Docket: T1340/7008

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 Services Canada)

Respondent

- and -

CHIEFS OF ONTARIO, AMNESTY INTERNATIONAL CANADA NISHNAWBE ASKI NATION, TAYKWA TAGAMOU NATION and CHIPPEWAS OF GEORGINA ISLAND

Interested Parties

AFFIDAVIT OF SHANNON CRATE

I, Shannon Crate, of the Chippewas of Georgina Island First Nation, in the Province of Ontario, DO SOLEMNLY AFFIRM:

1. I am a member of Chippewas of Georgina Island First Nation ("**GIFN**"). I am also GIFN's Child and Family Service Program Manager. Pursuant to an order of this Tribunal, dated September 2, 2025, GIFN was granted limited status as an interested party to participate in the joint motion of the Chiefs of Ontario ("**COO**"), the Nishnawbe Aski Nation ("**NAN**") and the Government of Canada for approval of the Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program in Ontario (the "**OFA**") and Trilateral Agreement in Respect of Reforming the *1965 Agreement* (the "**Trilateral Agreement**") (the "**OFA Joint Motion**"). As such, I have knowledge of the matters contained in this affidavit. Where I do not

have direct knowledge, I have identified the person from whom I obtained the information in the affidavit and believe it to be true.

2. GIFN opposes the OFA Joint Motion. Our community has serious concerns regarding the OFA and the Trilateral Agreement. We urge this Tribunal not to approve the OFA and Trilateral Agreement.

My Background

3. . I am currently the Child and Family Service Program Manager and, as well as the Band Representative for the GIFN, a role I have carried for nearly 30 years. Over that time, my responsibilities have grown to include all aspects of child and family well-being, prevention, intervention, and protection, and as a member of the community, I carry this not just as a job but as a responsibility on behalf of my Nation.

4. I am also a director of Dnaagdawenmag Binnoojiiyag Child & Family Services ("**DBCFS**"), which now serves as GIFN's child welfare agency, as well as the child welfare agency for seven other First Nations in the region.

The OFA was not Developed Through Meaningful Engagement

5. I have reviewed the affidavit of Chief Big Canoe and agree with her comments regarding the shortcomings of the engagement and consultation process surrounding the OFA (and, prior to that, the draft national final settlement agreement), particularly for the meetings that I attended as her proxy. Her comments accurately reflect my experience as well.

The Approach to Remoteness Does Not Recognize the Access Challenges Of GIFN

6. GIFN's location creates a number of access challenges for the community. GIFN is located on an island and is only accessible by boat in the summer months and through a variety of dangerous modes of transportation in the winter and shoulder seasons. Generally, the ferry to Georgina Island does not run year-round, as it often cannot make the difficult crossing when the Lake is frozen, when it begins its freezing process and when the ice starts to go out (which could be as early as November until as late as May, depending on the year). Georgina Island does not have an airport or helipad, so air travel is not an option.

7. Georgina Island does not have a hospital, pharmacy, a grocery store, a gas station (leaving no safe way to use propane or gas for a generator in the winter), a restaurant, mail service or school that goes past grade five.

8. Too many of our members have tragically died simply attempting to travel to or from Georgina Island, especially in the "shoulder season" right before and after the winter. This includes my father.

9. These circumstances contribute to safety concerns, create difficulties and result in significant increased costs to deliver child and family welfare services to GIFN's members.

10. In particular, workers from DBCFS are frequently unable to even travel to Georgina Island

in the winter and shoulder months. This means, that DBCFS workers are often delayed in responding to a referral, conducting a timely investigation or delivering a wide range of services because they have no physical way to get to the island. It is much harder for DBCFS workers to make it to Georgina Island than to reach many of the other First Nations that it services that have year-round road access (or even year-round ferry access). This situation has existed for a long time, and our other mandated agencies before we had DBCFS faced similar issues. At times, when safety concerns are so urgent and serious, I have removed children from their homes with a DBCFS worker being on the phone because no one from DBCFS was able to arrive in time and the situation was urgent. I have also had to place children in safe residences that I find in the middle of the night, after receiving a phone call with children's aid afterhours (as DBCFS does not have its own after hours service) in the community until a worker can get there — a situation that can sometimes last weeks.

