



# **Enforcement of First Nations Laws**

## **Chiefs of Ontario: Advocacy and Litigation**

**Jackie Lombardi, Director of Justice**  
**Kate Siemiatycki, External Counsel**

**First Nations Land Management Resource Centre**  
**Ticketing and Enforcement Workshop**  
**July 24, 2025**

## Tripartite Collaborative Table on the Enforcement & Prosecution of First Nations Laws

- Purpose of Table:

- Study the ongoing obstacles to the enforcement and prosecution of First Nations laws within the Ontario region
- Develop concrete and lasting recommendations that will ensure these laws will be consistently and reliably enforced and prosecuted
- Support the implementation and development of recommendations

- Interim Measures (COO Resolution 21/37):

- Secured funding for a Private Prosecution Pilot – **extended until March 2026**
  - **First successful prosecution by Mississauga First Nation in October 2024**

## Outstanding Calls for Action and Roadblocks (COO Resolution 23/10A):

- Enforcement: Provide First Nations access to **provincial ticketing mechanisms**
  - Manitoba, Saskatchewan and Alberta have recently amended their provincial offences regimes to enable First Nations to use provincial ticketing mechanisms when enforcing their laws
  - Ontario has not yet committed to making similar amendments to the *Provincial Offences Act*
- Prosecution: **Crown prosecutors available** on request
  - Canada and Ontario continue to refuse to make their Crown prosecutors available to prosecute offences under First Nations laws
- Prosecution: Improve **First Nations prosecutor program**
  - Government does not provide permanent or sufficient funding for First Nations to hire their own prosecutors to prosecute their own laws (beyond pilot funding)
- Canada and Ontario also **refused to schedule a Collaborative Table meeting for over 1 year** to discuss the items listed above and other mandates from the Ontario Chiefs-in-Assembly as part of Resolution 23/10A



## *Community Safety and Policing Act, 2019*

- A key call for action by the Ontario Chiefs-in-Assembly has been for the provincial government to remove the discriminatory exclusion of enforcement of First Nations laws from its new *Community Safety and Policing Act (CSPA)*, 2019 (CSPA)
- Under the CSPA the enforcement of First Nations laws is not a mandatory police function
  - **Problem:** First Nations laws are generally not enforced by police
  - **Impacts:**
    - Undermines self-government
    - Undermines community safety
    - Discriminatory access to justice and the rule of laws
  - **Concerns ignored by Ontario:** Extensive advocacy and lobbying on this issue for over five+ years
- CSPA brought into force with exclusion on April 1, 2024

## Litigation Launch – May 7, 2024

- At November COO FCA, COO received mandate via **Resolution 23-17S** to commence **legal action against Canada and Ontario regarding the discriminatory lack of enforcement and prosecution of First Nations laws**, including the exclusion of First Nations by-law enforcement from the mandatory police functions under the CSPA, if CSPA brought into force with exclusion
- COO worked with Elder Darryl Boissoneau, a delegation of First Nations Leadership, and First Nations Chiefs of Police to announce the litigations launch on May 7<sup>th</sup> – including a ceremonial opening, Press Conference, Question Period, and media scrum



## Litigation Details & Next Steps

- Defendants: Canada and Ontario
- Scope: All aspects of the discriminatory lack of enforcement and prosecution of First Nations laws
- Legal basis: Breach of equality rights (s. 15 of the *Canadian Charter of Rights and Freedoms*)
- Requests: Orders that the discrimination stop, and that First Nations laws be enforced/prosecuted
- Compensation: Not seeking financial compensation for discrimination (not a class action)
- **Updates:** Succeeded in securing case management and resolving government motions
- Next major steps:
  - Statements of Defence
  - Exchange of relevant documents
- Collaboration: COO continues to try to resolve the issues with the Canada and Ontario collaboratively

## Evidence Gathering

- Now gathering evidence
- We need concrete examples from First Nations
  - Refusals by police to enforce your laws
  - Refusals by prosecutors to prosecute your laws
  - Problems you can't fix without your laws being enforced
    - Banishment of dangerous individuals
    - Dumping on your land
    - Evictions and housing matters
    - Illegal businesses - etc...
- Write to your local law enforcement/detachment and ask for commitment to enforce your First Nation's laws

- Please get in touch:
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  - Jackie Lombardi:  
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994-7623

## Enforcement and Prosecution: Questions to Consider

- Internal vs. external enforcement and prosecution mechanisms (summary conviction charges vs. internal adjudication system)
- What types of laws would be most useful for the specified goal? Land use, Trespass, Housing, Illegal Drugs, Traffic, Enforcement?
- Would restorative justice be an appropriate option to develop in addition to traditional enforcement and prosecution of First Nations laws?
- Are there opportunities to work with other First Nations on regional adjudication of First Nations laws?
- Want to hire prosecutors via provincial program?



