

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

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

Complainants

-and-

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

ATTORNEY GENERAL OF CANADA
(representing the Minister of Indigenous and Northern Affairs Canada)

Respondent

-and-

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA, NISHNAWBE-ASKI
NATION and INNU NATION

Interested Parties

AFFIDAVIT OF GERMAINE BENUEN

**Submitted by Innu Nation, October 30, 2020
in support of the motion filed by the Caring Society on August 7, 2020**

I, Germaine Benuen, of the Town of Happy Valley-Goose Bay, in the Province of
Newfoundland and Labrador, **MAKE OATH AND SAY:**

1. I am a member of Innu Nation and the Executive Director of the Innu Round Table Secretariat (“IRT Secretariat”) and as such I have knowledge of the information contained in this affidavit.

The Labrador Innu

2. In order to understand the special challenges and historic disadvantages that have contributed to the Innu of Labrador's pressing need for access to "actual cost" prevention services funding, it is important to have a high-level understanding of our people.
3. The Labrador Innu are the only First Nations people in Labrador, and we have a unique history and culture. Innu-aimun is proudly spoken in both our communities. It is my first language, and still the first language of many Innu.
4. Some people who are not familiar with us may confuse Innu with Inuit. We are not Inuit. Innu are First Nations people. The Inuit are a separate people in Labrador, represented by the Nunatsiavut Government.
5. The Innu Nation is a political body representing both Innu communities in Labrador – Sheshatshiu and Natuashish – and includes a Grand Chief, Deputy Grand Chief and Board of Directors, all of whom are elected directly from Innu Nation membership. There are two First Nations within Innu Nation, Sheshatshiu Innu First Nation and Mushuau Innu First Nation. Each First Nation has a Chief and Council, elected from within the membership of their specific First Nation. There are approximately 3,000 Innu people, mostly living in the reserve communities of Sheshatshiu and Natuashish, and a few living off reserve.
6. There are also Innu in Quebec, who we are connected with culturally, and interact with, but they have separate forms of political organization from us and a different history within the Province of Quebec.
7. In 1949, the Dominion of Newfoundland, now the Province of Newfoundland and Labrador, joined Canada. At that time, our people, the Labrador Innu, were living on our

territory, which we call Nitassinan, travelling widely throughout our territory and spending most of the year in the country which we call Nutshimit away from village life, and coming together seasonally to pitch our tents together in the village sites of Sheshatshiu and what is sometimes called Old Davis Inlet. We are a hunting people, and the caribou is central to our way of life. We lived in relationship with the land and with each other, as we had always done.

8. At that time we were mainly healthy, and our children mainly grew up with safety and love within their own families. Extended families lived together and relied closely on each other. Innu had some exposure to Catholic missionaries prior to that time and interacted with trading posts, but we still remained very independent, and our lives were still very much based on the land. We did not have permanent houses. Any family challenges were addressed within the extended family and through Innu decision making.
9. Shortly after Confederation, we were induced by the priests and government representatives to settle into hastily constructed communities in Sheshatshiu and Utshimassits (Davis Inlet). These communities lacked infrastructure, and outside control began to be heavily imposed on us. Further to bilateral federal funding agreements between Canada and the Province (which we were not part of), schools and homes were built in the 1960s in our communities and education began to be provided by a Catholic school board under the provincial system. That education system taught us religious and cultural assimilation and also engaged in rampant child abuse, including physical, emotional, cultural, and sexual abuse. We have often faced racism by our neighbours in the Happy Valley-Goose Bay area and elsewhere. Many Innu ended up living in extreme poverty, with settlement having disrupted our system of hunting, without providing meaningful

access to wage employment; even the provincial Income Support program was largely inaccessible due to language and cultural barriers. Innu in Davis Inlet (now living in Natuashish) lived in unbelievably poor conditions, in houses without water, sewer or insulation and in a location that did not provide a clean water supply or reliable access to hunting grounds.

