



Council of Yukon
First Nations



INTERJURISDICTIONAL DYNAMICS AMONGST YUKON FIRST NATIONS AND NON-INDIGENOUS GOVERNMENTS DURING THE COVID-19 PANDEMIC

REPORT PREPARED FOR:
THE COUNCIL OF YUKON
FIRST NATIONS

AUTHORED BY:
RHIANNON KLEIN, ALISON PERRIN & KIRI
STAPLES IN COLLABORATION WITH
MATH'IEYA ALATINI & KARI JOHNSTON

This project was conducted with funding support from the Government of Yukon's COVID-19 Research Recovery Fund



This project was supported by project partner Yukon University



RECOMMENDED CITATION:

Klein, R., Perrin, A.D., & Staples, K. 2023.
Interjurisdictional dynamics amongst Yukon First Nations and non-Indigenous governments during the COVID-19 pandemic. Council of Yukon First Nations, Whitehorse, YT.

ACKNOWLEDGEMENTS

We would like to thank the Council of Yukon First Nations (CYFN) for supporting this project and contributing their time and expertise to overseeing and administering it. We would also like to thank the Government of Yukon for funding this project and supporting our research. We are grateful to Charlotte Buttle who coded hours of meeting transcripts and notes from the caucus calls. Finally, we would like to express our gratitude to all of the participants of the Intra-Action Reviews. This project would not have been possible without the reflections, knowledge, and experiences they all shared with the project team. We appreciate the confidence that was given to us to share these stories and first-hand experiences.

ACRONYMS

AR	Aboriginal Relations
CEMA	Civil Emergency Measures Act
CMOH	Chief Medical Officer of Health
CRU	YG COVID Response Unit
CYFN	Council of Yukon First Nations
HSS	Health and Social Services
IAR	Intra-Action Review
PHAC	Public Health Agency of Canada
PHSA	Public Health and Safety Act
YFN COVID Response	Yukon First Nation COVID Response Team
YG	Government of Yukon

TABLE OF CONTENTS

Introduction.....	1
1. Project overview.....	1
1.1 Project initiation.....	1
1.2 Project team.....	2
1.3 Our approach.....	2
Project results.....	4
2. The context surrounding the COVID-19 pandemic.....	5
2.1 Systemic racism in the health care system and pandemic response.....	5
2.2 Signatory and non-signatory Yukon First Nations.....	6
2.3 A divide between rural communities and Whitehorse.....	8
3. Foundational pillars of interjurisdictional dynamics in emergency response.....	10
3.1 Relationships amongst Yukon First Nations.....	13
<i>Successes and opportunities.....</i>	<i>13</i>
<i>Challenges and barriers.....</i>	<i>15</i>
3.2 Yukon First Nations and Government of Yukon relationship.....	15
<i>Successes and opportunities.....</i>	<i>16</i>
<i>Challenges and barriers.....</i>	<i>18</i>
<i>Relationships with health centres.....</i>	<i>21</i>
3.3 Yukon First Nations and Government of Canada relationship.....	21
<i>Successes and opportunities.....</i>	<i>21</i>
<i>Challenges and barriers.....</i>	<i>23</i>
3.4 Within community relationships.....	24
<i>Successes and opportunities.....</i>	<i>24</i>
<i>Challenges and barriers.....</i>	<i>25</i>
4. Pandemic and emergency planning and response.....	25
4.1 Yukon First Nation emergency planning and response.....	25
4.2 Civil Emergency Measures Act.....	27
Key findings and recommendations.....	29
APPENDIX A: CEMA legal review policy brief.....	35
APPENDIX B: CEMA info sheet.....	47
APPENDIX C: Timeline of events during COVID-19 pandemic.....	48

INTRODUCTION

In early 2020, the Government of Yukon (YG) declared a state of emergency in response to the spread of Sars-CoV-2, dubbed “the COVID-19 Pandemic”. The COVID-19 pandemic brought numerous challenges to the Yukon, including a prolonged state of emergency that challenged the shared governance system in the territory. The Yukon has a unique governance system, with a territorial government, the federal government, several municipal governments, and fourteen First Nations, eleven of which are self-governing. All of these authorities need to work together which often results in interjurisdictional challenges, which were highlighted during the pandemic. This project explores those interjurisdictional dynamics, delving into questions around collaboration, communication, and the relationships between different governments.

YG led the Yukon response to the pandemic, managing relationships with federal, municipal, and Yukon First Nation authorities. Understanding the perspective of those involved in managing the pandemic either operationally or politically provides an opportunity to inform future emergency responses in the region and may be informative for other regions with similar interjurisdictional contexts. It is particularly timely to document this perspective as YG is currently undertaking a review of the *Civil Emergencies Measures Act* (CEMA). This project captures some of the experiences and lessons learned from the COVID-19 pandemic in the Yukon by conducting Intra-Action Reviews with those involved in pandemic response. The results of this work are gathered here in this report along with key findings and recommendations for moving forward and strengthening the Yukon’s resilience to future emergencies.

1. PROJECT OVERVIEW

1.1 Project initiation

At the Council of Yukon First Nations (CYFN) General Assembly in October 2020, Yukon First Nation Leadership emphasized the need to incorporate Indigenous experiences and views in the planned review of CEMA. Currently CEMA, which was most recently updated in 2002,

includes references to the roles and responsibilities of municipalities but does not mention Yukon First Nation governments or the jurisdiction of self-governing First Nations. CEMA was used during the pandemic to declare a state of emergency because the *Public Health and Safety Act* (PHSA) did not have the authority necessary to achieve YG’s desired actions. Anticipating a forthcoming review of CEMA and potentially the PHSA, there was a desire to be proactive in understanding and representing Yukon First Nation voices in successor CEMA legislation. In addition, Yukon First Nation Leadership and the Yukon First Nation COVID Response Team (YFN COVID Response) identified a need to understand Yukon First Nation experiences throughout the COVID-19 pandemic, and to reflect on the interjurisdictional dynamics of emergency management in the Yukon. In response to all of this, the Council of Yukon First Nations partnered with a team of researchers to develop this project.

The term “Yukon First Nation government” is used through this report to refer to the governing authorities/bodies of all 14 Yukon First Nations, regardless of whether they have signed Land Claim and Self-Government Agreements.

PROJECT GOAL: The goal of this project was to understand the perspectives and experiences of Yukon First Nation governments and organizations, as well as other governments in the Yukon, on interjurisdictional dynamics throughout the COVID-19 pandemic.



1.2 Project team

The project was hosted and administered by CYFN, a non-profit society in the Yukon dedicated to working for Yukon First Nations in advancing their rights, title, and interests. CYFN worked with a team of Yukon-based facilitators and community-based researchers to design and implement the project. Math'ieya Alatini is a member of the Kluane First Nation and worked throughout the pandemic for CYFN and Yukon First Nations as the Coordinator of the Yukon First Nation COVID Response Team. Kari Johnston is a community member in Haines Junction where she coordinated COVID-19 initiatives for Champagne and Aishihik First Nations and was the Communications Lead for the Yukon First Nation COVID Response Team. Alison Perrin, Rhiannon Klein, and Kiri Staples are academic researchers who have extensive experience working with Yukon First Nations and designing and implementing community-driven research. The legal research, analysis, and recommendations were led by Kluane First Nation lawyer, Helena Tlen. Helena was called to the Bar in 2022. She started her law career working in family law and civil litigation prior to moving into a policy role with the Yukon Environmental and Socio-Economic Board. Tr'ondëk Hwëch'in First Nation lawyer, Daryn Leas, provided guidance and contributions to the legal review. Daryn's legal practice focuses on constitutional, environmental, employment, and administrative law as they apply to issues affecting First Nations. He is also the chief legal counsel for the Council of Yukon First Nations.

1.3 Our approach

We adapted the World Health Organization's Intra-Action Review (IAR) process to support Yukon First Nations in reflecting on lessons learned from the COVID-19 response, and the role of CEMA in the pandemic response (World Health Organization, 2021). IARs are designed to capture what is happening in the midst of an emergency, thereby identifying best practices and solutions to improve and strengthen emergency response. They are participatory, have an open and honest spirit, and create a space for experience-sharing and mutual learning (Hoang et al., 2022; Mayigane et al., 2020; World Health Organization, 2021). The IARs are similar to a semi-structured interview or focus group, with the facilitator asking prompting questions, followed by unscripted follow-up questions for clarification as required. We created a timeline of key events and pandemic phases based on publicly available documents including press releases and media articles and used this as a visual aid to jog participants' memories (see Appendix C). We explored questions related to communication, resources, operational procedures, strategic planning, and relationships (Greiner et al., 2021; Hoang et al., 2022). Participants chose how they would like to be identified (e.g., by affiliation or by name) or if they preferred not to be named. We also used transcripts and meeting notes from interjurisdictional meetings and caucus calls to understand the context. Finally, we hosted data validation focus groups with IAR participants to share preliminary research findings and verify that nothing had been missed or misinterpreted. The coding framework and data analysis were both done collaboratively, ensuring that any preconceived ideas "earned" their way into the analysis, per Charmaz's (2006, 2014) approach to grounded theory. Our 8-step approach is outlined in Figure 1, including IARs, data validation focus groups, and data analysis.

Figure 1: Project approach



*Two participants took part in two separate IARs, representing different roles in each. This is reflected in the breakdown of participants by group (Table 1). Two participants in the focus groups were counted as both Yukon First Nation employees and working group members (Table 1).

Table 1: Number of participants in IARs and Validation Focus Groups by organization type and role

Participant Group	Number of IAR Participants	Number of Data Validation Focus Group Participants
Yukon First Nation Government Leaders (Chiefs, Deputy Chiefs or Councillors)	9	1
Yukon First Nation Government Employees	15	6
Yukon First Nations COVID Communications Working Group Members	8	3
YG Leaders (inclusive of the Office of the CMOH)	4	0
Municipal Government or Association of Yukon Communities Representatives	2	0

PROJECT RESULTS

The following sections capture what we heard during the IARs and the validation focus groups. We begin by discussing some of the key contextual elements needed to understand the interjurisdictional complexities in the Yukon during the COVID-19 pandemic. These elements represent cross-cutting themes that shape the remainder of the analysis. Our analysis then focuses on three main pillars of interjurisdictional dynamics: relationships, collaboration, and communication. We highlight some of the main successes and opportunities and identify barriers and challenges that were experienced throughout the pandemic response. Finally, we address key considerations for pandemic and emergency planning and response in the Yukon's interjurisdictional context. This section summarizes key themes related to lessons learned from the COVID-19 pandemic and how they may be incorporated into future pandemic and emergency responses.

2. THE CONTEXT SURROUNDING THE COVID-19 PANDEMIC

2.1 Systemic racism in the health care system and pandemic response

For many Indigenous peoples in Canada navigating the pandemic experience was underpinned by the ongoing trauma that has resulted from residential schools and decades of colonial government policies. This trauma is compounded by the historical legacy of systemic and institutional racism in healthcare

*“We come from a history of being guinea pigs for Canada. It makes a lot of our people really hesitant”.
(Little Salmon Carmacks First Nation Chief Nicole Tom)*

across the country. The Yukon is no exception to this long history of exploitative and colonial treatment by the state in its relationship with Yukon First Nations. Today this ongoing legacy is especially relevant to health care, creating further complexities in the context of a global health emergency. For example, *Putting People First*, the recent review of Yukon’s health and social services, noted that Yukon First Nation citizens are frequently faced with racism, discrimination, and stereotyping (Health and Social Services Review Expert Panel, 2020). Additionally, Yukon First Nation respondents described the distrust and sense of vulnerability that many citizens have around accessing health services in the Yukon and described the significant barrier this created for them throughout the pandemic.

When speaking about the planning of the COVID-19 vaccine rollout, respondents raised concerns that YG had not considered the historical context and related trauma of medical interventions and colonial policies in relation to Yukon First Nations. One Yukon First Nation employee explained:

[As] a community that has faced so much trauma and has so many different challenges with the territorial government...there’s one thing that I’ve learned from the Elders and Council is the feeling amongst community members that we are alone and we have to get through this on our own, no one is coming to help – that is the starting point in [our community] – there is an element of fear and mistrust. So, anyone coming to help needs to know this is the starting point.

Participants emphasized the need for cultural safety and awareness at vaccine clinics, and during the vaccine rollout.

Participants also highlighted concerns of systemic racism and unconscious bias in relation to YG’s emergency response and approach to decision-making and relationships with First Nations throughout the pandemic. For example, a few respondents spoke to the issue of prioritization during the initial vaccine rollout, and in caucus calls with YG, Chiefs challenged the government’s approach to prioritization. YG was able to leverage getting early access to the vaccines because Northern rural and remote Indigenous populations had been identified as a priority group nationally. However, when it came to identifying who would get the vaccine first in the Yukon, First Nation Elder support workers were not considered “frontline” under YG’s definition of frontline health care workers. Champagne and Aishihik First Nations Chief Smith spoke to how troubling this was for First Nations, explaining this was a key example of tokenism.

He also argued, “I saw this as systemic racism...an Elder care worker working in the Yukon government was better or needed more protection than the Elder care worker that was taking care of Champagne and Aishihik Elders”. It was this dismissive response to Yukon First Nations’ requests that reinforced and instilled feelings of mistrust and fear for Yukon First Nations as they navigated the unknown of the pandemic. On the other hand, it also encouraged Yukon First Nation governments to take a more proactive approach to community health response.

2.2 Signatory and non-signatory Yukon First Nations

Participants brought attention to the lack of recognition within CEMA and the PHSA of both the Self-Government Agreements and the self-determination of the non-signatory Yukon First Nations. There is in fact no mention of First Nations at all in either act. In the Yukon, 11 of the 14 Yukon First Nations have signed Final and Self-Government Agreements. These modern treaties are entrenched in s.35 of the Constitution and recognize First Nation governments as having extensive legislative powers and authority paramount to territorial legislation. Three Yukon First Nations – Liard First Nation, Ross River Dena Council, and White River First Nation – are still governed under the *Indian Act* through the federal department of Crown-Indigenous Relations and Northern Affairs Canada. Participants highlighted different challenges that signatory and non-signatory Nations experienced navigating the pandemic and interjurisdictional relationships with YG and the federal government.

Some Yukon First Nation leaders and administrative staff who participated in the IARs from self-governing Yukon First Nations argued that their constitutionally protected agreements were not being honoured, and their jurisdictional authority was not being respected by YG. As noted by a Yukon First Nation Leader, “we’re now starting to really see the challenges and gaps of CEMA. We’re trying to go into this as partners but we’re starting to get marginalized...We are an order of government. Not a third order and not just another stakeholder”. The YG bureaucracy uses the existing CEMA legislation as their guidance for relationships with First Nations and communities during emergencies. This is problematic when the existing CEMA legislation does not contemplate Yukon First Nation jurisdiction and the ability for First Nations to create and enact policies, regulations, and legislation that may supersede YG’s jurisdiction. In considering key changes that need to be made to CEMA, the majority of respondents stressed the importance of reflecting the nation-to-nation relationship between YG and Yukon First Nation governments, and the need to include language that identifies Yukon First Nations as an equal level of government. As one Champagne and Aishihik First Nations employee asserted, “the legislation needs to reflect the actual role and responsibility of First Nation governments, and especially self-governing First Nations in the Yukon” (YFN employee).

Representatives from the three non-signatory First Nations felt they were not afforded the same level of respect and recognition of their sovereignty, as compared to those who have signed treaty agreements. Regarding the review and update of CEMA, non-signatory First Nations were doubtful that they would be recognized and included in the legislation. As noted by White River First Nation Chief Chassé,

Even if they did put Yukon First Nations in there, I’m pretty sure that YTG would put it in there saying, ‘self-governing First Nations’ and there would be no mention of White River First Nation, Liard First Nation, Ross River because we’re all unsigned. Any document

that you look at today that is from YTG that does mention any Yukon First Nations, they only mention the signed First Nations...YTG is separating us as well. They labelled us as an unsigned First Nation.

Respondents from the three non-signatory Nations spoke to the fact that the rights and recognition of the non-signatory Nations are not the same and argued they do not have the same mechanisms or communication channels to be heard as equal partners and as First Nation governments.

