Court File No.: CV-14-0018

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

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

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the Class Proceedings Act, 1992

CERTIFICATION MOTION RECORD Volume 2

February 4, 2016

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ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

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

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the Class Proceedings Act, 1992

AFFIDAVIT OF DAVID ROSENFELD

- I, **DAVID ROSENFELD**, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:
- 1. I am a partner at Koskie Minsky LLP, one of the counsel for the proposed representative plaintiff in this action, and as such have knowledge of the matters hereinafter deposed, except where stated to be on information and belief, in which case I disclose the source of my information. I believe these facts to be true.
- 2. I have acted as counsel in over a dozen class actions in the areas of regulatory negligence, institutional abuse, securities, and product liability. For example, I was counsel in *Dolmage v HMQ*, an institutional abuse class action against the Province of Ontario on behalf of persons with disabilities, *Anderson v Canada*, a residential school abuse class action in Newfoundland against the Government of Canada, and *Smith v Inco*, an environmental class action on behalf of residents of Port Colborne, among others. The common issues trial in *Anderson v. Canada* is scheduled to commence on September 28, 2015 and last over 4 months. The *Smith v. Inco* class action involved a three month common issues trial, and *Dolmage v. HMQ* settled on the first day of what was scheduled to be a three month common issues trial.

3. I swear this affidavit in support of the plaintiffs' motion for certification.

NATURE OF THIS ACTION

4. The Statement of Claim in this action asserts that Her Majesty the Queen in Right of the Province of Ontario (the "Crown") was negligent and breached its fiduciary duty for its failure to give proper consideration and to take all reasonable steps to protect and pursue Crown wards' rights to recover compensation for damages sustained as a result of criminal and tortious acts to which Crown wards were victims. Attached hereto as **Exhibit "A"** is a copy of the Fresh as Amended Statement of Claim.

CLASS DEFINITION

5. The proposed class definition is "all individuals who became Crown wards in Ontario on or after January 1, 1966" (together, the "Class Members").

COMMON ISSUES

- 6. The plaintiff proposes the following common issues for determination:
 - (a) does the Defendant owe a duty of care to the class?
 - (b) if so, what is the standard of care applicable to the Defendant?
 - (c) did the Defendant breach that standard of care? If so, when and how?
 - (d) does the Defendant owe a fiduciary duty to the class?
 - (e) if so, what is the content of that fiduciary duty?
 - (f) did the Defendant breach its fiduciary duty? If so, when and how?
 - (g) can the amount of damages for negligence and/or breach of fiduciary duty, or some portion thereof, be determined on an aggregate basis? If so, in what amount and who should pay it to the class?
 - (h) should the Defendant pay punitive, exemplary or aggravated damages?

PREFERABLE PROCEDURE

- 7. To prosecute regulatory negligence class actions such as this one on an individual basis is difficult, time consuming and expensive. Experts must be retained. The documentary evidence will likely be extensive and time consuming to collect and review. Given our experience in other class actions, there may be thousands, if not tens of thousands, of relevant documents.
- 8. As a result, this action will be very expensive to litigate, and will likely be uneconomical for many class members.
- 9. For many Class Members, for whom I assume are of average means, the costs of pursuing an action on an individual basis may be prohibitive and uneconomical, thereby reducing access to justice and insulating the Crown from the claims made in this action.
- 10. In addition, the Class Proceedings Fund has agreed to provide financial support to this class action for legal disbursements and to indemnify the Plaintiffs for costs that may be awarded against him. Without this financial support and adverse costs indemnity, it is unlikely that the Plaintiffs could have advanced this action.
- 11. If each putative Class Member is forced to commence his or her own action to recover his or her damages and had the means and inclination to do so, I believe the resulting multiplicity of proceedings would place a significant burden on scarce judicial resources and the judicial involvement in those proceedings would be substantially greater than the resources required to manage this litigation. Furthermore, there could be inconsistent findings by different courts.
- 12. A single determination of the significant legal issues in this case eliminates the prospect of a multiplicity of proceedings that the *Class Proceedings Act*, 1992 was designed to prevent, thereby facilitating judicial economy.
- 13. I believe the successful resolution of this action will create an incentive for the Crown to refrain from engaging in any of the alleged activity claimed in this action in the future and to be more careful to ensure that it properly considers and protects the legal rights of Crown wards.

LITIGATION PLAN

14. The proposed litigation plan sets out a workable method of advancing the proceedings on behalf of the Class Members. The litigation plan is subject to review and ongoing modification by this Honourable Court, as well as input from the Crown. Attached hereto as **Exhibit "B"** is a copy of the proposed litigation plan.

CROWN DOCUMENTS

15. I am advised my Garth Myers, an associate of Koskie Minsky LLP, that on November 6, 2013, the following Freedom of Information request was made to the Crown:

Any records, hard copy or electronic, communications including hard copy, emails and other electronic messages, manuals, policies, guidelines dealing with policies or procedures regarding whether and how the ministry should evaluate whether or not to bring lawsuits or Criminal Injury Compensation claims on behalf of Crown wards; or whether and how the ministry should inform Crown wards of the possibility of bringing their own claims or lawsuits; or whether and how the ministry might assist Crown wards or former Crown wards to bring such claims or suits; and any records, hard copy or electronic, indicating the number of Crown wards in Ontario since 1971.

16. On September 12, 2014 and October 31, 2014, the Ministry of Community and Social Services released the following documents pursuant to the Freedom of Information Request:

Record	General Description	Exhibit
Number		
1.	September 1975, The Compensation for Victims of Crime Act, 1971	С
2.	December 13, 1976 Inter- Ministry Memorandum	D
3.	January 14, 1977 Inter-Ministry Memorandum	E
4.	A Ministry Manual	F
5.	August 4, 1977 Memorandum to Children's Aid Society (CAS) Executive Directors	G

6.	August 12, 1977 letter from a CAS to the Ministry	Н
7.	August 22, 1977 letter from a CAS to the Ministry	I
8.	August 23, 1977 letter from a CAS to the Ministry	J
9.	August 25, 1977 letter from a CAS to the Ministry	K
10.	September 8, 1977 letter from a CAS to the Ministry	L
11.	September 14, 1977 internal Ministry letter	M
12.	September 15, 1977 letter from the Criminal Injuries Compensation Board to the Ministry	N
13.	September 26, 1977 Ministry handwritten note	О
14.	October 17, 1977 letter from the Ministry to a CAS	P
15.	October 21, 1977 internal Ministry letter	Q
16.	Notes from December 1977, January 1978 and February 1978	R
17.	January 3, 1978 internal Ministry letter	S
18.	January 6, 1978 letter from the Ministry to a CAS	T
19.	January 16, 1978 letter from a CAS to the Criminal Injuries Compensation Board	U
20.	January 19, 1978 letter from the Criminal Injuries Compensation Board to a CAS	V
21.	January 30, 1978 letter from the Ministry to the Criminal Injuries Compensation Board	W
22.	February 8, 1978 letter from the Criminal Injuries Compensation Board to a CAS	X
23.	February 20, 1978 letter from the Ministry to the Criminal Injuries Compensation Board	Y

24.	February 28, 1978 letter from the Criminal Injuries Compensation Board to a CAS	Z
25.	March 10, 1978 letter from a CAS to a County Courthouse	AA
26.	March 28, 1978 letter from a CAS to the Criminal Injuries Compensation Board	BB
27.	March 31, 1978 letter from the Criminal Injuries Compensation Board to a CAS	CC
28.	August 1, 1978 letter from the Official Guardian to the Criminal Injuries Compensation Board	DD
29.	August 1, 1978 letter from a CAS to the Criminal Injuries Compensation Board	EE
30.	August 3, 1978 letter from a CAS to the Criminal Injuries Compensation Board	FF
31.	November 1, 1978 letter from a CAS to the Official Guardian	GG
32.	November 16, 1978 letter from the Official Guardian to a CAS	НН
33.	November 24. 1978 letter from the Criminal Injuries Compensation Board to the Ministry	II
34.	December 1, 1978 handwritten note	JJ
35.	Minutes from a December 6, 1978 meeting of the Criminal Injuries Compensation Board, the Official Guardian, the Ministry	KK
36.	December 11, 1978 letter from the Ministry to a CAS	LL
37.	January 3, 1979 letter from the Criminal Injuries Compensation Board to the Official Guardian	MM
38.	January 10, 1979 internal Ministry letter	NN
39.	February 6, 1979 internal Ministry memorandum	00

40.	February 26, 1979 letter from a CAS to the Ministry	PP
41.	March 12, 1979 letter from the Ministry to a CAS	QQ
42.	March 13, 1979 internal Ministry letter	RR
43.	March 29, 1979 internal Ministry letter	SS
44.	June 21, 1985 internal Ministry memorandum	ТТ
45.	July 9, 1985 memorandum from the Ministry	UU
46.	Ministry Handbook, Chapter 3	VV
47.	April 28, 1988 letter from the Ministry of the Attorney General to the Ministry of Community and Social Services	WW
48.	December 12, 1989 Ministry and Official Guardian Liaison Committee Meeting Notes	XX
49.	September 19, 1990 Ministry and Official Guardian Liaison Committee Meeting Notes	YY
50.	November 21, 1990 Ministry and Official Guardian Liaison Committee	ZZ
51.	Crown Ward Review Guide	AAA
52.	December 2009 Ministry Communique	BBB
53.	July 2011 Ministry Advise	CCC
54.	December 2012 Communique	DDD
55.	CWR Individual Case	EEE
56.	New Ontario Crown Wards by Year	FFF

17. I swear this affidavit in support of the plaintiff's motion for certification and for no improper purpose.

SWORN BEFORE ME at the City of Toronto, this

day of September, 2015.

A Commissioner for taking Affidavits (or as may be)

Gath Myels

DAVID ROSENFELD

This is Exhibit "A" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

Court File No. CV-14-0018

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN.

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

Plaintiffs

- and -

Thunder Bather Majesty the Queen in right of the province of ontario

Defendant

Proceeding under the Class Proceedings Act, 1992

FRESH AS AMENDED STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the splaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

of the Honourable Justice Dursuant to the order of the Honourable Justice Durb 19 dated 28 - May - 15, in/the manner therin, stated

'ORIGINAL SIGNED BY' Y. HINTERBRANDNER

Date:

January 22, 2014

Issued by

Local registrar

Address of court office 277 Camelot Street, Thunder Bay, ON P7B 4A3

TO:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Crown Law Office – Civil Law

720 Bay Street 8th Floor

Toronto, ON M5G 2K1 Tel: (416) 325-8535 Fax: (416) 326-4181

CLAIM

- 1. The plaintiffs, on behalf of the Class as described herein, claims:
 - a) an order certifying this action as a class proceeding and appointing the plaintiffs as representative plaintiffs for the Class;
 - a declaration that the defendant breached its fiduciary, statutory and common law duties to the plaintiffs through its failure to give proper consideration and to take all reasonable steps to protect and pursue Crown Wards' rights to recover compensation for damages sustained as a result of criminal or tortious acts to which Crown Wards were victims;
 - c) a declaration that the defendant was negligent in its failure to give proper consideration and to take reasonable care to protect and pursue Crown Wards' rights to recover compensation for damages sustained as a result of criminal or tortious acts to which Crown Wards were victims;
 - d) a declaration that the defendant is liable to the plaintiffs and the Class for the damages caused by its breach of fiduciary, statutory and common law duties;
 - e) damages for negligence and breach of fiduciary duty in the amount of \$100 million, or such other sum as this Honourable Court may find appropriate;
 - f) punitive damages in the amount of \$10 million or such other sum as this Honourable Court may find appropriate;
 - g) prejudgment and postjudgment interest pursuant to the *Courts of Justice Act*, R.S.O. 1995, c. C. 43, as amended;
 - h) costs of the action;
 - i) the costs of notice and of administering the plan of distribution of the recovery in this action, plus applicable taxes; and
 - j) such further and other relief as to this Honourable Court may deem just and appropriate in all the circumstances.

A. OVERVIEW

- 2. Ontario Crown Wards represent an enormously vulnerable group requiring significant physical, emotional and legal protection. The Crown Ward class members were victims of criminal abuse, neglect and tortious acts as children, and as a result of which, were removed from their care of their families and placed under the care of Her Majesty the Queen in Right of the Province of Ontario (the "Crown"). The Crown Ward class members were also victims of criminal and tortious acts while they were under the age of 18 and in the care of the Crown. As a result of the crimes and torts committed against them prior to, and during their Crown Wardship, the class members were entitled to apply for compensation from the Criminal Injuries Compensation Board and to commence proceedings for civil damages.
- 3. The Criminal Injuries Compensation Board was created by the Ontario Legislature and is administered by the Crown. In its role as legal guardian of Crown Wards and administrator of the Criminal Injuries Compensation Board, the Crown is uniquely situated and charged to protect the legal rights of Crown Wards, to preserve the class members' rights and to assist them in pursuing compensation from the Criminal Injuries Compensation Board and civil damages for tortious acts. Contrary to its duties, the Crown systematically failed to develop and implement the appropriate policies to ensure that such claims were protected and pursued.
- 4. By failing to give proper consideration and to take all reasonable steps to protect and pursue Crown Wards' rights to recover compensation for damages sustained as a result of criminal and tortious acts to which they were victims, the Crown was negligent and in breach of its fiduciary duty.
- 5. As a result of the Crown's systemic failure and inaction, Crown Wards in Ontario have seen their ability to seek civil damages and compensation from the Criminal Injuries Compensation Board evaporate. Limitation periods have expired, evidence has disappeared, and Crown Wards who were victims of criminal and tortious acts have not received compensation that would otherwise have played a vital role in their recovery and development. They have suffered pain and suffering for years of living without such compensation which ought to have been sought and paid to them as children when the crimes against them were committed.

B. THE PARTIES

- 6. The plaintiff, Holly Papassay, (hereinafter referred to as "Holly") is an individual residing in the City of Thunder Bay, in the Province of Ontario.
- 7. Holly was born on September 25, 1971 in Sioux Lookout, Ontario.
- 8. Holly was a Crown Ward between the ages of approximately 5 to 12. As described below, Holly suffered extensive abuse prior to and during her Crown Wardship of which the Crown was aware. The Crown failed to take any steps to protect or pursue her rights to such compensation or damages.
- 9. The plaintiff, Toni Grann, (hereinafter referred to as "Toni") is an individual residing in the City of Thunder Bay, in the Province of Ontario.
- 10. Toni was born on December 29, 1966 in Brockville, Ontario.
- 11. Toni became a Crown Ward at approximately age three. Toni suffered extensive abuse prior to and during her Crown Wardship of which the Crown was aware. The Crown failed to take any steps to protect or pursue her rights to such compensation or damages.
- 12. The plaintiff, Robert Mitchell, (hereinafter referred to as "Robert") is an individual residing in the City of St. Catherines, in the Province of Ontario.
- 13. Robert was born on May 28, 1961 in Toronto, Ontario.
- 14. Robert became a Crown Ward on October 6, 1973 when he was twelve years old. Robert suffered extensive abuse prior to and during his Crown Wardship of which the Crown was aware. The Crown failed to take any steps to protect or pursue his rights to such compensation or damages.
- 15. The plaintiff, Dale Gyselinck, (hereinafter referred to as "Dale") is an individual residing in the City of London, in the Province of Ontario.
- 16. Dale was born on August 2, 1961 in Kingston, Ontario.

- 17. Dale became a Crown Ward on July 10, 1975 when he was thirteen years old. Dale suffered extensive abuse prior to and during his Crown Wardship of which the Crown was aware. The Crown failed to take any steps to protect or pursue his rights to such compensation or damages.
- 18. The plaintiff, Lorraine Evans, (hereinafter referred to as "Lorraine") is an individual residing in the City of Ajax in the Province of Ontario.
- 19. Lorraine was born on March 19, 1963 in Kirkland Lake, Ontario.
- 20. Lorraine became a Crown Ward on May 16, 1968 when she was approximately five years old. Lorraine suffered severe neglect prior to and severe abuse during her Crown Wardship of which the Crown was aware. The Crown failed to take any steps to protect or pursue her rights to such compensation or damages.
- 21. The defendant, Her Majesty the Queen in Right of the Province of Ontario (the "Crown") is named in these proceedings pursuant to the provisions in the *Proceedings Against the Crown Act*, R.S.O. 1990, c. P. 27, and the amendments thereto.
- 22. The plaintiffs bring this action pursuant to the *Class Proceedings Act*, 1992 on their own behalf and on behalf of the following persons (the "Class", "Class Members" or the Crown Ward Class):

all persons who became Crown Wards in Ontario on or after January 1, 1966

C. HISTORY OF CROWN WARDSHIP IN ONTARIO

- 23. In Ontario, a child may be removed from the care of his or her parents into the care of the Crown for reasons that include physical, emotional, sexual abuse, and neglect.
- 24. Prior to January 1, 1966, when a child was removed from his or her family pursuant to the *Child Welfare Act*, the child was made a ward of the Children's Aid Society serving the

area of jurisdiction. Legal guardianship as well as the actual care and custody of the child was transferred from the child's natural parents to the local Children's Aid Society.

- 25. In April 1961, a Minister's Advisory Committee on Child Welfare was commissioned to study and review the Province of Ontario's child welfare legislation and the administration of child welfare programs. The Advisory Committee, chaired by Charles J. Foster, prepared a report recommending that instead of transferring a child's care and custody from his or her natural parents to a Children's Aid Society, the Crown in right of the Province of Ontario should become the legal guardian of these children.
- 26. This recommendation was ultimately accepted, culminating in amendments to the *Child Welfare Act*, 1965, c. 14, sup. 1965. Pursuant to these amendments, which came into force on January 1, 1966, the Crown in Right of the Province of Ontario became the legal guardian of permanent wards, thenceforth known as Crown Wards.
- 27. In adopting the recommendations of the Foster Report, the Ontario Legislature designated the Crown to hold the status, rights and responsibilities as a guardian of those children for whom a transfer of guardianship of the person was deemed necessary under the provisions of the *Child Welfare Act*.
- 28. As the legal guardian of Crown Wards, the Crown is ultimately responsible for providing or causing to provide facilities, policies, standards and programs appropriate for the care and custody of Crown Wards. These duties may not be delegated. The Crown has sovereign and primary responsibility for welfare services to children when parents or family have been unable to fulfill this responsibility. As legal guardians, the Crown has duties to protect the Crown Ward's wellbeing, as well as all assets including the advancement of choses and causes of action.

D. THE PLAINTIFF HOLLY'S EXPERIENCE AS A CROWN WARD

29. Between the ages of 6 and 7, Holly was placed in the care of a foster parent, Mrs. Daley, in her home in Sioux Lookout. As described below, Holly continued to suffer abuse and neglect while in the care of the Crown.

