

First Nations police forces sue Ottawa over stalled funding talks

COLIN FREEZE >

TORONTO

PUBLISHED YESTERDAY

UPDATED 2 HOURS AGO

FOR SUBSCRIBERS



Lawyer Julian Falconer is acting on behalf of the Indigenous Police Chiefs of Ontario.

WILLOW FIDDLER/THE GLOBE AND MAIL

A group of First Nations police forces in Ontario is suing the federal government, saying an impasse in negotiations for funding threatens their ability to continue

operating.

Documents filed in Federal Court on Wednesday by the Indigenous Police Chiefs of Ontario, which represents the province's nine Indigenous-run police forces, say three of those forces have stopped receiving government funding. Their operations are paid for through the First Nations and Inuit Policing Program, a federally administered program under which the federal government shares the costs of policing in Indigenous communities with provincial governments.

The Globe and Mail has reported that the program is beset by funding shortages and other problems. Ottawa has said it is preparing legislation that would create a new financial regime for Indigenous policing, but the plan has yet to materialize.

Who pays for First Nations policing, and who benefits? Saskatchewan's struggles point to problems with funding models

The group's legal action seeks an expedited judicial order directing the federal government to flow money into the affected reserves, which the court filing says are already dealing with "high crime rates, addictions and mental health challenges."

The three affected First Nations police forces had funding contracts that expired on March 31. Negotiations for new contracts have broken down, according to the filing, and the police chiefs say their forces don't receive any new money without agreements in place.

These police forces, whose officers are based mostly in Northern Ontario, say in the court documents that they are now using their last remaining funding. But the bigger concern, they say, is that their officers may soon stop patrols if no one can pay their salaries.

"Once funding evaporates for these services, the consequences will be immediate and profound: 45 First Nations communities, with approximately 30,000 individuals, will no longer have access to police services," the filing says.

The police chiefs allege the federal government's actions are unlawful because a federal human rights tribunal ruled last year that Canada discriminates against First Nations by underfunding policing. This means the government has a legal obligation to ensure there is always "policing at a standard comparable to what is available in non-Indigenous communities," the group says in its filing. The government has not yet filed a response.

In negotiations to date, the three police forces have opposed a federal policy that seeks to place limits on what the funding could be used for. The police chiefs say the policy prevents First Nations from accessing specialized policing services, owning infrastructure and getting legal advice on funding agreements.

Treaty Three Police Service Chief Kai Liu, the president of the Indigenous Police Chiefs of Ontario, said in an interview that a fix is needed urgently. "Unless we have a surplus, or money in the bank, or some form of live credit, all operations come to a complete stop," he said. His police service is one of the three with expired contracts. The others are the UCCM Anishnaabe Police Service and the Anishinabek Police Service.

Chief Liu said his force has not run out of money yet. If it does, he said, it is likely that the Ontario Provincial Police service would try to fill any policing gaps.

But he said this would not be a solution. OPP officers no longer know the lay of the land, he said, because they were replaced by Treaty Three Police 20 years ago.

The Ontario Provincial Police did not immediately respond to an e-mail asking whether they have contingency plans in place for filling any policing gaps left by the three First Nations forces.

The First Nations and Inuit Policing Program has led to the creation of nearly 40 First Nations-run police forces across Canada during the past 30 years. Those policing services depend on grants that are given at the federal government's discretion on short-term contracts.

Problems with renegotiating expiring contracts under the program are not new. In 2014, an auditor-general's report urged federal officials to stop making last-minute policing deals with First Nations and give them "meaningful input."

Chief Liu wrote Prime Minister Justin Trudeau this week to ask him to intervene. "Since the funds for these three services are running out and a public safety crisis looms, we are resorting to the Federal Court on an emergency basis," the letter says.

On Thursday, the Prime Minister's Office referred questions to the office of Public Safety Minister Marco Mendicino. His office in turn directed questions to Public Safety Canada, which did not immediately provide a response.

Lawyer Julian Falconer, who is acting on behalf of the Indigenous Police Chiefs of Ontario, said the group is trying to negotiate an interim one-year extension of the expired funding agreements. But only if the federal government agrees to suspend negotiation terms and tactics that he said are discriminatory and one-sided.

"It is an offer that First Nations can't refuse at the risk of the safety of their people. That is why we are going to court for emergency relief," Mr. Falconer said.

Sign up for the Morning Update Newsletter

Start your day with news briefs on the day's most important stories as selected by and written by Globe editors.

SIGN UP