

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**HOLLY PAPASSAY, TONI GRANN, ROBERT MITCHELL,  
DALE GYSELINCK and LORRAINE EVANS**

Plaintiffs/Moving Parties

and

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO**

Defendant/Responding Party

Proceeding under the *Class Proceedings Act, 1992*

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**VOLUME V OF VI: MOTION RECORD OF THE DEFENDANT,  
HER MAJESTY THE QUEEN IN THE PROVINCE OF ONTARIO**  
(Motion for Certification, returnable January 24, 2017)

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June 14, 2016

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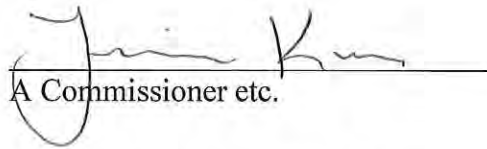
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This is **Exhibit “40”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.



A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.





# ***Rights and Responsibilities of Boards and Senior Management Staff of Service Providers***

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**Under the Child and Family Services Act  
Volume 2**

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THE CHILD AND FAMILY SERVICES ACT TRAINING  
HANDBOOK (MARCH 1985) HAS BEEN REVISED  
AND CONSOLIDATED WITH REGULATIONS  
INTO THE FOLLOWING VOLUMES.

**VOLUME 1      FRONT-LINE SERVICE DELIVERY**

**VOLUME 2      BOARDS AND SENIOR MANAGEMENT STAFF OF**  
**SERVICE PROVIDERS**

**VOLUME 3      CHILD PROTECTION**

**VOLUME 4      CHILD ABUSE REPORTING**

**VOLUME 5      SERVICES TO YOUNG OFFENDERS**

**VOLUME 6      ADOPTION**

## FOREWORD

The Ministry of Community and Social Services is pleased to produce this revised and consolidated edition of the Child and Family Services Act Training Handbook. Consisting of six volumes (Volumes 3 and 4 being bound together), each is designed to assist service providers in the application of the new Act. The series presents the final revision of the extensive Training Handbook produced during the training program prior to proclamation.

Four of the volumes are complete in themselves and cover the whole of the topic named in the title. Two of the volumes, namely "Front-Line Service Delivery" and "Boards and Senior Management Staff of Service Providers", are more interrelated and there is overlap of subject matter so that material on a specific topic may be found in either one or both of the volumes. The reader may therefore need to consult the two volumes to obtain the complete information.

The principles of the Act are set out in both Volumes 1 and 2. The philosophy behind the Act is fundamental to comprehending the entire Act and readers of all volumes should ensure that they have a thorough understanding of these principles.

This edition is intended as an adjunct and complement to other Ministry publications and manuals that are now available or that will be available in the future. **It is important to remember that the content represents the statute, regulations and other information at the time of writing. Much work on implementation is still in progress and some parts of the Act are still to be proclaimed.**

December, 1985

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**APPENDICES**

BACKGROUND AND PRINCIPLES OF THE ACT1. THE PROCESS OF LEGISLATIVE REFORM

The Child and Family Services Act is the culmination of a process of legislative change and consolidation of law and policy begun by the Ministry of Community and Social Services in 1977, under the aegis of its then Children's Services Division. It represents several years of public consultation with individual agencies and groups throughout Ontario who have recognized and responded to the need to reform legislation dealing with children and families. Interim legislative amendments were enacted in 1979 but these were not intended to represent long-term or comprehensive legislative reform. In October 1982 a consultation paper entitled "The Children's Act" was released by the Ministry to seek response from the community on the following broad thrusts in policy development:

- o the need to bring the law governing Ministry programs into line with current social services theory and practice;
- o limitations in the social service delivery system that made it difficult for a service provider to respond to the needs of individual children and families;
- o the need to consolidate various pieces of legislation under which Ministry programs were mandated and to establish uniformity in their administrative processes in order to enhance efficiency within the service delivery system, and to ensure "fair treatment" of agencies providing service;
- o the need to address certain "rights" issues that had been ignored altogether or too vaguely addressed by existing legislation in order to bring the law affecting Ministry programs into line with the Canadian Charter of Rights and Freedoms and the Ontario Human Rights Code;

- o the need to establish, as far as practicable, and through an emphasis on openness, clarity of goals, time limits and agreements, a more equitable relationship between the person who seeks or requires service and the service provider.

Public debate and discussion with professionals and other interested groups and individuals in response to the consultation paper constituted a significant resource for the Ministry as it formulated draft legislation for introduction to the Provincial Legislature in December 1983.. It was then the subject of extensive debate by the Standing Committee on Social Development, members of which are drawn from the three political parties active in the Legislature. Bill 77 was drafted, received first reading May 18, 1984 and second reading June 20, 1984. The Bill received third and final reading December 11, 1984 and Royal Assent December 14, 1984, signifying that all necessary stages of the parliamentary process had been completed. The Child and Family Services Act came into force on November 1, 1985, with the exception of the following provisions:

- o Sections 34-36 inclusive, relating to residential placement advisory committees; (effective January 1, 1986)
- o Sections 109-119 inclusive, dealing with secure treatment proceedings;
- o Sections 124-125 inclusive, dealing with intrusive procedures;
- o Section 126, dealing with psychotropic drugs;
- o Section 157, dealing with adoption disclosure;
- o Sections 162-174 inclusive (Part VIII), dealing with confidentiality of and access to records.

Although Part X was proclaimed November 1, 1985, the Ministry has agreed with the Indian community that implementation will take place incrementally and only after consultation. It is estimated that this period of consultation will take 6-9 months after proclamation to complete. Individual sections of Part X will be implemented as consultation is completed and only after the appropriate policies and guidelines have been issued.

At proclamation the Child and Family Services Act replaced the following statutes:

- o The Child Welfare Act;



- o The Young Offenders Implementation Act (which included the Training Schools Act, the Children's Probation Act and the Provincial Courts Act 1397 as it related to observation and detention homes);
- o The Children's Residential Services Act;
- o The Developmental Services Act, as it relates to children;
- o The Charitable Institutions Act, as it relates to children;
- o The Children's Mental Health Services Act;
- o The Homes for Retarded Persons Act, as it relates to children;
- o The Children's Institutions Act.

The only children's statute under the Ministry of Community and Social Services' mandate not encompassed by the "omnibus" Child and Family Services Act is the Day Nurseries Act.

## **2. THE PRINCIPLES FUNDAMENTAL TO THE CHILD AND FAMILY SERVICES ACT**

The legislation attempts to strike an appropriate balance for rights of the family, rights of the child and rights of the service provider.

A cohesive philosophy for, and approach to, services to children and families and protection of children is provided by the Declaration of Principles that prefaces all other provisions of the Act. The declaration serves as an essential guide for decision-making under the Act.

The declaration itself has its roots in a Ministry publication developed in 1977 and titled "Basic Principles of Service Delivery" and in a further consultation paper published December, 1980 and titled "Children's Services Past, Present and Future".

Both documents embody as a basic approach to children's services, the best of practice and policy advocated by professionals at the front-line of service delivery.

### **(1) Paramount Objective of the Act**

**C.F.S.A. s.1(a)**

The first principle and paramount objective of the Act is the promotion of the best interests, protection and well-being of children. That consideration takes

precedence over any other principle in a decision affecting a particular child. This is the law's continuing acknowledgement that children are vulnerable because of their developmental immaturity and thus require protection, in certain circumstances, even from their own parents. 1398

**(2) Support of the Family**

**C.F.S.A. s.1(b)**

The second principle is a recognition that while parents may need help in caring for their children, the help should give support to the autonomy and integrity of the family unit rather than compete with it. Wherever possible, that service should be provided on a consensual basis.

The first aspect of this principle underscores the preference for service in the child's home, where possible, rather than care and supervision of the child away from the familiarity of his family.

Mutual consent is a prerequisite for certain provisions of service (e.g. agreements for residential care, i.e. temporary care and special needs) but it is not a necessary prerequisite to all services under the Act. There are circumstances in which service to a child must be provided over a family's objections, if the first and paramount objective of the Act is to be respected. Mutual consent is a desirable objective, and the statute recognizes that help is most effective when the child, family and service provider work together as a team to resolve difficulties that have necessitated the particular service.

This principle of voluntary service is reinforced throughout the Child and Family Services Act by specific attention to the matter of "consent", and the enhanced recognition given to voluntary service in Part II of the Act.

**(3) The Least Disruptive Course of Action**

**C.F.S.A. s.1(c)**

The third objective of the Act is a consideration of the least restrictive or disruptive course of action that is available and appropriate in a particular case to help a child or family. This principle is reinforced throughout the Act by the preferences for service within the child's home as an alternative to removal of the child, the preference for community living as an alternative to institutional living, and the preference for open facilities as opposed to ones that are locked.

The principle is underscored further by direction to service providers and to the courts to choose from among the resources available the least restrictive alternative that is available and appropriate for the child. This direction reflects the general goal of keeping service provision as close to the child's home or community as possible, in as normal a setting as possible, and in the least restrictive manner that is consistent with the safety of the child and others. This principle also reflects the law's continuing acknowledgement that there are no perfect solutions when a parent's care must be supplemented or replaced, only alternatives to ensure that the child's needs and the needs of the family are met during the time that services are required. 1399

**(4) Continuity of Care and Individualized Service**

**C.F.S.A. s.1(d)**

The fourth principle is rooted in the child's need for continuity of care and respect for the child as a person. It recognizes that services to children should be provided in a manner that respects a child's need for continuity of care and for stable family relationships and that the services should take into account physical and mental developmental differences among children. The intent is to tailor the provision of services to a child's individual needs.

**(5) Respect for Cultural, Religious and Regional Differences**

**C.F.S.A. s.1(e)**

The fifth objective of the new Act is to recognize that wherever possible, services to children and their families should be provided in a manner that respects cultural, religious and regional differences.

**(6) Special Recognition of Indian and Native People**

**C.F.S.A. s.1(f)**

The sixth principle of the Child and Family Services Act is an extension of the fifth objective of the Act. It stipulates that Indian and native people should be entitled to provide their own child and family services wherever possible. All services under the Act to Indian and native children and families are to be provided in a manner that recognizes their culture, heritage and traditions and their concept of the extended family. This objective is consistent with the Act's emphasis on services that respond to individual needs, services which are community-based and community specific, and services which respect regional and cultural differences.

The Child and Family Services Act also elevates to the status of law a philosophical and practical approach that should characterize all social service delivery:

- o the practice of giving parents and children the opportunity to be heard when decisions affecting their interests are being made and when they have questions or complaints regarding the provision of service;
- o the need for clear criteria and procedural safeguards to define the discretion of service provider, if the fundamental interests of children or parents will be affected by a decision;
- o the necessity of periodic review to monitor the provision of service to children and families. That principle is reinforced throughout the Act by its identification of service decisions that are particularly invasive to a family's autonomy and rights, and provision for review mechanisms;
- o provision of service in the French language where appropriate.

### **3. THE ROLE OF REGULATION**

Regulations made under the Child and Family Services Act at the time of proclamation are designed to give uniformity to the new law and to ensure implementation in a manner that will not disrupt the continuity of service for children and families receiving service at the time of proclamation.

In general terms, the intent of the Ministry under its regulation-making power is to initially:

- o consolidate regulations under predecessor statutes in order to minimize the volume and complexity of requirements for service providers. This includes an updating of some requirements and elimination of clearly outdated provisions;

- 1401
- o revise certain regulations made under predecessor statutes to bring those regulatory provisions into line with the best of current practice and policy, where this can be accomplished without imposing substantial new requirements on the service provider;
  - o develop a small number of new regulations necessary to implement the Act.

The regulatory requirements will not reflect major shifts in either policy or procedure except where such shift is required by the new Act itself.

#### **4. THE ROLE OF MINISTRY STANDARDS AND GUIDELINES**

Wherever practicable, the Ministry intends to implement the new Act through guidelines and standards of practice. A guideline is a Ministry statement recommending a preferred level of care or performance. A guideline may also be a suggestion for service providers about how a particular requirement could be met. A standard is a Ministry statement setting out the minimum acceptable level of care or performance expected of a service provider.

#### **5. DEFINITION OF THE "SERVICE PROVIDER"**

**C.F.S.A. ss.3(1), 27**

The Child and Family Services Act defines "service provider" to mean any of the following:

- a. any agency approved to provide services under Part I (Flexible Services);
- b. a children's aid society;
- c. a person or corporation licensed under Part IX (Licensing) to provide service;
- d. persons providing service through a purchase of services agreement contracted with the Minister or with an approved agency;



- e. the Minister of Community and Social Services (i.e. all Ministry operated services);
- f. persons providing services or consultation, research or evaluation and funded by a grant under Part I of the Act.

1402

Foster parents are excluded from the definition of "service provider".

## **6. SERVICES AFFECTED BY THE ACT**

**C.F.S.A. s.3**

The Act establishes 5 broad categories of children's services:

- a. Child development service, i.e., service for a child with a developmental or physical handicap, a service for that child's family or a service for both the child and his family;

**C.F.S.A. s.3(1)7, 26**

The definition is further clarified in the legislation: a developmental handicap means a condition of mental impairment present or occurring in a person's formative years that is associated with limitations in adaptive behaviour.

**C.F.S.A. s.3(1)12**

- b. Child treatment service, i.e., a service for a child with a mental or psychiatric disorder, a service for that child's family or a service for both the child and the family;

**C.F.S.A. s.3(1)8, 26**

This definition is further expanded with regard to secure treatment: a mental disorder means a substantial disorder of emotional processes, thought or cognition which grossly impairs a person's capacity to make reasoned judgments.

**C.F.S.A. s.108(c)**

For administrative purposes in service planning, the definition has been further refined:

Child treatment services are those services provided to a child and/or to the child's family, where the child has been diagnosed by a psychiatrist as having a mental or psychiatric disorder, which:

- o are specifically provided to alleviate the mental or psychiatric disorder; and
- o are provided by, or under the supervision of, a psychiatrist who retains direct clinical responsibility for the case.

c. Child welfare service, i.e.:

- (i) residential or non-residential service, including a prevention service;
- (ii) a child protection service;
- (iii) an adoption service;
- (iv) individual or family counselling. **C.F.S.A. s.3(1)9, 26**

Residential service under the Child and Family Services Act is the provision of care to a child under the age of 18 years away from the home of the parent. It includes foster care; **C.F.S.A. s.3(1)25, 26**

For administrative purposes in service planning, the definition is further refined, and the following is the most recent description:

Child welfare services include client-related services to children provided by children's aid societies as described under section 15(3) of the Legislation.

d. Community support service, i.e., a support or prevention service provided in the community for children and their families; **C.F.S.A. s.3(1)10, 26**

For administrative purposes in service planning, the definition has been further refined:

Community support services generally do not target a specific identified client but are aimed at:

- o facilitation and/or improvement of social support for populations at risk;
- o reducing the likelihood of need for on-going or more intensive M.C.S.S. services among populations at risk.

- e. Young offenders service, i.e., a service provided for youths 12 years of age and over who have come into conflict with the law. C.F.S.A. s.3(1)29
- f. The Ministry is considering using the authority under s.197(1)8 of the Act " to further define 'service' " by adding a sixth service:

Child and family intervention service, i.e., a service for a child with a social, emotional and/or behavioural problem, for the family of a child with a social, emotional and/or behavioural problem, or the child and the family.

For administrative purposes in service planning, the definition could be further refined:

Child and family intervention services are those services provided to a child and/or the child's family involving planned interventions based on multi-disciplinary professional approaches designed to alleviate a range of social, emotional and/or behavioural problems experienced by children and their families. They include assessment, applying methods of intervention with individuals, groups and families, re-integration activities and consultation to social systems.

## **7. PROVISION OF SERVICES IN THE FRENCH LANGUAGE**

### **(1) Ministry Objective**

A long-term Ministry objective is to ensure that in due course a full range of services in the French language will be available to children and families, where appropriate, in designated areas of the province. Detailed objectives relating to the new policy will be included in the operational plans of the service providers and in the Ministry work plans at area, regional and corporate levels. Area offices in designated areas will play a key role in implementation of the policy. The Office of the Coordinator of French Language Services will offer on-going assistance.



Selected service providers in designated areas will be expected to increase their effectiveness by serving Francophones in their own language. However, not all service providers will be required to provide services through both official languages. Agreed upon time-frames will be established through consultation between service providers and Ministry area staff.

Provision of French language services, "where appropriate" promotes best interests of the child, supports the integrity of the family unit and recognizes cultural differences.

(3) Types of Service

Those service providers called upon to provide French language services will be expected to respond to over-the-counter, telephone and written communications in French when that is the language of the particular client, to produce information materials in French and generally to deal with clients and public in French when that is the preferred language.

(4) Planning Priorities and Procedures

Service planning priorities will be developed in consultation between service providers and area staff. The resulting operational plan will take the following factors into account:

- a. service level in existence;
- b. service demand;
- c. service development realities.

(5) Areas of the Province Designated for French Language Services

The Child and Family Services Act stipulates that services in French be provided "where appropriate". The Ministry's policy on this question is that the appropriate locations for provision of such services should be taken to be

the designated areas identified by the Ontario Government as areas where there are substantial numbers of Franco-Ontarians. These designated areas are: 1406

a. Counties

Stormont, Glengarry (in the United Counties of Stormont, Dundas and Glengarry), Prescott and Russell

b. Regional Municipalities

Ottawa-Carleton and Sudbury

c. Districts

Nipissing, Timiskaming and Cochrane

d. Territorial Districts

Sudbury

e. Localities

Blind River, Elliot Lake, Michipicoten, North Shore and Algoma in Algoma District;

Anderdon, Bell River, Colchester North, Maidstone, Sandwich South, Sandwich West, Tecumseh, Tilbury North and Tilbury West in Essex County;

Dover, Tilbury and Tilbury East in Kent County;

Port Colborne and Welland in the regional municipality of Niagara;

Pembroke, Stafford and Westmeath in Renfrew County;

Penetanguishene and Tiny in Simcoe County;

f. Metropolitan Centres

Ministry head offices providing services to French-speaking people throughout the province as well as the significant French-speaking population within Metropolitan Toronto are designated for some French-language capacity.

Also government offices located in Windsor, St. Catharines and Sault Ste. Marie should provide French-language services.

8. SERVICES TO INDIAN AND NATIVE CHILDREN

(1) Generally

In this and other sections throughout these volumes there are references to the provisions for Indian children and families, bands, and those persons who may become "native persons" within the meaning of the C.F.S.A. There is also information about Ministry's policy framework regarding services for persons of native descent who are neither Indian or "native persons" as defined in the C.F.S.A. and information regarding the Ministry's policies and procedures for implementation of the Act's provisions current at the time of writing.

These policies and procedures are interim and may be revised, refined or elaborated as a result of experience and on-going consultation with Indian and native organizations.

Under the general provisions of the C.F.S.A., the Ministry will be able to continue to support specific culturally sensitive services to persons of native descent, whether or not they are Indian or "native persons" as defined in the new Act.

There are persons of native descent who may be neither Indian under the Indian Act nor members of "native communities" that may be designated by

the Minister under the C.F.S.A. Nonetheless, the Ministry will develop policies, procedures and practice guidelines to ensure that all services to children and families of native descent, whether or not they are Indian or "native persons" as defined in the C.F.S.A., are provided in a manner that respects their culture. Input from native persons and organizations regarding these matters will be sought.

1408

Guidelines will be developed with input from native organizations and directives sent to agencies regarding such matters.

## **(2) Definitions**

The statute defines Indian, band, "native person" and "native community" as follows:

a. "band" has the same meaning as the Indian Act (Canada) **C.F.S.A. s.3(1)4**

b. "Indian" has the same meaning as in the Indian Act (Canada)

**C.F.S.A. s.3(1)15**

c. "native community" is a community designated by the Minister under section 192 of Part X (Indian and Native Child and Family Services)

**C.F.S.A. s.3(1)19**

d. "native person" is a person who is a member of a native community but is not a member of a band. "Native child" has a corresponding meaning.

**C.F.S.A. s.3(1)20**

e. "native community" means a community designated by the Minister as a native community for the purposes of this Act.

**C.F.S.A. s.192**

The original intent of the identification "native community" in the statute was to enable the Minister to designate communities of Indians that were:

- o located in the remote north on Crown lands;
- o organized in a manner similar to bands; and
- o without status as bands under the Indian Act.

The communities under consideration include those that were recognized<sup>1409</sup> by the federal government in April 1985 as bands under the Indian Act. In view of the federal government's recognition of these communities as bands, the Ministry is now reviewing which communities, if any, may be considered for designation in accordance with the original intent.

It should be noted, however, that the new legislation provides for general and specific ways to ensure that the courts and service providers are sensitive to the cultural needs of Indian and native children and families, whether or not they are members of Indian bands or "native communities" designated by the Minister.

**(3) Indian and Native Child and Family Services**

**C.F.S.A. Part X**

Part X of the Act addresses the provision of services for Indian and native children and their families through such mechanisms as:

- o designation of native communities (s.192);
- o agreements with bands and native communities (s.193);
- o designation of a child and family service authority (s.194);
- o subsidy for customary care (s.195);
- o consultation by a society or agency with bands and native communities (s.196).

Part X was proclaimed in force November 1, 1985 at the request of the Chiefs of Ontario with the understanding that all parties recognize the necessity for a period of transition towards its implementation. Consultation is continuing and information will be distributed as available.

**1. GENERALLY**

It is intrinsic to the philosophy underlying the Child and Family Services Act that services be responsive to the changing needs of children and families. Part I of the new legislation provides for that flexibility in both the structure and the administration of services encompassed by the Act. At the same time, the Act establishes mechanisms for accountability for service providers and the Ministry in relation to the delivery of services under the Act and the expenditure of public monies.

The flexible services provisions of the Act embody the Ministry's continuing efforts to establish an administrative structure that is better able to address the individual service needs of the children and families for which the Ministry is responsible.

**2. SERVICES****C.F.S.A. s.3**

The Minister of Community and Social Services is given broad authority to fund a range of agencies to provide any of the following categories of service:

- o child welfare
- o child treatment
- o child development
- o community support
- o young offenders

and an additional service, which is under consideration,

- o child and family intervention.

These 5 broad service categories provide the framework within which service providers and the Ministry organize services to be delivered under the authority of the new legislation. (See page 8 for definitions.)



The Child and Family Services Act allows the Minister to fund the provision of services by any of the following means:

- a. through direct provision of service by the Ministry;
- b. through purchase of services from agencies, municipalities, or individuals;
- c. through approval of an agency to provide service;
- d. through grants and contributions.

4. DEEMED APPROVAL OF EXISTING AGENCIES

C.F.S.A. Part XII

(1) Generally

While moving toward greater flexibility in the provision of services, the Act recognizes that continuity and stability in the service system is essential to the well-being of children. Changes in the service system structure are expected to be gradual and evolutionary.

In order to minimize disruption for service providers and families presently receiving services, agencies already approved according to the requirements of predecessor legislation are deemed to be approved under the Child and Family Services Act until their approval is terminated or a new approval granted under the Child and Family Services Act. The Act also applies to certain providers of developmental services not covered by the transition provisions.

(2) Children's Aid Societies

C.F.S.A. ss.15, 208

In addition to the broad service categories, the Act continues to provide for the designation of children's aid societies.

Societies have been addressed specifically in the Act to recognize the essential nature of child protection services.

A children's aid society approved according to the requirements of the Child Welfare Act is deemed to be an approved agency and a children's aid society under the Child and Family Services Act.

## 5. REQUIREMENTS OF AN AGENCY'S BOARD OF DIRECTORS

### (1) Filing By-laws with the Ministry

C.F.S.A. s.13(1)(2)

An approved agency must file a certified copy of its by-laws, and any amendments, with the Ministry. This is to be done "forthwith" after the by-law or the amendment is made.

### (2) Indian Band or Native Community Representation

C.F.S.A. s.13(3)

If an approved agency provides services to Indian or native children and families, the Child and Family Service Act requires its board of directors to include band or native community representatives in its membership as prescribed by regulations made under the Child and Family Services Act. Regulations will be developed over time as necessary and in consultation with Indian and native people.

This requirement to include band and native community representatives underscores the Ministry's commitment to encourage the involvement of bands and native community representatives in the provision of social services to Indian and native families and children. As board members, the representatives participate fully and have the same rights and responsibilities as all other board members.

The requirement under the Act for Indian band and native community representation on the boards of approved agencies does not take effect until the regulations are in place. These will be developed through consultation with agencies, the Ontario Indian Social Services Council and other Indian and native organizations. Guidelines will be developed as a prelude to regulation. Preliminary analysis of relevant factors indicates that initially the guidelines should address children's aid societies. (See later section on children's aid societies, item 6(1).)



(3) Exclusion of Agency Employees from Board Membership C.F.S.A. s.13(4)

Under the Child and Family Services Act an employee of an approved agency is not permitted to be a member of the agency's board of directors.

The intent of this prohibition is to guard against conflicts of interest in decisions made by the board.

The proscription is not intended to prohibit the involvement of agency employees in board activities or their attendance at board meetings.

(See also Appendix 4 re general provisions governing the operation of corporations.)

### 1. GENERALLY

The approval mechanism established by the Child and Family Services Act is not unlike provisions in the now repealed Children's Mental Health Services Act and the Children's Institutions Act.

The approval process is utilized where the Ministry wishes to establish a long-term funding relationship with an agency as a service provider. Agency approval is intended to provide stability within the social service system and to provide security to service providers and clients.

### 2. SERVICES THAT MAY BE ENCOMPASSED BY THE APPROVAL

C.F.S.A. s.3

An agency may seek the Minister's approval to provide any one or a combination of the categories of service permitted by the Act; namely, child welfare, child treatment, child development, community support or young offenders service.

### 3. ELIGIBILITY FOR APPROVAL

C.F.S.A. s.8

The Child and Family Services Act restricts eligibility for the Minister's approval to an "agency" and defines "agency" to mean a corporation. (See Appendix 4 for general provisions governing the operation of corporations.)

The "approved agency" means of funding service delivery is thus not available to an individual, or an unincorporated body (e.g. a partnership or association of persons).

As a matter of Ministry policy, "approved agency" status will not be extended to a corporation with share capital and in business for profit, or to a holding company.

The Child and Family Services Act requires the Minister to be satisfied of the following before he approves an agency to provide service under the Act:

- a. that the corporation is financially capable of establishing, maintaining and operating the particular service proposed, with such Ministry grants and contributions as are available to it;
- b. that the affairs of the corporation are carried on under competent management and in good faith;
- c. that the premises are suitable for providing the service(s) for which approval is sought.

5. SATISFACTION OF THE CRITERIA FOR APPROVAL

C.F.S.A. s.197(1)15  
O. Reg. 550/85

Regulation under the Child and Family Services Act stipulates:

- o Every agency that applies for an approval under section 8 of the Act shall file with the Minister,
  - (a) documentation of the need for the proposed service;
  - (b) evidence of financial viability, including where available, an audited financial statement of the agency for the preceding fiscal year together with a proposed budget for the proposed service;
  - (c) evidence that the agency is being managed in a competent manner including evidence of sound financial management;
  - (d) particulars of the program practice and procedures in place in the agency;
  - (e) particulars of corporations with which the agency has or may have a non-arms length relationship; and

- (f) evidence that applicable requirements of the municipality where the premises in which the proposed service will be provided are located have been complied with or can be complied with. 1416

O. Reg. 550/85, s.2(1)

- o Every agency that applies for an approval under section 9 of the Act shall file with the Minister,

(a) a copy of the site plan showing the location of the building or buildings, if any, on the site and a sketch of the floor plan of the premises where it is proposed to provide the service;

(b) reasons for the location of the proposed service;

(c) documentation of the permitted uses of the proposed site under existing zoning by-laws of the municipality in which the site is located;

(d) such other information in addition to that required under clauses (a) to (c) as the Minister may require to determine that the proposed premises is suitable for providing a service and that there is a need for the service in the area served or to be served by the service; and

(e) evidence that the premises comply with,

(i) the laws respecting the health of inhabitants of the area in which the premises are located,

(ii) any rule, regulation, direction or order of the local board of health and any direction or order of the local medical officer of health,

(iii) any by-law of the municipality in which the premises are located or other law for the protection of persons from fire hazards,

(iv) any restricted area, standard of housing or building by-law passed by the municipality in which the premises are located under Part III of the Planning Act or any predecessor thereof, and

(v) the requirements of Ontario Regulation 583/83 (Building Code).

O. Reg. 550/85, s.2(2)

- o Every approved agency and every approved corporation shall appoint **1417**  
person to act as the chief executive officer of the approved agency or  
approved corporation. **O. Reg. 550/85, s.3(1)**
- o A person who is appointed as the chief executive officer shall be  
responsible to the board of directors of the approved agency or approved  
corporation, as the case may be, for the operation and management of  
the approved services provided by the approved agency and each  
children's institution or children's mental health centre operated by the  
approved corporation. **O. Reg. 550/85, s.3(2)**
- o The requirement for a chief executive officer does not apply to a society  
insofar as it is providing services under section 15 of the Act.  
**O. Reg. 550/85, s.3(3)**

#### **6. COMPLIANCE WITH RELEVANT LICENSING REQUIREMENTS**

A further prerequisite to "approved agency" status is compliance with  
licensing requirements, where licensing requirements are imposed by the Act  
(e.g. provision of residential care in children's residences).

#### **7. EXTENT TO WHICH THE MINISTER MAY ASSIST THE AGENCY**

**C.F.S.A. ss.8; 9**

The Child and Family Services Act permits the following measures:

- a. retroactive approval; **C.F.S.A. s.8(4)**
- b. the payment of start-up costs to an agency that the Ministry intends to  
approve; **C.F.S.A. ss.18; 8(2)**
- c. where appropriate, exemption by regulation of an approved agency or  
approved service(s) from specific requirements of the Act or the  
regulations for a specified period or periods of time, in order to give the  
agency an opportunity to meet such requirements while continuing to  
provide service. The time frame for the exemption is a matter of

- d. capital, operating and other assistance as permitted by the regulations to assist in the provision of service, and/or in the maintenance and operation of the premises where the service is provided. C.F.S.A. ss.8(3); 9(1)

**8. MINISTER'S DISCRETION TO ATTACH**

**TERMS AND CONDITIONS TO THE APPROVAL**

C.F.S.A. s.10

The Child and Family Service Act allows the Minister to impose terms and conditions on the approval, if the agency's particular circumstances and needs indicate that conditions should be attached.

Conditions may include, for example:

- o restrictions on the agency's territorial jurisdiction;
- o sub-categories of service encompassed by the approval.

Agencies will be approved to deliver one or more of the 5 categories of service permitted by the Act. However, within these categories, certain agencies may be approved to provide only a sub-category of 1 of the 5 primary services. For example, certain child development or child treatment services may be approved to provide only day programs and not residential programs. Sub-categories of services are particularly important in relation to the approval of an agency to provide young offenders services. The Young Offenders Act (Canada) requires the specific designation of places of detention and custody. Thus, the sub-category of the service identified in the YOA designation may also be incorporated as a term or condition to the Minister's approval of the particular agency to provide service under the Child and Family Services Act.

**9. MINISTRY VARIATION OF TERMS OF APPROVAL**

C.F.S.A. s.10

Terms and conditions attached to the approval may be varied or amended from time to time, as required. It is anticipated that most changes in terms



and conditions will not require review of the original approval. Review of the original report may, however, be necessary and is dependent on the purpose of the Ministry's varying of the terms and conditions attached to the approval. 419

If the Minister intends to vary or remove terms and conditions or impose new conditions to the approval, reasonable written notice must be given to the approved agency.

If the agency objects to the Minister's proposed variation, it may request that a designated Ministry director review its objections.

#### **10. LIFESPAN OF "APPROVED AGENCY" STATUS**

The Minister's approval is effective until it is revoked. (If time limit is considered necessary, the appropriate funding mechanism is a purchase of service rather than an "approved agency" status.)

#### **11. MINISTER'S AUTHORITY TO REVOKE OR SUSPEND THE APPROVAL**

C.F.S.A. ss.22, 23 & 24

##### **(1) Generally**

The Child and Family Services Act gives to the Minister substantially the same suspension and revocation powers that were contained in predecessor legislation (e.g. Child Welfare Act, Children's Institutions Act, Children's Mental Health Services Act.

What the Act gives to the approved agency is the right to be heard in response to any such action proposed by the Minister.

##### **(2) Grounds for Ministry Action**

An approved agency may request the Minister to revoke part or all of its approval.

The Minister continues to have a responsibility to revoke or suspend an approval where he believes on reasonable grounds that:

- 1420
- a. in the course of providing service, an agency has contravened the Act, the regulations or the terms and conditions of an approval or designation (in the case of a society);
  - b. a director, officer or employee of the service provider has contravened or knowingly permitted the contravention of the Act, regulations, terms or conditions of an approval or designation (in the case of a society);
  - c. an agency would be refused approval if it were being applied for in the first instance;
  - d. if the approved agency is a children's aid society, it is no longer able to perform the functions for which it was designated.

It is intended that these measures be used where there are serious violations of the law or circumstances where there is substantial concern for the well-being of children.

**(3) Extent of the Revocation or Suspension Authority**

When an agency is approved to provide more than one service under the Act, the Minister may revoke or suspend these approvals.

**(4) Notice to the Agency**

If the Minister intends to revoke or suspend an approval he must notify the agency in writing and give reasons for the proposed action, unless the agency has consented to or requested the Minister's intervention.

The notice must inform the agency that it is entitled to a hearing if it makes such request to the Minister in writing no later than 60 days after delivery of the notice.

If no such request is made, the Minister may take the action proposed in the notice after 60 days have elapsed.

**(5) Agency's Entitlement to a Hearing**

If the approved agency requests a hearing, the Minister (or in the case of a society, the Lieutenant Governor in Council) is required to appoint one or

more persons who are not employed by the Ministry, to conduct the hearing and to make recommendations to the Minister.

1421

The person or persons appointed must hold a formal hearing, rather than simply review the matter, and must submit a report to the Minister. The Act does not provide a specific time frame within which such hearing must be held, nor does it provide a time frame within which the report must be submitted to the Minister.

The report to the Minister must include relevant findings and a recommendation as to whether or not the Minister's proposed action should be carried out. A copy of the report must be sent to the agency.

The Minister is not bound by the recommendations contained in the report. The Child and Family Services Act gives the appointed person only an advisory function. It is the responsibility of the Minister to review his proposed action with the assistance of the report, to make his final decision, and to notify the service provider accordingly, with the reasons for his decision.

## **12. PROVISIONAL SUSPENSION OF APPROVAL**

**C.F.S.A. s.22(9)**

### **(1) Generally**

The authority to suspend or revoke approval on a provisional basis allows the Minister to act in an emergency situation. The Minister may exercise this power where there is an immediate threat to the public interest or to the well-being of an individual.

### **(2) Notice**

The Minister exercises the above power by notice to the agency and without prior hearing.

### **(3) Agency's Entitlement to a Hearing**

The Minister shall cause a hearing to be held to review the action. Suspension of the approval is thus provisional pending the outcome of the hearing, the

**13. MINISTER'S ORDER TO CEASE ACTIVITY**

**C.F.S.A. s.23(3)**

The Minister may, by notice and without a hearing, order a service provider to suspend or cease any one or all of its activities where the Minister has reasonable grounds to believe that the activity is a threat to the public interest or is causing or is likely to cause harm to a person's health, safety or welfare. In addition to ordering a cessation of activity, the Minister may take any other action he deems to be in the best interest of the service recipients.

The Act's provisions relating to notice and entitlement to a hearing extend to the Minister's order to cease activity.

**14. FINANCIAL RECORDS TO BE MAINTAINED**

**O. Reg. 550/85**

Regulations under the Child and Family Services Act stipulate:

- o Every approved agency and every approved corporation shall keep books of account that shall,
  - (a) set forth the revenue and expenditures of the approved agency or approved corporation;
  - (b) contain a record of money received by the approved agency or approved corporation from sources other than under the Act and this Regulation; and
  - (c) be audited annually by a licensed public accountant who is not a member of the board or an employee of the approved agency or approved corporation or an employee of a corporation with which the approved agency or approved corporation may have a non-arms length relationship.
- o The revenue and expenditure of an approved agency thus required shall be itemized according to each service provided by the approved agency.

**O. Reg. 550/85, s.4(1)**

**O. Reg. 550/85, s.4(2)**

o Every approved agency and every approved corporation shall furnish to the Minister, 1423

(a) not later than the last day of the fourth month following the end of each fiscal year,

(i) its annual financial statement together with an auditor's report thereon prepared by a licensed public accountant, and

(ii) a reconciliation report in a form provided by the Minister together with a report thereon prepared by a licensed public accountant;

(b) on a monthly or quarterly basis as required by the Minister, a financial report in a form provided by the Minister that includes statistics on the services provided by the approved agency or the children's institutions or children's mental health centres operated by the approved corporation; and

(c) an annual submission in a form provided by the Minister on expenditures and revenues of each children's residence licensed under Part IX of the Act that is operated by the approved agency or approved corporation.

**O. Reg. 550/85, s.5(1)**

o An auditor's report required under this section shall be prepared in accordance with generally accepted auditing standards as set forth in the handbook of the Canadian Institute of Chartered Accountants.

**O. Reg. 550/85, s.5(2)**

o A reconciliation report shall include a calculation of the financial assistance payable by Ontario, the actual payments made by Ontario with respect to the fiscal year and a calculation made of the balance that may be owing by or repayable to Ontario.

**O. Reg. 550/85, s.5(3)**

o Where a municipality is required to contribute financial assistance for the operation of a society the reconciliation report shall include a calculation of the financial assistance payable by the municipality, the actual payments made by the municipality with respect to the fiscal year and a calculation of the balance that may be owing by or repayable to the municipality.

**O. Reg. 550/85, s.5(4)**



- o Every approved agency and every approved corporation shall keep separate books of account for each children's residence licensed under Part IX of the Act that is operated by the approved agency or the approved corporation. O. Reg. 550/85, s.6(1)
- o Every approved corporation shall keep separate books of account for each children's institution or children's mental health centre operated by the approved corporation. O. Reg. 550/85, s.6(2)
- o Every approved agency shall keep separate books of account for each service provided by the approved agency. O. Reg. 550/85, s.6(3)
- o Each book of account shall show aggregate revenues and expenditures separately with respect to each service provided by the approved agency or the children's institutions or children's mental health centres operated by the approved corporation, as the case may be. O. Reg. 550/85, s.6(4)
- o Each book of account shall be retained for at least 7 years from the date of the last entry in the book for a particular year. O. Reg. 550/85, s.6(5)
- o Every approved agency and every approved corporation shall keep and maintain an up-to-date record of the inventory of all furnishings and equipment acquired by the approved agency or approved corporation with moneys paid by Ontario under section 8 or 9 of the Act. O. Reg. 550/85, s.7(1)
- o A record of current inventory shall set forth each addition to or removal from the inventory and the reasons therefor and shall be prepared in such a manner and contain such additional information with respect to the inventory as the Minister may require. O. Reg. 550/85, s.7(2)

**15. APPLICATION TO THE MINISTRY FOR FINANCIAL ASSISTANCE — CAPITAL**

O. Reg. 550/85

Regulations under the Child and Family Services Act stipulate:



- o An application for financial assistance under section 8 of the Act in respect of a building project by an approved agency or approved corporation shall be made to the Minister on a form provided by the Minister. 425  
**O. Reg. 550/85, s.8(1)**

- o An applicant for financial assistance shall file with the Minister 2 copies of a site plan showing the location of the building or buildings, if any, on the site and, in the case of a building project with one or more of the elements referred to in clauses (a), (b), (d) and (f) of the definition of building project in section 1 of the Regulations,

(a) building plans and specifications prepared by an architect or professional engineer showing the structure, fixtures and arrangements of the building or buildings and describing the areas of the building or buildings to be used for the purposes of the Act; or

(b) where the Minister approves, structural sketches and specifications prepared by a person other than an architect or professional engineer describing the building or buildings and the areas of the building or buildings or contiguous to the building or buildings to be used for the purpose of the Act. **O. Reg. 550/85, s.8(2)**

- o No plan, specification or structural sketch filed with the Minister shall be amended or altered without the approval of the Minister.

**O. Reg. 550/85, s.8(3)**

- o No payment of financial assistance shall be made for a building project except where,

(a) the building project has been approved by the Minister; and

(b) the approved cost has been determined. **O. Reg. 550/85, s.9(1)**

- o The amount of a payment to an approved agency or to an approved corporation under section 8 of the Act for a building project shall be in an amount determined by the Minister up to 80 per cent of the approved cost of the building project. **O. Reg. 550/85, s.9(2)**

- o An approval of a building project by the Minister expires on the first anniversary of the date upon which the approval is given unless the building project has been commenced before the anniversary date.

O. Reg. 550/85, s.9(3)

- o The aggregate of the amounts of assistance paid at any point in time shall not exceed,
- (a) an amount that bears the same proportion to the estimated total payment as the amount of progress made at the time towards completion of the project bears to the total estimated amount of work required for completion; or
  - (b) an amount that bears the same proportion to the estimated total payment as the amount of cost incurred at the time bears to the total estimated cost of the project,

whichever is the greater, except where the Minister directs otherwise.

O. Reg. 550/85, s.9(4)

- o A single payment, or in the case of payment in 2 or more instalments, the final payment of an amount payable for a building project shall not be made until,
- (a) an architect or professional engineer certifies or the Minister is otherwise satisfied that the building project has been completed in accordance with the plans filed under clause 8(2)(a) of the sketches thereof approved by the Minister under clause 8(2)(b) and the building or addition is ready for use and occupancy; and
  - (b) the applicant for the payment submits a report containing,
    - (i) a statement of the actual cost of the building project,
    - (ii) a statement indicating that all refundable sales tax has been taken into account,
    - (iii) a statement indicating that the total amount of the unpaid accounts applicable to the building project does not exceed the amount of the grant remaining to be paid, and

- (iv) an undertaking that the amount of the grant remaining to be paid will be applied first to the payment of the unpaid accounts. 427  
O. Reg. 550/85, s.9(5)

- o No applicant for or recipient of financial assistance for a building project shall,

- (a) acquire a building or land for the building project;
- (b) call tenders for the building project;
- (c) commence construction of the building project; or
- (d) erect any temporary or permanent sign, tablet or plaque on the site or building project,

without the written approval of the Minister. O. Reg. 550/85, s.10

- o It is a term and condition of a payment of financial assistance under section 8 of the Act in respect of a building, buildings or land forming part of a building project that the applicant for payment enter into an agreement with the Minister in which the applicant shall agree not to,

- (a) change the site, structure or use of or sell, agree to sell, lease, mortgage, encumber, donate or otherwise dispose of all or any part of the building, buildings or land; or
- (b) demolish or make alterations or additions to all or any part of the building or buildings,

without the written approval of the Minister. O. Reg. 550/85, s.11(1)

- o The Minister may require as a condition of this approval that the applicant shall reimburse Ontario in the same ratio as the Minister's share of the acquisition price, together with the costs of renovations, furnishing and equipment, less the costs of disposition, if any, based on the greater of,

(a) current market value; or

(b) the proceeds of disposition.

O. Reg. 550/85, s.11(2)

- o Where a recipient of financial assistance for a building project contravenes s.11(1), the Minister may require repayment of all or a part of the share referred to in s.11(2) and calculated in accordance with that subsection.

O. Reg. 550/85, s.11(3)

- o Repayment of all or part of the share referred to in s.11(2) may be obtained by,

- (a) deducting the share from any monies payable to the recipient under the Act; or

- (b) recovering the share by proceedings in a court of competent jurisdiction.

O. Reg. 550/85, s.11(4)

- o Expenditures incurred by an approved agency or an approved corporation for,

- (a) furnishing and equipment that are not replacements; or

- (b) repairs to or maintenance of a capital asset,

are capital expenditures if they are,

- (c) approved by the Minister as capital expenditures;

- (d) in the opinion of the Minister, necessary for the efficient operation of an approved service operated by the approved agency or an approved children's institution or approved children's mental health centre operated by an approved corporation, as the case may be, and the cost of which is not in the opinion of the Minister excessive for the purpose; and

- (e) are in excess of \$1,000.

O. Reg. 550/85, s.12(1)

- o Financial assistance may be paid for capital expenditures referred to in s.12(1) upon application by the approved agency or approved corporation in an amount up to 80 per cent of the cost as determined by the Minister.

O. Reg. 550/85, s.12(2)

- o Notwithstanding s.9(2) and 12(2) of the Regulation, the amount of a payment for financial assistance under section 8 of the Act to an approved agency or approved corporation for a building project or for the items referred to in s.12(1) of the Regulation shall be equal to an amount determined by the Minister up to the total approved cost of the building project or the items where, in the opinion of the Minister, the requirement for the service, children's mental health centre or children's institution is established and funds are not otherwise obtainable by the approved agency or approved corporation.

O. Reg. 550/85, s.13

#### **16. BUDGET APPROVAL PROCESS FOR APPROVED AGENCIES**

O. Reg. 550/85

Regulations under the Child and Family Services Act stipulate:

- o This section (s.14) does not apply to a society insofar as it is providing services under section 15 of the Act.
- O. Reg. 550/85, s.14(1)
- o Every approved agency and every approved corporation shall, before a date fixed by the Minister in each year, prepare and file with the Minister in a form provided by the Minister an estimate of its net expenditures for the next fiscal year.
- O. Reg. 550/85, s.14(2)
- o Children's aid societies, children's institutions and children's mental health centres are currently required to submit a service plan. For these approved agencies, the estimate of expenditures is filed as part of the service plan. The service plan also includes a description of the services and functions to be provided by the agency, and is the means by which funding and services are approved and monitored.
- O. Reg. 550/85, s.27
- o Where an approved agency or approved corporation does not file an estimate of net expenditures in accordance with section 14(2) before the



date fixed by the Minister, the Minister may at any time thereafter determine the amount of the estimate and cause the estimate to be filed with the approved agency or approved corporation. 1430

O. Reg. 550/85, s.14(3)

- o An approved agency or approved corporation may, at any time up to 1 year after the end of the fiscal year of the agency or corporation, file with the Minister an amendment to the estimate of net expenditures.

O. Reg. 550/85, s.14(4)

- o The Minister may approve an estimate of net expenditures or an amendment thereto or the Minister may refuse to approve the estimate or the amendment or the Minister may vary the estimate or amendment and approve it as varied.

O. Reg. 550/85, s.14(5)

- o The Minister may vary an estimate of net expenditures so approved at any time up to 1 year after the receipt of the annual financial statement and reconciliation report required under clause 5(1)(a).

O. Reg. 550/85, s.14(6)

- o Where the Minister proposes to refuse to approve an estimate of net expenditures or an amendment to an estimate of net expenditures or proposes to vary an estimate of net expenditures, the Minister shall give notice of the proposal to the approved agency or approved corporation forthwith.

O. Reg. 550/85, s.14(7)

- o An approved agency or approved corporation that receives such notice or with which an estimate is filed under s.14(3) of the Regulation may, within 30 days of receipt of the notice or estimate, request,

(a) a meeting with the Minister;

(b) that the Minister consider written submissions from the approved agency or approved corporation; or

(c) both a meeting and the consideration of written submissions from the approved agency or approved corporation.

O. Reg. 550/85, s.14(8)



- o A date for a meeting shall be fixed and written submissions shall be filed no later than 30 days after receipt of the request by the Minister under subsection (8) unless otherwise agreed by the Minister.

O. Reg. 550/85, s.14(9)

- o The Minister shall consider the presentation made by the approved agency or approved corporation during the meeting or its written submissions or both.

O. Reg. 550/85, s.14(10)

- o After considering the presentation of the approved agency or approved corporation the Minister may,

- (a) approve the estimate of net expenditures or an amendment thereto;

- (b) refuse to approve the estimate or the amendment;

- (c) vary the estimate or amendment and approve it as varied; or

- (d) confirm the amount of the estimate determined under s.14(3).

O. Reg. 550/85, s.14(11)

- o Such decision of the Minister is final.

O. Reg. 550/85, s.14(12)

- o Where an approved agency or approved corporation receives a notice under s.14(7) and does not make a request within the 30 day period set out in s.14(8), the Minister's decision with respect to the estimate of net expenditures, the amendment to an estimate of net expenditures or a determination of the amount of an estimate of net expenditures is final.

O. Reg. 550/85, s.14(13)

## 17. WORDS DEFINED BY REGULATION

O. Reg. 550/85, s.1(1)

Regulation governing approved agencies and approved corporations give specific meaning to certain words used in the Regulation. Note the following:

"acceptable exit" means that part of a means of egress that meets the requirements of Ontario Regulation 583/83 (Building Code) and that leads to a public thoroughfare or to an approved open space and that may include any one of the items enumerated herein or any combination thereof:

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1. An exterior doorway to grade.
2. An exterior ramp.
3. An exterior stairway.
4. A fire escape that meets the specification of Sentences 3.4.8.14(1), (2), (3), (6), (7), (8), (9), (10), (11), (12) and (13) of Ontario Regulation 583/83 (Building Code).
5. An interior stairway that is separated from the remainder of the building by a fire separation;

"actual cost" means the cost of a building project and includes,

- (a) fees payable for the services of an architect, professional engineer or other consultant,
- (b) the cost of purchasing and installing furnishings and equipment,
- (c) the cost of land surveys, soil tests, permits, licences and legal fees,
- (d) the cost of paving, sodding and landscaping, and
- (e) the cost of acquiring land necessary for the building project;

"approved corporation" means an approved corporation that is continued under subsection 209(2) or 211(2) of the Act;

"approved cost" means that portion of the actual cost of a building project approved by the Minister;

"approved estimate" means an estimate of net expenditures of an approved agency or approved corporation finally approved under Part I; 433

"architect" means an architect who is a member in good standing of the Ontario Association of Architects;

"building project" means a project composed of one or more of the following elements:

- (a) the purchase or other acquisition of all or any part of an existing building or buildings including the land contiguous thereto,
- (b) any renovations, alterations or additions to an existing building or buildings,
- (c) the purchase or acquisition of vacant land for the purpose of constructing a building or buildings thereon,
- (d) the erection of a new building or any part thereof,
- (e) the demolition of a building,
- (f) the installation of public utilities, sewers and items or services necessary for access to the land or building or buildings;

"common parentage" means one common parent;

"fiscal year" of an approved agency or approved corporation is the period designated by the Minister as the fiscal year of the approved agency or approved corporation, as the case may be;

"fuel-fired appliance" means a device that is designed for use in heating and cooling systems that is operated on fuel and includes all components, controls, wiring and piping required to be part of the device under the requirements of Ontario Regulation 583/83 (Building Code);

"net expenditures" means the costs, less applicable revenue, reasonable and necessary for the provision of approved services by an approved agency or

the operation of an approved children's mental health centre or approved children's institution, as the case may be, but does not include the costs for which financial assistance is paid under section 8 of the Act in accordance with sections 9, 11, 12 and 13 (Financial Assistance, Capital) of this Regulation;

"non-arms length relationship" means a relationship between two parties such that one party has the ability to exercise, directly or indirectly, control or significant influence over the operating and financial decisions of the other party;

"population" means,

- (a) the population as determined by the last municipal census taken prior to the year for which an estimate of net expenditures is made, except in territory without municipal organization,
- (b) in territory as determined by the last municipal census taken prior to the year for which an estimate of net expenditures is made, except in territory without municipal organization,

"professional engineer" means a professional engineer who is a member in good standing of the Association of Professional Engineers of the Province of Ontario.

**1. REPORTING REQUIREMENTS**

C.F.S.A. s.5(5)

The Child and Family Services Act requires service providers to furnish reports to the Ministry of Community and Social Services in the manner and within the time periods prescribed by the regulations made under the Act, and to further provide particular information to the Minister of Community and Social Services as requested.

Such reports assist the Ministry in obtaining adequate information relating to the services provided under its jurisdiction in order to account for expenditures to the Ontario Cabinet and to the legislature, to prioritize service requirements, to identify issues that require the Ministry's attention, and generally to manage the business of the Ministry. This data is also available for review by the Provincial Auditor as required by law.

**2. DUTIES AND RESPONSIBILITIES OF MINISTRY****DIRECTORS AND PROGRAM SUPERVISORS**

C.F.S.A. ss.6; 25

**(1) Generally**

Directors and program supervisors appointed by the Ministry of Community and Social Services have essentially the same responsibilities that they had under predecessor legislation.

**(2) Deemed Appointments**

C.F.S.A. ss.208; 209; 210; 211

Directors and program supervisors appointed under predecessor statutes are deemed to be appointed under new legislation. These appointments include directors under the Child Welfare Act, Children's Institutions Act, Children's Residential Services Act and Children's Mental Health Services Act, and program supervisors and program advisors under the Children's Institutions Act, Children's Residential Services Act and the Young Offenders Act (Canada). Provincial directors charged with responsibility for young offenders under the latter legislation are also deemed appointed under the new Act and continue their duties under Part IV of the Act.



With a few exceptions, there are no plans in the short term to revise the current appointments. Over the long term the Minister may review the powers and responsibilities of directors and program supervisors to determine whether such designations and delegations are meeting the service goals of the Child and Family Services Act. Duties and responsibilities of directors currently are set out in Appendix 3. 1436

**(3) Role of the Program Supervisor**

**C.F.S.A. s.6**

One of the responsibilities of the Ministry program supervisor under the Child and Family Services Act continues to be one of ensuring compliance with the legislation and its regulations. To that end, the Child and Family Services Act permits the program supervisor, on providing proper identification to the service provider, to enter premises where an approved service is provided, to inspect the facilities and the service provided, and to inspect the books of account and records relating to the service. The program supervisor may take copies of the records and may remove the books for that purpose.

The Child and Family Services Act requires the program supervisor's inspection to be undertaken at a reasonable time.

**(4) Interference with a Program Supervisor**

**C.F.S.A. s.6(2); 27**

It is an offence to hinder the program supervisor in the performance of his duties, to refuse to give a program supervisor access to books and records, or information that he reasonably requires regarding a particular service or to give false information to him.

A person who knowingly does so is liable, if convicted by the Provincial Offences Court, to a fine of up to \$2,000. Any director, officer or employee of a corporation who authorizes, permits or concurs in any such contravention by the corporation, is similarly liable.



