

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**

Interested Parties

AFFIDAVIT OF CHARLENE REUBEN

I, CHARLENE REUBEN, of the Municipality of **MOOSONEE** in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the Executive Director of Payukotayno James and Hudson Bay Family Services ("Payukotayno") and as such, have knowledge of the facts herein deposed by me.

2. I have held the position of Executive Director of Payukotayno since July of 2011. I began working for Payukotayno in 2001, first as a child protection worker – a position I held for five years. I then served as a Supervisor from 2005 until 2007. In, 2007, I became the Director of Services, a position I held until 2011 when I assumed the position of Executive Director.
3. As Executive Director of Payukotayno, I have direct, subject-matter expertise concerning the unique challenges of delivering child and family services to remote communities in Northern Ontario. My role as Executive Director of Payukotayno involves extensive communications with Nishnawbe Aski Nation (“NAN”) First Nation communities and government stakeholders on a variety of issues concerning child and family services. I am seeking to bring this expertise before the Canadian Human Rights Tribunal (the “Tribunal”) to ensure that any remedies ordered by the Tribunal are designed with the unique considerations of agencies engaged in child welfare service delivery to remote communities in Northern Ontario.
4. My affidavit will provide: (1) an overview of the NAN-mandated child welfare agencies, providing background information on Payukotayno in particular; (2) an overview of the unique challenges of service delivery to northern and remote communities in Northern Ontario; and, (3) a review of two *immediate relief* measures which would greatly assist Payukotayno in particular and NAN-mandated child welfare agencies in general with addressing *some* of the challenges with service delivery to northern and remote communities, specifically (i) agency debt relief and, (ii) a capital infrastructure needs assessment study.

I. ABOUT PAYUKOTAYNO & NAN MANDATED CHILD WELFARE AGENCIES

5. As the Tribunal is likely aware, there are three NAN mandated child welfare agencies: (1) Kunuwanimano Child and Family Services (“Kunuwanimano”); (2) Payukotayno; and, (3)

Tikinagan Child and Family Services ("Tikinagan"). Kunuwanimano, Payukotayno and Tikinagan are three of nine Indigenous child welfare societies providing services in Ontario under the Child and Family Services Act ("CFSA").¹ Kunuwanimano, Payukotayno and Tikinagan are designated under the CFSA and have all of the responsibilities of any Children's Aid Society in Ontario.

6. Payukotayno, located in Moose Factory, serves five First Nations and one municipality in the eastern portion of NAN territory, along the Hudson and James Bay coasts, including Kashechewan First Nation and Attawapiskat First Nation, among others. Four of these First Nations communities are accessible by air only.
7. Payukotayno was designated in April 1987 and is a multi-service child welfare agency.
8. Currently, Payukotayno is responsible for 132 children in care. Payukotayno has 88 staff and a number of vacant staff positions.

II. CHALLENGES OF SERVICE DELIVERY TO NORTHERN, REMOTE COMMUNITIES

¹ *Child and Family Services Act*, R.S.O. 1990, c. C.11

9. There are many reasons why it is challenging to deliver much needed child and family services to remote and northern communities; however, the most significant factor is the large geographic area and the isolation of the communities that Payukotayno serves.
10. In a previous affidavit filed in these proceedings, NAN's Director of Social Services, Bobby Narcisse² outlined a non-exhaustive list of the types of factors which exacerbate the challenges of service delivery to remote and northern communities. I adopt and reproduce paragraph 35 from Mr. Narcisse's March 18, 2016 affidavit³, outlining these factors, as follows:

- **Transportation** is a major challenge in the North. Accessing remote and isolated communities is a time consuming and expensive exercise. Many NAN communities do not have year round road access. Ice roads provide access in the winter months, requiring lengthy travel times. During the rest of the year, air travel is the only option;
- **Staff recruitment and retention** is also challenging in the North, particularly with developing and keeping qualified staff in communities. Communities are isolated and the population is dispersed amongst a large land mass. There is a stigma against child and family service workers which is a by-product of the legacy of the "Sixties Scoop" and the association of child and family services with the removal of children from the community. Additionally, there are challenges obtaining accreditation for

² The March 18, 2016 affidavit of Bobby Narcisse was filed in support of NAN's motion to intervene as an 'interested party'.

