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File No. T1340/7008

The Canadian Human Rights Act

CANADIAN HUMAN RIGHTS TRIBUNAL

B E T W E E N:

FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF
CANADA AND ASSEMBLY OF FIRST NATIONS
Complainants

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

THE ATTORNEY GENERAL OF CANADA
(representing the Minister of Indian and Northern
Affairs)

Respondent

- and -

CHIEFS OF ONTARIO and
AMNESTY INTERNATIONAL CANADA

Interested Parties

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--- This is the Cross-Examination of TOM GOFF, on
his affidavit sworn the 12th day of February, 2010,
taken at the offices of Neeson & Associates Court
Reporting and Captioning Inc., 141 Adelaide Street
West, Suite 1706, Toronto, Ontario, on the 25th day
of February, 2010.

A P P E A R A N C E S:

Edward Bumburs, Esq. For the Respondent
Mitchell R. Taylor, Q.C.

Michael Sherry, Esq. For the Chiefs of
Ontario

ALSO PRESENT: Phil Digby, Manager Social Programs
Indian Affairs, Ontario Region

Laura Arndt, Director of Strategic
Development, Office of the
Provincial Advocate for Children
and Youth

Ruth Hislop, Child and Youth
Advocate, Office of the Provincial
Advocate for Children and Youth

Donna Smith, Reporter
Aboriginal Peoples Television
Network

REPORTED BY: Connie A. Holton, C.S.R.

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I N D E X

1
2 WITNESS: TOM GOFF

PAGE

3
4 CROSS-EXAMINATION BY MR. BUMBURS

4

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6
7 **The following list of undertakings, advisements
8 and refusals is meant as a guide only for the
9 assistance of counsel and no other purpose**

10
11 INDEX OF UNDERTAKINGS

12 The questions/requests undertaken are noted by U/T
13 and appear on the following pages: (None noted).
14

15
16 INDEX OF ADVISEMENTS

17 The questions/requests taken under advisement are
18 noted by U/A and appear on the following pages:
19 (None noted).
20

21
22 INDEX OF REFUSALS

23 The questions/requests refused are noted by R/F and
24 appear on the following pages: (None noted).
25

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1
2 INDEX OF EXHIBITS

3 NUMBER/DESCRIPTION

PAGE NO.

4 1: 1965 welfare Agreement

13

5 2: Affidavit of Tom Goff sworn
6 February 12, 2010

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1 --- Upon commencing at 10:26 a.m.

2 TOM GOFF, Sworn

3 CROSS-EXAMINATION BY MR. BUMBURS:

4 1 Q. I'd like to just note for the
5 record that there are some observers present today
6 and I'm going to name them. I have their cards in

25Feb2010FirstNationsvCHRCGoff, Tom
7 front of me. Donna Smith who is a reporter with
8 APTN. I also have Ruth Hislop with the Legislative
9 Assembly of Ontario, the Office of the Provincial
10 Advocate for Children and Youth, and she's a child
11 and youth advocate. With that same organization I
12 have Laura Arndt, and that's A-R-N-D-T, I hope I'm
13 pronouncing it correctly, director of strategic
14 development.

15 And just before I begin as well, I
16 would just like to confirm, Mr. Goff, that you have
17 been sworn in?

18 A. I have.

19 2 Q. Thank you. I'm just going to
20 start at the beginning of your affidavit and
21 essentially just run through it and ask you a
22 number of questions.

23 With respect to paragraph No. 1 of your
24 affidavit you state that you worked with the
25 respondent, Indian and Northern Affairs, can you

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1 please tell us when you worked for the respondent,
2 which titles you held and a brief description of
3 your functions with the respondent department?

4 A. I was hired by Indian and Northern
5 Affairs, Ontario Region in 1983, I believe it was
6 July. And my initial position was with capital, I
7 was the off-reserve housing manager. Within a year
8 I had been transferred to the social development
9 program. And in my second year with that program I
10 became the director of social development for the
11 Ontario region. And I held that position until I
12 left in 1991, I believe, July.

13 I was seconded for a period of time to
14 the Atlantic region as the director of operations.
15 And I was responsible at the end of my tenure for
16 advising the RBG on some organizational changes
17 that were in the offing at the time. I was offered
18 a position at that point in Ottawa, which I
19 declined.

20 3 Q. Are the facts contained in your
21 affidavit facts which you became aware of through
22 your work with the respondent department?

23 A. In part, yes. And subsequent to
24 working with the department through my work with
25 First Nations and First Nation organizations, here

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1 in Ontario and in New Brunswick.

2 4 Q. And can you elaborate on the
3 nature of that work with First Nation
4 organizations?

5 A. I have been a consultant, a
6 management consultant to a number of organizations
7 and individual First Nations in the area of social
8 and health services development in the communities.
9 I have done program reviews. I have done program
10 design. I have assisted with negotiations, funding
11 negotiations with Ontario with the department.

12 One of the things that I might mention
13 is that in the late 80s I was asked to chair a
14 national study of child welfare services on
15 reserve, a committee that was made up of
16 departmental employees, and we tabled our report,
17 oh, gosh, 1988, '89. Subsequently, our

18 25Feb2010FirstNationsvCHRCGoff, Tom
19 recommendations were pretty much ignored in the
20 development of the Directive 20-1, which is
21 referred to in some of these documents.
22 But for a period of approximately a
23 year, in addition to my role in the Ontario Region,
I chaired that national committee.

24 5 Q. In paragraph No. 3 of your
25 affidavit you state that you were seconded by the
00008 respondent to the -- sorry, to the Ontario Ministry
1 of I guess Community and Social Services?
2

3 A. At the time it was Community and
4 Social Services, yes. It's now the Ministry of
5 Children and Youth Services.

6 6 Q. And can you tell me when that
7 secondment took place?

8 A. I don't know the dates exactly.
9 The Child and Family Services Act was... what's
10 the terminology? Was, well, 1984. And there was a
11 process beyond 1984 of training that went on of
12 children's aid society staff and some Indian
13 community staff about the implications of that new
14 legislation.

15 And one of my early responsibilities,
16 so it must have been '84, '85, was to understand
17 that legislation, its implications for the
18 department, and the department's relationship with
19 First Nation communities. I guess I got reasonably
20 good at understanding that and I was asked to tour
21 the province with a bunch of others. And my job in
22 that group was to speak to the First Nation and
23 native community elements of that legislation.

24 I think you're all aware that there are
25 native provisions, First Nation provisions in the

00009 CFSA, and people didn't understand those clearly at
1 the time. And so we did a little dog and pony show
2 to present that. So as a department employee I was
3 part of that process, but seconded to the ministry
4 at the time.
5

6 7 Q. So was your role as an educator
7 for the children's aid society service providers
8 and ministry staff to better understand those First
9 Nations provisions that were in the newly
10 consolidated act in 1985? The act of child
11 welfare?

12 A. That's right.

13 8 Q. And was the role of the children's
14 aid society at that time, as you understood it, to
15 provide child welfare services directly to
16 residents of Ontario both on and off reserve?

17 A. Yes. At the same time there were
18 the beginnings of First Nation agencies which were,
19 during those years, designated to provide
20 protection services on reserve. So they supplanted
21 the children's aid societies in some First Nation
22 communities, Weechi-it-te-win, Tikinagan,
23 Payukotayno, and there's been subsequent
24 organizations designated under provincial law as
25 protection agencies.

00010 1 Q. So they were designated as
2 children's aid societies under the new act?

- 3 A. Correct.
4 10 Q. So they were children's aid
5 societies as well?
6 A. In effect, yes.
7 11 Q. You're not speaking of
8 non-children's aid society agencies?
9 A. The ones I mentioned were
10 designated in the 1980s as First Nation Child and
11 Family Services agencies with the responsibility
12 for protection. They would not call themselves
13 CAS's, children's aid societies, but under
14 provincial law they have the same status as
15 children's aid societies.
16 12 Q. Right. They were designated by
17 the responsible minister in Ontario --
18 A. By the responsible minister,
19 that's correct, upon recommendation from his or her
20 staff.
21 13 Q. And while working with the
22 respondents, or while you were working on your
23 secondment, did you directly observe, or were you
24 aware of children's aid societies providing child
25 welfare services to the residents of Ontario, both
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1 on and off reserve?
2 A. Yes.
3 14 Q. You further state in paragraph No.
4 3 that you have extensive experience in relation to
5 the Child and Family Services Act of Ontario as it
6 applies to First Nations. Are you meaning that as
7 it applies on reserve, off reserve or both?
8 A. Both.
9 15 Q. And does your experience pertain
10 to the delivery of child welfare services, and if
11 so, did you acquire that experience by direct
12 service provision, or by directing the operations
13 of those children's aid societies that were
14 providing services?
15 A. By observation, not by direct
16 service delivery. However, I will point out that
17 my background is in sociology and social work at an
18 academic level, and I was on the board of the
19 Maritimes School of Social Work for a number of
20 years. So I had, you know, direct experience with
21 the legislation and with those organizations that
22 generate the people who do the front-line work.
23 My front-line work, for what it's
24 worth, consists of foster parenting for a
25 children's aid society which my wife and I have
00012
1 done for the last 30-odd years. So we have --
2 although I cannot call myself a social worker who
3 has front-line practice, I certainly have
4 considerable experience with the whole process.
5 16 Q. Is your experience also in matters
6 that pertain to the administration of funding as it
7 pertained to children's aid societies in the
8 Province of Ontario?
9 A. Yes.
10 17 Q. In paragraph No. 4 of your
11 affidavit you state that you were responsible for
12 the administration of the 1965 Welfare Agreement; I
13 take it that was while you were working with the

14 respondent?
15 A. Mm-hmm.
16 18 Q. Would I --
17 MR. SHERRY: You might want to -- I
18 don't think you clearly said "yes" for the record
19 there.
20 THE DEPONENT: Yes. Sorry. Excuse me.
21 MR. BUMBURS: Thank you.
22 BY MR. BUMBURS:
23 19 Q. I take it to mean, and you can
24 correct me if I'm wrong, that you -- being
25 responsible meant that you ensured that Canada met
00013 its agreed-to obligations under the 1965 Welfare
1 Agreement; would that be correct?
2 A. Yes.
3 20 Q. And I don't know if there's a copy
4 of -- I'm going to give you the agreement. That's
5 the 1965 --
6 A. I have a copy.
7 21 Q. Okay.
8 A. I well dog-eared copy.
9 22 Q. I would just like to actually
10 enter the 1965 Welfare Agreement into the record.
11 MR. TAYLOR: Off the record for a
12 moment.
13 --- Off-the-record discussion
14 MR. BUMBURS: I'd just like to note
15 that the 1965 Welfare Agreement was entered as an
16 exhibit, and it is Exhibit No. 1.
17 EXHIBIT NO. 1: 1965 Welfare Agreement
18 BY MR. BUMBURS:
19 23 Q. And I just want to confirm that
20 you stated, yes, that one of your obligations was
21 -- or one of your tasks or duties was to ensure
22 that Canada met its agreed-to obligations under the
23 1965 Welfare Agreement?
24 A. Mm-hmm. Yes.
25 00014
1 24 Q. And did you oversee the flowing of
2 funds from the respondent to the Province of
3 Ontario for the purposes set out in the 1965
4 Welfare Agreement?
5 A. Not directly.
6 25 Q. Indirectly?
7 A. Indirectly. I mean, I was
8 responsible for helping determine what the
9 expenditures would be under the agreement and what
10 they were under the agreement.
11 We were always projecting forward, and
12 then on the basis of audits that were supposed to
13 take place determining whether or not those --
14 whatever additional monies needed to be flowed or
15 not flowed as the case may be.
16 26 Q. Did the administration of the 1965
17 Welfare Agreement involve overseeing the provision
18 of child welfare services by employees of the
19 respondent?
20 A. Not in Ontario. Under that
21 agreement. However, I will point out that the
22 respondent did employ child welfare people in other
23 provinces in the absence of a '65 agreement going
24 well into the 1960s. So that, for example,

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Saskatchewan would have on staff in its regional

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1 office people who had expertise in the area of
2 child welfare, which was also true in Atlantic
3 Canada for a period of time.

4 27 Q. With respect to your work in
5 Ontario to which you have personal knowledge, there
6 were no staff members of the respondent providing
7 child welfare services directly.

8 A. No.
9 28 Q. And as the director of social
10 services did you or your staff ever give direction
11 on the day-to-day operations of children's aid
12 societies on reserve? For example, a direction for
13 staffing decisions? Who would be staffed? Program
14 creation?

15 A. We certainly advised with respect
16 to program creation, the extension of services that
17 we thought -- provincial services that we thought
18 that -- provincially mandated services, if you
19 like, that we thought should be available on
20 reserve. I couldn't specify dates or times, but
21 there was frequent meetings between myself and/or
22 my staff and provincial ministry officials, and
23 sometimes children's aid officials with respect to
24 service provision on reserve. We had a definite
25 interest in ensuring that those services were

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1 provided according to provincial standards.