STRUCTURE AND ACCOUNTABILITY OF SOCIETIESPreserved from Predecessor Legislation**1. SOCIETY, PROVINCIAL AND MUNICIPAL RELATIONSHIPS****C.F.S.A. ss.10, 15, 16, 17, 18 & 19****(1) Generally**

The essential operating structure of a children's aid society and its inter-relationship with the province and the municipality are preserved by the Child and Family Services Act. Under the new Act:

- a. a society will continue to have at its helm a local director who has the qualifications, powers and duties prescribed by regulations made under the Act. In the short term, prescriptions of predecessor regulations in this area are incorporated into regulation under the new Act;  
**C.F.S.A. s.16**
- b. society by-laws and by-law amendments do not come into force until they are approved by the Minister;  
**C.F.S.A. s.15(5)**
- c. the board of directors of a society continues to include municipal representatives as prescribed by the regulations;  
**C.F.S.A. s.18**
- d. the society continues to receive partial financing from the municipality, as determined by the regulations;  
**C.F.S.A. s.19(3)**
- e. the estimated expenditures of a children's aid society continues to require the Minister's approval. Provincial contribution to society funding, the budget cycle and budget review procedures remain unchanged. The prescriptions of predecessor regulation are continued in regulations under the new Act;  
**C.F.S.A. s.19(4)**

- (i) advise and supervise children's aid societies;
- (ii) undertake the inspection of societies' operations and records, and resources for children in their care;
- (iii) monitor the standard of services provided by societies to ensure that the practices and procedures prescribed by the regulations under the Child and Family Services Act are met;  
and
- (iv) exercise the powers and duties of a children's aid society in any area where no society is functioning; **C.F.S.A. s.17**

- g. any transfer or assignment of assets acquired by a society with financial assistance from the Ministry of Community and Social Services must continue to meet the requirements of the regulations under the Child and Family Services Act, in order to ensure accountability for public funds. Regulations of predecessor legislation addressing this area are consolidated under the Child and Family Services Act and made applicable to all approved agencies. **C.F.S.A. s.10(3)**

**(2) Municipal Representation for Societies**

**O. Reg. 550/85**

Regulations made under the Act require the following municipal representation on a society's board of directors:

- o The number of municipal representatives on the board of directors of a society that has jurisdiction in but not outside a city, separated town or a district, regional or metropolitan municipality, shall not be fewer than 4 appointed from among themselves by the council of the city, separated town or the district, regional or metropolitan municipality.  
**O. Reg. 550/85, s.15(1)**
- o The municipal representatives of a society that has jurisdiction in a county but not in a city or separated town, shall be not fewer than 4 appointed from among themselves by the council of the county.  
**O. Reg. 550/85, s.15(2)**

- o The municipal representatives of a society that has jurisdiction in an area that includes a county or part of a county outside a city, separated town or a district, regional or metropolitan municipality shall be as follows:
1. One municipal representative shall be appointed from among themselves by the council of each county, city, separated town and the district, regional or metropolitan municipality in the jurisdiction.
  2. The council of the county, city, separated town or the district, regional or metropolitan municipality having the largest population as determined by the last revised assessment rolls shall appoint from among themselves such other municipal representatives as are required so that the total number of municipal representatives on the board of directors is not fewer than 4. O. Reg. 550/85, s.15(3)
- o In subsection (1) to (3), a reference to a city or separated town does not include a city or separated town in a district, regional or metropolitan municipality. O. Reg. 550/85, s.15(4)
- o The municipal representatives of a society that has jurisdiction in an area that includes a district or part of a district outside a city or a district, regional or metropolitan municipality, shall be appointed in the manner determined under subsection (3), except that the District Child Welfare Budget Board established under section 17 or the district welfare administration board, as the case may be, shall appoint the representatives required by subsection (3) to be appointed by the council of a county. O. Reg. 550/85, s.15(5)

**(3) Society Budgets**

O. Reg. 550/85

Regulation under the new Act stipulates:

**Re: Establishment of District Child Welfare Budget Board**

- o The council of each municipality, as defined in the District Welfare Administration Boards Act, in a district as defined in that Act in which a district welfare administration board has not been established shall, on or

before the 1st day of October in each year, jointly appoint five persons to be a board known as the District Child Welfare Budget Board. 1440

**O. Reg. 550/85, s.17**

Estimate of net expenditures

**O. Reg. 550/85**

Regulation under the Act requires the following in relation to a society providing services under section 15 of the Act:

- o Every society shall before a date to be fixed each year by the Minister, which date shall be no later than the last day of February in the year next following, prepare in a form provided by the Minister and file with the Minister and with each municipality in the area in which the society has jurisdiction, an estimate of its net expenditures for the year next following.

**O. Reg. 550/85, s.18(2)**

- o The estimate of net expenditures of a society in a district in which a district welfare administration board has been established shall be filed within the time set out in subsection (2) with the Minister and the board.

**O. Reg. 550/85, s.18(3)**

- o The estimate of net expenditures of a society in a district in which a district welfare administration has not been established shall be filed within the time set out in subsection (2) with the Minister and the District Child Welfare Budget Board established under section 17 in that district.

**O. Reg. 550/85, s.18(4)**

- o The Minister, at any time after the date fixed by the Minister has expired and the society has not filed an estimate, may determine the amount of the estimate and cause the estimate to be filed with the society and with each municipality in the area in which the society has jurisdiction or with the District Child Welfare Budget Board, as the case may be.

**O. Reg. 550/85, s.18(5)**

- o An estimate filed by the Minister under subsection (5) shall, subject to subsection 20(2) (review), be deemed to be approved by the Minister under subsection 19(1) 60 days after it is filed.

**O. Reg. 550/85, s.18(6)**

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- o The council of every municipality or District Child Welfare Board, as the case may be, with whom an estimate is filed shall, subject to subsection 20(1) (review), grant its approval to the estimate within 60 days after the filing of the estimate with the municipality or with the District Child Welfare Budget Board. O. Reg. 550/85, s.18(7)

- o A municipality or District Child Welfare Budget Board, as the case may be, that has not, within the 60-day period fixed under subsection (7),

- (a) granted its approval to the estimate; or

- (b) referred the estimate to a child welfare review committee,

shall, at the expiration of that period, be deemed to have granted its approval to the estimate. O. Reg. 550/85, s.18(8)

- o Where a society has jurisdiction in more than 1 municipality, the portion of the estimate of net expenditures of the society that is referable to each municipality shall, subject to subsection 21(11) (decision of Minister),

- (a) in respect of the cost of services for each child in care, be in the proportion that the number of children taken at any time into protective care in the municipality and who are in care during the year immediately preceding the year for which the estimate of net expenditures is made, bears to the total number of children in care in that immediately preceding year;

- (b) in respect of the cost of services other than services for children in care, be in the proportion that the population of the municipality bears to the total population of the area in the jurisdiction of the society; and

- (c) where by arrangement with a municipality the standard of services provided to the municipality exceeds that provided to any other municipality in the jurisdiction of the society, include the entire cost of the excess. O. Reg. 550/85, s.18(9)

- o For the purpose of subsection (9), the number of children in the care of a society during the year shall be computed as the average for the year of the number of children in the care of the society on the last day of each month in the year. **O. Reg. 550/85, s.18(10)**

- o Subsection (9) does not apply where a district welfare administration board has been established under the District Welfare Administration Boards Act. **O. Reg. 550/85, s.18(11)**

- o For the purposes of subsection (9), "child in care" means a person under 18 years of age who is in the care or custody of a society,

- (a) while in detention in a place of safety under subsection 40(2), clause 40(3)(d), subsection 40(6) or clause 40(10)(b) of the Act,

- (b) during the placement of a homemaker under section 74 of the Act, or

- (c) as a result of an order under section 53 of the Act or an agreement under section 29 or 30 of the Act respecting the care and custody of the person where the person is cared for in a place other than in the home of the person's parent,

and includes a person who is receiving care and maintenance from a society under section 67(2) of the Act and "children in care" has a corresponding meaning. **O. Reg. 550/85, s.18(12)**

Minister's authority to approve or vary

**O. Reg. 550/85**

Regulation under the Child and Family Services Act stipulates:

- o After an estimate is filed and approved by the council of each municipality, the Minister may approve the estimate as filed or, subject to subsection 20(2) (review), vary the amount of the estimate and approve the estimate as so varied. **O. Reg. 550/85, s.19(1)**



- o Where the Minister intends to vary the amount of an estimate and to approve the estimate as so varied under subsection (1), the Minister shall, at least 30 days prior to approving the estimate, cause notice to be given of the Minister's intention to vary and approve the estimate to the society and to the council of each municipality in the area in which the society has jurisdiction or to the District Child Welfare Budget Board, as the case may be. 1443

O. Reg. 550/85, s.19(2)

Referral to a child welfare review committee

O. Reg. 550/85

- o A council of a municipality or a District Child Welfare Budget Board that does not agree with,
- (a) the amount of the estimate referable to a municipality, where an estimate has been filed by a society with the municipality or the Board; or

- (b) the portion of the estimate that is referable to a municipality,

may on or before the expiration of 60 days after the filing of the estimate with the municipality or the District Child Welfare Budget Board, as the case may be, request the Minister to refer the matter to a child welfare review committee.

O. Reg. 550/85, s.20(1)

- o A society, the council of a municipality or a District Child Welfare Budget Board that does not agree with,

- (a) the amount of an estimate that has been filed by the Minister under subsection 18(5); or

- (b) the amount of an estimate that the Minister intends to approve as varied under subsection 19(1),

may,

- (c) in the case of an estimate referred to in clause (a), before the expiration of 60 days after the filing of the estimate; and

- (d) in the case of an estimate referred to in clause (b), after receiving 1444 notice of the Minister's intention to vary the amount of an estimate and before the Minister's approval is given to vary the amount of the estimate,

request the Minister to refer the matter to a child welfare review committee.

**O. Reg. 550/85, s.20(2)**

- o A council of a municipality or a District Child Welfare Budget Board that does not agree with the portion of the estimate referable to a municipality, where an estimate has been filed by the Minister with the municipality or the Board, may, before the expiration of 60 days after the filing of the estimate, request the Minister to refer the matter to a child welfare review committee.

**O. Reg. 550/85, s.20(3)**

- o For the purposes of this section (s.21) and section 20, a child welfare review committee shall consist of,

(a) one member appointed by the Minister, who shall be chairman;

(b) one member appointed by the Ontario Association of Children's Aid Societies; and

(c) one member appointed by the council of the municipality or the District Child Welfare Budget Board, as the case may be.

**O. Reg. 550/85, s.21(1)**

- o Where a society has jurisdiction in more than 1 municipality and there is no District Child Welfare Budget Board, the member to be appointed under clause (1)(c) shall be appointed jointly by those municipalities.

**O. Reg. 550/85, s.21(2)**

- o The Minister shall, after receiving a request to refer a matter to a child welfare review committee, forthwith appoint the member referred to in clause (1)(a) and cause notice to be given to the Ontario Association of Children's Aid Societies and the council of the municipality or the District Child Welfare Budget Board, as the case may be, to appoint, within 10 days of the notice having been given, the members referred to

forthwith of the names of the members so appointed.

O. Reg. 550/85, s.21(3)

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- o The Minister shall, after being informed of the members so appointed, forthwith cause notice of the names of the members of the child welfare review committee to be given to the parties concerned.

O. Reg. 550/85, s.21(4)

- o Where a party who receives a notice to appoint a member to the committee under subsection (3) fails to appoint a member within the time prescribed, the Minister shall, in the place of the party who failed to make the appointment, forthwith appoint the member to the committee.

O. Reg. 550/85, s.21(5)

- o A child welfare review committee shall be convened by the chairman thereof within 10 days after all the members have been appointed and the committee shall determine its own procedures.

O. Reg. 550/85, s.21(6)

- o A child welfare review committee may receive such written or oral evidence from a director, the society, the municipality or District Child Welfare Budget Board or any other person as it in its discretion considers proper whether admissible in a court of law or not and may require the director to present evidence and made submissions.

O. Reg. 550/85, s.21(7)

- o A director shall, when required by a child welfare review committee, present evidence and make submissions before the committee.

O. Reg. 550/85, s.21(8)

- o A child welfare review committee shall review the evidence submitted to it and obtain any additional evidence or material it considers necessary.

O. Reg. 550/85, s.21(9)

- o A child welfare review committee shall report its findings to make recommendations to the Minister within 30 days from the date that the committee first convenes and the findings and recommendations of the committee shall be made available to the parties concerned.

O. Reg. 550/85, s.21(10)

- o After reviewing the findings and recommendations of a child welfare review committee, the Minister may approve the estimate that is the subject of the review, vary the amount of the estimate and approve the estimate as so varied or determine the portion of the estimate referable to a municipality and the decision of the Minister is final.

**O. Reg. 550/85, s.21(11)**

- o Notice of the Minister's decision shall be given to the parties concerned within 30 days after the Minister receives the report and recommendations of a child welfare review committee.

**O. Reg. 550/85, s.21(12)**

Provincial share

**O. Reg. 550/85**

Regulation under the new Act stipulates:

- o For the purpose of subsection 19(2) of the Act, the amount that shall be paid to a society by the Minister shall be equal to,
  - (a) 80 per cent of the part of the approved estimate referable to any municipality within the jurisdiction of the society; and
  - (b) 100 per cent of the part of the approved estimate of the society referable to territory without municipal organization.

**O. Reg. 550/85, s.22(1)**

- o The part of the approved estimate of a society referable to territory without municipal organization shall be determined under subsection 18(9) as if the territory without municipal organization were a municipality.

**O. Reg. 550/85, s.22(2)**

- o For the purposes of subsection 19(3) of the Act, a municipality shall pay to the society having jurisdiction in the area of that municipality 20 per cent of the amount of the portion determined under subsection 18(9) of the approved estimate of the society that is referable to the municipality.

**O. Reg. 550/85, s.22(3)**

Regulation under the Act provides:

- o After the estimate of net expenditures of a society for a year is finally approved by the Minister, the society may at any time within 1 year after the end of the society's fiscal year file with the Minister and with each municipality in the area in which the society has jurisdiction,

- (a) an amendment to the approved estimate; or

- (b) a supplementary estimate of net expenditures,

of the society not included in the original approved estimate for the year.

O. Reg. 550/85, s.23(1)

- o A municipality shall grant its approval to the amendment or supplementary estimate, as the case may be, within 60 days after the receipt thereof.

O. Reg. 550/85, s.23(2)

- o A municipality in the area in which a society has jurisdiction that has not granted its approval to an amendment or supplementary estimate filed under subsection (1) or requested the Minister to refer the amount of the amendment or supplementary estimate to a child welfare review committee within 60 days after receiving notice thereof from the society, shall at the expiration of that period be deemed to have granted its approval to the amount of the estimate.

O. Reg. 550/85, s.23(3)

- o The council of a municipality in the area in which a society has jurisdiction that does not agree with the amount of,

- (a) an amendment to an approved estimate; or

- (b) a supplementary estimate,

may, before the Minister's refusal or approval is given, in lieu of approving the amendment or supplementary estimate and before the expiration of the 60-day period referred to in subsection (2), request the Minister to refer the matter to a child welfare review committee.

O. Reg. 550/85, s.23(4)



- o The Ministry may approve an amendment to an approved estimate or an amount of a supplementary estimate that has been filed with the Minister under subsection (1) and approved by the council of each municipality or the Minister may, subject to subsection (6), refuse to approve the amendment or the supplementary estimate or may vary the amount of the amendment or the supplementary estimate and approve the amount so varied.

**O. Reg. 550/85, s.23(5)**

- o Where the Minister intends,
  - (a) to refuse to approve the amount of an amendment to an approved estimate or the amount of a supplementary estimate filed under subsection (1); or
  - (b) to vary the amount of an amendment to an approved estimate or the amount of a supplementary estimate filed under subsection (1) and approve any such amount as so varied;

the Minister shall, at least 30 days prior to the refusal or approval give notice of the Minister's intention to the society and to the council of each municipality in the area in which the society has jurisdiction.

**O. Reg. 550/85, s.23(6)**

- o A society or the council of a municipality in the area in which the society has jurisdiction that does not agree with the Minister's intention,
  - (a) to refuse to approve the payment of the amount of an amendment to an approved estimate or the amount of the society's supplementary estimate filed under subsection (1); or
  - (b) to vary the amount of an amendment to an approved estimate or the amount of a supplementary estimate filed under subsection (10),

may, before the Minister's refusal or approval is given, request the Minister to refer the matter to a child welfare review committee.

**O. Reg. 550/85, s.23(7)**



- o The provisions of sections 20 and 21 apply with necessary modifications to a request for review made under subsection (4) or (7).

**O. Reg. 550/85, s.23(8)**

- o In this section a District Child Welfare Budget Board that is established for a district under section 17 for the purpose of approving the estimate of net expenditures of a society may,

- (a) approve an amendment or supplementary estimate of net expenditures;

- (b) request a review of an amendment or supplementary estimate of net expenditures; and

- (c) receive any notice required to be given to a municipality in respect of an amendment or supplementary estimate of net expenditures.

**O. Reg. 550/85, s.23(9)**

- o An amount of an amendment to an approved estimate or an amount of a supplementary estimate submitted under subsection (1) that is approved by the Minister under subsection (5) and by a municipality shall be deemed to be part of the approved estimate of the society for the year for the purpose of determining the amounts payable to the society under subsections 19(2) and (3) of the Act.

**O. Reg. 550/85, s.23(10)**

- o A certificate of approval of an estimate of net expenditures of a society shall be made in Form 1 and shall be forwarded to the society forthwith after the approval is given.

**O. Reg. 550/85, s.23(11)**

- o For the purpose of computing a payment under section 22, the costs determined in accordance with the approved estimate, of care and services provided by a society for any child,

- (a) in care pursuant to an order made by a court or competent jurisdiction in a province other than Ontario or a territory of Canada; or

(b) who, immediately before coming into the care of the society, was under the care or supervision of a child welfare authority in a province other than Ontario or a territory of Canada in a place other than the home of a parent of the child pursuant to an agreement between a parent of the child and the child welfare authority entered into under the laws of that province or territory, as the case may be; and

(c) who is approved by a Director,

shall be excluded and Ontario shall pay to the society an amount equal to 100 per cent of the cost of the care and services. **O. Reg. 550/85, s.24(1)**

- o For the purpose of computing a payment under section 22, the costs of a society determined in accordance with the approved estimate of any demonstration project that is approved by the Minister shall be excluded and Ontario shall pay 100 per cent of the cost of the demonstration project. **O. Reg. 550/85, s.24(2)**

#### Care and service for Indians

**O. Reg. 550/85**

Regulations under the Act stipulate:

- o For the purpose of computing a payment under section 22, where an agreement is entered into with the Crown in right of Canada providing for contributions by Canada to Ontario for the payment of the cost of the care and services provided by societies for Indians who reside in Ontario on Indian reserves, on Crown land or in territory without municipal organization or who are designated as Indians with reserve status by the Minister of Indian Affairs and Northern Development of the Government of Canada, the cost of the care and services determined in accordance with the approved estimate shall be excluded from the computation under section 22 and Ontario shall pay to the societies an amount equal to 100 per cent of the cost of care and services. **O. Reg. 550/85, s.25(1)**
- o Subsection (1) continues to apply to an Indian who commences to reside in a municipality in Ontario until the Indian has resided in the municipality for a period of twelve consecutive months. **O. Reg. 550/85, s.25(2)**

- o Subsection (1) ceases to apply to an Indian who has resided in a municipality for twelve consecutive months until the Indian resumes residence in Ontario on an Indian reserve, on Crown land or in territory without municipal organization. **O. Reg. 550/85, s.25(3)**

Payments and adjustments

**O. Reg. 550/85**

Regulation under the Act provides:

- o An amount paid to an approved agency or an approved corporation under section 14 shall not exceed the amount of the approved estimate and such amount shall only be expended by the approved agency or approved corporation in accordance with the approved estimate.

**O. Reg. 550/85, s.26(1)**

- o An amount payable under this Part may be paid in advance.

**O. Reg. 550/85, s.26(2)**

- o An amount paid under this Part may be adjusted by the Minister upon receipt of the annual financial statement and the reconciliation report of the approved agency or approved corporation required under section 5.

**O. Reg. 550/85, s.26(3)**

- o The amount of an adjustment to an approved estimate,

- (a) shall be refunded by the approved agency or approved corporation to Ontario when Ontario so requests; or

- (b) shall be taken into account in calculating the amounts payable to the approved agency or approved corporation for the next fiscal year.

**O. Reg. 550/85, s.26(4)**

Service plans and estimates

**O. Reg. 550/85**

(See also page 35, item #16.)

Regulation under the Act stipulates:

- o An estimate of net expenditures shall, when required by the Minister, be accompanied by a service plan that is approved in writing by the board of directors of the approved agency or approved corporation for,
- (a) the approved services provided by the approved agency; and
- (b) each children's institution or children's mental health centre operated by the approved corporation. **O. Reg. 550/85, s.27(1)**
- o An estimate of net expenditures or an amendment thereto shall be approved in writing by the board of directors of the approved agency or approved corporation, as the case may be, before being filed with the Minister. **O. Reg. 550/85, s.27(2)**

**2. STAFF QUALIFICATIONS OF SOCIETIES O. Reg. 550/85, ss.1, 28, 29**

Regulations made under the new legislation continue the regulation under the Child Welfare Act substantially intact. This is an interim measure and an advisory committee has been established to review the regulation and make recommendations on how the provision should be updated.

The regulation states:

In this Part,

- o "recognized school of social work" means:
- (a) a school of social work in Canada that at the time this Regulation comes into force is accredited by the Canadian Association of Schools of Social Work, and
- (b) a graduate school of social work outside of Canada that has, in the opinion of the Minister, a course in social work that is equivalent to a course given at a school referred to in clause (a);
- o "social work assistant" means a person who:

- (a) has successfully completed Grade 13 in Ontario or has such other educational qualifications that the Minister considers equivalent thereto, or
- (b) worked as a social worker with a society for a period of at least 1 year immediately before the 1st day of January, 1985;
- o "social worker" means a person who investigates or supervises children who are in care and who provides guidance and counselling;

"social worker I" means a person who:

- (a) is the holder of a certificate in social services from a post-secondary educational institution in Canada that is at least equivalent to a certificate in social services from a College of Applied Arts and Technology in Ontario, or
- (b) has such other educational qualifications that the Minister considers equivalent to those referred to in clause (a) and at least 2 years of experience in social work;
- o "social worker, II" means a person who:

- (a) has successfully completed 1 year of full-time study in social work at a recognized school of social work and, where the recognized school of social work is outside Canada or the United States of America, has at least 1 year of experience as a social worker in Canada, or
- (b) has at least 3 years of progressively responsible experience in welfare work in Ontario and has the qualifications of a social work assistant or 2 years of such experience and has the qualifications of a social worker I;

o "social worker III" means a person who:

- (a) has successfully completed a 2-year course of professional education in social work at a recognized school of social work in Canada or the United States of America,

- (b) has successfully completed 1 year of full-time study in social work at a recognized school of social work in Canada or the United States of America and, after the study, has had at least 2 years of experience in social work,
  - (c) is the holder of a certificate of qualification in social work issued by the Central Council of Education in Social Work in Great Britain and, after its issuance, has had at least 1 year of experience in social work, or
  - (d) has successfully completed a course of professional education in social work at a recognized school of social work in a country other than Canada or the United States of America and has had at least 3 years of experience in social work in Canada;
- o "social worker IV" means a person who:
- (a) has successfully completed a 2-year course of professional education in social work at a recognized school of social work in Canada or the United States of America and, after graduation, has had at least 3 years of experience in child care or family welfare services,
  - (b) is the holder of a certificate of qualification in social work issued by the Central Council of Education in Social Work in Great Britain and, after its issuance, has had at least 4 years of experience in child care or family welfare services, or
  - (c) has successfully completed a 2-year course of professional education in social work at a recognized school of social work outside Canada or the United States of America and, after graduation, has had at least 5 years of experience in child care or family welfare services;
- o "social worker V" means a person who,
- (a) has successfully completed a 2-year course of professional education in social work at a recognized school of social work in Canada or the United States of America and, after graduation, has had at least 5



years of experience in social work at least 2 of which have been in child care or family welfare services, 1455

- (b) is the holder of a certificate of qualification in social work issued by the Central Council of Education in Social Work in Great Britain and after its issuance, has had at least 6 years of experience in social work of which at least 2 have been in child care or family welfare services, or
    - (c) has successfully completed a 2-year course of professional education in social work at a recognized school of social work outside Canada or the United States of America and, after graduation, has had at least 7 years of experience in social work of which at least 3 have been in child care or family welfare services;
  - o "social work supervisor" means a person who:
    - (a) has the qualifications of a social worker III, social worker IV or social worker V and has had at least 3 years experience as a social work practitioner in child welfare, or
    - (b) has such other educational and personal qualifications together with progressive experience in social work practice as, in the opinion of the local director, constitute adequate and suitable preparation for supervisory duties.
  - o no society shall employ a social worker unless the person is a social worker assistant, a social worker I, a social worker II, a social worker III, a social worker IV, a social worker V or a social work supervisor.
- O. Reg. 550/85, s.28**
- o every local director of a society shall be a person who:
    - (a) has successfully completed 2 years of professional education in social work at a recognized school of social work and has had at least 3 years experience as a social work practitioner in child welfare;

(b) has educational qualifications that together with his experience in social work are, in the opinion of the Minister, suitable for the position; or

(c) held the appointment of local director on the 1st day of June, 1985.

O. Reg. 550/85, s.29

### 3. THE ROLE OF THE MINISTRY PROGRAM SUPERVISOR

C.F.S.A. ss.5, 6, 25

Much of the responsibility given to a Ministry director under the Child and Family Services Act is delegated to a program supervisor.

For the purpose of ensuring compliance with the legislation and its regulations, a program supervisor is authorized to enter a society's premises at all reasonable times and upon producing proper identification to the society, the program supervisor may:

- a. inspect the society's facilities;
- b. inspect the services provided by the society;
- c. inspect the society's book of accounts;
- d. inspect the society's records relating to the society's services. This includes the authority to inspect case files under the society's control.

The program supervisor may make copies of the books and records or may remove them from the premises to copy them as he reasonably requires.

It is an offence under the Child and Family Services Act to hinder the program supervisor in the performance of his duties or to knowingly give false information to him. A person who knowingly does so or a society director, officer or employee who authorizes, permits or concurs in such contravention by the society, if convicted of the offence, is liable to a fine of up to \$2,000.

C.F.S.A. s.25

(1) Filing of By-laws with the Ministry

C.F.S.A. s.13(1)(2)

The Child and Family Services Act preserves the requirement that every children's aid society agency file with the Ministry:

- a. a certified copy of its by-laws;
- b. a certified copy of any amendment to a by-law.

This action is to be undertaken "forthwith" after the by-law or the amendment is made.

As specified by predecessor legislation, the Child and Family Services Act requires the society's by-laws to contain certain provisions prescribed by regulations. No new regulations are anticipated at the time of proclamation. The Ministry's development of regulatory prescriptions in this area will be undertaken as necessary and over time in consultation with all approved agencies, including children's aid societies. The overall intent is not to create a plethora of regulation, but rather, in the interest of uniformity throughout the service system, to formalize a limited number of prescriptions to address the basic functioning and composition of boards of directors.

(2) Executive Committee of the Board of Directors

O. Reg. 550/85

Regulation made under the new legislation stipulates:

- o The board of directors of a society shall pass a by-law that provides for an executive committee that consists of the president and the treasurer of the board of directors and that provides for the election from among their number of 7 additional members being 4 municipal representatives and 3 other directors.

O. Reg. 550/85, s.16(1)

- o The board of directors shall by by-law delegate to the executive committee any powers of the board of directors, subject to restrictions, if any, contained in the by-law or imposed from time to time by the board.

O. Reg. 550/85, s.16(2)

- o A majority of the members of an executive committee constitutes a quorum. 1458  
O. Reg. 550/85, s.16(3)

Either Substantially New or Revised from Predecessor Legislation

5. DESIGNATION OF AN APPROVED AGENCY

AS A CHILDREN'S AID SOCIETY

C.F.S.A. ss.15(2); 208(2)(a)

As part of the legislature's preference for a flexible mode of service delivery, the Child and Family Services Act allows the Minister of Community and Social Services to designate an agency that he has approved to provide service under the new Act as a children's aid society for a specified territorial jurisdiction, and for any or all of the functions assigned to a society by the legislation. The Minister may:

- a. impose conditions on a designation at any time;
- b. vary the conditions or impose new ones;
- c. alter the society's territorial jurisdiction;
- d. amend a designation by removing specific functions from the authority of a society.

The designation power given to the Minister by the new legislation permits development of the service system structure that may be considered desirable at some future time through the joint community planning efforts of the Ministry and service agencies.

The designation power further allows a society to negotiate with the Ministry a broadening or narrowing of the services it provides, in order to better meet community needs, and to take into account the resources available in the community.

Children's aid societies in operation at the time of proclamation of the new Act are deemed to be approved agencies and deemed to have been designated as societies in accordance with the new legislation.

6. ADDITIONAL REQUIREMENTS ON A  
SOCIETY'S BOARD OF DIRECTORS

C.F.S.A. s.13(3)(4)

(1) Indian Band or Native Community Representation

C.F.S.A. s.13(3)

If a children's aid society provides services to Indian or native children and families, the Child and Family Services Act requires its board of directors to include band or native community representatives in its membership as prescribed by regulations made under the Child and Family Services Act. Regulations will be developed over time as necessary and in consultation with Indian and native people.

This requirement to include band and native community representatives underscores the Ministry's commitment to encourage the involvement of bands and native community representatives in the provision of social services to Indian and native families and children. As board members, the representatives participate fully and have the same rights and responsibilities as all other board members.

This requirement of the Act does not take effect until the regulations are in place. Such regulations will be developed through consultation with societies, the Ontario Indian Social Services Council and other Indian and native organizations. Guidelines will be developed as a prelude to regulation. Preliminary analysis of relevant factors indicates that:

- a. initially, the guidelines should be developed for children's aid societies;
- b. representation should be required only if the society has a reserve in its catchment area;
- c. the number and proportion of Indian children in the area and in care should be considered;
- d. the manner of appointment and the terms to be served should be addressed;
- e. the manner in which the broader community of persons of native descent may be represented should also be addressed.



Under the Child and Family Services Act an employee of a children's aid society is not permitted to be a member of the society's board of directors.

The intent of this prohibition is to guard against conflicts of interest in decisions made by the board.

The proscription is not intended to prohibit the involvement of society employees in board activities or their attendance at board meetings.

**7. INCREASED PROTECTIONS FOR SOCIETY IF MINISTER**

**PROPOSES SUSPENSION OR REVOCATION**

**C.F.S.A. ss.22; 24**

**(1) Generally**

Predecessor legislation authorized the Lieutenant-Governor in Council, on the recommendation of the Minister, to dissolve a society at any time and on such date as the order provided. The society faced with such action at the behest of the Ministry had no legislated right to be heard in its own cause. The Child and Family Services Act attempts to redress that imbalance.

**(2) Basis for Action**

**C.F.S.A. ss.22(1); 24; 15; 8; 9**

Before exercising his suspension or revocation powers, the Child and Family Services Act requires the Minister to be satisfied on reasonable grounds that:

- a. the society cannot or is not performing any or all of the functions entrusted to it by the legislation; or
- b. the society is failing to perform its designated functions in any part of its territorial jurisdiction; or
- c. the society is failing to fulfill any or all of the terms and conditions of its approved agency status; or
- d. the society would fail to qualify as an approved agency; or



- e. in the course of providing service, the society or any of its officers, directors or employees has contravened the Act, regulations or the terms of its designation. 1461

**(3) Minister's Remedies**

If so satisfied, the Minister is then empowered by the Act to take any of the following actions to counter the particular circumstances that necessitated intervention:

- a. to revoke or suspend the society's designation or approval to carry on the functions of a children's aid society;
- b. to remove any or all of the members of the society's board and to appoint others in their place;
- c. to operate and manage the society in the place of the board of directors.

**(4) Requirement of Notice to the Affected Society**

The Minister must give the affected society notice of his specific proposal, and written reasons for it, before he takes any action, unless the society has either requested that the Minister exercise this power or has consented to the proposal. In the latter instance, no formal notice is required because the intervention is essentially a consensual arrangement between the society and the Ministry.

The notice must inform the society of its right to a hearing.

**(5) Provisional Suspension in Crisis Situation**

**C.F.S.A. s.22(9)**

The Minister may take any of the above-noted actions without awaiting the outcome of a hearing where, in his opinion, it is necessary to do so to avert an immediate threat to the public interest or to a person's health, safety or welfare, and he so states in his notice to the society. The notice must contain his reasons.

The society is entitled to a hearing after the Minister's intervention, as set out below.

The society is entitled to a hearing before a person or persons appointed by the Lieutenant-Governor in Council, if it makes a request for a hearing in writing within 60 days of its receipt of the Minister's notice. The Lieutenant-Governor's appointees may not be employees of the Ministry of Community and Social Services.

The hearing mechanism gives both the society and the Minister an opportunity to present their respective cases before an impartial arbiter. The Child and Family Services Act does not specify a time period within which the hearing must be held, but it is in the interests of both the society and the Ministry to proceed with reasonable dispatch.

The person(s) appointed must weigh the facts and then make written recommendations to the Minister. The appointee is required to set out in his report the facts, the information or knowledge that led to his recommendations and any conclusions of law. A copy of the report must be given to the affected society.

The Minister then makes his final decision. The Act requires him to give written notice of that final decision to the society, together with his reasons for it.

(7) Scope of the Minister's Authority on Takeover of a Society

C.F.S.A. s.24

The Child and Family Services Act empowers the Minister to apply to the District Court, if necessary, to obtain the assistance of the county sheriff in occupying the society's premises. This application may be made without notice to the affected society.

Where the Ministry operates and manages a society pursuant to the takeover power, the Child and Family Services Act gives the Minister all the powers of a society's board of directors, including discretion to:

- a. carry on the society's business;
- b. enter into contracts on the society's behalf;

protection responsibility extends not only to the child in the community but also to a child in the care of a society or under its supervision, even if the child in care or under supervision is over 16 years of age. 1463

The Child and Family Services Act does not make specific reference to services for children born or likely to be born outside marriage. This is not to be interpreted as an exclusion of this class of persons from a society's service. The society's authority to intervene is found in its general functions.

2. SERVICE TO PROSPECTIVE FOSTER PARENTS O. Reg. 551/85, s.6

Regulation under the Child and Family Services Act requires every society that receives an application to board a child that is in the care of the society, within 30 days after receiving the application, to begin an investigation of the applicant and the home of the applicant.

3. RESPONSE TO A COMPLAINT RESPECTING  
A CHILD OR A REQUEST FOR SERVICE O. Reg. 551/85

Regulations under the new legislation require the following response to a complaint respecting a child or a request for assistance or service:

- o Every society shall record,
    - (a) a complaint respecting a child where in the opinion of the society there are reasonable and probable grounds to believe that the child is in need of protection; and
    - (b) a request for assistance or service,
- within 24 hours of receiving the complaint or request.

O. Reg. 551/85, s.1(1)

- o The society shall investigate each complaint within 21 days after the complaint is recorded and further record within the 21 days,

(a) whether in the opinion of the society there are reasonable and 1464  
probable grounds to believe that a child is in need of protection;

(b) where a child is taken into protective care, a tentative plan for the  
welfare of the child; and

(c) where a tentative plan is drawn up for a child, the steps taken to  
implement the plan for the welfare of the child.

**O. Reg. 551/85, s.1(2)**

- o The society shall review the case of a child that is not closed, where the  
child is not taken into protective care, not later than 60 days after the  
complaint is recorded.

**O. Reg. 551/85, s.1(3)**

**4. RESTRICTION ON A SOCIETY'S ADMISSION OF A CHILD TO ITS CARE**

**C.F.S.A. ss.78; 81(1)(h)**

Under the Child and Family Services Act no person is permitted to place a  
child in the care and custody of a children's aid society, and no society is  
allowed to take a child into its care and custody except in accordance with  
the protective intervention provisions of Part III of the Child and Family  
Services Act or under a temporary care or special needs agreement made  
under Part II of the Act.

This preserves a prohibition of predecessor legislation.

Unauthorized placement is an offence under the Child and Family Services  
Act. Any person who contravenes this restriction and any director, officer or  
employee of a corporation who authorizes, permits or concurs in the  
corporation's contravention is liable, if convicted, to a fine of up to \$1,000  
and/or imprisonment for a term of up to 1 year.

**SERVICE RESPONSIBILITIES OF SOCIETIES****Preserved from Predecessor Legislation****1. ESSENTIAL FUNCTIONS OF A SOCIETY C.F.S.A. ss.15(3); 197(4)**

The Child and Family Services Act also preserves the essential functions of a children's aid society that were legislated under predecessor law. Under the Child and Family Services Act, children's aid societies will continue to:

- a. investigate allegations or evidence that children under 16 years of age, or children in the care or under the supervision of a society, may be in need of protection;
- b. where necessary, protect children who are under 16 of years of age or who are in the society's care or under its supervision;
- c. provide guidance, counselling and other services to families in order to protect their children or to prevent circumstances requiring their protection;
- d. provide care for children assigned or committed to the society's care under the Child and Family Services Act;
- e. supervise children assigned to its supervision under the Child and Family Services Act;
- f. place children for adoption in accordance with Part VII of the Act (Adoption); and
- g. perform any other duties given to it by the Child and Family Services Act or any other provincial statute.

As mandated by predecessor law, these duties are to be carried out in accordance with the standard of service, procedures and practices embodied in the Act and regulations. The new legislation clarifies that the society's



- c. arrange for bank accounts to be opened in the society's name, and authorize persons to sign cheques and other documents on the society's behalf;
- d. appoint or dismiss employees of the society; and
- e. make by-laws.

Under the takeover power, the Ministry has authority to manage the society's financial and legal affairs and has both the responsibilities and the rights of an employer, subject to any collective bargaining agreement in force within the society.

The takeover authority also gives the Minister the right to occupy and operate the society's premises for whatever period is required to remedy the circumstances that necessitated the takeover. The Child and Family Services Act sets an upper time limit of 1 year to the Minister's takeover, unless the society consents to a longer period or the Lieutenant-Governor extends the takeover beyond the 1 year period.

#### **8. EXPANSION OF THE JUDICIAL INQUIRY POWER**

**C.F.S.A. s.63**

Under predecessor legislation the Minister was empowered to appoint a judge of the County Court to investigate either the proper administration of the protection provisions of the Act or the particular case of a child in the care of a children's aid society.

The Child and Family Services Act expands the Minister's authority to allow appointment of a judge of the Supreme, District or Unified Family Court or the Provincial Court (Civil, Criminal or Family Division) or the Provincial Offences Court to investigate a matter relating to a child in the care of a children's aid society or a matter relating to the proper administration of Part III of the Act and to make a written report to the Minister. For the purposes of the investigation the judge has the powers of a commission under the Public Inquiries Act and the investigation may be conducted as if it were an inquiry under that legislation.

At the conclusion of the inquiry, the judge makes a written report to the Minister.



5. PROHIBITION AGAINST INTERFERENCE WITH A SOCIETY OR  
CROWN WARD OR A CHILD UNDER SOCIETY SUPERVISION

C.F.S.A. ss.79; 81(1)(i); 83

It continues to be an offence for any person:

- a. to induce a society or Crown ward or a child under the supervision of a children's aid society to leave the care of the person with whom the child is placed, or to attempt to so induce the child;
- b. to detain or harbour such child after the person with whom the child is placed or the society demands the child's return;
- c. to interfere with such child or to remove or attempt to remove him from any place; or
- d. to visit or communicate with the person with whom the child is placed, if the purpose is to interfere with the child.

A person who contravenes any of these prohibitions commits an offence under the Child and Family Services Act and is liable, if convicted, to a fine of up to \$1,000 and/or imprisonment for a term of up to 1 year. These penalties are preserved from predecessor legislation.

The Child and Family Services Act further continues the authority of a children's aid society to apply to the Supreme Court of Ontario for an injunction to restrain a person from interfering with the child. Only a children's aid society is authorized to apply for this order under the Child and Family Services Act. The ability to apply for an injunction gives a society an effective weapon with which to meet a situation where urgent action is required (e.g. where there is danger that a child may be removed from the jurisdiction).

The Supreme Court is empowered to vary the injunction order or terminate it altogether on the application of any person.

The Child and Family Services Act preserves provisions of predecessor legislation that permitted a civil action for damages or other compensation for a child who has "suffered abuse", if in the opinion of the Official Guardian or the children's aid society responsible for the child, it is in the child's best interests to do so. The Official Guardian may initiate and conduct such proceedings on the child's behalf, or alternatively, the society may do so if the child is in the care and custody of the society.

An application on behalf of an abused child to the Criminal Injuries Compensation Board is not a remedy that has been frequently sought under predecessor legislation, although both the Official Guardian and the Criminal Injuries Compensation Board are receptive to such applications.

The time limit for making application is 1 year from the date of the injury. However, the Criminal Injuries Compensation Board has discretion to extend that limitation period in circumstances where the child would clearly qualify for an award except for the failure to make application within the limitation period.

A hearing before the Criminal Injuries Compensation Board is informal. The task of the applicant is to provide evidence to the Board that the child has been abused, as defined by the Child and Family Services Act. It is not necessary to show that the perpetrator of the abuse has been convicted of an offence arising from the abuse, or that criminal charges were pursued.

For additional information and assistance, contact:

Alan Ingram, Esquire  
Legal Counsel  
Office of the Official Guardian  
180 Dundas Street West  
Toronto, Ontario

Telephone: (416) 965-6602

**7. SOCIETY'S ESTABLISHMENT OF  
AN INTERNAL COMPLAINT PROCEDURE**

**C.F.S.A. s.64**

In recognition of a valued and accepted front-line practice, the Child and Family Services Act requires each children's aid society to establish a written procedure, approved by a Ministry director, to deal with a complaint regarding the society's services. The society shall make the review procedures available to any person on request, and may consider the advisability of making the information available in a pamphlet or other form for all clients. The Ministry expects to develop guidelines with regard to the complaint procedure.

A necessary component of the procedure is an opportunity for the complainant to be heard by the society's board of directors.

The intent of the new Act is to enable the complainant to attempt to resolve his difficulty in the following manner:

- a. first recourse: the society's internal complaint procedure;
- b. if dissatisfied with the outcome of that review, next recourse: the society's board of directors;
- c. finally, if not satisfied with the board's response, final recourse: a Ministry director.

The Ministry director's review of the complaint is the final recourse contemplated by the Act.

**8. CHILD ABUSE REVIEW TEAMS**

**C.F.S.A. s.69**

**(1) Generally**

The Child and Family Services Act, adopting a widespread practice in the child welfare field, gives legal recognition to and makes mandatory the establishment of a child abuse review team by each children's aid society.

This team affords a forum for the front-line worker and supervisor to present an abused child's need for protective service and to obtain input from the abuse team as to how that service might best be provided. In such crisis situations the availability of that multidisciplinary sharing of experience and expertise in relation to abused children is a particularly valuable resource to assist the front-line protection worker in formulating a plan for the child's care. 1470

No guidelines for child abuse review teams were issued by the Ministry prior to proclamation of the Act.

The Ministry encourages each children's aid society to develop its team in a manner that is most beneficial to its particular needs, taking into account resources available in the community and within the society.

The Ministry of Community and Social Services program supervisor will offer support as requested.

## **(2) Composition**

The location, size of the team and qualifications of persons making up the team is left to the discretion of the society. A society may choose, for example, to invite a member of the local police force to be a member of a team. However, the Child and Family Services Act requires the society to include among the team's membership:

- a. persons who are professionally qualified to perform medical psychological, developmental, educational or social assessments; and
- b. at least 1 legally qualified medical practitioner.

The review team members must choose a chairman from among themselves and the chairman must designate the panel for an individual review.

## **(3) Responsibilities**

It is the responsibility of the review team, either sitting as a whole or in a panel of at least 3 of its members, to review each case of a child referred to

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it by the society, where the child may be suffering abuse or has suffered abuse, and where it is the society's intention to return the child to the person who had charge of him at the time of the possible abuse. The team's responsibility for review extends not only to the child who has suffered abuse while in his family home, but also the child who has suffered abuse or may be suffering abuse while in the society's care.

**(4) Disclosure of Information to the Team**

C.F.S.A. ss.166(1)(g), 163(2)(e)(f)(g)

The Child and Family Services Act allows a person to disclose to a review team or to any of its members information that is reasonably required for the team's review, even if the information is confidential or privileged. A person who so discloses is protected from civil liability, unless he acts maliciously or without reasonable grounds to believe that the information is reasonably required for the team's review. This discretion to disclose information to the review team is specifically permitted by Part VIII of the Act. This discretion does not, however, override restrictions on information disclosure contained in the Mental Health Act, the Health Disciplines Act and the Public Hospitals Act.

**(5) Mandatory Referrals to the Team**

Where a society has information that a child ordered into its care (either on an interim basis pending full hearing of the protection application or as a society or Crown ward) may have suffered abuse, it is prohibited from returning that child to the care of the person who had charge of him at the time of the possible abuse unless:

- a. the child protection court terminates the order that placed the child in the society's care; or alternatively,
- b. the society has referred the case to its review team and obtained and considered the review team's recommendations.

The Child and Family Services Act preserves the mechanism initiated by predecessor legislation to ensure that the Ministry of Community and Social Services undertakes a yearly review of certain of its Crown wards. The new Act also expands the options available to the Ministry director responsible for the review.

As in predecessor legislation, the annual review encompasses a Crown ward who meets each of the following criteria:

- a. child is presently a Crown ward;
- b. child was a Crown ward throughout the immediately preceding 24 months;
- c. child's status has not been reviewed in the last calendar year by either the court or the Ministry.

A Ministry director or a person authorized by the director undertakes the review, with arrangements made in cooperation with the children's aid society responsible for the Crown ward's care.

Whereas under predecessor legislation the Ministry director could only direct the society responsible for the child to initiate a status review application in child welfare court, the Child and Family Services Act allows the Ministry director, as an alternative to that option, to give any other direction that in the director's opinion, is in the child's best interests, as defined by the Act.

If the Crown ward is an Indian or native person, the Child and Family Services Act requires the Director to take into consideration the importance of preserving the child's cultural identity, in recognition of the uniqueness of Indian and native culture, heritage and traditions.

The expansion of the Ministry director's authority gives the Ministry more direct responsibility and thereby greater accountability in relation to ongoing planning for its Crown wards.



10. RESTRICTIONS ON CONTINUING CARE AND MAINTENANCE FOR A  
FORMER CROWN WARD BEYOND AGE 18

C.F.S.A. s.67(2)  
O. Reg. 550/85, s.34

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The Child and Family Services Act preserves the discretion of a children's aid society, with the approval of a Ministry director, to continue its provision of care and maintenance to the Crown ward beyond his 18th birthday.

Regulation made under the Child and Family Services Act stipulates as follows:

o Care and maintenance may be provided to a person who is a former Crown ward in accordance with section 67(2) of the Act where,

(a) the person is enrolled as a full-time student at an educational institution and requires financial assistance to continue as a student at the educational institution, or

(b) the person is mentally or physically incapacitated.

O. Reg. 550/85, s.34(1)

Subsection (1) does not apply to a person who has attained 21 years of age.

O. Reg. 550/85, s.34(2)

11. EXPANSION OF MINISTRY DIRECTOR POWERS RE: TRANSFER OF  
CHILDREN IN SOCIETY CARE OR UNDER SOCIETY SUPERVISION

C.F.S.A. ss.73; 37(3)(4)

(1) Generally

Predecessor legislation allowed a Ministry director to direct a society to transfer a Crown ward to the care of a specific society or institution.

The Child and Family Services Act expands that authority to permit a Ministry director to intervene on behalf of:

a. children in care under temporary care or special needs agreements;

- b. children in temporary care and custody of the society pending full hearing of a protection application;
- c. children subject to the supervision of a society;
- d. children who are society or Crown wards.

This expansion of authority reflects one of the underlying philosophical premises of the Child and Family Services Act; specifically, that the Ministry shares with a children's aid society responsibility for ensuring that the service delivery objectives of the new legislation are met.

**(2) Scope of the Director's Authority to Transfer**

The Child and Family Services Act empowers a Ministry director to take any of the following specific actions on behalf of those children:

- a. direct that the child be transferred to the care or supervision of another society; or
- b. direct that the child be transferred from one placement to another placement designated by the director.

The Act does not require the director to give formal notice to the affected society, although as a matter of cooperative practice, the director does not act without notice to the society.

**(3) Criteria by Which the Director is Governed**

In making his decision, the director is to be governed by the best interests of the child, as defined by the Child and Family Services Act. If the issue is the transfer of the child to another placement, the director must also take into account:

- a. the length of time the child has spent in the existing placement;
- b. the views of the foster parents; and

- c. the views and preferences of the child, where they are reasonably ascertainable.
- d. if the child is an Indian or native person, the importance of preserving the child's cultural identity, in recognition of the uniqueness of Indian and native culture, heritage and traditions.

The director, as a matter of practice and policy, also considers the society's assessment of the child's needs and any other clinical data that has impacted on the society's assessment.

#### **(4) Inherent Restrictions on the Director's Authority**

The authority given to a Ministry director by this provision of the Child and Family Services Act is not intended to override a decision of the child protection court in relation to a particular child. For example, if the court orders a child placed with a particular person, subject to society supervision, the director has no authority to change that child's placement. Any such change in placement is the proper subject of a review of the child's status by the court, and the court's ultimate decision. On the other hand, the director may direct that the child's supervision be transferred to another children's aid society (e.g. in the event that territorial jurisdiction of the society is amended).

The Ministry director's authority to transfer should not be interpreted to require the formality of a director's transfer if, for example, 2 societies make mutually satisfactory arrangements for the supervision of a child who has moved with his custodian under the supervision order into the other society's jurisdiction. In such cases, the receiving society usually acts as agent for the society designated by the court to carry out the supervision responsibilities. It is not the intention of the Child and Family Services Act to thwart such cooperative arrangements.

The director's authority to transfer a child does, however, supercede any decision of a residential placement advisory committee. Under the Child and Family Services Act these committees have an advisory function only.

**12. DEFINITION OF CHILD PROTECTION WORKER****C.F.S.A. ss.37(1)(b); 40(1)(17)**

The Child and Family Services Act introduces the term "child protection worker" to define those persons who are at the front-line of protection responsibility. Any of the following persons are "child protection workers" under the new Act:

- a. a local director of a children's aid society;
- b. a person authorized by a local director to commence child protection proceedings;
- c. a Ministry director;
- d. a person authorized by a Ministry director;
- e. a peace officer (which includes a police officer).

The definition encompasses society staff at the front-line of protection responsibility (usually intake, child protection and family services workers). Not encompassed are staff who provide service to children while they are in the care of the society, (i.e., children's services workers, and child care staff) unless these persons are authorized by the society's local director to commence child protection proceedings.

In addition to the general powers of a child protection worker, the new Act gives a peace officer the powers of a child protection worker specifically for the purpose of apprehending children under age 12 who have come into conflict with the law. However, only a children's aid society has authority to initiate a protection application on the child's behalf.

**13. PROHIBITION AGAINST INTERFERENCE**

**WITH A PROTECTION WORKER**

C.F.S.A. ss.80(b); 81(1)(j)

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Any person who obstructs or interferes with a protection worker who is acting to protect a child, commits an offence under the Child and Family Services Act. Any attempt to obstruct or interfere with the protection worker is also an offence under the Act.

A person who is convicted of the offence is liable to a fine of up to \$1,000 and/or imprisonment for a term of up to 1 year.

Any director, officer or employee of a corporation who authorizes, permits or concurs in any such contravention by the corporation is also guilty of the offence and liable for the same penalties.

**14. INDEMNITY OF OFFICERS AND EMPLOYEES**

**OF CHILDREN'S AID SOCIETIES**

C.F.S.A. ss.40(16); 15(6)

Predecessor legislation contained no specific protection for the front-line protection worker against civil lawsuits arising from his exercise of the responsibilities assigned to him by the legislation.

The Child and Family Services Act, in response to that deficiency identified by field staff, specifies that no action can be taken against a child protection worker for any act he undertakes in accordance with the law to protect a child allegedly in need of protection, unless the protection worker acts maliciously or without reasonable grounds.

This specific protection augments the general protection from personal liability given to all officers and employees of children's aid societies by section 15 of the Child and Family Services Act. This new provision specifies that no action can be instituted against a society officer or employee for an act he does in good faith in carrying out or intending to carry out his duties. Similarly, no action can be commenced against a society officer or employee for an alleged neglect or default in the carrying out of those duties, provided the officer or employee acts in good faith.



INTRUSIVE PROCEDURES AND  
PSYCHOTROPIC DRUGS UNDER PART VI

1. INTRUSIVE PROCEDURES

C.F.S.A. ss.123, 124, 125

(1) Generally

The Child and Family Services Act sets out criteria and procedures for the use of an "intrusive procedure" under the Act, and requires a service provider, when these sections are proclaimed:

- a. to be approved by the Ministry for the use of intrusive procedures;
- b. to establish a review team for the purposes of reviewing and approving the use of intrusive procedures.

Intrusive procedures have been defined in broad terms in the Child and Family Services Act with the intent that they be further circumscribed in regulations and/or guidelines. The Act's broad definition provides flexibility necessary to revise and update the definitions consistent with current knowledge regarding this category of practices. Such flexibility would not be possible if narrow definitions were entrenched in the statute itself.

The Act defines an "intrusive procedure" to be any of the following:

- a. a mechanical means of controlling behaviour;
- b. an aversive stimulation technique; or
- c. any other procedures prescribed by the regulations as an intrusive procedure.

A key task in the development of regulations and standards is the identification and differentiation of intrusive procedures from other techniques employed by a service provider to manage a child's behaviour.



The Ministry, in consultation with professionals with specific expertise in this area, will develop guidelines and/or regulations to assist service providers. Subsequent work will be undertaken to determine the ongoing viability of the guidelines and regulations. Guidelines developed by the Ministry should ensure that the use of intrusive procedures can be incorporated appropriately into the approved service provider's case management system and in the child's plan for care.