It is important to note that some of these dynamics are not unique to the COVID-19 pandemic. For example, concerns regarding direct consultation on a nation-to-nation level (see Box 1, p. 7) have been raised more broadly and are shared by both signatory and non-signatory First Nations. Confusion – intentional and not – remains amongst external parties regarding appropriate communication channels (e.g., communicating with CYFN as a central body versus direct consultation with an individual First Nation).¹

¹ CYFN does not speak on behalf of individual First Nations, nor do they represent a united voice for all Yukon First Nations.

Box 1: Perspectives on pandemic response from Ross River

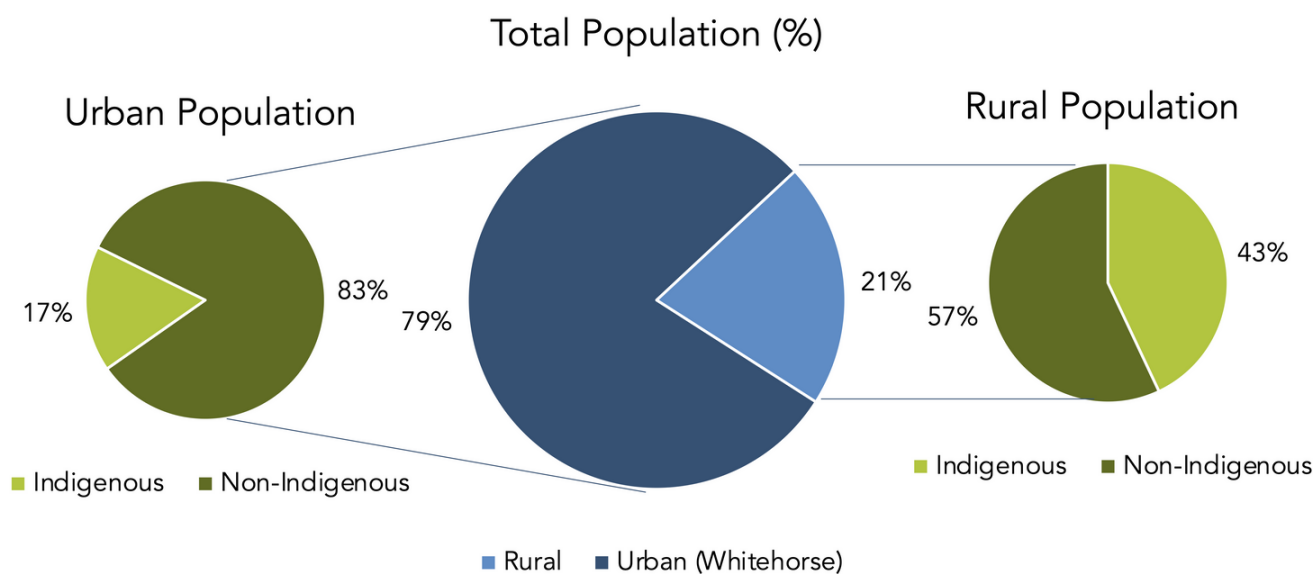
It is important to acknowledge and recognize that there are three Yukon First Nations that do not have a formal mechanism or obligation to meet with YG. During the interjurisdictional caucus calls and Intra-Action Reviews, Yukon First Nation Leaders and employees from non-signatory nations spoke to this challenge. The following experience was described by a Yukon First Nation working group member and has been edited for clarity.

Although many YG employees had good intentions, they often overlooked the fact that CYFN does not speak on behalf of the Kaska First Nations, and that it is the strong belief of Kaska Leaders that they should be consulted directly. It was notable that most of the civil servants who reached out would speak to Ross River Dena Council Leadership as if they were talking to the Senior Administrative Officer of a municipality or would treat the discussion as though the First Nation was somehow an extension of YG. When Chief Caesar speaks, he speaks with the knowledge of the Elders who helped guide him and considering that there is no municipal government in Ross River, YG really needed to listen to what he was saying. Far too often, the YG employees who engaged with Ross River Dena Council had very little knowledge of the community and had not fully understood that the council sees these discussions as part of a government-to-government relationship. The COVID-19 pandemic was a complicated time, but decisions were being made in Whitehorse that impacted all communities. Ross River Dena Council Leadership routinely experienced what could easily be described as a systemic deficiency at the Department of Health and Social Services where the employees who were doing their best to implement the COVID-19 response had not received cultural awareness training, and had very little understanding of the history, trauma and factors that were instrumental to success at the community level – starting with respectful government-to-government dialogue with Ross River Dena Council. Based on the COVID-19 experience, introducing mandatory cultural awareness training for all YG employees working with Kaska communities would be a powerful step in the right direction. Not only would it support healing and the restoration of trust, but it could also go a long way to improve local readiness for future public health emergencies or any other emergencies for that matter.

2.3 A divide between rural communities and Whitehorse

An important theme that arose from the IARs was the urban-rural divide that exists in the Yukon. The majority of Yukon’s population (79%) lives in or around the urban centre of Whitehorse (Yukon Bureau of Statistics, 2022), while the rest is spread throughout seven rural municipalities and a number of small unincorporated communities (Figure 2). Within Yukon’s rural population, 43% identify as Indigenous, whereas only 17% of the Whitehorse population identifies as Indigenous (Yukon Bureau of Statistics, 2021).

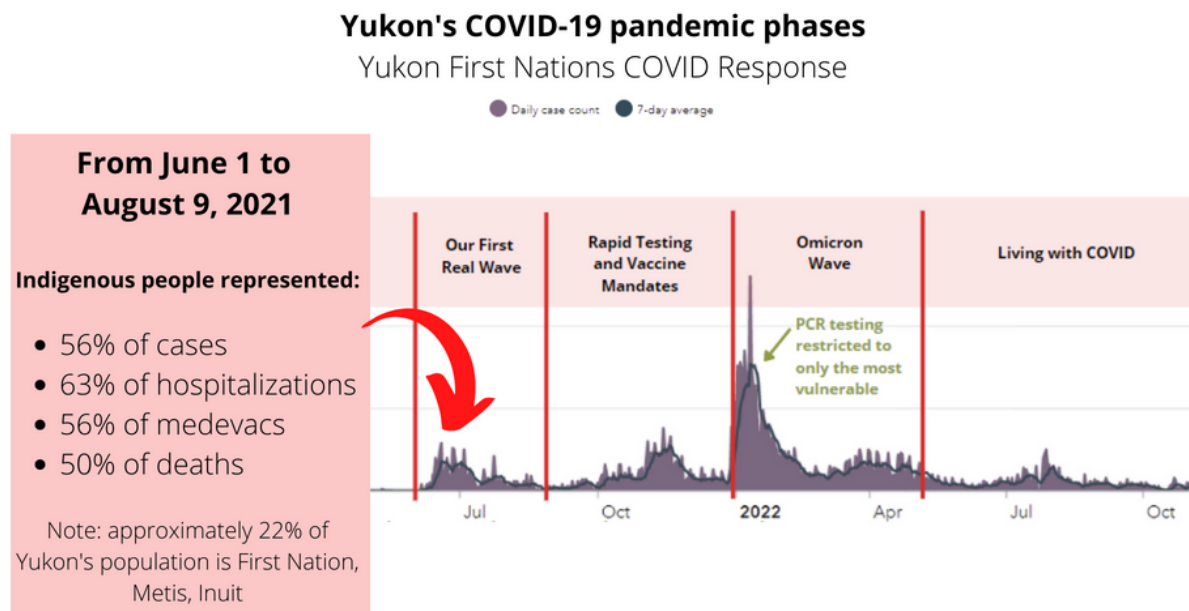
Figure 2: Yukon population demographics



Respondents described how rural experiences of pandemic-related challenges and needs, particularly for rural First Nation communities, often contrasted with those of Whitehorse. From early on, YG acknowledged that Yukon First Nations were being disproportionately impacted by the pandemic (Figure 3). Yet, respondents spoke of the significant disconnect in YG decision-making between what was taking place in Whitehorse versus the communities. Recommendations from YG to relax measures such as travel and mask mandates were in response to case count numbers in Whitehorse, ignoring what was happening on the ground in rural communities. As Math’ieya Alatini, YFN COVID Response Coordinator noted, “...it became really apparent that it is the Whitehorse population that drives decision-making at the territorial level”. At the time that YG decided to open things up across the territory, many rural Yukon communities were seeing a significant rise in cases.

Figure 3: Percentage of Yukoners with COVID-19 that are Indigenous

(Government of Yukon COVID Response Unit, personal communication, April 9, 2021)



Many respondents stressed that the voices of rural Yukoners, and the governments and organizations that represent them, were not reflected in key pandemic policies, regulations, and decisions being made by YG. As a Yukon First Nation working group member noted, “It was clear that the voice of rural Yukon communities wasn’t being heard at the tables where decisions were being made, and the messaging wasn’t resonating with rural Yukon communities”. In addition, we heard concerns from many participants that rural communities often felt they were left on their own without the support or resources they needed. While the territorial government was loosening restrictions, some communities responded by putting up their own checkpoints, hiring a private health provider to do asymptomatic and symptomatic rapid testing, restricting access to communities, providing self-isolation facilities for those that tested positive, and keeping their government offices closed, at their own expense.

Respondents also pointed out the necessity for having pandemic responses and communication that reflect what is happening on the ground in communities: “We needed to have messaging that was suitable in the communities, that was relevant for the communities rather than blanket statements and blanket solutions across the territory” (Bianca Ericsson, YFN COVID Response working group member). As an example, several respondents identified that the vaccine rollout was most effective when the First Nation and local community played a lead role in organizing logistics and communications. Speaking to the community-led approach to communications, Janet Vander Meer, a White River First Nation COVID-19 volunteer, highlighted the importance of having messaging specific to each rural and First Nation community:

We went out and got the information we needed and what is applicable to our community and our community needs... we are able to define what our community needs are. We had difficulty articulating to the First Nation citizens here early on, and then we had to think about how to approach our members differently. We had to get really original in our communications.

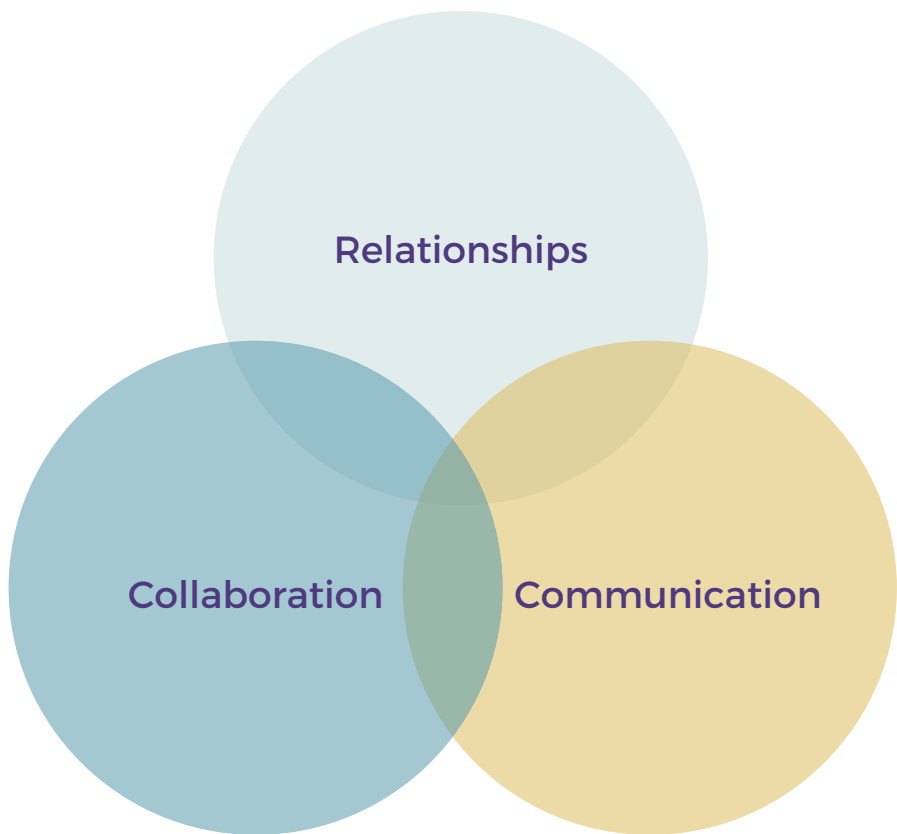
Tailoring messaging to the unique circumstances and realities of each rural and Yukon First Nation community is critical and something that we heard from many respondents.

Early in the pandemic, Yukon First Nation Chiefs identified the need for a coordinated approach to pandemic response and communications. This led to the creation of the Yukon First Nation COVID Response Team, which in turn led to the development of the Yukon First Nations COVID Communications Working Group (see Box 3, p. 14). A Yukon First Nation working group member explained how the structure of these bodies “really supported the rural communities when they felt they didn’t have a voice”. Administrative staff within the working group could voice the needs of the communities. Respondents spoke to the strengths of these interjurisdictional bodies for providing a unified voice and creating communications that resonated with rural and Yukon First Nation communities; something that had really been lacking in the pandemic emergency response. This proactive approach to fostering relationships with YG resulted in a collaborative relationship that met the needs of all Yukoners, inclusive of rural Yukon.

3. FOUNDATIONAL PILLARS OF INTERJURISDICTIONAL DYNAMICS IN EMERGENCY RESPONSE

The results of the IARs revealed that relationships, collaboration, and communication are three key components of interjurisdictional dynamics. These three pillars are interconnected; there is no collaboration without relationships, relationships require good communication, and communication is partly collaboration in action (Figure 4).

Figure 4: Three pillars of interjurisdictional dynamics



The results of data collection clarified perspectives on what makes for “good” relationships, collaboration, and communication, as well as the benefits of establishing these pillars. When there were positive relationships amongst different governments and organizations, there was collaboration, ongoing communication, transparency, trust, understanding of different worldviews, and knowledge sharing. When relationships were not working well, there was a lack of collaboration, inconsistent communication, and there was a breakdown of trust. Collaboration requires both good communication and clear roles and responsibilities. Partnerships are built on the strengths that each partner brings and can be improved through recognition and understanding of local context.

Relationships founded on trust, mutual respect, and good communication ensure that all governments' needs are met and support a coordinated and informed emergency response. During the pandemic, Yukon First Nations found their relationships with other governments were critical in providing the information and resources necessary to respond and make informed decisions. At times, however, there were barriers that were enhanced through a lack of collaboration or poor communication.

The importance of these three pillars was highlighted in particular with the relationship between Yukon First Nations and the Office of the Chief Medical Officer of Health (CMOH). The significance of this relationship and the need for technical medical advice for Yukon First Nations is discussed in Box 4 (p. 17). Interpersonal relationships are the basis for good organizational relationships, and those depend on the people involved (see Box 2, p. 12). Early in the pandemic, participants felt there was good communication and collaboration with the CMOH, leading to strong relationships, and that was partly due to the CMOH's interpersonal skills.

While personal relationships are often dependent on specific individuals, they can also be fostered through institutional mechanisms and supports. For example, it was suggested that interpersonal and cultural awareness training could help build stronger personal relationships. However, such supports are not always available, even with the CMOH.

I believe it points to the role of the CMOH, the job description of the CMOH, and the importance of assuring that the relationship with First Nations is entrenched in the position. When a new person took over the position, it became evident that the CMOH relationship with First Nations was based on the individual, not based on the job. So, in a public health emergency if you have someone in this position who is not familiar with the barriers facing rural communities and/or has limited knowledge of the systemic challenges facing First Nations it means there will be no foundation for trust, and this could have major implications for public health outcomes at the community level. If the CMOH believes that he/she must only serve as a contractor for the Yukon government it has the potential to diminish or extinguish the opportunities for collaboration, communication, and could undermine the essential pathways to mutual respect and trust. Building this into the job description or the contract is one way to ensure there is a direct and respectful relationship with First Nations – the relationship is instrumental to preventing negative health outcomes, especially during a crisis. (James Pugsley, Ross River Dena Council Action Plan Working Group Member)



Box 2: Community champions and allies

The IARs demonstrated the important role that community champions and allies play in supporting community capacity. At the same time, not all communities had the internal capacity to have key champions in their communities, and sometimes found ways to harness the support of outside champions. As an example, James Pugsley supported the Ross River Dena Council in a volunteer role, filling in capacity gaps throughout the pandemic. There were a number of people both within communities and from larger organizations who were identified as key champions and allies that supported a successful pandemic response.