2 29 Q. But these were meetings at higher
3 levels. These didn't involve the day-to-day
4 operations of children's aid societies.

5 A. They did. They did.
6 Infrequently, but there were cases that arose that
7 would come to the attention of the department.
8 Children's aid societies for example have been
9 historically required to submit a report to Indian
10 Affairs on every child that they apprehend under
11 their protection mandate who they determine had
12 status, or were entitled to status, or a report
13 that would ask for confirmation that a particular
14 child that they had apprehended had status or were
15 entitled to status. That's pretty front-line. I
16 mean, these are decisions that affect the
17 relationship between the workers themselves and the
18 First Nation families.

19 30 Q. The purpose of these reports to
20 determine who is in care and who had status, the
21 purpose of those reports to the respondent, were
22 they not to determine whether or not individuals
23 who were receiving services by the service
24 provider, children's aid society, in fact fell
25 under the terms of the 1965 agreement for

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1 reimbursement?

2 A. Yes.
3 31 Q. Partial reimbursement --
4 A. That was one of the reasons.
5 32 Q. -- by the respondent.
6 A. That was one of the reasons, yes.
7 33 Q. Was that the primary reason?
8 A. At the time my position as the
9 director was that we had an obligation to see that

10 those services were provided. We were doing that
11 through a purchase of those services from the
12 province. And in effect, we had an obligation to
13 ensure that those services that we were purchasing
14 were being provided.
15 So we needed to know that a service was
16 provided, yes, and funding came into it. But it
17 was a different kind of relationship than just
18 funding. I had district staff in the field who --
19 34 Q. I just want to --
20 A. Sorry. I'm going beyond the
21 question, my apologies.
22 35 Q. No, that's okay. The
23 obligation -- essentially what you're describing to
24 me was your obligation was to ensure that whatever
25 services were provided -- sorry, whatever

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1 reimbursement were paid that those services were
2 provided. So essentially what was said to be done
3 was in fact done?
4 A. Mm-hmm. Mm-hmm. And what was
5 said to be done was done, but also what was
6 required was being done. We had --
7 36 Q. What was required? You say what
8 was required.
9 A. That families were being served on
10 reserve. I mean, children's aid societies do more
11 than apprehend children when there's a protection
12 issue raised. They provide family support. They
13 do early intervention. They respond to concerns of
14 families on reserve. And we wanted to be aware
15 through our district staff in particular that that
16 was happening. That it was not just a matter of
17 CAS visit in response to a complaint to determine
18 whether or not there was a protection issue
19 resulting in apprehension and court and so on and
20 so forth. So our obligation went beyond that.
21 Now, we're talking the 80s here. And
22 we're talking a history that goes back into the 70s
23 and the 60s where something that became very clear
24 in terms of the national study that we did, it was
25 taken for granted. It was understood that the role

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1 of the department was a responsibility for Indians
2 and lands reserved for the Indians. And that in
3 the area of social services we were primarily
4 providing that service through an arrangement with
5 others. Initially in Ontario it was directly with
6 children's aid societies with the blessing of the
7 province; subsequently under the '65 agreement our
8 relationship with the province.
9 37 Q. You say provide services, and I
10 will get into what the mechanisms are later and
11 just to confirm what those mechanisms are with
12 respect to funding and service provision within the
13 Province of Ontario.
14 In paragraph No. 6 you state that
15 you've assisted in service negotiations with
16 Ontario and Canada on behalf of several First
17 Nations. In particular did that involve
18 administrative work which is required on the part
19 of the Province of Ontario under the Child and
20 Family Services Act in order for an agency to

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21 become a children's aid society designated under
 22 the Child and Family Services Act of Ontario?

23 A. Yes. I've helped write policies,
 24 procedures that reflect standards in the
 25 legislation, the regulations. I've assisted in the
 00020 process of determining --

1
 2 38 Q. Legislation. Provincial
 3 legislation?
 4 A. Yes.
 5 39 Q. And who -- I'm sorry. You were
 6 involved with the drafting of provincial
 7 legislation?
 8 A. No. Sorry. I shouldn't say that.
 9 I was involved with the Bill 210 revisions which
 10 were introduced in the last couple of years to the
 11 CFSA. I was involved with First Nation people in
 12 the debate around what some of those revisions
 13 should be, the wording of some of those revisions.
 14 So just to clarify, yeah, I guess I have been.
 15 But no, what I'm saying in terms of a
 16 consultant working with various organizations, you
 17 asked me if I was involved in the administration,
 18 well certainly not the administration of the
 19 day-to-day service delivery, but in the process of
 20 establishing the organizational structure, the
 21 policies and procedures, the determination of the
 22 level of need and the funding required to meet the
 23 standards that the respondent requires First
 24 Nations to meet, yes, I've been involved in all of
 25 that.

00021 I've been involved in annual reporting,
 1 in which case I'm involved administratively looking
 2 at the data that has been accommodated by the
 3 front-line workers in order to generate the reports
 4 that are required not only by the Ministry of
 5 Children and Youth Services, but by the respondent.

6
 7 40 Q. I guess my question was, were you
 8 involved in the administrative work which is
 9 required on the part of the Province of Ontario
 10 under the Child and Family Services Act in order
 11 for an agency to become a children's aid society
 12 agency?
 13 A. I have been involved --
 14 41 Q. The designation process.
 15 A. -- in the process of helping First
 16 Nations obtain the designation that they've
 17 requested from the province. Six Nations of the
 18 Grand River Territory, Akwesasne currently, several
 19 other groups of First Nations.

20 42 Q. Okay. So you've assisted First
 21 Nations in their desire and in the process to
 22 become --
 23 A. Designated.
 24 43 Q. -- designated, okay. But with
 25 your work with the respondent were you involved
 00022 with any of the administrative work or processes
 1 for the designation of a children's aid society?
 2 A. To some extent, yes. There was
 3 interaction that I had with weechi-it-te-win, with
 4 Tikinagan in their early stages, in the early
 5

6 stages of their development; encouraging,
7 supporting, providing the respondent's share of the
8 funding that went into those developmental
9 processes.
10 44 Q. You weren't involved in the
11 designation process itself though --
12 A. No. No.
13 45 Q. -- from the Minister of Ontario's
14 point of view?
15 A. No.
16 46 Q. On that side of the fence, not
17 from the First Nations' side of the fence.
18 A. No. That was understood to be the
19 preserve of the Ontario government, the Minister of
20 Community and Social Services at that time. He
21 would take recommendations, and our role was simply
22 to encourage that eventuality.
23 47 Q. Can you elaborate on what steps
24 were required in order to become a children's aid
25 society agency?

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1 A. They've changed significantly over
2 the years. It was a much less formal process in
3 the 80s. It's become highly formalized. The
4 province has a checklist of items ranging from, you
5 know, board by-laws and training of board members
6 down through standards reflecting the -- expected
7 of staff hired in various positions, down to
8 detailed policy, operational policies and
9 procedures and a determination of whether they
10 reflect standards, down to the determination of
11 funding levels according to their funding formula
12 and so on.

13 Agencies -- what happens under the
14 Child and Family Services Act is a First Nation or
15 a group of First Nations will establish an
16 organization. It may or may not become
17 incorporated. It will be designated by the First
18 Nations as their authority. At that point there's
19 a requirement that the minister -- the Ministry of
20 Community and Social Services negotiate its status
21 as a delivery agent. And eventually, if they wish
22 to go that route, its status as a protection
23 agency.

24 And as I say in taking those steps
25 forward and eventually being designated you have to
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1 demonstrate that you do meet, can meet -- I guess
2 initially that you can meet, will meet the
3 provincial standards.

4 48 Q. And it's your experience going
5 back to your work with the respondent and what you
6 observed, it's your experience that requests to
7 become a designated CAS, post-1985 legislation, are
8 made to the responsible minister for the Province
9 of Ontario?

10 A. Yes. The province does have
11 constitutional responsibility for the delivery of
12 social services. The only reason, however, that
13 that obligation extends to the on-reserve situation
14 is the Indian Act, which says that under section 88
15 laws of general applicability, provincial laws of
16 general application that apply -- for which there

17 is no comparison to the Indian Act, etcetera.
18 49 Q. I'll just interrupt you because
19 what you've recited to me is a legal conclusion.
20 A. Oh, I'm sorry. Excuse me.
21 50 Q. This is your conclusion --
22 A. Not mine personally, no. This is
23 what I have been taught. I did work for the
24 department and that's what I was taught when I was
25 there. So it's not my personal conclusion. That's
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1 the nature of the beast while I was working there.
2 51 Q. It's not a fact that you're
3 asserting, it is a conclusion that you've arrived
4 at.
5 A. Well, can I quote the section?
6 52 Q. I don't want to get into a debate
7 about it. I'll leave it to the tribunal to --
8 A. Leave it to the lawyers.
9 53 Q. -- look at whatever evidence that
10 gets presented and determine whether or not it's
11 fact or whether it's conclusion.
12 A. All right. All right.
13 54 Q. Can you confirm, to your
14 knowledge, the minister for the respondent has, or
15 at least while you were working with the department
16 and the personal knowledge that you gained, that
17 the minister for the respondent has no role to play
18 in the designation of children's aid societies, and
19 that an application would not be made to the
20 respondent minister even where the entity seeking
21 designation seeks to provide service to registered
22 Indians ordinarily resident on reserve?
23 A. I need you to repeat that, sorry.
24 55 Q. Can you confirm whether the
25 minister for the respondent -- that the minister
00026
1 for the respondent has no role to play in the
2 designation of children's aid societies?
3 A. No, I can't confirm that.
4 56 Q. Are you asserting that the
5 minister for the respondent would be responsible
6 for designating a children's aid society under the
7 provincial legislation?
8 A. No. I'm reflecting on the fact
9 that if the Feds -- excuse me. If the respondent
10 did not provide the funding the ministry would
11 probably not designate.
12 57 Q. Well, in terms of authority to
13 designate --
14 A. Mm-hmm. In terms of simple
15 authority --
16 58 Q. -- while you were working with the
17 respondent it wasn't the respondent's minister who
18 determined or designated which entities would
19 become children's aid societies; is that correct?
20 A. That's correct.
21 59 Q. It was in fact the provincial
22 minister.
23 A. Correct.
24 60 Q. And it didn't matter whether the
25 children's aid society, or the entity wishing to
00027
1 become a children's aid society provided services

2 on reserve to registered Indians ordinarily
3 resident on reserve or off reserve to the
4 residents -- to the other residents of Ontario?
5 A. No, it did not matter.
6 Could I add a comment? Or shall we
7 just -- sorry. Answer the questions I guess.
8 61 Q. If you felt that you answered the
9 question.
10 A. Well, it's interesting because
11 there are six areas under the Child and Family
12 Services Act that could be funded by the minister
13 of children and youth services. Only two of those
14 are cost-shared under the '65 agreement. Those are
15 the only service areas that have been funded by the
16 province, with some exceptions based on particular
17 negotiations that have taken place. In other
18 words -- one of those is child welfare, which is
19 protection and --
20 62 Q. I'm going to talk over you because
21 I need to interject. But my question was just with
22 respect to who's the responsible minister to
23 designate children's aid societies, not with
24 respect to -- you seem to be going into the area of
25 funding, and certainly I'll have some questions
00028 because --
1 A. The responsible minister is the
2 minister of community and youth services. That's
3 clear under the constitutional division of powers
4 and the fact that the province holds the
5 legislative power. In terms of responsibility for
6 Indians, that's a different question. If you would
7 like to pursue that.
8 63 Q. And who sets the organizational
9 design standards in Ontario with respect to child
10 and family services that you've observed, to your
11 knowledge?
12 A. Province of Ontario.
13 And the respondent requires that those
14 standards and operational so on and so forth be met
15 by First Nation organizations that deliver those
16 services under a purchase of service arrangement
17 with the Province of Ontario.
18 64 Q. But the respondent does not set
19 the standards.
20 A. No, but requires that they be met.
21 65 Q. When you refer to negotiations
22 with Ontario and Canada in paragraph 6, can you
23 elaborate what has been the subject matter of the
24 negotiations with Canada? And is this your
25 personal knowledge?
00029 1 A. Yes. Typically these negotiations
2 are between the First Nations and Ontario. The
3 federal -- the department will be involved
4 sometimes directly, sometimes directly in meetings,
5 typically in some meetings, not all. The
6 understanding that First Nations have is that they
7 must negotiate with the province because the
8 province does, in the first instance, provide
9 100 percent of the funding in the field of child
10 welfare. And the department, however, wants to be
11 aware of the progress of those discussions, and is
12