- 30. While she was a resident of this home, a teenage male secretly watched her for months while she dressed and undressed.
- 31. On one occasion, while sitting on a couch, this teenage male attempted to sexually molest her female playmate while she was forced to watch.
- 32. Holly reported these incidents to her caregivers, who were agents of the Crown. As a result, the Crown's agents and police investigated, and she was moved to another home.
- 33. Between the ages of 10 and 13, Holly was placed in a home in the "Mission" area of the Fort William First Nation Reserve in or around Thunder Bay, Ontario. Her foster parents' first names were Barney and Darlene. Thunder Bay CAS processed her at this time.
- 34. A teenage male, several years older than her resided at this home, who repeatedly spoke to her about sexual acts. On numerous occasions, he confined her to in a garage while he exposed himself to her.
- 35. In the same home, Barney and Darlene locked Holly in her room with the window nailed shut and the door locked from the outside for long periods of time. As a result of her confinement, Holly missed meals and was not permitted to use the restroom for hours at a time.
- 36. Holly reported these incidents to the Crown or its agents, but no actions were taken. Specifically, she regularly made reports of abuse to her Thunder Bay CAS case workers when she was between 6 and 14 years old. In addition, Holly reported the abuse to Sioux Lookout police when she was between the ages of 6 and 10.

E. THE PLAINTIFF TONI'S EXPERIENCE AS A CROWN WARD

37. At the age of 3, Toni was physically abused, threatened, and neglected by her mother's partner, William Warren. In particular, Mr. Warren struck Toni on her head with a belt, causing permanent scarring.

- 38. As a result of this and other abuse, Toni was hospitalized for head and neck trauma. Assault-related criminal charges were laid against Mr. Warren and he was ordered to undergo a psychological assessment and/or therapy.
- 39. Toni was subsequently placed in the care of the Crown. The Brockville CAS processed her at this time. As detailed below, Toni continued to suffer abuse while in the care of the Crown.
- 40. Between the ages of three and five, Toni was placed in 5 separate homes by Brockville CAS agents. Toni's Brockville case worker was Tony Moroni ("Moroni").
- At age five, Toni and her three year old younger sister were placed in the care of an adoptive couple who lived in Hamilton, Ontario at 376 East 42nd Street. The Hamilton CAS processed Toni at this time. Her Hamilton case worker was June Graham. Her adoptive parents' names were Victor Smith ("Victor") and Helen Smith ("Helen"). Victor began sexually molesting and abusing Toni almost as soon as she arrived in the home. He repeatedly raped, sodomized, molested her and forced her to perform sexual acts upon him, at least once per week. His assaults included:
 - a) forcing Toni to perform oral sex on him;
 - b) forced anal sex;
 - c) forced vaginal sex;
 - d) exposing Toni to pornographic materials; and
 - e) other events of sexual abuse.
- 42. Toni was told by Victor that their sexual activities together were their secret and she was not to tell anyone else about them. Toni finally fled from the home when she was ten after a particularly brutal sodomy by Victor. When she fled, she immediately attended at the CAS office in Hamilton and told staff, including Graham, that she could not return to the home.
- 43. The Crown or its agents were aware of the abuse sustained by Toni, but no actions were taken.

44. Victor was charged with rape and/or sexual assault, among other charges, in or around 1982 by the Hamilton Police. Victor was convicted in or around 1984 and he served a prison sentence.

F THE PLAINTIFF ROBERT'S EXPERIENCES AS A CROWN WARD

- 45. Robert was regularly physically abused by his father as a child. When Robert was 12 years old, Robert's father assaulted him with a belt. His injuries were so severe that he was hospitalized at the Hospital for Sick Children in Toronto for a number of weeks.
- 46. Robert was subsequently placed in the care of the Crown. Robert was processed by the Toronto CAS office.
- 47. The Crown or its agents were aware of the abuse sustained by Robert. Crown agents took photographs of Robert's extensive injuries.
- 48. Between the ages of 12 and 18, Robert was placed in at least 4 foster homes and/or CAS Receiving Centres by the Crown or its agents.
- 49. Between the ages of approximately 13 and 17, Robert resided at the Kennedy House Group Home for boys at 344 Morningside Avenue in Toronto ("Kennedy House").
- 50. While he resided at the Kennedy House, he was sexually abused by John French, a staff member. On one occasion, Mr. French pinned Robert down and forcefully sexually touched and rubbed Robert. On another occasion, Mr. French forced a number of other boys to strip naked and to bend over in sexually suggestive poses, making Robert watch. On another occasion, Mr. French drugged Robert and sexually abused him while he was unconscious.
- 51. Robert reported the abuse to a supervisor at the Kennedy House Group Home, Kathy Freeman.
- 52. The Crown or its agents were aware of the abuse sustained by Robert, but no actions were taken.

53. Robert was discharged from the Kennedy House Group Home a few weeks before his eighteenth birthday at which time his Crown Wardship ceased.

G. THE PLAINTIFF DALE'S EXPERIENCES AS A CROWN WARD

- 54. Dale was physically abused by his father when he was a boy, who hit him with belts and extension cords. His abuse was so severe that he has retained lasting scars.
- As a result of his father's abuse, Dale was placed in the care of the Crown when he was approximately 5 years old. Dale was processed by the Kingston CAS office.
- 56. The Crown or its agents were aware of the abuse sustained by Dale.
- 57. Dale lived in a number of foster homes throughout his childhood and teenage years.
- Dale lived in a foster home in Sharbot Lake, Ontario between approximately 1972 and 1976. His foster parents were Marian and Neil Wagar. Mr. Wagar regularly physically abused Dale by punching him and hitting him with implements such as sticks.
- Dale was subsequently placed in the Bayfield Homes Group Home in Consecon, Ontario ("Bayfield Homes") where he lived for approximately three years. While at Bayfield Homes, he was shaken, hit across the head, and pushed into a desk where his head was gashed open. He did not receive proper care for his injuries. Much of this abuse was committed by Phil Baldwin, the owner of Bayfield Homes.
- 60. At one time before his teenage years, he lived in a foster home located on Queen Street in Kingston, Ontario. Dale was abused by staff members at this home, including Michael Zirchovich. Mr. Zirchovich beat Dale, and other staff members regularly sexually fondled Dale.
- 61. Dale reported his abuse to CAS Kingston case workers including Bill Leonard and Ray Piper, among others.
- 62. The Crown or its agents were aware of the abuse sustained by Dale, but no actions were taken.

H. THE PLAINTIFF LORRAINE'S EXPERIENCES AS A CROWN WARD

- 63. Lorraine was severely neglected by her parents when she was 3 years old. As a result, she was placed in the care of the Crown. She became a Crown Ward on May 16, 1968 when she was five years old.
- 64. The Crown or its agents were aware of the neglect suffered by Lorraine.
- 65. She was processed by case workers of the Tamiskameng/Kirkland Lake CAS office.
- 66. Between the ages of five and seven, Lorraine resided with foster parents James and Mary Warren in Federal, Ontario, near Kirkland Lake, Ontario. She was repeatedly and regularly sexually abused by Mary's father, Pat Hamilton, during this time. For example, Mr. Hamilton would regularly penetrate Lorraine's vagina with his fingers and forced her to touch and kiss his penis.
- 67. In 1973, when she was 10 years old, CAS placed her with a foster parent, Mrs. Pelletier, in Englehart, Ontario. While living with Mrs. Pelletier, Lorraine was vaginally penetrated by Mrs. Pelletier's son-in-law.
- 68. Between 1975 and 1977, she resided at a farm in Charlton, Ontario under the foster care of Ross and Louise Williams. Ross Williams forced Lorraine to perform oral sex on him and penetrated her vaginally. This abuse occurred numerous times per week. She eventually fled from the Williams home as a result of this sexual abuse.
- 69. When Lorraine was 13, in May 1976, she was admitted to a hospital due to an ovarian rupture. She was told by her physician that her condition was the result of early and repeated sexual activity.
- 70. Lorraine reported her abuse to various CAS workers at the Tamiskameng/Kirkland Lake office who were assigned to her during her period of Crown Wardship. One of those case workers was named Darlene Goch.
- 71. The Crown or its agents were aware of the abuse sustained by Lorraine, but no actions were taken.

72. Lorraine's Crown Wardship was discharged on March 4, 1980.

I THE CROWN'S FAILURES

- 73. During their Crown Wardship and upon their discharge, the Crown:
 - a) failed to advise the plaintiffs that they were entitled to seek compensation or civil damages for the criminal and tortious acts by which they were victims;
 - b) failed to collect and preserve evidence in respect of the criminal and tortious acts by which the plaintiffs were victims;
 - c) failed to provide copies of incident reports and investigations to the plaintiffs of the criminal and tortious acts by which they were victims;
 - d) failed to retain counsel for plaintiffs or to advise the plaintiffs to retain counsel in respect of the criminal and tortious acts by which they were victims; and
 - e) failed to advise the plaintiffs of their rights to make applications for compensation to the Criminal Injuries Compensation Board or to seek damages by way of civil action.

J VICTIMS OF CRIME LEGISLATION AND THE CRIMINAL INJURIES COMPENSATION BOARD

- 74. Established in 1971, the Criminal Injuries Compensation Board makes awards in respect of reasonable expenses and pecuniary losses relating to any injury, pain or suffering caused by a criminal act.
- 75. The Criminal Injuries Compensation Board may compensate victims who have sustained the following criminal acts, among others: (a) criminal negligence; (b) assault; (c) sexual assault; and (d) uttering threats.
- 76. At the outset of the creation of the program, the limitation period for applications for compensation was one year after the date of the injury, with discretion to extend in appropriate circumstances. This limitation period was amended to two years on December 6, 2000.

K. DUTY OF CARE OWED BY THE CROWN TO THE CLASS

- 77. At all material times, the Crown owed duties to the plaintiffs and to the class members which include, but are not limited to, a duty to protect the health and well-being of Crown Wards. This non-delegable duty includes a duty to give proper consideration and to take reasonable care to protect and pursue Crown Wards' rights to recover compensation for damages sustained as a result of criminal and tortious acts by which they were victims.
- 78. The harm suffered by the Crown Ward Class was a reasonably foreseeable consequence of the Crown's acts and omissions.
- 79. The Crown was the guardian of all Crown Wards, standing *in loco parentis* to Crown Wards at all material times.
- 80. The legislation governing the relationship between the Crown and Crown Wards grounds the duty of care owed by the Crown to the Crown Ward Class. The *Child and Family Services Act*, R.S.O. 1990, c. C.11 states that where a child is made a Crown Ward, the Crown has all of the rights and responsibilities of a parent for the purpose of the child's care, custody and control. Such duties include the protection and enforcement of the child's claims for compensation and civil damages in these circumstances.
- 81. The express words of the statute itself establish a special, close, and direct relationship between the Crown and Crown Wards.
- 82. Finally, there was a direct relationship and specific interaction between each of the plaintiffs and the Crown, including the Crown's review of their files, their reporting of the criminal and tortious acts by which they were victims, and/or the Crown's specific knowledge of the criminal and tortious acts by which they were victims.

L STANDARD OF CARE

- 83. The reasonable standard of care expected in the circumstances required the Crown to:
 - a) have in place management and operations policies, procedures and manuals concerning the protection of the Crown Wards' right to seek compensation and/or damages;

- follow and enforce management and operations policies, procedures and manuals concerning the protection of the Crown Wards' right to seek compensation and/or damages;
- provide Crown Wards a program and system through which they could seek compensation and/or damages;
- d) collect and preserve evidence in respect of criminal and tortious acts sustained by Crown Wards;
- e) ensure that there was no conflict of interest between the Ministry and its agents when investigating complaints of criminal or tortious acts sustained by Crown Wards;
- f) advise Crown Wards to retain counsel upon becoming victims of criminal or tortious acts;
- g) retain counsel for Crown Wards upon becoming victims of criminal or tortious acts;
- h) advise the Crown Wards upon becoming victims of criminal or tortious acts that they had potential claims for compensation and/or damages;
- upon discharge, advise Crown Wards of pending limitation periods for claims for compensation and/or damages;
- j) make claims on behalf of the Crown Wards for compensation and/or damages;
- k) take steps to prevent the expiration of limitation periods of Crown Wards for claims for compensation and damages;
- 1) upon discharge, provide copies of incident reports and investigations concerning criminal acts to Crown Wards and all other relevant documentation which could be used in an application for compensation or other such claim for damages;
- m) provide directions to Crown Wards to make claims for compensation or damages once they reach the age of majority;
- n) advise Crown Wards of their right to make an application for compensation and/or claim for damages; and
- o) give proper consideration in respect of the steps above.
- 84. The Crown knew or ought to have known of its duties described herein as a result of its unique position and expertise in caring for Crown Wards.
- 85. Furthermore the Crown knew or ought to have known of its duties described herein as a result of its creation and administration of the Criminal Injuries Compensation Board.

M BREACH OF STANDARD

- 86. The Crown breached the standard of care, on a class-wide systematic basis, in the following respects:
 - a) the Crown failed to have in place management and operations policies, procedures and manuals concerning the protection of the Crown Wards' right to seek compensation and/or damages;
 - b) the Crown failed to follow and enforce management and operations policies, procedures and manuals concerning the protection of the Crown Wards' right to seek compensation and/or damages;
 - c) the Crown failed to provide Crown Wards with a program and system through which they could seek compensation and/or damages;
 - the Crown failed to collect and preserve evidence in respect of criminal or tortious acts sustained by Crown Wards;
 - e) the Crown failed to ensure that there was no conflict of interest between the Ministry and its agents when investigating complaints of criminal or tortious acts sustained by Crown Wards;
 - f) the Crown failed to advise Crown Wards to retain counsel upon becoming victims of criminal or tortious acts:
 - g) the Crown failed to retain counsel for Crown Wards upon becoming victims of criminal or tortious acts;
 - h) the Crown failed to advise the Crown Wards upon becoming victims of criminal or tortious acts that they had potential claims for compensation and/or damages;
 - i) upon discharge, the Crown failed to advise Crown Wards of pending limitation periods for claims for compensation and/or damages;
 - j) the Crown failed to make claims on behalf of the Crown Wards for compensation and/or damages;
 - k) the Crown failed to take steps to prevent the expiration of limitation periods of Crown Wards for claims for compensation and/or damages;
 - upon discharge, the Crown failed to provide copies of incident reports and investigations and other relevant documentation concerning criminal acts which was committed, which could assist in applications on claims for compensation and/or damages;
 - m) the Crown failed to provide directions to Crown Wards to make claims for compensation and/or damages;

- n) the Crown failed to advise Crown Wards of their right to make an application for compensation and/or damages; and
- The Crown failed to give proper consideration with respect to the steps outlined above.
- 87. The Crown knew, or ought to have known, that as a consequence of the above-documented failures, Crown Wards would suffer both immediate and long-term harm.
- 88. By failing to take any of these steps, the Crown was careless, reckless, willfully blind, or was deliberately discouraging application to the Criminal Injuries Compensation Board or civil actions for damages.
- 89. The Crown's breach was an operational decision.
- 90. In the alternative, the Crown's breach was a policy decision that was not *bona fides*, was irrational, and was an improper exercise of Crown discretion.

N. FIDUCIARY RELATIONSHIP BETWEEN THE CROWN & THE CLASS

- 91. The Crown owed Crown Wards, as individuals in its sole care and control, a fiduciary duty which included a duty to care for and protect the Crown Wards and to not put its interests ahead of the interests of Crown Wards.
- 92. The Crown was the guardian of all Crown Wards, standing *in loco parentis* to Crown wards at all times. Crown Wards were persons to whom the Crown owed the highest non-delegable, fiduciary, moral, statutory and common law duties.
- 93. At all material times, Crown Wards were entirely and exclusively within the power and control of the Crown or its agents, and were subject to the unilateral exercise of the Crown's or its delegate's power or discretion.
- 94. By virtue of the relationship between the Crown Wards as children and the Crown, being one of trust, reliance and dependence, the Crown owed a fiduciary obligation to ensure that Crown Wards were treated in all ways consistent with the obligations of a party standing *in loco parentis* to an individual under his or her care or control.

- 95. Crown Wards were entitled to rely and did rely upon the Crown to their detriment to fulfill their fiduciary obligations, the particulars of which include, but are not limited to, those duties set out in paragraph 42 above.
- 96. In failing to give proper consideration and to take reasonable steps to protect the rights of the Crown Wards to seek compensation or damages, the Crown breached its fiduciary duty by:
 - a) failing in the very essence of its obligation as legal guardian to protect the legal rights of Crown Ward class;
 - b) inflicting pecuniary injury on members of the Crown Ward class;
 - c) deliberately or negligently failing to appropriately address compensable harm suffered by Crown Wards in order to avoid scrutiny or trouble;
 - d) deliberately or negligently avoiding payment out of Ontario's consolidated revenue fund to Crown Ward class members by way of compensatory awards from the Criminal Injuries Compensation Board;
 - e) deliberately or negligently placing its interest, including its financial interests, ahead of those of the Crown Ward class members; and
 - f) exercising undue influence over the economic matters of Crown Wards for its own gain, constituting a betrayal of trust, loyalty and of disinterest.

O DAMAGES SUFFERED BY THE PLAINTIFFS AND THE CLASS

- 97. The Crown knew, or ought to have known, that as a consequence of its negligence and breach of fiduciary duty, that members of the Crown Ward Class:
 - a) have been foreclosed from making a claim for civil damages or for compensation pursuant to the *Compensation for Victims of Crime Act* for reasonable expenses and pecuniary losses relating to any injury, pain and suffering as a result of:
 - i. missed limitation periods; and/or
 - ii. lack of evidence;
 - b) have suffered long delays in receiving compensation, which in turn delayed:
 - i. the use and enjoyment of compensation;
 - ii. the ability to receive treatment for injuries or to use the compensation or damages to better their lives;

- iii. the use compensation or damages to better their lives; and
- iv. lost accrual of interest:
- c) have suffered emotional distress, including mental distress, anger, depression, anxiety untreated PTSD and other psychological illnesses caused while under the care of the Crown, despite being fully knowledgeable of the circumstances, assaults and injuries described herein; and
- d) have suffered further psychological illnesses and injuries for having their trust violated.

