

## Ont. calls inquiry into aboriginal participation on juries

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*Retired Supreme Court justice Frank Iacobucci will head a yearlong review into factors that prevent aboriginal Ontarians from being asked to serve on juries as often as they should.  
(Adrian Wyld/Canadian Press)*

Years of complaints that First Nations people have been systematically excluded from serving on juries in Ontario culminated Thursday in the provincial government calling an independent review into the situation.

In a statement late Thursday, Attorney General Chris Bentley announced former Supreme Court of Canada justice Frank Iacobucci would review a jury system that on-reserve natives say has failed them badly.

"First Nations alienation from the justice system is our reality," Terry Waboose, grand chief of the Nishnawbe Aski Nation, said in response to the announcement.

"First Nations over-representation among those who are charged and jailed is only made worse by the fact that First Nations have been systematically denied their right to serve on juries."

The review will report on legislation and processes related to how those who live on reserves are included on the province's jury rolls.

The rolls are used to select potential jurors for criminal trials and coroner's inquests. It's a critical issue given that a trial by a jury of one's peers is a cornerstone of the justice system.

In 2008, it was first revealed during an inquest that the jury roll in the Kenora district in northern Ontario only contained names from 14 of the 49 Nishnawbe Aski First Nations.

A court-operations supervisor said in an affidavit that only 44 natives were being considered for jury selection in the district even though aboriginals make up a large proportion of the population.

The affidavit said Ottawa had not provided the jury centre with band electoral lists in years.

Since then, a First Nations coalition has pushed for an accounting of the circumstances and extent of the exclusion of First Nations.

Matters finally came to a head this year:

- In March, Ontario's highest court recognized the right of the First Nations to look into the validity of juries empanelled in the Thunder Bay area.
- A judge later put a murder trial on hold because there weren't enough aboriginals in the jury pool.
- And late last month, the Appeal Court said it would hear arguments about whether the makeup of jury panels is unfair to accused aboriginals. In an unusual decision, the court put a ruling on hold pending those arguments despite having decided a jury had been reasonable in convicting a man of manslaughter in 2008.

While the situation is said to be worst in northern Ontario, First Nations representatives say it is a problem in other parts of the province as well.

The cabinet decree signed Thursday says the former judge will conduct a "systemic review."

As part of his probe, Iacobucci will make recommendations on how to ensure First Nations are properly represented on the jury rolls.

"Mr. Iacobucci has a distinguished legal career with particular expertise in the area of aboriginal law, which will be a tremendous asset to this review," Bentley said in a statement.

Lawyer Julian Falconer, who is acting for the Nishnawbe Aski, called the independent inquiry into the issue a Canadian first.

"Justice Iacobucci's credibility as an independent reviewer is a reason to be optimistic about the outcome of this historic exercise," Falconer said.

Iacobucci, who said he was looking forward to working with representatives of the First Nations and those with an interest in the issue, is to report within a year.