

**IN THE MATTER OF THE INQUIRY INTO PEDIATRIC FORENSIC
PATHOLOGY IN ONTARIO**

**AND IN THE MATTER OF AN APPLICATION FOR
STANDING AND FUNDING
BY ABORIGINAL LEGAL SERVICES OF TORONTO
AND NISHNAWBE ASKI NATION**

AFFIDAVIT OF DEPUTY GRAND CHIEF ALVIN FIDDLER

I, Alvin Fiddler, of Thunder Bay, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a Deputy Grand Chief of the Nishnawbe Aski Nation (“NAN”) and as such, have knowledge of the information contained herein.
2. After reviewing the Order-in-Council establishing the Inquiry into Pediatric Forensic Pathology in Ontario, the Rules of Standing and Funding, and the Opening Comments of Commissioner Goudge in relation to the mandate of the Inquiry, it is NAN’s view that the systemic issues under review by the Inquiry are issues that impact the NAN community.
3. As such, NAN has chosen to partner with Aboriginal Legal Services of Toronto (“ALST”) to seek standing at the Inquiry. I have reviewed the Affidavit of Derek Chum,

sworn on July 13, 2007, and I support and agree with the information deposed to in paragraphs 2, 6, 28, 30-45.

NISHNAWBE ASKI NATION (“NAN”)

4. NAN is a political territorial organization representing 49 First Nation communities throughout the province of Ontario. These communities are grouped by Tribal Council according to region. Five NAN communities are unaffiliated with any specific Tribal Council.

5. NAN encompasses James Bay Treaty 9 territory and Ontario’s portion of Treaty 5. NAN has a total land mass covering two-thirds of Ontario spanning an area of 210,000 square miles. NAN territory spans west to the Manitoba border, east to the Quebec border and north of the 51st parallel to the coast of James and Hudson’s Bays. The total approximate population of NAN First Nation members (on and off reserve) is 45,000.

6. The Chiefs of the 49 First Nations of NAN are the Board of Directors of NAN. The Chiefs meet 2 to 3 times a year in assembly to mandate, by resolution, the direction and initiatives of NAN.

7. NAN’s Executive Council is comprised of the Grand Chief and three Deputy Grand Chiefs.

8. As one of the three Deputy Grand Chiefs I am responsible for the following portfolios:
- i. Health & Special Projects in Social health (held jointly with Deputy Grand Chief RoseAnne Archibald;
 - ii. Justice;
 - iii. Lands and Resources (jointly held with Grand Chief Stan Beardy);
 - iv. Harvesting (jointly held with Grand Chief Stan Beardy);
 - v. Economic and Resource Development (jointly held with Deputy Grand Chief Terry Waboose); and
 - vi. Communications and Media.
9. The NAN policing portfolio is held by Deputy Grand Chief RoseAnne Archibald.

NAN Partnership Agencies

10. In the late 1970s and early 1980s NAN led the way in the development of regional Aboriginal organizations, enabling program delivery to shift from the Government of Canada (Indian and Northern Affairs) to Tribal Councils. NAN currently has seven Tribal Councils: Windigo First Nations Council, Wabun Tribal Council, Shibogama First Nations Council, Mushkegowuk Council, Matawa First Nations, Keewaytinook Okimakanak, and Independent First Nations Alliance.
11. Support and lobbying efforts throughout the 1980s and 1990s helped establish several important institutions and agencies that are part of NAN's partnership network.

Two such partnership agencies are the Nishnawbe-Aski Legal Services (“NALSC”) and the Nishnawbe-Aski Police Services (“NAPS”).

Nishnawbe-Aski Legal Services Corporation (“NALSC”)

12. Pursuant to Resolution 90/26, Nishnawbe-Aski Legal Services Corporation (“NALSC”) received a mandate from the Chiefs of Treaty No. 9 to promote creative community based justice systems. NALSC has been serving the NAN communities since April 1, 1990. It is owned by the First Nations of Nishnawbe Aski Nation. The mandate of the Corporation includes legal, paralegal, public legal education and law-reform services.

13. NALSC is mainly funded through Legal Aid Ontario and employs a part-time Area Director who issues legal aid certificates to NAN community members on criminal and family law matters. Currently, NALSC also provides the following services to NAN communities:

- i. Summary advice and short term legal services;
- ii. Quasi paralegal services;
- iii. Victim/Witness services;
- iv. Law reform;
- v. Public legal education;
- vi. Alternative justice processes under criminal and family matters (Talking Together, child Welfare and Restorative Justice); and
- vii. Video jail applications for legal aid.

Nishnawbe-Aski Police Service ("NAPS")

14. The Nishnawbe-Aski police services agreement is "an agreement in principle" negotiated between the government of Canada, the government of Ontario and NAN. This agreement was preceded by twelve months of intensive negotiations which were chaired and facilitated by the Indian Commission of Ontario. The agreement was ratified by the Nishnawbe Aski Chiefs in December 1993 and signed by the negotiating parties on January 14, 1994.

15. The primary goal behind the agreement is the establishment of an Aboriginal police service which is to provide effective, efficient and culturally appropriate policing to the people in the Nishnawbe Aski territory.

