

Aboriginal Fishery Guardian Program

DISCUSSION PAPER



**NATIONAL INDIGENOUS
FISHERIES INSTITUTE**

Indigenous Program Review

**INSTITUT NATIONAL DES
PÊCHES AUTOCHTONES**

Examen des programmes autochtones

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Program Overview

The Aboriginal Fishery Guardian Program is a significant component of the Aboriginal Fisheries Strategy.

It was set up to help Indigenous communities develop the technical capacity to manage their own food, social and ceremonial fisheries by hiring one or more fishery guardians to perform some or all of the following duties:

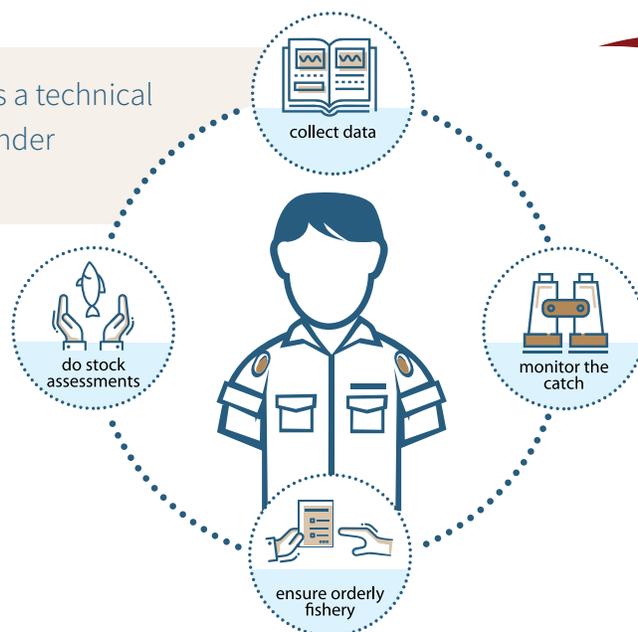
- monitor the catch and fishing activities
- collect data related to fisheries, habitat and/or aquatic resources
- enforce the rules for fishing as set out in the communal licence and any other violations to the *Fisheries Act*
- undertake activities in the field related to stock assessments and habitat management
- carry out community engagement and education activities

All fishery guardians across Canada are given certain enforcement powers under the authority of the *Fisheries Act*. These powers are limited to restrict search, arrest and any use of force. This means guardians largely 'observe, record and report' violations of the *Fisheries Act*, although they may also seize small items that are part of a fishery offence, such as fishing nets, rods and small quantities of fish.

Fishery guardians are trained to carry out their duties. During training, they learn how their duties relate to fisheries and habitat legislation. They also learn how to collect, gather and give evidence related to a violation and how to use defense tactics to avoid difficult situations.

Indigenous fishery guardians are employed by, and report through, their respective First Nation or Indigenous organization. Their work plans are set for the fishing season and agreed upon annually by the Indigenous group and Fisheries and Oceans Canada. In some areas, guardians work closely with fishery officers to conduct joint patrols or share training opportunities and equipment. They may also work with other federal and provincial officials, such as provincial conservation officers, the Royal Canadian Mounted Police, and First Nations Community Police.

A Fishery Guardian is a technical expert designated under the *Fisheries Act*



Desktop Review Summary

In 1999, a national review of the Aboriginal Fishery Guardian Program was undertaken by Fisheries and Oceans Canada. While the review found that the program had created a closer relationship between Indigenous communities and the Department, it also found that the program was not being used to its potential.

More importantly, the review found that there was significant uncertainty amongst participants about the value and objectives of the program because there was no clear statement about the role of Indigenous fishery guardians and the administrative structures needed to support the program.

To improve the program, the review recommended that Fisheries and Oceans Canada establish:

- clear program objectives
- more flexibility in the guardian's level of authority, including through cross-delegation of authorities
- standards for supervisions, control and support
- training standards and methods
- coordination between the enforcement and technical roles of fishery guardians

The review also had specific ideas about how each recommendation should be implemented:

Program Objectives

The Department should engage internally and externally to establish objectives that would both improve fisheries and habitat management, and advance Indigenous self-governance. For example, it could align the program to build Indigenous capacity to conduct law enforcement activities in the area of fisheries and habitat management.

Level of Authority

The Department should explore ways to qualify fishery guardians to manage other resource aspects, such as provincial game management and habitat management. It should also consider the common interest of other departments and Indigenous

communities in collaborative and innovative approaches to develop and implement Indigenous policing, renewable resource management and regulatory enforcement.

Standards for Supervisions, Control and Support

The Department should establish standards for supervision and control which conform to Fisheries and Oceans Canada's enforcement policies, guidelines and procedures. It should also consider other options for supervision, control and support, such as community police forces within Indigenous communities, by collaborating with other federal government departments.