P PUNITIVE DAMAGES

e 1 1 p

- 98. The high handed and callous conduct of the Crown warrants the condemnation of this Honourable Court. The Crown conducted its affairs with wanton and callous disregard for the class members' interests and well-being. It all the circumstances, the Crown breached, and continues to breach, its fiduciary duty and duty of good faith owed to the class members.
- 99. The Crown, either intentionally or recklessly, breached its common law, statutory and fiduciary duties as set out herein and this conduct warrants punitive damages.
- 100. The Crown was clearly aware of this failure or was wilfully blind or grossly negligent in not protecting the rights of the class to seek compensation or damages. The Crown was aware of the need to protect victims of crimes and torts and the rights of victims to seek compensation and damages.
- 101. Notice of this action was provided to Her Majesty the Crown in Right of the Province of Ontario on June 3, 2013.
- 102. This action is commenced pursuant to the Class Proceedings Act, 1992.
- 103. The Plaintiffs plead and rely on the following:
 - (a) Canadian Charter of Rights and Freedoms ss. 7, 15, 24 and 28;
 - (b) Child and Family Services Act, RSO 1990, c.C.11 and amendments thereto, ss.
 1, 3, 15, 16, 17, 23, 37, 38, 40, 61, 62, 63, 63.1, 72, 79, 81, 105, and 108. RRO
 1990, Regulation 70, RRO 1990, Regulation 71, Regulation 206/00;

8 1 6

- (c) Child Welfare Act, 1965, c.14, sup.1965 and amendments thereto, ss. 1, 6, 19,25, 32, 33, 38, 40 and 41, RRO 1970, Regulation 86 126/73;
- (d) Class Proceedings Act, 1992, SO 1992, c.6 and amendments thereto;
- (e) Compensation for Victims of Crime Act, RSO 1990, c. C.24 and amendments thereto, ss. 1, 5, 6, 7, 8, 9, 10, 11, 16, 17, 18, 19, 21, 26, and 27;
- (f) Courts of Justice Act, R.S.O. 1990, c. C.43 and amendments thereto;
- (g) Family Law Act, R.S.O. 1990, c. F. 3 and amendments thereto, ss. 1, 31, and 61;
- (h) Negligence Act, R.S.O. 1990, c. N.1 and amendments thereto, ss. 1-7;
- 104. The Plaintiffs propose that this action be tried in the City of Thunder Bay in the Province of Ontario.

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Solicitors for the Plaintiffs

This is Exhibit "B" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

Court File No.: CV-14-0018

ONTARIO SUPERIOR COURT OF JUSTICE

BETWEEN:

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

Plaintiffs

- and -

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Defendant

Proceeding under the Class Proceedings Act, 1992

PLAINTIFFS' LITIGATION PLAN

COMMON ISSUES AND CERTIFICATION MOTION

- 1. At the certification motion, the plaintiffs will seek certification of the following common issues ("Common Issues"):
 - (i) does the Defendant owe a duty of care to the class?
 - (ii) if so, what is the standard of care applicable to the Defendant?
 - (iii) did the Defendant breach that standard of care? If so, when and how?
 - (iv) does the Defendant owe a fiduciary duty to the class?
 - (v) if so, what is the content of that fiduciary duty?
 - (vi) did the Defendant breach its fiduciary duty? If so, when and how?
 - (vii) can the amount of damages for negligence and/or breach of fiduciary duty, or some portion thereof, be determined on an aggregate basis? If so, in what amount and who should pay it to the class?
 - (viii) should the Defendant pay punitive, exemplary or aggravated damages?

NOTIFICATION OF CERTIFICATION AND OPT OUT PROCEDURE

- 2. The plaintiffs request that the Court settle the form and content for notification of the certification of this action (the "Notice of Certification"), the timing and manner of providing Notice of Certification ("Notice Program") and set out an opt-out date as being three (3) months following the date of the Certification Order.
- 3. The plaintiffs request that the defendants pay the costs of the Notice Program and the dissemination of the Notice of Certification.
- 4. The plaintiffs request that Notice of Certification be disseminated at the defendants' expense as follows:
 - (a) delivered by regular mail or email to the class members whose contact information the defendants have identified in their own file records and which has been provided to class counsel and whose contact information class counsel has been provided directly from potential class members;
 - (b) circulated to community action groups who may deal with class members, as advised by plaintiffs' counsel;
 - (c) forwarded by mail or email to any person who requests it from the defendants or plaintiffs' counsel;
 - (d) posted on class counsels' class action websites, social media, and accounts;
 - (e) issued by press release via the CNW Group Canadian Basic Network;
 - (f) publicized in the media; and
 - (g) by such other notice as the Court directs.
- 5. The plaintiffs will ask the Court to order that no person may opt out a minor or a person who is mentally incapable without leave of the court after notice to the Children's Lawyer and/or the Public Trustee, as appropriate.
- 6. The plaintiffs will ask the Court to approve an opt-out Form to be used by class members wishing to opt out of the class action, which will require the class member to provide sufficient information to establish their membership in the Class.

7. Within sixty (60) days after the expiration of the opt-out period, class counsel will deliver to the Court and the parties an affidavit listing the names of all persons who have opted out of the class action.

LITIGATION STEPS PRIOR TO THE DETERMINATION OF THE COMMON ISSUES

Pleadings and Production

- 8. The defendants shall serve a statement of defence within thirty (30) days from the date of Certification Order.
- 9. The plaintiffs shall have thirty (30) days from service of the defendant's statement of defence to serve a reply, if any.
- 10. All pleadings in the action shall be served and filed within sixty (60) days from the Certification Order.
- 11. Within sixty (30) days from the Certification Order the parties shall meet and confer with respect to a discovery plan. Within sixty (60) days of the Certification Order, the parties shall agree to a timetable for production of documents and examinations or otherwise have the issues determined by the Court.
- 12. The plaintiffs request that the defendants be expressly obliged to do the following:
 - (a) Deliver a list of names and contact information of the class members known to them to plaintiffs' counsel;
 - (b) Deliver the names of any other class members or potential members as they become known to them to plaintiffs' counsel; and
 - (c) Enjoining and restraining the defendants, their servants, and agents from destroying or disposing of any documents or removing from Ontario any documents relating in any way to this action.
- 13. The plaintiffs shall apply for such further directions as may be required.

First Trial Management Conference ("TMC")

- 14. The plaintiffs propose that the TMC of this action be fixed for hearing within ninety (90) days of the Certification Order at a place to be fixed by the case management judge, to:
 - (a) Approve the production and examination timetable to be agreed between the parties and address any issues with respect to a discovery plan;
 - (b) Set a deadline for the hearing of motions arising from productions and examinations;
 - (c) Set a deadline for the delivery of expert reports;
 - (d) Set dates for further TMCs or case-conferences as necessary; and
 - (e) Fix a date for the trial of the common issues.

Pleading/Common Issues Amendments

15. Following examinations for discovery and the exchange of any necessary expert reports, the plaintiffs intend, if necessary, to attend before the Court in order to amend the pleadings and clarify and/or redefine the common issues, if necessary.

Common Issues Trial

16. The common issues trial will determine the Common Issues at a time and place fixed by the Court, in the City of Thunder Bay.

LITIGATION STEPS FOLLOWING THE DETERMINATION OF COMMON ISSUES FAVOURABLE TO THE CLASS

Notice of Resolution of Common Issues

17. The plaintiffs request that the Court settle the form and content for notification of the resolution of the Common Issues and the claims and individual issues processes ("Notice of Resolution"), the timing and manner of providing the Notice of Resolution ("Resolution Notice Plan") and requiring class members to file claims ("Claim Forms") by a fixed date with a person designated by the Court (the "Administrator").

Valuation of Damages

- 18. Assuming that Common Issues (i) (vi) are resolved in favour of the plaintiffs, the plaintiffs propose two (2) methods for assessing and distributing damages for the class members awarded in the aggregate as follows:
 - (a) Global punitive damages (to be determined as Common Issue (viii)) to be distributed on a *pro rata* basis;
 - (b) Aggregate damages for the individual claimants and their Family Law Claimants (to be determined as Common Issue (vii)) to be distributed on a *pro-rata* basis; and/or

(a) Global Punitive Damages

- 19. The plaintiffs are seeking a global award of punitive damages. Should the Court award such damages on a global basis, within a fixed period of time set by the court from the total amount of damages will be apportioned to the class in the following manner.
- 20. Counsel will distribute a Claims Form to the Class Members. The Claims Form will ask each claimant to establish their membership in the class by setting out the dates and duration of their Crown wardship and the nature of the abuse they sustained before and while they were Crown wards. The dates and duration of Crown wardship and the nature of abuse sustained by each class member will permit the distribution of damages assessed on an aggregate basis, if awarded. Compensation will be awarded in accordance with a grid taking into account these factors, as approved by the Court.
- 21. The Claims Form must be filed with a claims administrator (the "Administrator") within six (6) months of the Notice of Resolution, failing which the claimant will be deemed to have waived his or her claim.
- 22. The Administrator shall, after a review of the Claims Form and all supporting documentation, determine if the claimant qualifies as a class member ("Approved Claimant").
- 23. Each class member will be paid his or her *pro rata* share of punitive damages based upon each Approved Claimant's entitlement under the grid, as approved by the Court.

(b) Aggregate Damages Distribution

- 24. The plaintiffs are seeking an aggregate assessment of damages as a common issue. Should the Court determine that an aggregate assessment is appropriate and in fact assess such damages on an aggregate basis, within a fixed period of time set by the court from the Notice of Resolution, such aggregate damages will be distributed in accordance with a grid structure respecting years as a Crown ward and nature of abuse, as approved by the Court.
- 25. Any monies awarded for global punitive damages or based on an aggregate assessment of damages not distributed to the Approved Claimants will be distributed cy-prés as the Court directs. Any residual amounts ought to be distributed cy-prés to local community organizations which assist former Crown wards.

Resolution of the Individual Issues

- 26. The plaintiffs have requested an aggregate assessment of monetary relief as a common issue. If it is still necessary to establish a procedure in accordance with section 25 of the *Class Proceedings Act*, 1992 S.O. 1992, Chapter 6, ("*CPA*") to determine some aspect of or all of the individual damages of Class Members, or any other individual issues as directed by the court, a simplified process for such claims is set out below.
- 27. Within thirty (30) days of the issuance of the judgment on the common issues, the parties will convene for argument relating to sections 25 of the *CPA* to determine the appropriate course to determine the individual issues, if any.

Individual Damages Assessments

- 28. The plaintiffs propose the following process for individual damages and causation and other individual issues determinations:
 - (a) Within a time prescribed by the court, each Approved Claimant and counsel for the parties will be invited to attend in a place designated by the Court for a an impact interview ("Impact Interview"), to be conducted by a multidisciplinary panel of three (3) practitioners with experience working with Crown wards (ie. social workers, former CAS councillors etc.) ("Interview Panel");

- (b) the members of the Interview Panels will be chosen by plaintiffs' counsel in consultation with the defendants and the court, to ensure the appropriate make up and experience of the Interview Panels;
- (c) The Interview Panel will conduct an Impact Interview with each Approved Claimant and will prepare, within thirty (30) days of the Impact Interview, a joint report setting out the Claimants' experiences (including abuse and neglect) before and while a Crown ward, any steps taken by the Crown or otherwise to protect and pursue Crown wards' legal rights, the Interview Panel's conclusions as to the impact of the failure to protect the Approved Claimant's legal rights, as the case may be, and any other issue that may arise ("Joint Impact Report");
- (d) Within thirty (30) days of the Joint Impact Report, plaintiffs counsel and defendants' counsel will meet to determine the entitlement and quantum of damages associated to each Individual Claimant, if any;
- (e) If the parties are able to agree on the entitlement and appropriate level of damages for an Approved Claimant, the defendant shall, within thirty (30) days of such agreement, make the payment to the class member;
- (f) If the parties are unable to agree on the entitlement and appropriate level of damages for an Approved Claimant, within thirty (30) days, plaintiffs' counsel and defendants' counsel will attend before a referee designated by the Court to establish the process to determine causation, damages, and any other individual issues;
- (g) The time and place of the hearing will be set by the referee promptly;
- (h) Within forty-five (45) days of the Joint Impact Report, the defendant shall serve on plaintiffs' counsel a statement of dispute for each Approved Claimant setting out what individual issues the defendants are contesting ("Statement of Dispute").
- (i) Within thirty (30) days of the Statement of Dispute, a referee appointed by the court shall convene an individual issue hearing ("Individual Issue Hearing"), with the following process:
 - (i) The time and place of the Individual Issue Hearing shall be set by the referee, but all Individual Issue Hearings are to be scheduled within thirty (30) days of receiving the Statement of Dispute;
 - (ii) In advance of the claims process, the referee, in consultation with plaintiffs' counsel, defendants' counsel and the Court, shall establish procedures for the determination of the Individual Issue Hearings, in a manner having regard to the purposes and goals of the *CPA*, subject to any order of the Court providing otherwise;
 - (iii) The referee shall render a decision, with reasons, within sixty (60) days after the Individual Issue Hearing;
 - (iv) The referee's decision is final and binding on the parties;

MISCELLANEOUS REQUIREMENTS OF THE LITIGATION PLAN

Registration of Potential Class Members

29. The plaintiffs will develop a confidential web-based registration system (the "Registration System") as well as a telephone hotline, which will permit potential class members to register and provide to plaintiffs' counsel the information necessary to assess the components and value of the claims.

Review of the Plan

30. This Litigation Plan may be reconsidered and revised under the continuing casemanagement authority of the Court after the determination of the common issues or upon application by the parties.

Funding

- 31. Class Counsel has entered into an agreement with the representative plaintiffs with respect to legal fees and disbursements. This agreement provides that counsel will not receive payment for their work unless and until the class proceeding is successful or costs are recovered from the defendant. Class Counsel will fund all disbursements necessary to vigorously prosecute the action. The Class Proceeding Fund has agreed to fund the action.
- 32. Class Counsel's legal fees are subject to court approval under the *CPA*.

Claims Administration

33. Plaintiffs' counsel proposes that a Class Action Administrator provide the claims administration for any settlement achieved, for global damages distribution and individual damages determinations.

34. If a settlement is achieved and a settlement fund is provided, the Administrator will administer payments out of the fund to claimants based on the procedures set out above, with after approval and/or modification by the Court.

Class Action Websites

35. From time to time, class counsel will post frequently asked questions and answers and other documentation relating to the class action on the class action websites and other social media sites supervised by Crawford Class Action Services for the information of class members. Class Counsel will also maintain their own website.

Applicable Law

36. The applicable law is the law of Ontario in all respects.

This is Exhibit "C" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers



The Compensation for Victims of Crime Act, 1971

Enquiries may be made to:

Criminal Injuries Compensation Board, 505 University Avenue, 3rd Floor, Toronto, Ontario M5G 1X3

1975

TORONTO

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OFFICE CONSOLIDATION

THIS EDITION IS PREPARED FOR PURPOSES OF CONVENIENCE ONLY, AND FOR ACCURATE REFERENCE RECOURSE SHOULD BE HAD TO THE STATUTES.

CHAPTER 51

The Compensation for Victims of Crime Act, 1971

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) "Board" means the Criminal Injuries Compensation Board established under this Act;
- (b) "child" includes an illegitimate child and a child to whom a victim stands in loco parentis;
- (a) "dependant" means a spouse, child or other relative of a deceased victim who was, in whole or in part, dependent upon the victim for support at the time of his death and includes a child of the victim born after his death;
- (d) "injury" means actual bodily harm and includes pregnancy and mental or nervous shock and "injured" has a corresponding meaning;
- (e) "Minister" means the Attorney General;
- (f) "peace officer" means a peace officer as defined in the 1953-54, Criminal Code (Canada);
- (g) "victim" means a person injured or killed in the circumstances set out in section 5.
- (2) The Board may direct that persons were spouses of Unmarried each other for the purposes of this Act where the Board finds that,

- (a) although not married, they cohabited as man and wife and were known as such in the community
- $\langle b \rangle$ the relationship was of some permanence.

and the Board may direct that any person to whom a victim or applicant was married and who was living apart from the victim or applicant under circumstances that would have disentitled such person to alimony was not a spouse of the victim or applicant for the purposes of this Act. 1971, c. 51,

Administra-tion of Act

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2. The Minister is responsible for the administration of this Act. 1971, c. 51, s. 2.

The Criminal Injuries Compensa-tion Board 1967, c. 45

3.—(1) The Law Enforcement Compensation Board, established under The Law Enforcement Compensation Act, 1967, is continued and shall be known as the Criminal Injuries Compensation Board and shall be composed of not fewer than five and not more than seven members who shall be appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members as chairman and one or more of them as vice-chairmen.

Board a Corporation R.S.O. 1970, c. 69

(2) The Board is a corporation to which The Corporations Act does not apply.

Duties of chairman

(3) The chairman shall have general supervision and direction over the conduct of the affairs of the Board, and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances require.

Substitute chairman

(4) The chairman may designate a vice-chairman who shall exercise the powers and perform the duties of the chairman when the chairman is absent or unable to act. 1971, c. 51, s. 3.

Publishing reports

4. The Board shall prepare and periodically publish a summary of its decisions and the reasons therefor. 1971,

Injuries

5. Where any person is injured or killed by any act or omission in Ontario of any other person occurring in or resulting from,

1953-54, c. 51 (Can.)

(a) the commission of a crime of violence constituting an offence against the Criminal Code (Canada), including poisoning, arson, criminal negligence and an offence under section 86 of that Act but not including an offence involving the use or operation of a motor vehicle other than assault by means of a

5

(e) maintenance of a child born as a result of rape;

(f) other pecuniary loss resulting from the victim's injury and any expense that, in the opinion of the Board, it is reasonable to incur.

Idem

(2) Where the injury to a person occurred in the circumstances mentioned in clause b or c of section 5, the Board may, in addition to the compensation referred to in subsection 1, award compensation to the injured person for any other damage resulting from the injury for which damages may be recovered at common law. 1971, c. 51, s. 7.

Referral for hearing

- 8. Where an application is made under section 5, the chairman of the Board shall refer the application,
 - (a) to the Board for a hearing conducted by at least two members of the Board; or
 - (b) to one member of the Board for a hearing by him,

as the chairman may direct. 1971, c. 51, s. 8.

Notice of hearing by one member of Board

9.—(1) The Board or member to whom an application is referred under section 8 shall fix a time and place for the hearing of the application and shall at least ten days before the day fixed cause notice thereof to be served upon the applicant, upon the Minister, upon the offender where practicable and upon any other person appearing to the Board or member to have an interest in the application.

Parties

(2) Every person upon whom notice of a hearing is served and any other person added by the Board or member is a party to the proceedings.

Jurisdiction of member

(3) The Board or member shall hold the hearing and make an order under section 5, and, subject to section 10, this Act applies in respect of the hearing and jurisdiction of the member in the same manner as to the Board. 1971, c. 51, s. 9.

