

# Indigenous Police Chiefs of Ontario: First Nations Policing Litigation Updates



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ASSEMBLY OF FIRST NATIONS ANNUAL GENERAL ASSEMBLY  
PRESENTED BY IPCO AND FALCONERS LLP (SEPTEMBER 4, 2025)

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- We are here on behalf of the Indigenous Police Chiefs of Ontario, also known as IPCO, to share two major advancements that IPCO has been working on in respect of First Nations Policing.



- Our speakers this morning will be:

- **Kai Liu, Executive Director of IPCO:**

- Prior to assuming the Executive Director role, Kai was involved in policing in the province of Ontario for 37 years. This included 4 years as the Chief of Police of Treaty Three Police Service, who is a member of IPCO.

- **Julian Falconer, legal counsel for IPCO:**

- Julian Falconer has been practicing law for over 30 years. He has had the honour of representing IPCO since 2019 when the organization was established. Julian has also served as the legal advisor for NAN and NAPS (another IPCO member) in respect of the drafting of Ontario's new policing legislation, the *Community Safety and Policing Act*, 2019.

## Introduction/Overview

# PART 1:

- IPCO's CHRT Complaint
- Change by Compulsion
- CHRT Finds Canada Discriminates and Breaches Honour of the Crown
- Progress on IPCO's Complaint
- Timeline of Canada's Delay



- In March 2023, IPCO filed a *Canadian Human Rights Act* (“CHRA”) Complaint against Public Safety Canada, alleging discrimination in the provision of policing services pursuant to the FNIPP.

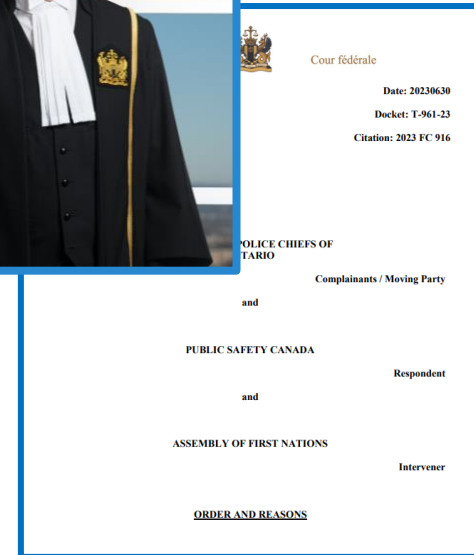


- IPCO’s Complaint focuses on the FNIPP, which has as one of its founding documents the First Nations Policing Policy. The Policy expresses progressive commitments for First Nations policing, including the provision of services that are equal in quality and level of service to non-First Nations communities. IPCO’s Complaint cites Canada’s longstanding concealment of this Policy, as part of its pattern of refusing to support equitable community safety.

A screenshot of a complaint form from the Canadian Human Rights Commission. The form is titled "YOUR COMPLAINT" and includes fields for "Your Name:" and "ORGANIZATION YOUR COMPLAINT IS AGAINST". The name "Chief of Police Kai Liu (President, Indigenous Police Chiefs of Ontario)" is entered in the first field, and "Public Safety Canada" is entered in the second field. The form also includes a note: "If there is more than one respondent, you must file a separate complaint against each one." The logos for the Canadian Human Rights Commission and the Commission canadienne des droits de la personne are visible at the top left of the form.

## IPCO’s CHRT Complaint

- In 2023, immediately after filing, IPCO sought and quickly obtained an emergency injunction order forcing Canada to reinstate funding for three IPCO police services whose funding had been cut off on March 31, 2023.
- In the decision of the Federal Court on June 30, 2023, Justice Gascon commented that “... the evidence on the record amply supports a conclusion that **IPCO has a high likelihood that its underlying Complaint will ultimately succeed**, given that it is predicated on numerous findings previously made by the CHRT and the courts on the FNIPP and its attributes.”
- One of the driving factors behind IPCO’s Complaint was the fact that it was so apparent that Canada refuses to change their behaviour without a court order or the threat of legal proceedings.
- The success of the Quebec policing cases, demonstrated in the following slides, is further proof that Canada only changes their behaviour when forced.