**(2) Criteria for Use of an Intrusive Procedure**

It is the responsibility of the service provider to ensure that:

- a. he has been approved as a provider who may use intrusive procedures in his provision of service to children;
- b. he has established a review team for the purpose of monitoring and approving the use of intrusive procedure in individual cases:
  - (i) the particular intrusive procedure contemplated is specified in the Minister's approval; C.F.S.A. s.125(3)(a)
  - (ii) the intrusive procedure is used only in accordance with any conditions and limitations set out in the Minister's approval; C.F.S.A. s.125(3)(b)
  - (iii) the service provider has obtained the approval of his review team to use the intrusive procedure within the 30-day period immediately preceding the service provider's contemplated use of the intrusive procedure. C.F.S.A. s.125(3)(c)

**(3) Emergency Use**

A service provider approved to use intrusive procedures may administer a procedure to a child in an emergency if:

- a. the approved service provider has reasonable grounds to believe that any delay in administering the intrusive procedure would cause the child or another person serious mental or physical harm; C.F.S.A. s.125(6)(a)

- b. the intrusive procedure contemplated for the child is specified in the Minister's approval; **C.F.S.A. s.125(6)(b)**
- c. a child over age 16 either consents to the use of the intrusive procedure or apparently does not have the capacity to make that decision; **C.F.S.A. s.125(6)(c)**
- d. the parent of the child under age 16, (or the children's aid society, if the child is in the custody of the society) either consents to the use of the intrusive procedure or is not immediately available to consent. **C.F.S.A. s.125(6)(d)**

It is the responsibility of the service provider to further ensure:

- a. that an intrusive procedure in an emergency situation is not administered to a child for a period exceeding 72 hours without the approval of the service provider's review team;
- b. if the emergency requires the use of an intrusive procedure for a child, that the approval of the review team is sought as soon as possible and within 72 hours of the first use of the intrusive procedure; **C.F.S.A. s.125(6)**
- c. that he abides by the ruling of the review team with respect to any further use of the intrusive procedure. **C.F.S.A. s.125(7)**

The consent of a parent is not a prerequisite in an emergency situation.

#### **(4) Seeking the Minister's Approval**

The Act prohibits use of an intrusive procedure by any one other than a service provider approved for that purpose. The Minister may specify the form of intrusive procedures and attach terms and conditions to its use. The Minister's approval may be revoked, suspended or amended at any time, provided the Minister gives notice to the service provider of his intended action, stating his reasons.

(5) Seeking the Approval of a Review Team to the Use of Intrusive Procedures

C.F.S.A. ss.123, 127(1)(2)

A service provider who is approved to use intrusive procedures must establish an interdisciplinary review team to monitor their use and further must seek the approval of his review team before he administers an intrusive procedure to a child.

That team reviews the child's need, either approving or refusing the proposed use of an intrusive procedure for the child. The team also reviews any recommendation that a child in the service provider's care undergo:

- a. non-therapeutic medical or chemical experimentation;
- b. psychosurgery;
- c. non-therapeutic sterilization;
- d. electro-convulsive therapy.

The review team must be composed of two or more persons employed by the service provider and at least one other person not employed by the service provider who is approved by the Minister. The team may include a legally qualified medical practitioner. If the review concerns the therapies outlined above, one of the members of the team must be a legally qualified medical practitioner. There are no upper limits on the size of the teams.

For purposes of reviewing intrusive procedures, a panel of at least 3 review team members is required.

(6) Criteria for Approval of the Review Team

The review team's approval must be obtained in advance of the use of the intrusive procedures, unless the situation is an emergency, and must not be more than 30 days old at the time the intrusive procedure is used.

The review team cannot approve the use of an intrusive procedure for a particular child unless the service provider satisfies the review team of the following:

- a. if the child is 16 years of age or more, that the child consents to its use;
- b. if the child is less than 16 years of age, that the child's parent consents to its use or alternatively where the child is in the care of a children's aid society, the society consents to its use;
- c. that the child's behaviour warrants its use;
- d. that at least one less intrusive alternative therapy to improve the child's behavior has been attempted without success;
- e. that no other less intrusive alternative is practicable; and
- f. that there are reasonable grounds to believe that the procedure would improve the child's behaviour.

Where the child is under 16 years of age or lacks capacity to understand and appreciate the nature and consequences of what is happening, the review team must consider the child's views and preferences, where they can be reasonably ascertained.

The review team must provide the service provider with a report for every review conducted.

#### **(7) Reports Required from the Interdisciplinary Review Team**

In addition to determining the appropriateness of an intrusive procedure for a particular child, the interdisciplinary review team is required to make reports. It must report to the service provider on every review it conducts. It is also asked to make reports of its activities to the Minister, or his delegate, on its activities at prescribed intervals, to keep the Ministry informed as to the number of reviews conducted, the decisions made and the types of procedures involved.

(8) Exemption for Restraints Necessary to Transport Young Offenders

A service provider may use restraints that are reasonably necessary to transport a young offender detained or committed to custody under the Young Offenders Act (Canada) without contravening the provisions relating to intrusive procedures.

2. PSYCHOTROPIC DRUGS

C.F.S.A. s.126

(1) Generally

The Child and Family Services Act also provides specific criteria regarding consent to the use of psychotropic drugs. The administration of psychotropic drugs to children is a very serious intervention and the legislation places particular emphasis on the service provider's responsibility to ensure that fully informed consents have been obtained.

As it may not be the service provider who is actually administering the drug, he will have to ensure that policies and procedures are in place to ensure compliance with the Child and Family Services Act provisions.

A psychotropic drug is defined in the Act as a drug or combination of drugs prescribed in regulations, as a psychotropic drug.

(2) Criteria for Use of a Psychotropic Drug

C.F.S.A. s.126(1)(2)(3)

It is the responsibility of the service provider to fulfill the following requirements before any prescribed psychotropic drug is administered to a child in the service provider's care:

- a. that the child over age 16 has given his consent, if he has capacity to do so;
- b. that the parent of a child under age 16 has given consent, or alternatively, if the child, is in the custody of a children's aid society, the society has given its consent;

C.F.S.A. s.126(1)



- c. that the service provider has considered the views and preferences of the child under age 16 or the child who lacks capacity, if those views can be reasonably ascertained, and the situation is not an emergency;

**C.F.S.A. s.126(3)**

- d. that the consent clearly identifies the psychotropic drug contemplated, and specifies:
  - (i) what condition the psychotropic drug is intended to alleviate;
  - (ii) the range of intended dosages;
  - (iii) risks and possible side effects associated with the psychotropic drug, and how they vary with different dosages; and
  - (iv) the frequency with which and the period of time during which the psychotropic drug is to be administered.

**(3) Emergency Use**

**C.F.S.A. s.126(4)(5)**

The legislation provides that, under certain circumstances, a service provider may administer a psychotropic drug to a child on an emergency basis for a period of up to 72 hours without obtaining the necessary consents. In order to administer the drugs on an emergency basis, there must be reasonable grounds for the service provider to believe that:

- a. delay in the administration of a psychotropic drug to the child in the service provider's care would cause the child or another person serious mental or physical harm, and
- b. no less restrictive course of action would prevent the harm;
- c. if the child is 16 years of age or more, the child apparently does not have capacity; and
- d. if the child is less than 16 years of age, the child's parent or, where the child is in a society's lawful custody, the society, is not immediately available;
- e. administration of the psychotropic drug in emergency situations does not continue beyond a 72-hour period without the consents of the child,



parent and society as required. Those consents are to be sought as soon as possible after the first administration of the psychotropic drug.

3. NON-THERAPEUTIC MEDICAL OR CHEMICAL EXPERIMENTATION,  
PSYCHOSURGERY, NON-THERAPEUTIC STERILIZATION OR  
ELECTRO-CONVULSIVE THERAPY C.F.S.A. s.127

It is the responsibility of the service provider to ensure that no child in the care of, or regularly receiving services from a service provider, undergo any of these procedures, unless:

- a. three members of the interdisciplinary review team, established by the service provider, one of whom must be legally qualified medical practitioner, have reviewed the matter, and advised both the child's parent(s) (or the children's aid society, where the child is in the society's custody) and the service provider of the review team's opinion as to the appropriateness of the recommended procedure;
- b. that no such procedure is carried out in premises where the approved service or service purchased by an approved agency is provided.

4. ESTABLISHMENT OF PROFESSIONAL ADVISORY BOARD TO ASSIST  
THE MINISTER C.F.S.A. s.128

The Child and Family Services Act authorizes the Minister to establish a Professional Advisory Board, composed of physicians and other professionals who have special knowledge about the use of intrusive procedures and psychotropic drugs, who have demonstrated an informed concern for child welfare and the interests of children, and are not employed by the Ministry, to perform the following functions:

- a. advise the Minister regarding the regulation of procedures as intrusive procedures and making, amending, suspending or revoking approvals of service providers to use intrusive procedures;

- b. investigate and review the use of intrusive procedures and psychotropic drugs and make recommendations to the Minister; and
- c. review practices of service providers regarding secure isolation, intrusive procedures and psychotropic drugs and make recommendations to the Minister.

5. RIGHT TO REVIEW BY THE PROFESSIONAL ADVISORY BOARD

C.F.S.A. s.129

In addition, any person may ask the Minister to refer to the Professional Advisory Board the use of secure isolation, an intrusive procedure, or a psychotropic drug with regard to a specific child. The Board must then investigate and review the matter.

RESIDENTIAL PLACEMENT ADVISORY COMMITTEES**1. GENERALLY****C.F.S.A. s.34(6)(a)**

When sections 34-36 are proclaimed, the Child and Family Services Act introduces a review mechanism to monitor certain placements of children in residential care, to be undertaken by a body known as the Residential Placement Advisory Committee.

A Residential Placement Advisory Committee is established by the Minister and composed of:

- a. persons engaged in providing services;
- b. other persons who have demonstrated an informed concern for the welfare of children;
- c. one representative of the Ministry; and
- d. if the Minister wishes, another person or persons, including a representative of a band or native community, whom the Minister considers appropriate.

The territorial jurisdiction of each committee is established by the Minister.

**2. THE COMMITTEE'S RESPONSIBILITIES****C.F.S.A. s.34(4)(6)**

The Child and Family Services Act entrusts each committee with the following duties:

- a. to advise, inform and assist parents, children and service providers with respect to the availability and appropriateness of residential services and alternatives to residential service;
- b. to conduct the reviews;

- c. to review or re-review at any time, on its own initiative, at a person's request, or at the request of the Minister, an existing or proposed residential placement of a child;
- d. in consultation with the children's aid society caring for a child under the authority of an agreement, to name a person to maintain contact with and be involved in the child's case, if the person who had custody does not do so; **C.F.S.A. s.29(a)**
- e. such further duties prescribed by the regulations;
- f. to report its activities to the Minister, whenever the Minister requests.

### **3. PLACEMENTS THE COMMITTEE IS REQUIRED TO REVIEW**

#### **(1) Placements in an Institution Intended to Last or Actually Lasting 90 Days or Longer** **C.F.S.A. ss.26(6); 34(5)**

An institution is defined as:

- a. a children's residence that has the capacity to provide residential service to 10 or more children at a time; or
- b. a part of a building or a group of buildings sharing common grounds or premises that has a residential service capacity for 10 or more children at a time and has been designated as an institution by a Ministry director for the purposes of placement review.

The review of a child's placement in an institution is to be undertaken as soon as possible after the child is admitted into residence and in any event within 45 days of admission into the institution, and thereafter at least once every 9 months.

At the time of proclamation, placements of children already residing in an institution as defined by the Act, must be reviewed by an advisory committee within 12 months of the establishment of the committee or within such longer period as the Minister allows.

**(2) Placements Referred to RPAC by the Minister****C.F.S.A. s.34(6)(c)**

A review is required for any existing or proposed placement of a child referred to a committee by the Minister, regardless of the capacity of the residential service (i.e. even if it is not an institution as defined by the Act). The committee must undertake that review within 30 days of the referral.

**(3) Child 12 or Older Objecting to Residential Placement****C.F.S.A. s.34(6)(b)**

The Child and Family Services Act gives the child 12 or over who objects to his placement in residential care, a right to have the placement reviewed by a Residential Placement Advisory Committee. This entitlement to review is a right given to each child in care, including children residing in foster homes, provided that the child is 12 years of age or over. An advisory committee must review any residential placement to which a child aged 12 or older objects, regardless of the capacity of the residential service (i.e. even if it is not an "institution" as defined by the Act). The review is to take place between 14-21 days of the child's placement.

**4. PLACEMENTS EXEMPTED****C.F.S.A. s.34(1)**

The following placements are excluded from a review:

- a. placements made under Part IV (Young Offenders);
- b. placements in secure treatment programs under Part VI (Extraordinary Measures);
- c. placements with persons who are neither service providers nor foster parents; and
- d. maternity homes.



The review is to be informal, conducted in the absence of the public, and with the assistance and cooperation of the service provider.

The advisory committee may in the course of its review, inform itself by any or all of the following means:

- a. interview the child, members of the child's family and any representatives of the child and family;
- b. interview persons engaged in providing services and other persons who may have an interest in the matter or may have information that would assist the advisory committee;
- c. examine documents and reports that are presented to the committee; and
- d. examine records of the child and of members of the child's family, that are disclosed to the committee in accordance with that Part VIII of the Act, Confidentiality of and Access to Records (see page 56).

6. THE REVIEW COMMITTEE'S TASKS

C.F.S.A s.34(11)

The task of the committee is to:

- a. determine whether the child has a special need;
- b. consider what programs are available for the child in the residential placement or proposed residential placement, and whether a program available to the child is likely to benefit him;
- c. consider whether the residential placement or proposed residential placement is appropriate for the child in the circumstances;
- d. if it considers that a less restrictive alternative to the placement would be more appropriate for the child in the circumstances, specify that alternative;



- e. consider the importance of continuity in the child's care and the possible effect on the child of disruption of that continuity; and
- f. where the child is an Indian or native person, consider the importance, in recognition of the uniqueness of Indian and native culture, heritage and traditions, of preserving the child's cultural identity.

**7. DISTRIBUTION OF THE COMMITTEE'S RECOMMENDATIONS**

**C.S.F.A. s.35(1)**

The committee's recommendations must be shared with the following persons:

- a. the child, where it is reasonable to expect him to understand;
- b. the service provider;
- c. any representative of the child;
- d. the child's parent or a children's aid society where the child is in the custody of the society; and
- e. if the child is an Indian or native child, a representative chosen by the child's band or native community.

If the committee considers that a less restrictive service would be more appropriate for a child, that particular service recommended is to be specified in the committee's report. Within 30 days of the review, the committee must also report its findings and recommendations to the Minister.

**8. FURTHER REVIEW BY CHILDREN'S SERVICES REVIEW BOARD**

**C.F.S.A. s.36**

If the child over age 12 is dissatisfied with the recommendations of the advisory committee, he may apply to the Children's Services Review Board for further review. The child 12 or over may also invoke this review if the advisory committee's recommendation is not followed. This can be a more formal review.

The Board must conduct a review with respect to the child's application for further review and must advise the child within 10 days of receiving the child's request whether it intends to hold a formal hearing. If it intends to hold a hearing the following persons are parties: 1492

- a. the child;
- b. the child's parent or alternatively, the children's aid society if the child is in the custody of the society;
- c. if the child is an Indian or native child, a representative chosen by the child's band or native community; and
- d. any other person the Board specifies.

The Board is a decision making body and after conducting a review, may:

- a. order that the child be transferred to another residential placement, if the Board is satisfied that the other residential placement is available;
- b. order that the child be discharged from the residential placement, or
- c. confirm the existing placement.

THE LICENSING PROCESS

1. PERSONS AND RESIDENCES AFFECTED      C.F.S.A. ss.175(a)(c)(d); 176

The Child and Family Services Act continues the thrust of predecessor law in requiring the licensing of individuals or corporations who wish to establish, operate or maintain a "children's residence".

"Children's residence" under the new Act means:

- a. a parent-model residence where 5 or more children not of common parentage live and receive residential care ("parent model" residence is defined as part or all of a building or group of buildings where not more than 2 adults live and provide care for children on a continual basis); or
- b. a staff-model residence where 3 or more children not of common parentage live and receive residential care by adults employed on the basis of scheduled shifts ("staff model" residence is defined as part or all of a building where adults are employed to care for children on the basis of scheduled shifts).

Parent model or staff model residences supervised or operated by children's aid societies are not exempted, and thus require a licence issued under Part IX of the Act. The licence is issued by a Ministry director.

The Act also requires the authority of a licence to provide, directly or indirectly, residential care for three or more children not of common parentage, if that care is to be provided in places that are not children's residences.

2. RESIDENCES THAT DO NOT REQUIRE A LICENCE      C.F.S.A. s.175(a)

The licensing requirements of the Child and Family Services Act do not affect the following:

- a. houses licensed under the Private Hospitals Act;

- b. day nurseries as defined in the Day Nurseries Act;
- c. recreational camps under the Health Protection and Promotion Act, 1983;
- d. homes for special care under the Homes for Special Care Act;
- e. schools as defined in the Education Act;
- f. hostels intended for short-term accommodation;
- g. hospitals that receive financial aid from the provincial government;
- h. group homes and similar facilities funded by the Ministry of Correctional Services and receiving no financial assistance from the Ministry of Community and Social Services.

### **3. FAILURE TO COMPLY**

**C.F.S.A. ss.176(1); 189**

It is an offence under the Child and Family Services Act to establish, operate or maintain a children's residence without a licence or to directly or indirectly provide residential care for 3 or more children not of common parentage in places that are not children's residences. Contravention of the law is punishable, on conviction by the Provincial Offences Court, by a fine of up to \$1,000 per day for each day on which the offence continues, and/or imprisonment for a term of up to one year.

Liability extends to directors, officers or employees of a corporation who authorize, permit or concur in such contravention by the corporation. Any person, including a child's parent who permits care of the child in an unlicensed children's residence or by a person who is required to have a licence and does not, is liable to prosecution.

The Child and Family Services Act empowers a Ministry director to apply to the Supreme Court of Ontario for an injunction prohibiting any person who requires a licence from operating without one. Failure to comply with the injunction order is an offence under the Child and Family Services Act,

injunction order is an offence under the Child and Family Services Act, punishable on conviction by a fine of up to \$2,000. Liability extends to any director, officer or employee of a corporation who authorizes, permits or concurs in the corporation's contravention of the court's direction.

**4. ENTITLEMENT TO A LICENCE**

**C.F.S.A. s.176(3)**

The Child and Family Services Act gives an applicant who complies with the requirements of the Act and its regulations a statutory entitlement to the licence, subject to any conditions that may be attached by the Ministry director. The Act does not permit the licensing of a partnership or association of persons.

**5. AVAILABILITY OF A PROVISIONAL LICENCE**

**C.F.S.A. s.178(6)**

An applicant who requires time to satisfy the licensing requirements of the Child and Family Services Act may ask a Ministry director to issue a provisional licence for a specified period. Issuance of a provisional licence is in the discretion of the Ministry director, who also has discretion to attach conditions to the provisional licence.

**6. REFUSAL TO ISSUE A LICENCE**

**C.F.S.A. s.178**

A Ministry director may refuse to issue a licence in circumstances specified by the new Act. Grounds for refusal are essentially the following:

**(1) Individual Applicants**

- a. if, in the director's opinion, the applicant or any of his employees is not competent to responsibly carry on the activity that requires the licence;
- b. if the applicant's past conduct or that of any of his employees gives the director reasonable grounds to believe that the activity for which the licence is required will not be carried on responsibly;

- c. if, in the director's opinion, the premises proposed for residential care do not comply with the requirements of the law.

**(2) Corporate Applicants**

- a. if, in the director's opinion, the applicant corporation or any of its officers or directors is not competent to responsibly carry on the activity that requires the licence;
- b. if the applicant's past conduct or that of any of his employees gives the director reasonable grounds to believe that the activity for which the licence is required will not be carried on responsibly;
- c. if the past conduct of an officer or director of the corporation gives the director reasonable grounds to believe that the activity for which the licence is required will not be carried on responsibly;
- d. if the premises proposed for residential care do not comply with the requirements of the law.

**7. NON-TRANSFERABLE NATURE OF THE LICENCE C.F.S.A. s.176(7)**

The Act prohibits any transfer of the licence.

**8. LICENSEE'S RIGHTS IF DISSATISFIED WITH CONDITIONS ATTACHED TO A LICENCE C.F.S.A. s.181**

If the licensee is dissatisfied with the terms and conditions attached to the licence he is entitled to a review of the director's decision by the Children's Services Review Board (C.S.R.B.). This review is initiated by mailing or delivering to the director and to the C.S.R.B. within 15 days of receipt of the licence, the applicant's written request for a hearing.



9. DEEMED RECEIPT OF LICENCE

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C.F.S.A. s.181(3)

For the purpose of calculating the time period within which a licensee may make application to the C.S.R.B. for review of a director's decision to attach conditions to a licence, the Child and Family Services Act deems the licensee to have received the licence 10 days after the day it is mailed to him.

The Board has discretion to extend this 10-day period either before or after its expiry, if the applicant puts before the Board reasonable grounds to seek that extension, and if it appears to the Board that there are reasonable grounds for granting the relief that is sought. For example, the licensee may establish to the Board's satisfaction that he did not receive the licence 10 days after mailing, or that he did not receive it until a later date because of illness, his absence, accident or other cause beyond his control. The Board may give such directions it considers proper in connection with any extension it grants.

10. APPLICANT'S RIGHTS IF MINISTRY DIRECTOR REFUSES TO ISSUE  
THE LICENCE

C.F.S.A. s.180

(1) Right to Notice

C.F.S.A. s.180(1)(2)

If the Ministry director intends to refuse to issue a licence, The Child and Family Services Act requires written notice to the applicant of the director's intention, together with his written reasons. The notice must set out the applicant's right to a hearing by the Children's Services Review Board.

(2) Right to Hearing by Children's Services Review Board

C.F.S.A. s.180(2)

If within 10 days of receipt of the notice, or such further period as the Board allows, the applicant mails or delivers written notice to the Ministry director and to the Children's Services Review Board of his request for a hearing, the Act requires the Board to review the director's proposed action and the reasons for it.

The Board also has discretion to extend this 10-day period, either before or after its expiry, if the applicant presents reasonable grounds for seeking that extension, and if it appears to the Board that there are reasonable grounds for granting the relief that is sought. The Board may attach conditions as it considers proper to the extension it grants.

**11. ENTITLEMENT TO RENEWAL OF THE LICENCE C.F.S.A. s.176(5)(6)**

**(1) Generally**

The Child and Family Services Act specifies that a licensee who applies for renewal of his licence in accordance with the law is entitled to have his licence renewed, subject to any conditions that may be attached by the Ministry director, unless circumstances are present that preclude such renewal.

**(2) Provisional Renewal**

The Child and Family Services Act allows the Ministry director to provisionally renew the licence for a period that he considers necessary, where the licensee requires time to meet the requirements for renewal. The director may also attach terms and conditions to his provisional renewal.

**(3) Continuation of Licence Pending Renewal C.F.S.A. s.182(2)**

If the licensee has made proper application for renewal, the Child and Family Services Act deems the licence to continue until the renewal is granted. If the director intends to refuse the renewal, the licence continues until the time for requesting review by the C.S.R.B. has expired or, alternatively, if the licensee does request a review by the C.S.R.B., the licence continues until the Board has made its decision.

**12. REVOCATION OF OR REFUSAL TO RENEW A LICENCE****C.F.S.A. s.179; 189**

A director may refuse to renew a licence in circumstances specified by the Act. Grounds for refusal to renew are essentially the following:

**(1) Individual Licensees**

- a. if the licensee or any of his employees has contravened the Child and Family Services Act or its regulations or any other Act or regulations that govern the activity for which the licence is required;
- b. if the licensee has knowingly permitted a person under his control or direction or associated with him to engage in such contravention;
- c. if the licensee has contravened a specific term or condition of the licence;
- d. if the licensee has knowingly permitted a person under his control or direction or associated with him to contravene a specific term or condition of the licence;
- e. if, in the director's opinion, the licensee's premises do not comply with the requirements of the law;
- f. if, in the director's opinion, the licensee's activity is carried on in a manner prejudicial to the health, safety or welfare of the children;
- g. if, in the director's opinion, a person has made a false statement in the application for the licence, in the application for its renewal or in any report required in connection with the licenced activity;
- h. if there has been a change in the applicant's employees, officers or directors that would give the Ministry director grounds to refuse to issue the licence in the first instance.

- a. if an officer or director of the corporation or any of his employees has contravened the Child and Family Services Act or its regulations or any other Act or regulations that govern the activity for which the licence is required;
- b. if an officer or director of the corporation has knowingly permitted a person under his control or direction or associated with him to do so;
- c. if an officer or director of the corporation has contravened a specific term or condition of the licence;
- d. if an officer or director of the corporation has knowingly permitted a person under his control or direction or associated with him to contravene a specific term or condition of the licence;
- e. if, in the director's opinion, the corporate licensee's premises do not comply with the requirements of the law;
- f. if, in the director's opinion, the corporate licensee's activity is carried on in a manner prejudicial to the health, safety or welfare of the children;
- g. if, in the director's opinion, a person has made a false statement in the application for the licence, in the application for its renewal or in any report required in connection with the licensed activity;
- h. if there has been a change in the applicant's employees, officers or directors that would give the Ministry director grounds to refuse to issue the licence in the first instance.

**13. LICENSEE'S RIGHTS IF DIRECTOR REVOKES OR REFUSES TO RENEW**

**C.F.S.A. s.180**

If the Ministry director intends to revoke or refuse the renewal, the licensee is entitled to written notice of that proposal, together with the director's written reasons, and a review of the director's decision by the Children's Services Review Board.

#### 14. DIRECTOR'S AUTHORITY TO PROVISIONALLY SUSPEND A LICENCE

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C.F.S.A. s.183

##### (1) Statutory Criteria Requiring Suspension

C.F.S.A. s.183(1)

If, in the director's opinion, there is an immediate threat to the health, safety or welfare of the children as a result of the manner in which the children's residence is operated or the manner in which the residential care is being provided, the Child and Family Services Act empowers the director to provisionally suspend the licence without a hearing. The provisional suspension takes effect on the date the licensee receives the director's notice of provisional suspension.

##### (2) Licensee's Right to Review of Provisional Suspension

C.F.S.A. s.183(2)(4); 180(2)(3)(4)

If the Ministry director intends to provisionally suspend a licence, he must give written notice to the licensee setting out the grounds upon which he is taking action. If, within 10 days of receipt of the notice, or such further period as the Children's Services Review Board allows, the applicant mails or delivers written notice to the director and to the C.S.R.B., indicating his request for a hearing, the Act requires the Board to review the director's action and the reasons for it.

The Board has discretion to extend this 10-day period either before or after its expiry, if the applicant puts before the Board reasonable grounds to seek that extension and if it appears to the Board that there are reasonable grounds for granting the relief which is sought. The Board may give directions as it considers proper to the extension it grants.

##### (3) Ministry Director's Right to Seek an Injunction

C.F.S.A. s.188

A director may apply to the Supreme Court of Ontario for an injunction prohibiting the individual or corporation from carrying on any activity that requires a licence while the licence is suspended.

It is an offence to contravene the injunction, punishable on conviction by a fine of up to \$2,000. Any director, officer or employee of a corporation who authorizes, permits or concurs in the corporation's contravention of the court's direction is as liable as if he had committed the offence himself.

The Act allows any person to apply to the court for an order varying or discharging the injunction.

**15. LICENSEE'S RESPONSIBILITY IF LICENCE REVOKED C.F.S.A. s.186**

If the licence is revoked in accordance with Part IX, the Child and Family Services Act requires the licensee to deliver to the Ministry the licence and all records in the licensee's possession or control that relate to the children to whom services were being provided.

**16. RESPONSIBILITY OF PARENT IF LICENCE REVOKED OR SUSPENDED C.F.S.A. s.186(2)**

It is the responsibility of each parent of a child in the residence that has had its licence revoked to arrange for the child's removal as soon as practicable. The Child and Family Services Act gives the Minister discretion to assist in finding an alternative placement for the child.

**17. MINISTER'S RIGHT TO OCCUPY AND PROVISIONALLY MANAGE THE RESIDENCE IF LICENCE REVOKED OR SUSPENDED C.F.S.A. s.187**

Once the director's notice has been served on the licensee, the Minister may apply without notice to the licensee to the District Court for an order authorizing the Minister to occupy the licensee's premises, and manage the residential program on an interim basis pending the outcome of the C.S.R.B. hearing or until alternative accommodation can be found for the children.

The minister must satisfy the presiding judge of the District Court that the health, safety or welfare of the children requires such action.



If the court makes the order, the Minister may immediately occupy and operate the premises or arrange for such operation, for a period that is not to exceed 6 months.

18. OFFENCES RELATED TO LICENSING

C.F.S.A. s.189

The following actions are offences under the Child and Family Services Act, punishable on conviction by a fine of up to \$1,000. for each day on which the offence continues, or to imprisonment for a term of not more than 1 year, or to both:

- a. operating a children's residence without a licence; C.F.S.A. s.176(1)
- b. contravention of a term or condition of a licence relating to the maximum number of children to be cared for in a children's residence or other place where residential care is provided under the authority of a licence;
- c. causing a child to be cared for in a children's residence operated by a person who is not licensed under Part IX of the Act, or in another place where residential care is provided by a person who is required to be but is not licensed to provide residential care under Part IX; or
- d. where the child's parent or a person under a legal duty to provide for the child permits the child to be cared for in a unlicensed children's residence or other place that requires a licence under Part IX of the Act.

A director, officer or employee of a corporation who authorized permits or concurs in any such act by the corporation is also liable to prosecution.

It is also an offence:

- a. to knowingly hinder a program supervisor in the performance of his duties, knowingly give false information about the premises or services or attempt to do so;

- b. as a licensee or person in charge of a licensed premises, a children's residence or a place where a child receives residential care, to knowingly refuse to give a program supervisor access to the books and records of the licensee that the program supervisor requires in order to assess the licensee's compliance with the Child and Family Services Act and its regulations;
- c. to knowingly furnish false information in an application under Part IX or in a statement, report or return required under Part IX or the regulations; or
- d. to fail to comply with an order or direction made by a court under Part IX.

Any person and any director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention, furnishing or failure by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

**1. APPLICABILITY**

The provisions that follow, except where otherwise indicated, apply in respect of an application that is made on or after November 1, 1985 for a licence or renewal of a licence:

- o to establish, operate or maintain a residence; or
- o to provide residential care for 3 or more children not of common parentage; or
- o to place children for adoption.

O. Reg. 550/85, s.55

**2. DOCUMENTATION TO BE FILED**  
**IN SUPPORT OF A LICENCE APPLICATION**

Every person applying for a licence to establish, operate or maintain a residence shall file with a director evidence that the premises used or to be used as a residence comply with:

- (a) the laws respecting the health of inhabitants of the area in which the premises are located;
- (b) any rule, regulation, direction or order of the local board of health and any direction or order of the local medical officer of health;
- (c) any by-law of the municipality in which the premises are located or other law for the protection of persons from fire hazards;
- (d) any restricted area, standard of housing or building by-law passed by the municipality in which the premises are located pursuant to Part III of the Planning Act, 1983 or any predecessor thereof;

- (e) the requirements of Ontario Regulation 583/83 (Building Code), where applicable.
- (f) the requirements of Ontario Regulation 730/81 (Fire Code), where applicable. **O. Reg. 550/85, s.57**

### **3. FORMS**

An application for a licence or a renewal of a licence to establish, operate or maintain a residence under clause 176(1)(a) of the Act shall be made to a director in Form 17. **O. Reg. 550/85, s.58(1)**

An application for a licence or a renewal of a licence to provide residential care under clause 176(1)(b) of the Act shall be made to a director in Form 18. **O. Reg. 550/85, s.58(2)**

An application for a licence or a renewal of a licence to place children for adoption under subsection 176(2) of the Act shall be made to a director in Form 19. **O. Reg. 550/85, s.58(3)**

A licence to establish, operate or maintain a residence shall be in Form 20. **O. Reg. 550/85, s.59(5)**

A licence to provide residential care shall be in Form 21. **O. Reg. 550/85, s.59(6)**

A licence to place children for adoption shall be in Form 22. **O. Reg. 550/85, s.59(7)**

A provisional licence to establish, operate or maintain a residence shall be in Form 23. **O. Reg. 550/85, s.59(8)**

A provisional licence to provide residential care shall be in Form 24. **O. Reg. 550/85, s.59(9)**

A provisional licence to place children for adoption shall be in Form 25. **O. Reg. 550/85, s.59(10)**

#### 4. ADDITIONAL INFORMATION REQUIRED

An application for a licence or renewal of a licence shall be accompanied by such other information as a director considers necessary to enable the director to determine whether the applicant would, if licensed, be in compliance with the Act and the Regulations. **O. Reg. 550/85, s.58(4)**

#### 5. FEES

The fee payable by an applicant on application for a licence or renewal of a licence is,

- (a) \$100 payable every 3 years for each region in which an applicant intends to establish, operate or maintain a residence; and
- (b) \$100 payable every 3 years for each region in which an applicant intends to provide residential care. **O. Reg. 550/85, s.58(11)**

For the purposes of subsection 58(11), the following regions are designated:

- 1. The Northern Region, being the territorial districts of Algoma, Cochrane, Kenora, Manitoulin, Nipissing, Parry Sound, Rainy River, Sudbury, Thunder Bay, Timiskaming, The Regional Municipality of Sudbury and The District of Municipality of Muskoka.
- 2. The Central Region, being the counties of Dufferin and Simcoe, The Municipality of Metropolitan Toronto and the regional municipalities of York, Peel and Halton. (Halton is incorrectly listed in the regulations as part of the Southwestern Region.)
- 3. The Southwestern Region, being the counties of Brant, Bruce, Elgin, Essex, Grey, Huron, Kent, Lambton, Middlesex, Oxford, Perth and Wellington and the regional municipalities of Haldimand-Norfolk, Niagara, Hamilton-Wentworth, and Waterloo.
- 4. The Southeastern Region, being the counties of Frontenac, Hastings, Lanark, Lennox and Addington, Northumberland, Peterborough, Prince



Edward, Renfrew and Victoria, the County of Haliburton, the united counties of Leeds and Grenville; Stormont, Dundas and Glengarry; and Prescott and Russell; and the regional municipalities of Durham, and Ottawa-Carleton.

**O. Reg. 550/85, s.56**

Section 58(11) does not apply to an applicant for a licence or a renewal of a licence in a region where the applicant has within the 3 year period referred to in subsection (11) already paid the prescribed fee. **O. Reg. 550/85, s.58(12)**

The fee payable by an applicant on application for a licence or renewal of a licence to place children for adoption is \$100 payable every 3 years.

**O. Reg. 550/85, s.58(13)**

#### **6. TERM OF LICENCE**

A director may issue or renew a licence for such period, not to exceed one year, as the director determines is proper in the circumstances.

**O. Reg. 550/85, s.58(14)**

#### **7. REFUND OF LICENCE FEE**

A director may refund to an applicant a fee paid under this section with respect to a licence or renewal thereof that is not issued to the applicant.

**O. Reg. 550/85, s.58(15)**

#### **8. AVAILABILITY OF LICENCE FOR INSPECTION**

A licence or a provisional licence to operate and maintain a residence shall be kept on the premises of the residence by the licensee who shall ensure that the licence is available for inspection by any person. **O. Reg. 550/85, s.58(16)**

A licence or a provisional licence to provide residential care or to place children for adoption shall be kept on the premises of the licensee who shall ensure that the licence is available for inspection by any person.

**O. Reg. 550/85, s.58(17)**



**9. INSPECTION OF THE PREMISES**

Upon application for a licence or renewal of a licence to establish, operate or maintain a residence or to provide residential care, a director may inspect or cause to be inspected the residence or any premises where residential care is to be provided by the applicant for the purpose of determining the eligibility of the applicant for the licence or renewal. O. Reg. 550/85, s.59(1)

**10. MAXIMUM NUMBER OF CHILDREN IN A RESIDENCE**

The director shall, at the time of issuing a licence or renewal of a licence to operate a residence, include in the licence the maximum number of children for whom care may be provided by the licensee. O. Reg. 550/85, s.59(2)

A licensee shall not admit to a residence more children than the maximum number of children permitted in the licence unless the admission is approved by a director for a specified period of time. O. Reg. 550/85, s.59(3)

**11. CHANGE IN OFFICERS OR DIRECTORS  
OF A LICENSED CORPORATION**

A licensee that is a corporation shall notify a director in writing within 15 days of any change in the officers or directors of the corporation.

O. Reg. 550/85, s.59(4)

**12. INSPECTION OF PREMISES  
BY LOCAL MEDICAL OFFICER OF HEALTH**

A local medical officer of health having jurisdiction in the area where a residence is located or any person designated by the local medical officer of health may, at all reasonable times, upon producing proper identification, enter the residence and may, with respect to the health, safety or nutrition of the residents, inspect the facilities, the services provided, the books of account and the records relating to the services and make copies of those books and records or remove them from the premises to copy them as may be reasonably required. O. Reg. 550/85, s.63(2)

No person shall hinder, obstruct or attempt to hinder or obstruct a local medical officer of health or a person designated by the local medical officer of health in the performance of the duties or knowingly give false information about the premises or services to a local medical officer of health or a person designated by the local medical officer of health. **O. Reg. 550/85, s.63(2)** 1510

No licensee or person in charge of a residence shall refuse to give a local medical officer of health or a person designated by the local medical officer of health access to the books and records referred to or refuse to give a local medical officer of health or a person designated by the local medical officer of health information about the premises or services that the local medical officer of health or a person designated by the local medical officer of health reasonably requires. **O. Reg. 550/85, s.63(3)**

The licensee shall carry out any recommendation made by the local medical officer of health or a person designated by the local medical officer of health concerning the health, safety or nutrition of any child in the residence. **O. Reg. 550/85, s.63(4)**

### **13. DEATH OF A RESIDENT**

Where a resident dies, the licensee who operates the residence shall notify a coroner, other than a coroner who is a physician providing services to the residence, of the death. **O. Reg. 550/85, s.64(1)**

Where a foster child dies while in receipt of foster care in a foster home, the licensee who directly or indirectly operates the foster home shall, after consulting with the placing agency where the placing agency is not the licensee, notify a coroner. **O. Reg. 550/85, s.64(2)**

### **14. MANAGEMENT PRACTICES**

#### **(1) Responsibility for Management**

Every licensee who provides residential care is responsible for the operation and management of the residences operated by the licensee, including the program, financial and personnel administration of the residences.

**O. Reg. 550/85, s.65(1)**

A licensee may appoint a person who shall be responsible to the licensee for the day to day operation and management of the residences. 1511

O. Reg. 550/85, s.65(2)

Where a licensee or the person responsible for operation and management is absent, the powers and duties of the licensee or the person appointed under subsection (2) shall be exercised and performed by such person as the licensee designates.

O. Reg. 550/85, s.65(3)

(2) Written Statement of Policies and Procedures for the Residence

Every licensee shall maintain an up to date written statement of policies and procedures with respect to each residence operated by the licensee that sets out,

- (a) the purpose of the residence;
- (b) the program provided in the residence;
- (c) procedures relating to the admission and discharge of residents;
- (d) the planning, monitoring and evaluation of care provided to residents;
- (e) procedures for the maintenance of case records;
- (f) methods of maintaining discipline;
- (g) the health program provided for residents;
- (h) the methods of maintaining security of the residence;
- (i) the methods for involving a resident's parent with the program of the residence;
- (j) the administrative structure of the residence;
- (k) staff and supervisory practices to be followed by staff persons in the residence;

- (l) the conduct and discipline of persons employed in the residence;
  - (m) procedures to be followed in emergencies;
  - (n) the financial administration of the residence;
  - (o) the methods employed to encourage residents to participate in community activities;
  - (p) articles prohibited by the licensee for the purposes of subsection 99(3) of the Act (articles sent through the mail);
  - (q) procedures governing punishment and isolation methods that may be used in the residence.
- O. Reg. 550/85, s.66(1)**

A copy of these policies and procedures shall be kept in each residence and shall be accessible to each person employed in the residence.

**O. Reg. 550/85, s.66(2)**

These requirements do not apply where the policies and procedures concerning conduct and discipline are included in a collective agreement between the licensee and employees of the licensee.

**O. Reg. 550/85, s.66(3)**

### **(3) Daily Logs**

Every licensee shall ensure that a daily log is maintained in each residence operated by the licensee.

**O. Reg. 550/85, s.67(1)**

Each incident that affects or that in the opinion of the licensee may affect the health, safety or well-being of a staff person in the residence or a resident shall be included in the daily log.

**O. Reg. 550/85, s.67(2)**

### **(4) Health Assessment of Employees**

Every licensee shall ensure that each person employed in a residence operated by the licensee receives each immunization as is recommended by the local medical officer of health and a health assessment before the person commences employment.

**O. Reg. 550/85, s.68**

**(5) Orientation of Employees**

Every licensee shall ensure that each person employed to work in a residence operated by the licensee shall receive an orientation with respect to the policies and procedures of the residence within thirty days of commencement of employment in the residence.

O. Reg. 550/85, s.69

**(6) Annual Budgets**

Every licensee shall prepare and maintain an annual budget that with respect to each residence operated by the licensee sets out,

- (a) anticipated revenue of the residence; and
- (b) projected basic care expenditures and special care expenditures for the residents in the residence.

O. Reg. 550/85, s.70(1)

Where a licensee operates two or more residences, a separate budget shall be prepared for each residence and each budget shall show the individual costs for each residence and the costs that are shared between the residences.

O. Reg. 550/85, s.70(2)

**(7) Financial Reports**

Every licensee shall, in respect of each residence maintained and operated by the licensee,

- (a) keep a complete record of revenues and expenditures made in connection with the operation of each residence; and
- (b) prepare and submit financial reports to a director when required by a director including reports by a public accountant licensed under the Public Accountancy Act.

O. Reg. 550/85, s.71(1)

This requirement applies with necessary modifications to a licensee placing children for adoption.

O. Reg. 550/85, s.71(2)

**(8) Insurance Coverage**

Every licensee shall ensure that a policy of insurance with respect to each residence operated by the licensee is obtained and maintained in full force and effect.

**O. Reg. 550/85, s.72(1)**

A policy of insurance with respect to a residence shall include,

- (a) fire and extended coverage including coverage for the theft of the physical assets of the residence and the property of the residents;
- (b) comprehensive general liability coverage and personal injury coverage, including coverage for the employees of the residence and volunteers in the residence and in the case of a parent-model residence, the persons who provide care for the residents;
- (c) a clause concerning liability arising out of any contract or agreement; and
- (d) motor vehicle coverage for all vehicles owned or used by employees of the residence and volunteers in the residence and in the case of a parent-model residence, all vehicles owned or used by persons who provide care for residents.

**O. Reg. 550/85, s.72(2)**

Note: Regulations governing admissions (O. Reg. 550/85, ss.73-94) are covered in Volume 1.)

**15. FILES TO BE MAINTAINED BY PRIVATE ADOPTION LICENSEES**

Every licensee referred to in Part VII of the Act shall open and maintain a separate file with respect to,

- (a) each person who is a parent within the meaning of subsection 131(1) of the Act who relinquishes a child to the licensee for adoption;
- (b) each prospective adoptive parent;



- (c) each child who is placed or who is intended to be placed for adoption by the licensee; and
- (d) each foster parent who provides services to the licensee in connection with an adoption. **O. Reg. 550/85, s.94(1)**

The licensee shall review each file referred to above and bring the file up to date at least every six months until the file is closed. **O. Reg. 550/85, s.94(2)**

The licensee shall permanently retain a record of the contents of each file referred to above unless the file is delivered up to the Minister as required under subsection 186(1) of the Act. (Where licence revoked or operation ceases.) **O. Reg. 550/85, s.94(3)**

#### **16. STATISTICAL INFORMATION TO BE REPORTED TO A DIRECTOR**

Every licensee shall submit to a director such statistical information as the director may require with respect to the operation of a residence operated by the licensee.

#### **17. STAFF KNOWLEDGE OF EMERGENCY PROCEDURES**

Every licensee shall ensure that each staff person employed in a residence operated by the licensee is instructed in all emergency procedures of the residence at the time of commencing work in the residence and at least annually thereafter. **O. Reg. 550/85, s.96**

#### **18. STAFFING OF THE RESIDENCE**

Every licensee shall employ a sufficient number of program staff persons in each residence operated by the licensee to ensure a minimum ratio of 1 program staff person to every 8 residents in the residence averaged over a 24-hour period. **O. Reg. 550/85, s.97(1)**

Every licensee who operates a parent model residence without auxiliary staff persons shall ensure that the total number of children in the residence does not exceed 8. **O. Reg. 550/85, s.97(2)**

Every licensee who operates a staff model residence where more than 1 program staff person is on duty per shift shall ensure that one program staff person is designated to be in charge of the shift. **O. Reg. 550/85, s.97(3)**

Every licensee shall ensure that where a child is on the premises of a residence, the licensee has made reasonable provision in the circumstances for the supervision, care and safety of the child and that an additional adult is on call when children are on the premises and only 1 adult is on the premises. **O. Reg. 550/85, s.97(4)**

#### **19. LICENSING DOCUMENTATION**

Every person who applies for a licence to establish and maintain a residence shall prepare and keep on file and provide to a director when required by the director,

- (a) a written proposal that outlines the program goals of the residence, the types of residents to be served in the residence and the services to be provided in the residence;
- (b) documentation of the needs for the residence and a description of the needs of the client population to be served by the residence;
- (c) documentation of the community and neighbourhood facilities and services that are available and the ways in which these are appropriate and available to the resident to be served by the residence;
- (d) written evidence of consultation with community facilities and services where services for the residents will be required;
- (e) information concerning facilities that are similar to the residence or that offer similar services to the residence within the neighbourhood and their proximity to the proposed site of the residence;

- (f) a description of the neighbourhood in which the applicant proposes to establish the residence and of the ways in which the neighbourhood will be suitable for the residence;
- (g) evidence that the municipalities and school boards in the area where the residence is to be located have been notified in writing of the intent to establish a residence;
- (h) a plan for securing neighbourhood acceptance of the residence; and
- (i) a plan for securing funds to establish, equip and operate the residence.

O. Reg. 550/85, s.98(1)

Every applicant for a licence or renewal of a licence to establish, operate or maintain a residence shall provide to a director a copy of the site plan of the residence and a drawing to scale that sets out the floor plan of the residence, showing windows, doors, exits and stairways and the proposed uses of each room in the residence.

O. Reg. 550/85, s.98(2)

## **20. ACCOMMODATION FOR RESIDENTS**

Every licensee shall ensure that each residence operated by the licensee meets the following requirements:

1. No room without a window is used as a bedroom.
2. No basement area or room is used for sleeping accommodation unless such use is approved by a director.
3. Each bedroom has a minimum area of 5 square metres of floor space for each resident over the age of 18 months and under the age of 16 years.
4. Each bedroom has a minimum of 7 square metres of floor space for each resident 16 years of age or over.
5. A residence that accommodates residents under the age of 18 months has a minimum area of 3.25 square metres of floor space for each resident

and at least 7.5 square metres of floor space in every bedroom where residents under the age of 18 months are accommodated.

6. Each resident is provided with his or her own bed and clean mattress suitable for the resident's age and size, together with bedding that is appropriate according to the weather and climate.
  7. No resident over 6 years of age shares a bedroom with another resident of the opposite sex unless the sharing is approved by a director.
  8. The residence has a minimum of 1 wash basin with hot and cold water and 1 flush toilet for every 5 residents or fewer and 1 bath or shower with hot and cold water for every 8 residents or fewer and, where there is more than 1 toilet in any one room, each toilet has a separate compartment.
  9. The water temperature in a washroom or bathroom in a residence does not exceed 49 degrees Celsius.
  10. The residence has an outdoor play space that is equivalent in area to at least 9 square metres for each resident based on the maximum number of children permitted in the licence except where an alternative arrangement is approved by the director.
  11. The outdoor play space is maintained in a safe and sanitary condition.
  12. The temperature of the residence is maintained at not less than 17 degrees Celsius.
- O. Reg. 550/85, s.99**

Every licensee shall ensure that in each residence operated by the licensee,

- (a) drugs and records are kept in locked containers and that only persons authorized by the licensee have access to the drugs and records;
- (b) each fuel-fired appliance in the residence is serviced by a person who is the holder of a certificate issued under section 14 of the Energy Act at least once a year; and

- 1519
- (c) The chimneys in the residence are cleaned as often as is necessary to keep them in a safe operating condition and a record is kept of the servicing and cleaning. O. Reg. 550/85, s.100

21. FIRE SAFETY AND HEALTH

Every licensee shall ensure that each residence operated by the licensee has,

- (a) at least 1 acceptable exit from the 1st storey of the residence;
- (b) at least 1 acceptable exit or 2 means of egress from the 3rd storey of the residence where the 3rd storey provides sleeping accommodation;
- (c) one or more single station smoke alarms listed by Underwriter's Laboratories of Canada located in each bedroom or sleeping area and in each storey at interior stairways;
- (d) a fire-resistant partition between any fuel-fired central heating appliance and the remainder of the building where there is a bedroom on the same floor as the central heating fuel-fired appliance; and
- (e) a 2A 10B.C.-rated fire extinguisher for the kitchen that is listed by Underwriter's Laboratories of Canada. O. Reg. 550/85, s.101

Every licensee shall ensure that in each residence operated by the licensee,

- (a) all staff persons and residents are instructed in a manner suitable for their understanding in the procedures to be followed when a fire alarm is activated;
- (b) the procedures referred to in clause (a) are,
  - (i) posted in conspicuous places in the residence, and
  - (ii) practised at least once a month and a record is kept of each practice;
- (c) the fire alarm is used to initiate fire drills;

- (d) flammable liquids and paint supplies that are kept in the residence are stored in lockable containers; 1520
- (e) sprinkler heads and fire detector heads in the residence are not painted;
- (f) all staff persons are trained in the proper use of fire extinguishing equipment and a record is kept of each training session using such equipment;
- (g) an inspection of the premises of the residence, including equipment in the kitchen and laundry is made each night to ensure that there is no danger of fire and that all doors to stair-wells, fire doors and smoke barrier doors are closed; and
- (h) a record of each inspection referred to in clause (g) is kept in the daily log of the residence. O. Reg. 550/85, s.102(1)

Every licensee shall ensure that in each residence operated by the licensee,

- (a) all poisonous and hazardous substances are kept in lockable containers;
- (b) harmful substances and objects not essential to the operation of the residence are not allowed in the residence;
- (c) fire-arms are not allowed in the residence; and
- (d) a supply of drinking water is provided that is in the opinion of the local medical officer of health sanitary and adequate for the requirements of residents. O. Reg. 550/85, s.102(2)

## **22. SELECTION, DEVELOPMENT AND MANAGEMENT OF FOSTER HOMES**

**Note:** Regulations governing care in foster homes (O. Reg. 550/85, ss.104-108) are covered in Volume 1.)

Every licensee shall develop procedures for the selection, development and management of the foster homes used by the licensee.

O. Reg. 550/85, s.109(1)



- (a) a system for classifying and utilizing foster homes;
- (b) procedures for the recruitment, screening and selection of foster parents;
- (c) an up-to-date list of foster homes that are approved by the licensee;
- (d) a system for supervising foster homes; and
- (e) a system for evaluating foster homes annually according to the objectives set for the type and level of care to be provided in each home.

O. Reg. 550/85, s.109(2)

Every licensee shall ensure that it places no more than 4 foster children and no more than 2 foster children under 2 years of age in each foster home.

O. Reg. 550/85, s.110(1)

This provision does not apply where all foster children are of common parentage or related to the foster parents and the placement is approved in writing by a director.

O. Reg. 550/85, s.110(2)

Where a director approves a placement referred to in subsection (2), the licensee shall ensure that the director's written approval is available for inspection by a program supervisor.

O. Reg. 550/85, s.110(3)

No licensee shall approve a foster home to receive a child for foster care until the licensee or a person designated by the licensee,

- (a) conducts at least 1 planned interview with a foster parent applicant in the applicant's home;
- (b) conducts an interview with each adult who resides in the home individually and in a group where more than 1 adult resides in the home;
- (c) in addition to the adults referred to in clause (b), meets with other family members of the applicant that live with the applicant and all other persons living in the home;

- (d) receives from the applicants the names of at least 3 persons in the community as references for the applicant;
- (e) contacts the references referred to in clause (d) by letter or telephone and makes a record of their comments regarding the suitability of the applicants to provide foster care;
- (f) obtains a written statement from a physician or an individual approved by the local medical officer of health regarding the general health and specific illnesses or disabilities of the foster parent applicants and family members and whether or not they might interfere with the provision of foster care; and
- (g) visits the applicant's home to determine whether or not it is suitable for placement of a foster child. O. Reg. 550/85, s.111(1)

A person who visits an applicant's home to determine whether or not it is suitable as a foster home shall inspect the common living areas of the applicant's home, the proposed sleeping area for a foster child, the grounds surrounding the home and the play space used by children in the home and the recreational areas within walking distance of the home.

O. Reg. 550/85, s.111(2)

This visit shall be recorded in the applicant's file. O. Reg. 550/85, s.111(3)

No licensee shall approve a home as a foster home unless the licensee is satisfied that the regular sleeping accommodation for the foster child or children meets the following requirements:

1. No room without a window is used as a bedroom.
2. No bedroom is in a building detached from the foster home, an unfinished attic or unfinished basement or a stairway hall.
3. Each foster child has a bed and clean mattress suitable for the age of the foster child together with bedding that is appropriate according to the weather and climate.

4. No foster child shares a bed or sleeping room with an adult couple or adult of the opposite sex, unless a child is ill or an infant and the needs of the child require that the child be in the same room as an adult.
5. No foster child over 6 years of age shares a bedroom with another child of the opposite sex. O. Reg. 550/85, s.112(1)

Paragraph 4 above does not apply where a child is ill or is an infant and the needs of the child require that the child be in the same room as an adult.

O. Reg. 550/85, s.112(2)

These requirements do not apply where a director approves an alternative arrangement.

O. Reg. 550/85, s.112(3)

### **23. FOSTER CARE SERVICE AGREEMENT**

Every licensee that intends to place a child in foster care shall enter into a written foster care service agreement with the foster parents before placing the foster child with the foster parents.

O. Reg. 550/85, s.113(1)

The foster care service agreement shall set out,

- (a) the respective roles of the licensee and the foster parents;
- (b) the responsibilities and obligations of the foster parents and licensee for meeting the foster child's needs including,
  - (i) court appearances,
  - (ii) record keeping,
  - (iii) attendance at case conferences and reviews,
  - (iv) attendance at and accompaniment of the foster children to a clinic, hospital or a school or a consultation with professional persons;
- (c) support and training services to be provided by licensee to the foster parents during the placement of children, including,

- (i) frequency and form of supervision,
  - (ii) relief services,
  - (iii) training opportunities, and
  - (iv) professional consultation for the foster child;
- (d) financial arrangements for the care of the child, including,
  - (i) the basis for determining the amount of payment to the foster parents,
  - (ii) the method and frequency of payment to the foster parents, and
  - (iii) the basis for determining which expenditures that the foster parents incur that the licensee will reimburse;
- (e) those things that are considered to be confidential between the foster parents and the licensee;
- (f) the frequency of performance evaluation by the licensee; and
- (g) the basis for termination of the agreement. **O. Reg. 550/85, s.113(2)**

The foster care service agreement shall be reviewed by the licensee at the time of placement of the child and updated by the parties to the agreement from time to time as is necessary to give proper effect to the agreement.