**For further information, please contact:**

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**CHIEFS OF ONTARIO  
ANNUAL CHIEF ASSEMBLY  
JUNE 13-15, 2023**

**RESOLUTION 23/10A  
PAGE 1 OF 3**

**SUBJECT: THE TRIPARTITE COLLABORATIVE TECHNICAL TABLE ON  
THE ENFORCEMENT AND PROSECUTION OF FIRST NATIONS'  
LAWS: RECOMMENDATIONS**

**MOVER: Ogimaa Kwe Linda Debassige, M'Chigeeng First Nation**

**SECONDER: Chief Wilfred King, Kiashke Zaaging Anishinaabek**

**DECISION: CARRIED**

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**WHEREAS:**

1. First Nations have the inherent right to self-government, inclusive of the development and assertion of their own laws, by-laws and institutions;
2. The enforcement and prosecution of First Nations laws and by-laws are critical components of inherent jurisdiction and First Nations justice systems, and are essential to citizen and community safety and wellbeing;
3. The consistent and reliable enforcement and prosecution of First Nations laws and/or by-laws are not enforced in the Ontario region, which often undermines self-government, the actualization of First Nations' jurisdiction, community safety and wellbeing, and equitable access to justice and the rule of law by First Nations;
4. Pursuant to Resolution 52/18, the Chiefs of Ontario, the Government of Canada, and the Government of Ontario launched the Tripartite Collaborative Technical Table on the Enforcement and Prosecution of First Nations' Laws (Collaborative Table) in May 2021 to explore solutions to the lack of enforcement and prosecution of First Nations laws;
5. Pursuant to Resolution 21/37, Chiefs in Assembly demanded the federal and provincial governments take immediate steps to fund First Nations to enforce and prosecute their own laws and/or to make Crown prosecutors available on request by a First Nation in concurrence with ongoing discussions about long-term solutions;



6. The Collaborative Table achieved the development of a pilot program to fund private prosecutors hired by First Nations, but progress on other immediate and long-term initiatives would substantially benefit from additional direction from the Chiefs in Assembly.

**THEREFORE BE IT RESOLVED THAT we, the Chiefs in Assembly:**

1. Reiterate the urgent demand for the federal and provincial governments to take immediate steps to make Crown prosecutors available on request by a First Nation, while discussions about longer-term solutions are ongoing.
2. Call on the Government of Ontario to take the following steps immediately:
  - a. Pass regulations under Ontario's new policing legislation stating that the enforcement of First Nations laws and by-laws is a mandatory police function, as a necessary step to enable enforcement throughout Ontario and guarantee police funding for these important activities;
  - b. Provide First Nations with access to ticketing and other enforcement mechanisms under the *Provincial Offences Act*, including for laws under First Nations' inherent jurisdiction, with all ticket revenue being paid to the First Nation, without prejudice to First Nations developing their own ticketing and other enforcement mechanisms;
  - c. Ensure the Ontario Provincial Police (OPP) will enforce First Nation laws as they are drafted on an expedited basis, prohibiting the expropriation of First Nations and Courts authority to determine the validity of those laws, and update OPP policies accordingly.
3. Call on the Governments of Canada and Ontario to immediately:
  - a. Take all steps necessary to recognize, affirm and grant prosecutorial immunity to First Nations prosecutors;
  - b. Shield First Nations prosecutions from takeovers by federal or provincial crown attorneys;
  - c. Increase funding and capacity to allow all First Nations to develop their own ticketing and other enforcement mechanisms, draft laws, hire their own enforcement officers, hire their own judicial decision-makers, develop their own court systems and legal institutions, and take other steps to revitalize their own justice systems, if they wish to do so;

- d. Expand, improve, and make the First Nations prosecutor program permanent to allow greater access, allow for greater collaboration between First Nations regarding prosecutions, and enable the hiring of the permanent staff necessary to build prosecutorial and institutional capacity.
- 4. Direct the Chiefs of Ontario and Ontario Regional Chief to advocate for these initiatives through technical and political level discussions, without putting additional liabilities on First Nations or First Nations Police Services.
- 5. Note that this Resolution and the Collaborative Table is without prejudice to any initiatives or work being undertaken by First Nations, First Nations organizations, or First Nations Police Services on this issues or related issues, is without prejudice to ongoing and future First Nations policing agreements, and is without prejudice to the inherent and Treaty rights of all First Nations in Ontario.