16. NAPS is governed by its own Police Service Board consisting of a representative of each Nishnawbe Aski Nation Tribal Council.

17. An independent Nishnawbe-Aski Police Service Citizens Review Board has been created for the purpose of ensuring police accountability to the public.

Experience in Criminal Justice Issues

18. Through its involvement in the creation and operation of NAPS and NALSC, NAN has developed considerable expertise with respect to issues within the criminal justice system and how they impact on the Aboriginal community, and specifically, remote fly-in communities.

19. Through its involvement with NAPS and NALSC, and from direct involvement with its constituents, being the citizens of Nishnawbe Aski territory, NAN has knowledge of the interaction that Aboriginal people have, and the systemic issues they face, when in contact with police, crown attorneys, legal aid, defense lawyers and the coroner's office.

Health and Aboriginal Children

20. NAN territory carries a disease and health burden that is unique in Canada in its severity.

21. Studies conducted by Health Canada and the Canadian Pediatric Society have found the following:

- i. Children under the age of 16 years represent 40% of the Aboriginal population in Canada. Although they represent a greater proportion segment of Aboriginal communities, they lag far behind other Canadian children when it comes to their health;
- ii. The infant mortality rates are two to three times as high in First Nation communities than in the Canadian population;
- iii. Aboriginal children are at a higher risk of unintentional injuries and early deaths from drowning and other causes. Injuries are the biggest contributor to premature death among First Nations. On reserve rates are four times that of the overall Canadian population;
- iv. Injury death-rate among Aboriginal infants and preschoolers is four to five times the Canadian rate; and
- v. Aboriginal infants are three times more likely to have Sudden Infant Death Syndrome than the rest of the province.

22. In response to some of the above noted conditions of childhood health NAN operates the Aboriginal Healthy Babies, Health Children (AHBHC) program. The AHBHC grew out of the provincial Healthy Babies, Healthy Children Program, a legislated program instituted by Ontario in 1997. The AHBHC program is a prevention/intervention strategy for families with children aged 0-6.

23. The goal of the AHBHC program is to assist Aboriginal families to provide the best opportunities for healthy development for children 0-6 years of age, through education, family home visiting, and coordination/access to services. An equally important goal is to ensure that the program addresses the needs of children at risk, to ensure that they have access to services and support that will address their needs.

24. Through the operation of the AHBHC Program, NAN has considerable knowledge and expertise in relation to the health issues, including Sudden Infant Death Syndrome that exists in NAN communities.

INTEREST AND PROPOSED CONTRIBUTION

25. Given the above noted statistics and findings in relation to the high rate of death of Aboriginal infants and preschoolers, NAN has a direct interest in the Inquiry and the resulting recommendations as they will have an impact on how pediatric forensic pathology is conducted in NAN territory and with NAN citizens. As such, and consistent

with a nation-to-nation approach to Aboriginal-government relations, it is essential that NAN be provided an opportunity to participate at the Inquiry in a meaningful way.

26. As noted in the Affidavit of Derek Chum, the ALST-NAN Coalition has an interest in all of the identified areas of review as set out in the June 18, 2007 Opening Statement by Commissioner Goudge. I reiterate paragraphs 30-45 of the Affidavit of Derek Chum wherein the ALST-NAN interests and proposed contribution is set out.

27. I further note that NAN, a political territorial organization, has a keen interest in ensuring that NAN's relationship with the government of Ontario respects the Treaty that was signed. As such, issues relating to the development of protocols, and best practices are of great importance to NAN. Any protocols or best practices developed in relation to providing services in NAN territory must include NAN participation and acceptance for them to be implemented in NAN communities.

28. A new relationship is being formed with the Province of Ontario and NAN. This relationship must be based on mutual respect. Institutions such as legal aid, the crown attorney's office, the Office of the Chief Coroner, and the criminal defense bar, must have a better understanding of NAN history and people. As such, any training initiatives that arise from the Inquiry must include NAN involvement.

29. Aboriginal people and communities are distinct and unique from other citizens in Ontario. As such, a solution in non-Aboriginal terms is normally not successful in the

Aboriginal context. NAN communities have a further level of uniqueness given their remoteness. Remote fly-in communities present several distinct challenges for providing service therein. NAN has expertise and knowledge in relation to how best to serve our remote communities in the criminal justice area.

FUNDING REQUEST

30. NAN has insufficient financial resources to hire counsel to assist ALST with representing the ALST-NAN Coalition. Without additional financial resources, the ALST-NAN Coalition is not able to properly participate in the Inquiry. The ALST-NAN Coalition thereby requests that should it be granted standing at the Inquiry, it be granted funding to cover disbursements and the cost of hiring outside counsel to assist on the Inquiry.

31. This affidavit is made in support of an order granting the ALST-NAN Coalition standing at the Inquiry into Pediatric Forensic Pathology in Ontario, and for no other or improper purpose.

SWORN before me at the City of)
Thunder Bay in the Province of Ontario,)
this 13th day of July, 2007)
July, 2007)



A Commissioner, etc.
EVELYN J. BAYTECK
BARRISTER & SOLICITOR


Alvin Fiddler, Deputy Grand Chief