The YG Department of Aboriginal Relations identified First Nation community liaisons to work with each community. Led and supported by Jenny Imbeau this new structure resulted in timely and nimble responses from YG to First Nation questions and concerns. Both Shari-Lynn MacLellan and Kala Smith with Aboriginal Relations were identified as key allies. Shari-Lynn had spent time working in rural communities, understood the realities of the rural setting, and was trusted by people in Yukon First Nation communities. When Shari-Lynn went on leave from Aboriginal Relations, respondents noted that the relationship between Yukon First Nations and YG changed. Kala was commended for being both a good communicator that made sure messages were reaching Yukon First Nations, and an ally that advocated for more support. Another key YG employee that played an important role was Pat Living who worked in communications at Health and Social Services and was part of the YG COVID Response Unit. She was a key liaison and instrumental in building collaborative messaging for the Yukon First Nations COVID Communications Working Group and was a key source of information for Yukon First Nations.

Participants also emphasized the essential role that Math'ieya Aladini and Kari Johnston played in coordinating Yukon First Nations through the YFN COVID Response Team. For Yukon First Nations, Math'ieya and Kari were the main source of information throughout the pandemic and a key source for resources, distributing items like rapid tests and personal protective equipment. Math'ieya acted as a liaison, ensuring coordination between First Nations Governments, YG, federal government Leaders and their respective administration. Kari was the main point of communication for First Nations employees looking for information or supplies.

3.1 Relationships amongst Yukon First Nations

Successes and opportunities

Participants highlighted the importance of relationships at the community level, including strengthened partnerships between Yukon First Nations. The pandemic brought all 14 Yukon First Nations to the table working together towards shared values and priorities. As one Yukon First Nation Leader asserted: “we’ve all been to a nation, very unequivocally together on the fact that our whole process for this has been about the protection of our people and the protection of our young ones”. This collaborative partnership allowed Yukon First Nation Leadership to develop a coordinated pandemic response and strengthened their position in discussions with YG.

Yukon First Nation COVID Response Team

One structure that was especially important to building relationships between Yukon First Nations was the Yukon First Nation COVID Response Team (YFN COVID Response), which was established early in the pandemic through CYFN. This structure supported improved communications and collaboration between Yukon First Nations and also focused on collaboration and communication with other governments, particularly YG and the federal government. They created forums for open dialogue between political leaders, medical advisors, and key employees. They also created an avenue for sharing information and experiences, particularly for First Nations to learn from each other after trying new approaches. This created a knowledge interchange of best practices and iterative responses to issues as they arose. It also strengthened existing relationships between First Nations, “I would rely on the relationships [of] First Nations with each other more than I would rely on any other relationship” (Sean Mackenzie, Occupational Health, Safety and Emergency Response Officer, Tr’ondëk Hwëch’in First Nation). YFN COVID Response organized regular meetings that included conversations between Chiefs and brought Chiefs together with YG Leaders.

YFN COVID Response tracked and shared data as much as possible, supporting Yukon First Nations to respond to increased risk or active cases, and safeguard their communities by moving to remote work, issuing travel advisories, and distributing resources like cleaning supplies and food to support people when isolating. Two different working groups were developed to deal with specific issues: the Communications Working Group and Community Based Testing Working Group. They developed communication channels that were trusted and shared widely, including on YouTube, Facebook, Instagram, and TikTok, distilling information into concise, coherent, engaging messaging (see Box 3, p. 14).

Box 3: Yukon First Nations COVID Communications Working Group

In early April 2020, the Yukon First Nations COVID Communications Working Group (the Working Group) was formed. All 14 Yukon First Nations were invited to send representatives to participate. Headed by Kari Johnston, the Working Group met regularly throughout the pandemic until the group was disbanded on March 31, 2023. The meetings included 20 minutes of Yukon First Nation “caucus” time where representatives discussed issues, concerns, and strategies, followed by 40 minutes with YG representatives where they would address questions, collaborate on approach, and receive updates from Yukon First Nations on how COVID-19 was impacting communities. A member of this working group noted that “having those relationships and meetings that happened on a recurring basis helped give structure and helped with good communication”. The Working Group was a prime example of collaboration and communication between Yukon First Nations and was an important venue for information sharing.

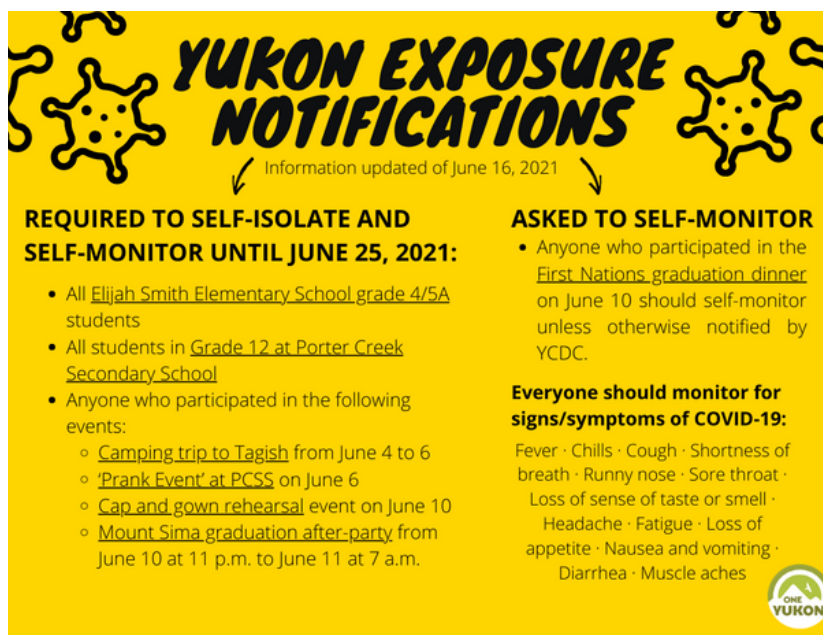
One Yukon

One Yukon developed new channels of communication to reach all Yukoners with relatable and easy to understand messaging. These included an information hub on the CYFN website and One Yukon social media channels. One Yukon was started in June 2020 by YFN COVID Response stemming from the need for rapid information sharing without having to go through the bureaucratic approval processes within YG and CYFN. The focus was on disseminating information through avenues that were being followed by the majority of the Yukon population. One Yukon started with Facebook, Instagram, and a YouTube account, followed by the addition of TikTok. It has now morphed into a website that is being primarily designed to share wastewater monitoring information (oneyukon.ca).

One Yukon became an important mechanism for addressing community safety, sharing trusted information on vaccines, combating misinformation, and making communications from the federal and territorial governments more accessible. For example, posts like the one seen in Figure 5 received 127 reshares on Facebook because it was the only place that consolidated key guidance from YG and shared it in a medium that was accessible to the broader public. Another successful tool was the “My Why” campaign. The vaccine came to the North quickly and One Yukon had just a few days to design and implement a promotional campaign. Working with Yukon communities, community champions recorded short videos about why they were getting the vaccine, which were then shared by One Yukon on social media as boosted (paid) posts.

One of the biggest barriers for community members throughout the pandemic was trying to make sense of complex scientific information that was coming from government press releases and reporting. This added to the heightened fear and anxiety that was being felt across Yukon communities, which was exacerbated by the flood of misinformation. One of the successful tools that One Yukon developed to combat these issues was a series of interviews conducted with trusted sources. For example, an interview was conducted with Nurse Maria, a longstanding Nurse In Charge working in Dawson City. These interviews were edited into small soundbites that could be used across different social media channels.

Figure 5: Example of One Yukon exposure notification



Challenges and barriers

There were disparities in how Yukon First Nation governments approached the pandemic, partly due to the availability of staff and resources to engage in pandemic response. While this was not a barrier or challenge on its own it, it compounded other challenges. Some First Nations were able to access services that others couldn't, and to a certain extent this was facilitated by YG. For example, during the early vaccination program for frontline staff, most of the First Nations could not secure vaccines for their Elder care workers, yet a few did. Some participants reported how this sparked animosity between First Nations.

3.2 Yukon First Nations and Government of Yukon relationship

"There are other partners that we couldn't have done anything if they weren't at the table with us. The [YG] COVID Response Unit and at some points in time, communications representatives from Dr. Hanley's office...especially in the earlier parts of the pandemic. As I said before, Aboriginal Relations was also involved in the earlier days of this body and helped bridge conversations and information flow to our COVID communications and response unit. The First Nations that kept sending dedicated staff to be part of that table, it wouldn't exist if the First Nations didn't show up. And the Council of Yukon First Nations for listening to leaders and getting that body going. Those are some thoughts for me around people, partnerships, agencies that all combined to help us reach some pretty good success, especially on our earlier communication efforts" (YFN employee).

Successes and opportunities

Several participants spoke to the positive relationship that existed between Yukon First Nations and YG going into the pandemic. They discussed how reassuring it was to feel that they could all come to the table as partners to collaborate on the pandemic response across the territory.

Organizational structures that supported collaboration

Early in the pandemic, according to several participants, there was a good relationship between Yukon First Nations and YG. They were able to work together and respond to emergent situations. This was facilitated by two important organizational structures that were quickly put in place after the pandemic started. First were regular ongoing meetings between YG and Yukon First Nation Leadership. These meetings supported communication and collaboration and became an important place for information sharing.

The second was the YG COVID Response Unit (CRU), which was a YG coordinated body that bridged different departments within YG and held a range of responsibilities related to pandemic response and planning, including interjurisdictional relationships. They were responsible for communicating with federal, municipal, and First Nation governments regarding testing procedures, active cases, immunization campaigns, and other pandemic-related issues. Yukon First Nations felt the unit was successful at centralizing YG departments and providing a clear point of contact that streamlined communications. The unit was disbanded partway through the pandemic and Yukon First Nations felt the loss of that coordinating body and communications lead.

The collective communications team with Math'ieya and Kari up at the helm, and Yukon First Nations at the table, and YG CRU folks there, and representatives from the Chief Medical Officer of Health's office there, [that] worked. They listened to us, words that we said and information that we gave them was reflected in the communications coming out, and there were a lot of news releases at that time and regular press briefings. They listened to us, they listened to our questions, and it got built into YG communications. When Dr. H[anley] left and when the CRU disbanded it was like night and day. (Champagne and Aishihik First Nations employee).

Relationships with the CMOH and Aboriginal Relations

There were two other relationships that contributed to successful collaboration in the early part of the pandemic. The first was the relationship with the Chief Medical Officer of Health (CMOH). Numerous participants noted that early in the pandemic, the CMOH took the time to communicate directly with Yukon First Nation leaders and to answer their questions. This was in part related to the perceived characteristics of the individual in the position, who was seen by participants as being a good communicator and able to connect with people (see Box 4, p. 17).

Box 4: The need for relevant technical and medical advice (CMOH)

Throughout the IARs, participants talked about the importance of getting technical or medical advice that was relevant to First Nation communities. There were many situations where Yukon First Nations could have benefited from a technical briefing: e.g., vaccine rollout where Yukon First Nations and even municipalities were sometimes responsible for getting people to the clinics, which meant a need for understanding the logistics and how to describe the vaccine.

The CMOH and community nurses both filled this role in various ways. In some communities, nurses providing technical information to Chief and council. Nurses also did Question & Answer sessions with the council and public, although this was sometimes dependent on the nurse having a long-standing relationship with the community. The role played by the CMOH was critical and very dependent on the relationship with the individual working in the role. As a working group member explained, when the Yukon experienced its first COVID death, "It was at that moment that Dr. Hanley showed his human side. For those of us who were experiencing the human side every single day, that resonated...Dr. Hanley brought something that the other Chief Medical Officers of Health did not bring, which was the human element, and I think just knowing that he was emotional and had a true connection to the people at such a difficult time. He took it very seriously and it really showed". Early in the pandemic the CMOH developed a strong relationship with Yukon First Nations based on trust and respect, although with changes in the position there was a shift in this relationship. The YG COVID Response Unit was also sometimes in that role of technical information provider (e.g., vaccine rollout) but did not necessarily provide enough information to support Yukon First Nations.

One area that Yukon First Nations identified as a significant barrier with YG was a lack of access to plain language information. A number of respondents spoke to the challenge of trying to break down the technical and scientific communication from YG. Respondents pointed to the fact that throughout the pandemic, they increasingly started to turn to federal government departments and committees such as the Public Health Agency of Canada and the National Advisory Committee on Immunizations for expertise and technical guidance. Describing the new relationship that was being built with the Government of Canada, a CAFN employee explained: "We had established a different work relationship with Canada, and so, we are now trying to bolster our [COVID] response through utilization of some of Canada's expertise in areas where we couldn't get the support and the expertise from YG".

The other key relationship was with the department of Aboriginal Relations, who were often the main point of contact between Yukon First Nations and YG. As one participant noted, YG often mentions the importance of a “government-to-government relationship” and when Aboriginal Relations was involved, this relationship really shone. There was a lot of communication and joint work between Aboriginal Relations and Community Services. The availability of Aboriginal Relations staff provided the opportunity to have conversations with the YG bureaucracy around First Nation jurisdiction: “the link that the Executive Council Office and Aboriginal Relations played in keeping the rest of Government of Yukon, kind of holding them to account to uphold those relationships and conversations, even when folks didn’t want to anymore” (YFN working group member).

“The government-to-government piece really did shine when AR was involved because they had representatives where it was in their job description to become familiar with the government-to-government piece, whereas health and social...the cultural awareness and the government-to-government piece, were secondary to the tactical operational needs. So, in fairness to those incredible people who did that incredible work, it was difficult to collaborate if that was a barrier because if the Nations felt it was important to show that kind of respect, and you weren’t familiar with that, it led to a breakdown in both cooperation, collaboration [and] communication”. (working group member)

Challenges and barriers

The majority of Yukon First Nation participants spoke to an eventual breakdown in the relationship between YG and Yukon First Nations. The collaboration that was noted in the first part of the pandemic was described as looking less like a partnership as the pandemic progressed. As Tr’ondëk Hwëch’in Chief Roberta Joseph noted, “Yukon government started reducing their relationship with Yukon First Nations in terms of a collaborative process for rolling out mandates, and YG did not consult with Yukon First Nations in terms of developing a state of emergency”. As further described below, this breakdown in the relationship, which was attributed to a number of factors, resulted in mistrust and created significant barriers to the pandemic response at the local level. As noted by Sean MacKenzie (Occupational Health, Safety and Emergency Response Officer, Tr’ondëk Hwëch’in First Nation), “...when the First Nations aren’t included in important decisions or things that impact our rural communities, when we have to hear things second hand or from the news instead of being informed directly, when decisions are made without any collaboration with the First Nations, those are trust killers right there”.

*“Yukon government started reducing their relationship with Yukon First Nations in terms of a collaborative process for rolling out mandates, and YG did not consult with Yukon First Nations in terms of developing a state of emergency”.
(Tr’ondëk Hwëch’in First Nation Chief Roberta Joseph)*

Unilateral decision-making

Many participants felt that YG started to make decisions unilaterally on key initiatives, without meaningful consultation with Yukon First Nations. At times this was demonstrated by YG providing limited time for feedback, at other times Yukon First Nations would learn about decisions when they were reported in the media or announced publicly. Participants noted that YG would often develop strategic documents (e.g., *Forging Ahead*) or communication products internally, and then share them with Yukon First Nations with a turnaround time that did not allow for meaningful feedback. One example included YG's immunization program, which was implemented without approval from Yukon First Nation Leadership, and without incorporating Yukon First Nation advice on when and how to bring vaccines to their communities. As a Yukon First Nation working group member said about YG's decision on when to host a vaccine clinic in their community, "you don't come into the community because it's the first thing on your operational checklist, you come into the community because the First Nation says yes". Participants shared numerous examples of unilateral decision-making by YG on issues directly impacting Yukon First Nation governments and noted that this primarily became an issue later in the pandemic when there was less pressure to make time-sensitive decisions, and decisions could have been anticipated and better planned (e.g., vaccine delivery and reopening of borders). Unilateral decision-making was less of a concern for participants early in the pandemic, when decisions sometimes had to be taken quickly.