³ The reproduced paragraphs are paragraph 35 of Bobby Narcisse's March 18, 2016 Affidavit.

local community workers who wish to work in the field. These factors, amongst many, lead to a high turnover of staff and community professionals;

- **Access to suitable housing** is also a serious challenge in the North. The shortage of available housing makes it difficult for agencies to hire staff from outside the community. Shortage of housing also creates difficulties in finding suitable foster homes. Housing shortages create living environments where many people are forced to share one home;
- **The lack of other social services** for both children's services and other social programs is a common factor in small and remote First Nations communities. This creates an environment where child and family services are being offered without the associated necessary supports. This impacts the performance and quality of child and family services and increases the burden on agencies operating within such an environment;
- **Geographic and socio-demographic characteristics** differ greatly between First Nations communities serviced by designated Aboriginal CASs versus non-Aboriginal CASs. There are several distinct differences between these two groups – specifically, Aboriginal CASs:
 - i. serve significantly larger and less inhabited geographic areas;
 - ii. have significantly larger case volumes per population;
 - iii. serve more children and youth in-care as opposed to within family homes;
 and,

- iv. have smaller operating budgets but with significantly higher expenditures per child/youth;
- **High cost of food** represents a significant challenge faced by families in NAN communities who are trying to feed their children healthy nutritious foods. The high cost of food is directly related to the geographic and socio-demographic characteristics of NAN communities. As a result of the high cost of food, many families are forced to rely on more affordable but calorie-rich & nutrient poor foods;
- **Health problems** afflict NAN communities to a higher degree when compared to other regions. NAN territory has one of the highest diabetes rates in the country, as well as increasing incidences of child obesity, heart disease and other chronic diseases which have been directly linked to access and consumption of non-nutritious food. Financial hardship makes coping with health problems more difficult and exacerbates existing medical conditions;
- The **high cost of heat and hydro** adds to the burdens faced by NAN communities. Many NAN communities rely on diesel fuel power generation and have been experiencing high energy bills which increases stressors on families to make ends meet;
- **Economic poverty** is particularly pronounced in Northern, remote communities as a result of the factors described above;

- A **growing suicide epidemic** has thrown several NAN First Nations into crisis. There have been more than 500 suicides across NAN First Nations from 1986 to 2016, involving more than 70 children aged 10-14 and nearly 200 youth aged 15-20; and,
- **Funding disparities** between Indigenous and non-Indigenous child and family agencies aggravates the challenges described above.

11. In addition to the above identified factors, Payukotayno operates with limited information technology and overcrowded office facilities. Further, some communities served by Payukotayno face routine extreme weather-related events. For example, Kashechewan First Nation routinely floods, resulting in evacuations of the entire community. Payukotayno staff must use a variety of expensive transportation methods, including helicopter, in order to reach the communities we serve. In some locations, Payukotayno staff do not have access to cellphone service.

12. Each of the above identified factors adds to the *expense* of child and family service delivery in the remote north. These factors and expenses are a *necessary* part of service delivery to remote and northern communities.

13. Further, these remoteness factors are chronically underfunded or not funded at all. This forces agencies like Payukotayno to deliver services to remote and northern communities, as best as we can, within the resources and funding envelopes provided to us. Over time, this has resulted in at least two (of many) chronic conditions affecting northern and remote child welfare agencies: (1) routine budget shortfalls and accumulated debt; and, (2) neglected capital infrastructure needs. I discuss both of these chronic problems in further detail below.