**O. Reg. 550/85, s.113(3)**

#### **24. SUPERVISION AND SUPPORT OF THE FOSTER FAMILY**

Every licensee shall assign a staff person to supervise and support every foster family approved for placement by the licensee and to arrange for the support services provided for in the foster care service agreement.

**O. Reg. 550/85, s.114(1)**

This staff person shall,

- (a) respond to each foster parent inquiry within 24 hours of the inquiry;

- (b) visit the foster family home where the child is placed and consult with at least 1 foster parent within 7 days of the placement, within 30 days of the placement and every 3 months thereafter; and
- (d) where the foster family is approved by the licensee and no child has been placed with the family, consult with the family every 3 months.

O. Reg. 550/85, s.114(2)

REVIEW BY THE  
CHILDREN'S SERVICES REVIEW BOARD

1526

C.F.S.A. s.190

**1. PURPOSE OF THE BOARD**

C.F.S.A. ss.190; 205(1c)(1)

The Children's Services Review Board (C.S.R.B.) is a body continued under the Child and Family Services Act from predecessor legislation to provide a forum for review of certain administrative decisions made under the new legislation.

**2. POWERS AND DUTIES OF THE BOARD**

The Children's Services Review Board now draws its powers and duties from the Child and Family Services Act and regulations made under the Act. The review power extends to the following decisions:

- a. a Ministry director's decision relating to the licensing of children's residences under Part IX of the Act (substantially the same power as set out in predecessor legislation); C.F.S.A. s.180
- b. a decision of a residential placement advisory committee as requested by a child over age 12; (NEW POWER) C.F.S.A. s.36
- c. a Ministry director's refusal to approve a proposed adoption placement (substantially the same power as set out in predecessor legislation i.e., the Child Welfare Act); C.F.S.A. s.36
- d. a service provider's decision to disallow access to information in his record; or to make a correction to information allegedly incorrect in the record; (NEW POWER) C.F.S.A. ss.167, 171
- e. an allegation that a service provider has disclosed information in a record without authority. (NEW POWER) C.F.S.A. ss.167, 171



3. COMPOSITION OF THE BOARD

C.F.S.A. s.190  
O. Reg. 550/85 1527

The Board shall consist of 11 members.

O. Reg. 550/85, s.60(1)

A member of the Board may be appointed for a term of 6 months, 1 year, 2 years or 3 years.

O. Reg. 550/85, s.60(2)

Three members of the Board constitute a quorum.

O. Reg. 550/85, s.60(3)

A vice-chairman designated by the chairman has the jurisdiction and shall exercise the power of the chairman,

(a) in the absence of the chairman; or

(b) if the chairman is unable to act or the office of the chairman is vacant.

O. Reg. 550/85, s.60(4)

The chairman shall, from time to time, assign various members of the Board to its various hearings.

O. Reg. 550/85, s.60(5)

4. HEARINGS BEFORE THE BOARD

A notice under subsection 180(1) of the Act (notice of proposal) in respect of an application for a licence or a renewal of a licence referred to in subsection 176(1) of the Act (licence required) shall be in Form 26 and shall be accompanied by 2 blank copies of Form 28.

O. Reg. 550/85, s.61(1)

A notice under subsection 136(2) of the Act (director's approval) or under subsection 180(1) of the Act (notice of proposal) in respect of an application for a licence or a renewal of a licence referred to in subsection 176(2) of the Act (licence required) shall be in Form 27 and shall be accompanied by 2 blank copies of Form 28.

O. Reg. 550/85, s.61(2)

A request for a hearing shall be in Form 28.

O. Reg. 550/85, s.61(3)

An application to the Board under subsection 36(1) of the Act (review by Board) shall be in Form 29. 1528  
O. Reg. 550/85, s.61(4)

The Board shall serve notice of a hearing in Form 30 on the parties to the hearing within 15 days of receiving the notice of the request for the hearing.  
O. Reg. 550/85, s.62(1)

The Board shall serve the notice under subsection (1) to each party to the hearing by sending the notice by registered mail to the party at the party's address last known to the Board.  
O. Reg. 550/85, s.62(2)

**5. REVIEW OF DIRECTOR'S DECISION RELATED TO THE LICENSING OF A CHILDREN'S RESIDENCE**

**(1) Parties to the Hearing** C.F.S.A. s.184(1)

The following persons are parties to the hearing:

- a. the Ministry director;
- b. the applicant or licensee who requested the hearing;
- c. any other person that the Board specifies.

**(2) Criteria for Informed and Impartial Decision-Making** C.F.S.A. s.184

The Child and Family Services Act provides the following special protections to the parties to guard the integrity of the hearing:

- a. any party to the proceeding must be given an opportunity, before the hearing, to examine any written or documentary evidence that will be produced to the Board as well as any report, the contents of which will be given in evidence at the hearing. C.F.S.A. s.184(5)
- b. no member of the C.S.R.B. who has taken part in any investigation or consideration of the subject matter that forms the basis of the review is permitted to take part in the hearing; C.F.S.A. s.184(2)

c. unless all parties are notified and given an opportunity to participate, those members of the Board who do take part in the hearing are not permitted to communicate with any person about the subject matter of the hearing, except as follows:

- (i) communication with another member of the C.S.R.B;
- (ii) communication with a lawyer, provided the lawyer does not represent any of the parties to the hearing;
- (iii) communication with an employee of the C.S.R.B;

C.F.S.A. s.184(3)

d. the Board may seek independent legal advice about the subject matter of the hearing, but if it does so, it must disclose to the parties the nature of that advice, so that the parties may respond, if they wish;

C.F.S.A. s.184(4)

e. the evidence taken at the hearing must be recorded in order to allow the parties to requisition a transcript of it if they wish; C.F.S.A. s.184(6)

f. the only members of the C.S.R.B. who are permitted to participate in the Board's decision are those who have been present throughout the hearing and heard the evidence and arguments of the parties; C.F.S.A. s.184(7)

g. unless the parties consent, the C.S.R.B. cannot make its decision unless all members of the Board who were present throughout participate in the decision, i.e., no one Board member can opt out; C.F.S.A. s.184(7)

h. the Board is to make a final decision and notify the parties of it within 90 days of the applicant's request for a hearing, notwithstanding Section 21 of the Statutory Powers Procedure Act. C.F.S.A. s.184(8)

### (3) Options Available to the Board

C.F.S.A. ss.181(2); 180

After it has heard and weighed the evidence presented to it at the hearing, the Board may take any of the following actions:

In the case of a review of terms and conditions imposed on a licence by the Ministry director:

- a. confirm any or all of the conditions prescribed by the director;
- b. strike out any of the terms and conditions prescribed by the director;
- c. impose such other terms and conditions to the licence that the Board considers appropriate.

In all other cases (i.e. Ministry director's refusal to issue a licence, refusal to renew suspension or proposal to revoke):

- a. order the Ministry director to carry out his intended proposal (except in the case of suspension where the review takes place after the director has intervened); or
- b. order the director to take such other action as the Board considers appropriate, and as permitted by the licensing provisions of the Act and the regulations.

The Child and Family Services Act specifically gives the Children's Services Review Board discretion to substitute its opinion for that of the Ministry director.

#### **6. APPEAL OF THE C.S.R.B. DECISION TO THE DIVISIONAL COURT**

**C.F.S.A. s.185(1)(2)(3)**

Any decision of the C.S.R.B. related to licensing under Part IX of the Child and Family Services Act may be appealed to the Divisional Court. The procedure for this appeal is contained in the rules of practice governing civil matters brought before the Supreme Court of Ontario.

The aggrieved applicant or licensee who wishes to initiate this appeal must serve notice of the appeal on the C.S.R.B. The Board must then file with the Registrar of the Supreme Court of Ontario the record taken at the Board's hearing.

The Minister is entitled to be heard on the argument of an appeal before the Divisional Court.



Failure to comply with an order or direction made by the court is an offence. An individual or corporate director, officer or employee who authorizes, allows or concurs in the corporation's contravention of the court order is liable on conviction to a fine of up to \$2,000.

7. REVIEW OF DIRECTOR'S DECISION RELATED TO THE LICENSING OF PRIVATE ADOPTION C.F.S.A. s.184

Parties to this review, the criteria for informed and impartial decision-making by the Board, and the options available to the Board as a result of its review parallel those set out for C.S.R.B. review of a decision related to the licensing of a children's residence.

8. REVIEW OF A DECISION OF THE RESIDENTIAL PLACEMENT ADVISORY COMMITTEE C.F.S.A. s.36

This review may be requested by a child if each of the following statutory criteria are met:

- a. he is 12 years of age or older;
- b. he is residing in a residential placement, defined as any care provided for the child away from the home of his parent;
- c. he objects to the placement;
- d. he has had the benefit of placement review by a residential placement advisory committee;
- e. he is dissatisfied with the committee's recommendation or alternatively the committee's recommendation is not followed.

The role of the Board, if the child makes application to it for review, is to determine where the child should remain or be placed.

The Board is required to conduct a review if the child makes application to it. Whether the review is undertaken by formal hearing is a decision left to the Board's discretion under the Child and Family Services Act. The Act requires the Board to advise the child within 10 days of receiving the application whether the Board intends to hold a hearing. 1532

Parties to a hearing in this review are:

- a. the child;
- b. the child's parent(s) or alternatively, where the child is in the lawful custody of a children's aid society, the society;
- c. where the child is an Indian or native person, a representative chosen by the child's band or native community; and,
- d. any other persons that the Board specifies.

The Board must make its determination within 30 days of receiving the child's application, unless the Board holds a hearing and the parties consent to a longer period.

The Child and Family Services Act gives the Board any of the following options on completion of its review:

- a. to order that the child be transferred to another residential placement, if the Board is satisfied that the other residential placement is available;
- b. to order that the child be discharged from the residential placement; or,
- c. to confirm the existing placement.



This review is initiated by a request from the person to whom access was denied that is made within 20 days of receiving notice of a service provider's decision to refuse access, in whole or in part, to a record or to correct a record.

This review is to be conducted in accordance with the provisions set out in regulations under the Child and Family Services Act.

Whether the Board holds a formal hearing is left to its discretion.

In conducting its review, the Board may examine the record in question.

As a result of its review the Board has any of the following options available to it:

- a. order the service provider to give the person access to all or part of the record;
- b. order the service provider to make a correction to the record and give notice to every person to whom the service provider has disclosed the record; or,
- c. if it is satisfied that the service provider's refusal is justified, confirm the refusal.

The Board is required to provide a copy of its decision to:

- a. the person who requested the review;
- b. the service provider; and,
- c. the Minister.

A person who believed that a service provider may have disclosed his record without authority may, within 20 days of becoming aware of the possible unauthorized disclosure, request that the Children's Services Review Board review the matter.

The Child and Family Services Act requires the Board to conduct a review in such circumstances. Whether the review is undertaken by formal hearing left to the Board's discretion.

In conducting its review the Board may examine the record in question.

On completion of its review the Board:

- a. unless it is satisfied that no disclosure or no unauthorized disclosure of the person's record took place, must declare that the disclosure was unauthorized;
- b. may order the service provider to change his procedures for the maintenance and disclosure of persons' records, or to desist from a particular disclosure practice;
- c. where it is satisfied that an unauthorized disclosure took place, may also recommend to the Minister that the service provider's approval, if any, be revoked. Where the service provider is a licensee, the Board may recommend that the licence be revoked.

The Child and Family Services Act requires the Board to provide a copy of its decision to:

- a. the person who requested the review;
- b. the service provider;
- c. the Minister.

1. GENERALLY

It should be noted that Part VIII of the Act has not yet been proclaimed.

The reader is referred to Appendix 2 of this volume and Volume 1, Front-Line Service Delivery, for other information on Part VIII.

2. RECORD KEEPING PROCEDURES

The Child and Family Services Act requires the service provider to establish and follow a written code of procedures for the creation, maintenance and disclosure of records in his possession and under his control.

The code of procedure is required to contain the following:

- a. a description of the types of information that may be recorded and the purposes for which the information may be recorded;
- b. a requirement that information be collected from or confirmed by the person to whom it relates, wherever possible;
- c. a requirement that no more information be recorded than is actually necessary for the provision of the service in question;
- d. provisions prescribed by the regulations.

C.F.S.A. s.174

3. STORAGE OF RECORDS

C.F.S.A. s.174(3)

Retention, storage and destruction of records must be undertaken in accordance with schedules set out in regulation under the Act. At the time of writing, schedules are being developed but are not yet in place.

APPENDICES

<u>APPENDIX</u>	<u>TITLE</u>
1	SUMMARY OF PROVISIONS OF THE STATUTORY POWERS PROCEDURE ACT THAT AFFECT MATTERS UNDER THE CHILD AND FAMILY SERVICES ACT, 1984
2	CONFIDENTIALITY AND ACCESS TO RECORDS (PART VIII)
3	DIRECTOR'S DUTIES/RESPONSIBILITIES
4	GENERAL PROVISIONS GOVERNING THE OPERATION OF CORPORATIONS APPROVED AS "APPROVED AGENCIES" FOR THE PURPOSES OF THE CHILD AND FAMILY SERVICES ACT, 1984

SUMMARY OF PROVISIONS  
OF THE STATUTORY POWERS PROCEDURE ACT  
THAT AFFECT MATTERS UNDER  
THE CHILD AND FAMILY SERVICES ACT, 1984

A. Types of Decision-making Encompassed  
by the Statutory Powers Procedure Act

The Statutory Powers Procedure Act is, as you might expect from its title, a statute that sets out basic rules of procedure for the following types of decision-making under a provincial statute:

1. powers of decision that prescribe the legal rights, powers, privileges, immunities, duties or liabilities of a person or party;  
or
2. powers of decision that prescribe the eligibility of any person or party to receive a benefit under a provincial statute.

The Act applies only to proceedings where the decision-maker under the provincial statute is required to hold or to give the parties to the proceedings an opportunity for a hearing before he makes his decision.

S.P.P.A. ss. 1(1)(d); 2; 3

The rules do not apply to proceedings before a court.

S.P.P.A. s.3(2)

B. C.F.S.A. Proceedings Where the S.P.P.A. Rules do not Apply

In the following instances the Child and Family Services Act does not require a "hearing" to dispose of the matter:

1. Children's Services Review Board review of a decision of a Residential Placement Advisory Committee, initiated by a child 12 years of age or older.
2. Children's Service Review Board review of a service provider's refusal to permit access to a record in his possession, or the service provider's refusal to correct information in the record or an alleged unauthorized disclosure of a record.

Thus, the Statutory Powers Procedure Act does not apply.

**C. C.F.S.A. Proceedings Where the S.P.P.A. Rules do Apply**

A hearing or an opportunity for the applicant to have the matter determined by a hearing, is required in the following instances under the Child and Family Services Act, - thus attracting the operation of the S.P.P.A. rules:

1. hearing by an appointee of the Minister and in the case of a children's aid society, an appointee of the Lieutenant-Governor into the Minister's proposal to revoke an agency's approval or a proposed takeover;  
C.F.S.A. s.22
2. hearing before the Children's Services Review Board to:
  - a) review a Director's proposal to impose a term or condition on the approval of a proposed adoption placement; C.F.S.A. s.136(6)
  - b) review of a Director's proposal to refuse issuance of a licence, to revoke a licence or to suspend a licence to operate a children's residence or to place a child for adoption; C.F.S.A. ss. 180, 183
  - c) review of a Director's imposition of terms and conditions to a licence; C.F.S.A. s.181
3. hearing before an appointee of the Director of the Child Abuse Register to remove a person's name from the register or otherwise amend the register.  
C.F.S.A. s.72

**D. The Rules of Procedure Under the Statutory Powers Procedure Act**

These rules are set out in Part I of the Statutory Powers Procedure Act and are briefly as follows, as they affect proceedings under the Child and Family Services Act:

1. "Parties" to the hearing are those persons specified as parties under the Child and Family Services Act. Where the Act does not so specify, the parties to the proceeding are those persons entitled by law to be parties of the proceedings; in other words, those persons whose legal interests are likely to be directly affected by the outcome of the proceeding.  
S.P.P.A. s.5
2. The parties to the proceeding may waive a hearing or the subsection of the proceeding to the requirements of the Statutory Powers Procedure Act, except where:
  - a) the Child and Family Services Act provides otherwise or
  - b) the decision-maker otherwise directs.



In the event of such waiver, the proceeding may be disposed of by agreement, consent order, or a decision given without a hearing or without compliance with the Statutory Powers Procedure Act.

3. Parties must be given reasonable notice of the hearing. That notice must include each of the following specifics:
  - a) a statement of the time, place and purpose of the hearing;
  - b) a reference to the statutory authority under which the hearing will be held;
  - c) a statement that if the party notified does not attend the hearing the decision-maker may proceed in his absence, and the party so notified will not be entitled to any further notice in the proceeding.
4. If due notice is given to a party and he does not attend the hearing, the decision-maker may proceed with the hearing in that party's absence. The non-attending party is not entitled to any further notice in the proceeding. **S.P.P.A. s.6**
5. If the good character, propriety of conduct or competence of a party is an issue in the proceeding, the party is entitled to be furnished with reasonable information of any such allegations. This information must be furnished prior to the hearing. **S.P.P.A. s.8**
6. The hearing is open to the public unless the decision-maker is of the opinion that:
  - a) matters involving public security may be disclosed  
or
  - b) intimate financial or personal matters or other matters may be disclosed and the desirability of avoiding their disclosure in the interests of any person affected or the public interest outweighs the desirability of a public hearing. **S.P.P.A. s.9(1)**
7. A party at the hearing may:
  - a) be represented by counsel or an agent;
  - b) call and question witnesses and present his arguments and submissions;
  - c) cross-examine witnesses to the extent that is reasonably required for a full and fair disclosure of the facts in relation to which they have given evidence. **S.P.P.A. s.10**
8. The decision-maker may give such orders or directions at the hearing as he considers necessary to maintain order and/or to prevent abuse of the hearing process. Police assistance may be sought to ensure that any such order or direction is obeyed. **S.P.P.A. ss.9(2); 23**

9. The decision-maker may exclude an agent other than an Ontario lawyer appearing on behalf of a party or as an advisor to a witness if it finds that such person is not competent properly to undertake such task or where the agent does not understand and comply at the hearing with the duties and responsibilities of an advisor. **S.P.P.A. s.23(3)**
10. The hearing may be adjourned from time to time either on the initiative of the decision-maker or where the decision-maker is satisfied that the adjournment is required to permit an adequate hearing to be held. **S.P.P.A. s.21**
11. The decision-maker may issue a summons to any person including a party, requiring him to give sworn evidence at the hearing and to produce specified documents and things relevant to the subject-matter of the proceeding and admissible at a hearing. Such summons must be served personally.
12. A bench warrant may be obtained from a judge of the Supreme Court of Ontario if the witness is properly summoned and fails to attend. **S.P.P.A. s.12(3)**
13. Contempt proceedings before the Divisonal Court are available against a witness who fails to attend the hearing, fails to testify as required, or does any other thing that would constitute contempt of court. **S.P.P.A. s.13**
14. A witness at a hearing is entitled to be advised of his rights by his counsel or agent, but the counsel or agent may take no further part in the hearing unless the decision-maker permits. **S.P.P.A. s.11(1)**
15. If the public is excluded from the hearing, counsel or agent for a witness is not entitled to be present except when that witness is giving evidence. **S.P.P.A. s.11(2)**
16. The decision-maker may require evidence to be given under oath and/or affirmation and has power to administer oaths and affirmations for this purpose. **S.P.P.A. s.22**
17. The decision-maker must inform a witness of his right to object to answer a question that may tend to incriminate him or may tend to establish his liability in a civil proceeding, according to the protection set out in s. 5 of the Criminal Code. **S.P.P.A. s.14(2)**
18. No answer of a witness that may tend either to incriminate him or establish his civil liability can be used against him in any subsequent trial or other proceeding, other than a prosecution for perjury. **S.P.P.A. s.14(1)**
19. Except where otherwise required by the Child and Family Services Act, the decision-maker may receive in evidence any oral testimony and/or document or other thing that is relevant to the subject matter of the proceeding except as follows:

- a) the decision-maker may exclude anything unduly repetitious;
  - b) the decision-maker must exclude any evidence protected by privilege under the law of evidence;
  - c) the decision-maker must exclude any evidence that is prohibited by the Child and Family Services Act or any other statute.  
S.P.P.A. s.15
20. The decision-maker may reasonably limit cross-examination of a witness where it is satisfied that cross-examination has already been sufficient to disclose fully and fairly the facts in relation to which the witness has given evidence.  
S.P.P.A. s.23
21. The decision-maker may also take notice of facts that may be judicially noticed and take notice of any generally recognized scientific or technical facts, information or opinions within the scientific or specialized knowledge of the decision-maker.  
S.P.P.A. s.16
22. The final decision in the hearing must be in writing. If a party requests, the decision-maker must give written reasons.  
S.P.P.A. s.17
23. The final decision, with its reasons, is to be sent by ordinary mail to the parties who participate in the hearing.  
S.P.P.A. s.18
24. A certified copy of the decision may be filed with the Registrar of the Supreme Court of Ontario and enforced according to the rules governing enforcement applicable to the court.  
S.P.P.A. s.19
25. The tribunal must compile a record of any proceeding in which a hearing has been held. The record must include certain specified material as follows:
- a) any application, complaint, reference or other document by which the proceedings were commenced;
  - b) the notice of any hearing;
  - c) any intermediate orders of the decision-maker;
  - d) all documentary evidence filed with the decision-maker, subject to any limitation expressly imposed by any other Act on the use of such evidence;
  - e) the transcript, if any, of the oral evidence given at the hearing; and
  - f) the decision in the matter and the decision-maker's reasons where such reasons have been given.  
S.P.P.A. s.20
26. If the matter is appealed, the decision does not take effect unless the contrary is provided in the Child and Family Services Act or except where the appellate body otherwise orders.  
S.P.P.A. s.25

## CONFIDENTIALITY AND ACCESS TO RECORDS (PART VIII)

### INTRODUCTION

Part VIII of the Act was not proclaimed on November 1, 1985, but will come into effect on a date to be announced. Because of the number of questions about the records provisions work is underway to provide further information, explanation, interpretation, etc., as a guide to service providers in planning their records procedures.

In the meantime, the following statement of the meaning of access has been prepared.

### MEANING OF ACCESS IN PART VIII

During the training and planning for implementation concerning the Child and Family Services Act, one of the issues that has arisen is the fact that service providers are unclear as to what is meant when a person is said to be able to obtain access to his or her record.

The concept of access is a flexible one in that it may occur in a number of ways. Regardless of the manner in which access occurs, it must adhere to the philosophy that what is envisioned is full and meaningful access to those records to which the individual is entitled in accordance with Part VIII of the Act. It should be noted that the Act provides for some exceptions and restrictions as in Section 167.

While the right of access is to all the information to which the Act applies, a specific request may, however, not necessarily require access to all records of the individual. Rather, it may, for example, be a request for a particular document, or for records during a particular time period. It may be advisable for the service provider to clarify at the time of the request, whether access to all records is desired, or whether the request is more specific.

Access could involve:

- o a worker assisting the person in interpreting the records in question;
- o permitting a person to sit in an office to read and/or copy out the records to which he or she is entitled;
- o a photocopy of desired material from the individual's records.

Access is only meaningful if it is in a form that is comprehensible to the person concerned. It is unlikely that access would ever be simply a worker telling the person seeking access what was in the file, unless, of course, this was the specific request made by the person.

While the actual manner in which access is given will be flexible, and will most frequently depend on the type of access being sought by the person, the service provider must always bear in mind that the underlying intention is to provide the person with full and meaningful access to those records to which he or she is entitled.

Service providers should also remember that when a person requests access to a record, an immediate response is not required. Section 169 of the Child and Family Services Act states that, within 30 days of receiving the request for access, the service provider must either grant access, refuse access to all or part of the record, or inform the person that the record does not exist or that Part VIII of the Legislation does not apply to it.

Similarly, if a person asks the service provider to correct a record, Section 170 provides that within 30 days, the service provider is to correct the record, refuse to correct the record, or inform the person that the record does not exist or that Part VIII of the Legislation, does not apply. Therefore, decisions regarding corrections that have been requested do not have to be made immediately.

In addition, service providers should keep in mind the fact that Part VIII is not retroactive and will not apply to records made prior to proclamation of this Part. This time line gives service providers the opportunity to organize their systems.

In the meantime, additional material is being developed to assist in the implementation of this Part. It should also be noted that the Case Information Disclosure Policy Manual has now been distributed.



APPENDIX 3  
DIRECTOR'S

DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT

Approved by CMC -

PART I: Flexible Services

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Review objections from approved agency re terms and conditions of approval	S.10(2)		X		Area Manager	
<u>C.A.S.'s</u> Advise and supervise Societies	S.17(1)a	X		Area Manager Program Supervisor	No change	
Inspect or direct and supervise inspection of operation and records of Societies	S.17(1)b	X		Area Manager Program Supervisor	No change	
Exercise powers and duties of Society where no Society is functioning	S.17(1)c	X		Area Manager	No change	
Direct/supervise inspection of places in which children in care are placed	S.17(1)d	X X		Area Manager Program Supervisor	No change	
Ensure standards of service and procedures and practices required by SS.15(4)	S.17(1)e	X		Area Manager	No change	
Designate place or class of places as places of safety	S.17(2)	X		Area Manager	Local Director	Approved by CMC October 30, 1985 Delegation completed



Appendix 3 (Cont'd)

DIRECTOR'S

DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT Approved by OMC - PART II: Voluntary Agreements

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Approve extension of a Temporary Care Agreement beyond 6 months but not exceeding an aggregate of 12 months	S.29(5)	XX		Area Manager	Local Director	Approved - Delegation completed
Approve for Society to provide services to a child with special needs	S.30(1)	XX		Area Manager	No change	
Extend Special Needs Agreement period in case of agreement with Society	S.30(3)	XX		Area Manager	No change	
Approval of Society Agreements with 16 and 17 year olds	S.31(1)	XX		Area Manager	No change	
Designate institutions for purposes of this section	S.34(5)		XX	Area Manager	No change	

DIRECTORS

DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT Approved by CMC - PART III: Child Protection

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Director's discretion re foster placement	S.37(5)	X		Local Director		Authority previously held by court
Director as a party to child protection proceedings	S.39(2)	XX		Area Manager	No change	
Director, power of child protection worker	S.37(1)(b)	XX		Area Manager	No change	
Director receives copies of assessment reports	S.51(3)e	XX		Area Manager	No change	
May approve removal of a child from a foster foster home or residential placement	S.57(6)	XX		Area Manager	No change	Act also gives authority to Local Director
No removal until review on request of foster parents completed or Director recommends move	S.57(8)	XX		Area Manager	No change	Act also gives authority to Board of Directors of Society
May remove due to substantial risk to child's health or safety	S.57(9)	XX		Area Manager	No change	Act also gives authority to Local Director
Director to receive notice regarding status reviews of Crown Wards	S.60(6)f	XX		Area Manager	No change	
Director to conduct annual review of Crown Wards	S.62(1)	XX		Director(1) Queen's Park	No change	Director(1) - Queen's Park Graham Lethbridge Sandra Scarth
Upon completion of review [62(1)] may direct Societies to make application for review of child's status under SS.60(2)	S.62(2)(1)	XX		Director(1) Queen's Park	No change	
Give any other direction which in Director's opinion is in the child's best interest	S.62(1)(2)	XX		N/A	All Directors	Procedures will require classification

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT Approved by OMC - PART III: Child Protection

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Approve Societies' written complaints procedure	S.64(1)	XX		Area Manager	No change	
Review of public complaint about Society	S.64(3)		XX	N/A	Area Manager	
May make appeal from Child's Protection Court's Order under this part	S.65(1)(d)		X	N/A	Area Manager	Act also gives Local Director authority
May approve continuation of care and maintenance upon expiry of Crown Wardship	S.67(2)			Area Manager	Local Director	Approved OMC - June 9/85 Local Director limited to set amount that can be approved - Delegation completed
May seek Court ordered access to records.	S.70(2)	XX	X	Area Manager	No change	
<u>CHILD ABUSE REGISTER</u>						
Maintain Child Abuse Register	S.71(3)	XX		Director <sup>(2)</sup> Queen's Park	No change	Director <sup>(2)</sup> Queen's Park Includes: Director - Operational Support Branch Director - Ontario Centre for the Prevention of Child Abuse Staff of Centre designated by Director to receive Director's Delegation
Permit inspection and removal of information in Register	S.71(9)	XX		Director <sup>(2)</sup> Queen's Park	No change	

## DIRECTORS

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT      Approved by OAC -      PART III: Child Protection

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Approval inspection and use of information for research	S.71(10)	XX		Director(2) Queen's Park	No change	
Approval inspection of records by qualified practitioner	S.71(12)	XX		Director(2) Queen's Park	No change	
Director or Ministry employee under Director's authority amend Register	S.71(13)	XX		Director(2) Queen's Park	No change	
Director's hearing re removal of information from Register	S.72(4)b	XX		Director(2) Queen's Park	No change	
Removal of person's name from Register or otherwise amend Register	S.72(8)	XX		Director(2) Queen's Park	No change	

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT      Approved by OMC -      PART III: Child Protection

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Transfer child from one Society to another	S.73(1)a	XX		Area Manager	See Note #1 re Transfers	Note #1 re Transfer <ul style="list-style-type: none"> <li>Transfers within area - Area Manager's approval</li> <li>Transfers between 2 areas - Regional Director's approval</li> <li>Transfers between 2 regions - approval of Queen's Park Director<sup>(1)</sup> required</li> <li>Transfer of supervision usually completed by Society Director involved only in special cases</li> <li>Transfer of care must involve Director</li> </ul>
May transfer child from one placement to another	S.73(1)b	XX		Area Manager	No change	In practice usually completed by Local Director
Approve homemakers	S.74(1)	XX		Area Manager or Local Director	No change	In practice usually done by Society or other parties
May apply for extension, evaluation or termination of restraining order	S.76(4)e	XX		Area Manager	No change	Under review
Approval of placements other than in accordance with child's own religious faith	S.82(5)	XX		Area Manager	No change	



## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT      Approved by CMC -      PART IV: Young Offenders

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
UNDER THIS PART OF THE LEGISLATION NUMEROUS DUTIES ARE CARRIED OUT BY THE PROVINCIAL DIRECTOR APPOINTED UNDER SECTION 86(1)(a). THEY ARE AS FOLLOWS:						
Provision of services to persons over 16 years	S.87(1)		XX		Pending recommendation	
Director to detain young person in secure detention	S.89(2)		XX		North - Probation Supervisor Other - Superintendent - Detention	
Respond to Youth Court re transfer to place of open temporary detention from secure temporary detention	S.89(5)		XX		North only Probation Supervisor Other Regions Superintendent - Detention	
Place young person in or transfer to maximum security custody	S.90(2)		XX		Probation Supervisor	
Transfer from maximum to medium security custody	S.90(3)		XX		Probation Supervisor	
Provincial Director to provide written reasons for determinations under this section	S.90(4)		XX		Probation Supervisor	



### DUTIES/RESPONSIBILITIES

**CHILD AND FAMILY SERVICES ACT**

[illegible]

**DIRECTOR'S**

**DUTIES/RESPONSIBILITIES**

**CHILD AND FAMILY SERVICES ACT      Approved by OMC -      PART VI: Extraordinary Measures**

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Approve locked secure isolation room	S.120(1)		Expanded See Comments	Area Manager	No change	- Under CRSA approved rooms in residences only - CFSA expands duty to apply to residential and non-residential facilities
Withdraw approval under S.120(1)	S.120(2)	XX		Area Manager	No change	
Approve secure isolation for children under 12	S.121(3)(b)		XX		Area/Local/District Managers Specific Program Supervisors Administrators Schedule I Facilities and OMC's Specific Transfer Payment Agency Administrators	- Approved by OMC - May/85 - Regional Directors to determine specific individuals to receive delegations

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

## CHILD AND FAMILY SERVICES ACT

Approved by OMC -

PART VII: Adoption

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
May request Society to secure adoption	S.134(1)b		X	N/A	Area Manager	
Designate Licensee as exempt from S.135 SS(3)(4)	S.135(5)		X	N/A	Director <sup>(1)</sup> Queen's Park	
Approval of placement by licensee - terms and conditions	S.136(2)(a) S.136(5)	XX		Director <sup>(1)</sup> Queen's Park		
Registration of unregistered adoptions	S.135(7)		XX	N/A	All Directors	
Approval or refusal of placement outside Canada	S.136(4)		XX	N/A	Director Queen's Park	
Review decision by Society or licensee to remove a child from a home or refuse to place	S.138(1)a	XX		All Directors		Note #2 • Area Manager's responsibility for Society Adoptions • Queen's Park Director <sup>(1)</sup> for Private Adoptions
Confirm decision	S.138(1)c	XX		All Directors	No charge	Refer to Note #2
Record decision and do anything further that the Society or licensee may do under this part with respect to child's placement	S.138(1)d	XX		All Directors	No charge	Refer to Note #2

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

## CHILD AND FAMILY SERVICES ACT

Approved by OMC -

PART VII: Adoption

DESCRIPTION OF	REFERENCE	CONSOLI- DATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Director to take into account continuity	S.138(2)		XX	N/A	All Directors	Refer to Note #2
Receive notification where removal of child is desired by placement home, Society or licensee or where 1 year has expired and no order has been made	S.139(1) (2)	XX		All Directors	Local Director for Society Adoptions No change - Private Adoptions	Approved OMC/October 29, 1985
Director may confirm child's placing	S.139(3)a	XX		All Directors	Local Director for Society Adoptions No change - Private (Queen's Park Director <sup>(1)</sup> )	Approved October, 1985
Direct licensee to place child in care and custody of a specified Society	S.139(3)b	XX		Director <sup>(1)</sup> Queen's Park	No change	
Direct Society under whose care, custody, control of child be given, to bring child before Court under Part III Protection	S.139(3)c	XX		Area Manager	Local Director	Approved October 29, 1985
Do anything the Society or licensee that places the child may do with respect to the child's further placement	S.139(3)d	XX		All Directors	Local Director Society Adoptions No change - Private adoptions (Queen's Park Director <sup>(1)</sup> )	Approved October 29, 1985
Direct Society or licensee that placed child to return child to parent	S.139(3)e	XX		All Directors	Local Director Society Adoptions No change - Private adoptions (Queen's Park Director <sup>(1)</sup> )	Approved October 29, 1985

## DIRECTORS

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT

Approved by OMC -

PART VII: Adoption

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Review child's status re notice given under S.139(1) or (2)	S.139(3)	XX		All Directors	Local Director for Society adoptions No charge - Private	Approved OMC - October, 1985
Prepare statement regarding desirability of proposed adoption	S.143(1)b	XX		All Directors	No charge	Refer to Note #2
Prepare statement regarding desirability of proposed adoption	S.143(1)a	XX See comments		Private - Director Queen's Park Society - Local Director	No charge	Also - 2 year provision [140(1)(c)] has been added to 143(1)(a) and (c)
Prepare statement regarding desirability of proposed adoption	S.143(1)(c)			Private - Director Queen's Park Society - Local Director	No charge	
Amend statement (S.143(1) and may attend hearing and make submissions	S.143(3)	XX		All Directors		Involves Director - Queen's Park, Area Managers and Local Directors as appropriate
Where recommending no order - file report with Court and serve on applicant 30 days before hearing	S.143(4)	XX		All Directors	No charge	Involves Director - Queen's Park, Area Managers and Local Directors as appropriate

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

## CHILD AND FAMILY SERVICES ACT

Approved by CMC -

PART VII: Adoption

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Access to Court files regarding adoption application	S.145(2)c	XX		All Directors	No change	Refer to Note #2 - Act also gives authority to Local Director
Appeal an Adoption Order	S.150(1)b	XX		All Directors	No change	Refer to Note #2 - Act also gives authority
Written director to open sealed court adoption files	S.156(2)2	XX		Director(2) Queen's Park	No change	
Receive certified copy of Adoption Order	S.156(3)b	XX		Director(1) Queen's Park	No change	
Inspection by or disclosure to Ministry, Director or an employ of Ministry who has a Director's written authority, of information kept on Ministry or a Society or licensee	S.157(2)b	XX		Director(1) Queen's Park	No change	Under review by Dr. Garber
Disclosure of information of a prescribed class to a person whose access to the information, in a Director's opinion, is necessary to protect any person's health	S.157(2)d	X		Director(1) Queen's Park	No change	Under review by Dr. Garber
Release of copy of an Adoption Order	S.157(2)(e) (i)	X		Director(1) Queen's Park	No change	Under review by Dr. Garber



## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

## CHILD AND FAMILY SERVICES ACT

## PART VII: Adoption

## Approved by OMC -

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
<u>VOLUNTARY ADOPTION DISCLOSURE REGISTRY</u>						
Maintain Register	S.158(3)	XX		Director (1) Queen's Park	No change	
Receive application to be named in Registry	S.158(4)	XX		Director (1) Queen's Park	No change	
Obtain Court copies of the documents referred to in S.156(2)	S.158(7)	XX		Director(1) Queen's Park	No change	
Forward information to an appropriate Society	S.158(7)c	XX		Director(1) Queen's Park	No change	
Make information available, with counselling to adopted child and/or birth parent	S.158(7)d	XX		Director(1) Queen's Park	No change	
Authorize inspection, removal or alteration of information kept in the Register	S.158(13)	XX		Director(1) Queen's Park	No change	
Authorize disclosure of information obtained by person otherwise than under clause (7)(d) or subsection (11)	S.158(13)	XX		Director(1) Queen's Park	No change	
Director authorize disclosure where adopting parents consent not required	S.158(5)a, b,c		XX	N/A	Director(1) Queen's Park	

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT      Approved by QAC -      PART VIII: Confidentiality and Access to Records

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Approve Service Provider to disclosure of a person's record to a person engaged in research	S.166(2)		X	N/A	All Directors	Refer to Note #2
Receive information from a service provider of a person's record without consent referred to in Section 165	S.166(3)		X	N/A	All Directors	Refer to Note #2

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

## CHILD AND FAMILY SERVICES ACT

Approved by OMC -

PART IX: Licensing

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Issuing licences for children's residences or providing residential care for three or more children not of common parentage in places that are not children's residences	S.176(1)	XX		Area Manager	No change	
Licence to place child for adoption	S.176(2)	XX		Director(1) Queen's Park	No change	
Establish terms and conditions to a licence	S.176(3)			All Directors	No change	Note #3. Area Managers handle licence for matters regarding children's residences Director(1) Queen's Park handles licence matters re adoption
Renewal of licence	S.176(5)	XX		All Directors	No change	Refer to Note #3
Provisional licence	S.176(6)	XX		All Directors	No change	Refer to Note #3
Refuse licence	S.178	XX		All Directors	No change	Refer to Note #3
Refuse to renew or may revoke licence	S.179	XX		All Directors	No change	Refer to Note #3
Notice of proposal to refuse to issue or revoke with written reasons to be served on applicant or licensee	S.180(1)	XX		All Directors	No change	Refer to Note #3

## DIRECTOR'S

## DUTIES/RESPONSIBILITIES

CHILD AND FAMILY SERVICES ACT Approved by OMC - PART IX: Licensing

DESCRIPTION OF RESPONSIBILITY	REFERENCE IN ACT	CONSOLIDATED	NEW	CURRENT POSSESSOR OF RESPONSIBILITY	RECOMMENDED POSSESSOR OF RESPONSIBILITY	COMMENTS
Notice re entitlement to a hearing	S.180(2)	XX		All Directors	No change	Refer to Note #3
Carry out proposal where hearing not required	S.180(3)	XX		All Directors	No change	Refer to Note #3
Carry out orders of the Board	S.180(4)	XX		All Directors	No change	Refer to Note #3
By causing notice to be served on a licensee, suspend licence without hearing where there is an immediate threat to the health, safety or welfare of the children	S.183(1)	XX		All Directors	No change	Refer to Note #3
Party to proceedings before the Children's Services Review Board	S.184(1)	XX		All Directors	No change	Refer to Note #3
Apply to Supreme Court for injunction	S.188(1)	XX		All Directors	No change	Refer to Note #3

GENERAL PROVISIONS GOVERNING THE OPERATION OF CORPORATIONS  
APPROVED AS "APPROVED AGENCIES" FOR THE PURPOSES  
OF THE CHILD AND FAMILY SERVICES ACT, 1984

Volume II of the training materials sets out, in detail, provisions applicable to Boards of Directors and Senior Management staff of "service providers" as defined in the Child and Family Services Act, 1984.

The following general material relates to the operation of a corporation incorporated under Part III of the Corporations Act and approved as an "agency" for the purposes of the Child and Family Services Act, 1984 and the Regulations thereunder.

The Child and Family Services Act, 1984 provides for the approval of an "agency" to provide a "service" under the Act and Regulations. The term "agency" is defined in section 3 of the Act to mean "a corporation".

Corporations can be incorporated in a number of ways, for example,

- (1) the Business Corporations Act, 1982; these are corporations incorporated with share capital and are carried on for profit;
- (2) the Co-operative Corporations Act; these corporations are incorporated with share capital but are operated as nearly as possible at cost;
- (3) a general or special Act of the Government of Ontario;
- (4) a general or special Act of the Parliament of Canada; and
- (5) the Corporations Act

Most of the corporations funded by the Ministry of Community and Social Services are incorporated under or subject to the provisions of Part III of the Corporations Act. They are incorporated without share capital and with objects of a charitable purpose. They are "non-profit", i.e., they are carried on without purpose of gain for the members of the corporation. The directors serve without remuneration and, upon dissolution of the corporation and after payment of all debts and liabilities, its remaining property is to be distributed or disposed of to charitable corporations which carry on their work solely in Ontario or Canada.

PROVISIONS APPLICABLE TO CORPORATIONS GOVERNED BY  
PART III OF THE CORPORATIONS ACT

Letters Patent

The Ministry of Consumer and Commercial Relations includes in the Letters Patent of a corporation incorporated under Part III, clauses

- (a) requiring that the corporation shall be subject to the Charities Accounting Act and the Charitable Gifts Act;
- (b) limiting the borrowing power of the corporation to borrowing money for current operating expenses, except where the corporation borrows on the security of real or personal property; and
- (c) providing for the cancellation of the Letters Patent if the corporation has failed to comply with the Charities Accounting Act or the Charitable Gifts Act.

In addition, the provisions mentioned previously concerning operation without gain, non-remuneration of directors and distribution of assets on dissolution are included in the Letters Patent.

Boards of Directors

Are required to manage the affairs of the corporation. Each Board is to consist of a fixed number of Directors, not fewer than three (section 283 of the Corporations Act).

The persons named in the Letters Patent are the first directors of the corporation until they are replaced by the same number duly elected or appointed in their place (section 284). The manner of election or appointment is generally set out in the by-laws of the corporation. A corporation may increase or decrease the number of its directors by special resolution. The notice of the special resolution is required to be filed with the Minister of Consumer and Commercial Relations and published in the Ontario Gazette within fourteen days after the resolution is confirmed by the members.

A director must be eighteen or more years of age and may not be an undischarged bankrupt. The affairs of the corporation are to be managed by its members and not by an outside authority. Therefore, generally a director of a corporation is required to be a member or to become one within ten days after election or appointment as a director of the corporation.



Members usually elect the directors of a corporation unless the by-laws, Letters Patent or applicable legislation provide for ex-officio directors or for another method of appointment, e.g., municipal representatives on Boards of children's aid societies.

### By-Laws

The directors of the corporation have the sole power to pass by-laws that are not contrary to the Act, the Letters Patent or Supplementary Letters Patent. By-laws may be passed to regulate such things as admission of members, fees and dues, qualifications of directors, time for and manner of election of directors.

It should be noted that every by-law passed by the board of directors and every repeal of a by-law has effect only until it is confirmed by the members of the corporation at a general meeting called for that purpose or until the next annual meeting of the members of the corporation. Unless the by-law is confirmed in this manner, it ceases to have effect.

By-laws are not required to be approved by the Minister of Consumer and Commercial Relations nor are they required to be filed with the Minister. However, subsection 13(1) of the Child and Family Services Act requires an approved agency to file a certified copy of its by-laws and of any amendment to them, with the Minister of Community and Social Services immediately after they are made. Subsection 13(2) of the Act indicates that the by-laws of an approved agency are to contain "the prescribed provisions". The term "prescribed" is defined in the Act to mean "prescribed by Regulations".

At the present time, there are no regulations governing the provisions to be included in the by-laws of approved agencies. However, by policy at the present time, the Model C.A.S. By-Law and the Explanatory Notes to that By-Law are to be used as a guide by approved agencies who are drafting or amending their by-laws.

Subsection 15(5) of the Act continues a provision found formerly in the Child Welfare Act. This provision is applicable only to approved agencies that are designated as children's aid societies under the Act. This provision indicates that a by-law and an amendment to a by-law of a children's aid society do not come into force until they are approved by the Minister. The Model By-Law for C.A.S.s will continue to be applicable to societies under the new Act.

Auditors

Subsection 94(1) of the Corporations Act requires a corporation to appoint one or more auditors, section 96 sets out those matters to be included in the auditor's report and section 97 outlines the matters to be presented by the directors to the members at each annual meeting, including the auditor's report.

RESPONSIBILITIES AND LIABILITIES OF DIRECTORS

Directors have a fiduciary relationship with the corporation and are under an obligation to act in the best interest of and in the utmost good faith towards the corporation in the directors' dealings with the corporation or on its behalf. Directors should not place themselves in a position where there is a conflict between their duties as a director and any other interests.

Section 71 of the Corporations Act deals with conflict of interest and requires every director who is, in any way, directly or indirectly interested in a proposed contract or a contract with the corporation, to declare his interest. Where the director declares his interest in accordance with the requirements of this section and abstains from voting, he is not liable to account for any profit accruing to him as a result of the contract. Although the Act itself addresses specifically pecuniary/financial interests, the general common law fiduciary duty of a director exists overall. Therefore, as a general rule, if a director has an interest, he should declare that interest and abstain from the decision-making process.

Section 81 of the Corporations Act provides that directors are liable individually and as a group while they are directors to employees for debts due to the employees for services performed for the company, not exceeding six months wages and for vacation pay accrued for not more than twelve months.

Section 80 of the Corporations Act provides that, with the consent of the members given at any meeting of members, directors may be indemnified by the corporation against costs, charges, expenses, etc., that a director or directors incur in any action, suit or proceeding that is brought against a director or directors in respect of anything done or permitted to be done by a director or directors in the execution of the duties of his office and all other costs, charges and expenses that a director sustains, incurs, etc., in relation to the affairs of the corporation, except those occasioned by a director's own wilful neglect or default.

THE CHARITIES ACCOUNTING ACT AND THE CHARITABLE GIFTS ACTThe Charities Accounting Act

Requires a person, who holds land for charitable purpose, to hold the land only for the purpose of actual use or occupation of the land for the charitable purpose. Where land had not been actually used or occupied for the charitable purpose for a period of three years, if it is not required for actual use or occupation for the charitable purpose and will not be required for actual use or occupation in the immediate future, the Public Trustee may vest the land in the Public Trustee subject to the right of the person to apply to the Supreme Court for a revesting order.

Charitable Gifts Act

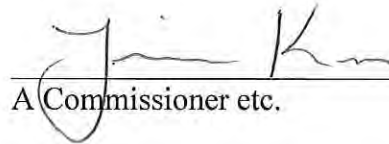
Prohibits a charitable corporation from carrying on a business. Violation of the Act could result in a corporation losing its charitable status and this might include loss of exemption from municipal taxation, loss of right to give receipts for donations and gifts, and to claim an exemption from income tax.

MISCELLANEOUS PROVISIONS OF THE CHILD AND FAMILY SERVICES, 1984Security for Payment of Funds

Section 12 of the Act authorizes the Minister to require the recipient of funds to secure the funds by way of mortgage, lien, by registration of agreement, or in such other manner as the Minister determines.

The Capital and Administrative Services Branch of the Ministry has prepared a document entitled "Guidelines for Protecting the Provincial Interest in Real Assets Acquired Through Ministry Financial Assistance" and one entitled "Financial Agency Capital: Policies and Guidelines" dealing with the procedures for capital payments and security for the payment of funds. The Ministry's policy with respect to requiring funds to be secured and the procedures for securing the funds are outlined therein.

This is **Exhibit “41”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

**Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.**



Ministry of  
Community and  
Social Services

Ontario

FAMILY SERVICES

FS-0506-04

Section  <b>LEGAL INVOLVEMENT</b>	Subject  Compensation for Victim	Page 1 of 1 Day 21 Month June Year 1985
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SUMMARY

The Child and Family Services Act (the Act) permits a civil action for damages or other compensation to be initiated on behalf of a child who has suffered abuse as defined by Section 77 of the Act.

WHO MAY BRING  
CIVIL ACTION

If it is determined to be in the child's best interests, the Official Guardian may institute and conduct proceedings on the child's behalf to recover damages or other compensation. Alternatively, the Society may do so if the child is in the care and custody of the Society.

CRIMINAL INJURIES  
COMPENSATION BOARD

Application on behalf of an abused child may be made to the Criminal Injuries Compensation Board. The time limit for making application is one year from the date of injury. The Board has the discretion to extend the limitation period in circumstances where the child would clearly qualify for an award but fails to meet the deadlines of the limitation period.

HEARING BEFORE  
THE BOARD

The hearing before the Criminal Injuries Compensation Board is informal. The applicant must provide evidence to the Board that the child has been abused, as defined by the Act.

Note: It is not necessary to show that the perpetrator of the abuse has been convicted of an offence arising from the abuse, or even that criminal charges were pursued.

For additional information and assistance, contact:

Legal Counsel  
Office of the Official Guardian  
180 Dundas Street West  
Toronto, Ontario

Telephone: (416) 965-6602



RE: Family Services Manual

Page 2

To help us in developing manuals which are accurate, current and helpful to the user, it is important to obtain your comments or suggestions for revision. If you have any such comments or suggestions which you think should be considered in developing the first revisions package to be sent out, these should be sent to:

- Ms Donna Marafioti  
Chairperson  
Family Services Manual Committee  
Operational Support Branch  
Suite 206, 700 Bay Street  
Toronto, Ontario  
M7A 1E9

Thank you and we look forward to your input.

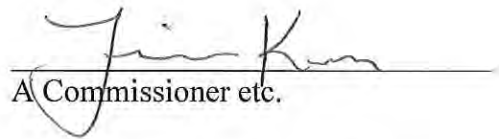
  
Graham Lethbridge

GL/jn

Encl



This is **Exhibit “42”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.

# COMMUNIQUE

MINISTRY OF CHILDREN AND YOUTH SERVICES

December 14, 2009

## **Communiqué: streamlining our communication to meet your needs**

*Communiqué* – a vehicle we developed to provide you with the information you need in a more compact and convenient form – was launched in November 2008. It has been our intention to streamline communications as much as possible to cut down on the paper we send out and to circulate information to a larger audience. We have produced nine editions to date. *Communiqué* has included articles on the Ontario Child Benefit Equivalent funds, the Eliminating Barriers and Building on Successes initiative, and the Commission to Promote Sustainable Child Welfare, among many other topics.

We hope you have found *Communiqué* to be a useful tool, and we encourage you to continue sharing each issue with directors, managers and staff. If you have any suggestions for improving this publication, we welcome your comments.

For questions or comments about *Communiqué*, please contact Gabe Minor at [Gabe.Minor@ontario.ca](mailto:Gabe.Minor@ontario.ca) or (416) 325-5109.

**Aryeh Gitterman**  
Assistant Deputy Minister

**Nancy Matthews**  
Assistant Deputy Minister



In this edition of *Communiqué*, we are pleased to provide you with important announcements and updates on the following initiatives:

• <b>Commission to Promote Sustainable Child Welfare</b> <i>Commissioners have been appointed</i>	2
• <b>Crown Ward Education Championship Teams</b> <i>Announcement of seven new teams</i>	4
• <b>Psychotropic Medication</b> <i>Improving standards and increasing awareness</i>	4
• <b>Third Party Review of Education Services Program</b> <i>Report on OACAS training being finalized</i>	6
• <b>Adoption Resource Exchange</b> <i>October conference a success</i>	6
• <b>Child Welfare Outcomes Expert Reference Group</b> <i>Consultations with researchers underway</i>	7
• <b>Improving Educational Outcomes for Children and Youth in Care</b> <i>Practical solutions discussed at cross-sector meeting</i>	8
• <b>Data-Sharing Pilot with Education</b> <i>Five CASs selected to participate</i>	8
• <b>Criminal Injuries Compensation Board</b> <i>Suggestions regarding application process</i>	9
• <b>Common Information System</b> <i>Ministry requesting funding for full roll-out</i>	11
• <b>Eliminating Barriers and Building on Successes (EBBS) Initiative</b> <i>Update on the second call</i>	11
• <b>The Family Statute Law Amendment Act</b> <i>Regulation to improve evidence, including child welfare evidence, before the court being designed</i>	12
• <b>Cornwall Public Inquiry</b> <i>Report expected December 15<sup>th</sup></i>	13



Many thanks to the children's aid societies who expressed interest in participating in this pilot initiative. We are encouraged by the positive response regarding the importance of improved data-sharing processes between sectors as we work together to improve the educational achievement of children and youth in care.

Our appreciation to the following seven CASs who have been selected to participate in this pilot initiative: Toronto, Algoma, Oxford, Stormont, Dundas and Glengarry, Kawartha-Haliburton, Peel and Hamilton-Wentworth.

Thirteen CASs from seven MCYS regions expressed interest in this initiative and one from each region was selected to participate. While all CASs would have been excellent partners, this combination of CASs represents a good cross-section of the sector, with representatives from small, medium and large agencies serving urban and rural locations, and who serve diverse populations, including Aboriginal and Francophone children and youth.

We are looking forward to working in collaboration with CASs, school boards, and EDU on this important initiative, with the inaugural meeting of the cross-sector working group in January.

Updates on the pilot initiative will be provided through *Communiqué* on a regular basis. If you would like any further information, please feel free to contact Esther Levy at [Esther.Levy@ontario.ca](mailto:Esther.Levy@ontario.ca) or (416) 326-0273.

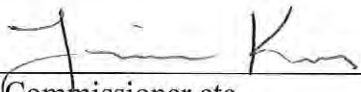
### **The Criminal Injuries Compensation Board**

Children and youth in the care of a CAS may be eligible for financial compensation from the Criminal Injuries Compensation Board (CICB). CICB is an independent agency of the Ministry of the Attorney General. CICB was established by the *Compensation for Victims of Crime Act (CVCA)* in 1971. The role of CICB is to award financial compensation to victims of violent crimes committed in the Province of Ontario. To be eligible for compensation, the applicant must prove that a crime of violence occurred, and that injury was sustained as a result of the crime(s).