## IPCO's CHRT Complaint (cont'd)



**In 2019, the First Nation of Pekuakamiulnuatsh Takuhikan launched a human rights complaint against Canada over the FNIPP.**



**In 2022, the CHRT ruled against Canada.**

“The evidence shows that the implementation of the FNPP [FNIPP] is perpetuating existing discrimination ... The goal of substantive equality is not achieved and cannot be achieved by the FNPP because of its very structure.”

(para 326)

“...when the Canadian government decides to provide the benefits that come from applying the Policy and [FNIPP], which includes not only funding but also other benefits associated with the implementation of the program, then it must do so in a non-discriminatory manner.” (para 310)

Canadian Human  
Rights Tribunal



Tribunal canadien  
des droits de la personne

Citation: 2022 CHRT 4  
Date: January 31, 2022  
File No.: T2251/0618

[ENGLISH TRANSLATION]

Between:

Gilbert Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation)

# ***Dominique (on behalf of the members of the Pekuakamiulnuatsh First Nation) v. Public Safety Canada,*** **2022 CHRT 4**

**CHRT Finds that Canada Discriminates**

In 2018, the same First Nation also sued Canada/Quebec for compensation, due to the systemic underfunding of the FNIPP.



In 2024, the SCC ruled against Canada. IPCO participated as an “intervenor”.

“... that “knife to the throat” was what made the [First Nation] agree to renew the tripartite agreements on terms that it could not genuinely negotiate, which led to it assuming deficits.” (para 215)

“...obstinate refusal to genuinely renegotiate the contract’s funding terms is not only a breach of the requirements of good faith but also a breach of the obligation to act in a manner consistent with the honour of the Crown.”  
(para 15)

SUPREME COURT OF CANADA

CITATION: Quebec (Attorney General) v. Pekuakamiulnuatsh Takuhikan, 2024 SCC 39

APPEAL HEARD: April 23 and 24, 2024  
JUDGMENT RENDERED: November 27, 2024  
DOCKET: 40619

BETWEEN:

Attorney General of Quebec  
Appellant

and

Pekuakamiulnuatsh Takuhikan  
Respondent

- and -


Attorney General of Canada, Attorney General of Ontario,  
Attorney General of Saskatchewan, Attorney General of Alberta,  
Assembly of First Nations Quebec-Labrador, Congress of Aboriginal Peoples,  
Assembly of Manitoba Chiefs, Indigenous Police Chiefs of Ontario,  
First Nations Child & Family Caring Society of Canada,  
Okanagan Indian Band and Assembly of First Nations  
Interveners

# *Quebec (Attorney General) v. Pekuakamiulnuatsh Takuhikan, 2024 SCC 39*

Supreme Court Rules Canada Breached Honour of the Crown



- Since the case started, Canada has continued to derail the proceedings. Canada refuses to acknowledge the findings from the Quebec line of policing cases. Canada refuses to admit that the FNIPP is discriminatory. Canada remains an unwilling player in the changes that are occurring in First Nations policing.
- Canada went as far as to get the hearing of this matter, originally scheduled for January 2025, adjourned. And, while since June 2023, IPCO has successfully defended against a motion from Canada seeking to limit the scope of IPCO's Complaint, Canada continues to rely on its old tactics and behaviours.
- This adjournment occurred despite a press conference held on December 5, 2024, in Ottawa, asking for Canada to allow the Complaint to be adjudicated on its merits. Instead, Canada continued with its procedural tactics to delay the case.