Lack of institutional relationships

One key characteristic of relationships highlighted during the pandemic response was that relationships were not institutional; they were largely dependent on specific individuals. When personnel changed or when a working relationship was transferred to a new branch or department, the relationship disappeared. The absence of more institutionalized relationships was demonstrated at several key points during the pandemic, when there were major shifts in the relationship between Yukon First Nations and YG. First, participants noted a clear shift when the relationship with YG moved from Aboriginal Relations (AR) and the COVID Response Unit to Health and Social Services (HSS). It became much more challenging for Yukon First Nations to access information through HSS and they no longer had a contact point that was coordinating with the whole government: "...our primary liaison with the territorial government was Aboriginal Relations. It wasn't Health and Social. And what we felt was that Health and Social was not listening to AR, and AR was brokering the dialogue on emergency response at the community level" (YFN working group member). Second, there was also a major shift in the relationship with YG connected to the release of *Forging Ahead* (see Box 4, p. 20). Third, around the same time as *Forging Ahead* and the dismantling of the COVID Response Unit, a new Chief Medical Officer of Health came on board, creating a change in the relationship between Yukon First Nations and the Office of the CMOH.

Barriers to communication

Participants also reported that the relationship between Yukon First Nations and YG began to suffer when interjurisdictional meetings became less frequent. There was less communication overall and Yukon First Nations felt they were not getting access to everything they needed to know. "There was huge frustration I think across the board from First Nations with the lack of information flow with regards to cases and communities... [I]t was very, very tightly controlled, and as a result, it did not allow First Nations to have the information, the data, the knowledge that they needed to appropriately respond; to respond with the smallest possible footprint" (YFN employee).

Participants sensed that YG did not trust Yukon First Nations to access data and keep information confidential. They noted that YG was not sharing critical information, such as vaccine rollout logistics. Some participants felt they were consistently spoken down to by YG decision makers. As White River First Nation Chief Chassé expressed,

I think from a lot of the meetings that Yukon First Nations had with YG, I really got a sense that YG didn't want to tell a lot of the First Nations the truth. When the First Nations questioned something, YG always kind of gave the run around...I kind of felt YG didn't want Yukon First Nations involved with anything, and it also felt like they had to have these meetings just to keep First Nations quiet.

Rather than being treated as rights holders and partners, and communicated with accordingly, they were being treated as just “another stakeholder group” (Chief Chassé). Participants also noted the need for structures to support information exchange between communities and YG at the operational level.

There was definitely a need for more on the ground direct community to YG operational exchange, and I think going forward, something needs to be written into that...we saw communities responding to the pandemic, the way that they knew that they needed to, and that maybe wasn't in relationship or in sync with the way Yukon Government was going, and that created a lot of challenges and barriers...[More] could have happened if we had a different structure in place, and I think that's something that really needs to be looked at for the next pandemic and that those structures are embedded into the system going into the new [CEMA] legislation or in the regs., and that honour[ing of] signatory and non-signatory nations' capacity and resources” (Kari Johnston, YFN working group member and YFN employee).

In other words, addressing barriers to information exchange within the relationship between Yukon First Nations and YG require operational changes that are structurally supported and reflective of community needs. For example, this could include more attention to building shared language for emergency response, relationship-building within EMO and emergency response planning in the territory, and clearer interagency structures to respond to not just pandemics but all emergencies in the territory.

Lack of access to data

Access to data was repeatedly discussed as an ongoing issue in the relationship between Yukon First Nations and YG throughout the pandemic. Yukon First Nations were hindered by the lack of access to data on both case counts and vaccination numbers in their community and amongst their citizens. Without this data, Yukon First Nation Leaders and administration could not act for their citizens or be responsive to their community's needs. YG did not want to release community-specific data or exposure notices because they felt that the small population sizes of rural Yukon communities would make it too easy to identify people who had tested positive. As noted by a Yukon First Nation employee, “[we] requested several times to have [nation] specific data, and they just blankly said that they could not do that”. Eventually YG shared data on community vaccination rates but could not separate First Nation data from non-First Nation, and the information was not provided in time to inform vaccination messaging. YG does not have the structures in place to collect Yukon First Nation specific health data. In discussing the lack of data access, a Yukon First Nation Leader highlighted the difficulty of making decisions without data: “This is important for us to make our decisions. Overall, I think [we] did a good job...of managing this pandemic, but we did it with one eye closed. We didn't have the proper statistics and data to back us up”.

"I wanted to highlight the importance in some communities with the relationship with their health care centre. It wasn't uniform, and that's really important to acknowledge that in some communities it was a really fractured relationship at times. But, in other communities, that the engagement of their local health care team was instrumental in both decision-making and community support". (working group member)

Relationships with health centres

Rural communities in the Yukon have access to limited health services through their health centres. These health centres are run by YG, yet are also community-based, and therefore distinct from the primarily Whitehorse-based decision-makers that played key roles in the pandemic response. The relationships between health centres and communities and Yukon First Nations varied. While several participants mentioned that the community nurses played an important role in supporting rural communities throughout the pandemic and that their communities benefited from good relationships with the health centre, issues with access were also highlighted. Some participants noted the lack of healthcare resources, including not having their own healthcare staff to support testing or vaccine rollout. A few participants referenced the historical traumas and contemporary racism in the health care system and how some First Nation citizens felt distrustful of or unwelcome at the local health centre. Relationships with health centres depended on the individuals working there. The nurses have relationships with both First Nation and non-First Nation community members and can play an important role in their community. Speaking to one relationship with their community health nurse, a Yukon First Nation employee explained the important role the nurse played in sharing and breaking down information to make it more accessible.

We did access the Nurse In Charge [in our community], and she was amazing. She did six or eight or ten question periods, both with Council and then with staff, and in the end, we broadened it out further to citizenry. It was very powerful. It was really effective...We got lucky in that we had a Nurse In Charge who had been there for a period of time, who had the expertise, had the skillset to do it. I don't think that happened comprehensively across the territory".

3.3 Yukon First Nations and Government of Canada relationship

Successes and opportunities

Supporting Yukon First Nation self-determination

A relationship that many respondents noted was unexpectedly strengthened through the pandemic was between Yukon First Nations and the federal government. A Yukon First Nation Leader explained, "even though we see this relationship with Yukon not bearing the fruit that maybe we wanted, we're seeing it maybe encapsulated in a stronger relationship with the federal government". Having a

relationship directly with the federal government opened avenues for action that were not available when funding, opportunities, and resources were mediated through YG. When money flows from the federal government to the territorial government, Yukon First Nations must rely on YG to deliver services. This distribution of emergency funding reinforces a relationship where YG has power over decisions that affect Yukon First Nations; “There was no financial support from Yukon government...to First Nations. The federal government was providing support, but the Yukon government was receiving a lot of additional funds from the federal government for the pandemic but did not provide support to First Nations” (Tr’ondëk Hwëch’in Chief Roberta Joseph). Resourcing Yukon First Nations to implement their own approaches to emergency response is a critical step in supporting self-determination. There was some pandemic-related funding from the Public Health Agency of Canada (PHAC) that came directly to Yukon First Nation governments. This provided opportunities for them to determine their own priorities and act without territorial oversight (see Box 5, p. 23). As a Yukon First Nation Leader noted, “I haven’t spoken much about the federal government, but I have to commend them on their overall support because a lot of the expenses that we were experiencing, were being able to be covered by COVID response support from the federal government directly to Yukon First Nations”.

*“There was no financial support from Yukon government...to First Nations. The federal government was providing support, but the Yukon government was receiving a lot of additional funds from the federal government for the pandemic but did not provide support to First Nations”.
(Tr’ondëk Hwëch’in First Nation Chief Roberta Joseph)*

Communication and regular meetings

Consistent communication through regular meetings was a key part of the successful relationship between Yukon First Nations and the federal government, who became an important source of information for Yukon First Nations. PHAC held regular northern meetings that included Yukon First Nation representatives. Their commitment to communicating directly with Yukon First Nations not only demonstrated an acknowledgement of their unique information needs, but also indicated respect for their sovereignty and legitimacy as governments. The successes that stemmed from this positive relationship highlight the importance of direct communication and information-sharing in supporting Yukon First Nation self-determination and decision-making.

Box 5: Rapid testing and wastewater monitoring

Yukon First Nations led the way in the territory with the rollout of community-based rapid testing and piloting the collection of wastewater surveillance data. Yukon First Nations had been lobbying YG to make rapid tests accessible to the broader public, and pointed to the fact that wastewater monitoring was becoming well utilized across the country. However, YG was resistant to employ either of these surveillance tools. So, Yukon First Nations turned to the federal government to access supplies, support, and sample testing. Respondents identified the importance of the positive relationship that had been developing with PHAC as a conduit for accessing testing: “In terms of our relationship with the Public Health Agency of Canada and access to rapid testing, and now the wastewater program, there is such a huge transformation from past relationships and the level of support and collaboration, and respect is unprecedented” (Champagne and Aishihik First Nations employee). PHAC provided Yukon First Nations (inclusive of Daylu Dena Council in Lower Post, BC) access to Rapid Antigen Detection Tests, rapid molecular and RT-PCR testing.

Led by Daylu Dena Council and the Carcross Tagish First Nation, First Nations started handing out rapid tests within their communities in October 2021. Champagne and Aishihik First Nations and Vuntut Gwitchin Government became the first ones to use rapid testing to monitor cases and prevent spread at their General Assemblies. By November/December 2021, we started to see a much broader distribution of tests by First Nations across the territory. Participants described how the use of rapid tests allowed Yukon First Nations to return to their own in-person cultural and traditional ceremonies and governance.

The development of the wastewater monitoring program began in response to the advocacy of Chiefs for better data and testing. Wastewater surveillance is an important tool to show increases and decreases in community case counts, and to monitor for variants of concern. In June 2022, Champagne and Aishihik First Nations led the way on piloting a wastewater monitoring program in partnership with the Village of Haines Junction and PHAC. The program started reporting data publicly in October 2022. In early 2023, CYFN received funding to support program expansion to other Yukon communities.

Challenges and barriers

When speaking to the relationship with the federal government, Yukon First Nation employees and leaders tended to focus on the successes and opportunities that emerged. However, there was one concern that was highlighted by two different Yukon First Nation employees around the flow of money coming in from the Government of Canada. From early in the pandemic, the federal government began flowing pandemic and emergency response money directly to each of the Yukon First Nations. While everyone was very grateful for this funding, it came “without a clear definition of what the money was for” (Sid Vander Meer, White River First Nation Executive Director). With so much money flowing in and little understanding on how it could be spent, Yukon First Nations ended up “having to send money back, which no First Nation wants to do” (Sid Vander Meer, White River First Nation Executive Director).

3.4 Within community relationships

“When we were offering to keep people at home and it didn’t matter who we were supporting, it was anybody in the community that we would support – so, it was First Nations or non-First Nations – if you had COVID, we wanted you to stay home. We didn’t want you to go out into the community. We would go buy your groceries for you. You give us a list, we’ll go get your pharmacy stuff, whatever you needed. LFN was supporting the community as a whole, and we supported everybody, and everybody was very grateful for it” (Debbie Chadwick, Health Team Lead, Liard First Nation).

Successes and opportunities

Grassroots response

A number of respondents spoke to the power and success of the grassroots pandemic response and the relationships that grew from that response within communities. Speaking to local collaborations that developed early on in the pandemic in Watson Lake, Liard First Nation Director of Health and Social, Katherine Durocher, emphasized, “our community ties were really strengthened with everything that we did...[the pandemic] really brought all of us a lot closer”. There are many examples of joint community working groups and committees that formed in Yukon communities. For example, early into the pandemic, in Pelly Crossing, Selkirk First Nation formed a community emergency response team. The team included Directors from Selkirk First Nation, in addition to representatives from the RCMP, the community store, Yukon University Pelly campus, the local school, and the nursing station. In the early days, the response team met twice a week, and then moved to meeting once a week and eventually shifted to meeting once a month. The main focus of the team was to create a regular forum for updates on what everyone was doing, how they were working together, to discuss barriers and challenges, and identify additional opportunities to work collaboratively.

Another example of a more formal joint committee that developed was in Dawson City, where an interjurisdictional civil emergency committee was formed under the town’s civil emergency measures bylaw. This committee included RCMP, firefighters, Tr’ondëk Hwëch’in First Nation representatives, local community members, and City of Dawson employees. A Yukon First Nation employee explained that YG was also invited to participate in this committee, however, their participation was very inconsistent and when they did participate, it was often someone different who attended each meeting. The strength of the committee came from the joint efforts of those living in Dawson City who had an understanding of what was happening on the ground and were able to bring this into their coordinated emergency response efforts.

Municipal-First Nation Relationships

We also heard about the important relationships that were built between Yukon First Nation and municipal governments. These collaborations provided avenues for community-driven control and emergency responses that were grounded in local knowledge. The success of these partnerships and collaborative efforts was based on recognizing each other's strengths and weaknesses and what each could bring to the table. One Yukon First Nation employee spoke to the emergence of these collaborations that hadn't necessarily been explored before: "Something I felt was a win in terms of good communication...was our relationship with the [municipality] to make political statements when we were asking the community to take a particular course of action to prevent the spread of COVID-19". This was evidenced by the development and dissemination of the community travel advisories which were created by communities and shared through the COVID-19 information hub on CYFN's website. These joint statements created an opportunity for a unified voice when advocating on behalf of the community, and when trying to keep their communities safe.

Challenges and barriers

At times there were divisions amongst communities about how to respond to the pandemic, and the need for mandates. When some First Nations introduced checkpoints to track who was visiting their community, there was pushback from community members and visitors. As Kimberley Henney (Occupational Health and Safety, Selkirk First Nation) noted, "[T]here were some [community] residents who were not citizens, and contractors working in the area who were completely opposed to it, some just sped through it or refused to give names". There were also challenges getting citizens to comply with mandates, particularly with restrictions on gathering.

4. PANDEMIC AND EMERGENCY PLANNING AND RESPONSE

This section describes research results related to lessons learned from the COVID-19 pandemic response and how they may be incorporated into future pandemic and emergency responses.

4.1 Yukon First Nation emergency planning and response

A common theme that arose from this study was the need for Yukon First Nation self-determination in emergency planning. Most of the IAR participants representing Yukon First Nation governments acknowledged that they did not have emergency plans in place pre-pandemic. For those that did, the plans were mostly outdated or lacking in specific measures for responding to a health emergency. The existing plans were more focused on localized emergencies such as flood and fire. As one Yukon First Nation employee noted, "...we didn't have an infectious disease plan. We didn't have any kind of pandemic planning under our emergency planning. So, we were starting from scratch".

However, in the first year of the pandemic, many Yukon First Nation governments developed their own emergency or safety plans. Champagne and Aishihik First Nations developed a COVID-19 emergency response plan, Kwätsi Dän (we work), in 2020 and then developed a new version of the plan in 2022. The renewed plan is “flexible and takes a longer-term view of recovery and living with COVID-19” (Champagne and Aishihik First Nations, 2022). The First Nation of Na-cho Nyäk Dun developed an emergency plan in the first year of the pandemic that included direction on leadership and communication, steps for risk mitigation and prevention, defined essential services, identified key positions, and included supports for community health and wellness, and Elders (YFN employee). Selkirk First Nation built policies based on guidance from the CMOH that were focused on COVID-19 but written broadly to be used for future pandemics: “Pelly really developed a lot of its own internal policy. We took the guidance of the CMOH but then really interpreted and built our own policy structure” (Kimberley Henney, Occupational Health and Safety, Selkirk First Nation). In addition, several First Nation governments worked closely with municipalities on emergency response, often signing an MOU for joint efforts. These examples demonstrated the potential opportunities for future interjurisdictional collaboration in the field of emergency planning and response, in particular where such plans are currently lacking.

Questions of jurisdiction

Although there were a number of First Nations that were putting emergency plans into action, there were – and in some cases still remain – lingering questions about jurisdiction in relation to declaring a state of emergency and the efforts or responses that flow from that decision. For example, one participant referenced an incident that took place prior to the pandemic where they were informed by an employee of YG Emergency Measures Organization that the First Nation did not have the power to declare an emergency, despite the existing Self-Government Agreement, which does in fact provide such powers (YFN working group member). Other participants provided examples of measures taken by First Nations, such as creating check stops or attempting to close areas to recreation and hunting, which had the potential to conflict with guidance provided by other jurisdictions. This in turn raised questions about how potential conflicts between different overlapping jurisdictions should be addressed in the context of a state of emergency.