10. When Newfoundland joined Canada, no special provisions for the Indigenous people of Newfoundland and Labrador were included in the Terms of Union. The federal government did not treat us as “Indians” even though we are First Nations people. The Innu therefore did not have access to the same level of funding or services as even the very limited amount of federal funding and services provided to other First Nations recognized as “bands” under the *Indian Act*.
11. The disparities and inequities faced by the Innu following Confederation have caused deep-seated social challenges for the Innu. These inequities, and the challenges they have created, have persisted and have been documented in two reports from the Canadian Human Rights Commission: the 1993 McRae Report, attached as Exhibit “A” and the 2002 McRae and Backhouse Report, attached as Exhibit “B”. A third report is underway.
12. In the 1970s, Innu Nation filed our land claim. Comprehensive land claim and self-government negotiations remain underway, led by Innu Nation. We reached an agreement in principle in 2011 and work continues towards an Innu modern treaty.
13. In the 1990s, the Mushuau Innu chose to relocate from Davis Inlet to the community of Natuashish. Relocation occurred around 2002, and around that same time, both of our

Labrador Innu First Nations became formally recognized as “bands” and pursued an *Indian Act* registration process and reserve creation process.

14. There are two take-away points from this brief history that are particularly important for this motion. One is that for many years we were denied even the same level of services that other First Nations had, and the main reason we chose to come under the *Indian Act*, despite its many flaws, was to be able to access federal funding for basic services that we could not otherwise access. We still plan and hope, through our modern land claim and self-government process, to exit back out of the *Indian Act* before too long. But in the meantime, our people were suffering without access to appropriate services – even the services that other First Nations had access to. Accessing services on a fair and equitable basis has been a longstanding gap and priority for us, as you can see from the Canadian Human Rights Commission’s prior reports.
15. The other key take-away is to understand that the settlement and colonization of my people was recent and brutal, and has had a significant negative impact on our well-being. The challenges caused by the upending of our way of life since Confederation, and in my own lifetime, have caused high levels of substance misuse, poverty, mental distress, increased crime rates and, most relevant for this proceeding, high levels of apprehension and other child and family services involvement stemming from all these issues. There are now about 165 Innu children and youth in care, representing roughly about a tenth of our child and youth population.

Child and Family Services Received by the Innu

Protection Services

16. The Province of Newfoundland and Labrador delivers child protection services to the Innu, under its own provincial system and rules, and with provincial staff. It does so further to federal funding under a bilateral agreement between the Province and the Government of Canada. Provincial child protection started to be applied in our Innu communities in 1978 and continues to this day.
17. The structure of the provincial system has changed over the years. For a number of years, child protection has been delivered directly through a provincial government department. It is currently delivered through the Department of Children, Seniors and Social Development (“CSSD”).
18. There is no “agency” structure in the provincial system. The provincial legislation in Newfoundland & Labrador did not have an agency or delegation option until it recently passed new legislation that came into force at the end of June 2019.
19. Given that timing, and given our self-government negotiations, it is has never been to my knowledge the intention of the Innu to deliver provincial child protection under the provincial rules and provincial system. Our intention was, for many years, to take on child protection through our self-government agreement. Once the *Act respecting First Nations, Inuit and Métis children, youth and families*, SC 2019, c 24 was passed by Canada in June 2019, we evaluated that option and it became the intention of Innu leaders to use that opportunity to exercise our own jurisdiction without further delay. They announced that intention in early February 2020. We are now working on plans for our own law. I am

involved in that work. As you can imagine, it is significant work. We do not yet have an expected date for completion of the Innu law, let alone completion of related negotiations, or the timing of implementation.

20. The provincial system of child protection remains imposed on us for the time being, and it continues to be delivered provincially.
21. Innu have nevertheless pushed to have a voice in the provincial child protection system and have pushed to change it. I will not go into those efforts in detail. I note briefly that:
 - a. We created a Working Relationship Agreement with provincial child protection in 2015, and are now working to update that agreement with a new version.
 - b. The provincial government's new child protection legislation that came into force in 2019 includes a new role for Indigenous Representatives to have a voice on behalf of their community. We immediately established Indigenous Representatives. To date, we have not been able to secure any direct federal funding from Indigenous Services Canada for that service, but we have so far funded this work through Jordan's Principle.
 - c. Despite such efforts, we continue to find the Province's child protection services to be culturally inappropriate and often damaging to the Innu. Removal of children and youth occurs far too often, too many provincial social workers fail to build relationships with us or work respectfully in our communities, there are many counterproductive policy barriers to placements within Innu extended families and communities, and many Innu children and youth have experienced trauma and loss of identity, culture, language and loving relationships due to being placed far away. Over the years, several Innu youth and young adults who experienced large amounts of time in non-Innu placements away from their community have committed suicide. This year, Wally Rich, an Innu youth, committed suicide in a non-Innu group home in Happy Valley-Goose Bay. We have lived through too many of these losses. The Innu have called for an inquiry into our treatment in the

child protection system, which we say has failed us tremendously. That inquiry has not yet been launched.