Training Standards and Methods

The Department should ensure training for Indigenous and non-Indigenous fishery guardians is exactly the same to ensure equivalent authority and duties. It should also increase the capacity of its Conservation and Protection team to deliver field training and incorporate a national training regime. At the same time, the Department should work with Indigenous groups to develop three-year work plans for guardians (which feature planned training) and should review these plans annually.

Coordination with Departmental Enforcement Personnel

The Department should transfer the enforcement aspects of the Aboriginal Fishery Guardian Program to its Conservation and Protection team, while continuing to support the technical roles and program funding through the Aboriginal Fisheries Strategy program.

The 1999 review of the Aboriginal Fishery Guardian Program had a lot of recommendations, many of which remain largely unaddressed today. It also focused primarily on the enforcement duties of the guardians, without commenting on data collection or technical 'in the field' activities, other than to recommend that the enforcement and technical roles be managed by different sectors of the Department.

In 2007, an evaluation of the Aboriginal Fisheries Strategy program called on Fisheries and Oceans Canada to develop administrative guidelines for the Aboriginal Fishery Guardian Program to clearly identify roles and responsibilities, objectives, and expected results to be achieved. An external training needs and feasibility review in 2007 also found that the lack of training had caused the program to be functioning well below potential.

In response to these reports, the Department set up a National Aboriginal Guardian Working Group to establish a structure for the Aboriginal Fishery Guardian Program and to identify a three-year strategic training plan. In March 2008, two-week 'Basic Refresher Training' sessions were then held for Indigenous fishery guardians using curriculum developed by the working group. When the sessions were assessed in April 2008, participants reported that the training gave them skills to better carry out their responsibilities and established stronger working relationships between First Nations and departmental staff. They also enjoyed sharing knowledge with other participants and learning from the instructors. Based on the success of the initial training sessions, a second series was held in February 2009.

In 2012, the Conservation and Protection team at Fisheries and Oceans Canada began to engage other sectors at the Department, other government departments, and Indigenous partners on the future of the Aboriginal Fishery Guardian Program. Specifically, they asked:

- What is/should be the objective of the program?
- What are the benefits for the Department, other government departments, communities, fishery guardians, and the Government of Canada?
- What are the short- and long-term challenges? Were any insurmountable?
- Who are potential partners in the program and what roles should they have?
- Are yearly negotiated agreements the best tool to support long-term program delivery?

There was universal support from Indigenous communities for the role of guardians to be expanded multi-jurisdictionally to match Indigenous aspirations for a holistic approach to natural resource monitoring. While there was general support for enhanced powers (usually, but not always, expressed by guardians), Indigenous leadership usually (but not always) favoured limitations on powers. Indigenous participants in the engagement also called for more resources and expressed their preference for local training.

As a result of this engagement, the Department began developing a vision document for the Aboriginal Fishery Guardian Program to better articulate its objectives and roles. It also began to explore potential partnerships with other government departments, options to deliver local training, and two potential pilot projects (one in the Pacific and one in the Atlantic).

Also in 2012, the First Nations Fisheries Council hosted a guardian focus group for First Nations in British Columbia and Fisheries and Oceans Canada to explore the challenges and opportunities presented by the Aboriginal Fishery Guardian Program. The focus group looked to learn from existing guardian programs and envision what a fishery guardian program could look like in the future. Participants in the focus group described a four-pronged model for the program:

- **multi-jurisdictional** involving First Nations and relevant federal and provincial government departments with some level of authority or area of natural resources
- **integrated** structure to accommodate First Nations conservation, protection and stewardship of natural and cultural resources within their traditional territories
- **accredited** through province-wide training and certification to ensure the same standards and methods were used by all guardians
- **flexible** to respond to individual community needs from monitoring to full-scale enforcement

In 2016, an evaluation of the Compliance and Enforcement Program at Fisheries and Oceans Canada called using Indigenous and other fishery guardians to complement the efforts of the Department's fishery officers a best practice. As a result, the evaluation recommended that the program should assess whether the use of fishery guardians could expand into other regions to protect fish stocks and habitat; especially, inland. It also recommended that the use of Indigenous fishery officers, subject to an approved command and control structure, should be assessed. An analysis report of these topics is due to be completed in 2017. It was not available for this desktop review.

The development of a pilot Indigenous Guardians Program by Indigenous and Northern Affairs Canada and Environment and Climate Change Canada was also announced in the 2017 federal budget. This initiative is intended to give Indigenous Peoples a greater say, responsibility, and capacity in how they manage their traditional lands and waterways, which is consistent with some of the original roles envisioned in the Aboriginal Fishery Guardian Program.

Input of the Indigenous Program Review Panel

Indigenous executives with experience in fisheries and aquaculture programs reported that the Aboriginal Fishery Guardian Program was not designed at the outset; rather, it was introduced ad-hoc and lacked definition and structure on what the role of a guardian should be. They stressed the importance of having a clear path to establish a fully defined and developed program.