Applying a First Nations lens

Participants noted the importance of First Nation ways of knowing, doing, and being and their importance in guiding effective and relevant emergency planning, response, and communication approaches for Yukon First Nation communities. This ensures that the historical context and related trauma of medical interventions and colonial policies are considered. It also creates opportunities for cultural values and traditions to be at the forefront of planning, policies, and response. An example several participants noted was the success of vaccine clinics when the First Nation and local community played a lead role in organizing logistics and communications. Yukon First Nation Leaders understand their community's strengths and found ways to use those to the benefit of their nations. Champagne and Aishihik First Nations Chief Smith noted those strengths and related opportunities, “we can exploit those characteristics in a way that will enable our people to respond to emergencies and everything else”. He stressed the importance of “Dän K’e”, which translates to “Our Way”, and its importance in communication; “when we call upon 'Our Way' to communicate to us, what is very important for us is to listen, decipher and hear, and taking the time to talk things through” (Chief Smith). Approaching communication through a Yukon First Nation lens focuses on trust, accountability, and open communication.

Another example of applying a First Nation lens identified by participants was taking a communal approach to health as opposed to focusing on the individual. When reflecting on the Charter challenge launched by a group of Yukoners protesting restrictions in June 2020 (Croft, 2020), a Yukon First Nation Leader noted, "if you look at the Charter challenge, it's all about my rights. There's nothing about protecting Elders, the people around me. It's all about my individual rights. First Nation peoples, when we look at issues, we look at them from the perspective of a collective right. That's the difference". In practice, for Yukon First Nations this included putting in place measures to protect Elders and facilitating access to food and health care for all community members. For example, some Yukon First Nation governments chose to enforce lockdowns during different phases of the pandemic and organized meal and grocery deliveries to all households. Similarly, if a citizen in their community tested positive and had to go into isolation, food and supplies would be delivered to their home to ensure they were being taken care of.

4.2 Civil Emergency Measures Act

The territorial government has primary responsibility for emergency response in the Yukon under CEMA (*Civil Emergency Measures Act*, 2002). CEMA is an outdated piece of territorial legislation that predates the Yukon Final and Self-Government Agreements. For example, within the legislation there are provisions for municipalities but no mention of First Nation governments. A legal analysis of CEMA is included in Appendix A and an overview of the current legislation is provided as an info sheet in Appendix B. As CEMA is currently under review by YG, participants provided insight into the political, strategic, and operational considerations that should be contemplated within this review, as well as the role of CEMA in the broader context of emergency planning and response in the territory.

Participants noted that Yukon First Nations should be part of both the review of CEMA and the decision-making process for updating the legislation. While CYFN often plays a coordinating role for Yukon First Nations, participants voiced that CEMA discussions should also include all 14 individual Yukon First Nations. A few participants also noted concerns that discussions about the review of CEMA would be limited to the Yukon Forum and stressed that this issue needs its own time and space for consultation. Participants expressed interest in engaging more than just leadership in updating CEMA, with the understanding that decision-making happens at multiple levels, and that the voices of citizens are also an important part of the governance model.

At minimum, a revised CEMA should contemplate its relationship with Yukon First Nations. However, participants did not provide a clear answer on what this would look like. Rather, participants identified that specific legal issues would need to be explored, such as how CEMA will address unsigned First Nations and provide consideration and respect for their needs, and how CEMA intersects with the Yukon First Nation Final and Self-Government Agreements.

These concerns about the need for changes to CEMA and requirements for a collaborative process aligns with recommendations produced by the legal review conducted for this research project. This review, which was conducted by a Yukon First Nation legal researcher, focuses on the existing CEMA legislation and its ability to work with Yukon First Nations, with and without Self-Government Agreements. The review recommends that new emergency legislation be developed through a joint YG/Yukon First Nation working group and identifies core issues to be addressed (see Appendix A).

Should such collaborative efforts fail to produce new emergency legislation, the review recommends that new legislation (for those with Self-Government Agreements) or by-laws (for those without Self-Government Agreements) be created by Yukon First Nations, followed subsequently by memorandums of understanding or agreements with the territorial government and/or municipalities outlining roles and responsibilities in an emergency.

Operationally, some of the biggest challenges that were identified during the IARs were lack of coordination between different governments, a need for improved information sharing, and recognition of the authority of Yukon First Nations to declare states of emergency and to play a role in emergency response. Another issue that arose was the need to establish different levels of response and intergovernmental approaches for short-term and long-term emergencies. While some respondents felt that CEMA should recognize Yukon First Nation jurisdiction, others questioned whether CEMA, as a YG act, was the right tool to ensure Yukon First Nations have the authority to declare and enforce their own states of emergency.

We heard from participants that updating the CEMA legislation would only solve some of the issues with YG's emergency response. Several participants worried about the repercussions of the future CEMA legislation for Yukon First Nations, and discussed the need for considering how CEMA will be interpreted, implemented, and applied. This means considering policies and regulations that will follow from CEMA, including how jurisdictions interact when Yukon First Nations or municipalities call a state of emergency. CEMA only applies to states of emergency declared by YG and, to a more limited extent, municipalities. Some participants wondered if there could be a mechanism that triggers a territory-wide emergency if a group of Yukon First Nations and/or municipalities called states of emergency.

Another issue that participants discussed in relation to CEMA was the lack of consistent enforcement during the pandemic. Several participants mentioned situations where rules were clearly being broken, yet there were no fines or interventions. Participants also discussed the lack of clarity on how enforcement would happen and what restrictions would be enforced, leaving some communities on edge about regulations not being followed. It was also brought up that there was a missed opportunity to incorporate Yukon First Nation community safety officers or guardians into enforcement as was done with YG conservation officers.

A few participants discussed the PHSA, questioning whether an updated PHSA could play a role in place of CEMA in managing a pandemic. We heard that the PHSA may be useful in accomplishing some of the things that need to change during emergencies, and that a strong PHSA would reduce the need to use CEMA during a health pandemic. During the COVID-19 pandemic, YG had to use CEMA because the PHSA does not include safety measures, and CEMA was the only tool available. However, for some of the participants, moving the mechanism of enforcement from public health to civil emergency contributed to distrust and polarization. The PHSA is also planned for review in the near future, and a number of participants recommended that the review of both CEMA and PHSA be considered together to ensure that in the future both are more effective.

KEY FINDINGS AND RECOMMENDATIONS

A number of key findings and related recommendations were identified through this research, based on the reflections and experiences of those involved in the response to the COVID-19 pandemic across multiple governments (Yukon First Nation, territorial, and municipal). Although some aspects of these experiences were unique to the pandemic, overarching lessons learned may be useful to inform future legislative review, policy, and practice in Yukon emergency planning and management. At the heart of these lessons is the significance of consistent communications, genuine collaboration, and trusting relationships between Yukon First Nations and YG in emergency response.

Additional findings and recommendations resulted from the legal review that was conducted for this research. Key recommendations are summarized here and those related to CEMA are elaborated further in Appendix A.

KEY FINDING 1

That interjurisdictional collaboration is critical for emergency planning and response and is dependent on good communication. In addition, unique considerations and needs of rural and Yukon First Nation communities need to be considered during emergency planning and response.

Recommendations:

1. Decision-makers to support and collaborate with grassroots structures (e.g., local working groups) that are established during an emergency response. These structures build on internal strengths and capacities, build local relationships, and improve communication within a community.
2. To ensure greater representation from Yukon First Nations and rural communities in emergency and health communications and decision-making.
3. To recognize the current community champions and allies who hold key liaison roles within YG, and the important role they play in maintaining relationships with Yukon First Nations.
4. To expand the number of such roles that hold the trust of Yukon First Nations. Emphasis should be placed on hiring First Nations into these roles or allies who have strong cultural and historical understanding.
5. To develop and implement cultural safety training that is consistent across YG departments involved in emergency planning and response.
6. To establish a central body to coordinate amongst Yukon First Nations and liaise with other governments and organizations.

“What’s challenging here is that not every department has that same deficiency. So, Health and Social, their crews are trained in a certain way on a medical response to an emergency but may not have cultural training of any kind – cultural sensitivity training or even Yukon First Nations 101 training. And so without that, what’s your starting point? ...To me that is a very plausible solution going forward that is integrated in CEMA, or any policies under CEMA. That does some work to recognize [the] context of the communities as a precursor to the decision not an afterthought” (working group member).

KEY FINDING 2

That a formal body and processes are necessary to coordinate planning and response amongst Yukon First Nations in a wide-scale emergency (e.g., YFN COVID Response).

Recommendations:

7. To continue the Yukon First Nation coordination position to support relationship-building between nations, improve community-appropriate communication strategies, enhance collaboration and communication amongst First Nations and with YG, and facilitate mutual learning.
8. To establish a formal body to provide clear direction on roles, responsibilities, and information flow amongst Yukon First Nations governments, as well as between Yukon First Nations and YG.
9. To establish a formal body to ensure processes remain flexible and responsive to communities’ needs.

KEY FINDING 3

That there is a need for stronger organizational structures that support communication, collaboration, and relationship building between Yukon First Nations, communities, and YG during emergency planning and response. As in any Incident Command System structure, there needs to be common language and pre-existing relationships between responding organizations.

Recommendations:

10. To establish structures to support operational communication between communities and YG during an emergency. A collaborative communications strategy should outline how information flows between governments during emergencies.
11. To ensure organizational structures leading emergency planning and response provide internal coordination for YG, a clear point of contact for streamlined communication with external organizations and governments, and regular meetings with communities and Yukon First Nations. These structures should allow for a community-based approach that does not feed into the systemic divide between Yukon First Nations and municipalities.
12. To ensure direct communication and collaboration that is meaningfully shaped by Yukon First Nations in support of self-determination, especially in phases of an emergency that are not time sensitive.

KEY FINDING 4

That respect for Indigenous self-determination and recognition of nation-to-nation relationships contributes to effective interjurisdictional relationships and collaboration.

Recommendations:

13. To identify appropriate mechanisms for formally recognizing and supporting Yukon First Nation self-determination and jurisdiction within emergency response.
14. To provide adequate and flexible funding and resources directly to Yukon First Nations to ensure leadership has self-determining control and direction over their own emergency response regardless of their signatory status (see below).
15. To establish a First Nation liaison position within YG's emergency response that is, at minimum, at a director level to ensure decision-making ability, improve coordination, and ensure there is a consistent point of contact.
16. To provide comprehensive training for YG senior administrators on Yukon First Nation and YG jurisdictions to contribute to improved understanding and decision-making.

KEY FINDING 5

That there are opportunities to further develop or expand Yukon First Nation emergency planning and response in the Yukon.

Recommendations:

17. To support (e.g., provide training, funding, human resources) Yukon First Nation-led emergency planning. Emphasize community-relevant emergency response and ensure Yukon First Nation ways of knowing, being, and doing are at the forefront of emergency response.
18. To ensure mechanisms are available for navigating potential conflicts and relationships between Yukon First Nation-led emergency plans and responses and those led by other jurisdictions.

KEY FINDING 6

That Yukon First Nations need access to data as soon as it is available, and access to technical guidance and plain language information in order to make decisions for their citizens.

Recommendations:

19. To develop data governance and data sharing agreements to ensure mechanisms are in place for future emergencies.
20. To collect Yukon First Nations specific health data to make targeted decision-making possible and ensure that First Nation governments have access to the data they need to support their citizens.
21. To ensure Yukon First Nations have access to dedicated resources or positions providing relevant and accessible advice on health and medical issues.
22. To ensure Yukon First Nations are given access to data in a timely manner.

KEY FINDING 7

That the role of the CMOH is critical in supporting Yukon First Nations but is also dependent on having a champion in the position.

Recommendations:

23. To ensure that the CMOH receives cultural safety training, along with in-depth training around Yukon First Nation history, culture, and governance that goes beyond YFN 101 (e.g., receiving mentorship and training on modern treaties).
24. To require an ongoing commitment within the Office of the CMOH to develop relationships, collaborate with Yukon First Nations, and spend time in the communities.

KEY FINDING 8

That new territorial emergency legislation must be jointly developed through a collaborative YG/Yukon First Nation working group.

Recommendations:

25. To ensure that a new CEMA addresses core interjurisdictional issues, such as ensuring that the timing, scope, and nature of emergency measures and orders address the priorities and concerns of the affected Yukon First Nation(s) and ensuring that the legislation coordinates with Yukon First Nation law.
26. To develop Yukon First Nation emergency legislation or by-laws and related interjurisdictional memorandums of understanding or agreements, should collaborative efforts to reforming CEMA fail.

REFERENCES

Champagne and Aishihik First Nations. (2022). Kwätsi Dän - we work.
<https://cafn.ca/kwatsi-dan-we-work-2022-cafns-covid-19-plan/>

Charmaz, K. (2006). *Constructing grounded theory: A practical guide through qualitative analysis*. SAGE Publications Ltd.

Charmaz, K. (2014). *Grounded theory*. Sage Publications.
Civil Emergency Measures Act, 34 RSY (2002).

Croft, D. (2020, May 26). COVID-19 laws set “dangerous precedent”, says one Yukoner behind charter challenge. *CBC News*.

Greiner, A. L., Nguyen, L., Shamout, M., Krishnan, S., & Stowell, D. (2021). COVID-19 intra-action reviews: Potential for a sustained response plan. *The Lancet Global Health*, 9(5), e594.
[https://doi.org/10.1016/S2214-109X\(21\)00078-4](https://doi.org/10.1016/S2214-109X(21)00078-4)

Health and Social Services Review Expert Panel. (2020). *Putting people first: The final report of the comprehensive review of Yukon’s health and social programs and services*. Government of Yukon, p.225.

Hoang, N. V., Hoang, N.-A., Pham Quang, T., Quach, H.-L., Nguyen, K. C., Vu, L. N., Hoang, D. M., Field, E., & Vogt, F. (2022). Evaluating Epidemic Preparedness and Response to COVID-19: A Nation-Wide Multisectorial Intra-Action Review of the Points of Entry Surveillance System in Vietnam, January to September 2020. *Asia Pacific Journal of Public Health*, 34(6–7), 702–704.
<https://doi.org/10.1177/10105395221112863>

Mayigane, L. N., de Vázquez, C. C., Vente, C., Charles, D., Copper, F. A., Bell, A., Njenge, H. K., Schmidt, T., Samhouri, D., Htike, M. M., Kato, M., Stephen, M., Van Kerkhove, M. D., & Chungong, S. (2020). The necessity for intra-action reviews during the COVID-19 pandemic. *The Lancet Global Health*, 8(12), e1451–e1452. [https://doi.org/10.1016/S2214-109X\(20\)30414-9](https://doi.org/10.1016/S2214-109X(20)30414-9)

World Health Organization. (2021). *Country COVID-19 intra-action review facilitator’s manual*. World Health Organization, p.15.

Yukon Bureau of Statistics. (2021). *Population report: Second quarter, 2021*. Government of Yukon.
https://yukon.ca/sites/yukon.ca/files/ybs/populationq2_2021.pdf

Yukon Bureau of Statistics. (2022). *Population report: First quarter, 2022*. Government of Yukon.
<https://yukon.ca/sites/yukon.ca/files/ybs/fin-population-report-q1-2022.pdf>

APPENDIX A:

LEGAL REVIEW POLICY BRIEF

To: CYFN Research Team

April 6, 2023

From: Helena Tlen

Legal research review of Yukon *Civil Emergency Measures Act* RSY 2002, c34 legislation and Yukon First Nations with and without Self-Government Agreements Policy Brief

Executive Summary

- This is a legal research review and analysis of the *Civil Emergency Measures Act* RSY 2002, c34 (“CEMA”) and its ability to work with Yukon First Nations (“YFN”) with Self-Government Agreements (“SGAs”) and without SGAs.
- COVID-19 has revealed gaps within CEMA and its relationship to YFN.
- CEMA includes municipalities in the legislation, giving them the power to declare states of emergencies.²
- CEMA does not contemplate or include YFN in this legislation or its regulations.
- There are 11 YFN with SGAs³ which includes their Legislative Powers including Emergency Powers.⁴
- The three YFN without SGAs and are governed by the Indian Act RSC, 1985 c.I-5 (“*Indian Act*”) which includes s.81, the ability to create by-laws.⁵
- Recommendation #1 for all YFN: establish a technical joint working group, comprised of representatives from YG and YFN, to develop new territorial emergency legislation that would apply to the Yukon.
- Recommendation #2 for all YFN:
 - with SGAs: If YG and YFN cannot collaborate to create a joint working group to create new territorial emergency legislation, YFNs can create their own legislation under their respective SGAs, and subsequently Memorandum of Understanding (“MOU”) or Agreements with Yukon Government (“YG”) or municipalities outlining roles and responsibilities in an “emergency”.⁶
 - without SGAs: If YG and YFN cannot collaborate to create a joint working group to create new territorial emergency legislation, YFN without SGAs can create by-laws under the Indian Act, and subsequently MOU or Agreements with YG or municipalities outlining roles and responsibilities in an “emergency”.⁷

²CEMA s.7

³The YFN with SGAs are Kluane First Nation; Kwanlin Dün First Nation (“KDFN”); Champagne and Aishihik First Nations (“CAFN”); First Nation of Na-Cho Nyäk Dun (“FNNND”), Teslin Tlingit Council (“TTC”); Vuntut Gwitchin First Nation (“VGFN”); Little Salmon/Carmacks First Nation; Selkirk First Nation; Tr’ondëk Hwëch’in (“TH”); Ta’an Kwäch’än Council; and Carcross/Tagish First Nation (“CTFN”).

