



# OTTAWA CITIZEN

## Fairness of Ontario jury pools need inquest, judge rules

By Bradley Bouzane, Postmedia News March 10, 2011



**Julian Falconer, speaks during a news conference in Toronto, Thursday January 10, 2008. The Toronto lawyer says Thursday's provincial court ruling is a benchmark for those seeking fair trials in Ontario.**

The Ontario Court of Appeal called Thursday for an inquiry into the way juries are selected for coroner's inquests to ensure the population is fairly represented by members of First Nations communities.

The issue originally surfaced after separate inquests into the deaths of an aboriginal man and another First Nations teen in Thunder Bay, Ont., in 2007. Justice John Laskin said in his ruling, released Thursday, that a lack of First Nations representation was the cause of concern in the inquest juries for the deaths of Jacy Pierre, 27 — who overdosed in a Thunder Bay jail cell in October 2007 — and 15-year-old Reggie Bushie, who drowned near Thunder Bay that fall.

Coroner's inquests consist a five-person jury, which is made up from a jury roll that's prepared each year by the region's sheriff.

The randomly selected jury pool is derived from municipal assessment lists, but Laskin noted that "the names of First Nations persons living on reserves, however, are not found on municipal assessment lists."

In both cases, family members of the deceased raised their concerns about the selection process for jury rolls.

The Indian and Northern Affairs Department used to provide information on First Nations people for inclusion in jury pools, but stopped the practice in 2000.

"Whatever the reason, without these lists, the (provincial jury centre) did not have an accurate, up-to-date record of the names of on-reserve First Nations persons," Laskin wrote. "Therefore, to meet their obligation under (the Juries Act) to create representative jury rolls that included First Nations persons, court officials had to find the names of persons on reserves from other available records."

Laskin wrote that the families' "concerns were entirely reasonable in the light of what had happened in the neighbouring District of Kenora. There, in 2006, a First Nations person . . . died and an inquest was ordered into his death."

An affidavit in that case showed "that court officials did very little to obtain other records and, as a result, the District of Kenora jury roll was manifestly unrepresentative . . . There is no reason to think that the unrepresentativeness of the jury roll in the District of Kenora is unique."

In a news release following the decision's release, Toronto lawyer Julian Falconer — who was part of the legal team representing the Nishnawbe Aski Nation in the Thunder Bay case — said the ruling is a benchmark for those seeking fair trials in Ontario.

In his decision, Laskin also ordered a new inquest into the death of Pierre, who died after ingesting powdered methadone.

In reaching the unanimous decision, in which two other judges agreed with Laskin's ruling, he wrote that "a new inquest is needed to restore the public's confidence in the inquiry into the circumstances of Jacy Pierre's death. The first inquest was marred by the legitimate concern about the unrepresentativeness of the jury roll and the consequent withdrawal of the Pierre family.

"The First Nations community, and by extension the public, could have little confidence in the impartiality of the jury at that inquest . . . A new inquest, where the alleged lack of representativeness of the jury roll may be fairly considered, is thus necessary."

bbouzane@postmedia.com

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