13 often in attendance at such meetings as a party to
14 those discussions.
15 66 Q. And by department you mean the
16 respondent.
17 A. The respondent, excuse me.
18 67 Q. Would part of any negotiations --
19 I'll call them discussions. Would part of these --
20 because you've referred to these meetings where the
21 negotiations take place between the First Nations
22 and the Province of Ontario, and there's some,
23 quote, involvement, unquote, by the respondent.
24 Would part of that involvement pertain to
25 identification requirements regarding registered
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1 Indians ordinarily resident on reserve?
2 A. That is typically a topic of
3 conversation, because as we know non-status persons
4 do live on some reserves and status people do live
5 off reserve in the neighbourhood of these
6 communities. So the question typically arises in
7 these discussions as to the catchment area that the
8 First Nation or First Nation organization will
9 serve. Typically the respondent staff will remind
10 everyone that the only role they play is in
11 relation to the status, those with status in the
12 communities.
13 68 Q. And when was the last time that
14 you were present at any of these meetings between
15 the First Nations, the province and Canada? And
16 the respondent.
17 A. That's a good question.
18 Specifically in the area of child welfare?
19 69 Q. Yes.
20 A. Oh, gosh. Probably two years ago.
21 70 Q. And you were attending the meeting
22 on behalf of First Nations?
23 A. As a consultant to the First
24 Nations.
25 71 Q. Can you advise me who was present
00031
1 at that meeting two years ago?
2 A. I think Maria was.
3 72 Q. Maria?
4 A. Answer. A-N-S-O-W-A-R. It would
5 be a meeting at Akwesasne. It may be a little more
6 than two years ago, in the context of child
7 welfare.
8 73 Q. Any other persons present?
9 A. No. Well, other persons,
10 provincial officials and myself, and of course the
11 First Nation officials.
12 74 Q. Do you recall any of the
13 provincial officials?
14 A. Oh, gosh. The current -- no, the
15 recent director of the Ottawa regional office of
16 MCSS/MCYS, what is her name? I'm sorry. I'm not
17 very good with names.
18 75 Q. That's fine. And also a subject
19 of conversation at these meetings, would it have
20 been the reporting requirements --
21 A. Yes.
22 76 Q. -- with respect to identification?
23 A. Mm-hmm.

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Q. Of registered Indians ordinarily resident on reserve?

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A. Mm-hmm. One of the increasing interests of the respondent has been in outcome measures in social services areas. They want -- it seems to me that there's a desire to have a better means than at present of identifying whether or not the desired outcomes are being achieved.

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11

Q. I didn't see that in your affidavit. I didn't ask a question about it, but I --

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A. You asked about reporting. And one of the things --

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Q. Yes, reporting on identification.

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A. Oh, I'm sorry.
Q. For the purposes of identification.

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A. Yes.
Q. Were you involved in information sharing meetings between the province and the respondent?

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25 83
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A. With respect to child welfare?

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Q. Yes.
A. Oh, gosh. Yes. But gee, I can't be terribly specific without consulting my ancient calendar.

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Q. And that would have been during your tenure with the respondent?

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A. No, since then.
I was... well, in the 90s I was involved with an organization called Ojibway Tribal Family Services, and there was a tri-part effort in that particular situation to resolve some issues. I had been involved with that organization when I was with the respondent as well. And I'm trying to remember specifically --

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14 85
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Q. You've observed the sharing of information --

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17 86

A. Yes.
Q. -- at these meetings between the province and the respondent?

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A. Mm-hmm.
Q. So would it be fair to say that the service negotiation meetings to which you have referred in your affidavit actually constitutes information sharing meetings in which services -- service provision was discussed, not negotiated by the respondent?

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A. Generally information sharing, as a basis on which to ensure a couple of things from the First Nation point of view. To ensure that Ontario understands what's in place in relation to

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eventual designation, and to ensure from the First Nation's perspective that the federal government is on side with what's developing.

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Q. I'm going to turn to paragraph No. 7 of your affidavit in which you come to the conclusion that historically the respondent has assumed full responsibility for the delivery of child welfare services on the reserve. Is that a

9 conclusion based on your personal knowledge through
10 your direct work with the respondent or through
11 some other method or process?

12 A. Through my direct work with the
13 respondent. When I was with the respondent this
14 issue of who's responsible was not questioned. The
15 fact that there was a '65 agreement in Ontario was
16 a reflection of a method for executing that
17 responsibility for children and families on
18 reserve. That's how it was understood.

19 88 Q. That's how you understood it to
20 be?

21 A. That's how it was understood
22 generally. I give you the example of working
23 together with staff of the department from all the
24 different regions in the review of child welfare on
25 reserve that I chaired, and it was very clear from

00035

1 the experience of all of those around the table,
2 and that was never questioned. The federal
3 government has the responsibility for Indians, and
4 to the point, as I mentioned, that in some regions
5 there were child welfare staff employed by the
6 department, people with experience, and it was just
7 simply not questioned.

8 So there are different means of
9 executing that responsibility under the Canada
10 Assistant Plan, part 3, it was anticipated that
11 there would be similar agreements to the '65 with
12 all provinces. As it turned out there was only one
13 with Ontario. And what's happened in the other --
14 well, I guess, what the general situation is, that
15 all provinces, and I would say including Ontario,
16 take the position that these services to Indians
17 are a responsibility of the federal government.
18 Yes, we will deliver them, as long as they're
19 purchased from us. So the '65 agreement is one
20 method of ensuring that the federal obligation to
21 Indians is executed.

22 89 Q. You're not speaking on behalf of
23 all of the other provinces though?

24 A. No, but I have -- I mean, going
25 through that process of the review I met with

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1 provincial officials of each province. I met with
2 staff of the respondent from each region. And we
3 had input from them and from First Nations, and it
4 was understood that it was a federal obligation to
5 ensure that these services were provided.

6 90 Q. You've said that it was
7 understood. You've said that it was never
8 questioned. So --

9 A. Not during my tenure with the
10 respondent, except in one instance. There was a
11 moratorium placed on the development of child
12 welfare agencies by the department --

13 91 Q. Which department?

14 A. -- in 19 -- by the respondent. In
15 1987 perhaps, while we were carrying out the
16 review. In Ontario those developments continued.
17 And I was called on the carpet for providing the
18 federal share of dollars to those development
19 projects that the province had initiated by the

20 Director of Finance, Ottawa at the time.
21 And I explained to him that I -- we
22 have the '65 agreement. It requires us to
23 reimburse the province for expenditures that they
24 make in specific areas as laid out in the
25 appendices. And I remember the gentleman getting
00037
1 rather angry with me. And I said, well, you need
2 to go to justice and get an opinion. And he did.
3 And the opinion was that Canada did have, INAC did
4 have the obligation under the '65 agreement to --
5 92 Q. This isn't --
6 A. -- reimburse those dollars that
7 were being spent by the province.
8 93 Q. This is an opinion that you were
9 privy to?
10 A. Yes. It was a written statement.
11 It should be in the record.
12 94 Q. Do you have it?
13 A. I don't personally have it. I'm
14 not with the respondent anymore.
15 95 Q. It was a privileged opinion I take
16 it as well?
17 A. It was shared with me at the time.
18 So it should be findable. Anyway, my point --
19 96 Q. Well --
20 A. You know --
21 97 Q. It certainly wasn't attached to
22 your affidavit, and --
23 A. Well, I don't have it. I'm not
24 with the respondent anymore. I did not take
25 documents with me when I left.
00038
1 98 Q. I just want to ask you, it sounds
2 to me like what you've described a few seconds ago
3 in terms of the discussion and the dispute
4 pertained to the funding of child welfare services
5 that were provided in fact by the province; is that
6 correct?
7 A. Yes. The federal government
8 refused to fund. They placed a moratorium on that
9 funding.
10 99 Q. For services that were provided by
11 the provincial government?
12 A. Services that were provided by the
13 provincial government through transfer payment
14 agencies.
15 100 Q. So the services were in fact
16 provided by the provincial government?
17 A. Right, which acted under a
18 transfer payment agreement with the federal
19 government called the 1965 agreement.
20 So the point I was trying to make in
21 relation to your original question was it was
22 understood at the time that our task as employees
23 of the respondent was to ensure that our
24 obligations were met through instruments like the
25 '65 agreement. And I'm just giving you an example
00039
1 of a situation that arose where I as an employee of
2 the respondent was told by another employee of the
3 respondent not to do something, which contradicted
4 what I was required to do under the '65 agreement.

5 It was understood, and the '65
6 agreement expressed that understanding that the
7 federal government has the responsibility. The
8 province has the obligation constitutionally for
9 these particular services. Our agreement was to
10 pay for those services through the province as
11 opposed to providing them directly ourselves.

12 And in fact, one of the options that
13 was discussed at the time of the review was either
14 writing a piece of child welfare legislation or
15 acting on the regulatory powers of the respondent
16 under the Indian Act to make it possible for Canada
17 to do it directly. In other words, to supplant a
18 law of general application on reserve --

19 101 Q. well, your knowledge is that the
20 Province of Ontario or the federal government
21 that's passed legislation governing child and
22 family services in the Province of Ontario.

23 A. For the most part, it's the
24 Province of Ontario, although there are components,
25 elements of the Indian Act which stray into that

00040

1 territory.

2 102 Q. And the legislation that governs
3 child welfare in Ontario is applicable both on and
4 off reserve, correct?

5 A. Correct. By virtue of the fact
6 that it's a law of general application for which
7 there is no alternative under the Indian Act or
8 other federal law or regulation.

9 103 Q. And I've already asked you this
10 question, and just confirm that it's actually the
11 minister of Ontario who designates children's aid
12 societies under the Act?

13 A. It is.

14 104 Q. The Child and Family Services Act
15 of Ontario?

16 A. Mm-hmm.

17 MR. SHERRY: Mr. Bumburs, I don't mean
18 to interrupt your line of questioning, but could we
19 take a short break at the next logical point in
20 your questioning?

21 MR. BUMBURS: That's fine. We can take
22 a break right now. I just ask the witness not to
23 communicate your testimony with anybody outside the
24 room during the break.

25 MR. SHERRY: So 10 minutes?

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1 --- Recess at 11:19 a.m.

2 --- On resuming at 11:38 a.m.

3 BY MR. BUMBURS:

4 105 Q. I'm just going to go back to
5 paragraph 7. I was asking you some questions with
6 respect to that. And just to sum up what I've
7 heard from you. So you refer to full
8 responsibility on the part of the respondent with
9 respect to child welfare, but that full
10 responsibility, as I understand it, and you would
11 agree, does not include the legislating in the area
12 of child welfare services on reserve?

13 A. Yes.

14 106 Q. Yes, you agree that it does not?

15 A. It could, but it does not.

16 107 Q. It does not. It doesn't involve
17 designating organizations to be children's aid
18 societies under the provincial legislation; is that
19 correct?
20 A. That's correct, unless of course
21 the federal government puts a moratorium on those
22 designations which it has done at certain points in
23 time.
24 108 Q. I'm going to ask you about your
25 reference to the moratorium earlier. But you would
00042
1 agree that the respondent does not designate
2 organizations to be children's aid societies under
3 the Act?
4 A. Correct.
5 109 Q. And nor does it provide services
6 directly to registered Indians ordinarily resident
7 on reserve?
8 A. No longer. It doesn't do so any
9 longer, certainly in Ontario.
10 110 Q. Well, without conceding that it
11 ever did, we can say that it certainly hasn't in
12 the last 30 years.
13 A. Yes, I'll agree with that.
14 111 Q. Okay. I'm going to go back. You
15 mentioned a moratorium. And I just want to
16 clarify. As I understand it, this moratorium was
17 on the respondent providing funding for the
18 development of new agencies? Child welfare
19 agencies?
20 A. It was a moratorium on the
21 development of new First Nation agencies.
22 112 Q. And that moratorium was on while
23 the national report to which you'd spoke of earlier
24 was being prepared?
25 A. And subsequently while there was a
00043
1 treasury board submission being made which resulted
2 in, or got approval of, I'm not sure what the
3 phrasing is, Directive 20-1.
4 113 Q. And were child and welfare
5 services available to registered Indians ordinarily
6 resident on reserve at the time of the moratorium?
7 A. Yes. However, any First Nation
8 agencies that sought designation at the time were
9 to be denied that because they couldn't do the
10 development work that was required to show that
11 they met provincial requirements, except that, it
12 did continue in Ontario.
13 114 Q. First Nation agencies that were
14 seeking to be developed as new child welfare
15 agencies didn't receive funding.
16 A. Right.
17 115 Q. But existing child welfare
18 agencies --
19 A. Continued to deliver services.
20 116 Q. -- continued to receive their
21 funding. And they continued to receive this
22 funding through the process under the Ontario
23 regime --
24 A. Yes.
25 117 Q. -- with the reimbursement from the
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1 respondent --
2 A. Yes.
3 118 Q. -- to Ontario?
4 A. Yes.
5 119 Q. I'm going to direct you to
6 paragraph 8 of your affidavit. And I'm just going
7 to ask you, is it your assertion that the federal
8 government has in the past chosen methods of child
9 welfare service delivery unilaterally without
10 provincial advice, guidance or legislative mandate?
11 A. Yes.
12 120 Q. Can you tell me how far in the
13 past that was?
14 A. Prior to the conferences held in
15 the late 50s, early 60s. One of the major reasons
16 for those conferences that led to the '65 agreement
17 for example revolved around liability. And a
18 choice was made, either legislate these services or
19 make arrangements with provinces to have those
20 services provided under provincial mandate.
21 121 Q. And this is information that
22 you've -- or a conclusion that you've come to,
23 sorry, based on your studies and readings?
24 A. Yes. And based on my readings of
25 departmental documents, federal documents that, you
00045
1 know, talk about the history of those discussions,
2 conferences that led to the '65 agreement as an
3 example.
4 122 Q. Turning to paragraph No. 9 of your
5 affidavit, do you agree that you did not have any
6 part in negotiating the terms of the 1965 Welfare
7 Agreement?
8 A. I did not?
9 123 Q. You did not.
10 A. I did not, that's correct.
11 I think I was a young gaffer still in
12 school.
13 124 Q. And while you worked with the
14 respondent administering the 1965 Welfare
15 Agreement, do you recall the respondent's agreed-to
16 obligation as being to reimburse the Province of
17 Ontario for child welfare services provided to
18 registered Indians on reserve at levels agreed to
19 in the 1965 Welfare Agreement?
20 A. Yes.
21 125 Q. Has the formula changed, the
22 formula that dictates those levels of
23 reimbursement? Has it changed since the
24 implementation of the 1965 Welfare Agreement?
25 A. No. The formula has remained the
00046
1 same. The agreement itself is not subject to
2 amendment, the schedules are. So the formula has
3 remained the same.
4 126 Q. Turning to paragraph No. 10 of
5 your affidavit. You state that the Province of
6 Ontario purchases the service from children's aid
7 societies, that service being child welfare
8 services off reserve, provided off reserve.
9 A. Yes.
10 127 Q. And I'm going to ask you, would it
11 not be more accurate to state that the Province of