Hearing and review by Board 10.—(I) Where an application is heard by a single member of the Board under section 9, the applicant or the Minister may, within fifteen days after service of the decision of the member, require a hearing and review by the Board and the Board shall fix a time and place for the hearing and shall at least ten days before the day fixed cause notice thereof to be served upon the parties to the proceedings.

Adding parties

(2) The Board may add persons as parties to the proceedings during a review under this section.

- (3) The hearing shall be conducted and the jurisdiction of Quorum the Board shall be exercised by at least two members of the Board and the member whose decision is being reviewed shall not sit on the review.
- (4) After a hearing and review by the Board under this Order of section, the Board shall make its order in accordance with this Act and its order supersedes the order of a single member made under section 9 that is the subject of the hearing and review. 1971, c. 51, s. 10.
- 11. If a person is convicted of a criminal offence in Conviction respect of an act or omission on which a claim under this conclusive Act is based, proof of the conviction shall, after the time for an appeal has expired or, if an appeal was taken, it was dismissed and no further appeal is available, be taken as conclusive evidence that the offence has been committed. 1971, c. 51, s. 11.
- 12. All hearings shall be held in public except where, in Hearings to be the opinion of the Board, it is necessary to hold the hearing open to public exceptions in camera for the reason that a public hearing,
 - (a) would be prejudicial to the trial of the person whose act or omission caused the injury or death; or
 - (b) would not be in the interests of the victim, or of the dependants of the victim, of an alleged sexual offence, 1971, c. 51, s. 12.
- 13.—(i) The Board may make an order prohibiting the Publication publication of any report or account of the whole or any part of the evidence at a hearing where the Board considers it necessary but in making an order under this subsection the Board shall have regard to the desirability of permitting the public to be informed of the principles and nature of each case.
- (2) Any person who publishes a report or account of any offence evidence at a hearing contrary to an order of the Board under subsection I is guilty of an offence and on summary conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.
- (3) Where a corporation is convicted of an offence under Corporations subsection 2, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein. 1971, c. 51, s. 13.

14. Where.

Interim compensation

(a) the applicant is in actual financial need; and

(b) it appears to the Board that it will probably award compensation to the applicant,

the Board may, in its discretion, order interim payments to the applicant in respect of maintenance and medical expenses and, if compensation is not awarded, the amount so paid is not recoverable from the applicant. 1971, c. 51, s. 14.

Service

15.—(1) Any notice or document required to be served under this Act or the regulations is sufficiently served if delivered personally or sent by registered mail addressed to the person upon whom service is required to be made at the latest address for service appearing on the records of the Board.

Idem

(2) Where any notice or document mentioned in subsection 1 is served by registered mail, the service shall be deemed to be made on the third day after the day of mailing unless the person to be served did not, acting in good faith, through absence, accident, illness or other cause beyond his control receive the notice or document until a later date.

Exception

(3) Notwithstanding subsections 1 and 2, the Board may order any other method of service of any notice or document mentioned in subsection 1.—1971, c. 51, s. 15.

Compensation not dependent on a conviction

16.—(1) An order for compensation may be made whether or not any person is prosecuted for or convicted of the offence giving rise to the injury or death but the Board may, on its own initiative or upon the application of the Minister, adjourn its proceedings pending the final determination of a prosecution or intended prosecution.

Capacity for mens

(2) Notwithstanding that a person for any reason is legally incapable of forming criminal intent, he shall, for the purposes of this Act, be deemed to have intended an act or omission that caused injury or death for which compensation is payable under this Act. 1971, c. 51, s. 16.

Considerations of Board 17.—(1) In determining whether to make an order for compensation and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death. 1971, c. 51, s. 17 (1).

Idem

(1a) The Board may, in its discretion, refuse to make an order for compensation where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency. 1973, c. 34, s. 1.

- (2) In assessing pecuniary loss, the Board shall take into Idem consideration any benefit, compensation or indemnity payable to the applicant from any source. 1971, c. 51, s. 17 (2).
- 18. The Board may order compensation to be paid in a Former lump sum or in periodic payments, or both, as the Board tion thinks fit. 1971, c. 51, s. 18.
- 19.—(1) The amount awarded by the Board to be paid in Maximum awards respect of the injury or death of one victim shall not exceed.
 - (a) in the case of lump sum payments, \$15,000; and
 - (b) in the case of periodic payments, \$500 per month,

and where both lump sum and periodic payments are awarded, the lump sum shall not exceed half of the maximum therefor prescribed in clause a.

(2) The total amount awarded by the Board to be paid to Maximum total of all applicants in respect of any one occurrence shall not exceed, payments for

- (a) in the case of lump sum payments, a total of \$100,000; and
- (b) in the case of periodic payments, a total of \$175,000.
- (3) Where the total amount awarded in respect of any one Protata distribution occurrence exceeds the maximum amount prescribed by subsection 2, the amount prescribed shall be distributed pro rata in proportion to the amounts of the awards that would otherwise have been made.
- (4) For the purposes of this section, the Board may deem Acts deemed more than one act to be one occurrence where the acts have occurrence a common relationship in time and place
- (5) Subsection 1 does not apply to amounts awarded in Application of subsection 1 respect of an injury or death incurred under clause b or $c_{1\,\mathrm{and}\,2}^{\mathrm{ot\,subs}}$ of section 5 and such amounts shall not be taken into account for the purposes of subsection 2. 1971, c. 51, s. 19.
- 19a. Any money paid or payable by way of compensa-Award not subject to tion under this Act or held by the Public Trustee or other garnish person under an order made by the Board under subsected. tion 3 of section 20 is not subject to garnishment, attachment, execution, set-off or any other legal process and the right thereto is not assignable. 1973, c. 34, s. 2.

on the application of the victim, any dependent of the victim, the Minister or the offender, vary an order for payment of compensation in such manner as the Board thinks fit, whether as to terms of the order or by increasing	notherav of swart
23. The Board shall, upon request, release documents and things put in evidence at a hearing to the lawful owner or the person entitled to possession thereof within a reasonable time after the matter in issue has been finally determined. 1971, c. 51, s. 23	Telease or exhibits
22. Subject to section 24, a decision of the Board is final except that an appeal lies to the Supreme Court from any decision of the Board on any question of law. 1971, c. 51, s. 22.	y Dbesj
21. Notwithstanding section 19, the Board may, with respect to any hearing or other proceeding under this Act, make such order as to costs as it thinks fit. 1971, c. 51, s. 21.	stso0
under the age of eighteen years or is of unsound mind or in the opinion of the Board is incapable of managing his own affairs, any amount payable to him may be paid on his behalf to his parent, spouse or committee or to the Public Trustee or may be paid to such other person or applied in such manner as the Board considers in the best interest of such person, and amounts so paid shall be received and administered by the payee for the benefit of the person, 1973, c. 34, s. 3.	Payments in case of minor, etc.
(2) Any compensation payable for expenses under section 7 may, in the discretion of the Board, be paid directly to the person entitled thereto. 1971, c. 51, s. 20	цері
(b) as to the holding of the compensation or any par thereof in trust for the victim or the dependants or any of them, whether as a fund for a class or otherwise.	
(a) with respect to the payment, disposition, allotmen or apportionment of the compensation; or	
20,—(1) An order for the payment of compensation may be made subject to such terms and conditions as the Boar thinks fit,	noidibnoD namvaq lo
Срар. 51 сомренсьтной гов угстіме от свіме 197	01

(2) In proceedings under subsection I, the Board shall

ht, whether as to terms of the order or by increasing or decreasing the amount ordered to be paid, or otherwise.

consider,

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Chap. 51

- (b) any change of circumstances that has occurred since the making of the order or any variation thereof, as the case may be, or that is likely to occur; and
- (c) any other matter the Board considers relevant.
- (3) This Act, except section 6, applies to a review under Procedure. subsection 1 in the same manner as to an application for review compensation. 1971, c. 51, s. 24.
- 25.—(I) Subject to subsections 2, 3 and 4, nothing in Civil proceedings this Act affects the right of any person to recover from any other person by civil proceedings damages in respect of the injury or death.
- (2) The Board is subrogated to all the rights of the person Subrogation to whom payment is made under this Act to recover damages by civil proceedings in respect of the injury or death and may maintain an action in the name of such person against any person against whom such action lies, and any amount recovered by the Board shall be applied,
 - (a) first, to payment of the costs actually incurred in the action and in levying execution; and
 - (b) second, to reimbursement of the Board for the value of the compensation awarded,

and the balance, if any, shall be paid to the person whose rights were subrogated.

- (3) Any settlement or release does not bar the rights Settlement of the Board under subsection 2 unless the Board has concurred therein.
- (4) An applicant for or a person awarded compensation Civil actions shall forthwith notify the Board of any action he has brought against the offender who caused the injury or death of the victim. 1971, c. 51, s. 25.
- 26.—(1) Compensation ordered to be paid shall be paid Payment of compensation ordered to be paid shall be paid Payment of compensation ordered to be paid shall be paid Payment of compensation ordered to be paid shall be paid Payment of compensation ordered to be paid shall be paid Payment of the paid shall be paid Payment of the paid shall be paid to be paid shall out of the moneys appropriated therefor by the Legislature tion
- (2) Any reimbursement to the Board under section 25 Disposition shall be paid into the Consolidated Revenue Fund. 1971, recovered c. 51, s. 26.
- 27. The Lieutenant Governor in Council may make regula- Regulations tions,

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1791

of the Board; respect of applications to the Board and proceedings (a) prescribing rules of practice and procedure in

witness iees, and prescribing the amounts thereof; matter in the jurisdiction of the Board, including (b) requiring the payment of fees in respect of any

and providing for their use; (c) prescribing forms for the purposes of this Act

1971, c. 51, s. 27. out effectively the intent and purpose of this Act. (a) respecting any matter necessary or advisable to carry

of this Act as is agreed upon. 1971, c. 51, s. 28. such part of the expenditures required for the purposes Canada respecting the payment by Canada to Ontario of Councile may make agreements with the Crown in right of Minister, with the approval of the Lieutenant Governor in 28. The Crown in right of Ontario represented by the

Act comes into force. tion arising from an act or omission that occurs after this 29.—(1) This Act applies in respect of claims for compensa-

Application of Aot

Agreements with Canada

stituted under that Act, and the hearings and procedures shall, duties of the Law Enforcement Compensation Board as conunder this Act shall exercise the powers and perform the the Criminal Injuries Compensation Board as constituted period in which that Act was in force and for that purpose arising from an act or omission that occurred during the Act continues to apply in respect of claims for compensation Compensation Act, 1967 or The Law Enforcement Compensation (2) Notwithstanding section 30, The Law Enforcement

Application of 1967, c. 45, R.S.O. 1970, o. 237

1971, c. 51, s. 29. so far as practicable, be conducted in accordance with this

1971, c. 51, s. 30. 30. The Law Enforcement Compensation Act is repealed.

o, 237, repealed ,07e1 .0, g.A

1971. 1971, c. 51, s. 31. 31. This Act comes into force on the 1st day of September,

эпеш Commence-

Victims of Crime Act, 1971. 1971, c. 51, s. 32. 32. This Act may be cited as The Compensation for

Short title

This is Exhibit "**D**" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers



DATE December 13, 1976

TO:

Dr. H. Sohn Child Abuse Co-ordinator FROM:

Gordon McLellan Executive Director Social Services Division

Re: Criminal Injuries Compensation Board

I have noted in a recent meeting of the Child Abuse Committee, that there was reference to the fact that Mr. Lloyd Perry, the Official Guardian, would be prepared at any time to proceed with a case to the Criminal Injuries Compensation Board, where a child has been injured as a result of child abuse and action on the child's behalf was appropriate. In this connection, I wish to make you aware of a recent conversation with Professor Cyril Greenland of McMaster University on the same subject. Professor Greenland is most interested in this issue, and raised the question with me of how we might determine what would be an appropriate case for action on the child's behalf to claim criminal injuries. I would suggest that you discuss this question with Mr. Macdonald and Legal Services, and consider the question of characteristics that might apply to a case we would initially propose for presentation to the Compensation Board. I would think it necessary that any such proposal would need to be discussed with and approved by the Senior Management Committee of the Ministry prior to our taking action in association with the Official Guardian. Please keep me informed of any progress on this matter.

Discour

c.c. Mr. J. Anderson
Mr. K. Macdonald

CHILDREN'S SERVICES
BUREAU

DEC 1976

This is Exhibit "E" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

Ministry of Community and Social Services

Dr. H. Sohn,

Child Abuse Co-ordinator.

TO:

MEMORANDUM

1	DATE Ja	nuary	14th, 19	977.	
	tangan ang ang ang ang ang ang ang ang an				
	-				
	J. K. Ma	c d onal	d,		
	Director,				
	Child Wel	fare E	Branch.		

Re: Criminal Injuries Compensation Board

FROM:

I have been reminded of Mr. Gordon McLellan's memorandum to you of December 13th, 1976 which suggested that we should explore the possibility of seeking compensation from the Criminal Injuries Compensation Board on behalf of children who have been injured as a result of child abuse.

I am wondering if you have had an opportunity to discuss this matter with Doug Rutherford or if you have had any discussions with other interested individuals. I would like to discuss this matter with you at your convenience.

J. K. Macheral D. K. Macdonald.

c.c. Mr. G. McLellan

This is Exhibit "F" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

Some further advice

Ontario residents enjoy law enforcement agencies that rank with the world's finest. However, about seven years ago the Government of Ontario recognized that today's society required humane and deserving assistance to those people who unfortunately became victims of crimes of violence, by acting as good citizens in assisting law enforcement officers in the execution of their duties or, in some instances, acting themselves to try to prevent a crime when a law enforcement officer was not immediately available. And in some cases, the victim had merely been an "innocent bystander."

Regardless, the Government <u>urges all citizens</u> that when it appears they may become involved in averting or helping to avert a criminal act, that they exercise optimum caution — and of course call for professional assistance as quickly as possible, because the Government's paramount priority is the safety of all Ontario residents.

Finally

Should you become the victim of a crime of violence, first of all, report it promptly to the police.

Then make your application to the Criminal Injuries Compensation Board without delay,

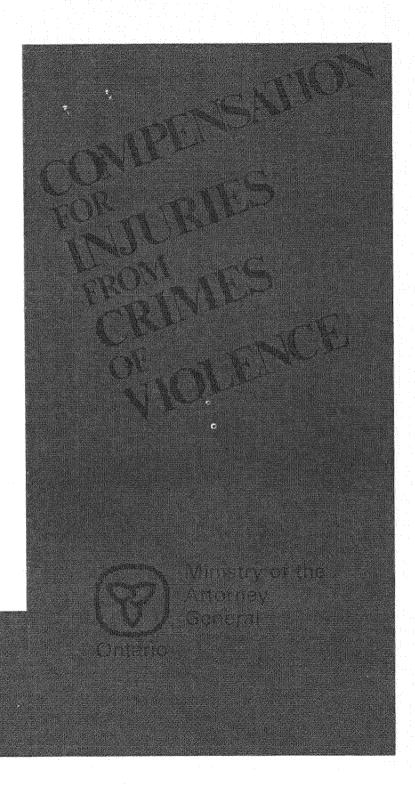
The purpose of this brochure is to tell you that compensation may be awarded in the circumstances indicated.

For further information contact the Board. There's no charge.

NEW ADDRESS

EFFECTIVE AUGUST 1, 1977

439 UNIVERSITY AVE. 17TH FLOOR



THE COMPENSATION FOR VICTIMS OF CRIME ACT, 1971

Who administers the act?

The Act is administered by a seven-member Board called: The Criminal Injuries Compensation Board. The Criminal Injuries Compensation Board. The chairman is a full-time member, and the other six members work on a part-time or as needed basis. Present members include businessmen, lawyers and an educator.

The Board decides upon the eligibility of the applicant for compensation as well as the amount of compensation to be awarded. Compensation is awarded for personal injury only.

When is compensation awarded?

Compensation may be awarded when a person in Ontario is injured or killed as a result of a crime of Canada, Such offence against the Criminal Code of Fape and various others but injury caused by a motor wehicle is excluded from the Act unless the vehicle is usealt.

Compensation may also be awarded where injury is sustained while

- lawfully arresting or attempting to arrest a person for an offence against another person;
 - assisting a law-enforcement officer in the performance of his duties; or
- preventing, or attempting to prevent an offence against another person.

Who receives compensation?

- the victim
- a person responsible for the support of the victim a husband, wife, son, daughter etcetera
 - if death results, the victim's dependants or the person or persons responsible for the support of the victim prior to death who has incurred expenses as indicated in the Act,

What is compensation awarded for?

actual and reasonable expenses incurred as a result of injury or death

- monetary loss incurred as a result of total or partial disability affecting the victim's capacity for work
 - monetary loss incurred by dependants as a result of the victim's death
- pain and suffering
- support of a child born as a result of rupe
- other monetary loss resulting from the victim's injury and any expense that, in the opinion of the Board, is reasonable.

How is the amount of compensation determined?

Usually one or two members of the Board will hear an applicant's request for compensation. In some instances than two member will hold the hearing. Sometimes more informal and uncomplicated and are designed to put the applicant at ease in order that both the Board and the applicant may carry on an honest, frank review of the application — while at the same time considering all assects of the application being heard.

In deciding whether to make an award, or the amount thereof, the Board takes into consideration all circumstances including the victim's behaviour which may have directly or indirectly contributed to the injury or death. The applicant must furnish the Board with as much proof posts, receipts, statements of lost wages and any other relevant data are required in order to verify the claim.

The Board takes into consideration all benefits received including payments from insurance, OHIP, Work-Plan. Although it is not necessary for an applicant to proof of all items is essential.

The Board may refuse to make an award where, in its opinion, the applicant has refused reasonable co-operation with, or failed to report the offence to, a law enforcement agency promptly.

When must an application be made?

Applications must be made within one year of the injury or death. In special circumstances, however, this period may be extended, it is in the best interests of the a populcant to apply as soon as possible. Do not wait for a conviction or other determination of the criminal

Information Withheld

Exempt: Section 19 – Solicitor-Client Privilege [8 Pages]

This is Exhibit "G" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers



Ministry of Community and Social Services

Parliament Buildings

Queen's Park

Toronto Ontario

August 4th, 1977. M7A 1E9

MEMORANDUM TO:

Local Directors of

Children's Aid Societies

RE:

Compensation for Victims

of Child Abuse

Some time ago, we discussed with the Regional Chairmen the possibility of compensation for victims of child abuse. We received information that some cases should be explored. I have enclosed a summary report of possible compensation available under The Compensation for Victims of Crime Act, 1971 prepared by the Legal Services Branch of this Ministry.