Compensation for minor victims (victims who sustained injury under the age of 18 years old) may be awarded for those who have sustained physical or psychological injury resulting from:

- Physical assaults
- Sexual assaults/abuse
- Criminal negligence.

This is **Exhibit “43”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.

# COMMUNIQUÉ

We are pleased to provide you with important announcements and updates on the following initiatives:

<b>A Message from Minister Laurel Broten</b>	<b>1</b>
<b>Recognizing Significant Milestones in Child Welfare and Adoption Services</b> <i>Congratulations to the OACAS on 100 years and the ACO on 25 years of service</i>	<b>2</b>
<b>Working Group to Streamline the Child Protection Standards</b> <i>MCYS to establish Working Group to review the Standards</i>	<b>3</b>
<b>Gateway</b> <i>Ontario Child Benefit Equivalent (OCBE) policy to be reviewed</i>	<b>3</b>
<b>Child Welfare Leadership/Governance Program</b> <i>Work underway to strengthen sector leadership and governance capacity</i>	<b>4</b>
<b>Ontario Looking After Children (OnLAC) Data Review Workshop</b> <i>Overview of the November 2012 OnLAC Workshop</i>	<b>5</b>
<b>Performance Indicators Data Collection in CASS</b> <i>Collection of performance indicators to continue</i>	<b>5</b>
<b>Child Protection Information Network Update</b> <i>The CPIN project is making progress in building the case management component of CPIN</i>	<b>6</b>
<b>Youth Leaving Care Working Group</b> <i>The action plan is in the final stages of development</i>	<b>8</b>
<b>Criminal Injuries Compensation Board</b> <i>A refresher about the process for filing a claim on behalf of a minor child</i>	<b>8</b>
<b>Information Sharing Working Group</b> <i>Information Sharing protocol drafted</i>	<b>10</b>
<b>CYMH System Transformation - System Change Initiative</b> <i>Moving on Mental Health, the plan to transform the child and youth mental health system</i>	<b>11</b>

**Aryeh Gitterman**  
Assistant Deputy Minister

**Nancy Matthews**  
Assistant Deputy Minister





### ***A Message from Minister Laurel Broten***

It is a pleasure to be back at the Ministry of Children and Youth Services and to, once again, be part of the progress being made on behalf of the children, youth and families involved with a children's aid society.

We have come a long way in improving the lives of the vulnerable children, youth and families served by children's aid societies.

I was pleased to release the Commission's final report earlier this month. Its advice will continue to guide our work for years to come. I am grateful for the thoughtful, collaborative approach the Commissioners took in providing their advice on building a more stable and sustainable child protection system.

When I last served as Minister of Children and Youth Services, I spent a lot of time considering the unique needs of Aboriginal children and families in our province. I'm proud to lead a ministry that has now established the Strategic Policy and Aboriginal Relationships Branch to look at all services for children and youth, to determine how they affect Aboriginal communities, and how they can be improved.

As well, I have been inspired by the young people who organized the Youth Leaving Care hearings and produced the "My REAL Life Book". The working group will continue to meet into the new year and I'm looking forward to seeing their blueprint for change when it is ready.

Building on the work of the Commission to Promote Sustainable Child Welfare, I know there has been much work and consultation done on developing a new funding model – one that is more predictable, transparent and takes into account current local needs.

Finally, I want to thank all of you for all your tireless efforts to increase the number of children and youth who are placed in a permanent home. It was a great day for me when the policy to provide targeted permanency subsidies to eligible families for children aged 10+ and siblings was approved and I am pleased to see the Ministry website ([Ontario.ca/adoption](http://Ontario.ca/adoption)) was recently updated to provide more thorough and clear information about how adoption services are delivered in Ontario.

I know there is still much work to be done. I look forward to continuing to work with you to improve the lives of the kids and families involved in the child protection system.

The *development sites* meet regularly at the *CPIN Development Sites User's Group*, where they are discussing the challenges and opportunities for the implementation of CPIN. *Development sites* participate in a number of activities including user acceptance testing, development and validation of tools for data quality assessment and data migration, and informing the development of training materials. The selected CASs represent a large portion of the child welfare sector service activity. The *CPIN Development Sites User's Group* is currently being expanded to include all 14 *early adopter* agencies.

For further information on the CPIN project please contact Paul Burns, CPIN Business Director, at 416-226-4400 or [Paul.Burns@ontario.ca](mailto:Paul.Burns@ontario.ca) or [cpin@ontario.ca](mailto:cpin@ontario.ca).

### ***Youth Leaving Care Working Group***

The Youth Leaving Care Working Group is in the final stages of developing its action plan, or "Blueprint for Fundamental Change." The Working Group has reviewed the goals of the "My REAL Life Book" report and has developed draft recommendations, which aim to achieve these goals and contribute to fundamentally changing the child welfare system in Ontario.

In order for working group members to discuss the draft blueprint recommendations with their own networks, the mandate of the working group was extended to January 2013. The final report from the working group will be presented to the Minister of Children and Youth Services in mid-January.

For more information on the Youth Leaving Care Working Group or the "Blueprint for Fundamental Change," please contact Esther Levy, Manager, Child Welfare Secretariat at 416-326-0273 or [Esther.Levy@ontario.ca](mailto:Esther.Levy@ontario.ca).

### ***The Criminal Injuries Compensation Board***

The Criminal Injuries Compensation Board is an independent adjudicative agency that administers the *Compensation for Victims of Crime Act*. In fiscal 2011-12, the Board processed 4,241 applications, held 3,944 hearings and awarded \$36.2 million to victims of crime. On average, it took 16.3 months to complete claims filed within the two-year limitation period. For claims filed beyond the two-year limitation period, average processing time was 18.8 months.

The average award in 2011-12 was \$8,791 for claims in which an award was granted.

Children in the care of a Children's Aid Society ("CAS") may be eligible for financial compensation from the Board if they sustained physical or psychological injuries as a result of one or more violent crime(s) committed in Ontario. Violent

crimes may include attempted murder, firearm offences, poisoning, arson and other offences such as assault, sexual assault, domestic assault, child physical assault and child sexual abuse.

It is important to note that the Board does not award compensation for emotional or psychological abuse, crimes committed outside Ontario, suicide, neglect or abandonment of children (except where it amounts to criminal negligence), monetary loss due to fraud, damaged, lost or stolen property, acts not included in the *Criminal Code*, or injuries sustained in a motor vehicle incident (except where the vehicle was used deliberately to assault or harm another person).

Where victims are minor children (under the age of 18) their legal guardians, including a CAS, may apply for compensation on their behalf. However, the minor children automatically become the applicants of record with the Board upon reaching the age of majority (age 18), unless they lack capacity to make decisions for themselves. Recently the Board has noticed an increase in the number of CAS applications being filed when minor children are approaching the age of majority (eg. around 17 ½ years of age). This is problematic as the proceedings will likely not be completed before the minor children turn 18 and some may not be ready to manage a Board proceeding on their own upon reaching the age of majority.

CASs can submit applications on behalf of minor children following the conclusion of criminal court proceedings or by age 15 or 16 bearing in mind that the average time to complete claims is 16.3 months. This will allow sufficient time for the Board's decision prior to the children turning 18 and would allow the CAS to provide support to the minor children throughout the process.

The following are some helpful hints to follow when filing a claim with the Board on behalf of a minor child:

- Make sure that you provide sufficient supporting documentation with the application to satisfy the Board that a crime of violence occurred and that the minor child was injured as a result. Evidence can include a proof of conviction, police reports, CAS investigation reports, hospital reports, psychological assessments and medical records.
- If legal guardians, including CAS, apply to the Board on behalf of minor children and choose not to pursue the claims (eg. due to lack of evidence or any other reason), the minor children are entitled to reapply to the Board on their own behalf upon turning 18 years of age.
- If an application is brought to the Board prematurely (without adequate evidence to substantiate the crime and/or injury), you may request that the application be withdrawn in which case the application may be resumed once the minor child turns 18. If an application is adjudicated prematurely

or without sufficient evidence to support the claim, and the claim is therefore denied, the minor child has no recourse beyond appeal.

- Please note that if a minor child (the victim) is 16 years of age or older at the time of hearing, his/her oral testimony may be requested to support the claim.
- The Board directs that awards for minor children be held in trust by the Accountant of the Superior Court of Justice. The awards are generally held in trust for the benefit of the minor children until they turn 18 years of age or until other conditions are met. If you believe that the funds should be released later than 18, it is helpful to provide the Board with a recommendation and an explanation as to why the funds should be held longer.
- At age 18, the victim will receive a copy of the Board's decision with the award. Please ensure that the minor child knows about the proceeding and how to access the award from the Accountant of the Superior Court of Justice. Please notify the Accountant's office of any changes to the minor child's address. If the Accountant's office is not provided with this information, the minor child may risk not receiving his/her award.
- Recently the Board launched a new web-based feature designed to help applicants prepare for their hearings. The "Virtual Hearing Room" ([http://www.Board.gov.on.ca/en/hearingroom\\_front.htm](http://www.Board.gov.on.ca/en/hearingroom_front.htm)) is based on the Board's Toronto location, but demonstrates features typically found at Board locations around the province. You are encouraged to try out this new feature and to recommend it to potential applicants.


If you have any questions, or for information about determining when and how to make an application, please contact the Board at 1(800) 372-7463 (Toronto calling area: 416-326-2900). Many questions are also answered on the Board's website: [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca).

### ***Information Sharing Working Group***

As reported in the October Communiqué, the ministry and the Office of the Chief Coroner (OCC) have been working on the development of a document that will facilitate the exchange of information between the police, child protection workers and the Coroner's Office during the investigation into a suspicious child death.

This document, *Addendum: Children's Aid Society and Police Protocols – Investigations of Suspicious Child Deaths*, will address recommendations from

This is **Exhibit “44”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.

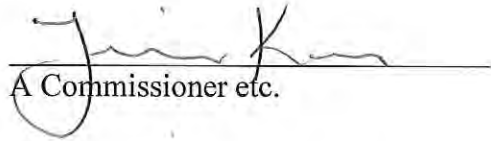
# Crown Wards Review Summary

1580

Service Recommendations		
Year	Apply for Compensation	Data Source
1980		
1981		
1982		
1983		
1984		
1985		
1986		
1987		
1988		
1989		
1990		
1991	1.40%	Crown Ward Administrative Review Statistics: 1991 - 1994
1992	1.11%	
1993	1.70%	
1994	0%	
1995		
1996		
1997	4%	Crown Ward Review Summary Reports 1997 - 2010
1998	4%	
1999		
2000		
2001		
2002		
2003		
2004		
2005		
2006		
2007		
2008		
2009		
2010		
2011		NO REPORT AVAILABLE
2012		



This is **Exhibit “45”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.



A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.

# Kawartha Haliburton Children's Aid Society

## MISSION STATEMENT

The Mission Statement of the Kawartha-Haliburton Children's Aid Society is to ensure the well-being, protection and best interests of the children of Peterborough, Victoria, and Haliburton Counties through the provision of both residential and non-residential service under the mandate of the Child and Family Services Act.

## ACKNOWLEDGEMENT

The Kawartha-Haliburton Children's Aid Society wishes to acknowledge the substantial contributions from various sources in completing this Intake Manual.

The Intake Manual has been completed as part of the work done by the Tri-Agency Project, which has been funded jointly by the Ministry of Community and Social Services and the following participating agencies; Northumberland, Durham, and Kawartha-Haliburton.

Primary contributors to the Intake Manual are Victoria Calvert, Durham Children's Aid Society; Joan Conrad, Kawartha-Haliburton Children's Aid Society; and Linda Goldie-Clark, Northumberland Children's Aid Society; who compiled the enclosed information and general outlines over a three year period.

Special thanks to Gail Henderson, Kawartha-Haliburton Children's Aid Society, for the organization, typing, and numerous revisions of the manual.

Special thanks and recognition to Louise Leck, of O.A.C.A.S., who permitted us to generously footnote significant introductory passages regarding roles and functions of intake, from the O.A.C.A.S. Orientation Manual.

Thanks also to all front-line and management staff who have provided feedback on specific areas of the manual.

03.10.00

71

physical injury or condition only, and subsequent medical evidence is obtained that would explain the existence of an apparent injury as a specific medical condition that negates the evidence of abuse, the file will be designated as an unfounded abuse allegation and a yellow dot with a marker affixed to the family service and child's files, by the worker, following consultation with the supervisor. The Intake Secretary (Family Service Secretary as appropriate) will affix a yellow marker dot to the index card as directed by the Intake worker or Family Service worker.

5. The appropriate red, green or yellow marker dot is to be added each time an investigation is undertaken by the Society.
6. Colour codings remain on the file indefinitely and shall not be removed.

03.11.00

#### CHILD ABUSE - COMPENSATION FOR VICTIMS

C. &amp; F.S.A.

77(2)

When the Official Guardian is of the opinion that a child has a cause of action or other claim because the child has suffered abuse, the Official Guardian may, if he or she considers it to be in the child's best interests, institute and conduct proceedings on the child's behalf for the recovery of damages or other compensation.

#### POLICY

In providing service to victims of child abuse, consideration will be given to applying for compensation on the child's behalf. Under the Compensation for Victims of Criminal Acts, the Criminal Inquiries Compensation Board compensates innocent victim children of crimes of violence, i.e.;

Sexual abuse: sexual assault, incest, etc.

Physical abuse: assault, assault causing bodily harm, aggravated assault.

Neglect: criminal negligence causing bodily harm, failure to provide necessities of life.

#### PROCEDURES

1. As the Society may be required to provide information documenting that a child has been a victim of abuse; only those children we place on the child abuse register should be considered as candidates for compensation.
2. Family Service workers are responsible for making application on behalf of children who are Society or Crown Wards. In situations where we have an interim order, this application should be delayed until the question of guardianship has been settled.

03.11.00

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3. In situations where the child is not in the care of the Society, we should be providing information to the parents concerning compensation so that they may apply on their child's behalf. These situations, however, should be discussed on an individual basis with the supervisor as matters such as whether or not the child is residing with the abuser must be considered.
4. The worker responsible for providing this assistance to the parents is the Family Service worker if the case is passed to ongoing, and the Intake worker if the case is closed at Intake.
5. The attached form, "Evidence of Application for Criminal Injuries Compensation", must be completed for every child who is registered as a victim of child abuse and placed on the child's file.
6. For children not in the Society's care, the parents will be advised to contact the Office of the Official Guardian (at 416-965-5288 or 965-3564) to pursue compensation on the child's behalf.
7. For children in care, the Criminal Inquiries Compensation Board should be contacted directly (416-965-4755) and an application form requested.

This form collects information about the child victim, the details of the crime, and the offender. Other documentary evidence such as medical and other professional reports will be requested in addition to completion of the application form.

Explanatory Notes for Worker to Relay to Victim and/or Family Members:

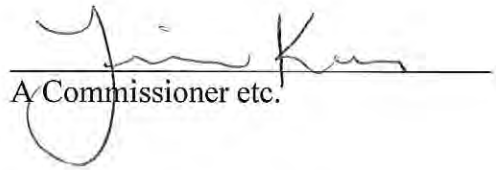
The matter will be placed on a hearing list for consideration by the Compensation Board. The hearings are informal in nature. Child victims are not required to attend.

Although there is a one year limitation period from the date the crime is committed for the filing of an application for compensation, the Board has never turned down a request for an extension.

A criminal conviction is not necessary to making application to the Board. The Board needs only to be satisfied on the balance of probabilities that the child was a victim of a crime of violence.

The Board may compensate the child with a lump sum aware for pain and suffering, periodic awards for pecuniary loss and expenses incurred as a result of the abuse which are not recoverable elsewhere. The maximum allowable lump sum is \$25,000.00. Any lump sum award to a child is paid to the Accountant of the Supreme Court of Ontario to hold until the child reaches the age of majority, or later in some cases.

This is **Exhibit “46”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.



A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.





Mohawk Council of Akwesasne  
Department of Community and Social Services

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## Akwesasne Child & Family Services

**ONKIEHTINEH ONKWAKSATAH**  
*We Will Protect Our Children*

### CHILD IN CARE MANUAL

Final Draft

February 25, 2014

**Acknowledgement to ACFS Policy Review Team:**

**Department of Community & Social Services**  
**Margaret Terrance, Director**  
**Robyn Mitchell, Assistant Director**

**Akwesasne Child & Family Services**  
**Rae Seymour, Program Manager**  
**Kimberley Ransom Herne, CMUC**  
**Leonard Lazore, RD/CSUC**

**Special thanks to:**

**Gorden Lanctot, Children's Aid Society of SD&G Counties**  
**Charlene Reuben, Payukotinyo James & Hudson Bay Family Services**

**2012**

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**Akwesasne Child & Family Services  
Department of Community & Social Services  
Mohawk Council of Akwesasne**

**4.20 Criminal Injuries Compensation Board (Ontario) / Indemnisation des victimes d'actes criminels (Quebec)**

Subject: Criminal Injuries Compensation Board (Ontario) / Indemnisation des victimes d'actes criminels (Quebec)	Policy Manual: Child in Care Manual Policy Number: 4.020 Date Effective: May 2012    Date Revised: Authorized by:
---	--

**Policy Statement:**

ACFS will ensure that every child who was injured (physically or psychologically) as the result of a violent crime has a right to apply to the Criminal Injuries Compensation Board (in the appropriate provincial agency).

**Purpose:**

ACFS will assist all children in care who are victims, survivors or witnesses of crime with the support. If the child is under eighteen (18) years, ACFS must complete the application for compensation to the appropriate provincial board.

**Policy Details:**

Reference: *Compensation for Victims of Crime Act* (Ontario) or *Crime Victims Compensation Act* (Quebec)

Application timelines: For Ontario, an application must be filed within two (2) years after the date of the incident. For Quebec, the application must be filed within one (1) year of the date of the incident.

**Procedures:**

1. To obtain guidelines and application forms, the Case Manager must contact the appropriate agency or obtain information from their current website. Upon completion of the required documentation, a copy will be maintained in the child's file.
2. For Ontario:  
Criminal Injuries Compensation Board  
439 University Avenue, 4<sup>th</sup> Floor  
Toronto, ON M5G 1YA  
Toll-free 1-800-372-7463  
Fax 1-416-326-2883
3. For Quebec:  
Direction de l'indemnisation des victimes d'actes criminels (IVAC)  
1199, rue De Bleury  
C. P. 6056, succursale Centre-ville  
Montréal (Québec) H3C 4E1

E-mail: [iyac@csst.qc.ca](mailto:iyac@csst.qc.ca)

Telephone:

Toll free, in Canada only: 1 800 561-4822

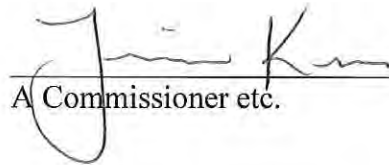
Fax: (514) 906-3029

Office hours:

Office hours are, 8:30 a.m. to 12:00 a.m. and 1:00 p.m. to 4:30 p.m., Monday to Friday.



This is **Exhibit “47”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.



A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
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Expires May 9, 2019.



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SERVICE MANUAL

CHILD IN CARE SERVICES

## **-PROCEDURE-**

### **APPLICATION TO CRIMINAL INJURIES COMPENSATION BOARD (C.I.C.B.)**

#### **OVERVIEW**

The Ontario Criminal Injuries Compensation Board (C.I.C.B.) is governed by the Compensation for Victims of Crime Act and considers awards for persons injured or killed during, or resulting from, the commission of a crime of violence constituting an offence against the Criminal Code, such as assault, murder, sexual assault and child abuse.

Where it is determined that a child/youth in care has been so victimized, the Society applies for a C.I.C.B. monetary award on her/his behalf if the child/youth is a Crown Ward. If the child is not a Crown Ward, the worker advises the custodial parent and/or the youth of this compensation program as appropriate.

Where a monetary award has been made by the C.I.C.B., the full award is disbursed to the youth at the age determined by the C.I.C.B. and as stipulated by the terms of the trust.

#### **C.I.C.B. Eligibility:**

Those who are eligible to apply to the board for a monetary award include:

- a) Any person who has suffered physical or psychological damage as a result of a violent crime committed in Ontario;
- b) Any person who is responsible for the maintenance of a victim of crime who has suffered monetary loss or incurred expenses as a result of the injury;
- c) Any person who is a dependant of a deceased victim;
- d) Any person who is not a dependent of the victim, but has incurred expenses as a result of the death of the victim;



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- e) Any person who was injured while trying to prevent a crime or while assisting a police officer in making an arrest.

Other relevant facts regarding the C.I.C.B. application and compensation:

- Adults must make application to the C.I.C.B. within 2 years of the offence;
- There is no statute of limitations with respect to the initiation of the application process, where the victim is under the age of 18;
- Awards may be made up to \$25,000 per victim;
- The identification of a perpetrator or a criminal conviction is not required to obtain an award from the C.I.C.B. In such cases, medical, police and other evidence may support the claim.

**Purpose(s) of a C.I.C.B. award** is to offer compensation for the following:

- a) Expenses incurred, or to be incurred, as a result of the victim's injury or death which includes, but is not limited to, the cost of counselling, physiotherapy, eyeglasses, dentures, etc;
- b) Emergency expenses incurred as a result of the victim's injury or death which includes, but is not limited to, medical costs, funeral expenses and interim counselling, etc;
- c) Loss of wages up to \$50.00 per day or a maximum of \$250.00 per week in cases where total or partial disability affects the victim's ability to work;
- d) Financial loss to dependants of a deceased victim;
- e) Pain and suffering;
- f) Maintenance of a child born as a result of a sexual assault.





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## PROCEDURE

1. Where the **worker** who is servicing an open Child Protection File or a Child in Care File (non Crown Ward) believes that a child/youth or adult in the family may qualify for compensation in accordance with the criteria outlined above, he/she informs the parent and/or child/youth, where appropriate, regarding the possibility of applying for a C.I.C.B. monetary award, and provides appropriate information regarding the application process;
2. Within three months of obtaining the Crown Ward Order, and subsequently at any time where it may apply, the **worker** in consultation with the **supervisor** reviews the file and determines if the child/youth may be considered a victim within the meaning of the Compensation for Victims of Crime Act . This review and outcome decision is documented by the **worker**.
3. Where the decision is made to proceed with the application based on the apparent eligibility of the victim, including sufficient supporting evidence to satisfy the C.I.C.B. eligibility criteria, the **worker** ensures that an application for compensation is initiated on behalf of the child/youth;
4. The **worker** follows the application process as outlined below:
  - f) The Provincial Criminal Injuries Compensation Board is contacted to initiate a claim. The worker will be required to provide detailed identifying information to the C.I.C.B. Analyst and to provide an opinion with respect to the victim's ability to testify;
  - g) The C.I.C.B. Analyst will forward the required application forms to the worker, which are completed and returned to the Board. Copies of same are retained in the Child in Care File. The worker will receive written notification of any additional information required and notification of a hearing date. The hearing will be scheduled in one of the following formats:
    - A Documentary Hearing - A hearing where the parties to the application do not attend. A Documentary Hearing is only scheduled where the victim and the alleged offender consent and is offered or permitted at the discretion of the Board. In such cases, the Board makes a decision regarding compensation based on the documentary evidence submitted. The waiting period to be scheduled for a Documentary Hearing is usually 3-4 months from the date a file is considered complete.
    - An Oral Hearing - A Hearing where the parties to the application may attend. Oral Hearings are open to the public, except where there are allegations of a sexual offence, domestic violence or child abuse, in which case the hearing would generally



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- be closed to outside observers. The applicant may invite someone to accompany her/him to the hearing for support.
- An Electronic Hearing - A hearing where the applicant attends at a location where the Board is sitting and the offender/alleged offender, and other witnesses attend at another location. The offender/alleged offender participate by conference call. Note: The Board usually orders an Electronic Hearing in cases of sexual offences, domestic abuse and child abuse or where the applicant has reasonable grounds to fear the alleged offender or offender.
5. The **worker** provides support to the child/youth throughout the process and provides evidence (including documentation and testimony) to the C.I.C.B. as required;
  6. While the application is pending, the **worker** ensures that the status of the application is noted in the Child in Care recording;
  7. Where an award is granted, the C.I.C.B. forwards the funds to the Accountant for the Superior Court of Justice where they are held in trust until the youth reaches the age of 18 or 21, as determined by the Board:
    - the worker is notified at the time of the award and at the time of the release of the funds; there will be no further notification by either the Board or the Superior Court of Justice;
    - it is therefore imperative that the existence of the trust is noted in the file as outlined above;
    - the **worker** ensures that the child's address of record with the C.I.C.B. is 1602 Telesat, rather than the address of a caregiver or a satellite office;
  8. Upon receiving notice of an award from the C.I.C.B., the **worker** notifies the **Director, Finance and Administration**;
  9. The **worker** maintains all documentation related to the trust in the Administration Section of the Child In Care file, and notes the existence of same in the Child in Care Recording, minimally on an annual basis.
  10. Where the child/youth has terminated her/his involvement with the Society prior to the release of the funds from trust, the **worker** notifies the Accountant of the Superior Court;
  11. Where the child/youth remains involved with the Society up to and including the date of the release of the trust money, the **worker** ensures that he/she engages in planning discussions with the youth for the disbursement and use of the funds at the designated date of release. This discussion should occur at least one year prior to the release of the funds and include the following discussions:





The Children's Aid Society of Ottawa | La Société de l'aide à l'enfance d'Ottawa

- The possibility of future medical expenses as a result of injuries sustained during the abuse;
  - The possibility of future expenses related to therapy or other forms of treatment which are required as a result of the abuse;
  - The need to plan for future education and related living expenses;
  - Obtaining independent financial planning information: Where the youth is receiving an award under \$10,000, the pursuit of independent financial planning information is at the discretion of the youth. Where the youth is receiving in excess of \$10,000, the worker discusses with the youth the possibility of obtaining independent financial planning information at the Society's expense
12. Where the youth wishes to obtain independent financial planning information, the **worker** contacts the Director, Finance and Administration to make such arrangements;
  13. The **Director of Finance and Administration or her/his designate** makes arrangements for the youth to meet with an independent financial adviser at the expense of the Society;
  14. Where a youth who is turning 18 and receiving a C.I.C.B. award at that time, is applying for Extended Care and Maintenance, the **worker** and her/his **supervisor** in consultation with their **Manager** consider the availability of the C.I.C.B. funds, in the context of the E.C.M. plan and agreement. In some cases there may be an expectation that the youth utilize a portion of the C.I.C.B. resources to contribute to her/his living expenses, educational expenses, etc., while he/she remains on E.C.M.

Document number: S 3-9-10

Approved by: Service Planning Committee

Cyclical Review Done: July 17, 2008

Updated to Comply with new Child in Care Standards

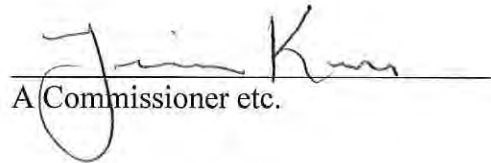
Responsibility: Service Managers

Cyclical Review Done: August 24, 2012

Next Review: August 2016



This is **Exhibit “48”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.



**Social Justice Tribunals Ontario**

*Providing fair and accessible justice*

**Criminal Injuries Compensation Board**

# Application and Hearing Process

## **Step 1: Before you file**

Explains who qualifies for compensation and describes the different kinds of awards the CICB can make.

Watch the video: [About the Board](#)

## **Who is Eligible for Compensation**

Anyone injured as a result of violent crime in Ontario can apply for compensation, including people who were hurt while trying to prevent a crime. Police officers who are injured while making an arrest can also apply.

Violent crimes include:

- murder
- attempted murder
- firearm offences
- poisoning
- arson
- assault
- sexual assault
- domestic assault (abuse by a spouse/partner)
- child physical assault
- child sexual abuse

The injuries may either be physical or psychological. However, the injuries must be more than transient or trifling in order to qualify for compensation.

If a person died as a result of violent crime in Ontario, or while trying to prevent a crime, any family members who were dependent on the deceased person or who paid expenses as a result of the death (e.g. childcare expenses for the children of the deceased or bereavement counselling) can apply for compensation.

A person can also apply for compensation if he/she witnessed or came upon the scene of a crime that resulted in a death and meets the criteria for a finding of "mental or nervous shock."

You may be eligible for compensation even if no one has been prosecuted or convicted of the crime.

You must apply for compensation within two years of when the violent crime took place, unless you:

- a. were a victim of sexual or domestic violence
- b. are under 20 years old.

We can extend the two-year period if you have good reasons for not applying earlier, but you will have to request an extension and explain the reasons for the delay. See "When to File" in [Step 2](#) for more information.

If you believe you meet the criteria for a claim, complete an application form with as much detail as possible. The violent crime has to have happened in Ontario, Canada but you do not need to be an Ontario resident to apply.

Our process does not interfere with your right to sue the offender or alleged offender in a civil action. However, if you sue and the court awards you money related to the incident, you must reimburse the CICB for the money you received.

## **Who is not Eligible for Compensation**

We do not award compensation for the following:

1. Harm resulting from crimes committed outside of Ontario
2. Damaged, lost or stolen property
3. Motor vehicle accidents (except where the vehicle was used deliberately to assault or harm another person)
4. Legal fees for criminal court and/or civil suits
5. Distress and/or loss of wages for attending criminal court
6. Workplace accidents (claim should be filed with the WSIB)
7. Accidental deaths
8. Suicide
9. Pain and suffering of family members who are coping with the injury or death of a loved one, except when the family member:
  - a. came across the scene of the death or injury, and
  - b. suffered significant psychological injury.
10. Monetary loss due to fraud
11. Neglect or abandonment of children (except where it amounts to criminal negligence)
12. Accidental injuries (slip and falls)
13. Negligence by an institution/organization

## Compensation for Injury

We may award the following types of compensation for physical injuries or psychological harm that resulted from a violent crime in Ontario. We need receipts and/or supporting documents before we will make an award.

**Treatment Expenses:** May be awarded for ambulance fees, hospital charges, prosthetics, eyeglasses, prescriptions, dental expenses, and counselling expenses. Only expenses not payable by any other source (e.g. insurance, group benefits) will be considered.

**Travel to Treatment Expenses:** May be awarded if you need to travel more than 40 km each way from your residence for treatment.

**Loss of Income:** May be awarded to you (or a person responsible for your care) if you were unable to work because of injuries arising from the incident. We may award up to a maximum of \$1,000 per month for lost income. Benefits received from other sources (e.g. Employment Insurance, CPP, disability benefits, long-term or short-term employer benefits) may be deducted from this amount.

**Pain and Suffering:** May be awarded based on several factors, including:

- a. the nature of the crime/abuse
- b. any breach of trust or abuse of power
- c. the age and vulnerability of the victim
- d. the degree of violence involved
- e. the seriousness of the injuries or the extent of the harm
- f. the recovery period
- g. the possibility of a continuing disability
- h. the impact the crime/abuse on the victim's life

**Other:** Costs associated with the support of a child born as a result of a sexual assault.

## Compensation for Death

We may award the following types of compensation for a death that resulted from a violent crime in Ontario.

**Funeral and burial expenses:** We may compensate you for the cost of a funeral director, clergy, casket, cemetery plot, grave marker, cremation, newspaper notices and death certificates.

**Loss of financial support:** We may compensate you if you are a dependent who relied on the deceased person for financial support prior to his/her death. We need proof that the deceased person provided financial support to make this kind of award.

**Bereavement counselling:** We may compensate family members of a deceased person for the cost of bereavement counselling.

**Other expenses:** We may compensate you for any other expenses that were reasonably incurred as a result of the death.

For more information, see: [Information for Claims Arising from Homicide](#).

## Compensation for Mental or Nervous Shock

If you witnessed or came upon the scene of a crime that resulted in a death and you meet the criteria for a finding of "mental or nervous shock" we may compensate you for the following:

**Treatment expenses:** May be awarded for ambulance fees, hospital charges, counselling expenses. Only expenses not payable by any other source (e.g. insurance, employment group benefits, WSIB benefits) will be considered.

**Travel to treatment expenses:** May be awarded if you need to travel more than 40 km each way from your residence for treatment.

**Loss of income:** May be awarded if you are or were unable to work due to your condition. We may award up to a maximum of \$1,000 per month for lost income. Any benefits received from other sources may be deducted from this amount.

**Pain and suffering:** May be awarded depending on based on several factors including:

- a. the extent of the psychological harm
- b. the treatment required and recovery period
- c. the possibility of a continuing disability
- d. the impact that witnessing the death had on your life

For more information, see: [Mental or Nervous Shock Claims](#).

## Awards

**Lump sum awards:** When one person is injured or killed as a result of a violent crime, the maximum lump sum award is \$25,000.

When more than one person has been injured or killed as the result of a violent crime, the maximum lump sum award is \$150,000 shared among all of the claimants.

**Periodic awards:** Can be made in cases when there is an ongoing financial loss (e.g. lost income, child care expenses). Periodic awards are paid on a monthly basis and cannot exceed \$1,000 per month. Payments cannot exceed a total of \$365,000.

The CICB usually reviews periodic awards each year to determine whether:

1. the claimant should continue to receive payments
2. the amount of the payment should change because the claimant's circumstances have changed.

In cases where a claimant receives a periodic award, the maximum lump sum award is \$12,500 (instead of \$25,000).

**Interim awards:** You may seek an award before a hearing for income support, funeral expenses and/or medical treatment expenses. This is called an interim award. We only make interim awards if you can show that you need the money urgently before your hearing. You will also have to provide evidence, such as police and/or medical records that lead us to conclude that an award will likely be made at the time of the hearing. To apply for an interim award, [contact us](#).

**Variation Awards:** Section 25 of the Act allows the CICB to vary an award if the claimant's circumstances change. A variation award can only be granted if the CICB made an award in the first place. The process of varying the award is similar to when you first filed a claim: we will consider all the evidence and hold a hearing to decide whether to make an award.

For more information, see the fact sheet: [Section 25 Variation of Order](#).

**Your Ontario Disability Support Program (ODSP) and Ontario Works (OW) Benefits:** If you receive an award from us while you are also receiving benefits from either the Ontario Disability Support Program (ODSP) or Ontario Works (OW), you must tell your OW or ODSP caseworker in writing about any award you receive from the CICB. The CICB award may affect your benefits. Contact your caseworker or read the ODSP/OW fact sheet for more information.

## **Step 2: Filing an application**

Tells you when and how to apply. Explains when someone else can apply on your behalf.

Watch the video: [Filing a Claim](#)

### **How to apply**

If you believe you meet the criteria for a claim, complete an application form with as much detail as possible. You can download the form or you can call, fax or mail us and we'll mail you an application form. For more information, see [Forms and Filing](#).

### **When to file**

We need to receive your application within 2 years of the violent crime taking place unless:

- a. you were a victim of sexual or domestic violence
- b. you are under the age of 20 when you file your application

In other cases, we can extend the 2-year period if there is a good reason for it, but you will have to request an extension by giving reasons for the delay on the application form.

When we receive an extension request, we consider:

- a. the amount of time that has passed since the incident
- b. the reasons for the delay
- c. whether there is enough evidence to support an application and fairly adjudicate the claim



- d. the circumstances of the incident: the severity of the violence, the severity of the injury, the context and the extent to which the victim's behaviour may have contributed to his/her injury or death.

If your request for an extension is approved, your application for compensation can proceed.

If your request for an extension is denied, we will send you a letter with our decision and the reasons for that decision. You can appeal this decision to the Divisional Court, a branch of the Superior Court of Justice. For more information, see: "If you don't agree with the decision", in [Step 5](#).

### **Do I need a legal representative?**

The CICB does not expect you to have a legal representative at a hearing, but you can have one if you want. A legal representative could be a lawyer or paralegal.

If you have a legal representative, we will communicate only with that person and not with you. Remember to complete the "Legal Representation" section of the application form. If you hire a representative after you file your application, send us a [Notice of Legal Representation Form](#).

### **If you are under 18**

If you are under the age of 18, your legal guardian will usually make the application for you. If you don't have a legal guardian, and you are living independently, contact the CICB to ask about applying on your own.

### **If a claimant lacks mental capacity**

If an applicant lacks the capacity to make an application, the CICB may appoint a litigation guardian. For more information about the duties and responsibilities of litigation guardians see: SJTO Common Rule [A10](#) and the [Practice Direction on Litigation Guardians](#).

### **Can someone speak to the CICB on my behalf?**

You may give another person permission to call and ask about the status of your claim but we need your permission in writing. Complete an [Authorization for Release of Personal Information](#) and send it to the CICB.

## **Step 3: After you apply**

How to prepare for your hearing.

Watch the video: [Preparing Information for Your Hearing](#)

When we receive an application form, we assign it a file number which we will include on all our correspondence to you. Write the file number on any documents you send us.

If you did not answer all of the questions in the application form, it will delay the processing of your claim. We may contact you for missing information or documents. We will also contact you if you are not eligible.

## **Gathering documents for your hearing**

We will assess receipts, medical or counselling reports, police reports, and court records.

You are responsible for gathering:

- Reports from your treatment providers or making sure your treatment providers send them to us. We will give you instructions on how to get these reports. If you are having trouble getting these reports, please let us know. We may be able to help. We will pay all or part of the costs for obtaining the reports. See our [Payments for Medical Reports](#) fact sheet for more information.
- Letters of support. If the crime was not reported to the police, you may need to identify individuals who witnessed the crime or were aware of it, and send us letters of support that talk about your character, your credibility or corroborate (confirm) what you say about the crime and the effect it had on your life. These letters can be written by neighbours, friends or family members.

The CICB will:

- contact the police service involved to request a written report.
- obtain documents (e.g. a decision, transcript) regarding the outcome of any criminal trial that resulted from the crime. If the matter is still before the courts, we may not be able to proceed with your hearing until the trial is completed.

## **Your responsibilities before the hearing**

Gathering all of the information needed to support your claim can take some time. The more quickly we receive all of the information, the more quickly your application can be processed.

It is your responsibility to:

- submit a properly completed application form
- respond to our letters and/or requests for information in a timely manner
- follow up with your treatment providers to ensure they send us your records
- let us know when the criminal trial is completed, so we can request the court documents
- inform us of any changes in your situation that may impact your claim, such as changes in the injury/medical condition that resulted from the crime

- keep your address and phone number up to date. Your file may not be processed if we are unable to contact you
- notify us if you receive payment compensation for the injury or death from the offender or alleged offender (restitution or through civil action), insurance, WSIB, or any other government or private agency

### **Scheduling your hearing**

When the file is ready, we will schedule a written, oral or electronic hearing. We will mail you a notice of hearing, which is a document that tells you the date, time, location and type of hearing.

You are responsible for making sure that we have your current telephone numbers and mailing address. If your contact information changes, submit the [Notice of Change of Address](#) or call or email the CICB with your updated contact information as soon as possible.

### **Notice to the alleged offender**

The person you say is responsible for the violent crime is called the “alleged offender”. If a court has found that person guilty of the crime he or she is called the “offender”.

Alleged offenders are entitled to notice of the CICB hearing and may choose to participate. We will tell you in advance if the alleged offender intends to participate. If you have concerns about their participation, you must tell us as soon as possible during the application process.

If the alleged offender decides to participate, they will receive a copy of your application. We will remove your contact information and the information about your injuries before we share your application with them.

At the hearing, the alleged offender will communicate by phone or video conference. They will not be in the same room as you. They will have the chance to submit evidence, question you or other witnesses, and make submissions.

The alleged offender will receive a copy of the CICB’s decision.

## **Step 4: The hearing**

The different types of hearings, the location of the hearing, and who will be the

Watch the video: [Your Hearing](#)

Take a [virtual tour](#) of a hearing site.

The tour shows:

- what a typical hearing room, reception area and remote hearing site look like
- the roles of the various people who attend the hearing

If you can't see the virtual tour, make sure that JavaScript is enabled in your browser. Click [here](#) for [instructions](#) on how to do it.

## Types of hearings

### Written Hearing

If your claim can be assessed based on written evidence alone, you won't need to attend a hearing. The adjudicators will make a decision based on the information in the file. See the fact sheet: [Information for Written Hearings](#).

### Oral Hearing

If an oral hearing is held, you must attend. Please arrive 15 minutes before your hearing is scheduled to start. During the hearing, the adjudicators will ask you questions about the incident, injuries and associated costs.

If you don't attend, we may go ahead without you. In these cases, the adjudicators can make a decision based on the documentary evidence in the file and the oral evidence of any witnesses who appear.

See the fact sheet: [Information for Oral Hearings](#) or the fact sheet: [Representing a Party Before the Board at an Oral Hearing](#) for more information.

### Electronic Hearing

During an electronic hearing, you would be on the phone or video conference while the adjudicators are at a hearing site.

Examples of times we would hold an electronic hearing include:

- If the alleged offender is participating and you do not want to be in the same room
- You have mobility issues that make it difficult to get to the hearing site

See the fact sheet: [Information for Electronic Hearings](#).

## At the hearing

### Location of the hearing

We hold oral hearings in 21 locations across Ontario: Barrie, Belleville, Cornwall, Hamilton, Kenora, Kingston, Kitchener, London, Moosonee, North Bay, Orillia, Ottawa, Peterborough, Sault Ste. Marie, Sioux Lookout, St. Catharines, Sudbury, Thunder Bay, Timmins, Toronto and Windsor.

All our hearing sites are wheelchair accessible and many are equipped with automatic door openers. If you want more information on the accessibility features of your hearing site, or you need help to

participate in your hearing because of a disability, [contact us](#). For more information, see: [Accessibility and Accommodations](#).

### **Length of the hearing**

Oral hearings are usually scheduled for 1.5 hours.

We may allow more time if:

- the claim is complex
- one of the parties is using an interpreter
- there are witnesses
- the alleged offender is participating

### **Language of the hearing**

Hearings are conducted in either English or French. If you require an interpreter in a language other than English or French, let us know and we will arrange for an accredited interpreter to attend your hearing. For more information see: [Language Services](#).

### **Who attends the hearing**

**Lawyer or paralegal:** The CICB does not expect you to have a legal representative at a hearing, but you can have one if you want. A legal representative could be a lawyer or paralegal. If you have a legal representative, we will communicate only with that person and not with you.

**Support Persons:** A support person, such as a family member or friend, can attend a hearing with you.

**Police:** Police who investigated the incident may be asked to attend the hearing as a witness. They could be asked about their investigation, whether you cooperated during the police investigation and court proceedings, the outcome of any criminal court proceedings related to the crime, and your criminal history, if you have one.

**The Alleged Offender:** The person you say is responsible for the violent crime is called the "alleged offender". If a court has found that person guilty of the crime he or she is called the "offender". An alleged offender is entitled to notice of the CICB hearing and may choose to participate. We will tell you if that happens. For more information, see "Notice to the alleged offender", in [Step 3](#).

**Witnesses:** A person who can give a firsthand account of something seen, heard or experienced is called a witness. The information that a witness gives is called evidence. If you want to have someone give evidence at your hearing, you must write to the CICB and ask us to issue a summons. We will only issue a summons if we think that the witness' evidence will be relevant to the proceeding. If the CICB issues a summons, it is your responsibility to have personally delivered it ("served") to the witness and to pay the [witness fees](#).

**Members of the public and media:** Oral hearings are usually open to the public and the media, if they choose to attend. However, the hearing may be closed if:

- a. there are public safety concerns



- b. there are ongoing criminal proceedings
- c. the claim involves a sexual offence, spousal abuse or child abuse.

If you have concerns about participating in an open hearing, you must tell us during the application process.

**People under 18:** A person under 18 who has received the CICB's permission to make an application on their own must attend the hearing. A person under 18 who has a litigation guardian is not required to attend, unless they are giving evidence.

## **Step 5: After the hearing**

How members make a decision, how you will get your decision, and what to do if you don't agree with it.

Watch the video: [After Your Hearing](#)

### **How members decide whether to make an award**

To decide whether to make an award and the amount of the award we consider:

- whether there is enough reliable evidence to support the claim.
- whether the incident is considered a violent crime under the Criminal Code or an arrest occurred, or whether the injured/deceased person was assisting a peace officer with their law enforcement duties, or trying to prevent a crime. *Note:* The law changes over time. When we decide whether a violent crime took place, we will consider the version of the *Criminal Code* that was in effect when the incident happened.
- all of the relevant circumstances, including any behaviour of the injured/deceased person that caused or contributed to the injuries or death.
- whether the claimant refused reasonable cooperation with the police or failed to report the offence promptly to the police.
- whether the claimant has received benefits paid by private insurance, the Workplace Safety and Insurance Board or any other source, as a result of the crime. This does not include Ontario Works or Ontario Disability Support Program.

### **The decision**

#### **If the adjudicators tell you their decision at the hearing**

At the end of an oral hearing, the adjudicators will sometimes tell you their decision and then mail the written decision to you or your legal representative. In that case, you will receive the written decision in 4-6 weeks.

#### **If the adjudicators don't tell you their decision at the hearing**



Adjudicators don't always make a decision immediately. They could issue a decision later with written reasons. In this case, you will usually receive your decision within 2 months of the hearing.

If a written hearing was held in your case, you will usually receive a decision and reasons for the decision in the mail within 2 months.

If you prefer to come into the office to pick up your decision, let us know in advance. You will need to bring two pieces of identification with you, e.g. a passport, driver's licence or Social Insurance Number (SIN) card. At least one piece of identification must have your photo on it.

### **Your award**

If you are awarded compensation, we will attach a cheque to the decision.

If you sue and the court awards you money related to the incident, you must reimburse the CICB for the money you received. Write a letter explaining what happened and enclose a cheque.

If your claim is denied, you will be given the reasons for the denial. You will also be told how to ask for a review or appeal of the decision.

### **If you don't agree with the decision**

If you do not agree with the decision in your case, you have different choices depending on whether your case was heard by one or two adjudicators.

#### **Single adjudicator: Request a review hearing**

If a single adjudicator made a decision about your claim, you have 15 days to request a review hearing with two new adjudicators. Your request must be in writing. You can fax, email, mail or drop it off to the CICB.

If an award was ordered, we will not schedule a review hearing until you have returned the compensation cheque to us.

The new two-member panel may confirm the original decision, increase or decrease the award, or even deny the claim.

#### **Two or more adjudicators: Appeal to the Divisional Court**

If a panel of two or more adjudicators made a decision about your claim, you can appeal to the Superior Court of Justice, Divisional Court, within 30 days of receiving the decision.

Appeals can only be made on a question of law. You cannot appeal the amount of an award.

When you receive your decision, you will be told which courthouse can hear your appeal. You can contact the courthouse for more information about the appeal process. You can also download the Guide to Appeals in Divisional Court from the Divisional Court's website.

The CICB cannot help you with the appeal or give you legal advice.



## Criminal Injuries Compensation Board

4th Floor, 435 University Avenue  
Toronto, Ontario M5G 1Y5  
Tel: (416) 325-2385  
Fax: (416) 325-2385

## Applying for Compensation for Application Form

Please refer to the guide when completing this application form.  
The guide contains useful information and instructions for completing this form.

We may award compensation only if you were injured by the Police or by Ontario police as a result of a violent crime, or while resisting an arrest, or assisting a police officer with resolving the circumstances of a crime, or while trying to prevent a crime.

Please refer to the guide for more information about who is eligible for compensation.

Please provide all of the requested information in order to ensure that your application is processed as quickly as possible. Our support centre is available to assist you should you have any questions not answered in the guide. Please read the form carefully as you complete only the sections that apply to you.

Send your completed original application form to the Board with as much supporting documentation as possible. If you have a restraining order, prohibition order, police records (including incident, crown synopsis, record of arrest), Crown records (information, preliminary, victim impact statement, power of attorney, medical or therapy records that support your injuries, previous arrest records, etc.), include these documents with your application. If you do not have these documents, do not wait to mail the application form to the Board. Gather the documents and then mail them to the Board once they become available.

Be sure to sign and date the last page of the application form. Remember to make copies of your application form and any supporting documents that you send to us for your records since these documents will not be returned to you.

If there is not enough space in certain parts of the application form, you may use additional sheets of paper. Remember to include your name on any additional sheets and specify the section of the application form the additional information pertains to.

It is important that we receive your application form within two years of the crime taking place. We can extend the two-year limitation when it is warranted, but you will have to request such an extension and explain your reasons for the delay in Part 5 of the application.

It is essential that you let us know whenever your address or phone number changes. If we are unable to reach you by phone or mail, your application may be dismissed.

Mail your completed original application form (typed or printed in full) and supporting documents to the address listed below. For more information about the Criminal Injuries Compensation Board and the application process, please visit our website: [www.cicb.com/CIQA](http://www.cicb.com/CIQA).

### Criminal Injuries Compensation Board

435 University Avenue, 4th Floor

Toronto, Ontario M5G 1Y5

Tel: (416) 325-2385 (Within the Greater Toronto Area)

Toll Free: 1-800-375-7485

Fax: (416) 325-2385

The Victim Support Line (VSL) through Hotlines provides a 24-hour, toll-free service providing victims with information, support and referrals in the language of their choice, 24 hours a day, seven days a week. If you have the VSL and need support services in your area, or want to know more about organizations that might be willing to participate in the recognition of your application, call the Victim Support Line at 1-800-387-2222 or you live in the Greater Toronto Area call (416) 914-0947 and choose option 1.


**Criminal Injuries Compensation Board**

4<sup>th</sup> Floor, 439 University Avenue  
 Toronto, Ontario M5G 1Y8  
 Toll Free: 1 800 372-7463  
 Tel. 416 326-2900  
 Fax. 416 326-2883

# Applying for Compensation for an Injury Application Form

**Please refer to the guide when completing this application form.**  
**The guide contains useful information and assistance for completing this form.**

We may award compensation only if you were injured in the Province of Ontario as a result of a violent crime, or while making an arrest or assisting a peace officer with his/her law enforcement duties, or while trying to prevent a crime.

Please refer to the guide for more information about who is eligible for compensation.

Please provide all of the requested information in order to ensure that your application is processed as quickly as possible. Our contact centre is available to assist you should you have any questions not answered in the guide. Please read the form carefully so you complete only the sections that apply to you.

Send your completed original application form to the Board with as much supporting documentation as possible. If you have a restraining order, probation order, police records (occurrence report, crown synopsis, record of arrest), Court records (Information/Indictment), victim impact statement, power of attorney, medical or therapy records that support your injuries, invoices and/or original receipts, include these documents with your application. If you do not have these documents, do not wait to mail the application form to the Board. Gather the documents and then mail them to the Board once they become available.

**Be sure to sign and date the last page of the application form.** Remember to make copies of your application form and any supporting documents that you send to us for your records since these documents will not be returned to you.

If there is not enough space in certain parts of the application form, you may use additional sheets of paper. Remember to include your name on completed attachments and specify the section of the application form the additional information pertains to.

**It is important that we receive your application form within two years of the crime taking place. We can extend the two-year limitation when it is warranted, but you will have to request such an extension and explain your reason(s) for the delay in Part 5 of the application.**

It is essential that you let us know whenever your address or phone number changes. If we are unable to reach you by phone or mail, your application may be dismissed.

Mail your completed original application form (**typed or printed in ink**) and supporting documents to the address noted below. For more information about the Criminal Injuries Compensation Board and the application process, please visit our website.  
 Website: [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca)

Criminal Injuries Compensation Board  
 439 University Avenue, 4<sup>th</sup> Floor  
 Toronto, Ontario M5G 1Y8  
 Tel: 416 326-2900 (within the Greater Toronto Area)  
 Toll Free: 1 800 372-7463  
 Fax: 416 326-2883

The Victim Support Line (VSL), through FindHelp, provides a province-wide, toll-free telephone information line providing access to information for victims, in the language of their choice, 24 hours a day, seven days a week. If you would like to find out about services in your area, or would like to inquire about organizations that might be willing to assist with the completion of your application, call the Victim Support Line at 1 888 579-2888 (if you live in the Greater Toronto Area, call 416 314-2447) and choose option 1.



**Please type your answers or print them in ink in legible handwriting.**  
**A separate application must be filed for each person seeking compensation.**

### Part 1: Victim Information

The victim is the person who was injured during the crime. A date of birth is needed to avoid confusion with other victims with the same or similar names. As we may need to contact you during business hours, a daytime number would be helpful. If you are filing this application on behalf of someone else, put his/her information in Part 1 and your information in Part 2.

Last Name			First Name		Middle Initial
Last Name at Birth or Other Last Names			Gender <input type="checkbox"/> Male <input type="checkbox"/> Female		Date of Birth (yyyy/mm/dd)
Unit No.	Street No.	Street Name		PO Box	Postal Code
City/Town			Province	Home Telephone No.	
Email Address			Driver's Licence Number	Alternate Telephone No.	
Do you have any concerns with the Board leaving messages regarding this claim at either of the above phone numbers? <input type="checkbox"/> No <input type="checkbox"/> Yes - (if so please explain)					
What is your preferred method of communication with the Board? (if you check email, you are consenting to the delivery of personal information and documents by email) <input type="checkbox"/> Mail <input type="checkbox"/> Email <input type="checkbox"/> Telephone					
Will you require an interpreter at a hearing? <input type="checkbox"/> No <input type="checkbox"/> Yes (specify a language)			Have you filed an application with the Board before? <input type="checkbox"/> No <input type="checkbox"/> Yes (specify the year)		
Would you like to permit someone else to speak with the Board on your behalf? If so, provide name. Name (first and last) <span style="float: right;">Telephone No.</span>					
Is the Board authorized to release reports to the individual named?				<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the named individual authorized to update your contact information with the Board?				<input type="checkbox"/> Yes	<input type="checkbox"/> No
Is the named individual authorized to request duplicate letters from the Board?				<input type="checkbox"/> Yes	<input type="checkbox"/> No

### Part 2: Applicant Information (if applicable)

**Complete this part only if you are not the crime victim, but you are acting on his/her behalf.**

You may be the applicant for a crime victim if:

- you are a parent or legal guardian of a victim who is a minor (under the age of 18); or
- you have the legal authority to make decisions for a victim because he/she cannot make decisions for himself/herself (e.g. due to mental/physical incapacity).

If you are filing this application as a result of witnessing an extremely violent crime against a close family member, put his/her information in Part 1 and your information in Part 2.