12 Ontario designates entities to be children's aid
13 societies, and requires those children's aid
14 societies to provide an operating budget to the
15 Ontario Minister of Child and Youth Services?

16 A. Would it not be more accurate to
17 say?

18 128 Q. You say there are service
19 agreements between children's aid societies and the
20 Province of Ontario.

21 A. Yes.

22 129 Q. Is it -- is that -- what I'm
23 asserting is that is in fact inaccurate. I'm
24 asking are you aware of the fact that the Province
25 of Ontario actually receives -- sorry, designates

00047
1 children's aid societies, and that those children's
2 aid societies submit a budget within a budgetary
3 framework established by the Province of Ontario.
4 There are no service agreements between children's
5 aid societies and the Province of Ontario. I'm
6 giving you the opportunity to state whether you
7 stand by your statement in paragraph 10.

8 A. I stand by my statement.
9 Children's aid societies are independently
10 incorporated bodies run by a board of directors.
11 They are independently incorporated, if you like.
12 They're not provincial bodies.

13 I mean, a comparison would be New
14 Brunswick for example. The government of New
15 Brunswick delivers child welfare services directly.
16 The model in Ontario is there are transfer payment
17 agencies. They're separately set up, established,
18 incorporated and they enter into agreements with
19 the Province of Ontario to deliver certain
20 services, one of which is child welfare, for which
21 they require a designation. In other words, they
22 must meet certain criteria in order to be able to
23 apprehend children who are in need of protection
24 and to become the legal parents of those children
25 should the court so decide.

00048
1 So these are bodies that exist
2 independently of the province. Yes, they're
3 funded, and they're now funded 100 percent by the
4 province. Although historically they were funded
5 partially by the province, partially by donations
6 and partially by municipal amounts. That has
7 changed over time. They do now get 100 percent of
8 their funding from the ministry, and whatever money
9 they can raise from other sources. But they are
10 independently incorporated organizations answerable
11 to a board of directors.

12 130 Q. Are you saying that these
13 organizations, the children's aid societies enter
14 into service agreements with the Province of
15 Ontario --

16 A. Yes.

17 131 Q. -- and that those services that
18 they provided are paid for pursuant to a service
19 agreement?

20 A. Correct.

21 132 Q. And you're saying that there is no
22 budgetary framework --

23 A. No, I'm not saying that.
24 133 Q. -- and they do not submit budgets
25 for their operations?
00049
1 A. They do submit requests for
2 funding which are colloquially known as budgets.
3 The province does have a specific funding framework
4 for the child welfare service that a CAS provides,
5 and it's a formula that's been in existence now
6 since the late 90s.
7 134 Q. So for mandatory services it's the
8 budgeting formula and the result of that, approval
9 by the province using its framework that results in
10 the funds that provide the mandatory services for
11 child welfare in Ontario; is that correct?
12 A. Partially. Let me give you the
13 exception. There is a formula. And it specifies
14 based on historical activity in the child
15 protection area how much money will be available to
16 CAS X for the coming year. But what propels the
17 operation of that CAS is the legislation, the
18 standards, the regulations, not the funding
19 formula.
20 So recently the province has announced
21 an additional \$23.5 million for children's aid
22 societies. Why? Because the law that they follow,
23 the standards that they must meet have required
24 them to take more children into care, their care
25 budgets have skyrocketed, they've run them into
00050
1 deficit, and the province has had to turn around
2 and say, oh, gosh, in order to meet our standards
3 you have to have this money. And an additional
4 \$23.5 million has just been voted, as I understand
5 it, or is in the offing, or whatever. That's
6 happened every year basically. So what drives it,
7 what drives it is the standards --
8 135 Q. What I'm --
9 A. -- the requirements that they must
10 meet, not the money, not the formula.
11 136 Q. What I'm trying --
12 A. So whatever you're trying to get
13 at there, sorry, yes, the funding formula is there.
14 137 Q. What I'm trying to get at is the
15 mechanism. I would assert that the mechanism is
16 important. And what I'm asking is whether that
17 mechanism is in fact the children's aid societies
18 submit budgets to the Province of Ontario, and that
19 monies flow based on the approval of those budgets
20 to those children's aid societies, and that in fact
21 there aren't a number of service agreements to
22 provide mandatory child welfare services by the
23 children's aid societies.
24 A. There are service agreements.
25 There are very specific provincially mandated
00051
1 agreements that are signed off by children's aid
2 societies. There are agreements.
3 138 Q. To provide the mandatory
4 services --
5 A. To provide the mandatory services.
6 139 Q. -- under the provincial
7 legislation, Child and Family Services Act.

8 A. Right.
9 140 Q. Okay.
10 A. Such similar agreements exist
11 between the province, both mandated and
12 non-mandated First Nation child and family service
13 organizations.
14 141 Q. So are there service agreements
15 that pertain to the provision of mandatory services
16 under the Act?
17 A. Yes.
18 142 Q. Between the Province of Ontario
19 and the children's aid society?
20 A. Yes.
21 143 Q. Can you refer or reference one of
22 those agreements?
23 A. Not off the top of my head, no.
24 There is a standard format.
25 144 Q. You've seen these agreements
00052 yourself?
1 A. I have.
2 145 Q. But you can't reference the
3 substance of any of these agreements?
4 A. There's a contract with very
5 specific provisions, attached to which is an
6 appendix which sets out very specific services with
7 specific numbers, and attached to that is the
8 funding sheets. So, I mean, I can't be much more
9 specific than that without having them in front of
10 me.
11 146 Q. And these are mandatory services
12 under the Act?
13 A. Mm-hmm.
14 147 Q. We're not talking about preventive
15 services?
16 A. No. We're talking about both.
17 148 Q. To your knowledge, is the method
18 of revoking a children's aid society done by way of
19 a contract rescission, or through a process
20 dictated by provincial legislation?
21 A. Gee, I wish I could be very
22 specific about that. The Act makes provision for
23 the minister to revoke a designation, to assume
24 responsibility for the operations of a children's
25 00053 aid society directly by supplanting the board.
1 Typically they do that -- well, typically. It's
2 only happened once, to my knowledge. They appoint
3 their own executive director for a period of time
4 until the organization does or does not get its act
5 together and begin to comply with the standards.
6 149 Q. And this is done by way of a
7 legislative process. It's not done pursuant to the
8 termination of a service agreement or a contract;
9 is that correct? And I mention this because in
10 particular you mention the case of Kenora/Patricia.
11 Do you know what the process was for revoking its
12 status --
13 A. No, I don't --
14 150 Q. -- as a children's aid society?
15 A. -- know for certain. I just know
16 that there are provisions in the CFSA which permit
17 the minister to revoke a designation, and to assume
18

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19 temporarily the responsibility for the delivery of
20 child welfare and other services that are funded.
21 I can't quote you the sections, but show me the Act
22 and I'll find them for you.

23 151 Q. You acknowledge that there was
24 budgeting and there is a budgeting framework with
25 respect to children's aid societies and the

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1 Province of Ontario approving the children's aid
2 society budget.

3 A. Yes.

4 152 Q. Can you tell me whether or not
5 there are separate budgets that a children's aid
6 society would ask for approval of by the Province
7 of Ontario, separate budgets, being one budget for
8 registered Indians ordinarily resident on reserve
9 and another budget being for all other residents of
10 Ontario?

11 A. In respect to child welfare, i.e.
12 protection services, no. There is a funding
13 category that the province has called Native Child
14 welfare Services on reserve. And some CAS's
15 historically have had a separate budget and
16 agreement covering monies for that purpose, and
17 they've in turn used that money to provide services
18 on reserve. I think probably today there's none of
19 that left. Native services on reserve, that
20 category is I think typically provided to First
21 Nations directly, but I stand to be corrected on
22 that. But that's the one area.

23 The way that the respondent is billed,
24 Canada is billed for Indian services is through a
25 process... I needn't go into that. But CAS's are

00055
1 suppose to report the number of children in care --

2 153 Q. I'm just asking whether or not
3 there's a distinct --

4 A. Separate --

5 154 Q. -- separate budget the children's
6 aid society provides for registered Indians
7 ordinarily resident on reserve than it provides for
8 all other residents of Ontario --

9 A. No, there is not.

10 155 Q. There is not, okay.

11 A. There is a general budget that
12 CAS's received. If they happen to have a reserve
13 in their catchment area and they deliver services
14 to that reserve there's another mechanism for
15 determining what portion of the budget was used for
16 Indians and billable back under the '65 agreement.

17 CAS's, by the way -- just recently
18 there has been a provision for CAS's to report
19 customary care cases, which is a whole other ball
20 of wax. But they must keep track of those that
21 they are funding who are in care under customary
22 care, but it's not a separate budget.

23 156 Q. I'll move on to my next question.
24 To your knowledge, since you worked with the
25 respondent onward, has the reimbursement to the

00056
1 Province of Ontario for child welfare services
2 provided to registered Indians ordinarily resident
3 on reserve been made pursuant to the 1965 welfare

4 Agreement, while the funding of children's aid
5 societies for costs incurred for the same services
6 provided off reserve that's been done pursuant to
7 the Ministry of Child and Youth Services budgetary
8 framework?

9 A. Repeat, please.

10 157 Q. Okay. No problem. Sorry for
11 making my question too long.

12 It is a little long-winded.

13 A. I'm getting old.

14 158 Q. It is a bit of a long question.

15 To your knowledge, since you worked with the
16 respondent onward, has the reimbursement to the
17 Province of Ontario for child welfare services
18 provided to registered Indians on reserve been made
19 pursuant to the 1965 Welfare Agreement while the
20 funding of children's aid societies for costs
21 incurred for those same services provided off
22 reserve has been done pursuant to the Ministry of
23 Child and Youth Services budgetary framework?

24 A. The provision of services to all,
25 whether on or off reserve, is made according to

00057

1 whatever funding framework happens to be in place
2 at the time, and that has changed over the years.
3 After the fact, the children's aid societies report
4 their level of services to Indians. And a portion
5 of their expenditure is then billed back to the
6 department. You do not -- they're not separate
7 things. One follows the other.

8 The province does not fund this CAS or
9 that CAS based on the number of Indians it's going
10 to serve. It funds it as an organization with a
11 population and a catchment area. I mean, it's much
12 more detailed than that. After the fact. The
13 Indian services reported under the '65 agreement
14 and reimbursed.

15 159 Q. And to your knowledge, under the
16 1965 Welfare Agreement have children's aid
17 societies been reimbursed directly by the
18 respondent, or have children's aid societies been
19 reimbursed by the Government of Ontario?

20 A. Since the '65 agreement?

21 160 Q. Since the '65 agreement.

22 A. Perhaps shortly after the '65
23 agreement the federal government ended its direct
24 relationship with children's aid societies. It had
25 a direct relationship. It ended that relationship.

