee on Indigenous Peoples (APPA) released its report on documents related to Indian Residential School system, *Missing Records, Missing Children*, which included specific recommendations to the Government of Canada related to the Access to Information and Privacy regimes.

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Cindy Woodhouse

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Recommendation 10 calls on the Government of Canada to insert a reconciliatory clause in the purpose clauses of Canada's *Access to Information Act* and *Privacy Act*.

- D. The Government of Canada possesses, and controls significant amounts of historical documentation and evidence related to specific claims and other claims against the Crown. As the defendant to these claims, the Government of Canada's control over the evidence places it in a position of conflict of interest.
- E. First Nations face excessive delays in seeking access to their information held by the Government of Canada. Additionally, First Nations must grapple with inconsistent, overbroad and arbitrary redactions in information disclosures. These systemic barriers impede First Nations from accessing their information and amount to a denial of access to justice. An informal access to information process was established in recognition of First Nations' unique rights and interests in their information but is impacted by delays and has failed to address the underlying conflict of interest.
- F. In 2023, the Government of Canada released the National Action Plan for the implementation of the UN Declaration. Action Plan Measures "Shared Priorities 3 and 30" call on the Government of Canada to work in direct consultation with First Nations during the periodic review of federal statutes and the advancement of Indigenous data sovereignty. Additionally, Action Plan Measure 66 commits the Government of Canada to take "measures to address barriers to full and effective participation by Indigenous peoples [in decision-making related to legislative, policy and program initiatives], including, for example, in relation to access to information and capacity supports."
- G. In 2025, the President of the Treasury Board is mandated by law to review the *Access to Information Act* and produce a report to Parliament.

THEREFORE BE IT RESOLVED that First Nations-in-Assembly:

- 1. Call on the President of the Treasury Board to consult and cooperate with First Nations and national claims research organizations regarding current and future legislative or administrative changes related to the access to information regime.
- 2. Call on the President of the Treasury Board to take meaningful measures in full consultation and cooperation with First Nations on the advancement of Indigenous data sovereignty including the need for targeted amendments to the *Access to Information Act* to realize the principles of Indigenous data sovereignty.
- 3. Call on the Government of Canada to take all measures necessary to ensure the *Access to Information Act* meets the minimum standards of the *United Nations Declaration on the Rights of Indigenous Peoples*.
- 4. Call on the Government of Canada to accept and implement the recommendations from the *Missing Records, Missing Children* report and in specific, Recommendation 10, related to the *Access to Information Act*.
- 5. Direct the Assembly of First Nations (AFN) to seek resources to participate in the review of the *Access to Information Act* and to work with the Government of Canada and First Nations, to jointly develop and implement reforms to the *Access to Information Act*.

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