11. Our circumstances as an island community also significantly impact the ability of children, parents and caregivers to access services on the mainland. These include mental health services, parenting supports, addiction supports, and counselling. In my experience, this lack of access to services directly impacts the wellbeing of our children, particularly when child welfare is involved and they are assessing the safety of the child's placement within the family. Often our families will engage voluntarily with DBCFS but the Agency has certain expectations on the families that require them to access services. Moreover, when the Court makes a supervision order, families are often required to access services as a term of supervision.

12. The remoteness of GIFN also creates difficulty and added costs in bringing materials and supplies to support our children and families living on Georgina Island.

13. Nevertheless, the manner in which "remoteness" is addressed in the OFA does not account for GIFN's circumstances and puts it at a disadvantage when compared to other remote First Nations in Ontario.

14. Under the current status quo, GIFN can receive some funding to account for these challenges posed by its remoteness, and is in the process of trying to incorporate more of them.

15. In particular, on February 1, 2018, this Tribunal released its ruling in 2018 CHRT 4 (the "**Actuals Order**"). This ruling ordered Canada to address the actual needs of First Nations family and children by reimbursing/funding various services at their actual cost.

16. Since the Actual Orders in February 2018, GIFN has been reimbursed for the actual costs for some aspects of our Band Representative Program. The challenge has been that I am one person and when the Actuals Order came forward, there was very little time, capacity or resources to reimagine how our Band Representative Program could do more. Since 2018, GIFN has been trying to obtain reimbursement for more costs and expenses related to our remoteness, although, as described in more detail below, this process is still not perfect and still leaves some gaps unfilled. But the Actuals Order provides a means to work towards closing this gap.

17. This approach will change under the OFA. Under the OFA, where a First Nation's 2021 Index of Remoteness is 0.40 or greater, Canada will adjust certain funding streams upward for that First Nation and/or its affiliated FNCFS Agency, such as First Nations Representative Services

("**FNRS**") Funding, information technology, results, and emergency funding, prevention funding, household supports funding, and post-majority support services funding (see paragraphs 32-33 of the OFA). However, where a First Nation's 2021 Index of Remoteness score is less than 0.40 it will be assigned a Remoteness Quotient Adjustment Factor of 0, meaning that it will receive no adjustment to its funding (see Appendix 10).

18. My general understanding is that the "Index of Remoteness" is a database maintained by Statistics Canada that assigns scores between 0 and 1 to different census sub-divisions based on distance to population centres. A score of 0 is not remote at all and a score of 1 is the most remote. Information about the Index of Remoteness can be found at Statistics Canada's website at: https://www150.statcan.gc.ca/n1/pub/17-26-0001/172600012020001-eng.htm.

19. Despite GIFN's location and lack of accessibility, its score on the 2021 Index of Remoteness was less than 0.40 at 0.100988. GIFN's relatively low "remoteness score" is likely a result of our geographic proximity to the Greater Toronto Area, which does not take into account the realities of the difficulties of reaching Georgina Island. This score means that GIFN will receive no adjustment to its funding because of remoteness under the OFA. I note that the remoteness score of Essa, Ontario (0.106378) — an inland community that is approximately a 15-minute drive from downtown Barrie, Ontario — is actually higher than Georgina Island. So too are the scores of cities like Orillia (0.122941). I find this difficult to understand, it just further highlights the OFA's problematic approach to remoteness. The remoteness scores for different communities can be accessed here: https://www150.statcan.gc.ca/n1/pub/17-26-0001/2020001/172600012020001-eng.zip

20. Further, because the OFA moves away from funding based on the actual cost of delivering services, increased costs due to its lack of accessibility will not be accounted for through the reimbursement of the actual cost to deliver services (as is currently the case).

21. In this way, the OFA moves from a situation where GIFN's remoteness is somewhat accounted for in its funding to one where it is not. This is significantly worse than the *status quo*.

22. I anticipate that one response others might make is that, even if GIFN does not receive the remoteness adjustment under the OFA, its increased costs due to its physical inaccessibility will be accounted for through the baseline funding for FNRS in the OFA. In particular, FNRS funding under the OFA includes a baseline based on the highest funding a First Nation received from Indigenous Services Canada ("**ISC**") between 2019-2020 and 2023-2024, adjusted for inflation and population growth. Because this baseline funding is based on funding received under the Actuals Order, others might argue that it therefore takes into account the actual cost of providing those services, including increased costs due to remoteness. Indeed, this is an argument that we have heard from COO in response to our concerns in the past.