Canadian human rights commission | Commission canadienne des droits de la personne

**YOUR COMPLAINT**

**Your Name:**

Chief of Police Kai Liu (President, Indigenous Police Chiefs of Ontario)

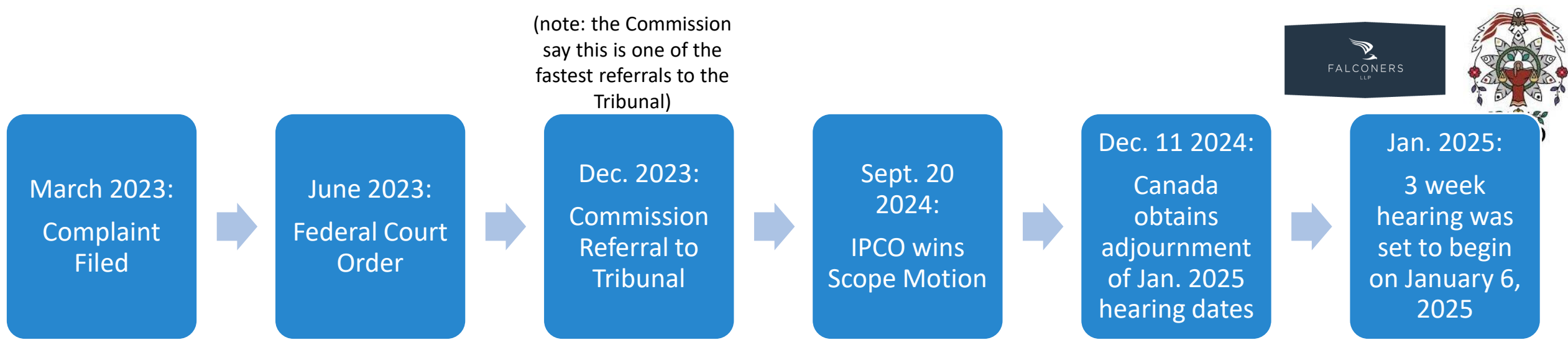
**ORGANIZATION YOUR COMPLAINT IS AGAINST**  
(This is the respondent)

If there is more than one respondent, you must file a separate complaint against each one.

Name of business, organization or association

Public Safety Canada

## Progress on IPCO's Complaint



- The Tribunal is currently considering several motions from both Canada and IPCO, including:
  - Canada's Demand for Further Particulars;
  - Canada's Motion to Limit the (Temporal) Scope;
  - IPCO's Motion to Call Additional Experts;
  - IPCO's Motion to Apply "Issue Estoppel"; and
  - IPCO's Request to Establish a Separate Remedies Process.

## Timeline of Canada's Delay

## PART 2:

# The NAPS Journey to Legislated Policing

- Effecting Real Change for First Nations Policing
- The Legislative Journey
- Highlights of the *CSPA*
- What Opt-in Isn't



## Community Safety and Policing Act, 2019

[S.O. 2019, CHAPTER 1](#)

[SCHEDULE 1](#)



# NAPS Board

- After decades of chronic underfunding, in February 2013, Nishnawbe Aski Nation sent a Public Safety Notice to multiple federal agencies, highlighting the lack of safety for NAN communities.
- This Notice, along with continued tragedies experienced by NAN communities, ultimately resulted in the creation of the Adequacy Standards Table in 2015.
- The intention of this Table was to draft amendments to Ontario's policing legislation to introduce an option for legislated policing for First Nations communities.
- First Nations peoples and territories needed to be specifically recognized as deserving of the same safety standards as everyone else in the province.



## **Police Services Act**

**R.S.O. 1990, CHAPTER P.15**

**Community Safety and Policing Act, 2019**

**S.O. 2019, CHAPTER 1**

**SCHEDULE 1**

# **Effecting Real Change for First Nations Policing**

February  
2015

- Meetings of the AST-I Table begin to discuss changes to the Ontario policing legislation.

2018

- Creation of Bill 175 under Kathleen Wynne's Liberal Government.
- Under Doug Ford's Conservative Government, Bill 175 is revoked in December 2018.

2019

- But, out of the ashes... Bill 68, including the *CSPA*, was introduced for 1<sup>st</sup> Reading in February 2019.



# The Legislative Journey

April  
2024

- April 1, 2024, the *CSPA* comes into force, 6 years after drafting is completed.