00058

1 And since then children's aid societies have looked
2 to the province for their funding.

3 161 Q. And then the province subsequently
4 looks to the respondent for reimbursement pursuant
5 to the 1965 agreement for registered Indians
6 ordinarily resident on reserve who have received
7 services from children's aid societies?

8 A. Yes.

9 162 Q. To your knowledge, has the
10 respondent provided child welfare services to
11 residents of Ontario living off reserve?

12 A. Not to my knowledge.

13 Can I qualify that just slightly?

14 There are First Nations organizations that do

15 provide service both on and off reserve, whether or
16 not that's tracked effectively and only the
17 on-reserve portion is paid, I don't know. But the
18 nature of the catchment area of different
19 designated agencies varies somewhat across the
20 province. Anyways, small point.

21 163 Q. I guess I'm asking whether the
22 respondent, the respondent Indian and Northern
23 Affairs has provided child welfare services to
24 residents of Ontario living off reserve?

25 A. I would have to say indirectly

00059

1 they have, but probably without their knowledge.

2 Sorry. I have a First Nation
3 organization that's being funded by the province.
4 That First Nation organization delivers services to
5 families in need. To my knowledge there is no
6 mechanism whereby expenditures that may have been
7 made on Indians off reserve as opposed to on
8 reserve are differentiated. The First Nation
9 amounts are treated as 100 percent Indian. But
10 that may have changed in the last few years, I'm
11 not positive.

12 164 Q. Has the respondent ever provided
13 child welfare services to non-registered Indians
14 off reserve?

15 A. No doubt. And I simply say that
16 by virtue of the nature of these organizations. It
17 would require a different kind of monitoring to
18 determine that split very carefully.

19 165 Q. Are you talking about that without
20 the respondent's knowledge -- you said that they
21 may not know it. Without the respondent's
22 knowledge that there was funding -- it provided
23 some reimbursement for services that were provided
24 off reserve?

25 A. I'm saying that's possible.

00060

1 166 Q. You're saying it's possible?

2 A. Mm-hmm.

3 167 Q. But not services themselves?

4 A. No.

5 168 Q. The respondent has not provided
6 services --

7 A. The respondent has not -- Phil
8 Digby does not provide services directly to anyone
9 on or off reserve, of the child welfare nature.

10 169 Q. Okay. And when you -- your
11 reference to Phil Digby is really in larger part
12 the respondent?

13 A. Right. No employees of the
14 respondent do so. At this time.

15 170 Q. It's in fact the Government of
16 Ontario that provides child welfare services off
17 reserve, is it not?

18 A. Yes.

19 171 Q. That's at least what you have
20 observed during your tenure --

21 A. Yes.

22 172 Q. -- with the department and onward?

23 A. Yes. Through purchase-of-service
24 arrangements with duly incorporated bodies.

25 Transfer payment agencies is another term that's

00061

1 used.
2 173 Q. You say in paragraph No. 11 of
3 your affidavit that:
4 "Over the years, the federal
5 government has instituted standards
6 and policies that are at variance
7 with the provincial standard."
8 Are you stating that the federal
9 government has instituted contrary standards to
10 those established through Ontario legislation by
11 way of federal legislation?

12 A. No.

13 174 Q. So to what standard are you
14 referencing? You reference that there's --

15 A. I'm speaking more generally.
16 "In fact, over the years, the
17 federal government has instituted
18 standards and policies that are at
19 variance with the provincial
20 standard."

21 For example, in education. That's an
22 area of provincial jurisdiction the federal
23 government has chosen to enter that field, and it
24 runs educational programs that do run at variance
25 with provincial standards.

00062

1 I'm simply saying it could have done
2 the same thing. It could have developed its own
3 child welfare legislation or acted upon its
4 regulatory powers under the Indian Act, it chose
5 not to. It has chosen to do so in other areas. It
6 could have chosen to do so in this area.

7 175 Q. So you're not saying that the
8 government has instituted standards and policies in
9 the area of child welfare that are at --

10 A. No.

11 176 Q. -- variance what the provincial
12 standard?

13 A. When it comes to quote unquote
14 incompetent Indians, yes. You know, that's usually
15 something that falls under the mental health area
16 under provincial legislation. There's little bits
17 and pieces like that, but no, not in general.
18 There is no legislation, federal legislation or
19 regulations respecting specifically the protection
20 of children.

21 177 Q. So your reference to these
22 federally instituted standards is actually in other
23 areas like education?

24 A. Yes, areas of provincial
25 jurisdiction.

00063

1 I think it's a relevant point because
2 obviously if the federal government can act in
3 areas of provincial jurisdiction ergo it could act
4 in the area of child and family services. It has
5 chosen not to do so. Instead it has chosen to
6 execute its obligations to Indian people through a
7 purchase-of-service arrangement with the Province
8 of Ontario.

9 178 Q. And your references to adoption of
10 provincial service standards, that's also in the

11 other areas; is that correct?
12 A. It could --
13 179 Q. Within that same paragraph you
14 state that the federal government chose to adopt
15 provincial service standards, and I take it that
16 that's also with respect to other areas, it's not
17 child welfare?
18 A. No, they have not adopted
19 provincial standards in the case of education, in
20 the instance of education, which is a major issue
21 for First Nations. In the case of child welfare
22 the requirement is that First Nation delivery
23 agents or any other delivery agents delivering on
24 reserve meet provincial standards, otherwise you
25 won't fund.

00064

1 So you have basically adopted, the
2 respondent has adopted those standards by saying
3 that they must be met in order for them to provide
4 any share of the funding that's required to see
5 those services delivered. The federal government
6 has the power to institute its own child and family
7 services program. And --

8 180 Q. That's in your opinion.
9 A. Sorry, I'm not a lawyer. That's
10 true, but it's done so. I mean, it seems pretty
11 obvious it's done so in some areas of provincial
12 jurisdiction, it could do so in others. And the
13 standards that they establish could be different,
14 as they are in the area of education.

15 181 Q. Well, I think that that is
16 something we can certainly reserve for arguments.
17 But this is again your --

18 A. But that's the point I'm making
19 here. Is it my opinion? Well, yes, it's my
20 opinion, but it is certainly an opinion that was
21 shared, as I mentioned before, by those around the
22 table who worked for the department, the respondent
23 certainly up until I left. But that's still
24 nonetheless a matter of legal opinion I guess.

00065

25 182 Q. They're not here to provide their
1 opinion right now.

2 A. No.
3 183 Q. With respect to paragraph No. 11
4 of your affidavit, and with respect to this
5 reference to adopting provincial service standards,
6 by adopt do you mean that the respondent expressly
7 established standards for the designation of
8 children's aid societies and the standards by which
9 such designation could be revoked?

10 A. No.
11 184 Q. To your knowledge, has the federal
12 government legislatively established standards for
13 child welfare services provided to registered
14 Indians on reserve in the Province of Ontario?

15 A. No.
16 185 Q. Has the Province of Ontario
17 established such standards by legislative means?
18 A. For the delivery of child welfare
19 services, period.

20 186 Q. In paragraph 12 of your affidavit
21 you state that the 1965 Welfare Agreement has been

22 subject to amendments of the schedules?
23 A. Mm-hmm.
24 187 Q. To your knowledge, have the
25 province and respondent agreed to any amendments
00066 that resulted in the respondent discontinuing, or
1 reducing the level of reimbursement of a service
2 cost listed in the first version of that agreement?
3
4 A. No, I'm not.
5 188 Q. So you're not aware of any such
6 reduction?
7 A. No. The amendments have basically
8 been to the schedule referencing what services --
9 well, what legislation will be cost shared, what
10 program areas will be cost shared, not so much to
11 the, but to some extent, to the details of the
12 services that will be funded under those particular
13 pieces of legislation. But I can't think of
14 anything being taken out that was already there.
15 In fact, I can think of one thing that got in there
16 that should never have gotten in there in terms of
17 the original agreement which is homemakers and
18 nurses services, but that's another issue.
19 So what I am aware of though is the
20 reluctance on the part of the province to fund any
21 services on reserve that aren't covered by the
22 original agreement. So the province does not
23 typically, although there are exceptions, fund
24 children's mental health services on reserve. They
25 do not typically fund child and family intervention
00067 services on reserve. They do not fund young
1 offenders, or youth justice services on reserve.
2
3 189 Q. But the province has the authority
4 to provide these services --
5 A. Yes.
6 190 Q. -- on reserve; is that correct?
7 A. They provide them off reserve, and
8 if Indians wish to access those they make referrals
9 to the organizations that are funded to provide
10 those services. Typically they cannot provide them
11 themselves, because the province does not provide
12 funding for those categories under the Child and
13 Family Services Act, and the reason for that is the
14 Feds have responsibility for Indians, but they did
15 not include those items under the original '65
16 agreement, or under subsequent amendments to the
17 '65 agreement, schedules.
18 191 Q. That's your opinion again.
19 A. I have been told that directly by
20 the provincial officials. I've been -- we needn't
21 get into it.
22 192 Q. Then we get into issues of
23 hearsay.
24 A. Yes, and I don't want to do that.
25 193 Q. To your knowledge, the schedules
00068 of the agreement, of the 1965 welfare Agreement
1 address, amongst other things, reimbursement for
2 child protection services, and whether or not a
3 particular method of service will be -- or a
4 particular service will be provided by the
5 provincial government; is that correct?
6

7
8 A. Yes. The '65 agreement schedules
9 limit cost sharing to certain legislation, to
10 certain programs under certain legislation, and to
11 certain activities performed in delivering those
12 services under those programs, that legislation.
13 They have been amended, and in some areas there has
14 been an expansion of what is cost shared.

15 For example, when the social assistance
16 legislation was brought in in the late 1990s, that
17 new legislation contained employability services,
18 and the schedules were amended to cover cost
19 sharing under the new act, including both financial
20 assistance and employability development services.

21 In the area of child welfare I don't
22 believe there has been any change since probably
23 the amendment made in the late 80s which covered
24 the developmental, the costs of the development of
25 child welfare agencies.

00069 194 Q. Is it possible that amendment
1 would have been in 1981?

2 A. It may have been. But I know
3 there was further amendments in the late 80s.
4 There was one set of amendments that never got
5 signed. I remember they were negotiated but not
6 sign, but the intention was there.

7 195 Q. One thing I would like to do just
8 as a matter of housekeeping is to actually submit
9 another exhibit, that being your affidavit to which
10 you've been referring all this time. I would like
11 to submit that. I would ask if that could be
12 designated as Exhibit No. 2.

13 EXHIBIT NO. 2: Affidavit of Tom Goff
14 sworn February 12, 2010
15 BY MR. BUMBURS:

16 196 Q. You have the 1965 agreement before
17 you.

18 A. Mm-hmm.

19 197 Q. Can I refer you to the last two
20 pages? Or the last page actually. I'm going to
21 refer you to another page. The 4th last page,
22 sorry. And it's an amendment dated the 4th of
23 August, 1981, and I'll just ask if that's the
24 amendment to which you just referred?

25 A. You're telling me this is the last
00070 approved or agreed to amendment? 1981?

1 198 Q. No, I'm asking -- you just
2 referred to an amendment in your testimony, and you
3 said it was in the 80s. I think you said mid-80s,
4 but I'm just directing you to this amendment on the
5 4th day of August, 1981 and asking is this the
6 amendment that you were referring to?

7 A. No. No.

8 199 Q. Is it another amendment that you
9 were referring to that's within the 1965 agreement?

10 A. Well, absolutely.

11 200 Q. Could you direct me to that
12 amendment?

13 A. 1998.

14 Oh, good point. 1981. Sorry. Sorry,
15 that would have been. I'm getting my decades mixed
16 up here. God, I'm getting old.
17

18 201 Q. So 1981 amendment, that's the one
19 that you were referring to?
20 A. All that amendment covers is the
21 changes in the legislation at that time, and --
22 yes, okay. Did it take until 1998 to...
23 Yeah, the one I was referring to was
24 1998, yes, because I was talking about the OW Act
25 replacing the general welfare act, yes, yes, yes.

00071

1 where is the amendment that covers the
2 Child and Family Services Act in 1984? Did we
3 never get an amendment to cover that act? That
4 would be interesting. There was one written, and
5 it would have been... yeah, it would have been in
6 the late 80s, and I'm just wondering if it never
7 got approved.

8 202 Q. But it's not contained in the
9 Exhibit No. 1?

10 A. No.

11 203 Q. The --

12 A. I don't see it here, no.

13 204 Q. And the amendment to which you had
14 referred is in fact the 1998 amendment?

15 A. Yes, in terms of the OW.

16 205 Q. Has the 1965 Welfare Agreement
17 ever been terminated or suspended since it was
18 entered into?