23. However, this argument is flawed for a number of reasons.

24. First, the remoteness adjustment in the OFA applies to other funded services under the OFA beyond FNRS, like capital funding, prevention, post-majority support services, and household supports. GIFN will not receive additional funding in these areas, despite the fact that we face increased costs to provide these services because of our geographic location.

25. Second, other remote First Nations in Ontario will still receive the remoteness adjustment even though they are also receiving baseline funding for FNRS which theoretically already takes into account some of their increased costs due to remoteness. This is clearly a recognition in the OFA that baseline funding based on actual funding in those five fiscal years (2019-2020 to 2023-2024) is not sufficient to fully account for a First Nation's increased costs from remoteness. GIFN is therefore disadvantaged as compared to these other remote First Nations.

26. Finally, GIFN's FNRS funding did not fully account for the increased costs of delivering services to Georgina Island because of its inaccessibility, even though GIFN received reimbursement pursuant to the Actuals Order.

27. In particular, because FNRS funding was so low for GIFN for such a long period, our community became accustomed to working with less. First, for a long time, I was the only person doing this job. I did not have the time, resources or capacity to consider and seek reimbursements from ISC. I have regularly covered a lot of the expenses related to GIFN's remoteness out of my own pocket, even after 2018. For example, I would pay my own expenses for things like hotels, meals, maintaining two vehicles (one on Georgina Island and one on the mainland), and boat, and seek favours from members of the community in order to deliver FNRS to our members, despite the challenges of accessing Georgina Island. Thus, even when GIFN began seeking reimbursement for our actual costs, the true costs of our remoteness was not fully covered, because our staff and I continued to cover many of these expenses personally.

28. Further, while we have tried to build up our program since 2018, to meet the needs of our children and family, this is a work in progress. It takes time to develop a program that truly responds to the needs of our community (especially after being underfunded for so long). This was not something that could be fully accomplished in the designated fiscal years timeline. A number of things impacted my ability to seek reimbursement for things we needed, including COVID, death and loss in our community, and the Devon Freeman Inquest, which took up a significant amount of my time and energy (which I would not have any other way). As a result, our actual costs for which we sought reimbursement is not a true reflection of the full cost of meeting the child welfare needs of our community.

29. In addition, we have been unable to obtain funding for things from ISC that GIFN requires to properly deliver services and supports to our members, accounting for our geographic location. This is because ISC does not consider many of these expenses to be specifically "FNRS" or "child welfare" expenses. For example, we submitted a request for an icebreaker which would allow safe travel to Georgina Island year-round and enable us to more easily respond to urgent child welfare needs, and deliver materials and supplies to the island, especially during the winter months when the island is least accessible. However, ISC rejected this funding request because, in its view, it was not strictly a child welfare related expense since the icebreaker would benefit other services for GIFN. This is another way in which the "baseline" funding does not accurately capture the true costs of delivering services to GIFN because of its remoteness and a remoteness adjustment is necessary to account for the increased costs that GIFN experiences.

30. Another response that we have heard is that ISC has agreed to work with GIFN and fund a study to better understand its remoteness and substantiate a claim to adjusting its score on the Index of Remoteness. My understanding is that this research could be an input for the Program

Assessment and ultimately form a recommendation to ISC. But I note under the OFA that ISC is not required to implement any of the recommendations made in the Program Assessment or in the Program Assessment Opinions offered by the Ontario Reform Implementation Committee. Moreover, even if ISC decides to accept such a recommendation and change our funding to account for remoteness, GIFN would lose out for the first five years of the OFA and in fact may never see an adjustment of its Index of Remoteness score (because of the flaws in its methodology in recognizing the remoteness of geographically-isolated and inaccessible communities that are physically close to large population centres).

31. We are currently in the process of preparing a response to ISC regarding this research proposal.

The OFA does not Address Discrimination in Child and Family Services

32. The OFA takes the highest "actuals" figure received by a First Nation for FNRS between 2019-2020 and 2023-2024 as the new "baseline" funding figure moving forward. But this approach does not address discrimination in child welfare matters. Like many First Nations, GIFN is chronically under-resourced when it comes to the child wellbeing services and supports that our FNRS Program can offer. The reality is that we have a serious capacity crisis, where we are doing our best just to stay afloat and respond to matters as they arise as best we can. The process for submitting "actuals" claims requires time and resources; given our constraints, we have not made claims for everything that could or should qualify. Nor have we been able to fully catalog all of the resources we need to run a successful and holistic FNRS program, which will actually help to address the issues of discrimination in a more meaningful and systematic way. For these reasons, I do not believe using actuals as a baseline measure under the OFA will help address discrimination in child and family services.