As a tentative step in this direction, your help is now sought to find an appropriate test case. Would you please forward details of any cases known to you which meet the following set of criteria:

- (a) A charge was laid.
- (b) There is evidence of long-lasting physical damage.
- (c) The damage incurred was clearly the result of a criminal act.
- (d) The child is not in the care of the parents.

It is our intention to review the tentative criteria noted above on the basis of the results of test cases proposed.

Would you also please ensure that your staff are aware of this request. I look forward to your cooperation in this matter.

J. W. Macdonald,

Director,

Child Welfare Branch.

Memorandum No. 1825-77

COMPENSATION FOR VICTIMS OF CHILD ABUSE UNDER THE COMPENSATION FOR VICTIMS OF CRIME ACT, 1971.

1. Eligibility

- a. S.5 where any person is injured or killed by any act or omission in Ontario of any other person occurring in or resulting from,
 - (a) The commission of a crime of violence constituting an offence against the Criminal Code of Canada, including poison, arson, criminal negligence, and an offence under Section 86 of that Act, but not including an offence involving the use or operation of a motor vehicle other than assault by means of a motor vehicle.

The Board will also consider injury resulting from violence in opposition to a Provincial Statute or a Municipal by-law.

- b. In general, the Board expects a charge to be laid, though there can be extenuating circumstances. For example, if the offender is a small child or a mentally ill person, it may not be necessary to lay a charge in order to receive compensation.
- c. The crime must be one which causes injury.
 - S.1(1)(d) "injury" means actual bodily harm and includes pregnancy and mental, or nervous shock.

The Board will look to the medical evidence for proof of injury.

2. Procedure

- a. Application must be made within one year of injury or death but the Board has discretion to extend the time limit.
- b. The proceedings are informal in nature.
- c. In 95% of the cases, the victim appears before the Board, but no purpose would be served by bringing a very young child.
 Children are not sworn when they do appear.

Procedure (cont'd)

- d. The Board sits out of town ten times a year in five major centres. This would mean children, if they were to appear before the Board, would not have to be brought to Toronto.
- e. Variation is done under Section 24. No viva voce evidence is heard, but there is a submission of documents and medical evidence. Variation may be based on any new evidence that has become available, any change of circumstances that has occurred since the making of the order, or any other matter the Board considers relevant.
- feels it is necessary to do so because a Public Hearing will be prejudical to the trial of a person who caused the injury or death, or it would not be in the interest of the victim or of the dependents of the victim of an alleged sexual offence.
- g. Under Section 13, the Board may make an order prohibiting publication of anything regarding the Hearing.

3. Recovery

- a. Limitation Section 19
 Maximums
- a) lump sum \$15,000
- b) periodic payments \$500.00 per month
- c) periodic payments & lump sum \$7,500
- b. Compensation Section 7(1): Compensation may be awarded for:
 - (a) Expenses actually and reasonably incurred or to be incurred as a result of the victim's injury or death.
 - (b) Pecuniary loss incurred by the victim as a result of total or partial disability affecting the victim's capacity for work.
 - (c) Pecuniary loss incurred by dependents as a result of the victim's death.
 - (d) Pain and suffering.
 - (e) Maintenance of a child born as a result of rape.
 - (f) Other pecuniary loss resulting from the victim's injury, and any expense that, in the opinion of the Board, it is reasonable to incur.

- c. Solicitor's fee and disbursements are paid, as well as the cost of bringing the victim to the Board hearing.
- d. Since an award to a child would basically be for pain and suffering, and this ceases on death, the estate would not be able to collect. Funeral expenses would be paid though.
- e. Under Section 20(3), the compensation can be paid to the Children's Aid Society in trust for the child.
- f. Psychological injury is compensable if there is evidence of a traumatic effect. If the emotional problem manifests itself later, there can be an application for variation: a file is not closed after the initial determination.
- g. Civil actions Section 25: An application under this Act does not bar a civil action for damages.

Sandra Birnbaum Legal Services Branch Ministry of Community and Social Services This is Exhibit "H" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

August 12, 1977

Mr. J.K. Macdonald,
Director,
Child Welfare Branch,
Ministry of Community & Social Services,
Parliament Buildings,
Queen's Park,
Toronto, Ontario.
M7A 1E9

Dear Mr. Macdonald,

This will acknowledge your Memorandum of August 4th respecting Compensation for Victims of Child Abuse. I also acknowledge the copy of a summary report of possible compensation available under The Compensation for Victims.of Crime Act, 1971, as prepared by the Legal Services Branch of your Ministry.

I will forward your request to Mr. Al Sherlock, Director of our Special Services, and ask him to provide the necessary information.

As usual, you may be assured of our cooperation in this matter.

Sincerely,

W. Ward Markle Executive Director

WWM: ff

cc: A. Sherlock '

This is Exhibit "I" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

MAIN OFFICE: **GUELPH** 9:00 a.m. - 5:00 p.m. 55 Deihi Street Box 1088 Guelph, Ontario ENS HIM Phone 824-2410

F. C. PROMOLI

Executive Director

The Children's Aid Society

City of Guelph and the County of Wellington

BRANCH OFFICE: PALMERSTON (1:00 p.m. - 5:00 p.m.) 242 Main Street Box 220 Palmerston, Ontario N0G 2P0 Phone 343-3820

22 August, 1977

Mr. J. K. Macdonald, Director, Child Welfare Branch, Ministry of Community and Social Services, Parliament Bldgs., Queen's Parks, TORONTO, Ontario.

Dear Mr. Macdonald:



Re: Compensation for Victims of Child Abuse Your Memo No. 1825-77 dated 4 August, 1977

I have made a copy of your memo and attachments available to our senior staff.

We have considered whether any cases known to us meet the criteria outlined in your memo and do not have any case which would be suitable

FCP/jef

This is Exhibit "J" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

FAMILY AND CHILDREN'S SERVICES SERVICES AUX FAMILLES ET A L'ENFANCE

FOR THE DISTRICT OF POUR LA REGION DU

TIMISKAMING

REPLY ATTENTION OF A L'ATTENTION DE:

P.O. BOX 1084 • C.P. 1084 84 GOVERNMENT ROAD WEST KIRKLAND LAKE, ONTARIO, P2N 3L1

August 23rd, 1977.

Mr. J. K. Macdonald,
Director,
Child Welfare Branch,
Ministry of Community and Social Services,
7th Floor, Hepburn Block,
Parliament Buildings,
Queen's Park,
Toronto, Ontario.
M7A 1E9.

CHILD WELFARE
LEANCH
AUG 2 6 1977
GEAD BY.....

Dear Mr. Macdonald:

re: Compensation for Victims of Child Abuse

We have discussed your memorandum of August 4th, 1977 with staff and have no cases within recent memory which would have come within the terms of the four criterion laid out. We do have one case of a child, now in our care as a Crown Ward, who suffered serious and long term brain damage at the hands of his mother about ten years ago. No charges were laid.

Yours sincerely,

John Hayes, Local Director.

JH/js

This is Exhibit "K" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



and children's services of london and middlesex

ACCEMPARATED SS THE CHICARLES NO SOCIETY OF THE CITY OF LONDON AND COUNTY OF MICHIESES

Box 848, Postal Station B, London, Ont. N6A 4Z5

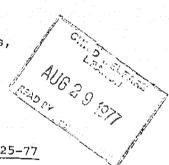
Offices:

164 Albert Street, London, Ontario 434-8461 (area code 519)

August 25th, 1977.

Mr. J.K. Macdonald, Director, Child Welfare Branch, Ministry of Community & Social Services, Parliament Buildings, Queen's Park, Toronto, Ontario. M7A 1E9

Dear Mr. Macdonald:



RE: YOUR MEMORANDUM NO. 1825-77

This is in response to the above mentioned memorandum in which you request information about cases which may be known to our agency where we could explore the possibility of proceedings under the "Compensation for Victims of Crime Act, 1971".

We have reviewed all cases which we have registered in the last year with the Ministry of Community and Social Services and have explored with our line staff to determine whether there might be a case which could be selected within the guidelines which you presented. We do not have a case which meets the criteria.

Any case which would fall within this category would have been known to our agency some years ago and, therefore, legal action would not be possible within the time period as described in your procedure.

Sincerely,

M.T. O'Suin

M.T. O'Brien, Local Director.

MTO/bh



REPLY ATTENTION OF

This is Exhibit "L" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Excluded: Section 67(1) - Conflict With Other Act 31



CATHOLIC CHILDREN'S AID



Member of the Council of Catholic Charities

SOCIETY OF METROPOLITAN TORONTO

W. Ward Markie EXECUTIVE DIRECTOR ASSISTANT EXECUTIVE DIRECTOR Ronald A. Arellano, M.S.W.

X Central Branch

☐ West Branch

□ North East Branch 200 Sheppard Ave. E., Willowdale M2N 3A9

26 Maitland Street, Toronto M4Y 1C6 5230 Dundas Street West, Islington M98 1A8

Telephone 416-925-6641 Telephone 416-236-1671

Telephone 416-226-1010

September 8, 1977

Mr. J. K. Macdonald, Director, Children's Services Bureau, Ministry of Community and Social Services, Hepburn Block, Parliament Buildings, Toronto, Ontario CHILD WELFARE BRANCH

SFP 1 3 1977

READ BY

Dear Mr. Macdonald:

RE: Compensation for Victims of Child Abuse.

This is further to Mr. Markle's letter to you of August 12th in reply to your Memorandum 1825-77.

I enclose for your attention case material which appears to meet the four criteria listed in the aforementioned memo. Enclosed you will find a summary of this case which incorporates information relative to the injuries having been caused by physical abuse on the part of the common law spouse.

We have enclosed a portion of a transcript from a Family Court Hearing of

I enclose also the Child Care Worker's summary of the child's progress since his discharge from Hospital for Sick Children in March of this year. He is currently in a foster home.

If this case fits the criteria outlined and you wish further information please feel free to contact us.

Sincerely yours,

A. Sherlock,

Director of Special Services.

AS:ab

This is Exhibit "M" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Date: September 14, 1977.

To: Mr, J.K. Macdonald,
Director,
Children's Services Bureau,
Ministry of Community and Social Services,
Parliament Buildings,
Toronto, Ontario, M7A 1E9.

From: George Hart,
Field Consultant,
Child Welfare Branch,
7th Floor, Hepburn Block.

Re: D.O.B. and compensation for victims of child abuse

I have read this case and, after discussing it with Mr. Charko, have concluded that it might be a useful test case.

The file is attached.

G.H.

GH:cm

Exempt: Section 21 – Personal Privacy

Exempt: Section 21 – Personal Privacy

CROSS REFERENCE - FILE NO.

CROSS REFERENCE - FILE #

This is Exhibit "N" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Criminal Injuries Compensation Board

416/965-4755

439 University Avenue 17th Floor Toronto Öntario M5G 1Y8

September 15, 1977

The Ministry of Community & Social Services Child Welfare Branch 7th Floor Hepburn Block Queen's Park Toronto, Ontario

Attention: George Hart, Esq.

Dear Sir:

Thank you for your telephone call of September 15, 1977 at which time we discussed the Compensation for Victims of Crime Act, 1971 in relation to battered children.

For your information, I am attaching a copy of the Act, along with a brochure which describes the function of this Board.

If you have any questions, or if I may be of any assistance, please do not hesitate to contact me.

Yours very truly,

JHS:mb

Chief of Investigation

This is Exhibit "O" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

CHARKO

J.K. MACDONALO

Sept. 26/77

Memo# 1825-77 - COMPANTERTION FOR VICTUMS

as discussed, attached replies have been received but not acknowledged Place assegn a consultant to receive, reply and take atherappropriate action Place aduise me on who is to be assigned and keep me aduised of CHILD WELLARE

SEP 3 0 1977

READ EY YANGA CASA

.Y

HEPLYFAOL

REPLYDATE

This is Exhibit "P" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Exempt: Section 21 – Personal Privacy

Ministry of Community and Social Services

Parliament Buildings
Queen's Park
Toronto Ontario
M7A 1E9

October 17, 1977.

Mr. Allan Sherlock,
Director of Special Services,
C.C.A.S. of Metropolitan Tor nto,
26 Maitland St.,
Toronto, Ontario.
M4Y 1C6

Dear Mr. Sherlock:

Re: Compensation for Victims of Child Abuse

Thank you for your letter of September 8 and the attached documents providing proof of abuse and the medical reports in the case of

We are discussing this and other cases with the Legal Services Branch of the Ministry concerning the best way of proceeding.

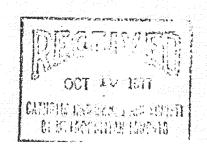
I shall be in touch with your Society shortly in order that we may decide on our respective roles in the application.

Yours sincerly,

S.K. Macdonald,

Director, Child Welfare Branch.

JKM/vw



This is Exhibit "Q" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

memorandum



To:

Mr. Doug Rutherford,

Legal Services Branch,

6th Floor, Hepburn Block.

From:

George Hart, Field Consultant, 7th Floor, Hepburn Block.

Compensation for Victims of Child Abuse

Date: October 21, 1977.

Further to our recent brief conversation on the above subject, would you kindly examine the cases which you have on file from a few children's aid societies and advise the child welfare branch on the process, who applies, who does the basic work, etc.

Which of the cases now on file would you consider to have a good chance of success if an application were made?

We had intended to meet on this subject, but since I shall be away most of the time in the next five weeks, I thought it best to write you.

G.H.

GH:sh

This is Exhibit "R" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Exempt: Section 21 – Personal Privacy

DECEMBER 16, 1977

I telephoned Alan Sherlock, Toronto C.C.A.S., re the possibility of the Society applying for compensation on behalf of its ward,

Mr. Sherlock agreed that as soon as he received an application for the Extension of The Limitation Period, he would proceed. We discussed the reasons that might be given for the delay.

JANUARY 9, 1978

Mr. Sherlock told me on the phone that the Society was seeking extension of the limitation period of one year.

FEBRUARY 21, 1978

Phoned Alan Sherlock for oral progress report. The Criminal Injuries Compensation Board has recently granted an extension of the limitation period and on February 13 the Society applied for compensation on behalf of

If compensation

is awarded, the Board will remit to the Supreme Court accountant and the Provincial Guardian will be trustee. Mr. Sherlock will write up the process and results when he receives the Board decision.

Excluded: Section 67(1) - Conflict With Other Act

This is Exhibit "S" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Ministry of Community and Social Services Ontario

MEMORANDUM

DATE:

January 3, 1978.

TO:

Miss Margaret Kohr, Solicitor. Legal Services Branch, 6th Floor, Hepburn Block, FROM:

100 121 722acol

George Hart, Field Consultant, Child Welfare Branch, 7th Floor, Hepburn Block.

Re: Compensation for Victims of Child Abuse

Thank you for your memorandum on this subject received today and dated December 30, 1977. I have spoken today with Mr. A. Sherlock of the Catholic Children's Aid Society of Metro Toronto about the case submitted. He will discuss the matter with the legal counsel of the Society. If they decide to proceed with an application to the Criminal Injuries Compensation Board, they will ask for an extension of the time limitation and explain the delay in the terms you and I have suggested.

CHILDREN'S SERVICES

READ BY YEAR CARRY

10-07-014 (3/74)

GH/vw

c.c. Mr. J.K. Macdonald.

This is Exhibit "T" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Ministry of Community and Social Services Parliament Buildings
Queen's Park
Toronto Ontario
M7A 1E9

Legal Services Branch, 6th Floor, Hepburn Block.

January 6, 1978

Mr. A. Sherlock, Catholic Children's Aid Society of Metropolitan Toronto, 26 Maitland Street, Toronto, Ontario M4Y 1C6.

Dear Mr. Sherlock,

Re: Compensation for Victims of Child Abuse

Enclosed please find an application for the Extension of the Limitation Period and an application for Compensation sent to me by the Registrar of the Criminal Injuries Compensation Board. If you intend to pursue the matter the Registrar has suggested these forms should be completed and returned to the Board as soon as possible. He recommends that the application for extension be sent in without delay so that the Board can make an early decision.

Yours very truly,

Mikelin

Margaret Kohr, Solicitor.

Encls.

Telephone: 965-4755

APPLICATION FOR EXTENSION OF LIMITATION PERIOD (Section 6, The Compensation for Victims of Crime Act)
IMPORTANT This is an application for exemption from the time limit provision only (I year from date of occurrence) - and does not bear on the merits of any proposed application for compensation should an extension be granted.
NAME
ADDRESS
OCCUPATION DATE OF BIRTH
DATE & TIME OF INCIDENT
DATE & TIME REPORTED TO POLICE
LOCATION OF INCIDENT
REASONS FOR LATE FILING
BRIEF DETAILS OF PARTICULARS OF INCIDENT
BRIEF DETAILS OF INJURY
DATE SIGNATURE OF APPLICANT

^{* (}If more space required, please use back of this form)

This is Exhibit "U" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Exempt: Section 21 - Personal Privacy

X

January 16, 1978

Mr. David D. Graham,
Registrar,
Criminal Injuries Compensation Board,
Ministry of the Attorney General,
505 University Avenue,
3rd floor
Toronto, Ontario

Dear Mr. Graham:

RE: Born:

I am writing to you at the suggestion of Miss Margaret Kohr, Solicitor in the Legal Services Branch, Ministry of Community and Social Services. As the enclosed correspondence indicates the Ministry contacted us in August regarding victims of child abuse who might qualify according to the "Compensation for Victims of Crims Act".

In Sephember of 1977 we corresponded with Mr. J. K. Macdonald of the Ministry (seenenclosed letter). We also enclose medical information relevant to the injuries sustained by the child and their affect on him.

You will observe that I received a raply from the Ministry on October 7th indicating that we would hear further from them regarding what action should be taken relative to this matter, (see enclosed letter). I was next contacted in December by Miss Kohr and subsequently by Mr. George Hart. He advised that I correspond with you indicating that according to the legislation our application is out of time, (see memorandum of December 30, 1977).

Despite the fact that this application if out of time, I am following the Ministry's suggestion and referring the matter to you for consideration. If on its morits you feel it should be pursuad, please advise what further action should be taken by the Society, and we will place the matter in the hands of Mr. Clive Dove our Society Solicitor.

Thank you.

Sincercly yours,

A. Sherlook, Director of Special Sorvices. This is Exhibit "V" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Exempt: Section 21 - Personal Privacy



439 University Avenue 17th Floor Totonto Ontario MSG 1Y8

9927-996/917

Criminal Injuries Compensation Board

January 19, 1978.