19 A. No.

20 206 Q. So your statement in paragraph No.
21 12 of your affidavit referring to if it ever was
22 terminated, that's a speculative statement that
23 you've made; is that correct? You're speculating,
24 aren't you?

25 A. Well, speculative, and it's not

00072

1 just coming from me. Again, when I was with the
2 department one of the major concerns around the '65
3 agreement was exactly this. Gee, if we terminate
4 this we're going to have to assume direct service
5 delivery responsibility. It would mean hiring
6 approximately 110 to 115 staff to replace the
7 provincial people out there.

8 207 Q. Right now --

9 A. And that would be a problem.

10 208 Q. I'm just going to interrupt.

11 Because right now I'm asking what your -- if you
12 were speculating, not whether there were other
13 people that also may have made such speculations or
14 what other individuals thought.

15 A. I'm --

16 209 Q. This is speculation on your part.
17 It never happened.

18 A. It never happened, no. So, true.

19 However, if we go back in history
20 pre-1965 what we would be doing if we remove the
21 '65 is returning to what existed prior to that.
22 And there were employees who delivered welfare.
23 There were employees who delivered a form of child
24 welfare service. There were employees of the
25 respondent who were on staff in district offices to

00073

1 do a variety of these kinds of social services.

2 210 Q. Again, you're speculating --

- 3 A. No. I'm saying in fact there is
4 evidence in the historical record that the
5 department provided forms of these services. The
6 '65 agreement was an arrangement whereby the
7 federal government could fulfill its obligation to
8 Indians through providing dollars to the province
9 to deliver their services in specific areas. So --
10 211 Q. You raise the historical aspect in
11 your affidavit and I questioned you on that
12 earlier. And now you're raising in paragraph 12
13 what would happen if the agreement was ever
14 terminated. You've stated it's never been
15 terminated.
16 A. So we don't know what would
17 happen.
18 212 Q. It's speculative.
19 A. It's speculation. There's a
20 history though which you can turn to to ground that
21 speculation.
22 213 Q. Which you can turn to to
23 speculate.
24 A. To ground that speculation, yes.
25 214 Q. Okay. To your knowledge, are
00074 there aboriginal children's aid societies operating
1 in the Province of Ontario that provide child
2 welfare services to persons not ordinarily resident
3 on reserve?
4
5 A. Yes.
6 215 Q. And based on your experience
7 working with respondent the Province of Ontario
8 would not be reimbursed under the 1965 welfare
9 Agreement for services provided to those persons;
10 is that correct?
11 A. If they've been off reserve more
12 than 12 months, no. Technically. That would not
13 be an obligation of the respondent.
14 216 Q. Or if they're not registered
15 Indians who are off reserve?
16 A. Technically, that's correct.
17 217 Q. Then the Province of Ontario would
18 not be reimbursed for these persons, for the
19 services provided to these persons.
20 A. Correct.
21 218 Q. I believe I asked you this
22 question before, but I'll ask again just to make
23 sure that I have. Are you aware of the fact and/or
24 do you agree that the budgetary approval process
25 for a children's aid society does not differ based
00075 on whether a children's aid society provides child
1 welfare services on reserve to registered Indians
2 ordinarily resident on reserve or not?
3 A. The general process of
4 establishing a service agreement does not take that
5 into account. There are side discussions always
6 about the demand for service from a given
7 population within a CAS's catchment area, and that
8 can affect the amount of money that flows. But you
9 could say that of any other community that a CAS
10 serves.
11 219 Q. The budgets don't distinguish
12 funds that are being directed for the purposes of
13

14 serving registered Indians ordinarily resident on
15 reserve from those funds that would be servicing
16 all other persons who reside in Ontario; is that
17 correct?

18 A. That's generally correct. There
19 are exceptions to that, very specific exceptions.

20 220 Q. In paragraph No. 13 of your
21 affidavit you make reference to the respondent
22 carefully and continually reviewing the delivery of
23 child welfare services on reserve and the
24 expenditure of funds. Based on your experience,
25 was part of that review to ensure that persons for

00076

1 whom the Province of Ontario were claiming
2 reimbursement under the 1965 Welfare Agreement met
3 the established criteria of registering -- sorry,
4 of registered Indian ordinarily resident on
5 reserve?

6 A. That was certainly one of the
7 criteria.

8 221 Q. Would part of that review also be
9 to confirm that the children's aid societies that
10 claimed reimbursement from -- sorry. Sorry.

11 That the children's aid societies that
12 were being funded by the Province of Ontario were
13 in fact designated as children's aid societies by
14 the Province of Ontario, would that also be part of
15 that review? To ensure that the agency was in fact
16 a designated agency?

17 A. No. It was assumed that they were
18 designated agencies.

19 222 Q. In your experience, did the
20 respondent -- did you ever observe the respondent
21 conducting a formal review of the quality of
22 services provided by children's aid societies so as
23 to ensure that the CAS met provincial standards?
24 And by formal review I mean a review authorized by
25 provincial statute, or some other legislative

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1 mechanism within the province.

2 A. In my own personal experience, no.
3 I know that the respondent has been party to, or
4 involved with, or made aware of, attended meetings
5 about reviews of provincial designated First Nation
6 agencies.

7 223 Q. You've never participated in a
8 review?

9 A. Not as an employee of the
10 respondent. I have participated in reviews of
11 First Nation organizations, yes. But as a
12 consultant.

13 224 Q. Not the kind of review that I've
14 cited though where we're looking at the quality of
15 services provided by a children's aid society so as
16 to ensure that the society has in fact met the
17 provincial standards. That would fall to the
18 provincial government to do that, would it not?

19 A. Yeah, but I've been contracted to
20 be involved in those things.

21 225 Q. You've been contracted to do that,
22 but the respondent has not done that?

23 A. No.

24 226 Q. The respondent has not conducted

25
00078

those reviews?

1 A. The respondent did launch a
2 national review of the delivery of child welfare
3 services on reserve which I chaired back in the
4 80s. There have been reviews conducted by
5 departmental employees of First Nation agencies
6 that I'm aware of in other provinces, not in this
7 one, where the province has accepted the
8 responsibility under the '65 agreement to deliver
9 on behalf of the respondent.

10 227 Q. That review that you refer to,
11 it's a policy review. It wasn't dictated by
12 legislation.

13 A. There is no federal legislation
14 that would dictate it, but for example Elsipogtog
15 in New Brunswick recently went under a very
16 detailed review of its child and family services by
17 the department. In fact the province of New
18 Brunswick --

19 228 Q. Were you a party to that review?
20 A. Only indirectly. I was asked to
21 advise, and I did so. But that was between me and
22 the First Nations.

23 229 Q. My question essentially is --

24 A. It doesn't need to happen in
25 Ontario.

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1 230 Q. -- does the respondent review the
2 services that are provided by children's aid
3 societies so as to ensure that those children's aid
4 societies meet the provincial standards?

5 A. Ontario looks after that on behalf
6 of the respondent in this province. But I think
7 you will find that there is evidence of the
8 respondent doing such reviews periodically,
9 especially of the First Nation organizations they
10 fund directly in other provinces to determine that
11 they are meeting provincial standards. And in most
12 cases they do that conjointly with the particular
13 province involved.

14 231 Q. You'd agree that the respondent
15 has no part in determining whether a children's aid
16 society is in fact designated to be a children's
17 aid society?

18 A. Well, moot point. If you are a
19 children's aid society you are designated.

20 232 Q. And this --

21 A. So the respondent just simply
22 understands that that is the case. In the case of
23 Kenora/Patricia where that designation was removed
24 the department had to be satisfied that the
25 delivery of services which, to a great extent, were

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1 on reserve were being handled in the way that a
2 designated society would handle it. And we were
3 satisfied at the time that that was the case
4 through consultation with the person assigned as
5 the executive director at that time.

6 233 Q. I'm trying to get at the types of
7 reviews that would occur that you reference in
8 paragraph 13. And what I'm asking you is the one
9 type of review that would not occur is a review of

10 the services provided by children's aid societies
11 to determine whether they meet provincial
12 standards. Such a review would be done by the
13 province in your experience as you observed.

14 A. In my experience, as I observed.
15 But if I'm not mistaken there is provision in the
16 '65 agreement for the federal government to audit,
17 and that can be a program as well as a financial
18 audit. But, you know, the federal government as a
19 funder in this case of another organization
20 reserves the right, always, to its own review if it
21 feels that that's necessary.

22 The province and the Feds participate
23 jointly in an audit that is supposed to happen
24 annually to determine the end cost for a year under
25 the '65 agreement. They do a sample audit of

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1 different communities and organizations and the
2 services provided that are referenced in the '65
3 agreement, and on the basis of that sample decide
4 whether or not the 10 percent holdback gets paid or
5 some portion of it gets paid or what have you. So
6 there is a definite direct interest in knowing that
7 (a) the services that are being billed are being
8 provided, and that they are being provided as
9 agreed.

10 234 Q. You're referring to a financial
11 audit.

12 A. It tends to be a financial audit,
13 yes. It can include children's aid societies, not
14 just First Nations and First Nation organizations.
15 But it can include an audit of the delivery of
16 services by a non-native children's aid society on
17 reserve.

18 235 Q. Sorry. Could you repeat that?

19 A. That audit that is conducted
20 theoretically on an annual basis, usually five or
21 six years after the fact, can include children's
22 aid societies, and it does include children's aid
23 societies who claim that they have delivered
24 services to Indian people and to a certain amount
25 of money.

00082

1 236 Q. So this audit is to ensure that
2 the services were actually provided?

3 A. Correct.

4 237 Q. And to ensure that the services
5 were actually provided so that the respondent would
6 appropriately reimburse the Province of Ontario for
7 those services.

8 A. Yes.

9 238 Q. And not reimburse the Province of
10 Ontario for services that were not in fact
11 delivered. That was the purpose of the audit, of
12 the audit to which you just spoke.

13 A. Certainly. But you have to
14 determine that the services that we've contracted
15 with you to provide have indeed been provided at
16 such-and-such a cost.

17 The respondent, I think you can
18 confirm, has been involved as a party to reviews of
19 the delivery of First Nation social services. I
20 know we're dealing with child welfare here, but I

21 believe they've been a party to those reviews of
22 weechi-it-te-win, of Tikinagan and so on. They've
23 certainly been a party to the reviews of the
24 delivery of welfare services under the OW Act in,
25 you know, various ways over the last 10, 15,

00083

1 20 years.

2 239 Q. When you say a party, we're not
3 dealing with litigation so --

4 A. We'll dealing with funding. We're
5 dealing with determining that the services are
6 being delivered with the outcomes expected. Canada
7 has its expectations for the outcomes of services
8 which, in Ontario more than anywhere else, parallel
9 the outcomes that Ontario expects. And you will
10 find examples of participation in reviews,
11 tripartite reviews that have been conducted in all
12 of the areas covered by the '65 agreement.

13 240 Q. And you participated in these
14 reviews?

15 A. When I was the director, the
16 regional director? Probably not. But I've
17 certainly been aware of, on the periphery of some
18 of these reviews since then. So it seems to me
19 that the respondent is looking not just at
20 determining that the money paid was appropriate, it
21 was for status Indians on reserve, or however you
22 want to phrase it. They're interested in knowing
23 that First Nation people are receiving services at
24 the standards that are applicable.

25 241 Q. Those standards being the

00084

1 provincial standards?

2 A. As agreed under the '65 agreement.
3 Now, I have another issue --

4 242 Q. I'll just stop you rather than --

5 A. Yes, yes, yes, okay. Sorry.

6 243 Q. And if a standard isn't being met,
7 a provincial standard, would you -- well, have you
8 observed provincial standards not being met while
9 you were working with the department?

10 A. Yes.

11 244 Q. Okay. And was it the provincial
12 responsibility to -- if those standards were being
13 breached to such a degree that the children's aid
14 societies should no longer be designated, it's the
15 responsibility, or it was the responsibility during
16 your tenure of the province to revoke the
17 designation; is that correct?

18 A. Yes. But it was my obligation
19 when I was with the respondent to point out in some
20 instances that I believed, or my staff were
21 reporting to me a belief that the standards were
22 not being met.

23 245 Q. So you were providing information
24 to a decision maker.

25 A. Correct. Which I have

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1 acknowledged as the decision maker, which I had
2 acknowledged, if you like, as a representative of
3 the department under the '65 agreement.