Last Name			First Name		Middle Initial
Your Relationship to the Victim			Gender <input type="checkbox"/> Male <input type="checkbox"/> Female		
Name of Organization (if applicable)					
Unit No.	Street No.	Street Name		PO Box	Postal Code
City/Town			Province	Home Telephone No.	
Email Address			Driver's Licence Number	Alternate Telephone No.	
Do you have any concerns with the Board leaving messages regarding this claim at either of the above phone numbers? <input type="checkbox"/> No <input type="checkbox"/> Yes - (if so please explain)					
Will you require an interpreter at a hearing? <input type="checkbox"/> No <input type="checkbox"/> Yes (specify a language)					
What is your preferred method of communication with the Board? (if you check email, you are consenting to the delivery of personal information and documents by email) <input type="checkbox"/> Mail <input type="checkbox"/> Email <input type="checkbox"/> Telephone					

**Warning: While we have a variety of security measures in place, it is important to remember that email is not secure. We cannot guarantee the privacy or confidentiality of any information that is sent over the Internet by email as it may not be free from interception by third parties.**

**Part 3: Legal Representation (for the purpose of this application only)**

Complete this part only if you have retained a lawyer, agent or paralegal to assist you with your claim for compensation. If you have retained legal representation for another purpose, such as a criminal or civil proceeding, do not complete this part. **By completing this part, you are authorizing the Board to release information about your claim to your legal representative and all further communication will be made with your legal representative.**

Legal Representative's Last Name			Legal Representative's First Name		
Name of Law Firm/Legal Clinic					
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town			Province	Postal Code	Country
Telephone No.		Fax No.	Email Address		

**Part 4: Types of Compensation**

This part must be completed to let us know the type of compensation you are seeking. We may award compensation only if you were injured in the Province of Ontario as a result of a violent crime, or while making an arrest or assisting a peace officer with his/her law enforcement duties, or while trying to prevent a crime.

**Please check the appropriate box(es)**

- |   |   |
|---|---|
| <input type="checkbox"/> Medical expenses             | <input type="checkbox"/> Pain and suffering award                                       |
| <input type="checkbox"/> Treatment expenses           | <input type="checkbox"/> Loss of wages/income   |
| <input type="checkbox"/> Dental expenses              | <input type="checkbox"/> Support of a child born as a result of a sexual assault (rape) |
| <input type="checkbox"/> Travel to treatment expenses | <input type="checkbox"/> Other expenses/financial losses (please specify):              |

**Part 5: Request for Extension Where Crime Occurred More than Two Years Ago**

If you are applying for compensation for an incident that occurred more than two years ago, you must first request that we extend the two-year limitation period. Please check "Yes" and explain your reason(s) for the delay in filing this application. Be sure to complete the rest of the application form. If this application relates to a victim who is under the age of 20, an extension of the limitation period for filing is not required. In that case, please check "No" and proceed to Part 6 of the application. The Board will render its decision on the extension based on written information you provide including the information you have given in the application form.

Was the crime committed more than two years ago? (In the case of ongoing abuse, did the abuse end more than two years ago?)

- ☐ No - Proceed to Part 6
- ☐ Yes - Please explain below why you did not submit your application within two years of the crime(s) being committed

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**We are obligated, by law, to make a reasonable attempt to locate and notify the (alleged) offender(s) of your application. If you have concerns about our notification of an (alleged) offender or any disclosure of personal information to the (alleged) offender, you must tell us during the application process.**

☐ Domestic assault (abuse by spouse, partner, boyfriend, girlfriend)    ☐ Child physical assaults    ☐ Sexual assault    ☐ Poisoning    ☐ Other (please specify): \_\_\_\_\_

☐ \_\_\_\_\_    ☐ Child sexual abuse    ☐ Assault    ☐ Arson    \_\_\_\_\_

Complete the following section if you were injured as a result of a single crime/incident. If not, move on to **Part 6 (B)** to provide details of multiple crimes/incidents/abuse.

<b>Date of the crime/incident</b> (yyyy/mm/dd)	<b>Where did the crime/incident occur?</b> (e.g. home, on the street, school, etc)	<b>Provide specific address where the crime/incident occurred</b> (Note: it must have occurred in Ontario to be eligible for compensation)
<b>Time of the crime/incident</b> <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.		Street Address
		City/Town
		Province

Name of (Alleged) Offender (first and last name)	Date of Birth (yyyy/mm/dd)	Address	Relationship to Victim (e.g.stranger, friend, spouse, etc.)
1.			
2.			
3.			

If you require additional space, please use the **Additional Information Section (Part 12)**.

[illegible]

**Section A: Complete this section if the incident was reported to the police.**

Date the incident was reported to the police (yyyy/mm/dd)	Name of Police Service(s) and Division Number	Name of Police Officer(s) and Badge Number(s)	Occurrence Number

Were charges laid by the police?

☐ No☐ Don't Know☐ Yes - if Yes, what were those charges?

Do you know the outcome of those charges?

☐ No☐ Yes - if Yes, please indicate☐ Conviction☐ Withdrawn☐ Acquittal☐ Absolute/Conditional Discharge

Is the police investigation or criminal proceeding ongoing?

☐ No☐ Yes

If there was a delay in reporting the incident to the police, please explain the reason for the delay:

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Did you participate in the police investigation?

☐ Yes☐ No - Explain why:

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Did you attend criminal court when required to do so? (e.g. if you were served with a summons)

☐ Yes☐ No - Explain why:

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**Section B: Complete this section if the incident was not reported to the police**

What were your reasons for not reporting the incident to the police:

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If the incident occurred when you were a child, was it reported to a Children's Aid Society?

☐ No☐ Yes - Provide details:

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**Part 6 (B): Multiple Incidents / Patterns of Abuse**

Complete this section only if you were injured as a result of multiple crimes/ incidents (e.g. abused/assaulted repeatedly over weeks, months or years).

If you were abused by multiple individuals or multiple times by the same individual, please complete the following sections for each of the (alleged) offenders. If there were more than three (alleged) offenders, please contact us at 416 326-2900 or 1 800 372-7463 for additional forms.

**Information for (Alleged) Offender Number 1**

<b>Name of (Alleged) Offender Number 1</b> (first and last name)		<b>Date of Birth</b> (yyyy/mm/dd)	<b>Address</b>	<b>Relationship to Victim</b> (e.g. stranger, friend, spouse, etc.)
<b>Date of incident (if only one)</b> (yyyy/mm/dd)	<b>Or, if more than one incident, provide dates ►</b>	<b>Date when abuse began</b> (yyyy/mm/dd)	<b>Date when abuse ended</b> (yyyy/mm/dd)	
<b>Where did the incident/abuse occur?</b> (e.g. home, on the street, school, etc).		<b>Provide specific address where the incident/abuse occurred</b> (Note: it must have occurred in Ontario to be eligible for compensation)		
		Street Address	City/Town	Province

**Details of the Crime:**

In the space below, please describe what happened in your own words. If you require additional space, please use the **Additional Information Section (Part 12)**.

**Section A: Complete this section if the incident(s) involving (Alleged) Offender No. 1 was reported to the police.**

<b>Date the incident / abuse was reported to the police</b> (yyyy/mm/dd)	<b>Name of Police Service(s) and Division Number</b>	<b>Name of Police Officer(s) and Badge Number(s)</b>	<b>Occurrence Number</b>

Were charges laid by the police?

☐ No    ☐ Don't Know    ☐ Yes - if Yes, what were those charges?

Do you know the outcome of those charges?

☐ No    ☐ Yes - if Yes, please indicate    ☐ Conviction    ☐ Withdrawn  
☐ Acquittal    ☐ Absolute/Conditional Discharge

Is the police investigation or criminal proceeding ongoing?

☐ No    ☐ Yes

If there was a delay in reporting the incident/abuse to the police, please explain the reason for the delay:

Did you participate in the police investigation?

☐ Yes    ☐ No - Explain why:

Did you attend criminal court when required to do so? (e.g. if you were served with a summons)

☐ Yes    ☐ No - Explain why:

**Section B: Complete this section if the incident(s) involving (Alleged) Offender No. 1 was not reported to the police.**

What were your reasons for not reporting the incident/abuse to the police:

If the incident/abuse occurred when you were a child, was it reported to a Children's Aid Society?

☐ No    ☐ Yes - Provide details:

**Information for (Alleged) Offender Number 2**

<b>Name of (Alleged) Offender Number 2</b> (first and last name)	<b>Date of Birth</b> (yyyy/mm/dd)	<b>Address</b>	<b>Relationship to Victim</b> (e.g. stranger, friend, spouse, etc.)
<b>Date of incident (if only one)</b> (yyyy/mm/dd)	<b>Or, if more than one incident, provide dates ►</b>	<b>Date when abuse began</b> (yyyy/mm/dd)	<b>Date when abuse ended</b> (yyyy/mm/dd)
<b>Where did the incident/abuse occur?</b> (e.g. home, on the street, school, etc.)	<b>Provide specific address where the incident/abuse occurred (Note: it must have occurred in Ontario to be eligible for compensation)</b> Street Address City/Town Province		

**Details of the Crime:**

In the space below, please describe what happened in your own words. If you require additional space, please use the **Additional Information Section (Part 12)**.

**Section A: Complete this section if the incident(s) involving (Alleged) Offender No. 2 was reported to the police.**

<b>Date the incident / abuse was reported to the police</b> (yyyy/mm/dd)	<b>Name of Police Service(s) and Division Number</b>	<b>Name of Police Officer(s) and Badge Number(s)</b>	<b>Occurrence Number</b>

Were charges laid by the police?

☐ No    ☐ Don't Know    ☐ Yes - if Yes, what were those charges?

Do you know the outcome of those charges?

☐ No    ☐ Yes - if Yes, please indicate    ☐ Conviction    ☐ Withdrawn  
☐ Acquittal    ☐ Absolute/Conditional Discharge

Is the police investigation or criminal proceeding ongoing?

☐ No    ☐ Yes

If there was a delay in reporting the incident/abuse to the police, please explain the reason for the delay:

Did you participate in the police investigation?

☐ Yes    ☐ No - Explain why:

Did you attend criminal court when required to do so? (e.g. if you were served with a summons)

☐ Yes    ☐ No - Explain why:

**Section B: Complete this section if the incident(s) involving (Alleged) Offender No. 2 was not reported to the police.**

What were your reasons for not reporting the incident/abuse to the police:

If the incident/abuse occurred when you were a child, was it reported to a Children's Aid Society?

☐ No    ☐ Yes - Provide details:



**Information for (Alleged) Offender Number 3**

<b>Name of (Alleged) Offender Number 3</b> (first and last name)	<b>Date of Birth</b> (yyyy/mm/dd)	<b>Address</b>	<b>Relationship to Victim</b> (e.g. stranger, friend, spouse, etc.)
<b>Date of incident (if only one)</b> (yyyy/mm/dd)	<b>Or, if more than one incident, provide dates ►</b>	<b>Date when abuse began</b> (yyyy/mm/dd)	<b>Date when abuse ended</b> (yyyy/mm/dd)
<b>Where did the incident/abuse occur?</b> (e.g. home, on the street, school, etc).	<b>Provide specific address where the incident/abuse occurred</b> (Note: It must have occurred in Ontario to be eligible for compensation) Street Address                      City/Town                      Province		

**Details of the Crime:**

In the space below, please describe what happened in your own words. If you require additional space, please use the **Additional Information Section (Part 12)**.

**Section A: Complete this section if the incident(s) involving (Alleged) Offender No. 3 was reported to the police.**

<b>Date the incident / abuse was reported to the police</b> (yyyy/mm/dd)	<b>Name of Police Service(s) and Division Number</b>	<b>Name of Police Officer(s) and Badge Number(s)</b>	<b>Occurrence Number</b>

Were charges laid by the police?

☐ No    ☐ Don't Know    ☐ Yes - if Yes, what were those charges?

Do you know the outcome of those charges?

☐ No    ☐ Yes - if Yes, please indicate    ☐ Conviction    ☐ Withdrawn  
☐ Acquittal    ☐ Absolute/Conditional Discharge

Is the police investigation or criminal proceeding ongoing?

☐ No    ☐ Yes

If there was a delay in reporting the incident/abuse to the police, please explain the reason for the delay:

Did you participate in the police investigation?

☐ Yes    ☐ No - Explain why:

Did you attend criminal court when required to do so? (e.g. if you were served with a summons)

☐ Yes    ☐ No - Explain why:

**Section B: Complete this section if the incident(s) involving (Alleged) Offender No. 3 was not reported to the police.**

What were your reasons for not reporting the incident/abuse to the police: -

If the incident/abuse occurred when you were a child, was it reported to a Children's Aid Society?

☐ No    ☐ Yes - Provide details:

**If there were more than three (alleged) offenders, please contact us at 416 326-2900 or 1 800 372-7463 for additional forms.**

**If you were injured / abused by multiple (alleged) offenders, please indicate which injuries were caused by whom (if you are able to do so). If you require additional space, please use the Additional Information section (Part 12).**

This image shows a single sheet of white paper with horizontal blue or grey ruling lines, typical of notebook paper. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



**Part 8: Medical and / or Treatment Information**

Please list the names, addresses and phone numbers of the professionals who treated you as a direct result of your injuries that resulted from the crime(s). This means people like doctors, dentists, hospital or clinic staff, counsellors, therapists and others.

**Emergency Treatment**

Hospital / Clinic Name	Telephone No.	Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)
Address (Street No., Street Name, City, Province)				

**Other Hospital / Clinic Treatment**

Hospital / Clinic Name	Telephone No.	Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)
Address (Street No., Street Name, City, Province)				

**Medical Doctor / Health Practitioner**

Name of Primary Doctor / Practitioner		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name	PO Box	Rural Route	
City/Town		Province	Postal Code	Country	
Estimated number of visits		Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)	

**Medical Doctor / Health Practitioner**

Name of Other Doctor / Practitioner		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name	PO Box	Rural Route	
City/Town		Province	Postal Code	Country	
Estimated number of visits		Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)	

**Psychiatrist/Psychologist/Counsellor/Therapist**

Name of Primary Treatment Provider		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name	PO Box	Rural Route	
City/Town		Province	Postal Code	Country	
Estimated number of visits		Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)	

**Psychiatrist/Psychologist/Counsellor/Therapist**

Name of Other Treatment Provider		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name	PO Box	Rural Route	
City/Town		Province	Postal Code	Country	
Estimated number of visits		Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)	

**Dentist / Dental Specialist**

Name of Dentist / Dental Specialist		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town		Province	Postal Code	Country	
Estimated number of visits			Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)

**Dentist / Dental Specialist**

Name of Other Dentist / Dental Specialist		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town		Province	Postal Code	Country	
Estimated number of visits			Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)

**Any Other Treatment Provider**

Name of Treatment Provider		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town		Province	Postal Code	Country	
Estimated number of visits	Type of Treatment		Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)

**Any Other Treatment Provider**

Name of Other Treatment Provider		Name of Practice/Clinic		Telephone No.	
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town		Province	Postal Code	Country	
Estimated number of visits	Type of Treatment		Treatment Date(s) ►	From (yyyy/mm/dd)	To (yyyy/mm/dd)

**Treatment for Multiple Injuries**

If you are filing this application for several injuries involving multiple (alleged) offenders, specify the type of treatment received for each injury (if you are able to do so).




**Part 9: Compensation from Other Sources**

Have you received (or will you receive) compensation from any other source in respect of this injury?

☐ No ☐ Yes - Provide details, specify amount and whether it has been paid:

Have you received any services through the Victim Quick Response Program (VQRP) in respect of this injury?

☐ No ☐ Yes - Provide details:

If the crime occurred at work and you filed a claim with the Workplace Safety and Insurance Board (WSIB), did you (or will you) receive a non-economic loss award?

☐ No ☐ Yes - Specify amount and whether it has been paid:

Has the court ordered the (Alleged) Offender to pay restitution to you?

☐ No ☐ Yes - Specify amount and whether it has been paid:

Have you commenced a civil court action against the (alleged) offender?

☐ No - Advise whether you intend to do so in the future?

☐ Yes - Provide the following information below:

Court File No.

Court Location

Amount awarded in civil action  
\$

Amount you have already received  
\$

**Part 10: Expense Information (if applicable)**

Please check all of the expenses that are presently known and any you think you might have in the future. If you do not know the exact cost, tell us how much you think you paid in the "Amount" column shown below.

**Are you claiming any expenses as a result of your injury?**

☐ No - Proceed to Part 11 ☐ Yes - Provide details below:

Please check all boxes that apply	Amount	Has this amount been paid?	Who paid the expense?	Please check if you are attaching original invoices/receipts
<input type="checkbox"/> Ambulance	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Hospital	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Dental	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Physio/Chiro/Massage	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Prescription drugs	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Counselling/therapy	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Prosthetic devices	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Other (please specify): ▶	\$	<input type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> No <input type="checkbox"/> Yes
<input type="checkbox"/> Travel to treatment (if more than 40 km each way from your residence)	From (city/town)	To (city/town)	No. of kms travelled roundtrip	
	From (city/town)	To (city/town)	No. of kms travelled roundtrip	
			No. of Trips:	
			No. of Trips:	

**Are any of the claimed expenses covered through other sources? (e.g. WSIB, ODSP, private insurance, etc.)**

☐ No - Proceed to Part 11 ☐ Yes - Provide details below:

**Part 11: Loss of Income (if applicable)**Did the crime occur at work? ☐ No ☐ Yes

If the crime occurred at work, did you file a claim with the Workplace Safety and Insurance Board (WSIB)?

☐ No ☐ Yes - Provide WSIB claim number:

Name of Adjudicator:

**Are you claiming a loss of wages/income?**

☐ No - Proceed to Part 12 ☐ Yes - as a result of my injury (provide details below)

☐ Yes - as a result of caring for an injured victim (provide details below)

**If you are claiming loss of wages/income and you worked for more than one employer, please use the Additional Information section (Part 12) to provide us with details regarding any additional employer(s).**

Were you employed when the crime occurred? <input type="checkbox"/> No <input type="checkbox"/> Yes		Were you self employed? <input type="checkbox"/> No <input type="checkbox"/> Yes		Occupation	
Name of Company / Employer		Contact Person		Telephone No.	
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town		Province	Postal Code	Country	
Did your injury cause you to miss work? <input type="checkbox"/> No <input type="checkbox"/> Yes - Specify dates ►		Start Date (yyyy/mm/dd)	End Date (yyyy/mm/dd)	Specify amount of lost income (net) \$	

Are you unable to return to work as a result of your injury? ☐ No ☐ Yes

Did you, or will you, receive any of the following due to your injury or while you are caring for an injured person?

☐ No ☐ Yes - Provide the following information below:

Please check all boxes that apply	Start Date (yyyy/mm/dd)	End Date (yyyy/mm/dd)	Amount you have received (or will receive)
<input type="checkbox"/> Employment Insurance benefits			\$
<input type="checkbox"/> Canada Pension Plan disability benefits			\$
<input type="checkbox"/> Workplace Safety and Insurance Board benefits			\$
<input type="checkbox"/> Indian Northern Affairs benefits			\$
<input type="checkbox"/> Private Insurance disability benefits Provide name of Insurance Company: ►			\$
<input type="checkbox"/> Other (please specify): ►			\$

**If you are seeking compensation for loss of wages/income as a result of caring for an injured victim, please provide us with your full name, address and telephone number along with details regarding the type of care you are providing below.**

Last Name		First Name			
Unit No.	Street No.	Street Name		PO Box	Rural Route
City/Town		Province	Postal Code	Telephone No.	

Details:

### Part 12: Additional Information (if applicable)

This part should be completed only if you require additional space to provide us with other information you think we need to know to properly assess your claim. Clearly identify the part of the application form to which the additional information relates. Please continue on a separate sheet if necessary, and make sure that your name is clearly stated on any additional sheet(s) of paper.

[illegible]



### Part 13: Agreement and Authorization for Release of Information

Please read this part carefully. There are certain conditions that apply when a person makes an application for and receives compensation. It is important that you are aware of these conditions. Your signature below shows that you have read, understood and agreed to what is listed below.

1. For the purpose of this application, **I The Undersigned**, hereby consent and authorize:
  - all hospitals, treatment facilities, health and medical practitioners from whom I received treatment, or that will be providing future treatment, to provide the Board at its request with information as to my injuries and treatment;
  - the Police to provide the Board at its request with relevant information;
  - correctional facilities, law enforcement and security agencies for public and private institutions/organizations to provide the Board at its request with relevant information;
  - the Workplace Safety and Insurance Board, Canada Employment Insurance Commission, Canada Revenue Agency, Canada Pension Plan and/or any other authority from which I may receive payments from Provincial or Federal funds to provide the Board at its request with relevant information;
  - my employer(s), my union, Canada Revenue Agency and any other authority to provide the Board at its request with information as to my earnings, income, and any benefits received or receivable;
  - all accident, sickness, or life insurance companies, or private pension schemes from which I have received or will receive payments, or other benefits, to provide the Board at its request with relevant information;
  - the Victim Quick Response Program to provide the Board with information regarding services reimbursed through its program.
2. **I Understand that:** (a) the Board may notify the authorities mentioned above that I have submitted an application and may also inform them of the Board's decision; (b) any information submitted to the Board is subject to the *Freedom of Information and Protection of Privacy Act* and the *Statutory Powers Procedure Act*; (c) it is my responsibility to inform the Board of any change in my address and that my claim may be dismissed following a period of time if the Board is unable to contact me; (d) my failure to cooperate with law enforcement (police, Crown, criminal court) may result in the denial of my claim; (e) if my behaviour contributed directly or indirectly to my injuries, this may result in the denial of my claim or affect the amount of compensation I receive; (f) payment by the Board is a payment of last resort and as such, I hereby agree, within a reasonable time period, to notify the Board in the event that benefits and/or other funds become available to me as compensation for this injury or death.
3. **I Agree to:** (a) give the Board all necessary assistance with respect to the above-noted matters; (b) notify the Board of any change in circumstances that may affect the assessment of my compensation; (c) repay the Board if payments are received from the (alleged) offender (restitution or civil action), insurance, WSIB, or any other government or private agency as compensation for this injury after receipt of payment from the Board.
4. **I Certify that:** all the above statements contained in my application are true to the best of my knowledge and belief.

If you have any questions, please contact this office at 416 326-2900 or toll free at 1 800 372-7463 or visit our website at [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca) for additional information.

The personal information on this form is collected under the authority of the *Compensation for Victims of Crime Act*, R.S.O. 1990, c.C.24. The principle purpose for which this information will be used is to make a determination of eligibility for an amount of compensation. Please be advised that any information submitted to the Board is subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31 and the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. Any questions regarding the collection of personal information should be directed to the Freedom of Information Coordinator, at the Criminal Injuries Compensation Board, 439 University Avenue, 4th Floor, Toronto, Ontario M5G 1Y8, Telephone: 416 326-2900 or Toll Free: 1 800 372-7463.

### Signature: Be sure to sign and date below

Print Name of Victim	
Signature of Victim X	Date (yyyy/mm/dd)

If the Victim is under the age of 18, or physically/mentally unable to manage his/her own affairs, the Applicant must sign below:

Print Name of Applicant	
Signature of Applicant X	Date (yyyy/mm/dd)





**Criminal Injuries Compensation Board**

4<sup>th</sup> Floor, 439 University Avenue  
Toronto, Ontario M5G 1Y8  
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# Guide

## Applying for Compensation for an Injury

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## Before You Start

Please read the following general information about the process of applying for compensation. This is not intended to be a complete guide to our process, but it does explain some of the things you will need to think about when deciding whether to apply.

This guide is intended to help you complete an application for compensation arising from an injury caused by a violent crime. A separate guide is available if you are applying for compensation arising from a death. If you have any additional questions, you may contact us toll free at 1 800 372-7463 (if you live in the Greater Toronto Area, call 416 326-2900) or visit our website at [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca).

The Victim Support Line (VSL), through FindHelp, provides a province-wide, toll-free telephone information line providing access to information for victims, in the language of their choice, 24 hours a day, seven days a week. If you would like to find out about services in your area, or would like to inquire about organizations that might be willing to assist with the completion of your application, call the Victim Support Line at 1 888 579-2888 (if you live in the Greater Toronto Area, call 416 314-2447) and choose option 1.

## General Information

### The Board

The Criminal Injuries Compensation Board (the Board) is an administrative tribunal that is governed by the *Compensation for Victims of Crime Act* (the Act). The Board makes decisions on the eligibility of applications for compensation under the Act after it holds hearings (oral, electronic or documentary hearings). The Board recognizes that no amount of money can truly compensate victims for the injury they have suffered.

### Who can apply?

Those injured in Ontario as a result of violent crime can apply. This includes those hurt or affected while making an arrest or assisting a peace officer with law enforcement duties, or while trying to prevent a crime.

Applications can be made by:

- the victim; or
- a person acting in an official capacity for the victim.

If a victim is under the age of 18, or unable to manage his/her personal affairs, a legal guardian must make the application.

## The Application Process

### Applying

If you believe you meet the criteria for a claim, complete an application form with as much detail as possible. Send the original application form (**typed or printed in ink**) to the address shown on the form, along with any supporting documents. Faxed or photocopied application forms are not accepted. It is important to keep a copy of any document you send us, as these documents will not be returned to you.

### Board Administrative Procedures to Support Applications

When we receive an application form, we assign it a file number. We will inform you of that number, and you should write it on any further documents you send to us. We may contact you to ensure that the application form is complete. We require information and documents to support the claim. These documents may include receipts, medical or counselling reports, police reports, court files and so on. In some instances, we can assist in obtaining documents.

When we determine that the file is substantially complete, we will schedule a documentary, electronic or oral hearing. We will tell you the time, location and type of hearing we will hold. You are responsible for ensuring that we have your current contact information (e.g. telephone numbers and mailing address).



## Completing the Application Form

To make it easier to move between the guide and the form, the headings in this guide match the headings on the application. For example, "Part 1 - Victim Information" below is the same as the heading for the first section of the form.

### Part 1 – Victim Information

The victim is the person who has been injured by a violent crime. If you are the victim, you must ensure that your contact information is correct. You must also inform us if your contact information changes while we are processing your claim to ensure that we can send documents to the correct address and can contact you directly, if necessary.

### Part 2 – Applicant Information

This section is completed if you are applying on behalf of someone else (the victim). If you, as an applicant, have a Court Order confirming custody, wardship or guardianship of a minor child (under the age of 18), or if you have been appointed as an attorney for the victim pursuant to a Continuing Power of Attorney for Property, we require copies of these documents, and you must send them with the completed application. You may also complete this section if you witnessed an extremely violent crime against a close family member.

### Part 3 – Legal Representation

While it is not necessary for you to have a lawyer, agent or paralegal, you may choose to have one. Once you hire a legal representative, we will communicate only with your lawyer, agent or paralegal.

### Part 4 – Types of Compensation

We require original receipts and/or supporting documents to compensate you for any of the items listed below.

- **Treatment Expenses:** May be awarded for ambulance fees, hospital charges, prosthetics, eyeglasses, prescriptions, dental expenses, counselling expenses, etc. Only expenses not payable by any other source will be considered.
- **Travel to Treatment Expenses:** May be awarded if you are required to travel more than 40 km each way from your residence for treatment.
- **Loss of Income:** May be awarded to you (or a person responsible for your care) if you were unable to work because of injuries arising from the incident. See Part 11 (Loss of Income) for more information.
- **Pain and Suffering:** Awards are based on several factors, including:
  - (a) the nature of the crime/abuse,
  - (b) any breach of trust or abuse of power,
  - (c) the age and vulnerability of the victim,
  - (d) the degree of violence involved,
  - (e) the seriousness of the injuries sustained or the extent of the harm caused,
  - (f) the recovery period,
  - (g) the possibility of a continuing disability,
  - (h) the impact the crime/abuse had on the victim's life,
- **Other:** Costs associated with the support of a child born as a result of a sexual assault.

#### We do not award compensation for the following:

- (a) crimes committed outside the Province of Ontario,
- (b) damaged, lost or stolen property,
- (c) motor vehicle incidents (except where the vehicle was used deliberately to assault or harm another person),
- (d) legal fees for criminal court and/or civil suits,
- (e) distress and/or loss of income for attending criminal court,
- (f) workplace accidents (claim should be filed with the WSIB),
- (g) monetary loss due to fraud,
- (h) claims for pain and suffering from family members of victims (except when the criteria for mental or nervous shock are met; see Fact Sheet on website re: Mental or Nervous Shock.),
- (i) neglect or abandonment of children (except where it amounts to criminal negligence),
- (j) accidental injuries (slip and falls),
- (k) negligence by an institution/organization,
- (l) malicious prosecution of accused persons.



## Part 4 – Types of Compensation Continued

### Interim Awards & Assistance

If you need immediate financial or other assistance, call the Victim Support Line toll-free at 1 888 579-2888 (if you live in the Greater Toronto Area, call 416 314-2447) to find out about other services available in your community (e.g. Victim Quick Response Program).

You may seek an interim award prior to a hearing for support, funeral expenses and/or medical/treatment expenses (s.14 of the *Act*). We may exercise our discretion to make such an award only in exceptional circumstances when a victim can demonstrate an urgent need for the funds prior to a hearing. To be considered eligible to receive compensation before a hearing, you must provide sufficient documentary evidence, such as police and/or medical records, to lead us to conclude that an award would likely be made at the time of the hearing. If you wish to apply for an interim award, please contact us toll free at 1 800 372-7463 (if you live in the Greater Toronto Area, call 416 326-2900).

### Maximum Awards

When one person is injured as a result of a violent crime, the **maximum** award that we may pay as a lump sum is \$25,000. This amount is awarded only in the most serious of cases. When more than one person has been injured as the result of a violent crime, we can award a maximum of \$150,000 as a lump sum to all of the claimants.

Ongoing monthly periodic awards can be made in certain cases when there is an ongoing financial loss (e.g. lost income, child care expenses). When a periodic award is made, the amount of the lump sum component cannot exceed \$12,500 (s.19(1) of the *Act*). The **maximum** amount that we may award as a periodic payment is \$1,000 per month. Periodic payments cannot exceed a total of \$365,000. Periodic awards are reviewed on an annual basis to determine whether there is still a need for the funds.

### Ontario Disability Support Program (ODSP) and Ontario Works (OW)

If you receive an award from us while you are also receiving benefits from either the Ontario Disability Support Program or Ontario Works, our award may have an impact on those benefits. We recommend that you contact your ODSP/OW caseworker for more information.

## Part 5 – Request for Extension where Crime occurred more than two years ago

An application for compensation must be made within two years of the date of the injury of the victim. However, we may extend the time for filing where it is warranted (s.6 of the *Act*). When we receive an extension request, we take into consideration several factors, including:

- (a) the amount of time that has passed since the incident occurred,
- (b) the reasons for the delay in filing an application,
- (c) whether there would be sufficient evidence to support an application and to properly and fairly adjudicate the claim, and
- (d) all the relevant circumstances of the incident, that is, the severity of the violence, whether the offence involves historical sexual/physical abuse, the severity of the injury, the context within which the incident occurred and the extent to which the victim's behaviour may have contributed to the situation that resulted in his/her injury.

If the crimes involved ongoing assaults/abuse that ended less than two years ago and the crimes were committed by the same individual, you do not need to request an extension of the limitation period.

The Board will render its decision on the extension based on written information you provide including the information you have given in the application form. If your request for an extension is approved, your application for compensation can proceed. If your request for an extension is denied, we will send you a letter explaining our decision. You may appeal this decision to the Superior Court of Justice.

## Part 6 – Details of the Crime(s)

If there has been a criminal conviction against the individual who committed the crime, we will refer to him/her as the "offender." In all other circumstances, we will refer to him/her as the "alleged offender." Please provide us with the full name, birth date and full address of the (alleged) offender(s), if known to you. We are obligated, by law, to make a reasonable attempt to locate and notify the (alleged) offender(s) of your application. **If you have concerns about our notification of an (alleged) offender or any disclosure of personal information to the (alleged) offender, you must tell us during the application process.**

We require sufficient details regarding the violent crime to ensure the incident meets the eligibility criteria for compensation (s.5 of the Act). We may award compensation only when a victim was injured in the Province of Ontario as a result of:

- (a) a violent crime, or
- (b) while making an arrest or assisting a peace officer with his/her law enforcement duties, or,
- (c) while trying to prevent a crime.

The following are examples of the types of evidence we may consider to confirm that a violent crime occurred:

- (a) the victim's description of the incident,
- (b) police/court records,
- (c) proof that the offender was convicted of the crime,
- (d) letters or testimony of friends or relatives,
- (e) medical or treatment reports.

Please note that you may include allegations involving multiple (alleged) offenders within the same application, even if the crimes are not related in any way. When it is clear that the emotional and/or psychological impact of abuse has occurred over a period of time, the Board can make a global assessment of pain and suffering after considering the cumulative effect of all occurrences on a victim. If you choose to seek compensation for incidents involving some (alleged) offenders and not others, you may not be able to claim against the others at a later date.

We must review all of the relevant circumstances, including the extent to which the victim's behaviour contributed to the circumstances that resulted in the injury, when we decide whether to award compensation and the amount (s.17(1) of the Act). Accordingly, we must consider the context in which the incident took place, including any involvement the victim may have had in criminal activities. We will request information from the police regarding their investigations of the crime.

We may refuse compensation or reduce the amount of compensation if we are satisfied that the victim has refused reasonable cooperation with or failed to report promptly the offence to a law enforcement agency (s.17(2) of the Act).

If the crime was not reported to the police you may need to identify individuals who witnessed the crime or were aware of it, and include with your completed application form letters of support written by these individuals (e.g. neighbours, friends or family members).

If there was a criminal trial as a result of the crime, we may obtain documents regarding the outcome on your behalf. If the matter is still before the courts, we may not be able to proceed with your hearing until the trial is completed, depending on the circumstances of the case. We decide this on a case-by-case basis.

## Part 7 – Details of Injuries

In assessing compensation, we consider several factors that include the seriousness of the injuries sustained or the extent of the harm caused, the recovery period, the possibility of a continuing disability, the impact the crime/abuse had on the victim's life, as well as other factors depending upon the case.

The following are examples of the types of evidence we may consider to confirm the victim's injuries:

- (a) hospital records,
- (b) medical records/reports,
- (c) ambulance records,
- (d) dental records/reports,
- (e) police records/reports,
- (f) counselling/therapy records/reports,
- (g) chiropractic records/reports,
- (h) physiotherapy records/reports,
- (i) the victim's own description of the injuries,
- (j) victim impact statements.

## Part 8 – Medical and/or Treatment Information (for injuries)

Medical and treatment information assists us in assessing a claim and in deciding appropriate compensation. We will request reports from treatment providers to make a decision on the claim. It is your responsibility to obtain these reports, or ensure they are returned directly to us by your treatment providers. You will be provided with instructions for doing so during the processing of your application. We will pay the treatment providers directly for providing us with records or reports. We will pay the full cost of each hospital record and up to \$100 for each medical and therapy report that we request, but we will not pay for records or reports that we have not specifically requested.

## Part 9 – Compensation from Other Sources

You must inform us of any other compensation you have received or will receive in respect of the incident (s.17(3) of the *Act*). This information will be taken into consideration when we decide whether to make an award for compensation and the amount of the award.

If you have a restitution order, please send it to us with your completed application. Similarly, if you have started a civil action, you must provide copies of the Statement of Claim, Statement of Defence, or any settlement documents that were issued to you. If you are successful in the civil action, you must reimburse the Board for any compensation you receive from us (s.26(5.1) of the *Act*).

## Part 10 – Expense Information

We may compensate you for reasonable expenses that are incurred or will be incurred as a direct result of the injury that resulted from the crime/abuse (s.7(1)(a)(f) of the *Act*).

You must provide **original** receipts and/or supporting documents before we will compensate for expenses. Please send the original documents with the completed application.

If you have not yet received a bill, do not wait for it before submitting your application. Submit the completed application and forward the bill to us when you receive it. Keep copies of the bills and receipts as we will not return the originals.

## Part 11 – Loss of Income

We may compensate you for your loss of wages/income as a result of a total or partial disability affecting your ability to work (s.7(1)(b) of the *Act*). This type of award may be paid if the following criteria are met:

- (a) you were working at the time of the incident (employed or self-employed) or had a firm offer of employment that could not be carried out because of the injuries suffered in the incident; and
- (b) you submit supporting financial documentation to the Board (e.g. Employer's Report, Income Tax Returns, etc.); and
- (c) the Board is provided with medical documentation that supports the disability period being claimed.

Your employment information is needed to calculate net income loss, and we must take into consideration any benefit, compensation or indemnity paid or payable to you from any source other than general welfare assistance or family benefits (s.17(3) of the *Act*). We may award up to a maximum of \$1,000 per month for lost income. Generally, this is paid out to a maximum of \$50 per day or \$250 per week. Loss of income does not include loss of rental income or loss of business profits. A person responsible for the care of an injured victim may also be eligible to receive compensation for loss of income.

## Part 12 – Additional Information

Use this section to provide any additional information that you believe we should consider that has not already been included in other sections of the application form. If adding to information in another section, clearly identify the part of the form to which the additional information relates.

## Part 13 – Agreement and Authorization for Release of Information

There are times when we must obtain or share your personal or health information so that we can make decisions on a claim. Any information the Board asks for, or any information it releases, is governed by the *Freedom of Information and Protection of Privacy Act* and the *Statutory Powers Procedure Act*.

### What's Next

#### The Hearing Process

Our process does not interfere with your right to sue the (alleged) offender(s) in a civil action.

#### Alleged Offender Notification

We will advise you whether an (alleged) offender will participate in the hearing process. It is important to understand that, by law, the (alleged) offender is entitled to be notified of a Board hearing and may choose to participate. If you have concerns about our notification of an (alleged) offender or any disclosure of personal information to the (alleged) offender, you must tell us during the application process.

#### Documentary Hearing

If your claim can be assessed based on written evidence alone, you won't need to attend a hearing. One of our adjudicators will make a decision based on the information in the file.

#### Oral Hearing

If an oral hearing is needed, you must be present. During an oral hearing, the adjudicators will ask questions about the incident, injuries and associated costs. Oral hearings are generally open to the public, but may be closed if:

- (a) there are public safety concerns,
- (b) there are ongoing criminal proceedings, or
- (c) the claim involves a sexual offence, spousal abuse or child abuse

If you have concerns about participating in an open hearing, you must tell us during the application process.

#### Electronic Hearing

In certain cases you or others may participate in a hearing by telephone while the adjudicators are present at a hearing site. An electronic hearing is generally held when the Board determines there is a good reason not to have the parties in the same room. The Board may combine an electronic and oral hearing in one proceeding.



## Board Considerations

In assessing a claim, we must consider the following:

- (a) whether a violent crime under the Criminal Code has occurred, or an arrest, or whether the victim was assisting a peace officer with his/her law enforcement duties, or trying to prevent a crime from occurring. The Board considers the provisions of the Criminal Code in effect at the time of the incident,
- (b) all of the relevant circumstances, including any behaviour of the victim that caused or contributed to the injuries,
- (c) whether the victim has refused reasonable cooperation with or failed to report the offence promptly to the police,
- (d) whether the victim has received any benefits paid by private insurance, the Workplace Safety and Insurance Board or any other source, as a result of the crime (not including Ontario Works or Ontario Disability Support Program).

## Board Decisions

Following the hearing, you will receive notice of the adjudicator's decision.

### Awards

If you are awarded compensation, we will attach a cheque to the decision.

### Denials

If your claim for compensation is denied, you will be provided with reason(s) for the denial.

### Reimbursement

If you are successful in a civil action in a related matter, you must reimburse the Board for any compensation you received.

## Review or Appeal of Decisions

If you do not agree with the decision in your case, the following options are available:

1. If a single adjudicator made a decision about your claim, you can make a written request within 15 days for a review hearing with two new adjudicators.
2. If a panel of two or more adjudicators made a decision about your claim, you can appeal to the Superior Court of Justice, Divisional Court, within 30 days of receiving the decision. Appeals can only be made on a point of law.

Our contact centre is available to assist you should you have any questions not answered in this guide. You may call us toll free at 1 800 372-7463 (if you live in the Greater Toronto Area, call 416 326-2900) or please visit our website at [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca)





## Frequently Asked Questions

**These are some of the questions we're asked most often. For answers to other questions, see the Application and Hearing Process.**

### **Are there any other programs that provide money to victims of crime?**

The Victim Quick Response Program provides eligible victims with emergency funds for certain expenses immediately following a violent crime. Applications must be made within 45 days of the crime (or 90 days for counselling expenses). Tel. GTA: 416-314-2447 or toll-free: 1-888-579-2888

The Financial Assistance for Families of Homicide Victims program provides up to \$10,000 per homicide to eligible parents and spouses/common-law partners of homicide victims. Tel. GTA: 416-212-9164 or toll free: 1-855-467-4344.

### **Is there a time limit for filing an application?**

You must apply for compensation within 2 years of the date of the incident, unless you were a victim of sexual assault or domestic assault. We can extend the 2-year period if there is a good reason, but you will have to request an extension and explain the reasons for the delay on the application form.

### **Do I need a lawyer to apply?**

CICB does not expect you to have a legal representative at a hearing, but you can have one if you want. A legal representative could be a lawyer or paralegal. If you have a legal representative, we will communicate only with that person and not with you.

### **Will the person who committed the crime find out about my application?**

The person you say is responsible for the violent crime is called the "alleged offender". If a court has found that person guilty of the crime he or she is called the "offender".

The alleged offender is entitled to participate in a CICB hearing. We will send them a copy of your application but we'll remove your phone number, address and information about your injuries. They will have the chance to submit evidence, speak at the hearing, receive a copy of the decision and question you. If the alleged offender chooses to participate in the hearing, they will not be in the same room as you. They will be on the phone or video conference. We will tell you in advance if an alleged offender will participate in the hearing process.

If you have concerns about an alleged offender being notified or receiving a copy of your application, you must tell us during the application process.

## **Do I have to attend a hearing?**

If your claim can be assessed based on written evidence alone, you won't need to attend a hearing. One of our adjudicators will make a decision based on the information in the file. This is called a documentary hearing. If an oral hearing is needed, you must be present. During an oral hearing, the adjudicators will ask questions about the incident, injuries and associated costs.

For more information about hearings, see the Application and Hearing Process.

## **Where are hearings held?**

We hold hearings in 21 locations across Ontario: Barrie, Belleville, Cornwall, Hamilton, Kenora, Kingston, Kitchener, London, Moosonee, North Bay, Orillia, Ottawa, Peterborough, Sault Ste. Marie, Sioux Lookout, St. Catharines, Sudbury, Thunder Bay, Timmins, Toronto and Windsor.

For more information about hearings, see the Application and Hearing Process.

## **What if I move or change my phone number after I file my application?**

If you move or change your phone number, call us or fill out the Notice of Change of Address and submit it to the CICB as soon as possible. If we can't reach you by phone or mail, your application may be dismissed.

## **If I apply to the CICB, can I still sue the person who committed the crime?**

You can still sue the offender or alleged offender a civil action. However, if you are successful in a civil action, you'll have to pay back any compensation you've received from us.

## **Can I receive compensation before my hearing is held?**

You can ask for money before your hearing for income support, funeral expenses and/or medical/treatment expenses. This is called an interim award. We only make interim awards if you can show that you need the money urgently before your hearing. We may need to see evidence, such as police and/or medical records, which would lead us to conclude that an award will likely be made at the time of the hearing. To apply for an interim award, contact us.

## **What happens if I am also receiving benefits from Ontario Disability Support Program (ODSP) or Ontario Works (OW)?**

A CICB award may impact your ODSP or OW benefits. We recommend that you contact your ODSP/OW caseworker for more information. For more information, see ODSP/OW Fact Sheet.

## **What if I need more treatment after my hearing?**

If your circumstances change after a hearing, we can vary an award. A variation can only be granted if an award was made at the original hearing. For more information, see the Section 25 Fact Sheet.





**Criminal Injuries Compensation Board**  
Ministry of the Attorney General

**Rules of Procedure**

**May 2014**

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## **Rule 1: GENERAL MATTERS**

### **1.1 Application and Interpretation of Rules**

These Rules apply to all proceedings before the Board under the *Compensation for Victims of Crime Act (CVCA)* and will be liberally interpreted and applied by the Board to facilitate an accessible process and ensure the fair, just and expeditious resolution of applications.

The Board is also subject to the *Statutory Powers Procedure Act (SPPA)*, the *Freedom of Information and Protection of Personal Privacy Act (FIPPA)*, and the *French Language Services Act (FLSA)*.

### **1.2 Guiding Principles**

These rules:

- a) Facilitate the timely completion of applications;
- b) Facilitate the fair and just resolution of matters before the Board;
- c) Ensure the conduct of a proceeding is proportional to the complexity of the matter; and
- d) Allow flexibility in the conduct of a proceeding, in accordance with the principles of procedural fairness and natural justice.

### **1.3 Effect of Non-Compliance**

A failure to comply with a requirement in these Rules does not invalidate a proceeding. Where there has been a failure to comply with a requirement in these Rules or a direction of the Board, the Board may direct an appropriate action for the circumstances.

### **1.4 Defects in Form and Substantial Compliance**

No proceeding is invalidated due to a non-material defect or other irregularity in form. It is sufficient if there is substantial compliance with a form, notice or document required by the *SPPA* or by these Rules.

### **1.5 Powers of the Board**

The Board has the power to make decisions with respect to the effective processing and hearing of claims, including the power to:

- a) Accept or reject an application for compensation;
- b) Establish time limits for receipt or exchange of relevant information;
- c) Direct pre-hearing conferences be held;
- d) Direct the matter be resolved by written hearing, oral or electronic hearing, or a combination.

### **1.6 Issuing Directions**

The Board or a Panel may, at any time before the final decision, issue directions or Interim Orders regarding the procedure to be adopted in the proceeding. The Board may include conditions in the direction or Interim Order as may seem appropriate.

### **1.7 Policies, Guidelines and Practice Directives**

The Chair of the Board may issue Guidelines, Policies and Practice Directives, including with respect to how applications generally or a class of applications will be addressed.

### **1.8 Board's Control of its Own Process**

The Board may exercise any of its powers under these Rules at the request of a party or on its own initiative. Where something is not provided for in these Rules, the practice may be decided by referring to a similar provision in these Rules.

### **1.9 Waiver of Procedural Requirements with Consent**

The Board may, with the parties' consent, waive any procedural requirements of the *Statutory Powers Procedure Act*, the *Compensation for Victims of Crime Act* or these Rules.

**1.10 Computing Time**

Where an Order of the Board or a Rule refers to a number of days, the reference is to calendar days. Where an action is to be done within a specified number of days, the days are counted by excluding the first day and including the last day. When the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

**1.11 Changing Time Periods**

The Board may lengthen or shorten the time for the performance of any obligation under these Rules.

**Rule 2: APPLICATION ISSUES****2.1 Form of Application**

An application must be made using the application forms provided by the Board. The applicant shall file an application that has been signed by the applicant or the person authorized under Rule 2.2.

The applicant shall answer every question in the application form in sufficient detail and provide sufficient information about the claims made and the facts asserted to allow the file to be prepared for hearing.

**2.2 Applications on Behalf of Another**

An application may be made on behalf of another individual by:

- a) A parent or legal guardian where the person for whom compensation is claimed is a minor; or
- b) Any individual with the legal authority to make financial decisions for the person for whom compensation is claimed because he/she is incapable of making decisions for himself/herself.

A minor child automatically becomes the applicant upon reaching the age of majority unless he/she lacks capacity to make decisions for himself/herself.

**2.3 Preliminary Review of Application**

Applications will be reviewed to ensure that the application is complete, and the matter is within the jurisdiction of the Board.

**2.4 Grounds for Refusal to Accept and Process an Application**

The Board may refuse to accept and process an application for compensation on the grounds that:

- a) The application form does not provide the information required to enable the Board to process the application;
- b) The application form does not disclose a claim under the CVCA;
- c) The application is filed more than two years after the alleged crime of violence; or
- d) The application does not meet the requirements of Rule 2.1.

**2.5 Grounds for Resuming Processing**

Processing of an application may be resumed if the information and/or documents are brought into substantial compliance with the requirements as provided by the notice under Rule 2.6.

**2.6 Notice Regarding Not Processing**

The Board shall notify the applicant or party if it is not able to process the documents and of:

- a) The grounds upon which the decision not to process was based, and reasons for the decision;
- b) The way in which the ground may be resolved and how processing may be resumed;
- c) Any deadline for the party to take the action required in order for processing to be resumed; and
- d) The consequence of not taking the action within the specified time limit.



**2.7 Results of the Notice of Not Processing**

If a party does not respond to a defect as stated in the Board's notice, the Board may issue an Order dismissing the proceeding. If the applicant or party responds to every defect identified in the notice within the time permitted, the Board may:

- a) Dismiss the proceeding without a hearing if the response does not correct the defects;
- b) Direct that the notice be cancelled and processing of the proceeding be resumed;
- c) Continue the inactive status of the proceeding while extending the deadlines in the notice to correct one or more defects identified in it, with or without giving additional direction regarding the defects and the actions needed to resume processing of the proceeding; or
- d) Make such other decision as is appropriate in the circumstances.

**2.8 Applications Submitted Beyond the Two Year Limitation Period**

Where an application is submitted more than two years after the date of the injury, the application is deemed not to have been accepted until the Board extends the time for filing. The decision to accept or refuse an application submitted late is based on the information contained in the application form, the reasons for the delay provided by the applicant in the application form, and any other material relevant to that decision.

Where an application submitted beyond limitation period is not accepted, an applicant who disagrees with the decision may provide submissions requesting review of the refusal, in which case a Board member or Chair shall review the submissions and decide whether to accept the application or refuse it.

**2.9 Abandoned Claims/Failure to Respond**

Where an applicant does not complete the information required to fulfil an application, or respond to any formal request or notice within the time provided, the Board may:

- a) Suspend processing of the application;
- b) Dismiss the application without a hearing, in accordance with Rule 2.11; or
- c) May proceed to hear the application without participation of the applicant, in accordance with Rule 3.4.



**2.10 Resuming Processing in Special Cases**

Where a claimant applies on behalf of a minor, but does not pursue the claim, another claimant is entitled to bring a claim at a later date to the Board on behalf of the minor, or the minor is entitled to reapply and bring a claim on his/her own behalf upon turning 18 years of age.

Where a claimant applies on behalf of a person who is incapable of managing their own affairs, but does not pursue the claim, another claimant is entitled to bring a claim at a later date to the Board on behalf of that person.

**2.11 Dismissal of Application without a Hearing**

The Board may dismiss an application without a hearing for the following reasons:

- a) The application lacks some aspect of the statutory requirements for bringing an application;
- b) The application is an abuse of process, vexatious or commenced in bad faith;
- c) The proceeding relates to matters that are trivial, frivolous or superficial;
- d) The application relates to matters that are outside the jurisdiction of the Board;
- e) There is no reasonable prospect that the application will succeed;
- f) Where the evidence submitted shows that injuries were fleeting, minor or negligible;
- g) Where the victim-applicant dies prior to commencement of a hearing;
- h) The substance of the application has been appropriately dealt with in another proceeding; or for
- i) Any other reason which, in the Board's discretion it deems appropriate.

**2.12 Notice of Intention to Dismiss and Procedure**

Before dismissing an application under Rule 2.11 the Board shall give notice of its intention to dismiss the application for reasons referred to in this section. Where the Board has made reasonable efforts to locate a claimant and has failed, the Board may dismiss the application without notice.

The notice of intention to dismiss the application shall set out the reasons for the dismissal and inform the parties of their right to make written submissions to the Board with respect to the dismissal within 30 days from receipt of the notice. Failure of a party to file written submissions within the time permitted by the notice shall be deemed to constitute acceptance of the dismissal proceeding without a hearing.

The notice shall be sent to the most current address filed with the Board and shall be deemed to have been received by the party on the fifth day after the day it is mailed.

The Board may, after considering the submissions filed:

- a) Dismiss the proceeding without a hearing without further reasons;
- b) Decide the matter should proceed, with conditions as to the conduct of the proceedings

When the Board dismisses an application under this rule an Order of the dismissal shall be provided by regular letter mail to the most current address filed with the Board and shall be deemed to have been received on the fifth day after the day it is mailed.

### **2.13 Withdrawal in Writing and Consent of the Board**

An applicant may withdraw an application or part of an application by sending written notice to the Board. Where the Board consents to the withdrawal of the application, written notice of the withdrawal will be sent.

### **2.14 Delivering a Document to the Board**

A document may be delivered to the Board as follows:

- a) By hand to the offices of the Board at 439 University Avenue, 4<sup>th</sup> Floor, Toronto, Ontario, M5G 1Y8;
- b) By mail or courier to the offices of the Board at 439 University Avenue, 4<sup>th</sup> Floor, Toronto, Ontario, M5G 1Y8. A document sent by mail is delivered the day it is received by the Board;
- c) By fax to the offices of the Board 416.326.2883;
- d) By any other means allowed by the Board.

A document sent by fax to the Board is delivered on the day it is sent, if sent on or before 4.00 pm, or, if sent after 4.00 pm, on the next business day;

**2.15 Delivering a Document to Parties/Participants in the Process**

A document may be delivered to a party or participant as follows:

- a) By mail or courier to the address for delivery provided by them;
- b) By email to the email address for delivery provided by them;
- c) By fax to the fax number for delivery provided by them;
- d) By any other means permitted by the Board.

A document sent by mail to a party or participant is deemed delivered five days after the post mark date, if that day is a business day, or the next business day five days after the post mark date, if the fifth day falls on the weekend or holiday.

A document sent by email or fax to an applicant, respondent, or other party is delivered on the day it is sent if sent on or before 4.00 pm, or, if sent after 4.00 pm, on the next business day.

**Rule 3: NOTICE OF HEARING****3.1 Who Gets Notice of Hearing**

Unless otherwise ordered, individuals who are to receive a notice of hearing shall include those persons identified section 9 of the CVCA, including the Alleged Offender and the Attorney General and any additional persons as determined by the Board.

**3.2 Delivery of Notice**

A notice of hearing required to be served under section 9 of the CVCA shall be served by first class prepaid regular mail. The Board may, where it is deemed necessary, serve a notice of hearing by registered mail, by courier or facsimile transmission with proof of transmission to the person or to the office of the representative of that person.

**3.3 Content of Notice**

A notice of hearing shall indicate:

- a) The time and place of the hearing;



- b) The purpose of the hearing;
- c) The statutory authority under which the hearing is to be conducted;
- d) That if the person notified does not attend at the hearing, or send a representative, the Board may proceed in that person's absence and the person will not be entitled to any further notice in the proceeding;
- e) Where an electronic hearing has been scheduled, details of the manner in which the hearing is to be conducted shall be included; and
- f) Any other information or directions it considers necessary for the proper conduct of the hearing.

### **3.4 Non-Attendance or Non-Participation**

Where a notice of hearing has been given in accordance with these Rules, the *SPPA*, and the *CVCA*, and a party does not attend at the hearing, the Board may proceed in the party's absence and he or she shall not be entitled to any further notice in the proceeding.

## **Rule 4: PARTIES AND OTHER PARTICIPANTS**

### **4.1 Defining Parties**

The following persons are parties for the purpose of these Rules:

- a) Persons specified as parties by section 9 of the *CVCA*;
- b) Persons entitled by law to be parties to the proceedings; and
- c) Persons who, in the opinion of the Board, should be added as parties.