Catholic Children's Aid Society of Metropolitan Toronto, Toronto, Ontario, Toronto, Ontario,

Attention: A. Sherlock, Esq., Director of Special Services

Re: Application for Compensation

Dear Sir:

I wish to acknowledge receipt of your letter, and enclosures, dated January 16, 1978, with regard to injuries sustained by

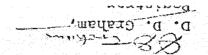
As you noted in your letter, the incident, having occurred in October 1976 is outside of the one year limitation period established under Section 6 of the Act. However, the same section enables the Board to extend the time for such further period as it considers warranted.

Therefore, I am enclosing an application for extension of the limitation period which you should to the matter promptly to the Board for decision. Assuming a favourable decision, you would then be provided with a formal application for compensation.

I am also enclosing, for your information, a brochure, a copy of the Act and our last annual report.

If I can be of any further assistance please let me know.

Xonrs very truly,



DDC/em

This is Exhibit "W" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Exempt: Section 21 - Personal Privacy

X

Excluded: Section 67(1) - Conflict With Other Act

January 30, 1978

Mr. D. D. Graham,
Registrar,
Criminal Injuries Compensation Board,
439 University Avenue,
17th floor,
Toronto, Ontario
MSG 1Y8

Dear Mr. Graham:

RE: Application for compensation

This is to admowledge receipt of your letter and enclosure dated January 19th, 1978 with regard to the above named child.

As per your request, I am enclosing the filled in application for extension of limitation period.

At the moment this child is a Crown Ward of the Scolety and therefore we are his legal guardian.

from the Beard he can be considered for compensation, we will therefore be enquiring whether or not involved in some manner in this application.

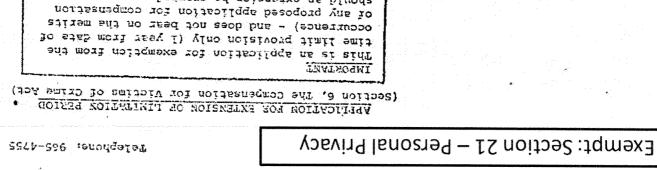
I will await to hear from the Board regarding any further action that should be taken in this case.

Thank you.

Sincerely yours,

A. Shorlook, Director of Sphoial Services.

AS/ab



KEYRONR LOK LYTE FILING LOCATION OF INCIDENT DATE & TIME REPORTED TO POLICE DATE & TIME OF INCIDENT DATE OF BIRTH OCCUPATION ADDRESS MAME should an extension be granted. of any proposed application for compensation

SIGNATURE OF APPLICAM?

DYLE

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AND THE PROPERTY OF THE PARTY OF THE PARTY.

Excluded: Section 67(1) - Conflict With Other Act

Excluded: Section 67(1) – Conflict With Other Act

This is Exhibit "X" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Criminal Injuries Compensation Board

416/965-4755

439 University Avenue 17th Floor Toronto Ontario M5G 1Y8

FEBRUARY
December 8, 1978.

Catholic Children's Aid Society of Metropolitan Toronto, 26 Maitland Street, Toronto, Ontario, M4Y 1C6.

Attention:

A. Sherlock, Esq.,

Director of Special Services

Re:

Application for Compensation

Dear Sir:

I wish to acknowledge receipt of your latter data January 30, 1978.

. The Board has considered your request for an extension of the limitation period and has exercised its discretion under the Act to grant an extension so that an application for compensation may be conside: d timely in this instance.

An application for compenation is enclosed which you should complete and return to the Board.

consider such to be necessary. he event of an award of compensation, where the state a minor, it has been the practice of the found to the payment to the Supreme Court Accountant, to held the any disbursements being made on the application of the official Guardian.

Yours very truly

DDG/em

O. D. Graham,

Registra:

Exclude Section 67(1) - Conflict With Other Act

This is Exhibit "Y" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015)

A Commission for Taking Affidavits

X

February 20, 1978

Mr. D. D. Graham,
Registrar,
Criminal Injuries Compensation Board,
439 University Ave.,
17th floor,
Toronto, Ontario
M5G 1Y8

Dear Mr. Graham:

RE: Application for Compensation

I enclose as per your instructions, the completed Form 13. In my original correspondence to the Ministry of Community and Social Services I forwarded considerable medical documentation on this child. I assume they have forwarded it to you. If not, and it is required, further copies can be forwarded to you.

If, in addition to the application, it is necessary for someone to testify at a Hearing the two staff most intimately associated in dealing with the child and his family are Miss Dianno Cancuill and Mrs. Teresa Dean. My role to date has been initiating the application.

If you require further detail with respect to information in this matter, please contact me.

Thank you.

Sincerely yours,

A. Sherlock, Director of Special Services.

AS/ab Encl.

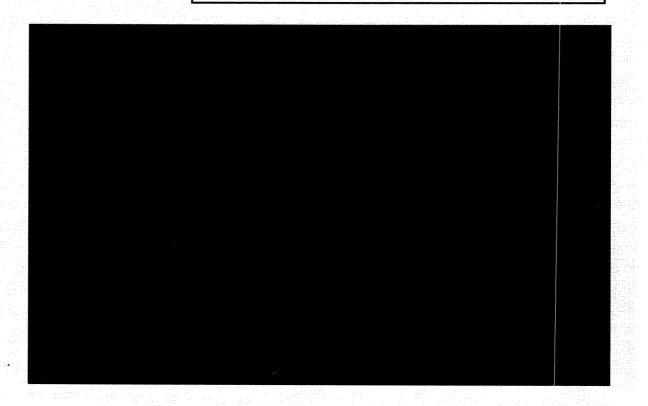
FORM 1B

Application under The Compensation for Victims of Crime Act.
1971, to be sent to:

Registrar Criminal Injuries Compensation Board 439 University Avenue, 17th Floor Toronto, Ontario

The undersigned applies for compensation under The Compensation for Victims of Crime Act, 1971, and in support thereof represents as follows: 1. Name and address of victim Date of birth 2. Name and address of the applicant(s) if not the victim, and relationship to victim. If victim deceased, names and addresses of persons dependent on the victim for support and the extent of their dependence. ALLAN SHERLOCK OF THE CATHOLIC CHILDREN'S AID SOCKETY OF THE CATHOLIC CHILDREN'S AID SOCKETY OF THE TRANSPORT OF THE STATE OF COMPENSATION OF THE CATHOLIC CHILDREN'S AID SOCKETY OF THE CATHOLIC CHILDREN'S AID SOCKETY OF THE COMPENSATION IS BEACT OF COMPENSATION OF COMPENSATION IS BEACT OF COMPENSATION	The undersigned applies for compensation under The Compensation for Victims of Crime Act, 1971, and in support thereof represents as follows: 1. Name and address of victim Date of birth 2. Name and address of the applicant(s) if not the victim, and relationship to victim. If victim deceased, names and addresses of persons dependent on the victim for support and the extent of their dependence. ALLAN SHERLOCK OF THE CATHOLIC CHILDREN'S PIO SOCIETY OF THE TRANSPORT OF TORONTO — 26 MAILANS OF COMPENSATION. 3. Details of circumstances of crime on which the application for compensation is based. (a) Exact date & time: (b) Exact location: METRO TOR IJLICE - 41 OLUTION. (c) Police Force investigating: PC AMAL BREAUX.	The undersigned applies for compensation under The Compensation for Victims of Crime Act, 1971, and in support thereof represents as follows: 1. Name and address of victim Date of birth 2. Name and address of the applicant(s) if not the victim, and relationship to victim. If victim deceased, names and addresses of persons dependent on the victim for support and the extent of their dependence. ALLAN SHERLOCK OF THE CATHOLIC CHILDREN'S PIO SOCIETY OF METADOLIC CHILDREN'S PIO SOCIETY OF COMPUTATION. 3. Details of circumstances of crime on which the application for compensation is based. (a) Exact date & time: (b) Exact location: METAD TOR INSIGHT ONLY STANDED TOR INSIGHT OF COURSE.	Toronto, Ontario	to me, i garage a an la 11, a finition
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Excluded: Section 67(1) - Conflict With Other Act



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Excluded: Section 67(1) – Conflict With Other Act

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	I hereby authorize the Criminal Inits representative to inspect or from my medical records, and agreand staff, against any and all lisuch inspection or receipt of infi	e to indemnify doctors, hospitals ability in any way arising out of
	DATED this day of	197
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		Applicant's signature
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80% COMES FROM PROVINCIAL FUNDING (MINISTRY OF COMM. + SOC. SERVICES) AND 20% FROM THE MUNICIPALITY OF METRO TORONTO. TOCKING THE MUNICIPALITY OF METRO PERIOD ENDING DEC. 31 IL APPROXIMATED BY GY SO MALE EXPENDED ON MAINTENANCE. THIS IS ARRIVED AT AT A PER DIEM COURS THE COSTS OF FOOD, SHELTER ICLOTHING PLUS THE FIGLDING COSTS OF THE SOCIAL WORKED SUPERVISING THE CHILD:

Declaration of Verification

In the Matter of The Compensation for Victims of Crime Act, 1971

and

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CANADA : In the matter c? the application of
ONTARIO ;
TO WIT: FOR COMPENSATION. ALLAN SHEALUCK ON BEHALF OF
To Wit: for compensation. 1. ALLAN SHERLOCK DAY BEHALF OF 26. MAITLAND STin the province of . Gid TAR (address)
solemnly declare:
1. I am the above named applicant.
2. I have read the foregoing application and know the contents
thereof, that the same is true from my own knowledge except as to
those matters therein stated on information and belief, or as to
those matters I have stated I believe to be true.
And I make this solemn declaration conscientiously believing it to
be true and knowing that it is of the same force and effect as if
made under oath,
이 그는 사용을 하지 않는 하고 있는 것이 들어 되었다. 그는 사람이 되었는 것이 되어 있으로 살아왔다. 이 스러를 되었다.
Declared before me at the
ofthis
cay of

This is Exhibit "Z" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Criminal Injuries
Compensation
Board

416/965-4755

439 University Avenue 17th Floor Toronto Ontario MSG 1Y8

February 28,1978.

File No.

Clive Harvey Dove, Esq., Society Solicitor, Catholic Children's Aid Society, 26 Maitland Street, Toronto, Ontario.

Re: Application for Compensation

Allan Sherlock on behalf of

Dear Mr. Dove:

The application of the captionally noted person was received on February 21,1978. In order to proceed with this application, it will be necessary for you to provide the following documentation:

- Copies of all hospital records relating to this occurrence. These would include emergency department records, operative report and final note.
- 2. Doctor's report describing injuries sustained, treatment rendered and this report must contain a prognosis to include the period during which the applicant was unable to work, as a result of injuries.
- Dentist's report specifying work required as a result of the occurrence for which compensation is being claimed; receipts or bills for work already performed or an estimate itemizing future work and its anticipated cost.
- 4. Receipts or bills for out-of-pocket expenses directly related to the occurrence and which are not recoverable from any other source.
- 5. Employer's wage statement which must include gross weekly earnings, all itemized deductions and net or take home pay for the four full pay periods immediately prior to . The statement must also confirm period absent from work.
- _____6. Copies of income tax returns for the years

- 7. Details of benefits received from any source as a result of injuries sustained.

 This must be supported by a statement from each issuing source which could include unemployment insurance, welfare, union benefits, employer's indemnity insurance, personal insurance, the offender, etc.
- x 8. Certificate of conviction.
- ____ 9. Transcript of evidence of criminal proceedings against alleged offender.

Yours very truly,

DDG/em

D. D. Graham,

Registrar.

This is Exhibit "AA" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Excluded: Section 67(1) - Conflict With Other Act

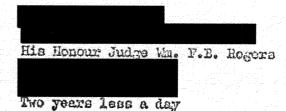
March 10th, 1978

Clerk of the Peace, Room 214, County Courthouse, 361 Uni ersity Avenue, TORONTO, Ontario.

Dear Siri

Please be advised that the Catholic Children's Aid Society is proceeding with an application to the Criminal Injuries Componention Board on behalf of infant In that regard, we would be grateful if you would provide us with a certificate of conviction on The facts of the matter are as follows:

Dofendant: Charge: Judge: Trial Date: Sentenced: Sentence:



A money order in the emount of two dollars is enclosed to cover the fee.

Thank you for your assistance in this matter.

Yours truly,

CD:po

C. H. Dove, Legal Services. This is Exhibit "BB" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Paking Affidavits

X

March 28, 1978

Mr. D. D. Graham, Registrar, Criminal Injuries Compensation Board, 439 University Avebne, 17th floor, Toronto, Ontario M5G 1Y8

Dear Mr. Graham:

YOUR FILE NO.

RE: Application for Compensation
ALLAN SHERLOCK on behalf of

The following is in reply to your letter of February 28th, 1978.

The reason for our delay in replying was the time it took us to obtain the Certificate of Conviction of and the fact that Mr. Dove has been away on vacation.

As indicated, we enclose the Certificate of Conviction.

You ask also for receipts or bills for out of pocket expenses directly related to the occurrencesand which are not recoverable from any other source. The only expense that we can isolate is some medication which is required to take as a result of the injuries he received. I have checked with our Accounting department and the labour involved in solating these expenses and obtaining the required receipts makes the labour involved prohibitively expensive. As a matter of fact the total amount of money spent on medication directly related to the occurrence and other costs is less than one hundred dollars. Consequently, we feel that we will leave it to your discretion as to whether any reward should be made in that area.

If you have any further questions regarding this or other matters related to this application, please feel free to contact us.

Sincerely yours,

A. Sherlock, Director of Special Services.

AS/ab Encl.

ADJOURNED TOR TRIAL IN-CUSTODY . 10 00 lu 6 ja \$EP 8.8 1977 SENTENCE. Zyenks. Leas I DAY. RECOM: "BE IERRIVED OF RECON: PROTECTIVE

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Exempt: Section 21 – Personal Privacy COUNTY COURT JUDGES' CRIMINAL COURT JUDICIAL DISTRICT OF YORK THE QUEEN VS. APR 1 5 1977 W.F.B. Rons Romanded on Bring J.P. Rickaby, Q.C. crown Attorney Judicial District of York Excluded: Section 67(1) - Conflict With Other Act

IN THE COUNTY COURT JUDGES' CRIMINAL COURT
IN AND FOR THE JUDICIAL DISTRICT OF YORK

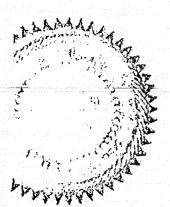
I, GEORGE R. COOKE, Executive Officer for the Clerk of the Peace, in and for the Judicial District of York,

DO HEREBY CERTIFY that the document hereto attached, bearing my signature in the margin thereof, is a true copy of the INDICTMENT in the County Court Judges' CRiminal Court in and for the Judicial District of York, in the case of

THE QUEEN against

together with all endorsements appearing thereon as the same now appears of record in the said Court.

I FURTHER CERTIFY that I am the Officer having custody of the Records of the said County Court Judges' Criminal Court for the Judicial District of York from which the foregoing has been abstracted.



IN WITNESS WHEREOF I have hereunto set my hand and the Seal of Office this 16th day of March, A.D. 1978.

Executive Officer for Clerk of the Peace, JUDICIAL DISTRICT OF YORK.

This is Exhibit "CC" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Criminal Injuries Compensation Board

416/965-478

Toronto Ontario

M5G 1Y8

Our File:

March 31, 1978

Catholic Children's Aid Society of Metropolitan Toronto 26 Maitland Street Toronto, Ontario M4Y 1C6

Attention: A. Sherlock,

Director of Special Services

Dear Sir:

Re: Application for Compensation

Victim:

Thank you for your letter of March 28, 1978. The information which you have provided has been filed in support of this application for compensation which has now been placed on this Board's list of cases which are to be heard.

Please be assured that Mr. C. H. Dove will be advised of the time and date of the hearing at the earliest possible moment.

Yours very truly,

J. H. Sheard

Chief of Investigation

JHS: VS

Exempt: Section 21 - Personal Privacy

This is Exhibit "**DD**" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

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Exempt: Section 21 - Personal Privacy



Sth Floor 180 Dundss'St West 180 Dundss'St West

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Office of the Official Guardian

Ministry of the Attorney General

August 1, 1978.

Mr. D. D. Graham, Registrar, Criminal Injuries Compensation Board, 439 University Ave., 17th Floor, Toronto, Ontario. MSG 1Y8

Dear Sir:

rol moitsailada -

Compensation

ке:

Please be advised that the Official Guardian has been asked to take over the conduct of this application on behalf of the child and the Catholic Children's Aid Society.

Would you therefore make a note of the change of solicitors from Clive H. Dove of the Catholic Children's Aid Society to the Official Guardian, Attn: George W. Class, Q.C. and forward any further communication or information respecting this application to the writer. Your co-operation in this matter will be sincerely gonr co-operation in this matter will be sincerely

Yours truly,

COPFICIAL GUARDIAN, O.C.,

Per: George W. Glass, Q.C.

GWG: jf

C.C. Mr. Clive Dove.

P.S. At your convenience, I would very much appreciate discussing with you the extent to which the Board wishes to hear viva voce evidence in support of the application and the extent to which written reports of the circumstances and the child's medical condition are acceptable.

This is Exhibit "EE" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Ministry of the Attorney General

Office of the Official Guardian

965-1897

6th Floor 180 Dundas St. West Toronto Ontario MSG 1E4

August 1, 1978.

Mr. Clive H. Dove, The Catholic Children's Aid Society, 26 Maitland St., Toronto, Ontario.

Dear Sir:

Re: Compensation

- Application for

Please be advised that the conduct of this matter has been referred to me.

I would very much appreciate your letting me have all the original detailed medical reports, psychiatric reports, neurological reports and psychological reports respecting the child that you have. If there are other reports that are not in your possession but that you may be aware of, I would very much appreciate your advising me where they may be obtained and/or the names of the attending doctors or other specialists.

It would also be useful to have copies of the social worker's reports respecting this child and any other information which may be helpful with respect to his physiological, emotional, neurological or psychological condition.

If you also have copies of the hospital reports, that would be very helpful. In the alternative, would you kindly advise at which hospital the child was treated. Sometimes some very useful information can be obtained from O.H.I.P. with respect to the details of treatment and I would therefore very much appreciate your contacting O.H.I.P. to release to me details of the hospitalization and treatment of the child. Ir particular the costs of hospitalization and medical treatment are sometimes indicative of the severity of the injuries and a report from O.H.I.P. in this regard may be of some assistance before

Naturally, it will be necessary to obtain follow-up medical reports of the child's treatment and condition after he was released from hospital.

Excluded: Section 67(1) – Conflict With Other Act

....2.

I note that there may be some charges for medication for which specific details were not obtainable but it may be useful to obtain the name of the person who was administering the medication who would be able to indicate the amount that was being administered and the nature of the medication.