22. But in addition to pushing against and within the provincial child protection system, and in addition to our longer-term plans to create our own child and family services law, we have also pushed to develop and deliver our own prevention services. Given the subject matter of this motion, I will now focus on prevention.

Prevention Services

23. It is important to understand that the Province does **not** deliver prevention services as part of its child protection system. Its position is that prevention is outside of its mandate.
24. When I say “prevention”, I am inclusive of what this Panel has called prevention and least disruptive measures. I mean supports to families involved with the child protection system, or at risk of such involvement. This could be support to the parents, or direct support to children or youth themselves when appropriate, or at times to alternative caregivers. The purpose is to try to reduce risk to the child or youth, try to keep more children and youth safely at home, and if not possible to stay at home to try to keep them within their Innu community and promote their wellbeing, and generally to try to reduce the level of protective intervention that is needed by the provincial system.
25. For decades, the federal government continued to fund a provincial child and family services system that did not provide any prevention services to Innu children, youth and families. Nor, prior to mid-year 2016-2017, did Canada fund the Innu to deliver such services. No one delivered those services.

26. For many years, Innu leaders and staff called for prevention services funding to support such services. While there are some general health and healing programs in our communities, it is important to have supports directed specifically within the child welfare context. Without those services, the number of Innu children and youth in care rose and rose and rose. Yet our children, youth and families were left entirely without prevention services up until 2017.
27. To explain the next steps in which we have begun to provide prevention services, I now need to introduce my organization, the Innu Round Table Secretariat.
28. In the years since our First Nations were finally recognized by the federal government as “bands” at the turn of this century, the Innu have maintained a tripartite process to try to advance our programs and services at an operational level and to promote devolution, funding improvements, other forms of capacity building, and Innu control outside of (and before completion of) the formal self-government agreement process.
29. In the early years, this tripartite process centered on the devolution of education, and federal funding towards health and healing generally (known as the Labrador Innu Comprehensive Healing Strategy). In 2009-2012, the Innu moved to reorganize the tripartite process into one that is Innu-led. This became known as the Innu Round Table.
30. My organization, the Innu Round Table Secretariat (IRT Secretariat) was incorporated in 2014. IRT Secretariat is an Innu corporation focused on providing Innu services and building capacity in Innu services. I am its Executive Director.
31. The chair of our Board of Directors is, by virtue of office, the Deputy Grand Chief of Innu Nation. The other Board members are the Chiefs of both Innu First Nations (Sheshatshiu

Innu First Nation and Mushuau Innu First Nation), again by virtue of their office, and two additional representatives, one appointed from each First Nation.

32. One role of the IRT Secretariat is to act as the coordinating arm of the Innu Round Table tripartite process with the Government of Canada and the Province of Newfoundland and Labrador. Tripartite meetings generally occur three times per year.
33. In addition to that role, we also support the First Nations in advocating for funding and we provide them with various other supports to build up programs and services for the benefit of Innu people. The way any particular service will be delivered depends on the direction provided by the First Nations. Some services are delivered by each First Nation separately, and sometimes they do so differently. For certain services, the First Nations have asked our organization, IRT Secretariat, to take on direct joint delivery to both Innu communities.
34. One example of this direct delivery is Income Support (what Canada calls Income Assistance). As of 2016, at the First Nations' direction, and following a long devolution process, IRT Secretariat took on delivery of Income Support to both communities. This program had been previously delivered by the province. Results have significantly improved under Innu delivery through IRT Secretariat.
35. Another major example of this is prevention services, within the area of child and family services. The IRT Secretariat has been actively trying to build Innu-led service delivery in prevention services from its inception.
36. At the earliest days of our organization's formation, we took up the call for Canada to provide prevention services funding. We sought funding for prevention services under Canada's Enhanced Prevention Focused Approach in 2013-2014 and in 2014-2015; these

funding requests were denied. During those years, we were informed that federal prevention funding was frozen pending the outcome of this *Caring Society* case.

