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# Assembly of First Nations

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# Assemblée des Premières Nations

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**ANNUAL GENERAL ASSEMBLY**  
July 9, 10, 11, 2024, Montreal, QC

**Resolution no. 09/2024**

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<b>TITLE:</b>	<b>Support for Recognition of First Nations Jurisdiction over Policing</b>
<b>SUBJECT:</b>	Policing, Public Safety
<b>MOVED BY:</b>	Chief Jerry Jack, Mowachaht/Muchalaht First Nation, BC
<b>SECONDED BY:</b>	Chief Dylan Whiteduck, Kitigan Zibi Anishinabeg, QC
<b>DECISION</b>	Carried; 1 opposition; 1 abstention

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**WHEREAS:**

- A. The *United Nations Declaration on the Rights of Indigenous Peoples* (UN Declaration) states:
- i. Article 7(1): Indigenous individuals have the right to life, physical and mental integrity, liberty and security of person.
  - ii. Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.
  - iii. Article 23: Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.
- B. The Government of Canada committed to implementing the UN Declaration under the *United Nations Declaration on the Rights of Indigenous Peoples Act*, S.C. 2001, c. 14 (UNDA).
- C. The current footprint of the First Nations and Inuit Policing Program (FNIPP) is grossly underfunded and impedes First Nations who wish to exercise their right to self-determination by providing police services for their Nations.

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*C. Woodhouse*

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**CINDY WOODHOUSE NEPINAK, NATIONAL CHIEF**

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- D. First Nations and First Nations Chiefs of Police have, for decades, raised concerns about unfair negotiation tactics that Public Safety Canada (PSC) employs with respect to funding agreements. First Nations leadership have stated that these so called “negotiations” with PSC are tantamount to “take it or leave it” deals and perpetuate the underfunding and under resourcing of First Nations policing, endangering the communities they serve.
- E. In 2022, in the Dominique decision, the Canadian Human Rights Tribunal (CHRT) found that Canada discriminates against First Nations by underfunding First Nations policing. This decision is now being appealed by Canada to the Federal Court of Canada.
- F. In March 2023, Indigenous Chiefs of Police of Ontario (IPCO) filed a complaint with the Canadian Human Rights Commission (CHRC) alleging discrimination in the funding of First Nations police services under the FNIPP.
- G. On June 30, 2023, the Federal Court of Canada found that PSC is deliberately choosing to underfund and apply discriminatory policies to First Nations police services and that PSC’s actions and omissions violate the principle of the Honour of the Crown and are contrary to advancing reconciliation.
- H. In February 2024, the Supreme Court of Canada unanimously endorsed the Government of Canada’s approach to recognizing and upholding First Nations jurisdiction over child welfare in federal legislation with *An Act respecting First Nations, Inuit and Métis children, youth and families*, S.C. 2019, c. 24.
- I. In March 2024, the Auditor General of Canada tabled a report to the Parliament of Canada on the FNIPP, finding that PSC is not working in partnership with Indigenous communities to provide equitable access to policing services tailored to their needs and asserted critical shortcomings in PSC’s management of the FNIPP.
- J. PSC officials refuse to acknowledge First Nations Inherent, Treaty, and constitutional rights in accordance with the UN Declaration and UNDA, within the context of co-developing a legislative framework recognizing First Nations policing as an essential service and are intending to table legislation that reaffirms the jurisdiction of provinces and territories in setting standards and regulations and in adopting enabling legislation to allow for the establishment of First Nations police services.
- K. The introduction of federal legislation that would enable provinces and territories to assert jurisdiction over First Nations would be unprecedented and is a regression on recognition of First Nations rights not seen since the White Paper of 1969.
- L. First Nations-in-Assembly passed Resolution 41/2023, *Support for Equitable Funding for First Nations Policing*, directing the AFN to re-engage with PSC to co-develop federal policing legislation based on a set of conditions, which have not been met by PSC.

**THEREFORE BE IT RESOLVED that the First Nations-in-Assembly:**

1. Call upon the Government of Canada and Public Safety Canada (PSC) to introduce co-developed federal legislation that recognizes First Nations Inherent, Treaty, and constitutional rights over policing and guarantees equitable funding to First Nations police services.
2. Reaffirm the following conditions for the Assembly of First Nations (AFN) to re-engage with PSC in the co-development of federal First Nations policing legislation:

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- a. The Minister of PSC agrees to meet as soon as possible with the AFN Policing Taskforce;
  - b. The Minister of PSC commits to appointing a Ministerial Special Representative who has experience engaging with First Nations and possesses an understanding of First Nations rights and policing to engage with the AFN and act as an intermediary between the Minister of PSC and PSC officials;
  - c. PSC commits to co-development of guiding principles that recognize First Nations Inherent rights, Treaty rights, and constitutional rights, as well as sovereignty and jurisdiction over First Nations policing;
  - d. PSC commits to a true co-development process with clear timelines for introduction of a bill in the House of Commons;
  - e. Representatives from Indigenous Service Canada, Crown-Indigenous Relations and Northern Affairs, and the Department of Justice fully participate in the co-development process to provide support to PSC and the AFN during discussions regarding the legislation; and
  - f. AFN representatives meet regularly with PSC's federal/provincial/territorial working group on First Nations policing to directly participate in discussions regarding the legislation.
3. Direct the AFN to reject any proposed legislation in which funding for First Nations policing would flow entirely through provinces and territories, or any other third party, including the AFN.
  4. Direct the AFN to reject any proposed legislation which would delegate federal authority to legislate over First Nations policing to the provinces and territories.
  5. Call on PSC to amend their funding models to release dedicated funds under Community Tripartite Agreements and funding for self-administered Police Services to support First Nations-led community safety models.

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