⁴See chapter 13 for each SGA.

⁵The YFNs without SGAs are White River First Nation; Ross River Dena Council; and Liard First Nation.

⁶CEMA s.1 An “emergency” as defined by CEMA means “a peacetime disaster or a wartime emergency” and a “peacetime disaster” means a disaster, real or apprehended, resulting from fire, explosion, flood, earthquake, landslide, weather, epidemic, shipping accident, mine accident, transportation accident, electrical power failure, nuclear accident or any other disaster not attributable to enemy attack, sabotage or other hostile action whereby injury or loss is or may be caused to persons or property in the Yukon.

⁷Ibid.

Introduction

This is for use by the CYFN Research Team. This is a legal research review of CEMA and YFN with SGAs and YFN without SGAs.⁸ CEMA includes municipalities in the legislation, not YFN. This gives the eight municipalities the power to declare states of emergencies.⁹ COVID-19 exposed gaps in the legislations regarding YFN declaring states of emergencies. This is new research with little information about First Nations in Canada and emergency legislation in other jurisdictions.

Results and Conclusions

Amending CEMA to include YFN is not the best route for YFN without undermining YFNs authority. CEMA does not have any framework for YFNs, and it actually gives more weight, as it currently is written, to municipalities than it does to YFN. The ability of all YFNs to respond to the urgent needs of their citizens is made more challenging by the YG and the Crown's continued lack of recognition of their governance and decision-making authority. Any new territorial legislation requires all governments to remain accountable through clear legislation.

Recommendation: Establish a technical joint working group, comprised of representatives from the YG and YFN, to develop new territorial emergency legislation that would apply to the Yukon. This legislation would have to ensure that YFN are decision-makers with respect to development and implementation of emergency measures and orders that may apply to their settlement land and citizens.

Recommendation: In the absence of new territorial emergency legislation, YFN with SGAs to create new "emergency act" legislation per ch.13 of the SGA and subsequently create Agreements or MOUs with YG and the appropriate municipalities as required. In the absence of new territorial legislation, the YFN without SGAs may create by-laws per s. 81(1)(a) of the *Indian Act*. These by-laws may address the health of their residents and the prevention of the spread of disease. The YFN may subsequently create Agreements or MOUs with YG and the appropriate municipalities.

Analysis

Yukon

The Yukon utilized its emergency powers and declared a state of emergency during COVID-19 through CEMA. The Yukon also has its own public health legislation, Public Health and Safety Act RSY 2002, c176 ("PHSA"), which sets out extraordinary powers to protect the health of the population when faced with a public health emergency. A "public health emergency" as defined in PHSA is different than an emergency as defined by CEMA. An emergency is not a civil emergency as defined in the PHSA at s. 4.7, "in the absence of a declaration made under [CEMA], a health emergency, a communicable disease emergency or a public health emergency does not constitute an emergency within the meaning of the [CEMA]." CEMA therefore has a broader scope. CEMA also has a Memorandum of Understanding with the *Government of Canada, for Rescue Asset Management*¹⁰ and an MOU with the *Pacific Northwest Emergency Management Agreement*.¹¹

⁸ Also, a special thank you to Daryn Leas for his legal comments and opinions.

⁹ CEMA s.7

¹⁰ *Yukon Search and Rescue Asset Management Memorandum of Agreement*, OIC 1992/094, online: <https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1992/1992-0094/1992-0094_1.pdf>

¹¹ *Civil Emergency Measures Act "Pacific Northwest Emergency Management Agreement"* OIC 1995/178, online: <https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1995/1995-0178/1995-0178_1.pdf>

CEMA legislation is outdated. It must be repealed and replaced with new legislation. It does not reflect today's governance in the Yukon. There is no reference to YFN governments and their legislative authorities and powers.

The Chief Medical Officer of Health in Yukon (the "CMOH") can decide to declare a public health emergency or use its emergency powers. Emergency powers enable governmental officials to mobilize human resources to help deliver health care and other services. In most jurisdictions, the first step to declare a public health emergency, is to determine that there is an imminent or immediate threat that poses a significant or serious risk to public health. The second is that prompt coordination or special measures are required to mitigate or remedy the threat and protect the population health.¹²

CEMA and the PHSA give the CMOH many powers, subject to conditions.¹³ Not all public health emergencies will lead to the use of extraordinary powers; some emergencies might be preventative, reduced, or eliminated through regular means of action.¹⁴ Public authorities have considerable discretion to act quickly and public health emergency declarations and in most cases any emergency power has a time limit.¹⁵

Legal preparedness is critical to public health preparedness. Legal preparedness is "the creation of laws and legal authorities conferring necessary powers on various levels of government and, in particular, on public health officials".¹⁶ There are divergent interests which YG and YFNs must consider and reconcile in the field of health protection without the threat of judicial oversight. If faced with the threat of future lawsuits, public authorities may be tempted to prioritize the voices of those with higher means and better access to justice, which would be detrimental to the vulnerable populations who are the most affected by the pandemic. Public health standards tend to favour least restrictive alternatives in part because of the importance of individual personal rights and freedoms, but also because the burden of restrictions to these personal rights and freedoms often fall unequally on marginalized or stigmatized populations. The law should not simply confer unfettered powers to public authorities in emergencies which is why YFNs should be creating their own legislation.

Arguably the jurisdiction space negotiated in the SGAs provide a particular challenge that YFN are generally under pressure to create legislation to hold up Indigenous laws and legal traditions. There is a tendency for YFN to utilize the jurisdictional territory outlined in the SGAs through legislation, which mimics federal or territorial legislation. There is benefit from such codification, there is also a danger of simply reproducing law which inherently and historically harms or adversely position YFN.¹⁸ Certain health directions may run contrary to YFNs approach to cultures and traditions. YFN can also look to their language as a legal resource when and if they choose to create laws.¹⁹

¹² Answering In Emergency at 7.

¹³ PHSA s.4.6(4)

¹⁴ Ibid.

¹⁵ Ibid, and see PHSA s. 4.2, during the time of a health emergency, if there is urgent need for health professionals, the Minister can issue temporary authority to practice or perform the type of service identified by the Minister. When using exceptional emergency powers, the state responds with urgency, acting with limited information and little time to ponder its decisions.

¹⁶ Answering In Emergency at 45.

¹⁷ Answering In Emergency at 9-10.

¹⁸ Lindberg, D. "Drawing upon the Wealth of Indigenous Laws in Yukon", The Northern Review 50 (2020) at 180 ("Lindberg").

¹⁹ Lindberg at 185.

Vuntut Gwitchin First Nation (VGFN),²⁰ Champagne and Aishihik First Nations (CAFN),²¹ and Teslin Tlingit Council (TTC)²² all declared a state of emergency regarding COVID-19. VGFN declared their state of emergency per their *Community Emergency Act* (Vuntut Gwitchin First Nation).²³ CAFN declared their state of emergency under the authority of their SGA, and TTC cited CEMA.²⁴ TTC also set out a joint advisory with the Village of Teslin.²⁵ The First Nation of Na-cho Nyäk Dun (FNNND) is currently working on their own Emergency Act.²⁶ Kwanlin Dün First Nation (KDFN) implemented an Order in Council and Emergency Directives.²⁷ More recently, and unrelated to COVID-19, Carcross Tagish First Nation (C/TFN) declared a state of emergency for drug-related deaths.²⁸ However, the use of this legislation does have shortcomings. Its application is limited to settlement land, which in itself poses challenges to emergency management. Under current use of section 13.3, more effective emergency management therefore requires coordination amongst jurisdictions where both settlement and non-settlement land are involved.

If YG is creating new territorial emergency legislation it must address two core issues. The new legislation must provide that the development of emergency measures and orders in the Yukon will be done jointly by the affected YFN and YG to ensure that the timing, scope and nature of such measures and orders address the priorities and concerns of the affected YFN. This must be a collaborative process where YG and the affected YFN develop the scope and nature of emergency measures and orders, i.e., curfews, evacuations, or other such measures or orders. It cannot be a consultative process where YG is seeking the views of the YFN with respect to specific measures or orders. The process must be streamlined since such measures and orders may have to be implemented in a short period to deal with any other type of emergency, such as forest fires, floods, landslides, or whatever the deemed emergency may be.

²⁰Re: *New Community Emergency Declaration and Order Related to the COVID-19 Pandemic Pursuant to the Community Emergency Act*, (2021), enacted pursuant to Vuntut Gwitchin First Nation Council Resolution 11122021-#47, online: <vgfn.ca> [https://www.vgfn.ca/covid19/pdf/VGG_RES_EmergencyDeclaration_2021_1a.pdf]

²¹ Champagne and Aishihik First Nations, Notice of CAFN State of Emergency, (2021), online: <https://cafn.ca/notice-of-cafn-state-of-emergency/> ("CAFN Notice").

²² Teslin Tlingit Council, Immediate Notice, "Teslin Tlingit Council Emergency Measures: COVID 19", online: file:///C:/Users/hctlen/Downloads/Important_Notice_Apr_6_20.pdf ("TTC Notice")

²³ *Community Emergency Act (Vuntut Gwitchin First Nation)*, online: <<https://www.vgfn.ca/legislation/community%20emergency%20act.pdf>>

²⁴ CAFN Notice; the Resolution #001 *Shadhäla, Äshèyi yè kwädän (Champagne and Aishihik First Nations) Declaration of Emergency*, 11/November/2021 Champagne and Aishihik First Nations, First Nations Council Meeting, 2021 preamble described their authority to declare a state of emergency if it believes that an emergency exists and that special temporary measure may need to be taken to protect CAFN Citizens pursuant to their inherent right to self-government, authority under their SGA, Constitution, 2017, and Act to Amend the Government Administration Act, 2020; and, TTC Notice

²⁵ Teslin Tlingit Council and Village of Teslin, "Joint Advisory on COVID-19 Outbreak", (2021), online: <<https://cyfn.ca/wp-content/uploads/2021/07/TTC-VOT-Advisory-Letter-June-22-2021-revised-2.pdf>>

²⁶ First Nation of Na-cho Nyak Dun, "Citizen Update Report" (2020), online: <<https://www.nndfn.com/wp-content/uploads/2020/06/PDF-CITIZEN-REPORT-002.pdf>>

²⁷ *Order in Council Title: COVID-19 Emergency Measures*, (2020), Kwanlin Dün First Nation, online: <<https://www.kwanlindun.com/wp-content/uploads/2020/11/KDFN-OIC-Emergency-Directive.pdf>>

²⁸ Crawford, L. "C/TFN declares state of emergency over drug deaths" *Yukon News*, (January 12, 2022), online: <<https://www.yukon-news.com/news/c-tfn-declares-state-of-emergency-over-drug-deaths/>>

The new legislation must also acknowledge that the YFN may enact a law under section 13.3 of their respective SGA and such a law would apply to the YFN settlement land and people on that settlement land. This means that the new legislation must be able to coordinate with a YFN law. If the new territorial legislation is progressive and collaborative, it is possible that YFN would see no value to enact their own emergency laws, but they may enact such a law if the new territorial law does not provide for their involvement in the development and implementation of emergency measures and orders. Such a YFN law would displace the application of the territorial law with respect to that YFN settlement land. However, at this time, it is unclear if such measures and orders under a YFN law could be enforced effectively and efficiently in the absence of an administration of justice agreement, and the interim measures under section 13.6.4 of the SGA may not be an effective means to promote public compliance with that law.

This would not be an ideal situation to deal with an emergency if there was a need for measures and orders to be implemented through a single region separately by a territorial law and a YFN law, if the region included both parcels of settlement land and non-settlement land, unless the two laws are coordinated effectively. This situation would likely be costly, lengthy, and inconvenient. Therefore, it would seem to be that there would be an incentive to ensure that a new territorial law is able to address the concerns and interests of YFN so that they do not feel that they must enact YFN legislation to deal with emergencies. We need to ensure that the new territorial legislation is consistent with section 13.4 of the YFN. Among other issues, a new territorial law would also have to provide that emergency measures and orders can be developed and implemented on a regional basis, not a territorial-wide basis which is the current situation under the existing CEMA legislation. What may work for one YFN or region, may not for another.

In the absence of new territorial emergency legislation, the YFN with SGA are advised to create its own version of an “emergency act” that would include triggers and articulate resource management in emergency and how any emergency programs and services can or will be delivered. Creating new legislation may improve communication and information sharing. Any future funding models will need to be negotiated. Any legislative change needs to clearly consider the overlapping of jurisdiction because of the settlement and non-settlement lands. Creating new legislation would mean the contemplation of the triggers and thresholds of the new legislation and how it may relate to Yukon legislation. The YFN without SGAs may create by-laws per s. 81(1)(a) of the *Indian Act*. These by-laws may address the health of their residents and the prevention of the spread of disease. The YFN may subsequently create Agreements or MOUs with YG and the appropriate municipalities.

All YFN should consider creating policy, regulation, and protocols or adjacent committees for emergency situations given the unforeseen consequences of COVID-19, the drug epidemic and increased flooding in the southern lakes region of Yukon. However, the creation of this type of soft law (not binding and designed to guide), still remains subject to judicial review only in a relatively limited set of circumstances, such as where they conflict with legislation or delegated legislation, prevent a decision-maker from exercising a discretionary power or violate Charter rights, but only in situations where the soft law instrument has binding force.

Interjurisdictional comparison: Canada

British Columbia

The BC First Nation Health Authority (“FNHA”) stated that the decision to “close” a First Nations community or reserve, and the assessment of related security needs, rest solely with the authorities of each First Nation and that these decisions should be informed through collaborative conversations with local Health Directors, FNHA’s Office of the Chief Medical Officer, BC’s Provincial Health Officer, and/or the Chief Medical Health Officer or Medical Health Officers of their regional health authority.²⁹

The Heiltsuk Nation of Bella Bella, BC created disease emergency by-laws in s.81(1)(a) of the *Indian Act* which authorize strong preventative actions to help maintain the health and safety of their citizens.³⁰ At least for the foreseeable future, First Nations may continue to govern in accordance with the *Indian Act* and address their citizens’ needs during the COVID-19 pandemic without fear of penalty.³¹

The Tahltan Central Government and BC entered into the first consent-based decision-making agreement.³² This agreement, while not related to emergencies, may act as a blueprint for future agreements setting out a process for joint participation. This agreement is an important reminder that First Nations peoples longstanding efforts to protect and manage their territories can yield tangible results, including agreements based on recognition for Indigenous law-making authority.³³

A potential policy template provided by the FNHA is a Communicable Disease Emergency Response Plan.³⁴ The document is based on aspects of emergency planning structure for things like natural disasters, emphasizing the unique challenges and approaches specific to communicable diseases and public health. This would address the feedback from the In-Action Reviews, regarding having or creating documents to amend or build new legislation, regulations, MOUs, Agreements or policy.