37. Yet through this period, prior to 2017, we eventually obtained minimal capacity development funding from ISC, plus support from the Province for one employee, which allowed us to do preparatory work. We were not able to deliver prevention directly to families in that time but we worked with partner organizations, students and others to stretch our dollars, plan and prepare as much as we could, and continue advocating for service delivery funding. We worked with the Child Welfare League of Canada to help us assess prevention needs and make operational recommendations; their 2016 report is attached to this affidavit as Exhibit “C”. We also worked internally with Innu who are the most knowledgeable about child, youth and family work to articulate some of the key Innu principles we know we need to apply; we published this in 2017 as the *Guide to the Innu Care Approach*. This set a practice framework for our services. This Guide is included later as part of Exhibit “G”.
38. This Panel’s decision in 2016 CHRT 2 on the merits was released on January 26, 2016. Later that summer, we were informed that we would start receiving a specified amount of prevention funding. After putting together a proposal to align with the amount indicated and hiring our first prevention staff, we were able to start providing initial prevention services to Innu families in 2017. This was an important positive development.
39. While some prevention funding is going to each First Nation to fill gaps in primary prevention activities (gaps in mental health counselling, for example), most of the prevention funding is going to IRT Secretariat to support work directly with children, youth and families involved with child protection services.

40. Our program is only 3 years old, and is at a stage of growth and development. To date, we have still only been able to serve a portion of the families on the provincial protection caseload. Many child protection clients remain unserved from a prevention standpoint, not to mention other families at risk. Part of the reason for that is due to the natural need for our program growth to take time. But we have also been restricted by inadequate funding, and a lack of certainty in that funding and its growth potential.
41. This brings to me a more detailed discussion of the issues at the heart of this motion, involving how federal prevention funding has applied to us.

2-Tier Funding for Prevention

42. It is our experience that since the Tribunal's ruling in 2018 CHRT 4, Canada has had two tiers of funding for prevention services. One tier is needs-based and driven by the "actual costs" orders outlined in that ruling, and the other is not.
43. The funding pot available for Innu prevention services, the lower tier, is fixed and limited. For example, IRT Secretariat was told what amount it would receive initially in 2016-17, and received a similar amount in subsequent years up until this year (more on this year is described below). Our requests for additional funding have been met with responses about how much is left in the pot for Atlantic Canada. I am told the funding pot is called the Community Well-Being and Jurisdiction Initiative.
44. For example, in the winter and spring of 2019, we made requests to Indigenous Services Canada for funding of the new Indigenous Representative program. As mentioned above, this is a service under new legislation in our province, and the legislation was set to come into effect in June of 2019. We wanted to be prepared to deliver that services. We were

informed verbally by Indigenous Services Canada that any funding we applied to the new Indigenous Representatives program would come out of our available prevention funding for 2019-20. The pot was limited.

45. Given that we needed all available dollars for prevention, this was not an acceptable solution for us. We applied to Jordan's Principle to cover the Indigenous Representatives program costs.
46. In contrast, based on 2018 CHRT 4, our understanding is that the funding available for organizations recognized by Canada as First Nation Child and Family Services Agencies ("FNCFS Agencies") is not fixed – instead, the federally recognized FNCFS Agencies are funded at "actual cost" for the provision of prevention services. I imagine that there could still be disputes or clarifications back and forth, but the prevailing principle, backed up by a legal ruling, is that funding is based on *need*. It is not capped at an arbitrary amount.
47. There is a separate process for actual costs funding applications. As detailed below, we attempted to access that process but access was denied to us.

Our Attempts to Gain Access to "Actual Cost" Funding Through Practical Discussions

48. By early 2019, we had a growing awareness that our prevention pot was limited while those of other First Nations and their agencies was not. We also had the experience at that time of trying to access Indigenous Representatives funding in early 2019 and finding that it would come out of our prevention dollars. This situation seemed unfair and not equitable to us. We therefore decided to look at how to access the actual costs process, to obtain better prevention services for our children, youth and families on the basis of their needs.

