

Ministry of the Attorney General

Office of the Assistant Deputy
Attorney General

Indigenous Justice Division

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MEMORANDUM TO: Kenneth Weatherill
Assistant Deputy Minister
Public Safety Division

DATE: June 20, 2024

FROM: Marian Jacko
Assistant Deputy Attorney General
Indigenous Justice Division

**RE: Ministry of the Attorney General and Justice Canada
Prosecution Pilot for First Nation laws 2024-2025**

The Ministry of the Attorney General and Justice Canada are working together to support the prosecution of First Nations laws and by-laws.

As you may know, in December 2022, the Ministry of the Attorney General and Justice Canada launched a Prosecution Pilot program to support First Nations to retain private counsel to prosecute offences under First Nations laws and by-laws. The Prosecution Pilot aimed to improve community safety and well-being through deterrence and appropriate legal consequences, including prosecutions before the Ontario Court of Justice or the diversion of appropriate matters into restorative justice programs or community courts (e.g., the Akwesasne Court). Eleven First Nations in Ontario participated in the Prosecution Pilot, which was scheduled to conclude on **March 31, 2024**.

I am pleased to advise that Ontario and Canada will extend the Prosecution Pilot until **March 31, 2025**. This one-year extension is intended to provide opportunities for more First Nations to participate in the program. We anticipate the additional time and refinements will also allow us to build on the successes and lessons learned to help inform longer term solutions.

The extended Prosecution Pilot will continue to be application-based and open to all First Nations in Ontario, subject to the availability of funding. Applications will be accepted by the Ministry of the Attorney General (Indigenous Justice Division) and Justice Canada until December 31st, 2024. First Nations will be asked to include the following information in their application:

1. A copy of at least one First Nation law for review and/or prosecution through the Prosecution Pilot.
2. The proposed enforcement service or mechanism to enforce the First Nation law(s) included in the Pilot (e.g., by-law officers, local police service).
3. A description of the activities to be undertaken with funding under the Prosecution Pilot.
4. A budget proposal.

Successful applicants will each receive up to \$35,000 to retain private counsel to support the review and prosecution of the First Nation laws identified in the application. Where a First Nation has identified OPP as the proposed enforcement service for the purpose of the Prosecution Pilot in their application, the appropriate detachment will be notified. To promote the early identification and resolution of potential operational challenges on the ground, the Ministry of the Attorney General and Justice Canada will offer to facilitate one or more meetings with the relevant local justice system partners (e.g., by-law officers where applicable, police services, court services, Crown Attorneys who will be getting notice of the private prosecutions pursuant to section 507.1(3) of the Code). For more information, see enclosed application materials.

We are sharing this information with you as participating communities may seek police enforcement of First Nation laws as part of the Prosecution Pilot. As you know, under the *Community Safety and Policing Act, 2019*, police officers are not required to enforce First Nation laws, but they are also not prohibited from doing so, and maintain their authority to enforce First Nations by-laws as long as they comply with other legal obligations and restrictions in doing so (e.g., restrictions on use of force under the *Charter* and *Criminal Code*).

I am requesting your assistance to provide this update to Chiefs of Police throughout Ontario with the goal of increasing awareness of the Prosecutions Pilot. We hope that the Prosecution Pilot will help to enhance First Nations' access to prosecution services and support police in their work to advance key Indigenous policing and community safety priorities.

If you have any questions about the Prosecution Pilot, you can contact Legal Counsel in the Indigenous Justice Division of the Ministry of the Attorney General by email at sara.greenfield@ontario.ca.

Sincerely,



Marian Jacko
Assistant Deputy Attorney General
Indigenous Justice Division
Ministry of the Attorney General

Encl. 2024-2025 Prosecution Pilot Application
 2024-2025 Prosecution Pilot Program Guidelines