4 246 Q. Just to be clear, you provided
5 information to the decision maker, that decision

6 maker being the provincial government?
7 A. Mm-hmm.
8 247 Q. The responsible ministry?
9 A. Mm-hmm. There are many instances
10 where it is indeed interesting that cases will
11 arise on reserve in which the CAS's may have done
12 an investigation and decide, whoops, there's no
13 need for protection here, but the community knows
14 that. And when I was the director I would receive
15 periodic phone calls, not many, from communities
16 which would say the CAS isn't dealing with this
17 case.
18 248 Q. And you would relay that
19 information on to the province?
20 A. I would relay that information,
21 and no CAS lost its designation as a result, but I
22 think there was more care taken in pursuing those
23 kinds of situations. The CAS is known as
24 overreacting, but they also under-react.
25 249 Q. Okay. I'm just going to move on
00086 to my next question.
1 A. I also got a phone call from
2 somebody asking me for advice on their immigration
3 from India, but that was a whole other thing.
4 250 Q. Give me a moment. I'm going to
5 move on to my next question.
6 MR. SHERRY: Mr. Bumburs, if you're
7 going to move on to a different line of questions
8 or a different question I wonder if we should -- or
9 if you have a lot more questions, we're past the
10 12:30 time. As long as I'm not interrupting a
11 particular line of questioning.
12 MR. LAWYER: No, you're not. We can
13 take a break.
14 --- Recess at 12:39 p.m.
15 --- On resuming at 1:23 p.m.
16 BY MR. BUMBURS:
17 251 Q. Mr. Goff, in paragraph No. 14 of
18 your affidavit you refer to meetings between
19 officials of the respondent and First Nation
20 organizations?
21 A. Mm-hmm.
22 252 Q. Was Ontario present at these
23 meetings that you're referring to?
24 A. Sometimes they are, sometimes
25 they're not.
00087 1 they're not.
2 253 Q. And have you participated in these
3 meetings?
4 A. Yes.
5 254 Q. And when and how frequently?
6 A. Oh, not very frequently. And
7 probably less frequently in the area of child
8 welfare than in other areas such as welfare.
9 255 Q. So some of these meetings pertain
10 to welfare, or the meetings to which you refer
11 pertain to child welfare?
12 A. Can be both. Daycare.
13 256 Q. And when was the last time you
14 attended one of these meetings with respect to
15 child welfare?
16 A. It would be a couple years. I

17 can't be specific without going back in my
18 calendar.
19 257 Q. And that would be in your capacity
20 as a consultant for First Nation organizations?
21 A. Yes.
22 258 Q. And while you were working with
23 the respondent did you review service plans during
24 your tenure?
25 A. Yes.
00088
1 259 Q. I should correct that to service
2 delivery plans.
3 A. Yes. We often got, you know --
4 260 Q. Can you tell me in the last
5 10 years whether you're aware of INAC officials
6 reviewing service delivery plans?
7 A. I don't have personal knowledge of
8 that, other than I know that First Nation
9 organizations that I've been working with have
10 submitted their proposals and so on to Indian
11 Affairs, as well as to Ontario. And some of them
12 are under the impression, some of the First Nation
13 groups are under the impression that they must do
14 so.
15 261 Q. But you don't have any personal
16 knowledge of any INAC officials who have reviewed
17 these plans?
18 A. They were submitted, but I don't
19 have personal knowledge that somebody actually sat
20 down and reviewed them. I presume that they did.
21 262 Q. Did you personally submit them to
22 INAC?
23 A. No, not me personally, the
24 organizations that I work for.
25 263 Q. So you were told that they were
00089
1 submitted by these organizations?
2 A. Yes.
3 264 Q. So you personally have never
4 observed an INAC official review a service plan and
5 dictate a change to that service plan.
6 A. No.
7 265 Q. Have you ever been involved
8 through your work with the respondent in meetings
9 with children's aid societies?
10 A. Yes.
11 266 Q. And at those meetings did you
12 observe or participate in discussions where
13 officials of the respondent directed a children's
14 aid society to cease the provision of a child
15 welfare service?
16 A. No.
17 267 Q. In paragraph No. 15 of your
18 affidavit you reference quote unquote
19 involvement --
20 A. Mm-hmm.
21 268 Q. -- on the part of the
22 respondent -- of the respondent through
23 interactions with First Nations, First Nation
24 agencies, the Province of Ontario, provincial
25 agencies and others. What provincial agencies are
00090
1 you speaking of?

2 A. What provincial agencies am I
3 speaking of? District social assistance boards.
4 Federal officials have been at meetings that have
5 been attended by CAS officials in certain contexts,
6 especially at the developmental stage of First
7 Nation organizations.

8 269 Q. And did you personally participate
9 in these interactions?
10 A. I have.

11 270 Q. And when?
12 A. The one that comes to mind is
13 probably the mid-90s when we were negotiating --
14 well, when Six Nations was negotiating an
15 arrangement with the province. They had occasion
16 to meet with the Brant County CAS officials, the
17 province and the Feds.

18 271 Q. And would you have been working
19 with the respondent at that time --
20 A. No.

21 272 Q. -- or were you working as a
22 consultant?
23 A. As a consultant.

24 273 Q. And would these interactions
25 involve information gathering?
00091
1 A. Information sharing. Very little
2 gets gathered at a meeting.

3 274 Q. And was the primary purpose of
4 these meetings to keep abreast of child welfare
5 issues?
6 A. And developments, yes.

7 275 Q. And just to clarify your assertion
8 in that paragraph, I'm just wondering is your
9 assertion that interactions with the groups you
10 described in and of itself constitute control by
11 the respondent over the provision of child welfare
12 services to Indians ordinarily resident on reserve
13 in the Province of Ontario?
14 A. Can be, in this sense: The
15 respondent staff have made it clear what they
16 cost-share and what they don't at some of these
17 meetings, and that has affected the progress of
18 discussions with the funder of first -- or the
19 province.
20 So, for example, child welfare services
21 and prevention services are cost-shared. Youth
22 justice services, children's mental health services
23 and child and family intervention services are not
24 cost-shared. And so that has always generated a
25 problem for those negotiations. Because most of
00092
1 these agencies want to deliver the full gambit of
2 services under the Child and Family Services Act.
3 In fact, they've ended up being funded, except for
4 some exceptions, for the two services that are
5 cost-shared under the '65 agreement. The two
6 general services that are cost-shared under the '65
7 agreement.

8 276 Q. Where services are not cost-shared
9 they are provided by the province and the province
10 pays for the cost of the services, correct?
11 A. Correct. But not typically
12 funding to the First Nation agency that works on

13 reserve. They fund children's mental health
14 organizations. They fund agencies that provide
15 youth justice services and so on, or other
16 ministries of the province do, and it's expected
17 that First Nations people will access those
18 services as needed from those agencies off reserve.
19 So they will not authorize a First
20 Nation agency, even a designated one to provide
21 those services because they will not provide the
22 funding to do so, because the federal government
23 will not pay for those services. So there are
24 services that other Ontarians can expect, First
25 Nations can only expect through referral to

00093

1 off-reserve agencies, which typically means long
2 wait lists and so on, but that's another issue.

3 277 Q. The Province of Ontario still has
4 the authority to provide services on reserve even
5 where the respondent declines --

6 A. Correct.

7 278 Q. -- to provide reimbursement; is
8 that correct?

9 A. That's correct. And to be fair,
10 Ontario has provided money, for example, to
11 weechi-it-te-win in the area of children's mental
12 health, but that's not a typical thing that they
13 will do. It is on a case-by-case basis. It is not
14 a general thing that they do.

15 They've provided a very small amount of
16 money to Six Nations which does not have
17 designation to provide in the area of children's
18 mental health services, but that's atypical, not
19 typical.

20 279 Q. Turning to paragraph 16 of your
21 affidavit, did you participate in discussions
22 between the Province of Ontario and the respondent
23 with respect to whether the Directive 20-1 would be
24 utilized in the Province of Ontario?

25 A. I did.

00094

1 280 Q. And you did so in your capacity
2 with the respondent?

3 A. Yes. And subsequently outside of
4 my employment with the respondent.

5 281 Q. Okay. And to your knowledge, and
6 I think you stated this earlier, the 1965 welfare
7 Agreement has been in place continuously since the
8 date it was entered into; is that correct?

9 A. Yes.

10 282 Q. Now, also with respect to
11 paragraph 16 of your affidavit you've stated that:

12 "Funding below provincial
13 funding standards makes it
14 impossible for First Nation agencies
15 to meet provincial service
16 standards, as required by the
17 federal government."

18 A. Yes. I think that's another way
19 of saying you can't have it both ways. You can't
20 require First Nations to meet provincial standards
21 with funding that is below the provincial standard.

22 283 Q. Existing --

23 A. The province --

24 284 Q. Actually I'm just going to ask you
25 to what provincial funding standards are you

00095

1 referring?

2 A. The province decides what level of
3 funding is required in a given area to meet its
4 standards, and that's reflected in the funding
5 that's flowed to various organizations, whether
6 First Nation or not.

7 285 Q. Is there a particular standard
8 that you're referring to, or are you saying that on
9 a case-by-case basis the budgetary process takes
10 its course and --

11 A. There are formulas that have been
12 developed over the years which become more and more
13 sophisticated as the understanding of, you know,
14 how to translate service need into funding; the
15 understanding of that has become more
16 sophisticated.

17 In the area of child welfare in the
18 late 90s and certainly during this decade there has
19 been continued development of a refined funding
20 model for protection services. And that effort is
21 an attempt to match need for service with the
22 funding provided to deliver that service according
23 to the service delivery standards.

24 So the funding becomes a standard.
25 They're related to one another. And it isn't just

00096

1 a matter of negotiating an amount of money. It's a
2 matter of attempting to come up with a way of
3 translating service delivery standards in the
4 context of needs in a given area with the funding
5 required to meet those needs. And this is true in
6 child welfare, but it's also true in -- to a lesser
7 extent. They're not as well developed, but in the
8 area of welfare. Welfare services.

9 286 Q. In terms of child welfare, and I'm
10 just trying to get my head around the use of the
11 word "standard." The provincial -- these
12 provincial funding standards. And is there a
13 standard that's established for child welfare, a
14 funding standard established by the province?

15 A. Yes.

16 287 Q. And where is that standard?

17 A. That's in the formula.

18 288 Q. Within their -- okay. Within the
19 formula that budgets are subjected to.

20 A. Yes. And that has evolved, as I
21 say, so there's a closer and closer approximation
22 to the level of funding provided in relation to the
23 standards that have to be met. And I give you the
24 example of \$23.5 million that's just been voted.
25 If you like, there's still a gap between that

00097

1 funding formula and the level of service that has
2 to be delivered to meet the standards. It's \$23.5
3 million this year. And the Province of Ontario has
4 now voted that money so that CAS's can continue to
5 meet their obligations, to continue to meet service
6 standards, their obligation to meet those
7 standards.

8 289 Q. I'm wondering in this paragraph,

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- 9 paragraph 16, are you contending that less than
10 100 percent of funding for children's aid society
11 operations has flowed to child welfare service
12 providers pursuant to their provincially approved
13 budgets?
- 14 A. No. In Ontario?
15 290 Q. In Ontario, yes.
16 A. In Ontario, no. Well, it is less
17 than 100 percent. As far as the respondent is
18 concerned, it's a percentage of what is flowed by
19 the province.
20 No, I think to clarify the point here.
21 Directive 20-1 would generate -- I'm not sure what
22 the percentage would be. Some years ago I
23 calculated the percentage as about 50 percent of
24 what the province was providing to organizations
25 like Weechi-it-te-win, Tikinagan, Payukotayno and
00098 so on. So if you went by Directive 20-1 and you
1 funded in Ontario you would be funding way below
2 the provincial funding standard. The standard
3 they've established as the basis on which to meet
4 their service delivery standards.
5 291 Q. 20-1 was not implemented in
6 Ontario.
7 A. Correct.
8 292 Q. Okay. So with respect --
9 A. But an attempt was made to insist
10 that that be the level of funding that the federal
11 government would provide as opposed to the
12 93 percent of what was actually expended, and the
13 province rejected that.
14 293 Q. So there was no agreement between
15 the province and the respondent with respect to the
16 implementation of 20-1?
17 A. Not in this province.
18 294 Q. Not in Ontario.
19 A. No. But it was imposed in the
20 other provinces in various forms, where there is no
21 '65 agreement.
22 295 Q. Right.
23 A. So in the other provinces there is
24 insistence that the First Nation organizations meet
25 00099 the local provincial standards but at a rate of
1 funding well below what the province would provide
2 to its own agencies to meet those standards.
3 296 Q. Today we're dealing with Ontario.
4 A. I appreciate that. It did not get
5 imposed. The province rejected it. The province
6 said these organizations will be funded at the
7 standard that we've established in order to meet
8 our service delivery standards pursuant to the '65
9 agreement. And so --
10 297 Q. And pursuant to the 1965 agreement
11 children's aid societies receive funding at
12 100 percent of whatever their budget is, and --
13 A. Right.
14 298 Q. -- insofar as services are
15 provided to registered Indians ordinarily resident
16 on reserve, the respondent provides a reimbursement
17 to the Government of Ontario of what is
18 approximately 93 percent based on the formula,
19

20 correct? Yes?
21 A. Yes. Yes. But only for those
22 services that are cost-shared under the '65
23 agreement.
24 299 Q. Only for the services that are
25 eligible under the '65 agreement, yes.