49. To be clear, our intention right now is to provide prevention services only, while working longer term towards creating and implementing our Innu child welfare law.
50. To understand our decision to focus on prevention for now, it important to bear in mind the structural context in our Province, and for Innu specifically, that I outlined above. The Province does not provide prevention services, only protection services. Until 2017, we had no access to prevention services. Given the short period in which we have been developing prevention services, and also given the opportunity now available to move towards an Innu law in child and family services (which we are taking up), in our view it would not make sense or be worthwhile to try to take over provincial *protection* even if the Province was supportive of that (and we have no such indication from the Province). The option of trying to become a provincial “agency” *for protection* was not even legally possible in this Province until 2019. To approach protection as well would be an enormous undertaking for us given the large number of Innu children in care, and by the time it was arranged under provincial law we would most likely be replacing it anyways with our own system under our own law. So we concluded that taking on protection at this moment is not a feasible, realistic or effective option. We maintain our focus on prevention.
51. Our initial inquiries with Indigenous Services Canada in early 2019 on this two-tiered system and actual costs funding were met with the indication that to access actual costs funding, we had to become an “agency”. So, being practically minded, we pursued that.
52. In the spring of 2019 we approached the Province of Newfoundland & Labrador about becoming an agency specifically for prevention services. Their response was that they welcomed our prevention work, but had no formal role in authorizing or approving of that work, as an “agency” or otherwise. It is outside of their legislation.

53. The Innu First Nations therefore went forward and passed Band Council Resolutions designating the IRT Secretariat as their agency for prevention services. The IRT Secretariat's Board of Directors passed a resolution accepting that designation and outlining the basis of Innu prevention services. These 3 resolutions, dating from June-July 2019, are attached as Exhibit "D".
54. These resolutions form the basis of our role as the Innu prevention services agency. Our role as a prevention services agency is, to my knowledge, consistent with all applicable laws. It also complements the child protection system that the Province of Newfoundland & Labrador has chosen to create – a system which is dedicated to protection and that does not legislatively cover prevention services or provide them in practice.
55. We asked the Province for a letter or other document confirming their support of our agency. They preferred to discuss the matter with the Government of Canada to inquire what formality the federal government expected, and to see if they could provide it.
56. On October 8, 2019, my colleague Lyla Andrew emailed Annie Randell of Indigenous Services Canada, providing the resolutions designating us as an agency, and requesting that needs-based prevention funding be added to the agenda for the upcoming Innu Round Table trilateral meeting. A copy of Ms. Andrew's email (excluding attachments) is attached as Exhibit "E".
57. At the Innu Round Table trilateral meeting in October 2019 and then in several follow-up trilateral teleconferences as well as two further IRT trilateral meetings in late January 2020 and early June 2020, we discussed with Canada our need for "actual cost" prevention services funding. The Province also participated in these meetings and calls. I am informed

that Innu leaders also raised the issue bilaterally directly with the Hon. Marc Miller, Minister of Indigenous Services, in a meeting at his office on February 6th, 2020.

58. During this period, we tried to find a way for Innu to access needs-based prevention services funding at actual cost, but without success.
59. Indigenous Services Canada took the position that IRT Secretariat is not eligible for actual costs prevention funding. It told us that to be eligible for actual cost prevention funding on the basis of need, an “agency” must be the recipient of those funds, and that agency must:
 - (a) be delegated by the Province, and
 - (b) provide protection as well as prevention services.
60. As outlined above, the IRT Secretariat delivers only prevention services and is not delegated by the Province.
61. IRT Secretariat has consistently explained to Canada it *cannot* be a provincially delegated prevention services agency, because the Province does not provide or regulate provision of prevention services. The Province confirmed to ISC directly its inability to designate, approve, delegate etc. any agency for prevention purposes, and did so on more than one occasion. The Province has informed us and Canada that its position is that because it has no legislative mandate or authority to provide or regulate prevention services, it also cannot delegate, designate or approve etc. an agency for prevention services.
62. This means, as we have explained to Canada on many occasions, that in Newfoundland and Labrador it is impossible to be a “provincially delegated” prevention services agency.

63. The Province has expressed informal support for IRT Secretariat providing prevention services to the Innu. Canada is aware of that support, and has heard it expressed, and as mentioned is aware of the Province's position as to delegation.
64. With respect to Canada's requirement that eligible FNCFS Agencies must provide both prevention and protection services, we cannot see the logic of this position. The IRT Secretariat is still in the capacity-building stage for provision of child welfare services, and we believe that our resources can be best directed to provision of prevention services at this time, rather than stretching our limited staff and resources to try to take over protection services from the Province. Moreover, as explained above, trying to take over protection in the limited period between now and our intended implementation of an Innu law does not make sense to us.
65. Most simply put, we cannot understand why our access to funding for prevention services should be limited by the fact that another entity provides protection services.
66. Put another way, why should Innu children, youth and families receive restricted prevention services, merely because of the fact that in this Province, protection and prevention are split between providers? The main reason for that split in delivery is because of the legacy of choices that others have made beyond our control: the choices the Province has made in focusing purely on protection, and choices that Canada has made in failing to financially support any Innu prevention services until 2017. Why should any of those reasons mean that Innu children, youth and families get limited prevention services, rather than prevention on the basis of their needs?