I think it would also be useful to have available, the names of the person or persons who can give details of the injuries as observed initially. The procedure before the Board is relatively informal but they sometimes require some viva voce evidence to establish the nature of the injuries.



I understand that Miss Diane Caneuill and Mrs. Theresa Dean have some intimate knowledge of the facts in this case and I would very much appreciate your arranging for them to get in touch with me so that I can discuss the matter with them.

I hope that all of the above requests will not prove too onerous. If you wish to discuss the matter with me I will be pleased to hear from you.

Yours very truly,

LLOYD W. PERRY, Q.C., OFFICIAL GUARDIAN.

GWG:jf

Per: George W. Glass, Q.C.

This is Exhibit "FF" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

yra**kt**ika dyracja, zboloże zakto

August 3, 1978

Criminal Injuries Compensation Board, 439 University Avenue, 17th Floor, Toronto, Ontario, M5G 1Y8

> ATT: D. D. Graham. Registrar

Gentlemen:

RE:

The Official Guardian of Ontario has agreed to assume carriage of this matter as next friend of the infant

Accordingly, I request that you take this letter as notice of change of solicitor and amend your records to show the solicitor to be Illoyd W. Perry, Q.C., Official Guardian, instead of myself.

By copy of this letter I am forwarding to the Official Guardian all original file material.

Yours truly,

C. H. Dove, B.A., LL.B., Legal Services

CHDijf

Enol.

oc. Moyd W. Perry, Q.C., Official Guardian

X

August 3, 1978

Oriminal Injuries Compensation Board, 439 University Avenue, 17th Floor, Toronto, Ontario, MEG 1Y8

> ATT: D. D. Graham, Registrar

Gantlemon:

RE: Your File No.

The Official Guardian of Ontario has agreed to assume carriage of this matter as next friend of the infant

Accordingly, I request that you take this letter as notice of change of solicitor and amend your records to show the solicitor to be Lloyd W. Perry, Q.C., Official Guardian, instead of myself.

By copy of this letter I am forwarding to the Official Guardian all original file material.

Yours truly,

C. H. Dove, B.A., LL.B., Legal Services

CHDijf

Enol.

oo. Lloyd W. Perry, Q.C., Official Guardian This is Exhibit "GG" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Excluded: Section 67(1) – Conflict With Other Act

x

CONFIDENTIAL AND PRIVILEGED

November 1, 1978

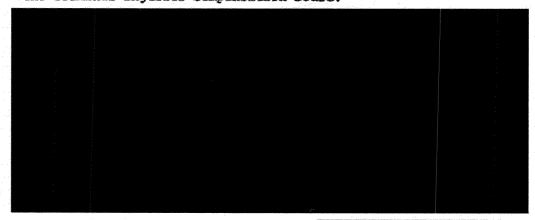
Mr. George W. Glass, Q.C., Official Guardian, Office of the Official Guardian, 6th Floor, 180 Dundas Street West, Toronto, Ontario. M5G 1E4

Re:

Dear Mr. Glass:

The above child was

We trust this will in no way affect your case before
the Criminal Injuries Compensation Board.



We have not set out the name

If you feel it is essential for
you to know, we would appreciate having direction from you as
to how the information could be shared in a manner that would
protect the security of the information and in a manner acceptable

- 2 -

Our legal council, Mr. Clive Dove, suggested we advise you of this adoption and felt you would appreciate knowing a bit about functioning level at this time.

It is hoped this is of some value to you.

Sincerely,

W. Ward Markle, Executive Director.

WWM: acc

This is Exhibit "HH" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Ministry of the

Office of the 965-1897

6th Floor.

Attorney General

Official Guardian

180 Dundas Street West.

Toronto, Ontario

M5G 1E4

November 16, 1978.

Miss Dinah McPhail, The Catholic Children's Aid Society, 26 Maitland St., Toronto, Ontario M4Y 1C6

Dear Dinah:

Re:

This will confirm my understanding that you will be attending before the hearing Criminal Injuries Compensation Board respecting the above named child which will be held at the Criminal Injuries Compensation Board offices at 439 University Ave. 17th Floor, on November 17, 1978 at 10:00 a.m.

I understand that you are arranging to full medical and psychological history to be forwarded to the paediatrician who is now treating him whose name you have.

Thank you very much for your assistance on November 8th, 1978, you have been very helpful.

Yours truly,

LLOYD W. PERRY, Q.C., OFFICIAL GUARDIAN.

GWG:jf

Per: George W. Glass, Q.C.

This is Exhibit "II" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

CMELEGIA DE LISES

Allan Grossman Chairman Criminal Injuries
Compensation
Board

FREGULATION OFFICE OF THE LIMIT STER

NOV 2 9 1978

496-110

Ministry of Community and Social Services

16/965-1755 439 University Avenue

17th Floor Toronto Ontario M5G 1Y8

November 24, 1978.

Honourable Keith Norton, Minister of Community & Social Services, 6th Floor, Hepburn Block, Queen's Park, Toronto.

Re: Applications for Compensation Child Abuse.

Dear Mr Minister:

The Board has just finished hearing two applications for compensation resulting from 'child abuse'. In the course of these hearings certain problems and implications with many ramifications have come to our attention.

It appears that there is a likelihood that the handling of such cases, and the decisions arising therefrom, may overlap policies and programmes of one or more government ministries. Additionally, we are anxious to have the best advice possible as to the potential social implications as they affect the victim, his future, and particularly his relationship with his family, etc., etc..

For this purpose, I have set up a meeting on December 6th, at 11:00 a.m. in my office, at which time I am hoping to have representatives from your Ministry, from the Ministry of the Attorney General, and a representative from the Official Guardian's office.

My secretary has spoken with yours, who agreed to advise you of this meeting, and this letter is for the purpose of formalizing the invitation for you to name such a representative.

Trusting this meets with your consent and approval.

I am,

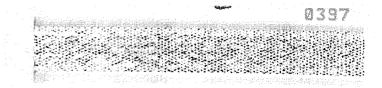
Sincerely yours,

This is Exhibit "JJ" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Ministry of Community and Social Services

Office of the Associate Deputy Minister



10: Buce Heath

☐ At your request ☐ For your information				
Would you please Reply direct and return a copy Comment on the attached Note and see me Approve the attached Prepare reply for signature by Associate Deputy Minister and return to me by				
Comments:				
<u>Celia Derov</u> From Dec. 1/78 1-01-001 (8/77)				

omanily and Ale thinger Taggl Ben 496-11M A marini ÷ 25000 65 Dec. Bw. N.B Lagran Clair

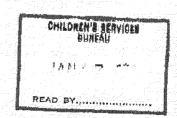
This is Exhibit "KK" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

MEETING HELD: Wednesday, December 6/78

CRIMINAL INJURIES COMPENSATION BOARD - Child Abuse
Cases

Members Present: Chairman of the Board - A. Grossman Official Guardian - Lloyd Perry
Min. of The Attorney General - John Hilton
Registrar of the Board - D. D. Graham
COMSOC - Bruce Heath and Margaret Kohr



Peripheral Problems

- implications of future relation between child and his parents/ relatives who may have been responsible for the abuse.
- child may be unaware of the abuse situation, e.g. if very young at the time of the abuse and suddenly discovers he has a fund available.

CHAIRMAN:- What is the role of the Board in these issues?
- Should this be left to the discretion of the parties involved, or should the Board screen the applications
Chairman sent memo to Official Guardian requesting:

- (a) was the representative independent
- (b) was the representative responsible

OFFICIAL GUARDIAN: Could do a pre-screening to determine the appropriateness of pursuing this avenue of recovery.

BOARD: would advise Official Guardian that an application has been made on behalf of child to determine if the Official Guardian wanted to become involved to protect the interests of the child.

ATTORNEY GENERAL: In the event the child is involved in a non-abuse situation, neither the Official Guardian nor the Board should intervene in the choice of representative of the child; BUT if the parent is a party to the wrongdoing, it is incumbent we are assured the child has representation - concern here is

with the independence of representative which could be reviewed by the Official Guardian and whether the action itself is in the best interests of the child with help from other sources, e.g. C.A.S., etc.

Is there any authority to decide \underline{not} to proceed with the application in light of the facts of the case (no).

BOARD:- Once the application is made, the Board must hear the case - the Official Guardian should accept a persuasive role to have the parents withdraw the application.

- Where there is an application of the usual type of child abuse, the matter will be referred to the Official Guardian to determine what is in the best interests of the child.

MATTER OF PUBLICATION

- can these be published deleting the use of names S.12 of The Criminal Compensation allows for 'in camera' hearings should expand the definition of 12(b) to include child abuse or remove "of an alleged sexual offence" altogether.
- amend S13 re publication to include names of parties as well as evidence.
- presence of the child in Court should be at the discretion of the person representing child - rights of child protected by his representation.

ASSESSMENT OF PAIN AND SUFFERING

OFFICIAL GUARDIAN - Board must rely on medical evidence re pain and suffering in each case.

- nature and extent of compensation may be difficult to determine.

- how can we avoid money awarded to victim of child abuse from reverting to abuser if child dies intestate, when the amount is lump sum rather than a monthly income.
- what is bether for government as a whole re lump sum v. periodic payment.

Margaret Kohr (Miss), Solicitor, Legal Services Branch, 6th Floor, Hepburn Block.

af

This is Exhibit "LL" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



Children's Services Division. Child Welfare Branch, 2nd Floor, 700 Bay Street. Toronto Ontario M7A 1E9

December 11, 1978.

Mr. Ronald W. King, Local Director, Children's Aid Society. 512 Central Avenue, Fort Frances, Ontario. P9A 1X9

Compensation for Victims of Child Abuse

Dear Mr. King:

Thank you for your letter of November 21, 1978, on the above subject.

As you know, the memorandum of the Director of Child Welfare of August 4, 1977, asked Societies to send details of any cases of victims of child abuse so that we might select an appropriate test case according to four criteria. In the case that you submitted, that of the incident of child abuse occurred on

The lapse of time was, therefore, much more than the limitation period of one year set forth in The Compensation for Victims of Crime Act, 1971.

As a result, upon legal advice, we chose a test case in which the incident was more recent. We are informed that that case is on a waiting list for a hearing of the Criminal Injuries Compensation Board. As soon as the Board decides the matter, we shall examine what we have learned and inform all children's aid societies,

Yours truly,

Barry G. Dalby,

Director of Child Welfare.

Burn to thethe

Exempt: Section 21 – Personal Privacy

This is Exhibit "MM" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



JAN 2 1979
GARGESSANS WE SPRIN

Criminal Injuries
Compensation
Board

416/965-4755

489 Utiversity Avenue 17th Floor Toronto Ontario MSG 1Y8

Office of the Official Guardian 6th floor, 180 Dundas Street West, Toronto, Ontario.

File No.

January 3, 1979.

Attention: G.W. Glass, Esq.

Re: Award granted under The Compensation for Victims of Crime Act, 1971

Dear Sir:

Enclosed herewith is a copy of our Board's written Order dated January 3, 1979.

I will today requisition cheques in accordance with the Order, but must advise that it normally takes approximately two weeks for me to receive cheques for onward transmittal.

Yours very truly,

/bg encl. D. D. Graham

Registrar

copies to:

Mr. E.B. Bednarz Catholic Children's Aid Society. Archives of Ontario

RG# 29-107. Box# BONE 127

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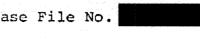
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Date: 13 1 OR 1 14

Exempt: Section 21 – Personal Privacy



Case File No.



Criminal Injuries Compensation Board

In	the matter	of	The	Compensation	for	Victims of	Crime	Act,	1971	, and
----	------------	----	-----	--------------	-----	------------	-------	------	------	-------

In the matter of a claim by

The Board:

Allan Grossman, Chairman, Harvey Spiegel, Q.C..

Appearance:

applicant,

G. W. Glass, office of the Official Guardian, P. S. Pellman, office of the Official Guardian, Miss Dina McPhail, Catholic Children's Aid.

Date and Place of Hearing:

at Toronto.

R

This application is made on behalf of an infant, formerly known as (hereinafter referred to as the infant) who was born on

This application was originally brought by the Catholic Children's Aid Society of Metropolitan Toronto since the infant was at the time a Crown Ward of the Society. Subsequently, the Official Guardian assumed the conduct of the application on behalf of the infant. Links

Exempt: Section 21 – Personal Privacy

Information Withheld

Excluded: Section 67(1) – Conflict With Other Act
[4 Pages]

Compensation is ordered as follows:

7(1) (a) Expenses actually and reasonably incurred or to be incurred as a result of the victim's injury:

Paid to Brook & Braddock, dispensing optiticians

\$ 96.50

7(1)(d) Pain and Suffering:

5,000.00

SUMMARY

7(1)(a) Expenses \$ 96.50 7(1)(d) Pain and Suffering 5,000.00

5,096.50

IN CAMERA RESTRICTION OF PUBLICATION OF ORDER

The Board ordered that this application be heard in camera, and further ordered that publication of any report or account of the evidence be prohibited.

PAYMENT:

The Board orders that the sum of \$96.50 be paid forthwith to:

and further orders that the sum of \$5,000.00 be paid to The Accountant of the Supreme Court of Ontario, under Section 36(6) of The Trustee Act, R.S.O. 1970, Chapter 470, to the credit of:

born, residing at:

until he reaches the age of majority, now

However, should he die before attaining the age of majority, any moneys remaining in trust shall revert to the Consolidated Revenue Fund.

DATED at Toronto, this 3rd day of January, 1979.

Al Kan Grossman, Chairman.

Harvey Spiegel, Member

Exempt: Section 21 – Personal Privacy

This is Exhibit "NN" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

memorandum



To:

Ms. M. Kohr, Solicitor, Legal Services Branch.

Date: January 10th, 1979.

Re: Applications for Compensation - Child Abuse Meeting with Criminal Injuries Compensation Board December 6th, 1978

I wish to discuss a couple of items with George Thomson arising from the above meeting. Could you possibly share your notes or a written summary with me? Your assistance would be appreciated.

H

Bruce R. Heath, Director of Programs, Child Welfare Branch.

BRH/sj

This is Exhibit "OO" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Exempt: Section 21 – Personal Privacy

REPORT ON ACTIVITY ON CRIMINAL

INJURIES COMPENSATION BOARD

Introduction:

In September 1978 I was informed that an application on behalf was being considered by the Criminal Injuries Compensation Board. George Glass of the Official Guardians Office would be acting on his behalf. I informed Clive Dove of our Court Services

Involvement:

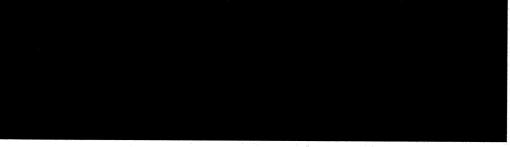
I wrote a letter to George Glass, at Clive Doves request, under Mr. Markles signature stating that and gave a short resume of his progress.

Mr. Glass phoned me and asked if the would attend a conference in his office concerning the case. I spoke to the and gave them more details on the C.I.C. Board and the reason for the application. I agreed to act as their agency representative at the meeting with George Glass.

The meeting was held on November 8th, 1978.

I spent some time following the meeting to preparing the for their appearance at the Criminal Injuries Compensation Board.

The Board hearing was held on November 17th,1979. It went from 10:00 a.m. to 1:30 p.m. Mr. Glass, his assistant and myself attended.



We were told we would be informed of the outcome when the Board made it's decision.

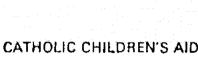
We were given the decision of the Board in January 1979. I, then closed the file.

Worker: Dina MacPhail:mk February 6th,1979

Excluded: Section 67(1) - Conflict With Other Act

This is Exhibit "PP" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits



SOCIETY OF METROPOLITAN TORONT

W Word Markle EXECUTIVE DIRECTOR ASSISTANT EXECUTIVE DIRECTOR Ronald A. Arellano, M.S.W.

🐧 26 Maitland Street, Toronto M4Y 1C6 ☐ 5230 Dundas Street West, Islandton M9B 1A8 Cl 200 Sheppard Ave. E., Willowdale M2N 3A9

Telephone 416-925-6641 Telephone 416-236-1671 Telephone 416-226-1010 ☐ 2100 Ellesmere Road, Suite 321, Scarborough M1H 3B7 Telephone 416-438-1812

February 26, 1979

Mr. George Hart. Field Consultant, Ministry of Community and Social Services, LuCliff Place. 700 Bay Street, Toronto, Ontario

Control of the contro

Dear Mr. Hart:

As per our recent telephone conversation. I am sending a step by step account of the process whereby received an award from the Criminal Injuries Compensation Board. We received the Director's memo (dated August 4, 1977) on August 12th and Mr. Markle replied the same day advising that the matter was referred to me.

Subsequent to August 12th, I circulated a memo to all Branches asking for cases which fit the criteria outlined in Ken Macdonald's memo of August 4th.

I received material on two possible cases of which that of seemed most appropriate.

On September 8th, 1977 I corresponded with Ken Macdonald sending him case material on

On October 7th I received a reply from Ken Macdonald stating our material had been received and advising that he was consulting with Ministry Legal Services as to the best way to proceed.

Subsequent to that I think you and I communicated on the phone with respect to the fact that an application for should have been made within 12 months of his being injured and the advisability of our approaching the Criminal Injuries Compensation Board for an extension of the 12 month period.

On December 30th, 1977, I received a memo from Margaret Kohr of the Ministry Legal Services who advised that she had spoken to Mr. Graham, Registrar of the Criminal Injuries Compensation Board, with respect to the Society making application for an extension of time in this case.

On January 6, 1978, she sent me an application for the extension of the limitation period and suggested that it be filled in and forwarded to the Criminal Injuries Compensation Board as soon as possible. On January 16th, I wrote to Mr. Graham enclosing copies of my correspondence with the Ministry and asking for guidance as to the next step.

On January 19th, Mr. Graham responded sending me an "Application for Extension of Limitation".

I filled this out and forwarded it to him (see sample copy of letter).

He then forwarded to me a Form 1B which is the "Application under the Compensation for Victims of Crime Act", (see sample copy). This was completed and forwarded to the Criminal Injuries Compensation Board on February 20th, 1978.

On February 28th, we were in receipt of a form letter asking for receipts for out of pocket expenses and a certificate of conviction in relation to the abuser. (See sample letter).

On March 10th, 1978, we applied for a Certificate of Conviction (see sample letter).

On March 28th, we corresponded with Mr. Graham re his letter of February 28th (see sample letter).

On March 31st, we were advised that an Application for Compensation had been placed on the list of cases to appear before the Criminal Injuries Compensation Board.