**Certified Copy of a Resolution passed June 14, 2023**

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**Glen Hare, Ontario Regional Chief**



**CHIEFS OF ONTARIO  
FALL CHIEFS ASSEMBLY  
November 21-22-23, 2023**

**RESOLUTION 23/17S  
PAGE 1 OF 2**

**SUBJECT:** ENFORCEMENT OF FIRST NATIONS LAWS AND BY-LAWS:  
ONTARIO REGION STRATEGY

**MOVER:** Ogimaa Kwe Rachel Manitowabi, Wiikwemkoong Unceded  
Territory

**SECONDER:** Chief Wilfred King, Kiashke Zaaging Anishinaabek (Gull Bay  
First Nation)

**DECISION:** CARRIED

**WHEREAS:**

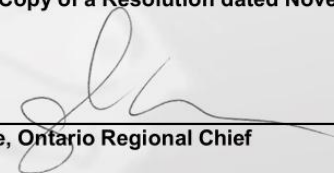
1. First Nations have the inherent right to self-government, inclusive of the development and assertions of their own laws, by-laws, and institutions;
2. The enforcement and prosecution of First Nations laws and by-laws are critical components of inherent jurisdiction and First Nations justice systems, and essential to citizen, community, and officer safety and wellbeing;
3. First Nations laws and by-laws are not reliably or consistently enforced or prosecuted in Ontario, which undermines self-government, the actualization of First Nations' jurisdiction, and the equitable access to justice and the rule of law by First Nations people;
4. Ontario's new *Community Safety and Policing Act, 2019* ("CSPA"), will explicitly exclude the enforcement of First Nations by-laws as a mandatory police function if it comes into force without regulatory changes, which is discriminatory, is unprecedented in Canada, fails to guarantee adequate police enforcement funding, and would directly conflict with Resolution 23/10, which demanded regulatory changes to address the issue;
5. After five years of extensive advocacy by leadership and technicians, including at the Tripartite Collaborative Table on the Enforcement and Prosecution of First Nations Laws, Ontario announced in October 2023, that they will not revise their regulations to ensure First Nations by-laws are a mandatory police function before the CSPA comes into force;
6. As the enforcement of our laws on a consistent, province-wide basis must not be delayed any further, progress on this issue would substantially benefit from additional direction from Chiefs in Assembly;

7. First Nations have suffered unreasonable delays waiting for the CSPA to come into force, hindering First Nations' Police Force's ability to provide adequate and effective policing.

**THEREFORE BE IT RESOLVED that we, the Chiefs in Assembly:**

1. Reiterate the urgent demand that the Government of Ontario pass regulations before Ontario's new policing legislation comes into force, stating that the enforcement of First Nations laws and by-laws is a mandatory police function, as a necessary step to enable enforcement throughout Ontario and to guarantee funding for police services for these important activities.
2. Direct the Chiefs of Ontario to commence legal action against Canada and Ontario regarding the discriminatory lack of enforcement and prosecution of First Nations laws, including the exclusion of First Nations by-law enforcement from the mandatory police functions under the CSPA, if this requirement is not included in the CSPA before it comes into force.
3. Demand Ontario deliver on its commitments and bring the CSPA into force as soon as possible, and no later than April 1, 2024.
4. Direct the Chiefs of Ontario to participate and engage in key decision-making regarding the litigation to be made by the Chiefs of Ontario's Leadership Council.
5. Direct the Chiefs of Ontario to seek resources necessary to support this legal action.
6. Note that this resolution is without prejudice to any initiatives or work being undertaken by First Nations, First Nations organizations, or First Nations Police Services on this issue or related issues; to ongoing and future First Nations policing agreements; and to the inherent and Treaty rights of all First Nations in Ontario.

**Certified Copy of a Resolution dated November 22, 2023**



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**Glen Hare, Ontario Regional Chief**