²⁹ British Columbia First Nations Health Authority, First Nation Community Closures and Checkpoints In COVID-19 Pandemic, “A Message from FNHA’s Office of the Chief Medical Officer”, (April 24, 2020), online: <<https://www.fnha.ca/about/news-and-events/news/first-nations-community-closures-and-checkpoints-in-covid-19-pandemic>>

³⁰ Heiltsuk Nation, “COVID-19: HTC Enacts Heiltsuk Disease Emergency By-law” (April 2, 2020), online: <<https://heiltsuknation.ca/covid-19-htc-enacts-heiltsuk-disease-emergency-by-law/>>; and, The Heiltsuk Indian Band, by-law 21, online: <<https://heiltsuknation.ca/wp-content/uploads/2020/04/2020-03-31-Disease-Emergency-Bylaw.pdf>>

³¹ There have been issues with First Nations under the Indian Act regarding elections provisions see *Bertrand v. Acho Dene Koe First Nation*, 2021 FC 287 (CanLII).

³² BC Tahltan News Release and Declaration Act Consent Decision Making Agreement for Eskay Creek Project, (2022), online: <<https://tahltan.org/declaration-act-consent-decision-making-agreement-for-eskay-creek-project/>>

³³ BC Tahltan News Release

³⁴ British Columbia First Nations Health Authority, An FNHA plan to fight disease with emergency management, (January 15, 2021), online: <<https://www.fnha.ca/about/news-and-events/news/an-fnha-plan-to-fight-disease-with-emergency-management>>

In 2019, BC passed the *Declaration on the Rights of Indigenous Peoples Act (Declaration Act)* SBC 2019 c.44, setting out a framework to implement the *United Nations Declaration on the Rights of Indigenous Peoples* (“UNDRIP”).³⁵ Courts have been clear that where Indigenous Peoples’ constitutionally protected rights are at stake, the best course of action for governments is to seek the consent of the affected Indigenous group before authorizing resource development on Indigenous lands.

Saskatchewan

In northern Saskatchewan, there was a collaborative approach across jurisdictional boundaries, which incorporated public health response measures that recognized and respected the culture and sovereignty of local Indigenous Peoples. The distinguishing feature of the response was meaningful and consistent engagement of community leaders as partners in decision-making and communicating and educating in both English and Indigenous languages.³⁶ There was not a singular method to containment; rather, the pandemic response was based on individual needs of communities that were identified and nurtured through ongoing dialogue with community leadership and community members.³⁷

Other

Truth and Reconciliation Commission of Canada: Calls to Action include a call for the federal government to rectify the health care delivery system in consultation and cooperation with Indigenous Peoples “to establish measurable goals to identify and close the gaps in health outcomes between Indigenous and non-Indigenous communities”.³⁸ These measures are critical and urgently required to ensure the immediate health, safety and well-being of Indigenous communities. To ensure their effectiveness, these measures must be developed in collaboration with Indigenous governments to ensure that the measures, and the resources provided for their implementation, meet the actual needs of community members.

Interjurisdictional comparison: International examples

Australia

The COVID-19 public health measures have incorporated Indigenous communities’ unique needs through community involvement in the establishment of the public health measures by convening the Aboriginal and Torres Strait Islander Advisory Group on COVID-19.³⁹

³⁵Government of British Columbia, “Declaration on the Rights on Indigenous Peoples Act”, online: <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>; and *United Nations Declaration on the Rights of Indigenous Peoples*, GA res 61/295, UNGA, 2 October 2007

³⁶Khaketla, et al, “Community and Public Health Responses to a COVID-19 Outbreak in North-west Saskatchewan: Challenges, Successes, and Lessons Learned” (2022) 17:1 *International Journal of Indigenous Health* at 84 (“Khaketla”).

³⁷Khaketla at 82.

³⁸Truth and Reconciliation Commission of Canada, “Truth and Reconciliation Commission of Canada: Calls to Action,” Exhibits, online: <<https://exhibits.library.utoronto.ca/items/show/2420#:~:text=Citation,%2Fitems%2Fshow%2F2420>>

³⁹Crooks, Casey & Ward, “First Nations people leading the way in COVID-19 pandemic planning, response and management” *Med J Aust*. 2020 Aug;213(4):151-152.e1., online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7404903/>>

New Zealand (“Aotearoa”)

In November 2016, Aotearoa created the Waitangi Tribunal Health Services and Outcomes Inquiry (the “Inquiry”). From October to December 2018, stage one of the Inquiry investigated the legislative and policy framework of the primary health care system. It found that the Crown has breached the Te Tiriti o Waitangi (“Treaty of Waitangi”) by failing to design and administer the current primary health care system to actively address persistent Maori health inequities. The Crown failed to ensure that Maori have adequate decision-making authority and influence when it comes to designing and delivering primary health care services. The Crown also failed to properly resource and support Māori-controlled public health offices and health providers to deliver quality health care to Māori communities.⁴⁰

When the COVID-19 pandemic hit, the Maori established a National Māori Pandemic response group ‘Te Roopu Whakakaupapa Urutā’ (“Te Roopu”), consisting of Māori health experts. Te Roopu challenged the Crown to ensure that their rights, guaranteed by the Treaty of Waitangi, were maintained in the government responses to COVID-19. Te Roopu also asserted their rights were derived from UNDRIP and other international human rights instruments. There is the need for culturally determined provision of health services and testing by Māori. It was noted that the Māori determined what was required in their own contexts for the wellbeing of their people.⁴¹

Te Roopu has identified three key issues to be addressed if there was an increase of cases. One, Crown to stop its ‘one size fits all’ model and to ensure that specific Māori needs are addressed. Two, make systemic and structural changes within the health system that mitigate against existing inequities and institutional racism that underpin many Māori disparities in health. Finally, for government collaboration with Māori that deals with wider systemic issues such as poverty, housing and wider economic issues that are faced disproportionately by Māori.⁴² The actions of Te Roopu were critical to ensuring the wellbeing of Māori throughout the pandemic.

⁴⁰ Waitangi Tribunal, “Report on stage one of health services and outcomes released”, (2020), online: <https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/>

⁴¹ Pihama & Lipsham, “Noho Haumaru: Reflecting on Māori approaches to staying safe during Covid-19 in Aotearoa (New Zealand)” (2020) 9:1 Journal of Indigenous Social Development UofC at 95.

⁴² Ibid at 97.

RESOURCES

Legislation:

Carcross/Tagish First Nation Self-Government Agreement, (2006), online: <ctfn.ca>.
[<https://www.ctfn.ca/media/documents/Publications/Agreements/carcross-tagish-selfGovernmentAgreement.pdf>]

Champagne and Aishihik First Nation Self-Government Agreement, (1993), online: <cafn.ca>
[<https://www.rcaanc-cirnac.gc.ca/eng/1100100030683/1542814672049>].

Resolution #001 *Shadhäla, Äshèyi yè kwädän (Champagne and Aishihik First Nations) Declaration of Emergency*, 11/November/2021 Champagne and Aishihik First Nations, First Nations Council Meeting, 2021

Civil Emergency Measures Act, RSY 2002, c34

Civil Emergency Measures Act “Pacific Northwest Emergency Management Agreement” OIC 1995/178, online: <https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1995/1995-0178/1995-0178_1.pdf>

Community Emergency Act (Vuntut Gwitchin First Nation), online:
<<https://www.vgfn.ca/legislation/community%20emergency%20act.pdf>>

Constitution Act, 1867

Declaration Act Consent Decision Making Agreement for Eskay Creek Project, (2022), online:
<<https://tahltan.org/declaration-act-consent-decision-making-agreement-for-eskay-creek-project/>>

Declaration on the Rights of Indigenous Peoples Act (Declaration Act) SBC 2019 c.44,
Emergencies Act, RSC 1985, c.22 (4th Supp)

First Nation of Na-Cho Nyak Dun Self-Government Agreement, (1993), online: <nndfn.com>
[<https://www.nndfn.com/wp-content/uploads/2021/11/nacho-nyak-dun-sga.pdf>].

Indian Act RSC, 1985 c.I-5

Kluane First Nation Self-Government Agreement, (2003), online: <kfn.ca> [<https://www.rcaanc-cirnac.gc.ca/eng/1100100030696/1542815471369>].

Kwanlin Dun First Nation Self-Government Agreement, (2005) <kwanlindun.com>
[<https://www.kwanlindun.com/wp-content/uploads/2020/05/KDFN-Self-Government-Agreement.pdf>].

Little Salmon/Carmacks First Nation Self-Government Agreement, (1997), online: <lscfn.ca>
[<https://www.lscfn.ca/downloads/lscfn-self-government-agreement.pdf>].

Order in Council Title: COVID-19 Emergency Measures, (2020), Kwanlin Dun First Nation, online: <<https://www.kwanlindun.com/wp-content/uploads/2020/11/KDFN-OIC-Emergency-Directive.pdf>>

New Community Emergency Declaration and Order Related to the COVID-19 Pandemic Pursuant to the Community Emergency Act, (2021), enacted pursuant to Vuntut Gwitchin First Nation Council Resolution 11122021-#47, online: <vgfn.ca> [https://www.vgfn.ca/covid-19/pdf/VGG_RES_EmergencyDeclaration_2021_1a.pdf]

Public Health and Safety Act RSY 2002, c176

Selkirk First Nation Self-Government Agreement, (1997), online: <[selkirkfn.com](http://www.selkirkfn.com)> [<http://www.selkirkfn.com/documents/sfn-agreements/>].

Ta'an Kwäch'än Council Self-Government Agreement, (2002), online: <taan.ca> [<https://taan.ca/files/uploads/2014/07/WEB-01-AGREEMENT-SelfGovernment.pdf>].

Teslin Tlingit Council Self-Government Agreement, (1993), online: <ttc-teslin.com> [https://www.ttc-teslin.com/application/files/7315/3548/2006/Self-Government_Agreement.pdf].

The Heiltsuk Indian Band, by-law 21, online: <<https://heiltsuknation.ca/wp-content/uploads/2020/04/2020-03-31-Disease-Emergency-Bylaw.pdf>>

Tr'ondëk Hwëch'in Self-Government Agreement, (1998), online: <trondek.ca> [https://www.trondek.ca/sites/default/files/basic_page_files/TH_Self_Government_Agreement.pdf].

Vuntut Gwitchin First Nation Self-Government Agreement, (1993), online: <vgfn.ca> [<http://www.vgfn.ca/vgfnfa/>].

Yukon Search and Rescue Asset Management Memorandum of Agreement, OIC 1992/094, online: https://laws.yukon.ca/cms/images/LEGISLATION/SUBORDINATE/1992/1992-0094/1992-0094_1.pdf

Jurisprudence:

Taylor v. Newfoundland and Labrador, 2020 NLSC 125

Bertrand v. Acho Dene Koe First Nation, 2021 FC 287 (CanLII)

International Material:

United Nations Declaration on the Rights of Indigenous Peoples, GA res 61/295, UNGA, 2 October 2007

Secondary Materials:

British Columbia First Nations Health Authority, An FNHA plan to fight disease with emergency management, (January 15, 2021), online: <<https://www.fnha.ca/about/news-and-events/news/an-fnha-plan-to-fight-disease-with-emergency-management>>

British Columbia First Nations Health Authority, First Nation Community Closures and Checkpoints I n COVID-19 Pandemic, “A Message from FNHA’s Office of the Chief Medical Officer”, (April 24, 2020), online: <<https://www.fnha.ca/about/news-and-events/news/first-nations-community-closures-and-checkpoints-in-covid-19-pandemic>>

Champagne and Aishihik First Nations, Notice of CAFN State of Emergency, (2021), online: <https://cafn.ca/notice-of-cafn-state-of-emergency/>

Couture-Menard et al, “Answering In Emergency: The Law and Accountability in Canada’s Pandemic Reponses” (2021) 72 UNBLJ at 4

Crawford, L. “C/TFN declares state of emergency over drug deaths” *Yukon News*, (January 12, 2022), online: <https://www.yukon-news.com/news/c-tfn-declares-state-of-emergency-over-drug-deaths/>

Crooks, Casey & Ward, “First Nations people leading the way in COVID-19 pandemic planning, response and management” *Med J Aust.* 2020 Aug;213(4):151-152.e1., online: <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7404903/>>

Drawing upon the Wealth of Indigenous Laws in the Yukon by Darcy Lindberg
<https://thenorthernreview.ca/index.php/nr/article/view/883/863>

First Nation of Na-cho Nyak Dun, “Citizen Update Report” (2020), online: <https://www.nndfn.com/wp-content/uploads/2020/06/PDF-CITIZEN-REPORT-002.pdf>

Government of British Columbia, “Declaration on the Rights on Indigenous Peoples Act”, online: <https://www2.gov.bc.ca/gov/content/governments/indigenous-people/new-relationship/united-nations-declaration-on-the-rights-of-indigenous-peoples>

Government of British Columbia, “Tahltan Central Government, B.C. make history under Declaration Act” (June 6, 2022), online: <https://news.gov.bc.ca/releases/2022PREM0034-000899>

Heiltsuk Nation, “COVID-19: HTC Enacts Heiltsuk Disease Emergency By-law” (April 2, 2020), online: <<https://heiltsuknation.ca/covid-19-htc-enacts-heiltsuk-disease-emergency-by-law/>>;

Khaketla, et al, “Community and Public Health Responses to a COVID-19 Outbreak in North-west Saskatchewan: Challenges, Successes, and Lessons Learned” (2022) 17:1 *International Journal of Indigenous Health*

Lindberg, D. “Drawing upon the Wealth of Indigenous Laws in Yukon”, *The Northern Review* 50 (2020)

Pihama & Lipsham, “Noho Haumarū: Reflecting on Māori approaches to staying safe during Covid-19 in Aotearoa (New Zealand)” (2020) 9:1 Journal of Indigenous Social Development UofC

Teslin Tlingit Council and Village of Teslin, “Joint Advisory on COVID-19 Outbreak”, (2021), online:
<<https://cyfn.ca/wp-content/uploads/2021/07/TTC-VOT-Advisory-Letter-June-22-2021-revised-2.pdf>>

Teslin Tlingit Council, Immediate Notice, “Teslin Tlingit Council Emergency Measures: COVID 19”, online:
file:///C:/Users/hctlen/Downloads/Important_Notice_Apr_6_20.pdf

Truth and Reconciliation Commission of Canada, “Truth and Reconciliation Commission of Canada: Calls to Action,” *Exhibits*, online:
<<https://exhibits.library.utoronto.ca/items/show/2420#:~:text=Citation,%2Fitems%2Fshow%2F2420>>

Waitangi Tribunal, “Report on stage one of health services and outcomes released”, (2020), online:
<<https://waitangitribunal.govt.nz/news/report-on-stage-one-of-health-services-and-outcomes-released/>>

APPENDIX B:

CEMA INFO SHEET

GOVERNMENT OF YUKON'S CIVIL EMERGENCY MEASURES ACT

CEMA WHAT IS THE *Civil Emergency Measures Act?*

The *Civil Emergency Measures Act* (CEMA) is legislation that gives the Government of Yukon (YG) the power to act in response to an emergency.

What is an emergency?

There are two types of emergencies covered by CEMA:

1. **The first type is a "peacetime disaster".** This refers to any disaster that is unrelated to war or hostile action. It includes disasters from fire, explosion, flood, earthquake, landslide, weather, and epidemic. It also includes disasters related to accidents, such as a shipping accident, mine accident, transportation accident, electrical power failure, or nuclear accident. In addition, this category could include any other disaster, unrelated to war or hostile action, that could cause injury or loss to persons or property in the Yukon.
2. **The second type is a war emergency,** which is related to war, invasion or insurrection.



CEMA allows YG to declare a state of emergency in the Yukon in case of a peacetime or war emergency.

- A state of emergency lasts for 90 days once it has been declared, although it can be ended earlier by YG. It can also be extended by government declaration.
- When YG declares and ends a state of emergency, it must be published and shared with the public.

What does a state of emergency mean?

The government can do what it thinks is necessary to deal with an emergency, including:

- protect people and property
- maintain, clear, and control roads
- provide and maintain necessary services (e.g., water, electrical, sewage)
- obtain necessary goods and services
- assist in the enforcement of law
- fight and prevent fires
- protect the health, safety, and welfare of Yukoners
- put into effect any civil emergency plans

It allows the government to enter into agreements with the Government of Canada, other provincial and territorial governments, municipalities, or any person (note it does not mention Yukon First Nations governments) for the purposes of planning, identifying resources, establishing training and public information programs, and taking any other steps required.



What does CEMA mean for:



Impacts on people's rights

Other pieces of legislation that continue to protect individual rights and privacy during an emergency are paramount to CEMA, such as the *Human Rights Act* and the *Health Information and Privacy Management Act*.