December  
2024

- NAPS becomes constituted under s. 32 of the *CSPA*, with the regulation signed by Minister Kerzner.



## The Legislative Journey (cont'd)



## S.O. 2019, CHAPTER 1

### SCHEDULE 1

#### **Declaration of principles**

1 Policing shall be provided throughout Ontario in accordance with the following principles:

1. The need to ensure the safety and security of all persons and property in Ontario, including on First Nation reserves.
2. The importance of safeguarding the fundamental rights and freedoms guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
3. The need for co-operation between policing providers and the communities they serve.
4. The importance of respect for victims of crime and understanding of their needs.
5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
6. The need to be responsive to the unique histories and cultures of First Nation, Inuit and Métis communities.
7. The need to ensure that police services and police service boards are representative of the communities they serve.
8. The need to ensure that all parts of Ontario, including First Nation reserves, receive equitable levels of policing.

# New Legislation Finally Recognizes Indigenous Peoples

- **When developing Board policies, the NAPS Board must consult with persons identified by the band councils:**

***CSPA, s. 38(3)***

A First Nation board that has policing responsibility for a First Nation reserve shall,

- (a) consult a person identified by the band council regarding the cultural traditions of the First Nation before establishing a policy under clause (1) (b); and
- (b) consider the cultural traditions of the First Nation while establishing the policy.

- **Similarly, when developing the Board strategic plan, the Board must consult with relevant stakeholders:**

***CSPA, s. 39(3)***

- (3) In preparing or revising the strategic plan, the police service board shall consult with,
- (c) the band councils of any First Nations in the board's area of policing responsibility;

# CSPA Protections of Cultural Autonomy

# Nishnawbe Aski Police Service signs agreement with Ontario to become an essential service

NAPS is the largest First Nations police service in Canada, serving 34 communities



[Sarah Law](#) · CBC News · Posted: Dec 11, 2024 4:00 AM EST | Last Updated: December 11, 2024



Nishnawbe Aski Police Service signs agreement with Ontario



- Following opt-in, Ontario committed an additional \$514 million dollars to support NAPS in meeting legislative standards, including training, policy development, and other transitional items.

## Additional Funding to Meet Legislative Standards

- The new *CSPA* also provides NAPS with a funding remedy it has never had before – if the funding for NAPS is insufficient, the Board may refer the funding decision to an independent arbitrator.
- Under section 51 of the *CSPA*, an arbitrator must evaluate whether NAPS receives sufficient funding to (a) meet the “adequate and effective” standards, and (b) pay for the Board’s operation.
- The arbitrator must also factor into their decision the additional costs associated with culturally responsive policing. In other words, **even if it costs more to provide policing to First Nations, Ontario can be ordered to increase funding to meet the cultural responsiveness requirement.**
- The arbitrator’s decision is **binding on Ontario** (though not on Canada).



## *CSPA* Funding Remedy

The *CSPA* is a provincial policing rulebook that sets out standards for a police service and backed by the rule of law. However, it is not:



### A Treaty

- The new legislation is not a Treaty, nor does it allow Canada or Ontario to escape any of their treaty obligations.

### Reversal of Racism

- The new legislation does not make up or excuse the decades of colonialist treatment of First Nations.

### Financial Damages

- Loss of ability to create and develop business; or
- Loss of schools and educational resources.

## What Opt-In Isn't

- Bottom line: Canada only acts when a Court orders it to. It's the same pattern from Caring Society, the Quebec policing cases and elsewhere. The only way that Canada will change is behaviour and tactics is through the force of court orders.
- Despite IPCO's best efforts of moving this very important Complaint forward, as First Nation community safety continues to be threatened because of the chronic underfunding of First Nations police services, Canada continues to dig in their heels.
- In the age of supposed reconciliation, it is disappointing that court orders are the only hope for First Nations advocating for their rights and the rights of their people to have safety in their communities.



**Conclusion:**  
**Change by Compulsion, Change by the Force of Court Orders**





# Miigwetch!



Litigation with a conscience.