



## Information Sheet

# Retaliation Component of the Canadian Human Rights Tribunal on First Nations Child Welfare

July 10, 2013

### Background

In February of 2007, the First Nations Child and Family Caring Society of Canada (Caring Society) and the Assembly of First Nations (AFN) filed a human rights complaint alleging that the Government of Canada's provision of child and family services on reserves is discriminatory. The Canadian Government has spent over 6 years and 3 million dollars on its unsuccessful attempts to derail a full and proper hearing on the merits. In the fall of 2012, the Canadian Human Rights Tribunal amended the child and family services complaint to include allegations that the Government of Canada retaliated against the Caring Society and Dr. Cindy Blackstock, the Caring Society Executive Director, for filing the child and family services complaint contrary to Section 14.1 of the *Canadian Human Rights Act*. The retaliation allegations are largely based on government documents showing that officials from the Department of Aboriginal Affairs and Northern Development (AANDC) blocked the Caring Society from carrying out its mandate of providing expert advice to First Nations on child and family services. Further, it is alleged that Canada retaliated against Cindy Blackstock personally when officials from the AANDC and Department of Justice collected personal information about her via accessing her personal Facebook page, Indian Registry files, and conducting systematic monitoring of her activities.

### How is the Retaliation Portion of the Case being heard?

The Canadian Human Rights Tribunal began hearing evidence on the allegation that the Government of Canada's provision of child and family services was discriminatory and the retaliation complaint on February 25, 2013. The original hearing schedule called for the Caring Society, AFN, and the Canadian Human Rights Commission to present their case in full through to the summer of 2013 with the Government of Canada to follow with its case in the late summer and early fall. This meant that all of the Caring Society witnesses for the retaliation complaint would be heard starting with Dr. Blackstock's evidence the week of February 25, 2013 and then the Government of Canada would present its side in the fall of 2013. However, after Dr. Blackstock and three other witnesses had testified, the schedule changed after it was discovered that the Canadian Government breached Tribunal rules by failing to disclose two thirds of the documents relevant to the child and family services case. In July 2013, the Tribunal ordered the Government of Canada to properly complete all of its disclosure on the child and family services case by the end of August 2013. The Tribunal further ordered that the full case on retaliation (including the Government of Canada's witnesses) will be heard on July 15–26, 2013 in order to make use of the hearing dates that had been set aside for the case before the

disruption in hearings caused by the breach of disclosure rules. Dr. Cindy Blackstock has already testified on the retaliation matter and it is expected that the Caring Society will call two other witnesses; seven witnesses will testify for the Government of Canada during the July hearing dates. Dr. Cindy Blackstock's testimony on the retaliation matter and the evidence of witnesses scheduled to testify from July 15-26, 2013 can be viewed at [www.aptn.ca/pages/news/tag/kids-in-care](http://www.aptn.ca/pages/news/tag/kids-in-care)

### **Why did the Caring Society and Dr. Blackstock file the retaliation case?**

In a free and democratic society, it is vital that members of the public or organizations are free to file legitimate human rights complaints against the Government or debate public policy without fear of retaliation. This is particularly true regarding allegations of discrimination affecting children and other vulnerable groups in society. The goal is to ensure that First Nations and other Canadians are not subject to retaliation by the Canadian Government for taking steps to improve Canadian public policy regarding First Nations children or others.

### **If the Government of Canada did retaliate then what are the Caring Society and Dr. Blackstock asking for?**

Both the Caring Society and Dr. Blackstock want the Government of Canada to cease any retaliatory conduct and take measures to protect other individuals and organizations who file legitimate human rights com-

plaints against the Canadian Government. The Caring Society has asked for a financial settlement to be allocated to further the organization's work with, and for, children and youth. Dr. Blackstock has said she wants any financial awards related to her to be allocated to children's charities of her choice.

### **Key Sections of the *Canadian Human Rights Act* Addressing Retaliation**

Section 14.1 says that "It is a discriminatory practice for a person against whom a complaint has been filed, under Part III, or any person acting on their behalf, to retaliate against the individual who filed the complaint or the alleged victim."

Section 59 says "No person shall threaten, intimidate or discriminate against an individual because that individual has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Part, or because that individual proposes to do so."

Section 60.1 says "Every person is guilty of an offence who:

- [Repealed, 1998, c.9, s.31]
- Obstructs a member or panel in carrying out its functions under this Part; or
- Contravenes subsection 11 (6) or 43 (3) or Section 59"

Section 60.2 says "A person who is guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding \$50,000."

For more information on the case go to  
[www.fnwitness.ca](http://www.fnwitness.ca) or contact [info@fncaringsociety.com](mailto:info@fncaringsociety.com)

First Nations Child and Family Caring Society of Canada 309 Cooper Street, Suite 401, Ottawa ON K2P 0G5