00100
1 And do you know of any occurrence where
2 Canada -- sorry, the respondent has refused to
3 reimburse an eligible, an eligible cost under the
4 1965 agreement?
5 A. No, but I'm aware of circumstances
6 where the respondent has raised questions about the
7 validity of the bill submitted. That's from
8 personal experience as an employee of the
9 respondent.
10 300 Q. And that would be part and parcel
11 of an audit process --
12 A. Mm-hmm.
13 301 Q. -- these financial audits that you
14 talk about; is that correct?
15 A. Mm-hmm.
16 302 Q. And with respect to the validity,
17 the respondent would be looking at whether the
18 services were provided in fact --
19 A. Mm-hmm.
20 303 Q. -- and also -- you say yes?
21 A. whether the services were
22 provided, yes. And in some instances whether they
23 were provided at a level that was consistent with
24 service delivery off reserve.
25 304 Q. Also what would be examined would
00101
1 be whether the individuals claimed for the in-care
2 days were valid insofar as the persons being
3 claimed for actually fell under the agreement as
4 registered Indians ordinarily resident on reserve;
5 is that correct?
6 A. Mm-hmm. But more importantly --
7 and I'm not sure what the practice is today. CAS's
8 were always required to report the number of days
9 care provided to children with or eligible for
10 status normally resident on reserve. And what was
11 billed to Indian Affairs was the ratio of those
12 days care to the total of days care provided times
13 their care budget.
14 But in addition to that, they were
15 required to -- they were to claim the ratio of
16 service hours provided to Indians with that status
17 compared to the total of services hours provided.
18 And as an employee of the respondent I
19 did a review of all annual reports submitted by the
20 CAS's including the one-pager that laid out these
21 ratios. And I discovered that the ratio that many
22 of the agencies were applying to service hours was
23 the same as the ratio for care days, and that
24 didn't make any sense.
25 305 Q. Are you aware of whether that
00102
1 practice continues right now?
2 A. I'm not aware as to whether that
3 practice continues to this day, but that was
4 certainly I think would characterize the

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5 relationship with the respondent up until at least
6 the mid to late 90s.

7 So, you know, as a responsible person
8 within Indian Affairs I took it as a job to
9 determine whether or not that reporting was
10 effective. And that was against the backdrop of
11 two things. I wanted to make sure that the Queen's
12 purse was protected of course, but I also wanted to
13 make sure that the complaints that I received from
14 First Nations about the adequacy or inadequacy of
15 the services delivered by CAS's were reflected in
16 what was being reported by those CAS's to the
17 province at the end of each year, which formed the
18 basis for their billing for child welfare service
19 under the '65 agreement.

20 And I discovered that there was real
21 problems there. And that, indeed, CAS's could not
22 adequately report what level of services they were
23 providing. I went after the province about that,
24 based not so much on the fact that we might be
25 paying for things that we shouldn't be paying for,

00103

1 but that we weren't getting the level of service on
2 reserve that we would expect under the '65
3 agreement.

4 306 Q. And it would fall to the province
5 to pursue that.

6 A. Right.

7 307 Q. That wasn't INAC's responsibility
8 to pursue that or the --

9 A. Well, it was my responsibility as
10 the director to pursue that with the province, and
11 I did so.

12 308 Q. And once the information was
13 shared with the province it was the province's
14 responsibility as to whether they would take any
15 action under the Child and Family Services Act with
16 respect to that children's aid society; is that
17 correct?

18 A. That's correct.

19 MR. TAYLOR: I notice, if I may
20 interject, about five minutes ago in answer to a
21 series of questions Mr. Goff answered several times
22 "mm-hmm", "mm-hmm", which is fine, but maybe the
23 witness could confirm that "mm-hmm" means yes.

24 THE DEPONENT: Yes. Sorry, it does.
25 My apologies. I'm slipping back into conversation

00104

1 mode here.

2 MR. TAYLOR: That's fine. I'm just
3 interjecting, if I may, to clarify the record.

4 BY MR. BUMBURS:

5 309 Q. And with respect to paragraph 16,
6 the service standards to which you're referring I
7 take it that these are the Province of Ontario
8 service standards established for child welfare
9 services; is that correct?

10 A. Yes.

11 310 Q. I'm just going to -- I wonder if
12 we could just take a few minutes. I just wanted to
13 determine if I want to ask anymore questions.
14 That's the end of the ones that I had previously
15 written before I came into this room, but I just

16 want to, before we let you go, make sure that I
17 don't have anymore questions for you. Could we
18 have five minutes?
19 A. There was one thing I wanted to
20 mention, because you've asked me a series of
21 questions about the department's -- the
22 respondent's involvement with the quote unquote
23 delivery of service on reserve and so on. It's
24 clear in my own experience with the respondent and
25 subsequently, you know, it's been left to the
00105
1 province for the most part with due monitoring by
2 the respondent to ensure that the services that it
3 agreed to provide are provided.
4 But I did have occasion to be called
5 into Family Court at one time when I was the
6 director of social development. And the purpose of
7 my being there was to express the department's view
8 with respect to things like customary care. There
9 was a particular case where a child had been
10 apprehended and --
11 311 Q. I haven't asked you any questions
12 about that.
13 A. I know, but it does relate to the
14 fact that there are --
15 312 Q. I'd rather that --
16 A. I was involved in direct, in a
17 direct case. I was asked to be there by a judge.
18 And it was a case in which the CAS was not --
19 313 Q. That may be the case, but I
20 haven't asked you any questions about that, and
21 so --
22 A. Fair enough.
23 314 Q. -- I don't see it pertaining to
24 any questions.
25 A. I assumed the questions you were
00106
1 asking me would perhaps be elucidated -- my answers
2 would be elucidated by that example. That's the
3 level at which it goes or can go in terms of the
4 respondent's involvement in child welfare services.
5 MR. BUMBURS: Can we take five minutes?
6 --- Recess at 1:50 p.m.
7 --- On resuming at 2:15 p.m.
8 BY MR. BUMBURS:
9 315 Q. I just want to go back to
10 paragraph 14 of your affidavit wherein you stated:
11 "INAC officials provide advice
12 and direction with regard to service
13 delivery, service plans, budgeting,
14 and related items."
15 And in your testimony you stated that
16 although you didn't have firsthand knowledge, I
17 believe, of certain meetings where this advice was
18 provided, that you were informed that INAC
19 refused -- or not refused, but INAC advised First
20 Nation organizations that reimbursement wasn't a
21 possibility in certain cases.
22 A. Mm-hmm.
23 316 Q. And one of those cases was
24 children's health.
25 A. Mental health.
00107

- 1 317 Q. Children's mental health, sorry.
2 Yes, children's mental health. Is children's
3 mental health an item under the 1965 welfare
4 Agreement?
5 A. No. No.
6 318 Q. No, it's not. Okay. So is it
7 your assertion that INAC is exerting some sort of
8 control by advising First Nations that some items
9 are reimbursable to the province under the 1965
10 Welfare Agreement and some items aren't?
11 A. Mm-hmm.
12 319 Q. You're saying that that's an
13 exertion of control?
14 A. Yes. Because what you're
15 essentially doing is saying that the province will
16 deliver the services that we'll pay for, and we
17 won't pay for these. So there are certain services
18 that will not be funded on reserve, unless the
19 province decides to pay for those services.
20 320 Q. And services such as children's
21 mental health won't be paid, or -- well, won't be
22 reimbursed by the respondent because it's not a
23 term under the 1965 welfare Agreement.
24 A. It's not a program that is
25 specified as cost-shared under the welfare

00108

- 1 agreement.
2 321 Q. So there's no authority to provide
3 that reimbursement? At least not under the 1965
4 welfare --
5 A. It's exercising control because
6 the service won't be available on reserve through a
7 First Nation organization if it's not funded. And
8 if the province decides that it will -- it's not
9 going to be reimbursed so it won't provide, then it
10 doesn't get provided, other than through access to
11 that service from a non-native agency that may
12 exist a few hundred miles away off reserve.
13 322 Q. Children's mental health is not a
14 child welfare service as per the 1965 welfare
15 Agreement; is that correct?
16 A. It's not a child welfare service
17 in the narrow sense of protection.
18 You have to understand that the funding
19 category child welfare under the Child and Family
20 Services Act refers to the protection of children,
21 but there are other categories of service that the
22 province deems required by the citizens of its
23 province. And those are things like children's
24 mental health, youth justice services, child and
25 family intervention and so on. They're all funded

00109

- 1 under the Child and Family Services Act.
2 So the province deems those services
3 required and will provide funding to agencies to
4 provide those services, but not the First Nation
5 agencies that they've designated for child welfare
6 purposes, or for simply prevention services unless
7 the federal government will reimburse, which they
8 will not do under the existing terms of the 1965
9 agreement, which, by the way, was -- the statement
10 is that, in the '65 agreement:
11 That Ontario undertakes during the term

12 of this agreement to extend its programs on
13 reserve, it being understood that particular
14 programs shall be extended to such degree in such
15 areas of the province as may be prescribed from
16 time to time in Schedule "D" hereto.
17 So there was the intention to gradually
18 expand the range of provincially mandated services
19 that would be extended on reserve, but only as
20 amendments were made to the schedules to include
21 those. And that basically hasn't happened except
22 by accident.

23 323 Q. But it's your assertion that by
24 informing an organization, and I'm not conceding
25 that this actually happened, but this is what

00110
1 you've alleged, that by the respondent informing
2 the First Nation organizations --

3 A. Or reminding the province.

4 324 Q. -- that a service such as child
5 mental health doesn't fall under the '65 agreement
6 that that's some form of control --

7 A. Mm-hmm.

8 325 Q. -- over child welfare.

9 A. Well, it must be understood that
10 protection doesn't -- isn't alone the function that
11 is performed by children's aid societies.

12 when you apprehend a child there are
13 usually reasons for that, and those reasons are
14 reflective in other kinds of problems that must be
15 addressed and are addressed by children's aid
16 societies or related agencies. It isn't sufficient
17 to apprehend a child and place them in care.
18 There's often the necessity of providing children's
19 mental health service, child and family
20 intervention services, youth justice services in
21 order to resolve that protective situation.

22 And so the province in its wisdom makes
23 these services available to the population
24 generally, not just protection but a whole range of
25 services that relate to those.

00111
1 326 Q. In the circumstances you've
2 described in paragraph 14 of your affidavit you're
3 not stating that the respondent advises that it
4 will not cover or reimburse to the formula amount
5 for services that are in that 1965 welfare
6 Agreement. You're saying that they're advising
7 First Nations organizations --

8 A. That certain services aren't cost
9 shared.

10 327 Q. That certain services aren't cost
11 shared.

12 A. Correct.

13 328 Q. As per the agreement made between
14 Ontario --

15 A. Right.

16 329 Q. -- and the respondent.

17 A. Right. Mm-hmm.

18 330 Q. I think that's it.

19 A. Okay.

20 MR. BUMBURS: That's all the questions
21 that we have. Are there any other matters we need
22 to take care of?

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24 MR. SHERRY: I just have one question
25 for clarification purposes, if I may. There was a
00112 name mentioned, stop me if you have any problem.
1 There was a meeting referred to earlier on that you
2 mentioned a person. I think her name was Maria
3 Ansoar, and I don't think you identified who she
4 was or who she worked for.
5 THE DEPONENT: She worked for Phil.
6 MR. DIGBY: Maria Ansoar, A-N-S-O-A-R.
7 She's a senior government relations officer in
8 Indian Affairs, Ontario Region.
9 MR. SHERRY: Okay. Thank you. That's
10 all I have.
11 MR. TAYLOR: And has been for several
12 years.
13 MR. DIGBY: For many years.
14 MR. BUMBURS: Okay.
15 MR. SHERRY: That's it.
16 MR. DIGBY: I should make it clear that
17 her work relates to Akwesasne First Nation which
18 includes services in Quebec and Ontario.
19 MR. BUMBURS: That's the kind of
20 discussion we can have off the record. I think
21 that concludes the cross-examination. Thank you
22 very much.
23 --whereupon the proceedings adjourned at 2:23 p.m.
24
25

00113

1 REPORTER'S CERTIFICATE

2 I, CONNIE A. HOLTON, CSR, Certified
3 Shorthand Reporter, certify;
4 That the foregoing proceedings were
5 taken before me at the time and place therein set
6 forth, at which time the witness was put under oath
7 by me;
8 That the testimony of the witness and
9 all objections made at the time of the examination
10 were recorded stenographically by me and were
11 thereafter transcribed;
12 That the foregoing is a true and
13 correct transcript of my shorthand notes so taken.
14

15 Dated this 2nd day of March, 2010.
16
17
18
19

20 -----
21 Per: Connie A. Holton, CSR
22 Neeson & Associates
23 Court Reporting and Captioning Inc.
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25