The Board may add a party under clause (c) for all or part of the proceeding, and may make any other Order as seems just to minimize prejudice or delay to the other parties.

### **4.2 Adding Parties**

In determining whether a person should be added as a party, the Board may consider any of the following factors:

- a) Whether the person has a genuine interest in the subject matter of the proceeding;
- b) Whether the person may be adversely affected by the proceeding;

- c) Whether there are issues of law or fact which exist in common between the person and one or more of the parties; and
- d) Whether there will be any undue delay or prejudice to other parties.

#### **4.3 Legal Representation**

A party may represent themselves in a proceeding or have legal representation. A legal representative is a person licensed by the Law Society of Upper Canada or a person authorized to provide legal services in accordance with the *Law Society Act* and its regulations and by-laws. Written authorization of legal representation is required.

A legal representative for a party, or any person permitted by the Board to assist the party, may appear without the party with the permission of the Board. Legal counsel must notify the Board if they cease to represent the party and must provide the Board with the most current contact information for the party.

#### **4.4 Other Assistance**

With the permission of the Board, a party may be assisted by a friend, family member or other individual while representing themselves in the proceeding.

#### **4.5 Communications through Representative**

A party that has a representative shall communicate with the Board through the representative. A party may only have one representative designated as the point of contact at any time. Board staff will communicate with a represented party through the party's representative.

#### **4.6 Communications to Board and Other Parties**

A party or participant who communicates with the Board may be directed to provide a copy or notice of the communication to the other parties or participants prior to the Board dealing with the matter.

#### **4.7 Death of Victim-Applicant Before Release of Decision**

If a victim-applicant dies before the matter has been heard, the application is a nullity. If the victim-applicant dies after the case was heard, the Board will make a decision.



## **Rule 5: PRE-HEARING MATTERS**

### **5.1 Motions**

A party may bring a motion before or during the hearing. A motion may concern the jurisdiction of the Board, a request for an adjournment, party status, a significant legal issue, or any other procedural matter.

### **5.2 Procedure on Motions**

The Board may direct that the motion be made in writing or by any other means and may direct the procedure to be followed and set applicable time limits and conditions.

### **5.3 Constitutional Questions or *Charter* Issues**

When a party seeks to raise a constitutional question or *Charter* issue in a proceeding, that party shall serve a Notice of Constitutional Question on the Board, the other parties, and the Attorney General of Ontario and Canada, in accordance with the *Courts of Justice Act*.

### **5.4 Directions on Motion**

At any time, the Board may make directions requiring a party to take action the Board considers may assist the conduct of the proceedings or the matter being resolved.

### **5.5 Pre-Hearing Conference**

Where deemed appropriate under the circumstances, the Board may order that a pre-hearing conference be conducted for the purposes of dealing with any procedural or legal matter .

If counsel participates in a pre-hearing conference without the parties, each counsel must have the authority to make agreements and give undertakings respecting the matters to be addressed at the pre-hearing conference.

### **5.6 Format of Pre-Hearing Conference**

The Board shall give notice of a pre-hearing conference to the parties and to such other persons as the Board considers necessary. The Board may direct parties to exchange and file documents or submissions prior to the pre-hearing conference.

A pre-hearing conference may be conducted by a Chair, Vice-Chair or member of the Board who is not on the Panel hearing the matter. A pre-hearing conference may be conducted orally or electronically. A pre-hearing conference shall not be open to the public unless the Board so orders.

### **5.7 Results of Pre-Hearing Conference**

Agreements made and undertakings given at a pre-hearing conference, as well as areas of disagreement, shall be recorded in a Memorandum or Interim Ruling prepared by or under the direction of the Chair, Vice-Chair or Board member conducting it. These agreements shall govern the conduct of the proceeding.

Additional directions may be issued based on the results of the pre-hearing conference to ensure efficient adjudication of the matter.

## **Rule 6: ADJOURNMENTS & STAYS**

### **6.1 Circumstances for Adjournment**

A hearing may be adjourned if the Board or Panel is satisfied that the adjournment is appropriate or necessary to permit a fair hearing to be conducted. Requests shall be made as soon as the need for an adjournment comes to the attention of the party, and where possible, before the date of hearing.

### **6.2 Refusal to Grant Adjournment**

Except in extraordinary circumstances, the Board will refuse an adjournment where:

- a) The hearing date was scheduled as peremptory; or
- b) The party requesting the adjournment was unreasonably delayed in retaining a representative and the lack of representation is the only ground for the adjournment.



### **6.3 Stays/Abeyance**

The Board may order a stay of proceedings or hold an application in abeyance where it deems necessary pending the outcome of any other legal proceedings, including criminal trials, civil actions, or other inquiries/investigations.

## **Rule 7: HEARINGS GENERAL**

### **7.1 Written Hearings**

Hearings at the Board are conducted in writing provided that the Board is satisfied that no party would be materially prejudiced. A party who objects to a written hearing, may request an oral hearing and shall notify the Board on receipt of the notice of hearing and provide the Board, in writing, with reasons for the objection.

Where the Board directs the conduct of a written hearing, the Board shall also provide procedural directions to the parties and to any identified participants. The procedural directions shall indicate:

- a) The date and purpose of the hearing, and details about the manner in which the hearing will be conducted;
- b) The time periods during which parties are to file documents for the written hearing; and
- c) That documents filed by a party or participants may be disclosed to the other parties, and each party will have an opportunity to make submissions in writing to the Board.

In a written hearing there shall be no examination by written questions, unless ordered by the Board.

### **7.2 Electronic Hearings**

The Board may conduct a hearing as an electronic hearing provided that it is satisfied that no party would be materially prejudiced by an electronic hearing. A party who objects to an electronic hearing shall notify the Board on receipt of the notice of hearing and provide the Board, in writing, with reasons for the objection.

If the Board orders an electronic hearing, it may impose any conditions for the conduct of the hearing it considers appropriate, including requiring that a party attend at a remote location for some or all of the hearing.

### **7.3 Continue Hearing in a Different Form**

Where a hearing has been begun in one form, if necessary, some parts or all of the hearing may continue in a different form.

### **7.4 Recording**

Unless otherwise decided by the Board, the Board will not record the hearing.

If the Board makes a recording of the hearing, the recording will form part of the official record of the proceeding. The proceeding is not invalidated as a result of a malfunction of the recording equipment, the failure to record the whole or part of the hearing, or the destruction of the recording.

Parties, and any other person in attendance at the hearing, may record the hearing only with the consent of and on the terms set by the Board. A recording made by a party or other person is not part of the official record of the proceedings.

### **7.5 Public Access to Hearings**

Subject to these Rules, the Board's hearings are open to the public, except where the Board determines otherwise. With regard to electronic hearings, the Board is not required to provide facilities to allow public participation in or attendance at an electronic hearing.

All or part of a hearing may be closed to the public where the Board is of the opinion that:

- a) Matters involving safety and security may be disclosed;
- b) Such intimate personal, medical or financial matters may be disclosed that the desirability of avoiding disclosure, in the interest of any person affected or in the public interest, outweighs the desirability of adhering to the principle that hearings should be open to the public;
- c) A public hearing would be prejudicial to the final disposition of criminal proceedings against a person whose act or omission is alleged to have caused a party's injury or death; or
- d) A public hearing would not be in the interests of a victim of an alleged sexual offence or child abuse and/or the victim's dependants.

The Board may impose such conditions as it considers appropriate on parts of a hearing which are closed to the public. Unless otherwise ordered, where part of a hearing is closed to the public, that part may only be attended by those individuals who are required to attend.

**7.6 Exclusion of Attendees**

The Board may make any Order to exclude any attendees at any hearing to protect the confidentiality of personal or sensitive information where it considers it appropriate to do so.

**7.7 Hearings in English and French**

The Board may conduct a proceeding in English or French or partly in English and partly in French, subject to the *French Language Services Act*. A party or a person seeking party status, who wishes a proceeding or part of a proceeding to be conducted in French, shall notify the Board as soon as possible before the commencement of the hearing. If a witness wishes to give evidence in French, the party calling the witness shall notify the Board as soon as possible before the commencement of the hearing.

The Board may retain an English or French interpreter to assist with the hearing. An interpreter shall be independent, and shall state under oath or affirm that he or she will interpret accurately.

**7.8 Interpreters of Other Languages**

If a party requires an interpreter in a language other than English or French, the party shall notify the Board and the Board may arrange for the services of such interpreter.

An interpreter shall be independent, and shall state under oath or affirm that he or she will interpret accurately.

**7.9 Special Needs**

Parties should notify the Board as early as possible of any special needs they have or their witnesses have as a result of a disability (e.g. hearing impairment) in order to participate in a hearing.



## **Rule 8: HEARING PROCEDURES**

### **8.1 Scheduling/Rescheduling of Hearings**

Hearing dates, or other dates in a proceeding, may be scheduled with or without consultation with the parties.

### **8.2 Combining Proceedings or Hearing Proceedings Together**

If two or more proceedings before the Board involve the same or similar questions of fact, law or policy, the Board may, with the consent of the parties, combine the proceedings or any part of them or hear the proceedings at the same time.

Where the Board combines or hears together two or more proceedings it may do so subject to conditions it considers appropriate.

The Board shall obtain the consent of the parties in writing or verbally, but if not in writing the consent shall be noted by the Board employee who spoke to the party, together with their name and the date of the conversation.

### **8.3 Rules for Combining/Hearing Cases Together**

Where two or more proceedings are heard together:

- a) Statutory requirements for each of the proceedings apply only to the part of the hearing respecting that proceeding and not to the part of the hearing respecting the other proceedings;
- b) Parties to the hearing are parties to their individual proceedings only and are not parties to the other proceedings; and
- c) Unless otherwise ordered by the Board, evidence in the hearing is evidence in all the proceedings.

### **8.4 Evidence in Combined Proceedings and Cases Heard Together**

A party who files evidence for a proceeding that is heard with other proceedings shall identify the proceeding:

- a) To which that party believes it applies; or
- b) For which that party requests that it be restricted, subject to the Member/panel's ruling that it must apply in all proceedings or be withdrawn.

**8.5 Separating Combined Proceedings or Cases Heard Together**

Where two or more proceedings (or parts of proceedings) have been combined, the Board may order that the proceedings are no longer combined and continue with them separately if combining the proceedings unduly complicates or delays the proceedings or causes prejudice to a party.

**8.6 Applications Involving Multiple Occurrences/Alleged Offenders**

Where an application involves allegations of several distinct occurrences involving multiple alleged offenders, the Board may proceed with separate hearings for each alleged offender where it is satisfied that doing so is in the best interests of the administration of justice.

A party may provide submissions objecting to separate hearings within a specified time frame provided by the Board.

**8.7 Failure to Attend Hearing**

If a party fails to attend or fails to arrive within 20 minutes of the scheduled start time of a hearing, the Board may:

- a) Proceed in the absence of that party;
- b) Adjourn the hearing;
- c) Decide the matter solely on the material before it;
- d) Make any direction the Board considers necessary for the conduct of the proceedings or for a just and timely resolution of the matter.

**8.8 Defining Issues for Hearing**

The hearing panel may define the issues and questions to be considered during an oral hearing. The panel may ask questions and seek submissions of parties and witnesses as evidence.

**8.9 Hearing Panels**

An oral hearing panel may be composed of one or more adjudicators as directed by the Chair.

**8.10 Panel Seized of Matter**

A hearing panel is considered seized of a matter once it has begun to hear substantive evidence in a matter.

**8.11 Reconstituting a Hearing Panel**

Where the circumstances require, the membership of a hearing panel may be reconstituted by direction of the Chair as considered necessary based on the availability of adjudicators, the complexity of the case to be heard, or any other reason necessary to adequately hear the merits of the case.

Circumstances may include, situations where a panel member has an illness or conflict of interest, or is otherwise unable to participate in the hearing. The number of adjudicators may be increased or decreased depending on the requirements of the hearing.

**Rule 9: HEARING REVIEWS****9.1 Re-hearings**

The Board may order the re-hearing of a matter, without consent of the parties, where there has been a substantial defect such as:

- a) There has been improper notification to parties;
- b) An individual with interest in the proceedings has not been notified or otherwise afforded an opportunity to participate;
- c) Relevant material evidence has been withheld by a party;
- d) Relevant material information has not been disclosed to a party; or
- e) There has been a substantive defect in the proceedings.

**9.2 Review Hearings**

Where an applicant has received a decision heard by a single member, the applicant may apply to the Board for a review of the decision by a minimum two-member panel per section 10 of the CVCA.



A review hearing is a review of the sufficiency of the original decision and will not be interfered with unless the original decision demonstrates a failure to properly exercise discretion or an error in law.

### **9.3 Appeals**

A decision of the Board on an application may be appealed to the Divisional Court on a question of law pursuant to section 23 of the CVCA.

## **Rule 10: EVIDENCE**

### **10.1 Form of Evidence**

The Board may direct the form in which written evidence shall be filed.

### **10.2 Admitting Copies of Documents and Other Things**

The Board may admit a copy of a document or other thing as evidence at a hearing if it is satisfied that the copy is authentic.

Where a document has been filed at a hearing, the Board may, at the request of the party who filed it, photocopy the document, certified by a Member as a true copy, and release the original to the party.

### **10.3 Admissibility of Evidence**

The Board may admit any evidence, including hearsay, relevant to the subject matter of the proceeding whether or not a court could admit that evidence.

### **10.4 Admissibility of Evidence of Witness from Other Proceeding**

Subject to the residual discretion to exclude, testimony should be admissible as evidence in the proceedings where:

- a) The party against whom the testimony is sought to be introduced was a party to the proceedings in which the testimony was formerly admitted;
- b) There is a substantial similarity between the material issues to which the testimony is relevant in the former and present proceedings; and

- c) There was an opportunity at the former proceeding for the party against whom the testimony may be used to cross-examine the witness.

### **10.5 Hearing Testimony by Telephone, Closed Circuit Television or Through Use of a Privacy Screen**

The Board may accept evidence by telephone or other device or through use of closed circuit television or privacy screen from a party or witness who is not present as long as all parties present at the hearing are able to hear the witness's statements and cross-examination is permitted.

### **10.6 Order of Presentation**

Evidence at the hearing shall generally be presented by the parties in the following order: the applicant, other parties whose interest or position supports the applicant, the offender or alleged offender, other parties whose interest or position is opposed to that of the applicant, other parties to the proceeding, and the applicant in reply.

The hearing panel may direct a different order of presentation of evidence in accordance with the issues to be determined.

## **Rule 11: WITNESSES**

### **11.1 Summons to Witness**

The Board may summon any person to attend an oral or electronic hearing, give evidence on oath or affirmation and produce in evidence at the hearing such documents or other things as are specified in the summons. A summons to witness shall be signed by the Chair or the Chair's designate.

A party who requests a summons to witness shall advise the Board of the name and address of the witness to be summoned and satisfy the Chair that the evidence the witness is expected to give at the hearing will be relevant and probative to the subject matter of the proceeding. The issuance of or refusal to issue a summons may be reviewed by the Board at the hearing.

The Board may refuse to issue a summons where it is not satisfied that the proposed witness has sufficient relevant evidence to justify his or her attendance.



A summons shall be personally served unless the Board directs or orders otherwise. It is the responsibility of the party who obtained the summons to ensure that it is served and to pay the attendance fees and travel allowance required by the *Rules of Civil Procedure* at the time of service.

### **11.2 Exclusion of Witnesses**

The Board may order that a witness be excluded from the hearing until called to give evidence.

Where an order is made excluding a witness from the hearing, there shall be no communication with the witness about any evidence given during his or her absence from the hearing room, except with leave of the Board, until after the witness has concluded giving evidence.

## **Rule 12: DISCLOSURE**

### **12.1 Limitation of Disclosure**

Parties and their representatives undertake not to use documents and information obtained under these Rules for any purpose other than in the particular proceeding before the Board.

### **12.2 Disclosure in General**

Prior to hearing an application, the Board will provide parties with disclosure relevant to the issues on which submissions will be required. The Board will provide sufficient information to parties to allow them to understand any allegations made and to know the substance of issues to be addressed.

The Board will not provide documentation or information not relevant to issues to be determined with respect to that party. Documents in the Board's possession, whether collected on behalf of a party or on its own behalf, are subject to legislative restrictions. Some documents may be provided in redacted form to protect the privacy of parties, participants or other individuals in accordance with principles of natural justice, procedural fairness, *FIPPA* and the *SPPA*.

**12.3 Requiring Parties to Give Documents, Access**

Parties may be directed, at their expense, to give a copy of any document in their possession or control, or provide access to any document to the Board or other parties. The Board may direct the terms of how and when copies should be given or access should be permitted.

**12.4 Providing Documents/Materials**

Parties must ensure the Board is provided with all relevant material on which it intends to rely to the Board, and/or other parties as directed, 30 days prior to the hearing.

**12.5 Disclosing Concurrent Actions**

Parties must ensure the Board is provided with up to date information related to any criminal, civil or other legal proceedings involving related issues, parties or incidents.

**12.6 Continuing Obligation**

Disclosure is an ongoing obligation. Each party must promptly disclose and produce, to the Board and other parties, all arguably relevant documents discovered or acquired during the proceedings, and must promptly advise the Board and parties of any changes to the information disclosed or produced.

**Rule 13: PRIVACY & PERSONAL INFORMATION****13.1 Granting of Publication Ban**

The Board may grant a publication ban of its own initiative, or on application of a party to the proceedings. In granting a publication ban, the Board may consider whether a publication ban:

- a) Would assist in the adjudication of the merits of the claim;
- b) Is necessary to protect the safety of the applicant or other parties;
- c) Is necessary to avoid any potential prejudice to criminal or other proceedings; and

- d) Is desirable within the context of the CVCA.

### **13.2 Removal of Publication Ban**

The Board may at any time on its own initiative or on the application of a party consider a motion to remove a publication ban. The Board shall consider whether the circumstances which justified the making of the publication ban in the original Order have ceased to exist, and any other consideration the Board determines is relevant.

The Board shall set the date and place for the hearing and shall provide notice of same to the parties.

### **13.3 Anonymization of Orders**

Where provided for public viewing, personal identifying information contained in Board orders will be removed to protect the privacy of the parties.

## **Rule 14: BOARD DECISIONS**

### **14.1 Decisions and Orders**

The Board shall give its final decision and Order, if any, in any proceeding in writing. The Board shall send each party who participated in the hearing, or the party's counsel or agent, a copy of its final decision or Order by regular letter mail. The Board shall send the Order to the most current address filed with the Board and it shall be deemed to be received by the party on the fifth day after the day it is mailed.

A party who requires written reasons for a Board decision must make a request for written reasons at the conclusion of the hearing or within 14 days of the end of the hearing in writing or by telephone. A party intending to ask for an appeal or review of the Board's decision **must request written reasons**.

At the claimant's request and where it is deemed appropriate by the Board, the Board may in its sole discretion, decide to disclose its decision over the telephone.



### **14.2 Corrections**

The Board may correct a typographical error, an error of calculation, an omission or any other similar error in its decision.

### **14.3 Direction for Payment**

The Board ordinarily orders the award for compensation to be paid directly to the applicant. However, an applicant can by way of a written direction authorize the Board to pay the award for compensation to their lawyer in trust. The written direction must be dated and filed with the Board prior to the hearing or on the day of the hearing. A direction submitted after the hearing will not be accepted by the Board.

Compensation paid pursuant to a direction is money paid or payable by way of compensation under the *CVCA* and is not subject to garnishment, attachment, execution, set-off or any legal process and the right thereto is not assignable pursuant to section 20 of the *CVCA*.

### **14.4 Legal Costs**

Subject to the discretion of the Board, only parties are eligible for an award of costs. The Board, in exercising its discretion, may award legal costs as a contribution to the legal expenses incurred in bringing the application to the Board.


Legal fees and disbursements are a contractual matter between a client and his/her lawyer. The Board does not compensate for expenses arising from the criminal proceedings, the civil proceedings or any appeals related to the incident, which occasioned the application to the Board.

## **Rule 15: POST-HEARING MATTERS**

### **15.1 Access to Information**

The Board may post on its website or print in its annual report full texts or summaries of its decisions.

This is **Exhibit “49”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.



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# **Criminal Injuries Compensation Board**

**Annual Report  
2014-15**

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## MANDATE AND MISSION STATEMENT

The Board is Ontario's independent adjudicative tribunal that assesses and awards compensation to victims of violent crime in accordance with the Compensation for Victims of Crime Act.

Our mission is to respond effectively to the diverse needs of victims of violent crime in Ontario with accessible, fair, respectful and timely assessments of compensation requests.



## CHAIR'S MESSAGE

I am pleased to report that 2014-15 was an exceptional year for the Board. We surpassed our goal of reducing our claim processing time to 12 months. In 2014-15 it took 11.5 months to process a claim. These are the best results the Board has achieved in its recorded history. We are extremely pleased with this achievement because it means that victims will receive their decisions and awards from the Board much quicker allowing them to focus on their recovery and move on with their lives.

This accomplishment represents a 70% reduction in processing time compared to eight years ago, and one that is the result of continuous attention to the streamlining of both our operational and adjudicative processes. The highlights of our restructuring and modernization efforts have included the implementation of a triage model which involved reorganizing staff into three regional teams, moving to a fully electronic file management system and the issuing of oral decisions. More recent initiatives, such as: asking for supporting documentation earlier in the process; streamlining the exchange of police documentation; and shortening the decision review process, will hopefully continue to ensure timely, effective and supportive adjudication of compensation claims from victims of violent crime.

In October 2014, we embarked upon an important initiative to help make the Board's compensation scheme more accessible to Ontarians as we are committed to being open and transparent to the public. We launched five videos on our website which provide useful tips and information to help guide victims through each stage of the Board's process. The videos provide general information about the Board in an easy-to-use format. They are available in English and French and can be viewed with closed captioning. They are entitled: (1) About the Board, (2) Filing a Claim, (3) Preparing Information for your Hearing, (4) Your Hearing and (5) After the Hearing. The videos were prepared in-house and at a minimal cost thanks to the creativity and ingenuity of our staff. It is our hope that these videos will benefit the Board, our stakeholders and victims significantly.

The Board also took steps to ensure safe, accessible and cost effective sites for our hearings after a full review of all locations. With the assistance of ARCH Disability Law Centre, we have made headway in securing accessible parking for persons with disabilities attending our hearings. In an effort to operate in a fiscally prudent manner, we partnered with the Ministry of the Attorney General to make use of government owned facilities such as courthouses in order to conduct our hearings. In 2014-15 we held hearings in the following courthouses across the province: Belleville, Hamilton, Sudbury, Sault Ste. Marie and Thunder Bay.

Over the past year, the Board has made great strides in accessing information from the police in order to expedite the hearing of claims. The Board has now entered into 35 memoranda of understanding (MOUs) with police services across the province. The Board will continue its efforts to enter into similar MOUs with the remaining police services. Through continued collaboration with key stakeholders, the Board is now exchanging documentation electronically with the Ottawa Police Service, York Regional



Police Service, Durham Regional Police Service, London Police Service, Belleville Police Service, Brockville Police, Guelph Police Service, Sarnia Police Service, Woodstock Police Service, Chatham-Kent Police Service, St. Thomas Police Service, and Cobourg Police Service. This allows for better tracking and quicker response times, which enables the Board to process claims for compensation much faster, and in turn, schedule hearings for victims sooner.

On March 20, 2015, the Ministry of the Attorney General announced that the Board would become the eighth tribunal of the Social Justice Tribunals Ontario (SJTO) cluster as of April 1, 2015. The SJTO cluster also includes the following seven tribunals: Child and Family Services Review Board, Custody Review Board, Human Rights Tribunal of Ontario, Landlord and Tenant Board, Ontario Special Education (English) Tribunal, Ontario Special Education (French) Tribunal and Social Benefits Tribunal.

The SJTO is a large, well respected organization and a leader in adjudication in Ontario. The Board is delighted to be a part of the SJTO team as it will benefit from its expertise in dealing with self-represented clients and vulnerable groups. The Board's mandate will not change under the SJTO umbrella. The Board will continue to make independent adjudicative decisions for victims of violent crime.

This past year the Board has significantly improved client service and reduced claim processing times. The Board is proud of its continued success in carrying out its mission to respond effectively to the diverse needs of victims of violent crime in Ontario. We will continue to build on these accomplishments in the year ahead.



Maria Tassou  
Acting Chair



## PROGRAM DESCRIPTION

The Criminal Injuries Compensation Board is a quasi-judicial administrative tribunal that provides compensation to victims of violent crime occurring in the province of Ontario. The Board is governed by the *Compensation for Victims of Crime Act* and it follows the rules and procedures set out in the *Statutory Powers Procedure Act*. It is subject to the *Freedom of Information and Protection of Privacy Act*.

Applications may be made by or on behalf of victims who have been injured, and for expenses and for pecuniary loss incurred as a result of death arising from a criminal act as defined under the *Criminal Code*. Applicants must prove on a balance of probabilities that a violent crime took place, causing an injury or death, and any financial loss associated with the injury or death. Where a person has been criminally convicted of the crime, that conviction is deemed conclusive evidence that the offence has been committed.

All claims must be filed with the Board within two years from the date of the incident. In certain circumstances, the Board may decide to extend the time limit where it is warranted. The Board will consider several factors including the length and the reasons for the delay, and whether adequate evidence is available to support the claim. An extension request must be made and approved in order to move the claim forward.

In assessing whether to give compensation and the amount to award, the Board considers all of the circumstances surrounding the incident including whether the victim's behaviour caused or contributed to the injury or death, whether the victim reported the incident promptly to the police and cooperated with any

investigation, and if the victim has received compensation or benefits from some other source.

### Who is Eligible for Compensation?

- Individuals who have been injured as a result of a crime of violence committed in Ontario; examples of a violent *Criminal Code* offence include assault, sexual assault, and dangerous use of a firearm.
- Individuals who are responsible for the care of a victim of violent crime and suffered a loss of income or had expenses as a result of the victim's injury or death.
- Individuals who are the dependants of a deceased victim (in the case of a murder).
- Peace officers injured while attempting to arrest a person, or individuals injured while trying to prevent a crime or while helping a police officer make an arrest.

### What compensation is available?

- Expenses actually and reasonably incurred or to be incurred resulting from the victim's injury or death.
- Emergency medical, dental or counselling expenses, funeral expenses and support.
- Loss of wages generally to a maximum of \$250 per week to a maximum of \$1,000 per month, as a consequence of the total or partial disability affecting the victim's capacity to work.
- Pecuniary loss to the dependents of a deceased victim.
- Pain and suffering.
- Maintenance of a child born as a result of a sexual assault.

**The Board does not award compensation for the following:**

- Damaged or stolen property.
- An accident involving a motor vehicle (i.e. drunk driving or hit and run).
- Legal fees for criminal court and/or civil suits.
- Distress of attending criminal court.
- Workplace accidents (claim should be filed with the Workplace Safety and Insurance Board).
- Grief and sorrow experienced by relatives or friends of a deceased victim.

**The following types of awards can be made:**

**Lump Sum Awards**

The Board may award up to a maximum amount of \$25,000 for the injury arising out of an incident. If more than one person is affected by an occurrence, the maximum award to all applicants in respect of any one occurrence cannot exceed \$150,000. Lump sum awards are the awards most frequently issued by the Board.

**Periodic Awards (monthly payments)**

Where the Board is satisfied there is an on-going financial loss (e.g. lost wages as a result of permanent injury), it can award up to a maximum payment of \$1,000 per

month, totalling \$365,000 for all applicants affected by a single occurrence. If both a lump sum and a periodic award are made, the amount of the lump sum component cannot exceed \$12,500. Periodic awards are reviewed regularly and may cease at a future date.

**Interim Awards (Section 14 of the Compensation for Victims of Crime Act)**

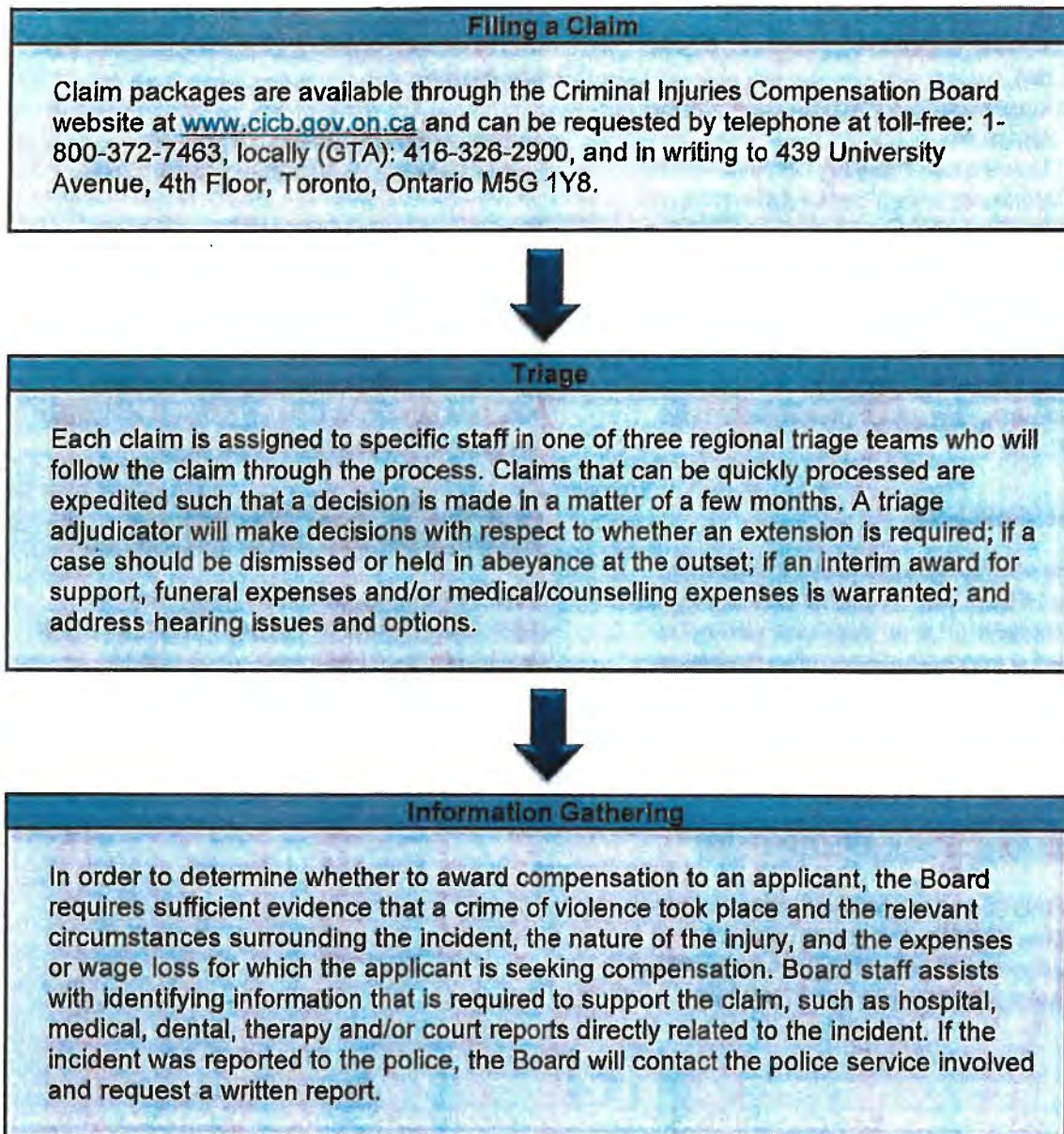
Where there is an immediate need for compensation to cover medical expenses, support and/or funeral expenses, the Board may authorize those expenses to be paid in advance of the hearing. This can only be provided where the Board has sufficient evidence that an award will likely be granted following the hearing.

**Variation Awards (Section 25 of the Compensation for Victims of Crime Act)**

After a hearing, the Board may vary an order for payment in certain instances such as where there has been a change in circumstances. A variation can only be granted if an award was made initially



## THE PROCESS





### The Hearing

Once all of the relevant documentation is provided, Board members decide on the application after holding either an oral or written hearing. During an oral hearing, parties and witnesses give sworn testimony either in person or sometimes by telephone. During a written hearing, the Board members make a decision based on the documents and information available on the file. The applicant, the offender and the Attorney General are all parties to the hearing and may provide documentation and/or attend an oral hearing.

Once the hearing is complete, the Board generally prepares a written decision and sends it to the parties. If the Board has decided to award compensation to the applicant, a cheque is sent to him or her along with the decision. Where possible, applicants attending an oral hearing are now provided with an immediate decision rendered orally by a Board member. In such cases, where an award is made, a brief decision is sent along with the award cheque.



### After the Hearing

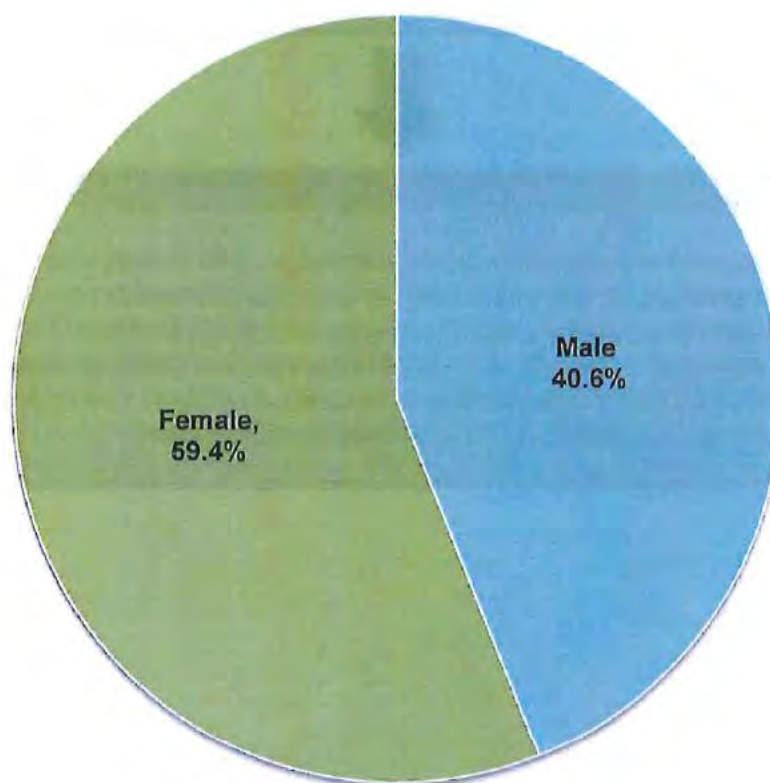
If an applicant does not agree with the Board's order and that decision was made by a single Board member, the applicant can request that the matter be reviewed by two or more Board members by making the request to the Board within 15 days of receiving the original decision. If the original decision was made by more than one Board member, it can only be appealed on a question of law to the Superior Court of Justice (Divisional Court) within 30 days of receiving the order.

## WHO IS APPLYING TO THE BOARD?

In 2014-15, the Board received a total of 3310 applications. The following charts show a breakdown of who is applying to the Board by gender and age

### CLAIMS RECEIVED BY GENDER

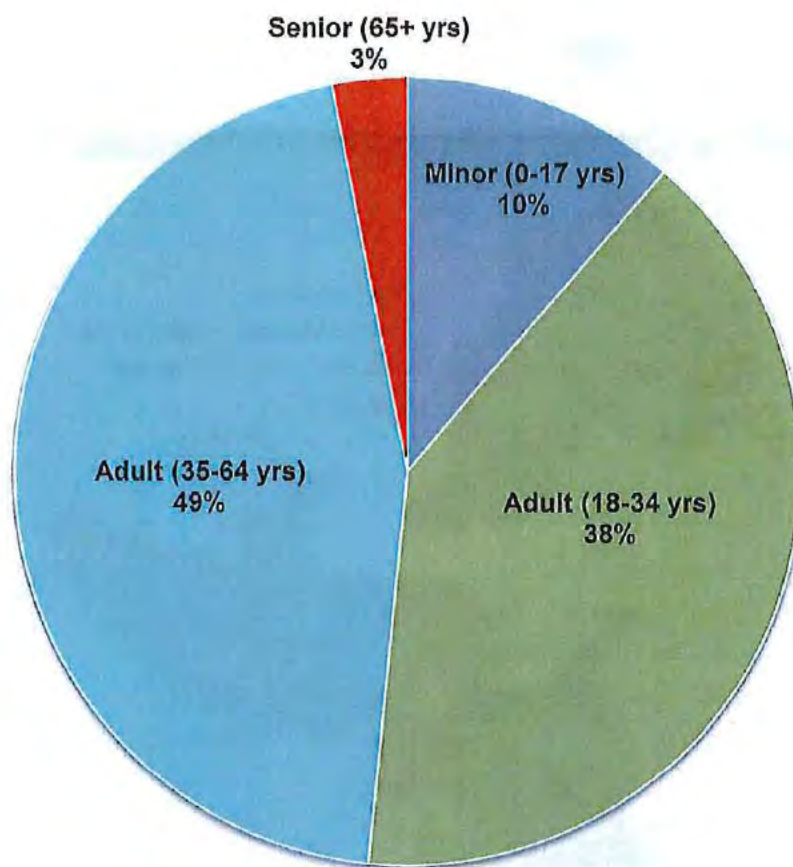
Male	1344
Female	1966
TOTAL	3310





**CLAIMS RECEIVED BY AGE GROUP**

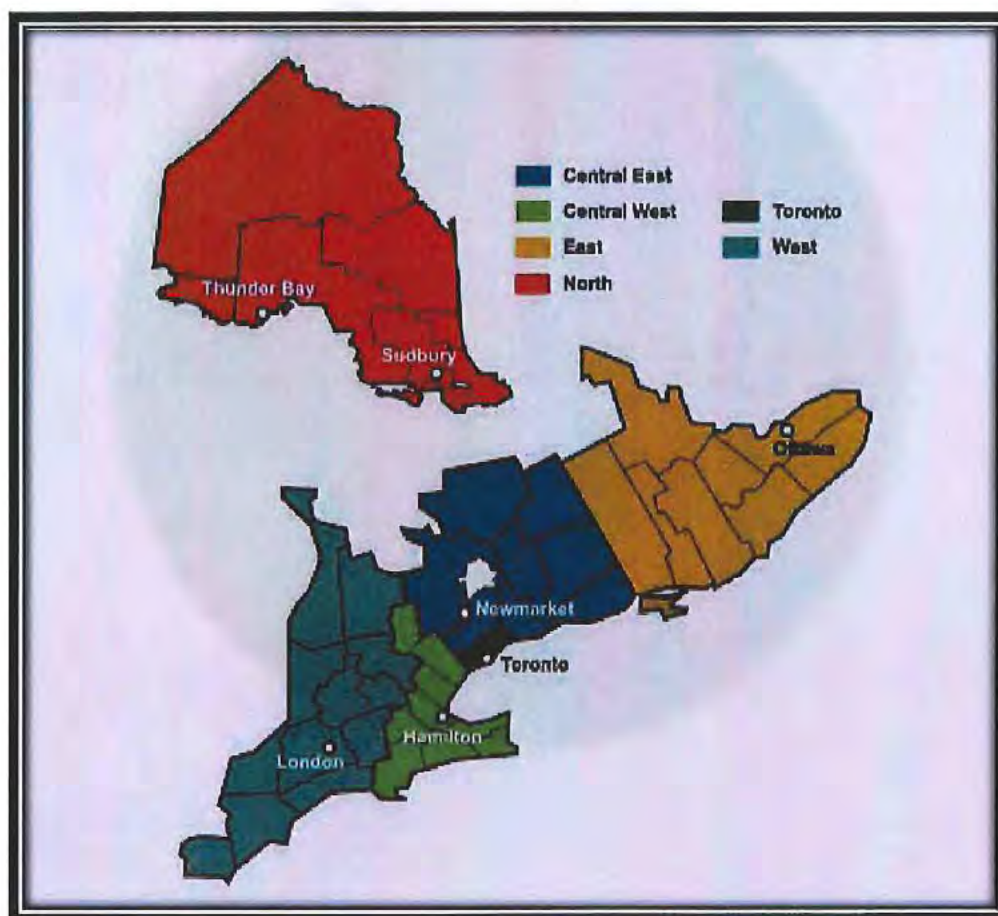
Minor (0 - 17 years old)	324
Adult (18 - 34 years old)	1265
Adult (35 - 64 years old)	1617
Senior (65 + years old)	103
<b>TOTAL</b>	<b>3310</b>



### CLAIMS RECEIVED BY REGION

The Board receives applications from all over Ontario; the map below shows the regional triage structure for processing claims along with a breakdown of the areas of the province where the applicants reside. In 2014-15, 20.8% of applications came from Toronto, 11% came from the North region, 17.5% came from the East region, 14.9% came from Central East region, 21% came from the West region and 14.8% came from the Central West region.

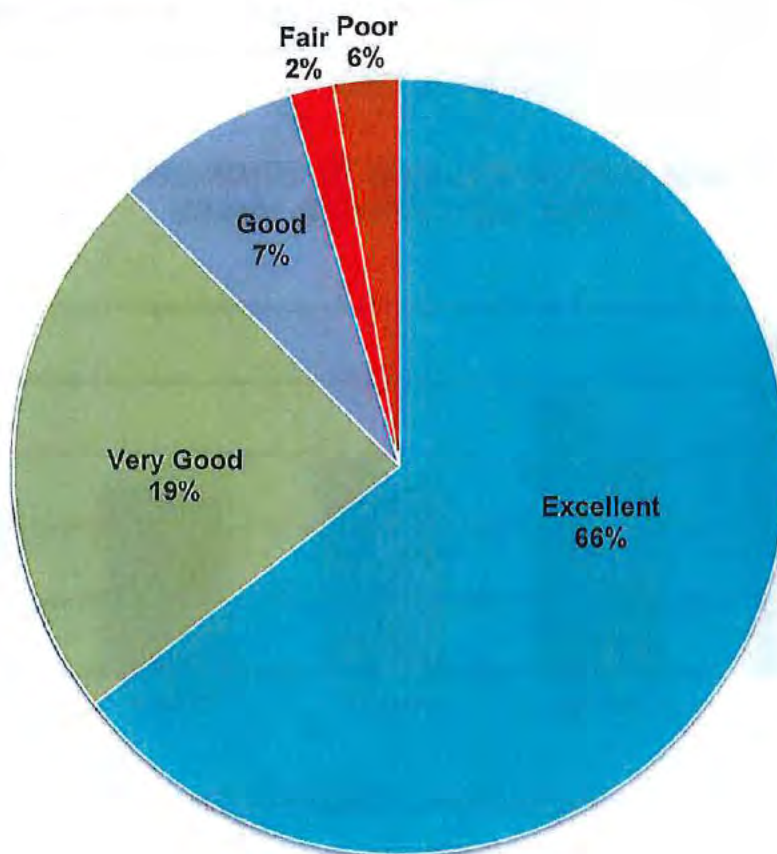
Toronto	688
North	363
East	579
Central East	494
West	695
Central West	491
<b>TOTAL</b>	<b>3310</b>



## CLIENT SATISFACTION SURVEY

The following chart shows the results of our client satisfaction survey. 329 people responded to the survey up as of March 31, 2015. When asked about their overall satisfaction with their experience at the Board, they responded as follows:

Excellent	211
Very Good	75
Good	26
Fair	7
Poor	10
<b>TOTAL</b>	<b>329</b>





## PERFORMANCE SUMMARY

The Board experienced continued achievements this year in meeting its strategic goals of providing more timely and efficient responses and payments of compensation awards to victims of crime. There were significant improvements in claims processing timelines; overall for 2014-15, we exceeded operational performance targets to reduce the average timeline from receipt of an application to the release of a decision. Whereas the Board had a performance target of an average of 13 months for completing claims filed within the two-year limitation period, actual performance achieved was 11.4 months. Similarly, the target for claims filed after the two-year limitation period was 13 months but actual results for the year was 11.6 months. The overall processing time was 11.5 months for both types of claims. These figures represent a continued reduction year over year.

Again this year, there was continued expansion of the collaborative, team-based approach by staff and members of the Board within the Regional Triage model; it is expected that, over the longer term, these improvements will allow the Board to sustain a 12-month claims process.

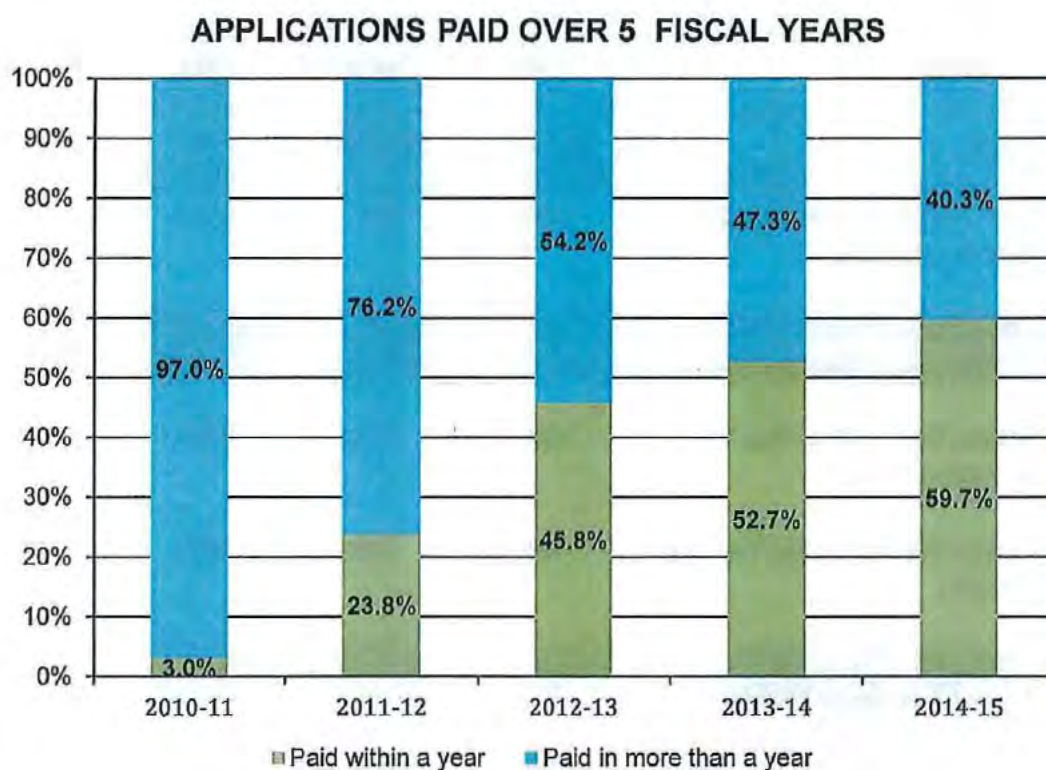
Over the last five-year period, the average timeline to complete regular claims has been reduced significantly from 19 months in 2010-11 to less than 12 months in 2014-15, representing a decrease in processing time of 37%. Similar reductions were achieved for files with extensions as illustrated in the following chart.

**AVERAGE TIME (IN MONTHS) TO COMPLETE A CLAIM  
OVER LAST 5 FISCAL YEARS**



## PERCENTAGE OF APPLICATIONS PAID WITHIN A YEAR

We have also had a significant improvement in the number of applications that are paid out within a 12-month time period; for 2014-15, 1806 applications were received, processed and paid out within 12 months. Over the last five years, the percentage of applications paid within a year has increased significantly from 3.0% to 59.7%.





Criminal Injuries Compensation Board's 40<sup>th</sup> Annual Report 2014-15**KEY PERFORMANCE DATA**

This table contains a comparison of key performance data over the past four years. Included in the data: the number of claims received, the number of hearings, the average award and some of the more critical timelines associated with completing a file.

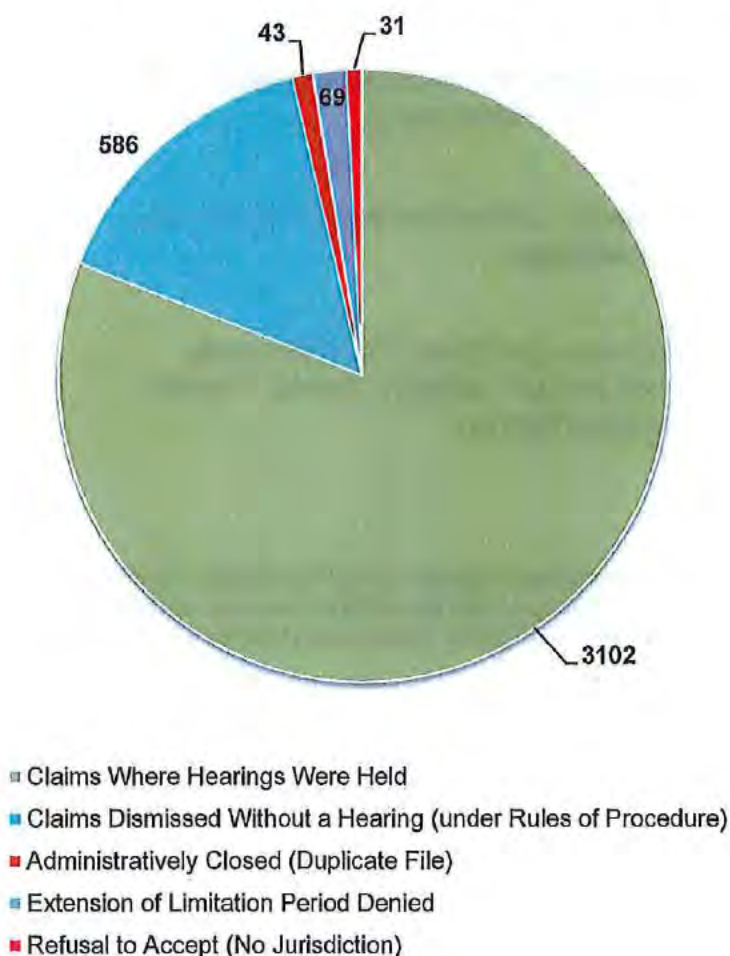
	2011-12	2012-13	2013-14	2014-15
Claims Received	3,377	3426	3414	3310
Number of Hearings	3,944	3052	3211	3102
Average Award	\$8,078*	\$8,286*	\$8783*	\$8606*
Total Number of Claims with Monthly Periodic Payment Awards	238	231	219	210
Average Time (days) from Application to Hearing (see below)				
a) Where Claim Filed within Two Year Statutory Limitation Period	414	362	342	317
b) Where Claim Filed Beyond Two Year Limitation Period	488	429	368	325
Average Time (days) from Application to Award (see below)				
a) Where Claim Filed within Two Year Statutory Limitation Period	497	399	385	347
b) Where Claim Filed Beyond Two Year Limitation Period	573	458	401	354

\*The average award was \$9,085 for claims in which an award was granted. The average award for all claims (including denials) was \$8,606 for 2014-15.

## CLAIMS PROCESSED IN 2014/15

In 2014-15 the CICB processed a total of 3,831 applications. Of these, 3,102 were heard at an oral or written hearing. The 729 applications remaining were disposed of without a hearing in the following manner:

- 586 were dismissed without a hearing under the Board's Rules of Procedure for various reasons (i.e. the application lacked some aspect of the statutory requirements for bringing an application, there was no reasonable prospect that the application would succeed, the proceeding related to trivial or frivolous matters, the claimant died prior to the commencement of a hearing, etc.);
- 69 applications that were filed beyond the two-year time limit did not have an extension granted;
- 31 applications were not accepted since they did not fall within the Board's jurisdiction;
- 43 applications were closed administratively since they were found to be duplicate files





## HEARINGS

CICB hearings can be conducted either in writing or orally. Oral hearings are currently held in 21 locations across the province. The location selected is primarily based on where the claimant resides but may also be influenced by the urgency of the hearing or other needs. A breakdown of hearings by location is provided below. In 2014-15, the Board completed 3,102 hearings.

### HEARINGS LOCATION BREAKDOWN

Region	Location	% of Oral Hearings
Toronto*	Toronto	36.6%
East & Central East	Belleville, Barrie, Cornwall, Kingston, Ottawa, Orillia, and Peterborough	27.8%
West & Central West	Kitchener, London, Windsor, Hamilton, and St. Catharines	25.6%
North West & North East	Moosonee, North Bay, Sault Ste. Marie, Sioux Lookout, Sudbury, Kenora, Thunder Bay, and Timmins	10%

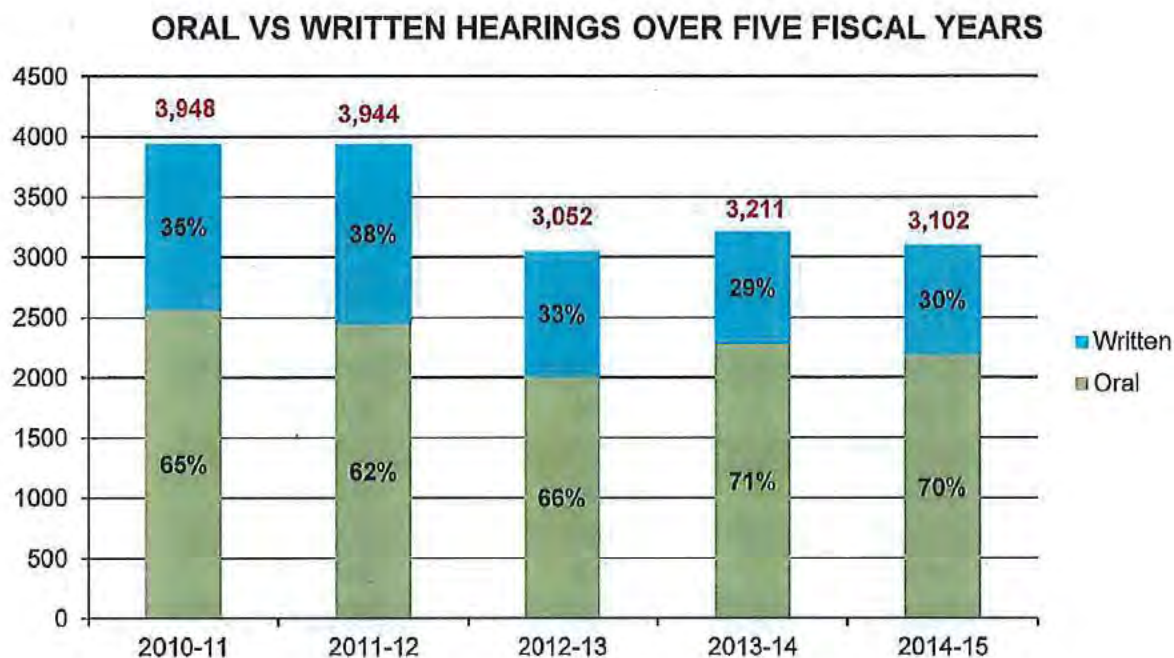
\* The Board's Regional Triage model defines Toronto by the City of Toronto's official boundaries. However, the Board utilizes its permanent hearing rooms at 250 Dundas St W. as much as possible so many claims that originate from other regions that are in the Greater Toronto Area (e.g. Brampton, Newmarket, etc.) are heard there.