III. Chronic Underfunding and Unsustainable Debt

14. In 2015/16, Payukotayno's deficit was \$1,279,537. In 2016/17, Payukotayno is anticipating a deficit of approximately \$2.2 million. Attached to my affidavit as **Exhibit A** is a copy of Payukotayno's financial information for fiscal years 2011/12 through 2015/16.
15. In the fiscal year 2011/12, Payukotayno experienced a similarly significant budgetary shortfall of nearly \$900,000. Since then, Payukotayno has focused on achieving financial efficiencies wherever possible. For example, since the beginning of my term as Executive Director in 2011, Payukotayno has gradually transitioned to a foster care model which has resulted in lowered costs. These cost efficiencies resulted in a significant surplus in fiscal year 2013/14 with modest surpluses in fiscal years 2012/13 and 2014/15.
16. These cost savings; however, are being counteracted by increased demand for our services. As Payukotayno's presence has increased in the communities we serve, there has been a correlative increase in the demand for our services. This has necessitated the hiring of more staff. As a result, Payukotayno is now providing increased service in 2015/16 than we did in fiscal year 2011/12; however, our allocated budget has remained the same.
17. Additionally, during this fiscal year alone, we had one high-needs child that resulted in significant expenditures of approximately \$1 million, which was paid for by Payukotayno, without any additional financial assistance from Ontario.
18. Payukotayno has a small line of credit. Any significant expenditures, such as high-needs children or weather related expenditures, can easily and negatively affect our budget. For example, by the end of fiscal year 2016/17, we are expecting a budget shortfall of approximately \$2.2 million. Without financial assistance, we expect that by January 2017,

Payukotayno will be a position where payment of staff salaries and foster parent per diems may not be possible. We are currently under cash-flow management which means that our budget has zero latitude for any additional expenditures.

19. In my view, Payukotayno's financial situation is a direct result of the fact that the cost of service delivery in the remote north is not properly funded. Payukotayno routinely submits deficit budgets to the Province of Ontario in an attempt to demonstrate the actual cost of service delivery in the remote north. Nevertheless, the above identified remoteness factors are not properly funded and accounted for in our allocated budgets. Without proper accounting for the high cost of service delivery in the remote north, agencies like Payukotayno will continue to have precarious finances, which will ultimately place the quality and effectiveness of our service delivery at risk.
20. A significant form of immediate relief would be for the Tribunal to issue a one-time order that Canada immediately fund the currently outstanding deficit of Payukotayno, at cost. We understand that such an order would not fix the long-term chronic underfunding faced by northern and remote agencies like Payukotayno; however, such an order would provide significant and *immediate relief* to budgetary pressures experienced by Payukotayno *at this very moment in time*. This form of immediate relief would give Payukotayno more room and flexibility to address the many pressing and complex needs of children and families using child welfare services in remote and northern communities.

IV. Capital Infrastructure Needs

21. When compared to child welfare agencies delivering services in more urban centers, Payukotayno operates out of substandard, run-down, cramped buildings and has limited access to proper facilities for both children and families as well as community staff.
22. Some of these challenges were described in a report (which is before the Tribunal as evidence) by David Barnes and Vijay Shankar, titled, *Northern Remoteness: Study and Analysis of Child Welfare Funding Model Implications on Two First Nations Agencies Tikinagan Child and Family Services and Payukotayno: James Bay and Hudson Bay Family Services* (the “Barnes Report”).⁴ The Barnes Report included a review of some of the capital needs of Tikinagan and Payukotayno in particular, and provided the following devastating account:

Nothing could have prepared the consultants for the impact of what was experienced in visiting the first community. In twenty-five years of Child Welfare service, this consultant had never witnessed such appalling conditions. The physical state of the office would not have met any standards that exist in the south. Windows were broken and in some cases boarded up, offices were cramped and overcrowded. This experience was to be repeated in other communities as well. ... In many communities there are not [sp] adequate facilities to support staff who may have to spend several days before the weather clears before they can return to their home base.... it is imperative that the agencies that were studied in this review, continue to be seen as unique in dealing with the challenges they face in carrying out the child welfare mandate.⁵

23. Approximately four years ago, Payukotayno conducted a feasibility study, looking at major capital needs. Payukotayno services 16 sites, utilizing a variety of facilities, including physical buildings and more temporary structures such as trailers. The majority of our facilities are leased, with Payukotayno owning some of our major office sites.

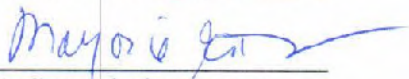
⁴ Please refer to the *Northern Remoteness Study and Analysis of Child Welfare Funding Model Implications on Two First Nations Agencies: Tikinagan Child and Family Services and Payukotayno: James Bay and Hudson Bay Family Services*, found at Tab 219 of the Commission’s materials. The report was entered into evidence on September 4, 2013 and assigned Exhibit # HR-011-219-094 and production number CHRC640. [the “Barnes Report”]

⁵ Please refer to the Barnes Report, CHRC BOD, Ex. HR-011-219-094, Tab 219, at Part 1, ‘Overview’, pages 3-4.

