

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 and
AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION**

Interested Parties

AFFIDAVIT OF GRAND CHIEF JOEL ABRAM

In respect of the Motion of the First Nations Child and Family Caring Society filed August 7, 2020

I, Grand Chief Joel Abram, of Oneida Nation of the Thames, in the Province of Ontario, DO HEREBY SOLEMNLY AFFIRM

1. I am the Grand Chief of the Association of Iroquois and Allied Indians, and am the Social Services Portfolio holder for the Chiefs of Ontario. As such, I have knowledge of the matters contained in this affidavit.
2. I make this affidavit to provide the Ontario context to the motion brought by the First Nations Child and Family Caring Society regarding funding for First Nations not served by agencies.
3. I base the statements in this affidavit on direct knowledge, and where I do not have direct knowledge, I affirm the statements on the information and belief, and state the source of information.
4. In Ontario, the *Child Youth and Family Services At S.O. 2017, c. 14, Sched. 1 ("CYFSA")* and the regulations and policies under the CYFSA sets out the process by which a First Nation or group of First Nations can designate a First Nations Child and Family Service Agency (called a Child and Family Service Authority in the CYFSA) can deliver prevention and/or protection services to the First Nation.
5. After that, the government of Ontario and the First Nations Child and Family Service Agency may and enter into a process where they will eventually become "Designated" or "Mandated" to provide all services provided for under the CYFSA (those terms are used interchangeably).
6. When a First Nations Child and Family Service Agency is Pre-Mandated, it may provide some services, such as prevention services, and will work in collaboration with the local "mainstream" (i.e., non-Indigenous) Children's Aid Societies to provide protection and other services.
7. Since the evidence was introduced in the hearing of this matter, there have been some changes as to which First Nations Child and Family Service Agency in Ontario provide which services. Below, I provide a list of First Nations Child and Family Service Agencies, whether they are Pre-Mandated or Mandated, and the number of First Nations they serve:

| | | |
|--|-----------------|----------|
| Akwasasne Child & Family Services | Mandated | 1 |
| Anishinabe Abinoojii Family Services | Mandated | 12 |
| Dilico Anishinabek Family Care | Mandated | 13 |
| Dnaagdawenmag Binoojiiyag Child & Family Services | Mandated | 10 |
| Kina G'bezhgomi Child & Family Services | Mandated | 7 |
| Kunuwanimano Child & Family Services | Mandated | 12 |
| Mnaasged Child & Family Services | Pre-Mandated | 7 |
| Niijaansinaanik Child & Family Services | Pre-Mandated | 7 |
| Nog-da-win-da-min Family & Community Services | Mandated | 6 |
| Ogwadani: deo Six Nations of the Grand | Mandated | 1 |
| Payukotayno James & Hudson Bay Family Services | Mandated | 5 |
| Tikinagan Child & Family Services | Mandated | 29 |

| | | |
|--|----------|------------|
| Weechi-it-te-win Family Services Inc. | Mandated | 10 |
| Unaffiliated with any not affiliated with any First Nations Child and Family Well Being Agency (includes MoCreebec) | | 13 |
| TOTAL | | 134 |

8. I am informed by Debbie Lipscombe and believe that In some instances, like with Anishinaabe Abinooji, a mandated child and family well being agency may have arrangements where a First Nation delivers prevention or protection services. This is the case, for instance, with the Wabaseemoong Child Welfare Authority.
9. There are 13 First Nations, including Mocreebec Council of the Cree (not a First Nation with status as a Band under the *Indian Act*) who have not designated any First Nations Child and Family Service Agency to provide them with child and family services.
10. Where a First Nation receives prevention services from a "mainstream" Children's Aid Society, neither the First Nation nor the mainstream Children's Aid Society is permitted under ISC's Terms and Conditions to apply for or receive funding at the actual cost of providing prevention services to children and families on reserve.
11. Pre-Mandated First Nations Child and Family Service Agencies may apply for and receive funding at the actual cost of providing prevention/least disruptive measures services, intake/investigation, building repairs and legal fees, for the First Nations they serve, in line with the previous Tribunal orders. These funds are provided directly to First Nations Child and Family Service Agencies, and are not flowed through the Province of Ontario under the 1965 Agreement or otherwise.
12. First Nations in Ontario are moving toward a model where they provide prevention services directly instead of or in addition to through First Nations Child and Family Service Agencies. This model was the preference expressed as the way forward in the Ontario Special Study and prior to that, through various resolutions of the Chiefs in Assembly.
13. Despite that, First Nations in Ontario are not eligible to apply for and receive funding for prevention services at the actual cost of providing them as provided by the Tribunal's past orders respecting First Nations Child and Family Service Agencies. If they want to access the CHRT-ordered prevention at actuals funding, they must do so through their First Nations Child and Family Service Agency.
14. First Nations in Ontario delivering prevention services can use two streams of funding which Canada has introduced: A funding stream called "Community Well-Being and Jurisdictional Initiatives" (which funds various things including prevention services) and through a new funding stream introduced in the federal budget in 2017. These funding pots are fixed, and do not provide the actual costs of providing prevention services. The Budget 2017 funding for prevention is provided directly to First Nations Child and Family Service Agencies in the rest of Canada, but in Ontario is provided to First Nations directly, by direction from the Chiefs-In-Assembly in Ontario.

It is my understanding that the Community Well-Being and Jurisdictional Initiatives funding is available until the end of 2022, and I do not know whether it will be further extended.

The 1965 Agreement

15. Canada has been providing funding at the actual cost of providing prevention services to First Nations Child and Family Service Agencies directly, and not through the processes described in the 1965 Agreement. As the Panel found, prevention services are excluded from the 1965 Agreement.
16. COO has a Child and Family Well-Being Tripartite Technical Table (with COO, Ontario, and Canada). At that table the parties are undertaking discussions about the process by which the three parties will negotiate the 1965 Agreement. No negotiations to amend the 1965 Agreement are underway as yet.

AFFIRMED REMOTELY)
by Joel Abram of Oneida Nation)
of the Thames,)
BEFORE ME)
at Toronto, Ontario this 30th)
day of October, 2020)
in the Province of Ontario)
in accordance with O. Reg 431/20)
Administering Declaration Remotely)



Joel Abram



Maggie E Went, Barrister and Solicitor

LSO # 47970T