To do that, Indigenous executives agreed that the monitoring, control and surveillance aspects of the program should be separated into two parts: enforcement and all other responsibilities. They thought that this approach would allow for the technical aspects of the fishery guardian duties to be defined and understood based on how Indigenous communities are presently using guardians or other persons to complete these duties, including for resources other than fisheries.

Indigenous executives also noted that the Guardian Program would be better if training aligned with career progression paths. For the technical side, for example, career progression could include a technician, biologist or other scientist. For the enforcement side, career progression could include a fishery officer or other resource or interdiction officer. Indigenous executives also thought the program could be more beneficial if guardians became full-time employees by possibly combining fishery and other jurisdictional responsibilities.

To that end, executives strongly advised that a cost-effective, centralized structure for the program be developed, including through multi-jurisdictional partnerships.

Fishery guardians must be designated by the Fisheries Act to have authority to board a vessel or ask someone to produce a licence.

Experiences of Fisheries and Oceans Canada Program Administrators

Staff at Fisheries and Oceans Canada who are involved in the day-to-day operations of Indigenous programs agreed that the roles and responsibilities of Indigenous fishery guardians needed to be better defined. They also thought that the program should have a better understanding of the role of guardians who were not designated by the Department but who were delivering complementary services in Indigenous communities. In addition, staff identified the need for clear guidelines to be developed for the program itself.

Fisheries and Oceans Canada staff also agreed that training and career progression would be important components of a renewed Aboriginal Fishery Guardian Program. They suggested that youth mentoring should be explored, along with complementary natural resource training, to enable younger recruits to gain experience in a career that could lead to many future employment opportunities. For example, experience as a fishery guardian could be used to secure a future career as a fishery officer or a police officer or a career as a scientist or resource technician. Staff also thought fishery guardian training should be renewed and standardized across regions, as well as updated to cover new issues, such as standards for occupational health and safety.

Points of Discussion

The Aboriginal Fishery Guardian Program was developed in 1992 as a component of the Aboriginal Fisheries Strategy.

However, the program did not have clear objectives or guidelines. This shortfall was recognized in 1999 when the program underwent a review and again, in 2007, when the program was evaluated. However, in 2012, the Department was still asking participants what the program's objective was or should be. In 2017, Indigenous program staff also noted the need for clear program guidelines.

Indigenous participants in the 2002 review of the Aboriginal Fisheries Strategy program called for a re-designed guardian program with full-time jobs and the same enforcement authority as fishery officers. Indigenous participants in the 2012 focus group in British Columbia, and in engagement activities led by Fisheries and Oceans Canada that same year, also called for a multi-jurisdictional, natural resource approach to be taken to the program. These changes have yet to be addressed.

Other recommendations made over the past 15 years to improve the program, which have yet to be addressed, include:

- Coordination between, or a separation of, enforcement and technical roles
- Training standards and defined career progression paths
- Flexibility in the guardian's level of authority, including through cross-delegation of authorities
- Standards for supervisions, control and support

The historically ad hoc approach to this program has also resulted in significantly inconsistent program activities from one area of Canada to the next, as well as differing views about the roles and responsibilities of Indigenous fishery guardians. This is apparent both within Fisheries and Oceans Canada and external to the Department.

This discussion paper seeks to explore some solutions to these issues by asking for input on the following questions:

Program Design

1. Does your community have a fishery guardian (or more than one) who has been designated by Fisheries and Oceans Canada? Do you have undesignated guardian or guardian-type employees in your community?

2. Would your community benefit from a fishery guardian program which separated monitoring and data collection (among other technical activities) from enforcement and control? Do you consider these roles to be intertwined or best undertaken separately?
3. What would be the ideal monitoring and enforcement team for fisheries (and potentially other resources) in your community or group of communities?

Program Delivery

4. Should there be national program delivery guidelines and standards for Indigenous fishery and resource enforcement programs as well as 'in the field' programs for data collection and stock assessments?

Leveraging Partnership Opportunities

5. What other natural resources in your community are or would benefit from a guardian-type employee (e.g., migratory birds, forestry, etc.)? Would it be more cost-effective and beneficial to keep the same guardian over time for all of these duties?

Addressing Training Needs

6. If you have fishery guardians in your community, how often do they receive training from Fisheries and Oceans Canada? Are these guardians redesignated from time to time?
7. Could other training programs help support guardian training, such as accredited college programs? Could joint training be held with others, such as provincial guardianship programs, the Coastal Guardian Watchmen Program in British Columbia or Parks Canada?
8. Would youth in your community be interested in getting experience as a guardian or guardian-type job along a career progression path?

Improving how Performance is Measured and Reported

9. How should the performance of a future Aboriginal Fishery Guardian Program be measured?
10. How does the work of fishery guardians or other guardian-type workers advance your community's knowledge of fish and other aquatic resources?