67. I cannot see any logic to these formalistic restrictions that serves the best interests of children and youth.
68. IRT Secretariat has indicated to Canada that these two conditions are not found in the Tribunal's decisions and we do not agree with them. We indicated that Innu families should have just as much right to prevention services as anyone else. We pointed out that Canada is not imposing barriers to its continued reimbursement of the Province of Newfoundland and Labrador for the full unlimited cost of every Innu child or youth put into care, i.e. unlimited maintenance funding is still being applied to us, while prevention is limited in contrast. We attempted to find creative solutions to work within or around Canada's stated policy barriers but did not succeed in doing so.

CHRC Complaint

69. In June 2020, Innu Nation filed a human rights complaint with the Canadian Human Rights Commission. The complaint covers Innu exclusion from needs-based prevention services funding, i.e. the issue now also covered in this motion. In addition, the complaint addresses a second issue, Innu exclusion from "band representative"-type funding, despite an expansion of provincial law to include this type of service, as mentioned above. A copy of Innu Nation's human rights complaint is attached as Exhibit "F". The complaint has been numbered by the Commission as CHRC – 20200734.
70. The complaint is at an early stage. At this time, the Commission is waiting to hear from Canada as to whether it will agree to pursue mediation.

Our Attempts to Gain Access to “Actual Cost” Funding By Applying For It

71. At the same time, IRT Secretariat decided that we would attempt to access prevention services funding at actual cost on the basis of need by submitting a funding application through the actual costs system, and availing ourselves of ISC’s appeal process if necessary.
72. On June 23, 2020 we submitted an application for the 2020-2021 period for “actual cost” funding. To protect salary information and other financial specifics that could be sensitive, I have chosen to redact the financial information in our proposal and related exchanges attached below. A redacted copy of our funding application is attached at Exhibit “G”. I have provided some comparative information below about the financial numbers to help provide context.
73. For context, this funding application was for about 2.3 times the annual prevention costs that ISC had provided to Innu for prevention in each of the previous three years. It would still represent only a fifth of what the province received in the previous year for protection services provided to the Innu communities, including maintenance of Innu children and youth in care and provincial operations.
74. ISC denied our funding application for “actual cost” funding, as it did not consider IRT Secretariat eligible. A redacted copy of the refusal email dated July 17, 2020 is attached at Exhibit “H”. It said that such funding is only available to “delegated First Nations agencies”. Apparently IRT Secretariat’s delegation by our own First Nations is not sufficient.

75. IRT Secretariat then filed an internal ISC appeal on August 10th, 2020. A redacted copy of the appeal materials submitted to ISC, excluding duplicates of Exhibits “G” and “H” above, are attached as Exhibit “I”. On August 25th, 2020 our internal appeal was similarly rejected. A redacted copy of ISC’s rejection of the appeal is attached as Exhibit “J.” ISC’s Interim Board of Appeals said that IRT Secretariat “is not an eligible recipient for agency funding as per the Terms and Conditions of the FNCFS Program and is not eligible for funding through the actuals process as ordered by the CHRT in 2018 CHRT 4, given that the Innu Roundtable Secretariat does not qualify as an agency.”

Where Does that Leave Us

76. ISC’s position means that no one is eligible for actual costs funding to provide prevention services to the people of Innu Nation.

77. The Province has no mandate to provide such services, and does not provide them. We do provide these services, having done so since 2017. We were also formally delegated by our member First Nations as a prevention services agency. But ISC says we are not eligible for actual costs funding to support our prevention services on the basis of Innu needs.

78. The good news is that, following our human rights complaint and our appeal outlined above, ISC came forward and offered additional funds for the 2020-2021 period. Having confirmed details recently through September-October 2020, we are now satisfied that the funding ISC came up with from various sources will cover our needs for this fiscal year.

79. This was a relief. It will make a positive difference for Innu children, youth and families. It was good to see this progress at a practical level.