24. Office overcrowding is a significant issue. Many of our office spaces were designed for one service worker. As our numbers of staff have increased, we have double-bunked our office spaces with two service workers per site. On the client service side, there are no client interview rooms in most of our communities.
25. Staff housing is another significant issue. Our office in Moosonee is our hub, with staff being sent to the various communities we serve. Most communities do not have additional infrastructure to house Payukotayno staff. For other major services, such as teachers, nurses, police officers, etc., staff housing is provided and budgeted for. This is not the case for child and family services workers. As a result, both the availability and the cost of housing staff in the community remains an ever-present problem.
26. Lack of information technology is another significant issue. Payukotayno workers in remote locations are often unable to log onto our main servers due to lack of access to reliable internet. This means that Payukotayno staff are routinely writing case notes by hand.
27. Whenever a high-needs child requires services that are unavailable in their communities, agencies like Payukotayno are forced to remove the child from their community so that they may access highly needed services. The costs of relocation and service access for high-needs children is often born by the agency, without additional financial help from the Province.
28. Addressing the many capital infrastructure needs faced by Payukotayno, and other northern and remote agencies, will require comprehensive, long-term reform; however, in the interim, we are requesting that a comprehensive capital needs assessment study be conducted as a form of immediate relief.

29. Aside from the feasibility study for major capital conducted approximately four years ago, Payukotayno has never undergone a comprehensive capital needs assessment study. With the increase in staff over the last few years, and with increased service demands, the landscape in which Payukotayno delivers child and family services has significantly changed. A capital needs assessment study is a much needed and important tool for Payukotayno, as part of identifying our current needs and planning for future capital needs. Payukotayno does not have the budget to conduct such an assessment on its own.
30. The primary objectives of a capital needs assessment study would be to: (1) itemize current infrastructure; (2) identify needed infrastructure required to fulfill child welfare mandate and the needs of remote and northern communities; and, (3) identify funding gaps related to capital infrastructure needs.
31. Completed within a reasonable timeframe, the undertaking of a comprehensive study on the capital infrastructure needs of Payukotayno is a necessary *precondition* of addressing and properly funding the capital infrastructure needs of northern and remote agencies.
32. I am aware that Canada has sent Agencies a letter of engagement, requesting agency specific information by a June 30, 2017. This letter of engagement is not a substitute for a proper, comprehensive capital needs assessment study which would be designed for the specific purpose of assessing capital infrastructure needs.
33. I make this affidavit for the purposes of NAN's submissions in anticipation of a hearing on immediate relief, currently scheduled for March 22, 23, 24, 2017 in the *First Nations Child*

*and Family Caring Society v. Canada*⁶ proceedings before the Tribunal and for no other or improper purpose.

AFFIRMED BEFORE ME this)
 20th day of December, 2016)
 in the Municipality of Moosonee)
 in the Province of Ontario.)
)
 A Commissioner etc.)


CHARLENE REUBEN

Marjorie Rose Etherington, a Commissioner,
 etc., Province of Ontario, for the Children's
 Aid Society. Expires January 15, 2019

⁶ *First Nations Child and Family Caring Society v. Canada*, 2016 CHRT 2. File No.: T1340/7008. Decision rendered January 26, 2016.

Payukotayno: James and Hudson Bay Family Services

**as per Audited Financial Statements
Exhibit B - Statement of Operations**

TOTAL REVENUE & EXPENSES

	2015-16	2014-15	2013-14	2012-13	2011-12
REVENUE	\$16,889,572	\$15,597,076	\$15,873,305	\$16,164,764	\$16,846,893
EXPENSES	\$18,169,109	\$15,547,826	\$15,023,624	\$16,158,697	\$17,732,919
VARIANCE SURPLUS / (DEFICIT)	(\$1,279,537)	\$49,250	\$849,681	\$6,067	(\$886,026)

This is Exhibit A to the
Affidavit of Charlene Reuber
Sworn before me this 20th
day of December, 2016.
Mayme E.
A Commissioner etc.

Marjorie Rose Etherington, a Commissioner,
etc., Province of Ontario, for the Children's
Aid Society. Expires January 15, 2019