Municipalities?

- CEMA instructs municipalities to have a municipal civil emergency plan that assigns roles and responsibilities and specifies powers and duties.
- CEMA allows municipalities to declare a state of emergency either during or outside of a YG emergency. A municipal state of emergency would usually last for 48 hours unless replaced by a state of emergency called by YG.
- YG can cancel a state of emergency declared by a municipality.
- YG can require the assistance of a municipality in a state of emergency.
- The municipal council may make any bylaws it considers necessary to put into effect the civil emergency plan of the municipality.



Yukon First Nations?

- CEMA does not include Yukon First Nations in the legislation or its regulations.
- There are 11 Yukon First Nations with Self-Government Agreements. These agreements include legislative emergency powers outlined in Chapter 13.



CEMA enforcement

If someone does not obey orders related to the state of emergency, they can be fined \$500 and/or be imprisoned for a maximum of 6 months.



Is CEMA being updated?

YG committed to reviewing CEMA to assess the scope of the legislation and that of other jurisdictions, with the goal of modernizing the legislation. The goal of the review is to identify gaps and best practices, incorporate actions to adapt to climate change and mitigate risk, and improve coordination with Yukon First Nations governments, municipalities, and stakeholders across the Yukon.



**Government of Yukon's Civil
Emergency Measures Act:**
[https://laws.yukon.ca/cms/images/LEGISLATION/
PRINCIPAL/2002/2002-0034/2002-0034.pdf](https://laws.yukon.ca/cms/images/LEGISLATION/PRINCIPAL/2002/2002-0034/2002-0034.pdf)



**Council of Yukon
First Nations**



Yukon First Nations COVID-19 Response Timeline

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

March 27 2020 
YG declares a State of Emergency.

March 26 2020 
YG limits restaurants to takeout only.
Personal care services are closed.

March 23 2020 
Assembly of First Nations declares
a State of Emergency.

March 20 2020 
Canada-USA border is closed to all
non-essential traffic.

March 18 2020 
Yukon declares a Public Health Emergency
and school classes are suspended. Canada
imposes restrictions on foreign travel.

March 16 2020 
YG's Chief Medical Officer of Health (CMOH)
recommends work from home and gathering
size limits, announces business support
grants and paid sick leave.

March 13 2020 
First Nations Hockey Tournament is cancelled.

March 11 2020 
World Health Organization declares a global pandemic.

April 17 2020 
Daycares are restricted to critical and
essential workers only. YG's border
control measures are strengthened.

April 14 2020 
Safe 6 public health measures
are introduced.

April 7 2020 
In-person learning is suspended for
the remainder of the school year.

April 6 2020 
Federal government announces
Canada Emergency Response
Benefit (CERB) for individuals.

April 2 2020 
Land/air border regulations under
Yukon's *Civil Emergency Measures Act*
(CEMA) requires 14-day isolation for
people entering the Yukon, unless
deemed a critical/essential worker.
Bars and restaurants close, gathering
sizes are limited.



Classes cancelled in the Yukon
(Source: Yukon News)

May 15 2020 
YG's plan for re-opening, *A Path Forward: Yukon's plan for lifting COVID-19 restrictions* is released and Phase 1 begins. Businesses and events require "operating plans." Personal services and bars can reopen with plans.

May 1 2020 
YG announces laying its first charge
under CEMA.

MARCH

APRIL

MAY

JUNE

Oh ****! We're in a Pandemic

During the Yukon's first pandemic lockdown, many Yukon businesses close or limit/modify operations for two months. The Government of Yukon (YG) implements strict domestic border controls, requiring a 14-day isolation for those entering the Yukon, unless they are deemed essential or critical workers. In-person learning is suspended and daycare services are limited to essential and critical workers only. By the end of this period, 11 cases of COVID-19 are identified in the Yukon.

First Re-opening

An additional 4 cases of COVID-19 are identified over the summer. Restrictive border control limits mean that tourism travel is limited to Yukoners and British Columbians. Signature summer events like the Adäka Cultural Festival, the Yukon River Quest, and Canada Day are cancelled. First Nation governments express concerns over the impact of increased use of backcountry recreational areas.



Council of Yukon
First Nations



June 19 2020 

First travel advisory is posted to CYFN.ca/covid19 by First Nation of Na-Cho Nyäk Dun.

June 12 2020 

YG renews its State of Emergency.

July 1 2020 

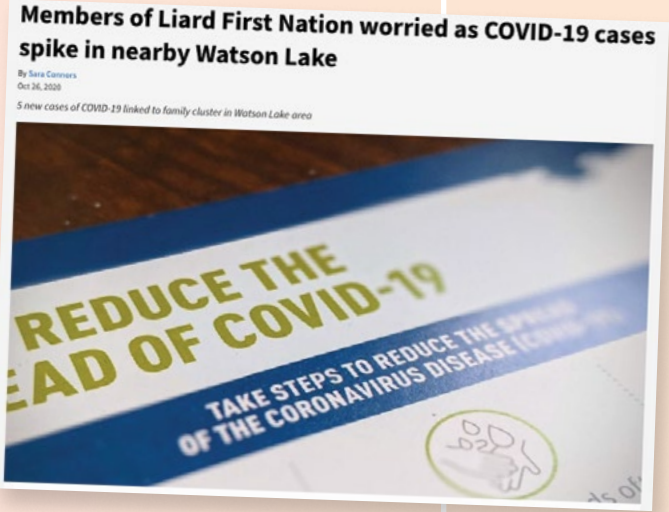
Phase 2 of Yukon's reopening begins. Outside gathering sizes are increased to 50 and travel restrictions are eased between Yukon and NWT/BC, referred to as the "BC Bubble".



First Nation of Na-Cho Nyäk Dun puts a checkpoint up on the highway (Source: FNNND Citizen Update Newsletter)

August 1 2020 

Phase 3 of Yukon's reopening begins. Indoor seated events are increased to 50 people and outside events are increased to 100 people.



Cluster of cases in Watson Lake (Source: APTN News)

September 9 2020 

YG's State of Emergency is renewed.

Early September 2020 

Yukon schools reopen for in-person learning with distancing and mask use.

JUNE

JULY

AUGUST

SEPTEMBER

OCTOBER

First Re-opening continued....



International Action



Federal Action



Yukon Territorial Action



First Nations Action



Case Count



Vaccination

Welcome to the “New Normal”

A small cluster of cases in a rural community leads to the Yukon's first COVID-19 related death. Surging cases in November ends the travel “bubble” with British Columbia, which means all Yukoners who are returning home for Christmas are required to isolate for 14 days. Yukoners learn that the vaccine program will begin early in the new year and that the Yukon will receive a priority allocation of the vaccine.

October 30 2020 

YG's State of Emergency is renewed.

November 20 2020 

The first death related to COVID-19 in the Yukon is reported.

December 1 2020 

Mandatory masking begins for most indoor public spaces and YG worksites.

December 8 2020 

YG's State of Emergency is renewed.

December 10 2020 

Yukon's COVID-19 Vaccine Strategy is released.

December 28 2020 

First vaccine shipment arrives in the Yukon.

January 4 2021 

YG's COVID-19 vaccination program begins with its first dose delivered at a long term care facility in Whitehorse.

January 18 2021 

First vaccine clinic is held in Watson Lake.



Elders Christine (left) and Marie (right) get their vaccines at the First Nation of Na-Cho Nyäk Dun/Mayo vaccine clinic (Photo credit: Alistair Maitland Photography)

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

2021

Vaccines!

YG receives enough of the vaccine to vaccinate 75% of the eligible population within the first few months of the year. The Yukon achieves a high rate of vaccination, with 70% of eligible Yukoners becoming fully vaccinated by June 2021. Internationally, concerns emerge about new variants with increased transmissibility.



Lena Johnson the eldest Kluane First Nation citizen at age 93 gets her vaccine (Photo credit: Math'ieya Alatini)



Elder Agnes Mills is vaccinated (Source: Yukon News)

April 12 2021 
A territorial election is held and a Liberal minority government is elected.

May 12 2021 
YG releases Yukon's vaccination rate by community.

May 25 2021 
Fully vaccinated travellers to the Yukon no longer need to self-isolate upon arrival.

May 31 2021 
Vaccine clinics for 12-17 year olds begin.

May 27 2021 
YG's State of Emergency is renewed.

June 30 2021 
Yukon Premier requests medical support from Canada/ provinces to help manage outbreak.

June 25 2021 
CMOH recommends that Yukoners limit gatherings. Hundreds of Yukoners are in isolation.

June 13 2021 
Outbreak is declared in Whitehorse linked to graduation events. Yukon reports 18 active cases.

June 5 2021 
COVID-19 outbreak is identified at Victoria Gold mine site.

June 2 2021 
70% of Yukoners 18+ are fully vaccinated.

2021

Our First Real Wave

After a successful initial roll-out of the vaccine, Yukon experiences its first significant wave of COVID-19. With hundreds of Yukoners in isolation and a daily active case count reaching well over 100 people, Yukon's healthcare system becomes strained, events are cancelled, daycares have limited access, gathering sizes are reduced, and businesses have to manage increased public health measures.

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

Vaccines! continued...

July 19 2021 

Yukon First Nations COVID Response Team releases data from YG showing that the Indigenous population in the Yukon is disproportionately affected in the Yukon's first significant wave of COVID-19.

July 5 2021 

Yukon reports 149 active cases.

August 25 2021 

YG's State of Emergency lapses and all remaining restrictions are lifted. The Public Health Emergency remains in place.

August 20 2021 

YG releases *Forging Ahead*, its plan for transitioning back to day-to-day operations and living with COVID-19.

August 4 2021 

YG lifts border controls and masking requirements for indoor gatherings



The first real wave of cases announced
(Source: CBC News)

September 20 2021 

A federal election is held and a Liberal minority government is elected.

September 7 2021 

Proof of vaccination credentials are released for Yukoners.

October 15 2021 

YG announces mandatory vaccination for all employees and frontline healthcare workers starting Nov. 13, 2021. Proof of vaccination is required to access non-essential services in the Yukon.

October 5/6 2021 

Rapid antigen tests are distributed to Yukon First Nation governments at Council of Yukon First Nations (CYFN) Fall Gathering.

October 1 2021 

Vaccine booster program begins with long term care homes.

The State of Emergency lapses and YG releases the *Forging Ahead* plan which will transition the government's pandemic response into the day-to-day operations of government.

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

SEPTEMBER

Community Based Testing

As COVID-19 starts to increase in the fall, a State of Emergency is declared and public health measures are reinstated, including vaccine mandates. Both YG and the Government of Canada institute vaccination mandates. Working with the Public Health Agency of Canada, Yukon First Nation governments distribute rapid antigen tests to communities.

OCTOBER

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

NOVEMBER

NOVEMBER

DECEMBER

JANUARY

FEBRUARY

MARCH

Community Based Testing continued...

November 8 2021 

YG declares a State of Emergency and recommends avoiding non-essential travel between communities.

November 13 2021 

New health protective orders come into effect limiting gatherings, restricting bar/restaurant capacity, and suspending high intensity fitness classes.

November 15 2021 

Mandatory vaccination for federal employees comes into effect.

November 25 2021 

Yukon Emergency Relief Program provides funding for fixed costs related to event cancellations and vaccine verification technology.

November 30 2021 

Mandatory vaccination for territorial employees comes into effect.

December 3 2021 

YG's State of Emergency is renewed. Proof of vaccination is no longer required for faith-based services and sports/recreation gatherings for those under 19.

December 12 2021 

Boosters are available for all Yukoners aged 18+.

December 30 2021 

Omicron wave begins. YG recommends that all close contacts to a positive case isolate for 7 days and new measures are introduced, including requirements for proof of vaccination and gathering size limits.

January 6 2022 

YG prioritizes PCR testing for individuals most at risk.

January 10 2022 

YG starts to distribute rapid antigen tests.

January 12 2022 

Yukon reports 471 active COVID-19 cases.

January 14 2022 

Public health measures limit private gatherings, including sports, and postpone indoor events.

February 10 2022 

New financial supports are introduced for Yukon businesses.

February 14 2022 

Canada invokes the *Emergencies Act* over "Convoy Protests"

March 4 2022 

Most public health measures are lifted, except for masking indoors and vaccination requirements for designated settings.

March 16 2022 

YG's State of Emergency ends.

March 18 2022 

Public health measures are lifted.

March 23 2022 

COVID-19 Relief and Recovery Fund for NGOs is established.

Omicron Wave

Cases rise rapidly after the holidays and YG prioritizes testing for individuals most at risk. Distribution of rapid tests by both Yukon First Nations and YG supports individuals in identifying new cases and in managing risk. New limits to gatherings and sporting activities are introduced. In February the national "Convoy Protests" heighten tensions around vaccine mandates. YG rescinds the State of Emergency and most restrictions by mid-March. Over this period of time thousands of Yukoners are infected with COVID-19.

-  International Action
-  Federal Action
-  Yukon Territorial Action
-  First Nations Action
-  Case Count
-  Vaccination

April 12 2022

CYFN provides rapid molecular tests to YG.

April 4 2022

COVID-19 vaccination requirement is lifted for most Yukon public servants.



Champagne and Aishihik First Nations mask advisory (Source: CAFN)



Grand Chief Peter Johnston with COVID-19 rapid tests (Photo credit: CYFN)

May 20 2022

YG establishes a Post COVID-19 Working Group.

June 20 2022

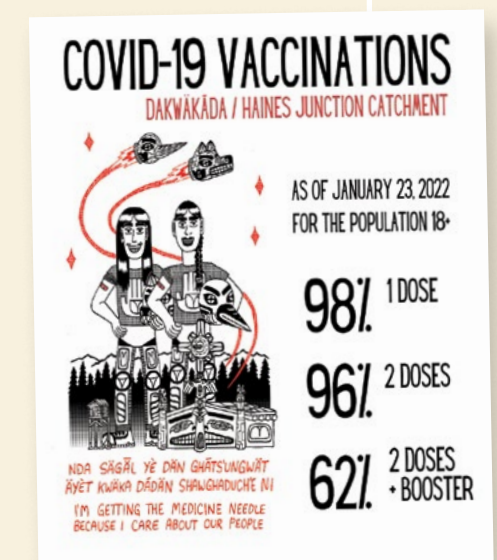
Champagne and Aishihik First Nations and the Village of Haines Junction announce partnership to test wastewater for COVID-19.

July 15 2022

COVID-19 vaccine is approved for children over 6 months.

July 7 2022

Second COVID-19 booster is available to all Yukoners aged 18+.



Champagne and Aishihik First Nations vaccine campaign update (Source: CAFN)

APRIL

MAY

JUNE

JULY

AUGUST

Living with COVID

COVID-19 becomes normalized into day-to-day operations of the healthcare system. COVID-19 and other respiratory diseases challenge businesses, schools, NGOs, and governments to maintain operations as they experience worker absenteeism due to illness in the fall/winter.

- International Action
- Federal Action
- Yukon Territorial Action
- First Nations Action
- Case Count
- Vaccination



Togo mobile vaccination team arriving at the Dakų Cultural Centre in Haines Junction
(Photo credit: Michael Schmidt)

October 1 2022



Canada removes all COVID-19 entry requirements for travellers.

November 10 2022



Yukon releases *Charting the Course: Living with and Managing COVID-19* and removes isolation requirements.



Chief Simon Mervyn of the First Nation of Na-cho Nyäk Dun proudly presents his vaccination record after receiving the Moderna vaccine (Photo credit: Alistair Maitland Photography)

December 12 2022

CMOH releases special statement on high rates of respiratory illnesses and importance of vaccination.

November 24 2022



Second COVID-19 booster is available to all Yukoners aged 12+.

SEPTEMBER

OCTOBER

NOVEMBER

DECEMBER

Living with COVID continued...



International Action



Federal Action



Yukon Territorial Action



First Nations Action



Case Count



Vaccination

THANK YOU

FOR YOUR SUPPORT

REPORT PREPARED FOR:

THE COUNCIL OF YUKON FIRST NATIONS

AUTHORED BY:

RHIANNON KLEIN, ALISON PERRIN & KIRI
STAPLES IN COLLABORATION WITH
MATH'IEYA ALATINI & KARI JOHNSTON



Council of Yukon
First Nations