80. But while the supplemental funding this year is welcome, it still leaves us at a disadvantage.

81. For one thing, we remain in a position where our funding is at Canada's discretion and subject to arbitrary limits imposed by Canada. We have no security that our prevention funding next year or in future years will match the actual needs here on the ground. This makes hiring the staff we need and building up our prevention services programming to reach more families very challenging. We do not have reliability or predictability.
82. We have a question in our minds about how much pressure we would have to bring to bear in order to try to get prevention funding that matches our needs. This year, we brought a human rights complaint and an appeal. Those kinds of steps are new to my organization and uncommon for Innu generally. They are major initiatives that take time, attention and resources from our day to day work. Were those high profile steps the reason why ISC came forward with additional funding for us this year? Whatever they say, I will have that question in my mind. I do not feel that relying on those kinds of measures is something we can or should have to sustain.
83. Additionally, we remain at a disadvantage compared to those First Nations that have agencies Canada accepts as eligible "FNCFS Agencies". This feels unfair to us. It does not feel right to us that some First Nations children, youth and families have access to prevention services on the basis of their needs, but ours don't. The reasons Canada has pointed to about this do not feel to us as a legitimate basis for this distinction.
84. Finally, while Canada has denied us "actual costs" on prevention, it continues to this day to reimburse the Province at "actual costs" for so-called maintenance when the Province takes Innu children and youth away from their homes and puts them into care. That imbalance is wrong. It fuels removals from home that could be prevented. I see first hand many Innu parents, children, youth who bear the impact of that kind of tragedy. It feels to

us as though this Tribunal has already made a point about this imbalance in the funding many times before, and its impacts, and yet here we are, because it is still happening to us.

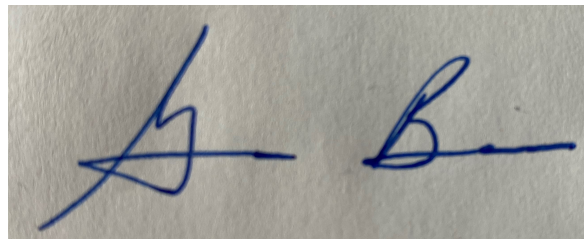
85. About half of the Innu children and youth in care are not placed within our Innu communities. Each one is a missing piece of their community and a missed opportunity to keep a family intact and to keep our next generation connected with our culture. Each one is deprived of the Innu community, culture and language that would help keep them thriving and connected to who they are. Many feel lost. For some, that loss they feel on the inside becomes like a fatal illness.

86. As Grand Chief Etienne Rich said in his affidavit submitted on Innu Nation's motion for standing in this proceeding, prevention funding is a life and death matter for us. It involves great suffering for Innu people. It is of immense importance to the Innu. Far too many Innu children and youth have not had a fair opportunity to grow up at home, with their families, in their communities, surrounded by love, learning their culture and language. To try to give them this opportunity, we require fair access to prevention services on the basis of need.

SWORN OR AFFIRMED in Happy Valley
Goose Bay, Newfoundland & Labrador,
before me, a Commissioner located in
Toronto, Ontario, through the use of audio-
visual technology in accordance with the
Temporary Alternate Witnessing of
Documents Act, this 30th day of October,
2020.



A Commissioner, etc.



Germaine Benuen

Exhibit A - Canadian Human Rights Commission, 1993 McRae Report

Exhibit B – Canadian Human Rights Commission, 2002 McRae and Backhouse Report

Exhibit C – Child Welfare League of Canada report prepared for IRT Secretariat, 2016

Exhibit D – Three resolutions establishing IRT Secretariat as the Innu Prevention Services agency, 2019

Exhibit E – Email from Lyla Andrew, IRT Secretariat to ISC, October 8, 2019

Exhibit F – Complaint filed on June 29, 2020 by Innu Nation to the Canadian Human Rights Commission, now numbered as CHRC – 20200734

Exhibit G – Redacted copy of IRT Secretariat’s 2020-21 prevention services funding proposal, including a copy of the *Guide to the Innu Care Approach*

Exhibit H – Redacted copy of ISC’s email July 17, 2020, refusing to consider the funding proposal through the actual costs stream

Exhibit I – Redacted copy of appeal by IRT Secretariat to ISC headquarters on the funding decision of July 17, 2020, submitted by email on August 10, 2020; excludes duplicate material

Exhibit J – Redacted copy of ISC headquarters’ denial of the appeal, August 25, 2020