33. I am aware that others directly involved in protecting children in our community share concerns about the OFA, including the executive director of DBCFS, Amber Crowe. A true copy of a letter by Ms. Crowe outlining some of those concerns are attached at **Exhibit "A"**.

AFFIRMED by Shannon Crate of the Chippewas of Georgina Island First Nation, before me at the City of Toronto, in the Province of Ontario, on October 2, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Shannon Crate

Commissioner for Taking Affidavits

SHANNON CRATE

JUSTIN SAFAYENI
LSO#58427U

Dnaagdawenmag Binnoojiiyag
Child & Family Services

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This is Exhibit 'A' to the Affidavit of Shannon Crate affirmed October 2, 2025.

JUSTIN SAFAYENI
LSO NO.58427U

October 2, 2025

Dear Tribunal,

I am writing to provide my perspective about how child protective services will be impacted by the Ontario Final Agreement. As co-author of the First Nations Ontario Incidence Study (FNOIS 2023), and the Executive Director of Dnaagdawenmag Binnoojiiyag Child and Family Services (DBCFS) since 2014 and responsible for the delivery of child and family protection and well-being services to Georgina Island First Nation, I am concerned about several issues with the OFA. I have reviewed Dr. Barabara Fallon's affidavit relative to this matter and agree with the concerns she raised and the FNOIS data analysis shared.

I am well aware of the costs and cost drivers of service delivery to and for First Nations people and communities. I also know the increased costs of service to Island communities, as well as the practical physical issues of delivery where year-round road access is not possible. I do not believe the OFA has the required flexibility and consideration for these costs.

A primary concern is the need for funding to be needs based rather than formulaic. In Ontario we have a funding formula that is applied to allocate funds to service providers. It is extremely problematic and there are many reports and recommendations about these issues from the child welfare sector as a whole. Add the many unique factors and legislative obligations associated with First Nations service delivery and it is fully unacceptable. I provided an expert opinion on these issues for the off-reserve class action certification where I laid out in detail all the ways the formulaic funding approach is not only not working for meeting the needs of First Nations children and the service delivery but is actually discriminatory and harmful to First Nations children and families. I believe the OFA applies a formulaic methodology to the allocation of resources and will not have the capacity to meet unexpected and growing needs.

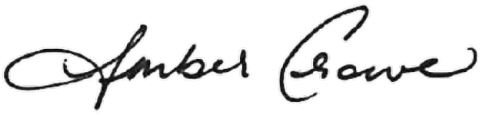
Our agency has struggled to meet needs within our Ministry-determined formulaic funding allocation, and in fact we have a funding shortfall of more than $10M for the current fiscal year. As per the FNOIS 2023 data, First Nations have an incredibly different clinical profile, both at the caregiver and child levels making service delivery much more complex and costly. Consider that between Fiscal year 2022 and Fiscal year 2025 our expenses for "boarding costs" (the costs of per diems for children in care) went from $15.19M to $30.8M which is a 102.7% increase in just three years with no adjustment to the formulaic budget allocation. In this fiscal year we are projected to increase an additional 14% to $35.04M. Our costs in this one budget line increased from just over $15M to over $35M since 2022! And, no, this increase was not the result of a proportionate increase in the number of children in care.

A large part of these cost increases are the result of the clinical differences and needs of the children, youth, and families, as well as the socio-economic conditions. The needs are extremely high and complex and there is a crisis across the province in the availability of services. I am concerned about the OFA being a formulaic allocation based on factors that do not speak to the need or the flexibility required to meet changing and growing needs.

The needs and service delivery differences for First Nations are underestimated and not well understood. It is my experience and observation that no one can accurately predict or project the costs of the needs and services for First Nations because no one is currently meeting or delivering what is needed.

I did sit at an advisory table for the Chiefs of Ontario as a “technical expert” during the national process resulting in the Final Settlement Agreement. While it was well-intentioned to include technical experts, I found the opportunity to provide detailed and meaningful analysis of the impact to service delivery lacking. As the large majority of the people at that advisory table had little experience or knowledge of protection service delivery and funding it was difficult to engage on those issues.

Sincerely,



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