## TYPES OF HEARINGS

The following chart shows the number and type of hearings held in 2014-15, with comparative results for the previous four years. The ratio of oral to written hearings was slightly lower than the previous year. In 2014-15, approximately 70% of hearings were conducted orally and 30% were conducted in writing.

The Board continues to pursue all options for hearings (written, electronic and oral) to reduce delay. Generally, the Board elects which mode of hearing will be held. However, applicants have the option of choosing an oral hearing if they wish.

In 2014-15, the total number of hearings completed by the Board was 3,102 of which 2184 were heard orally and 918 were heard in a written form.





## COMPENSATION AWARDS

The Board may award compensation as a lump sum or periodic award. Lump sum awards represent one-time payments made to an eligible claimant. These include benefits awarded under Section 14 (interim awards), Section 25 (variation awards) and Section 22 (costs), as well as payments for medical reports used in support of a claim.

Periodic payments are provided monthly. Some victims with particularly serious injuries may receive periodic payments for years, or even decades, up to a maximum of \$365,000.

The average award in 2014-15 was \$8,606, a 2.02% decrease from the average in 2013-14 (\$8,783). The average award is calculated for all claims including those that were denied. If denials are excluded from the calculation, the average award was \$9,085. This represents a 3.67% decrease over 2013-14 (\$9,431).

Overall, the Board paid out a total of \$31.2 million in awards in 2014-15, a 8.3% increase from 2013-14 (\$28.8 million).

The following table shows the Board's compensation awards over the past 15 fiscal years:

<b>Fiscal Year</b>	<b># of Hearings</b>	<b>Award Totals</b>
2000-01	2,498	\$16.7 M
2001-02	2,134	\$13.8 M
2002-03	1,716	\$17.6 M
2003-04	2,424	\$17.6 M
2004-05	2,654	\$21.0 M
2005-06	2,321	\$18.3 M
2006-07	2,425	\$22.3 M
2007-08	3,466	\$31.0 M
2008-09	3,859	\$43.7 M
2009-10	3,792	\$32.1 M
2010-11	3,948	\$30.9 M
2011-12	3,944	\$36.2 M
2012-13	3,052	\$29.3 M
2013-14	3,211	\$28.8 M
2014-15	3102	\$31.2 M
<b>Totals</b>	<b>44,546</b>	<b>\$ 390.5 M</b>
<b>Average</b>	<b>2,9700</b>	<b>\$ 26.03 M</b>



## LUMP SUM AWARDS BY TYPE OF BENEFIT

According to the legislation, compensation may be awarded for:

- expenses actually and reasonably incurred or to be incurred as a result of the victim's injury or death;
- pecuniary loss incurred by the victim as a result of total or partial disability affecting the victim's capacity for work (e.g. loss of income);
- pecuniary loss incurred by dependants as a result of the victim's death (e.g. loss of financial support);
- pain and suffering;
- support of a child born as a result of rape; and
- other pecuniary loss resulting from the victim's injury and any expense that, in the opinion of the Board, it is reasonable to incur.

The following chart offers a comparison of lump sum compensation awards to victims of violent crime over a period of three years. These represent the great majority of awards that the Board provides.

AWARDS (\$000's)	2012-13	2013-14	2014-15
Pain and Suffering	\$23,911.9	\$23,809.4	\$26,040.4
Loss of Wages	\$429.4	\$ 429.7	\$409.3
Medical Expenses <sup>1</sup>	\$888.1	\$ 937.9	\$945.3
Funeral Expenses	\$414.2	\$ 236.6	\$236.7
Legal Expenses Associated with Application	\$85.5	\$ 85.4	\$96.2
Other Pecuniary Loss	\$120.4	\$ 112.2	\$143.3
Other <sup>2</sup>	\$1,305.9	\$ 1,201.1	\$1,234.9
<b>Total</b>	<b>\$ 27,155.4</b>	<b>\$ 26,812.3</b>	<b>\$ 29,106.1</b>

### NOTES:

1. Medical Expenses include prescription drugs, dental expenses, counselling fees and ambulance fees, as well as the costs associated with obtaining medical reports in support of the application.
2. "Other" includes all Section 14 interim awards, Section 25 variation awards and the costs associated with obtaining reports in support of a Section 25 variation request

## LUMP SUM AWARDS BY TYPE OF OFFENCE

The following chart outlines the amount of lump sum compensation awards paid to victims of violent crime based on the type of offence.

The offence categories listed below are a best reflection of the types of claims described in our current application form.

Type of Offence	Lump Sum Awards
Sexual Assault, Adult	\$12,187,177.76
Assault	\$8,374,711.43
Assault Domestic	\$4,141,372.70
Sexual Assault & Domestic Assault	\$1,025,978.34
Sexual Assault Child	\$610,536.92
Murder	\$756,691.09
Other	\$571,897.41
Assault Peace Officer	\$232,939.67
<b>Total</b>	<b>\$ 27,901,305.32</b>



## FINANCIAL SUMMARY

The Government of Ontario provides funding to the Board for the payment of compensation awards and operating expenses on the accrual basis of accounting. A comparison of operating expenses and transfer payments for the fiscal years 2013-14 and 2014-15 is provided in the table below.

Total operating expenses for 2014-15 amounted to \$6.35 million compared to \$6.71 million in 2013-14. This reflects a decrease in salaries and wages primarily due to staff vacancies and a decrease in Transportation and Communications, and in Services due to a decrease in Board member travel and per-diem expenses.

"Transfer Payments" refer to compensation awards that go directly to victims. Each year, the Board is allocated funding to allow for the payment of new cases that will not actually be paid out until future years as well as to cover awards paid out for new cases received and awarded within the current year. In addition, the annual funding covers periodic payments and medical expenses paid directly to service providers over the course of a year. The amount for the future year's award obligations is added to the accrued liability account to be paid out once the case is heard and an award is made by the Board. For 2014-15, the total transfer payments allocated amounted to \$24.16 million of which \$15.98 million was added to the accrued liability account for new cases to be paid in future years.

### COMPARATIVE FINANCIAL SUMMARY – ACCRUAL BASIS

Account Item	Fiscal Year (April 1 – March 31)	
	2013-14 Actuals	2014-15 Actuals
Salaries and Wages	\$3,297,415	\$3,175,301
Employee Benefits	\$563,348	\$502,853
Transportation and Communications	\$505,814	\$437,314
Services	\$2,294,150	\$2,197,476
Supplies and Equipment	\$52,224	\$39,770
Total Operating Expenses	\$6,712,951	\$6,352,714
Transfer Payments	\$24,355,136	\$24,156,468
Total	\$31,068,086	\$30,509,182

## Criminal Injuries Compensation Board's 40<sup>th</sup> Annual Report of 2014-15

The actual amount of transfer payment dollars received in 2014-15 was \$24.2 million compared to \$24.4 million in 2013-14. There was a further adjustment of \$1.50 million for the 20 year Periodic Accrued Liability account. The actual amount spent on awards to victims in 2014-15 was \$31.2 million.

Separate accrued liability accounts are maintained for the Board's future payment obligations for Lump Sum Awards and Periodic Payments. Liability account balances as of the years that ended March 31, 2014 and March 31, 2015 are provided in the table below.

The 2014-15 year-end balance of the Board's accrued liability account for lump sum awards is \$14.85 million. The liability balance for prior year cases has decreased as a negative \$1.12 million due to accrued liabilities being less than those actually paid for prior year cases. The Board has accrued new cases based on new applications received. The 2014-15 new cases accrued a liability of \$15.98 million; lower than last year's \$17.77 million. This is because cases are being heard and compensation is being awarded within a shorter time period.

The periodic payments accrued liability balance at March 31, 2015 is \$19.97 million, which is calculated as the 20-year liability accrual for periodic payment obligations from April 1, 2015 to March 31, 2035

### ACCRUED LIABILITY ACCOUNTS

	Fiscal Year (April 1 – March 31)	
Lump Sum Awards	2013-14 Year End Balance	2014-15 Year End Balance
Prior Years Cases Accrued Liability	\$2,625,043	(\$1,122,730)
New Cases Accrued Liability	\$17,765,291	\$15,977,622
Additional Funding for Accrued Liability Account Shortfall	\$0	\$0
All Cases Accrued Liability	\$20,390,334	\$14,854,892
Periodic Payments 20 Years Accrued Liability	\$21,465,392	\$19,966,677



## BOARD MEMBERS

The composition of the Board is intended to reflect the diversity of Ontario's population and its various regions.



### Chair

Maureen Armstrong

### First Appointment

August 21, 2008

### Current Appointment

August 20, 2011 to  
August 20, 2018 (\*resignation  
effective May 30, 2014)

### Interim Chair

Maria Tassou

May 12, 2014  
(\*effective date for delegation of  
authority)

To present



# Criminal Injuries Compensation Board's 40<sup>th</sup> Annual Report 2014-15

## **Full-time Vice Chair**

Maria Tassou	June 6, 2007	December 5, 2012 to December 4, 2017
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## **Part-time Vice Chair**

Al Spadaccini	June 30, 2006	March 9, 2012 to March 9, 2015
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<b><u>Board Members</u></b>	<b><u>First Appointment</u></b>	<b><u>Current Appointment</u></b>
M Saleem Akhtar	September 8, 2009	September 7, 2012 to September 7, 2019
Lisa Barazzutti	October 20, 2010	October 19, 2012 to October 19, 2015
George Berrigan	February 7, 2007	February 6, 2012 to February 6, 2017
Nicole Chenier-Cullen	September 8, 2009	September 7, 2011 to September 7, 2014
Emily Crocco	December 3, 2008	December 2, 2010 to November 25, 2014
Roderick Flynn	June 6, 2007	June 5, 2012 to June 5, 2017
Keith Forde	October 20, 2010	October 19, 2012 to October 19, 2015
Gemma Harmison	September 3, 1997	March 5, 2011 to March 5, 2016
Jacqueline Harper	October 20, 2010	October 19, 2012 to October 19, 2015
Jo-Anne Hughes	October 22, 2008	October 21, 2010 to October 21, 2018
Christie Jefferson	June 2, 2010	June 1, 2012 to June 1, 2015

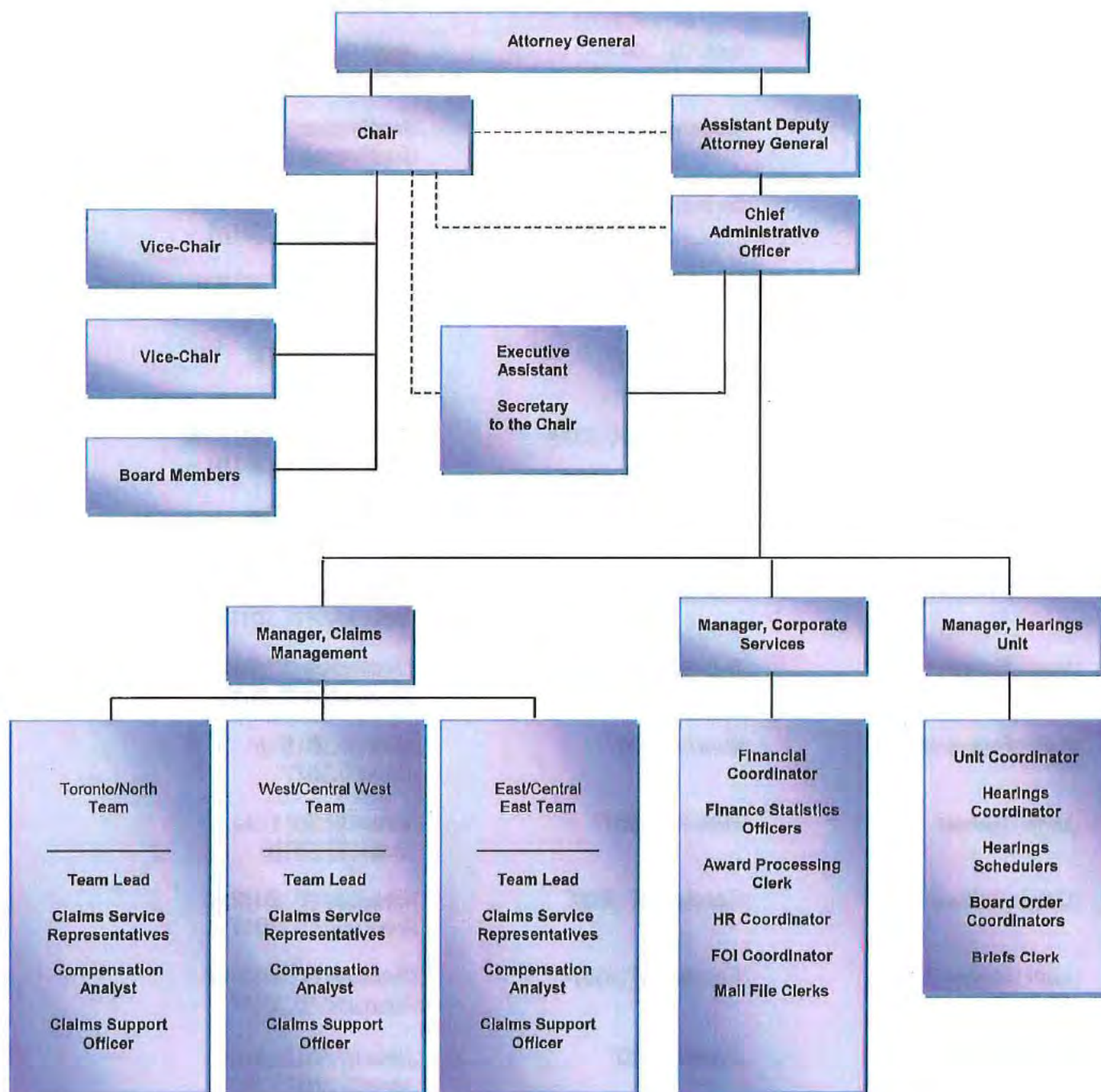
Criminal Injuries Compensation Board's 40<sup>th</sup> Annual Report 2014-15

Wendy King	October 20, 2010	October 19, 2012 to October 18, 2015
Kirsten Kurzuk	December 3, 2008	December 2, 2010 to December 2, 2018
Susan Lee	April 13, 2011	April 12, 2013 to April 12, 2016
Janet MacEachen	September 8, 2009	September 7, 2012 to September 7, 2019
Charlotte McQuade	September 8, 2009	September 7, 2012 to September 7, 2014
Jay Meunier	September 8, 2009	September 7, 2012 to September 7, 2019
Virginia Morra	June 6, 2007	June 5, 2012 to June 5, 2017
Aggrey Msosa	September 8, 2009	September 7, 2012 to September 7, 2019
Stanley Newman	June 1, 2005	May 31, 2013 to May 31, 2015
John R. Radmore	February 18, 2004	February 17, 2012 to February 17, 2017
Veda Rangan	September 8, 2009	September 7, 2012 to September 7, 2019
Kabir Ravindra	June 6, 2007	June 5, 2012 to June 5, 2017
Linda Spears	June 13, 2007	June 12, 2011 to June 12, 2016
Dawn Sullivan	February 7, 2007	February 6, 2012 to February 6, 2017
Leni Untinen	February 7, 2007	February 6, 2012 to February 6, 2017
Dawn Wickett	June 6, 2007	June 5, 2012 to June 5, 2017



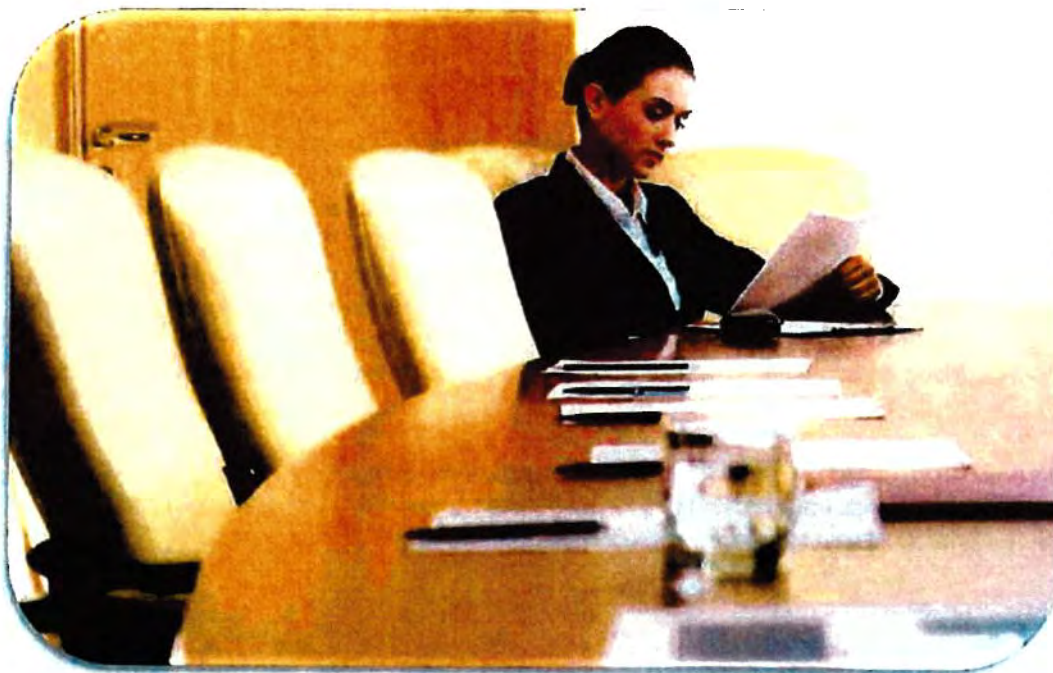
**ORGANIZATIONAL CHART**

(March 31, 2015)



## CASE SUMMARIES

In 2014-15 the Board held 3102 hearings in various hearing sites across the province of Ontario.



The following pages include samples of decisions representing a range of violent offences along with the resulting injuries and awards.

**1204-88747- Homicide (Funeral Expenses)****Claim**

The Applicant sought funeral expenses, bereavement counselling expenses and loss of income in relation to the murder of her 20 year-old nephew, for whom she had custody since he was a baby.

**Evidence**

The police received several 911 calls reporting the sound of gunshots from neighbours in the community. When they arrived on the scene, the police observed bullet holes in the front door of a home as well as spent cartridge cases on the ground nearby. After searching the home, the police found the body of the Applicant's nephew (the "Deceased Victim"). He had been shot and had no vital signs. The paramedics arrived at the scene and tried to revive him but he was pronounced dead shortly thereafter. No other persons were located within the home, although there was substantial evidence that others had been present at the time of the shooting. The crime remains unsolved and no suspects have been apprehended as a result of the shooting.

Social services covered a portion of the burial and funeral expenses. The Victim Quick Response Program had also made a \$1,000.00 contribution towards the cost of the Applicant's bereavement counselling expenses.

**Decision**

The Board found that the Applicant's nephew was a "victim" within the meaning of section 5(a) of the Act. The Board awarded the Applicant the sum of \$516.29 for the outstanding balance of the burial and funeral expenses. The Applicant was also awarded \$500.00 for her income loss as she had to take a few weeks off work in order to make the funeral arrangements. The Board also preauthorized \$1,200.00 for bereavement counselling expenses to assist the Applicant in dealing with her grief from her nephew's death.



**1301-91165 - Mental and Nervous Shock****Claim**

The Applicant sought compensation for pain and suffering and loss of income on the basis of the injury of mental or nervous shock.

**Evidence**

The Applicant was present at the residence of his girlfriend (the Victim), when his girlfriend's former partner, the Offender, broke into the home. The Applicant and the Victim had been sleeping when they were awakened by the sound of breaking glass. They went to investigate and were confronted by the Offender who was armed with a knife. The Applicant was standing close to the Victim when the Offender slashed her across the neck with the knife. The Applicant managed to drag the Victim back to the bedroom. As the Applicant was shutting the bedroom door, he saw the Offender turn the knife upon himself, slashing himself repeatedly in the neck. The Applicant managed to shut and secure the bedroom door and called 911. The Victim was bleeding profusely from a massive laceration to her neck. While awaiting the arrival of emergency personnel, the Applicant tried to stop the bleeding using a bed sheet. The Victim, who lost vital signs at one point and had to be resuscitated at the hospital, ultimately survived her injuries. The Offender was found guilty of the offence of attempted murder in respect of the Victim.

After the incident, the Applicant was in a mental fog and experienced crying spells when remembering the events from that day. He struggled with feelings of anger and hatred, as well as mistrust. He also experienced intrusive memories and flashbacks where he mentally relived the event almost daily. He could not tolerate depictions of violence in the media, and experienced feelings of hopelessness and mournfulness. He became very protective of the Victim and felt responsible for making sure she was safe.

Medical and therapy reports confirmed the Applicant's psychological injuries. He experienced emotional distress with symptoms that included poor sleep, distractibility, impaired focus and concentration. The Applicant had to take a leave of absence from work as he had difficulty functioning daily. He sought counselling through his Employee Assistance Program to help him deal with his symptoms.

**Decision**

The Board found the Applicant's girlfriend (the Victim) to be a victim of a crime of violence within the meaning of section 5(a) of the Act. The Board therefore focussed on making determinations as to the Applicant's claims for mental or nervous shock and income loss. When assessing a claim for the injury known as mental or nervous shock, the Board is required to consider the following factors:

- The degree of violence involved in the occurrence;
- Whether the Applicant witnessed the violent occurrence or came upon the scene of the violence in its immediate aftermath;

- The closeness of the relationship that existed between the Applicant and the direct victim of the act of violence; and,
- Whether the Applicant sustained a significant diagnosed/recognized psychiatric/psychological injury directly induced from the shock of witnessing the violent occurrence or coming upon the scene of the violence in its immediate aftermath.

There was no question that the incident was exceedingly violent and the Applicant had a close relationship to his girlfriend. The Applicant was present and witnessed a severe act of violence which resulted in life threatening injuries to his girlfriend. In direct result of witnessing this act of violence, the Applicant experienced significant emotional/psychological injuries.

Accordingly, the Board also found the Applicant himself to be a victim within the meaning of section 5(a) of the *Act* on the basis of a finding of mental or nervous shock. He was awarded \$5,000.00 for pain and suffering. His loss of income claim was denied as he failed to provide the Board with any supporting documentation from his employer to substantiate this aspect of his claim.

### **1302-91561 – Aggravated Assault**

#### Claim

The 23 year old male Applicant sought compensation as a result of being assaulted by a stranger at a house party.

#### Evidence

After having a brief discussion at a party, the Applicant was struck in the jaw by the Offender. The Applicant fell to the ground and his wrist watch broke. He decided to leave the party and when he went outside to catch a cab, the Offender yelled to threaten him by saying: "I have a knife and I'm not scared to use it." The next day, the Applicant sought medical treatment at the hospital and reported the incident to the police. The police confirmed the Applicant's version of the events. The Offender was charged with Aggravated Assault, Uttering Threats and Mischief. The Offender pled guilty to Aggravated Assault and received a ten week conditional sentence plus one year of probation.

The Applicant underwent surgery where doctors installed two plates to repair his jaw which was broken in two places. The Applicant had two scars on his jaw and he also had two lumps on his face. He had trouble speaking and he had difficulty closing his mouth entirely. It took over a month for the Applicant to recover from his surgery. He lost weight due to his liquid diet and on a psychological level, the Applicant is constantly reminded of the crime every time he looks in a mirror and sees the scars on his face.

#### Decision

The Board found that the Applicant was a victim of a crime of violence under Section 5(a) of the *Act*. He was awarded \$6,000.00 for pain and suffering.

**1401-94764 – Sexual Assault on Female****Claim**

The female Applicant submitted a claim seeking compensation after being attacked and sexually assaulted by a complete stranger.

**Evidence**

The Applicant was walking home a short distance from her home when she was attacked from behind by the Offender. She was strangled to the point of unconsciousness and subjected to a brutal sexual assault. The Offender also stole her purse with all of her identification before he ran off.

The Applicant was rushed to hospital where she was treated for her injuries. She underwent a rape kit, pregnancy testing and HIV prevention medication for several weeks. She had a swollen throat and tongue from the choking such that she was unable to eat or swallow. She had a hard time talking and developed a mouth full of cankers. She also had cuts and bruises to her knees, elbows and face as well as stiff and sore neck and shoulders. She had clumps of hair pulled out. Her eyes were swollen, she developed black circles and the white parts of her eyes became completely red. It took several months to recover from her physical injuries. She also sustained significant emotional trauma as a result of the crime. She thought that she was going to die during the attack. She cannot trust anyone and remained hyper vigilant for quite some time. Following the incident, she was afraid to stay home alone and needed police surveillance around her home for several months. She suffered from nightmares, flashbacks and panic attacks. She also startled easily and remained fearful of the Offender.

The Offender was charged with Aggravated Sexual Assault, Robbery with Violence and Overcome Resistance with Choking. He plead guilty to Sexual Assault Causing Bodily Harm and received a lengthy penitentiary sentence.

**Decision**

The Board found that the Applicant was a victim of sexual assault and thereby a victim within the meaning of Section 5(a) of the Act. In assessing compensation, the Board considered the nature of the incident and resulting injuries. She was awarded \$12,000.00 for pain and suffering, \$2,727.36 for her loss of income and \$2,400.00 for future counselling.

**0407-49360 - Child Sexual and Physical Abuse****Claim**

The female Applicant sought compensation as result of being physically and sexually abused as a child between the ages of 8 and 12 years old. She was abused by her mother's former common law husband.

**Evidence**

The Offender often beat the Applicant with a belt, threatened her with knives and dragged her down the stairs by her hair. The sexual assaults involved forced vaginal intercourse and the Offender also forced the Applicant to perform oral sex on him. He threatened to kill her and harm her family if she did not cooperate with his demands. The Offender was charged with Sexual Assault, Sexual Interference, Invitation to Sexual Touching and Uttering Threats. He pleaded guilty to the charge of Invitation to Sexual Touching.

The Applicant experienced vaginal pain as a result of the incidents of forced intercourse. She underwent a sexual assault examination at the hospital and had to take HIV prophylactic medication which caused her adverse side-effects including nausea. She had a low self-esteem, lost her sense of innocence and sense of safety in the world. She engaged in self-harming behaviour, had difficulty in school and she also had problems sleeping. She also found it difficult to trust others both in social and intimate relationships.

**Decision**

The Board found the Applicant to be a victim within the meaning of Section 5(a) of the *Act* of multiple incidents of sexual and physical assault. The Applicant was awarded \$16,000.00 for pain and suffering for the cumulative injuries sustained as a result of the abuse she experienced over a period of four years.



**1309-93662 – Assault: Past Criminal Behaviour under s. 17 (1) of the Act and Lack of Cooperation with the Police under s. 17 (2) of the Act**

Claim

The Applicant sought compensation for pain and suffering and expenses in regards to an incident where he was shot in the upper chest while walking on the street. No perpetrator was identified in connection to the incident.

Evidence

According to the Applicant, he left his friend's house to walk to his grandmother's house. As he was walking, an altercation occurred between him and two individuals. The two individuals asked him for cigarettes. They told him to not move as they touched him, but he fought back. Suddenly more individuals came around the corner to assist the two assailants. He struggled to get away and was shot in the upper chest. After he was shot, a friend that he was planning to meet later that evening pulled up in a car and drove him to the hospital. He indicated that he first met with police in hospital and provided a very general description of the incident.

The police witness provided the Board with an entirely different version of the event. The Applicant approached another male acquaintance whom he knew to be a drug dealer so that he could purchase marijuana. The drug dealer told him to wait by a building and give him half an hour. He then came back with another male individual. The unknown male took out a firearm and shot the Applicant. The police witness attended the hospital in order to get a statement from the Applicant. The Applicant refused to provide the police with any information and refused to sign a medical release form. The police then attempted to follow-up with the Applicant and his family. However, they refused to cooperate with the police in the investigation. The police executed a search warrant at the Applicant's residence where powder cocaine, crack cocaine, scales, cash, ammunition and a loaded firearm were seized. The Applicant was charged with a number of offences stemming from the search. The police witness advised the Board that the shooting was not random and but instead was related to a drug transaction.

The Applicant sustained a gunshot wound to his upper joint near his right sternoclavicular joint. Medical documentation indicated that the bullet fragment was embedded in soft tissues of his chin and upper chest wall. He was admitted to hospital for a short period of observation and discharged home with pain medication. The Applicant sought further treatment with his family doctor as his wound became infected. As a result of the incident, he has been left with a very minor scar. He also had mobility issues as his shoulder and core were quite sore. He attended personal training in an effort to strengthen his core muscles. In addition to the physical injuries, the Applicant struggled with fear, paranoia, anxiety, hyper vigilance, sleep disturbances, and flashbacks.



### Decision

The Board found that the Applicant had sustained injuries as a result of a crime of violence and was therefore a victim within the meaning of section 5 (a) of the Act.

The Board did not find the Applicant to be a credible witness. They found him to be evasive and vague in his account of the incident. It was not until he heard the evidence from the police witness that he acknowledged that was the accurate account of what actually transpired.

Section 17(1) requires that the Board take into consideration "*all relevant circumstances*" including any contributory behaviour on the part of the Applicant. The Act gives the Board broad discretion to determine whether compensation ought to be awarded in any given case and, if so, the amount. In this context, the Board considered the Applicant's involvement in criminal activities along with his criminal record which included a number of drug and firearm offences. The Board's right to consider an Applicant's criminal behaviour when deciding entitlement to compensation has been upheld by the Ontario Divisional Court in *Sweet v. Ontario (Attorney-General)*, 2011 ONSC 2650 (Div Ct).

In this case, the Applicant sustained non-life threatening injuries. The Board considered the severity of his injuries against the fact that he was engaged in a drug transaction at the time of the incident. The Board found that his conduct was such that it was reasonably foreseeable that he would become a victim of the crime committed against him.

The Board found that the Applicant's conduct and criminal behaviour were of such a serious nature that he ought not be awarded compensation pursuant Section 17(1) of the Act. However, even if the Board had not denied him compensation under Section 17(1), it would have denied him compensation under Section 17(2) of the Act.

Section 17(2) permits the Board, in its discretion, to refuse to make an order or reduce an amount of compensation where it is satisfied that a victim has refused reasonable cooperation with, or failed to report promptly the offence to a law enforcement agency. In this case, the Board found that the Applicant failed to cooperate with police by failing to report the incident to police in a prompt manner and by failing to be formally interviewed by police. Most importantly, the Applicant lied to police such that it interfered with their investigation of the crime.

The Board found the Applicant's refusal to cooperate with the police to be unreasonable. As such, the claim for compensation was also denied under section 17(2) of the Act.

**1310-94059 - Assault Causing Bodily Harm**Claim

The 19 year old male Applicant sought compensation for pain and suffering and dental expenses as a result of being physically assaulted.

Evidence

The Applicant was punched in the mouth by another student in the stairwell of his high school. He sustained a comminuted fracture of his nasal bones, a concussion and a broken front tooth. He also experienced headaches, post concussive syndrome and anxiety. The Young Offender was convicted of Assault Causing Bodily Harm and was sentenced to 18 months' probation.

Decision

The Board awarded him \$3,000.00 for pain and suffering as a result of the incident. His dental expenses were denied as he did not provide the Board with any supporting documentation.

**1307-93082 - Historical Child Sexual Abuse**Claim

A female Applicant brought an application as a result of being sexually assaulted on multiple occasions by her step-father. The abuse occurred when she was between the ages of 9 and 17 years old.

Evidence

The Offender would often tie her up as a child and would fondle her chest and vaginal area. He also performed oral sex on her on many occasions. The Offender was convicted of Sexual Assault, Sexual Interference, Sexual Exploitation and Forcible Confinement. She sustained some redness to her wrists and ankles from being tied up. She suffered from post-traumatic stress symptoms such as intrusive memories of the abuse and flashbacks. She also suffered from anxiety, had poor self-esteem, experienced feelings of shame and betrayal. She also found it difficult to trust others.

Decision

The Board found that the Applicant was a victim of multiple acts of sexual assaults that occurred over a period of time. She was awarded \$10,000.00 in pain and suffering for the cumulative injuries sustained as a result of the abuse.

**1112-87504 - Homicide (Bereavement Counselling)****Claim**

The Applicant requested compensation for bereavement counselling following the murder of his mother.

**Evidence**

The Applicant experienced extreme grief following his mother's murder and requested compensation for bereavement counselling expenses. The Offender was convicted of Second Degree Murder in respect of the crime.

**Decision**

The Board found that the Applicant's mother was a "victim" within the meaning of section 5(a) of the Act.

Where a death has occurred as a result of a crime of violence, family members of the victim may be eligible for certain forms of compensation under the Act. These are as follows:

- Expenses related to funeral and burial services;
- Loss of Income that the victim had provided to support a dependant;
- Expenses incurred by a non-parent related to the support of the victim's minor children;
- Bereavement counselling to assist in coping with the immediate grief symptoms;
- Any other expense related to the death that the Board deems reasonable to incur.

The Board authorized \$3,000.00 for bereavement counselling expenses to be paid directly to a qualified treatment provider.

**1305-92519 - Domestic Assaults**Claim

The female Applicant sought compensation as a result of multiple incidents of physical assaults including choking as well as forcible confinement and harassment by her common law husband over a four year period.

Evidence

The Offender repeatedly assaulted the Applicant, often after breaking down the door to gain access to residence. He head-butted her, punched her, choked her with a pole and his hands and threw her around. He forcibly confined her on a number of occasions and threatened her frequently. After the couple broke up, the Offender continued to harass her and assault her on a number of occasions. The Offender was charged with a variety of offences including assaults, choking, forcible confinement, unlawfully in a dwelling and numerous breaches of probation orders when he contacted the Applicant.

The Applicant sustained physical injuries which included a broken rib, a cracked nose, extensive bruising all over her body, broken knuckles and facial injuries. She also suffered emotional injuries including depression, anxiety, fear, hyper-vigilance and shame.

Decision

The Board found that the Applicant was a victim of multiple physical assaults, assault with a weapon, forcible confinement and criminal harassment over a four year period. The Board made a global award for pain and suffering in the amount of \$15,000.00 for pain and suffering, which accounted for the cumulative impact of all the violent crimes committed against her. The Board also pre-authorized future counselling in the amount of \$3,000.00.



## CONTACT INFORMATION

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Criminal Injuries Compensation Board  
439 University Avenue, 4<sup>th</sup> Floor  
Toronto, Ontario M5G 1Y8



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or 1-800-372-7463 (toll free)  
**Fax:** 416-326-2883

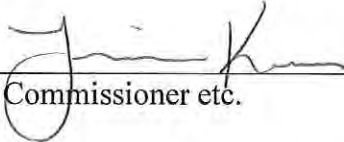
**Web:** [www.cicb.gov.on.ca](http://www.cicb.gov.on.ca)  
**Email:** [info.cicb@ontario.ca](mailto:info.cicb@ontario.ca)

When you receive your decision, you will be told which courthouse can hear your appeal. You can contact the courthouse for more information about the appeal process. You can also download the Guide to Appeals in Divisional Court from the Divisional Court's website.

The CICB cannot help you with the appeal or give you legal advice.

\*(Retrieved from <http://www.sjto.gov.on.ca/cicb/application-hearing-process/> on May 31, 2016)

This is **Exhibit “50”** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.

## Breakdown of Extensions

	Approved				Denied				Total	
	Child Sexual Assault	Other	Total #	%	Child Sexual Assault	Other	#	%	Child Sexual Assault	Total
1997-98	143	599	742	93.7%	26	24	50	6.3%	169	792
1998-99	130	581	711	87.1%	37	68	105	12.9%	167	816
1999-00	164	494	658	79.9%	79	87	166	20.1%	243	824
2000-01	130	473	603	74.2%	99	111	210	25.8%	229	813
2001-02	91	497	588	82.1%	17	111	128	17.9%	108	716
2002-03	47	659	706	78.6%	24	168	192	21.4%	71	898
2003-04	58	578	636	79.0%	15	154	169	21.0%	73	805
2004-05	37	434	471	77.1%	19	121	140	22.9%	56	611
2005-06	30	449	479	85.7%	5	75	80	14.3%	35	559
2006-07	46	683	729	90.8%	6	68	74	9.2%	52	803
2007-08	31	581	612	95.8%	1	26	27	4.2%	32	639
2008-09	34	954	988	85.8%	14	149	163	14.2%	48	1151
2009-10	16	869	885	80.2%	19	199	218	19.8%	35	1103
2010-11	216	1160	1376	86.3%	15	203	218	13.7%	231	1594
2011-12	299	452	751	93.5%	13	39	52	6.5%	312	803
2012-13	411	555	966	92.4%	17	62	79	7.6%	428	1045
2013-14	415	559	974	96.5%	4	31	35	3.5%	419	1009
2014-15	504	527	1031	96.5%	10	27	37	3.5%	514	1068
2015-16	452	632	1084	95.5%	6	45	51	4.5%	458	1135

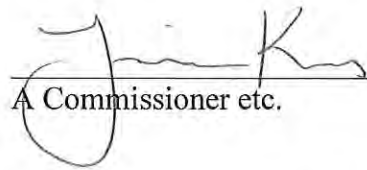


## Extensions - Child Sexual Assault

	Approved		Denied		Total
	#	%	#	%	#
1997-98	143	84.62%	26	15.38%	169
1998-99	130	77.84%	37	22.16%	167
1999-00	164	67.49%	79	32.51%	243
2000-01	130	56.77%	99	43.23%	229
2001-02	91	84.26%	17	15.74%	108
2002-03	47	66.20%	24	33.80%	71
2003-04	58	79.45%	15	20.55%	73
2004-05	37	66.07%	19	33.93%	56
2005-06	30	85.71%	5	14.29%	35
2006-07	46	88.46%	6	11.54%	52
2007-08	31	96.88%	1	3.13%	32
2008-09	34	70.83%	14	29.17%	48
2009-10	16	45.71%	19	54.29%	35
2010-11	216	93.51%	15	6.49%	231
2011-12	299	95.83%	13	4.17%	312
2012-13	411	96.03%	17	3.97%	428
2013-14	415	99.05%	4	0.95%	419
2014-15	504	98.05%	10	1.95%	514
2015-16	452	98.69%	6	1.31%	458

Overall                      81.66%                      20.31%

This is **Exhibit "51"** referred to  
in the Affidavit of Kevin Morris,  
sworn on this 13<sup>th</sup> day of June,  
2016.

  
A Commissioner etc.

Jessica Kras, a Commissioner, etc.,  
Province of Ontario, while a  
Student-at-Law.  
Expires May 9, 2019.

920116EN013

ONTARIO ASSOCIATION OF CHILDREN'S AID SOCIETIES  
75 Front Street East, Suite 203, Toronto, Ontario, M5E 1V9

Telephone # (416) 366-8115 Fax # (416) 366-8317

**MEMO**

TO : All Executive Directors  
and Presidents

FROM : Diane Cresswell  
Manager of Communications

RE : Children in Care as Victims of Crime

DATE : October 25, 1990

For Action by:

For Info:

XXXXXXXXXX

The Official Guardian's Office and MCSS remind us that Section 59 of the CFSA requires CASS to exercise the responsibilities of parents toward society and crown wards.

It is important that societies ensure that their legal counsel pursue the rights of children in care.

The following types of claims and actions should be considered and initiated as a matter of course:

- claims under the Succession Law Reform Act and other estate actions
- claims for Canada Pension Plan survivor benefits
- claims for dependents' relief under Section 61 of the Family Law Act, 1986
- insurance claims
- negligence and other tort actions including medical malpractice
- claims under the Compensation for Victims of Crime Act

I enclose a copy of the pamphlet "We Care for the Victims of Crime" from the Criminal Injuries Board. Questions should be directed to the Criminal Injuries Board of the Official Guardian's Office.

DC:am

Enclosure

Archives of Ontario

RG# 29-10-2 Box# 428124

Folder Child Welfare CAS: Powers + duties

Reel#

Restricted ☒ Unrestricted

Date: 13 / 1 / 98

**HOLLY PAPASSAY, et al.**

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
ONTARIO**

Plaintiffs/Moving Parties

Defendant/ Responding Party

Court File No.: CV-14-0018

<div>ONTARIO SUPERIOR COURT OF JUSTICE</div> <div>PROCEEDING COMMENCED IN TORONTO</div>	<div>AFFIDAVIT OF KEVIN MORRIS (Sworn on June 13, 2016)</div> <div>MINISTRY OF THE ATTORNEY GENERAL Crown Law Office - Civil 720 Bay Street, 8<sup>th</sup> Floor Toronto, ON M5G 2K1 Fax: (416) 326-4181</div> <div>Lise Favreau (LSUC No.: 37800S) Tel: (416) 325-0684</div> <div>Chantelle Blom (LSUC No.: 53931C) Tel: (416) 326-6084</div> <div>Ananthan Sinnadurai (LSUC No.: 60614G) Tel: (416) 314-2540</div> <div>Counsel for the Defendants, Her Majesty the Queen in right of Ontario</div>
---	--



Court File No.: CV-14-0018

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**HOLLY PAPASSAY, TONI GRANN, ROBERT MITCHELL,  
DALE GYSELINCK and LORRAINE EVANS**

Plaintiffs / Moving Parties

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO**

Defendant / Responding Party

Proceeding under the *Class Proceedings Act, 1992*

---

**SUPPLEMENTARY AFFIDAVIT OF KEVIN MORRIS**

(Sworn June 13, 2016)

---

I, **Kevin Morris**, of the City of Guelph, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am a retired Ontario public servant with over 30 years of experience in the Ministry of Community and Social Services and the Ministry of Children and Youth Services (“**MCYS**” or the “**Ministry**”), primarily in the areas of provincial child welfare policy and program management.

2. On June 13, 2016, I swore an affidavit on behalf of Her Majesty the Queen in right of the Province of Ontario in response to the motion by the plaintiffs to certify this action as a class proceeding. At paragraph 49 of that affidavit, I swear that the Ministry has located copies of the

Crown ward orders for Robert Mitchell, Dale Gyselinck, and Lorraine Evans. Attached hereto as **Exhibit "1"** is a true copy of the Crown ward order for Robert Mitchell, dated October 6, 1975. Attached hereto as **Exhibit "2"** is a true copy of the Crown ward order for Dale Gyselinck, dated July 10, 1975. **Exhibit "3"** is a true copy of the Crown ward order for Lorraine Evans, then known as Lorraine MacDonald, dated May 16, 1968.

3. I swear this affidavit in response to the motion to certify the present action as a class proceeding and, if appropriate, to facilitate obtaining a sealing order given the sensitive nature of the information contained herein, and for no other or improper purpose.

Sworn before me in the City of Toronto,  
in the Province of Ontario  
this 13<sup>th</sup> day of June, 2016



A Commissioner for Taking Affidavits, etc.

A. Sinnadurai  
606146



KEVIN MORRIS

This is **Exhibit "1"** referred to  
in the Supplementary Affidavit of  
Kevin Morris, sworn on this 13<sup>th</sup> day  
of June, 2016.



---

A Commissioner etc.

C.A. 18, 829

74-2704ew

FORM 14

The Child Welfare Act

**ORDERS**  
RESPECTING WARDS OF THE CROWN

In the **PROVINCIAL COURT (FAMILY DIVISION) OF THE JUDICIAL DISTRICT OF YORK**  
(name of court)

Before **JUDGE P. GRAVELY**

(name of judge)

**Mon** day, the **6th**

day of **October**, 1975

In the matter of **ROBERT DAVID MITCHELL**  
(name of child)

☐ a child apparently in need of protection.

(check) ☐ a child in need of protection.

☒ a ward of **Children's Aid Society of Metropolitan Toronto**  
(name of society)

Child of **James Marvin Mitchell - Carolyn Joyce Mitchell**  
(name of parent)

And in the matter of an application by **Children's Aid Society of Metropolitan Toronto**  
(name of society)

under, ☐ section 26 (c)

☐ section 27 (2)

(check) ☐ section 27 (5)

☒ section 31 (1)

of the Act.

**FINDINGS**

1. I find,

(a) that **ROBERT DAVID MITCHELL** is a child in need of protection;  
(name of child)

(b) that the date of birth of the child is **May 28, 1961**

(c) that the religious faith of the child is **Protestant**

(d) that the location where the child was taken into protection is **Metropolitan Toronto**

(strike out  
1 or 2  
where not  
applicable,  
and  
initial)

2. I find,

(a) that **ROBERT DAVID MITCHELL** is a ward of **Children's Aid Society of Metropolitan Toronto**;  
(name of child) (name of society)

(b) that the child has been a ward of that society (or of any other society) for a total continuous period of **twelve** months;

(c) that the date of expiration of the last Order committing the child as a ward of a children's aid society is **October 6, 1975**  
(date)



## ORDERS AFFECTING STATUS OF CHILD

(see note)

I order,

(a) that the child be made a ward of the Crown and committed to the care of the Children's

**Aid Society of Metropolitan Toronto**

(name of society)

section  
26 (c)commencing **October 6th**, 19**75**section  
32 (1)

(b) that the Order made on

(date)

and that made the child

a ward of the Crown be terminated;

## ORDERS FOR MAINTENANCE OF CHILD

(see note)

I order,

section  
27 (1)

(a) that

**NOT APPLICABLE**

(name of parent)

do pay to

(name of society)

of

the sum of \$

for each day the

child is in the care of the society, commencing

, 19

section  
27 (2)

(b) that the Order for payment made against

(name of parent)

and dated the

day of

, 19

☐

be varied from \$

to \$

for each day the child is in the

(check)

care of the society, commencing

, 19

or

☐

be rescinded.

Statement of the facts upon which this ~~(check)~~ decision ~~(is)~~ is ~~(made)~~ based:**Best interest of the child. Access at the discretion of the Children's Aid Society.**Certified to be a true copy  
of the order made herein.*for Mitchell*  
Supervisor, Child Welfare Co-ordinator

(Judge P. Gravelly)

(signature of judge)

NOTE: strike out all clauses not applicable.

This is **Exhibit “2”** referred to  
in the Supplementary Affidavit of  
Kevin Morris, sworn on this 13<sup>th</sup> day  
of June, 2016.

A handwritten signature in blue ink, consisting of a series of fluid, connected strokes that form an abstract representation of a name.

---

A Commissioner etc.



Hw

29

74-02-00 C.W.

FORM 14

The Child Welfare Act

# ORDERS RESPECTING WARDS OF THE CROWN

In the Provincial Court - Family Division for the County of Frontenac  
(name of court)

Before Judge George M. Thomson

(name of judge)

Thurs day, the 10th

day of July 19 75

In the matter of Dale Norman Gyselinck

(name of child)

☐ a child apparently in need of protection.

(check) ☐ a child in need of protection.

☒ a ward of the Children's Aid Society of the City of Kingston  
(name of society) and County of Frontenac

Child of Harold Norman Gyselinck and Beverley Ann Gyselinck  
(name of parent)

And in the matter of an application by the Children's Aid Society of the City of  
Kingston and County of Frontenac

under,

☒ section 26 (c)

☐ section 27 (2)

(check) ☐ section 27 (5)

☐ section 32 (1)

☐ section 35

of the Act.

## FINDINGS

1. I find,

(a) that Dale Norman Gyselinck is a child in need of protection;  
(name of child)

(b) that the date of birth of the child is August 2, 1961

(c) that the religious faith of the child is Protestant

(d) that the location where the child was taken into protection is the City of Kingston

(strike out  
1 or 2  
where not  
applicable, and  
initial)

2. I find,

(a) that Dale Norman Gyselinck is a ward of the Children's  
Aid Society of the City of Kingston and County of  
Frontenac

(b) that the child has been a ward of that society (or of any other society) for a total con-

tinuous period of 19 months;

(c) that the date of expiration of the last Order committing the child as a ward of a child-

ren's aid society is June 18, 1975, and Interim Orders to cover  
the period until today's July 10, 1975



The Child Welfare Act

FORM 14

## ORDERS AFFECTING STATUS OF CHILD

(see note)

I order,

(a) that the child be made a ward of the Crown and committed to the care of the Children's Aid Society of the City of Kingston and County of Frontenac  
commencing July 10, 1975.

section  
26 (c)section  
32 (1)

(b) ~~that the child be made a ward of the Crown and committed to the care of the Children's Aid Society of the City of Kingston and County of Frontenac~~ and that made the child a ward of the Crown be terminated.

section  
35

(c) ~~that the child be made a ward of the Crown and committed to the care of the Children's Aid Society of the City of Kingston and County of Frontenac~~ the wardship of the Crown, in respect of the ward who has now attained the age of eighteen years, be continued until the ward attains the age of twenty-one years.

## ORDERS FOR MAINTENANCE OF CHILD

(see note)

I order,

section  
27 (1)

(a) that ~~the parent~~ do pay to ~~the parent~~ the sum of \$ ~~10~~ for each day the child is in the care of the society, commencing ~~19~~.

section  
27 (2)

(b) that the Order for payment made against ~~the parent~~ and dated the ~~day of~~ ~~19~~ be varied from \$ ~~10~~ to \$ ~~10~~ for each day the child is in the care of the society, commencing ~~19~~.  
☐ be rescinded.

Statement of the facts upon which this (these) decision(s) is (are) based

This child was made a ward of the Crown as neither parent was able to establish a permanent plan for the child. At the present time Dale is in a foster home and there seems to be very little difficulties involved. Due to Dale's age, there have been no plans made for adoption.

*George M. Thomson*  
Provincial Judge George M. Thomson,  
Provincial Court - Family Division,  
County of Frontenac.

NOTE: strike out all clauses not applicable.

20 00 014 (9/73) 000000



This is **Exhibit “3”** referred to  
in the Supplementary Affidavit of  
Kevin Morris, sworn on this 13<sup>th</sup> day  
of June, 2016.



---

A Commissioner etc.



ONTARIO

 DEPARTMENT OF  
SOCIAL AND FAMILY SERVICES

ORDERS

 FORM 18  
The Child Welfare Act, 1965

## RESPECTING WARDS OF THE CROWN

CHILD WELFARE BRANCH

JUN 3 1968

In the JUVENILE AND FAMILY COURT FOR THE DISTRICT OF TEMISKAMING

Before Judge E.W. Kemrick

(name of judge)

Thursday, the 16th

day of May

1968

In the matter of Lorraine Marie MacDonald

(name of child)

- verified

☐ a child apparently in need of protection(check) ☐ a child in need of protection☒ a ward of The Children's Aid Society for The District of Temiskaming

(name of society)

Child of John and Elaine MacDonald

(name of parent)

And in the matter of an application by The Children's Aid Society for The District of Temiskaming

(name of society)

under,

☒ section 25 (c)☐ section 26 (2)(check) ☐ section 26 (5)☐ section 31 (1) or 31 (2)☐ section 34

of the Act.

## FINDINGS

1. I find,

(a) that

(name of child)

is a child in need of protection;

(b) that the date of birth of the child is

(c) that the religious faith of the child is

(d) that the location where the child was taken into protection is

(strike out

1 or 2

where not

applic-

able, and

initial)

2. I find,

(a) that

Lorraine Marie MacDonald

(name of child)

is a ward of

The Children's Aid

(name of society)

Society

of the District of Temiskaming

(b) that the child has been a ward of that society (or of any other society) for a total con-

tinuous period of

1

months;

(c) that the date of expiration of the last Order committing the child as a ward of a child-

ren a aid society is

June 30th, 1968

(date)

SEE OVER



The Child Welfare Act, 1965

FORM 14

## ORDERS AFFECTING STATUS OF CHILD

(see note)

I order,

(a) that the child be made a ward of the Crown and committed to the care of the Children's  
Aid Society For The District of Columbia  
(name of society)

section  
25 (c)

commencing May 16th, 1968

section  
31 (1)  
or  
31 (2)

(b) that the Order made on (date) and that made the child

a ward of the Crown be terminated on (date)

section  
34

(c) that, with the approval of the Director given on (date), the wardship of

the Crown, in respect of the ward who has now attained the age of eighteen years, be

continued until the ward attains the age of twenty-one years.

## ORDERS FOR MAINTENANCE OF CHILD

(see note)

I order,

section  
26 (1)

(a) that

(name of parent)

do pay to

(name of society)

of

the sum of \$

for each day the

child is in the care of the society, commencing 19

section  
26 (2)

(b) that the Order for payment made against

(name of parent)

and dated the day of 19

☐ be varied from \$ to \$ for each day the child is in the

(check)

care of the society, commencing 19 or

☐ be rescinded.

Statement of the facts upon which this (these) decision(s) is (are) based:

Mother consented to Crown Wardship and further stated she is planning  
to separate from her husband who has a serious drinking problem.

(signature of judge)

NOTE: strike out all clauses not applicable.

**HOLLY PAPASSAY, et al.**

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF  
ONTARIO**

Plaintiffs/Moving Parties

Defendant/ Responding Party

Court File No.: CV-14-0018

<b>ONTARIO</b> <b>SUPERIOR COURT OF JUSTICE</b>  PROCEEDING COMMENCED IN <b>TORONTO</b>	
<b>SUPPLEMENTARY AFFIDAVIT OF KEVIN MORRIS</b> (Sworn on June 13, 2016)	
<b>MINISTRY OF THE ATTORNEY GENERAL</b> Crown Law Office - Civil 720 Bay Street, 8 <sup>th</sup> Floor Toronto, ON M5G 2K1 Fax: (416) 326-4181  <b>Lise Favreau (LSUC No.: 37800S)</b> Tel: (416) 325-0684  <b>Chantelle Blom (LSUC No.: 53931C)</b> Tel: (416) 326-6084  <b>Ananthan Sinnadurai (LSUC No.: 60614G)</b> Tel: (416) 314-2540  <i>Counsel for the Defendants, Her Majesty the Queen in right of Ontario</i>	



**HOLLY PAPASSAY et al.**

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF ONTARIO, et al.**

Plaintiffs/Moving Parties

Defendant/Responding Party

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
THUNDER BAY

**VOLUME V OF VI: MOTION RECORD OF THE  
DEFENDANT, HER MAJESTY THE QUEEN IN  
THE PROVINCE OF ONTARIO**

(Motion for Certification, returnable January 24, 2017)

**ATTORNEY GENERAL OF ONTARIO**

Crown Law Office – Civil  
720 Bay Street, 8<sup>th</sup> Floor  
Toronto, ON M7A 2S9  
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*Counsel for the Defendant, Her Majesty the Queen  
in right of the Province of Ontario*