Mr. Graham of the Criminal Injuries Compensation Board had advised that a lawyer should act on behalf and originally Mr. Clive Dove, our House Lawyer, was to act in this capacity. However, in subsequent conversation with Mr. Lloyd Perry, the Official Guardian, it was mutually agreed that they should have carriage of this matter (see sample letter).

On August 1st, 1978, Mr. Perry communicated with Mr. Graham of the Criminal Injuries Compensation Board indicating that Mr. George Glass, Q.C., would acting for (see sample letter). On the same date, Mr. Glass wrote to Mr. Dove advising the matter had been referred to him and outlined material which would be helpful in his presentation. (See sample letter).

On August 3rd, Mr. Dove responded to Mr. Glass' letter and forwarded to him relevant material from the file.

The subsequent contact in this matter was between Mr. Glass of the Official Guardian's Office and our Adoption Worker, Miss MacPhail. I enclose an account of her direct involvement in this matter.

I have given you a detailed account of this application in order to illustrate the process involved. It may be atypical from subsequent applications inasmuch as it may not be necessary to apply for an extension of the limitation period as was necessary in this case.

• • • /3

Additionally as we discussed on the phone, it may be more appropriate to consider applications where the child in question has not returned to his parents. This would preclude the abuser (albeit a rehabilitated one) from profitting as a result of his criminal action. Additionally, even presupposing the money is held in trust so the above contingency does not arise, there remains the negative effect of such a child learning at his majority that he has moneys in trust as a result of his parents' abuse of him in earlier years. These are two of the reservations raised by the Criminal Injuries Compensation Board and may be factors Societies wish to consider in determining what cases might be suitable ones for application.

I note that Ministry training materials on the new legislation related to abuse make reference to the possibility of instituting Civil Action for damages on behalf of abused children.

The foregoing material may be of assistance in drawing up more specific guidelines.

If you have any further questions, feel free to contact me.

Thank you.

Sincerely yours,

A. Sherlock, M.S.W.,

Director of Special Services.

Clan Starlack

AS/ab

This is Exhibit "QQ" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 20157

A Commission for Taking Affidavits



Queen's Park Toronto, Ontario M7A 1E9



1979 International / Year of the Child

Children's Services Division Child Welfare Branch 2nd Floor, 700 Bay Street Toronto, Ontario M7A 1E9

March 12, 1979

Mr. Allan Sherlock, M.S.W. Director of Special Services Catholic Children's Aid Society 26 Maitland Street Toronto, Ontario M4Y 1C6

Dear Mr. Sherlock:

Thank you for your letter of February 26, concerning the experience of your agency in its application to the Criminal Injuries Compensation Board on behalf of your

Your meticulous account of the steps taken in the process of this test case will be most useful to our Ministry. From the information that you have given us we shall be able to prepare a memorandum on the subject for the children's aid societies.

Our Division will also note and consider the two reservations raised by the Criminal Injuries Compensation Board and set forth in your letter.

Again, thanks and congratulations on a good job.

Yours sincerely,

George Hart, Field Consultant.

GH: 1mb

rera consurtant.

Exempt: Section 21 – Personal Privacy

Excluded: Section 67(1) – Conflict With Other Act

This is Exhibit "RR" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

memorandum



To: Bruce Heath

Director of Programs Child Welfare Branch Date: March 13, 1979

FROM: George Hart

Field Consultant Child Welfare Branch

Re: Criminal Injuries Compensation

Attached is a report by Allan Sherlock, of the Metro Toronto Catholic Children's Aid Society on the test case that was brought before the Criminal Injuries Compensation Board.

This may be useful to the Divison when it prepares a memorandum or guidelines for the children's aid societies on this subject.

George Hart

This is Exhibit "SS" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

memorandum



To: Mr. George Hart

Supervisor

Child Welfare Branch.

From: Bruce R. Heath

Director of Programs Child Welfare Branch. Date:

March 29, 1979.

Archives of Ontario

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Reel#

Restricted > Unrestricted

Criminal Injuries Compensation Metro CCAS Case and

Your Memo of March 13, 1979.

Belated thanks for your memo and attachments concerning the above.

I am forwarding a copy of your correspondence and the judgement and background material to Legal Services for their information.

In the course of the CAS Training Sessions several enquiries came up regarding further guidelines and direction regarding further actions either under the Criminal Injuries Compensation Act or other civil action route. I expect to be meeting with Judge Thomson and Margaret Farina in the next two weeks or so to consider a strategy to respond to all the questions raised, and further guidelines required. In respect of the latter, and the subject of Criminal Injuries Compensation Act applications, the material from Metro CCAS should be of great help.

Again my thanks.

Bruce R. Heath.

c.c. Mr. D. Rutherford.

This is Exhibit "TT" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

FAMILY SERVICES

Section Subject Page 1

LEGAL INVOLVEMENT Compensation for Victim 1 of

Day Month Year 21 June 1985

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

This is Exhibit "UU" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2013

A Commission for Taking Affidavits



Operational Support Branch 2nd Floor, 700 Bay Street Toronto, Ontario M7A 1E9

July 9, 1985

MEMORANDUM TO: Holders of Family Services Manual

FROM: Graham Lethbridge

Director

Operational Support Branch

RE: Family Services Manual

Enclosed please find a copy of the Family Services Manual. This is a new manual written for Children's Aid Societies which incorporates the relevant sections of the new Child and Family Services Act, the CFSA Training Handbook and the Prevention, Protection and Care Manual.

Necessary Regulations, (including Regulated forms), are still being finalized and, therefore, are not included in the Manual. Also, certain sections of the Act, i.e. Part VIII - Confidentiality of and Access to Records, and Part X - Indian and Native Child and Family Services, etc. will be phased in following proclamation and procedures will be provided when available.

A formal consultation on the Family Services Manual is planned prior to the actual proclamation of the Child and Family Services Act. Once the consultation has been completed and Regulations approved, an amendment package will be prepared and distributed to all Manual holders.

Copies of the Manual are being forwarded to the following main groups of users:

- Ministry Staff at Corporate, Regional, Area and Local Office levels
- Children's Aid Societies

Those staff who currently have copies of the Prevention, Protection and Care Manual are asked to destroy the content, as this manual is now obsolete.

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

Groham Letherday

GL/jn

Encl

This is Exhibit "VV" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

MINISTRY OF COMMUNITY AND SOCIAL SERVICES

CHILD AND FAMILY SERVICES ACT TRAINING HANDBOOK

CHAPTER 3

THE CHILD AND FAMILY SERVICES ACT IMPACT
SPECIFIC TO CHILDREN'S AID SOCIETIES

- 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.

7. Compensation for the Abused Child

C.F.S.A. s. 77

The Child and Family Services Act preserves provisions of predecessor legislation that permitted a civil action for damages or other compensation to be initiated on behalf of 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 a children's aid 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 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 an informal matter. The task of the applicant is to provide evidence to the Board that the child has been abused. Abuse is defined by the Child and Family Services Act. It is <u>not</u> 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

WHAT IS SUBSTANTIALLY NEW

B. 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,

This is Exhibit "WW" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers



Ministry of the Attorney General

Office of the Official

Guardian

Archives of Ontario

6th Floor 180 Dundas Street West Toronto, Ontario M5G 1E4

Ministère du Procureur général

Bureau du Tuteur public

RG# R714641 BOX# Reel#

6e étage 180, rue Dundas, ouest Toronto, Ontario M5G 1E4

416/965-5288

Restricted

Unrestricted

April 28, 1988

Ms. Sheila Porter Solicitor, Legal Services Branch Ministry of Community and Social Services 80 Grosvenor Street 4th Floor, Hepburn Block Queen's Park Toronto, Ontario M7A 1E9

Dear Ms. Porter:

RE: CRIMINAL INJURIES COMPENSATION BOARD APPLICATION

Further to our meeting of February 28, 1988, this letter will set out the procedure involved in bringing applications to the Criminal Injuries Compensation Board on behalf of abused children.

The Compensation for Victims of Crime Act is the governing statute. A copy of the statute and some pamphlets are enclosed for your information. Under this statute, the Board compensates innocent victims of "crimes of violence". Such crimes would include the following offences against children:

- 1. Sexual abuse: sexual assault, incest, etc.
- Physical abuse: assault, assault causing bodily harm, aggravated assault.
- 3. Neglect: Criminal negligence causing bodily harm, failure to provide necessities of life.

This Office has brought numerous applications to the Board on behalf of abused children. We have taken our mandate to do so from section 77(2) of the Child and Family Services Act which addresses recovery of damages or other compensation on behalf of abused children. We now pursue these applications to the Board on behalf of children who are not in the care of the Children's Aid Society. Section 77(3) imposes an obligation on the society to pursue such application for compensation on behalf of the child where the child is in care. Therefore, we have been encouraging societies to bring these applications on behalf of their wards.

An application for compensation to the Board initiated by completing a form containing information about the child victim, details of the crime and the offender. The statute has a one year limitation period from the date the crime is committed for the filing of an application for compensation. However, the statute allows for applications to extend the limitation period. The Board has never turned down one of our requests for an extension of limitation period to file the application because, as you know, often in cases of child abuse, the abuse does not come to light for many years. In 1986, the Board ruled that the limitation period will not run as against a child until that child attains the age of eighteen, in accordance with the decision of the Ontario Court of Appeal in Papamonolopoulos v. Board of Education for City of Toronto (1986), 56 O.R. (2d) 1. I have attached a copy of the Board's ruling.

In addition to the application, the following documentary evidence is filed in support of the application:

- Reports from health care professionals (doctors, pediatricians) regarding medical examination of the child.
- Reports from psychologists or psychiatrists regarding the impact the abuse has had on the child, prognosis for the future, need for treatment.
- 3. Report of the social worker involved with the child regarding the same issues as described in (2) above.
- 4. Report of any professional who is involved in providing therapy to the child victim.

5. Any other relevant reports which would provide the Board with information as to how the abuse has impacted on the child.

A criminal conviction against an accused constitutes conclusive proof that the crime of violence occurred. Such a conviction is not necessary in order to found an 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.

When a staff member at the Board feels that the application is complete, the matter will be placed on a hearing list of cases. The Board sits on a full time basis in Toronto but holds hearings from time to time in Ottawa, London, Windsor, Sudbury, Sault Ste. Marie, Thunder Bay and Kenora. In recent months, the Board has heard a number of applications, with the consent of the applicant, on the basis of documentary evidence and without holding an oral alone hearing. hearings are very informal in nature and are governed by the Statutory Powers Procedures Act. It is not necessary for applicants to be represented by counsel at the hearing. It has been our practice not to have child victims attend the Board hearings as children have already been involved in the criminal justice system and the protection courts and it is not always desirable to expose them to another "Court" system.

The Board may compensate the child with a lump sum award 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. I have attached a number of orders made by the Board to this letter, for your information. Any lump sum award to a child is either paid to the Accountant of the Supreme Court of Ontario or to the Public Trustee to hold until the child reaches the age of majority, or later in some cases.

We feel that applications to the Board on behalf of children in care are particularly helpful as many Crown wards have no family support systems to turn to when they leave care at age eighteen.

We have also found that child victims benefit from being recognized as innocent and blameless victims of a crime perpetrated by an offender. A number of therapists have commented that a finding by the Board that the child is a victim especially in cases where there was no criminal conviction, has been of symbolic value to a child who feels guilty for the abuse having happened to him or her.

If any societies across the province have any questions regarding the Criminal Injuries process, Elizabeth Kehsen or myself would be pleased to answer them.

Yours very truly,

Phili Fichleva

Priti Sachdeva Counsel Child Representation Programme (Child Protection)

PS:llp Encls. This is Exhibit "XX" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

OFFICIAL GUARDIAN MINISTRY OF COMMUNITY & SOCIAL SERVICES LIAISON COMMITTEE

Minutes of Meeting of December 12, 1989,

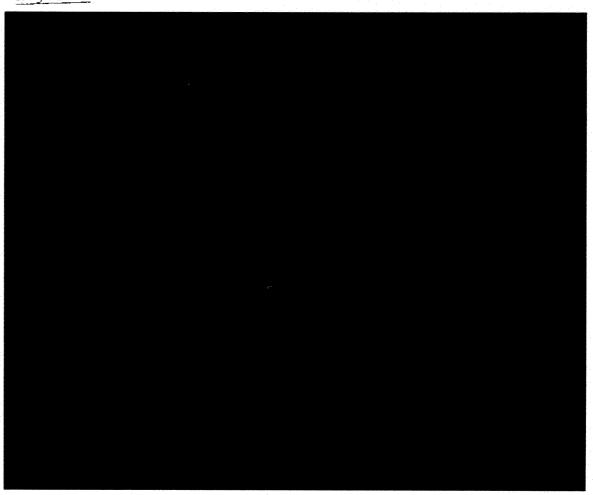
Michirty of Community & Social Services

0.00

Present:

Andrea Walker
Barb Morrison
Janet Rowney
Hugh Atwood
Willson McTavish
Susan Himel
Kevin Morris
Sandara Thompson
Sandra Scarth

Regrets: Priti Sachdeva

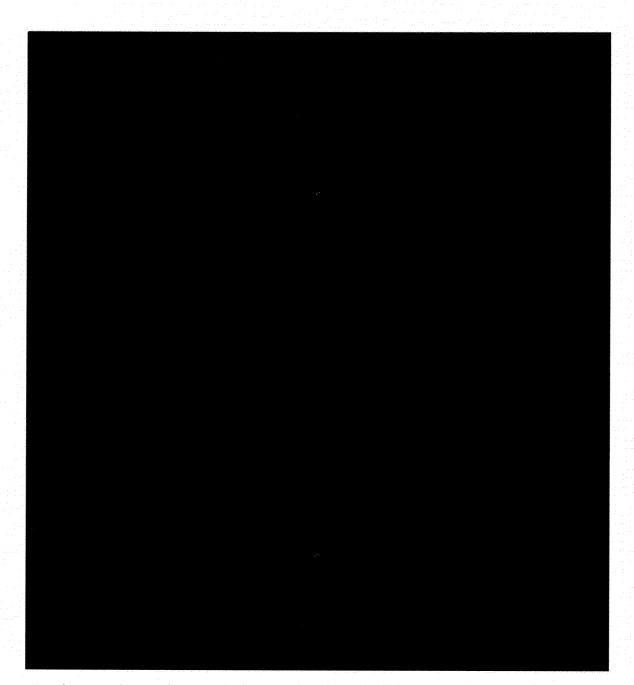


3. Rights and Responsibilities of Children's Aid Societies

Willson McTavish outlined the continuing problem of Children's Aid Societies not protecting the legal rights of children in care. Janet Rowney and Kevin Morris spoke with the O.A.C.A.S. A package from the Ministry will be distributed to the CAS's outlining responsibilities for children in care. Andrea Walker will be in touch with the Organization of Counsel of CAS's. The Ministry will also outline responsibilities of CAS through the Area Offices. The Ministry will provide the Official Guardian with a draft of the document will be sent. It was suggested correspondence should be sent to the Executive the Board of Directors Director as well as concerning this issue.

At the present time there are cases involving the Porcupine CAS, Metro Catholic CAS and Thunder Bay CAS. The Official Guardian will prepare a letter outlining the circumstances of each of the three cases which letter will be forwarded by Kevin Morris to the Area offices involved. Hopefully this will result in some response and action taken.





The next meeting will take place on Wednesday February 7, 1989 at 10:00 at 180 Dundas Street West, 6th. Floor Boardroom.

This is Exhibit "YY" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

MINUTES OF MINISTRY OF COMMUNITY AND SOCIAL SERVICES-OFFICIAL GUARDIAN LIAISON COMMITTEE MEETING

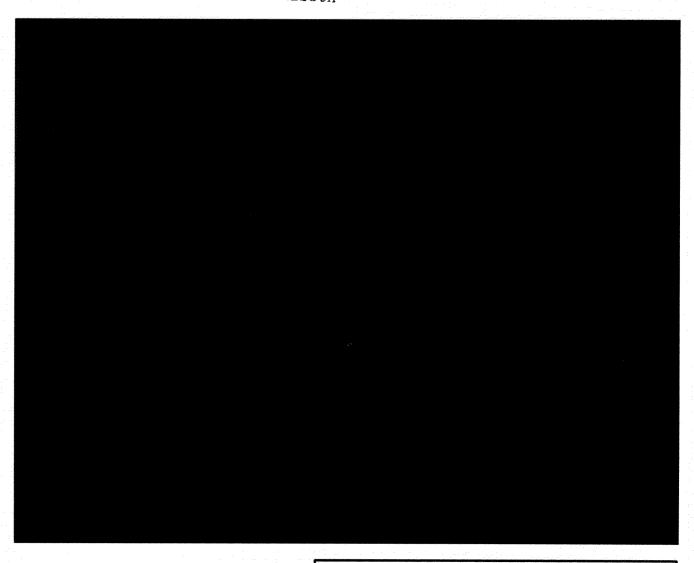
DATE: SEPTEMBER 19, 1990

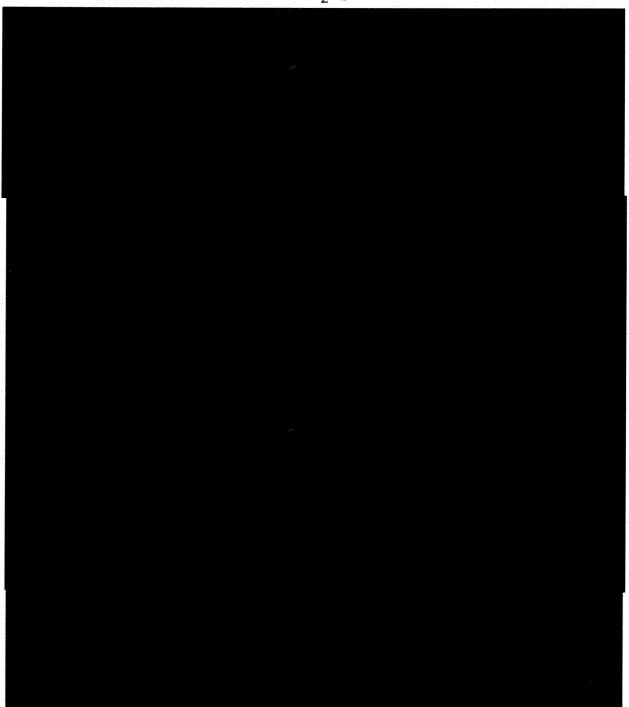
PRESENT:

Andrea Walker
Sandra Scarth
Peter Gooch
Janet Rowney
Sandra Thompson
John Calcott
Willson McTavish
Priti Sachdeva

REGRETS:

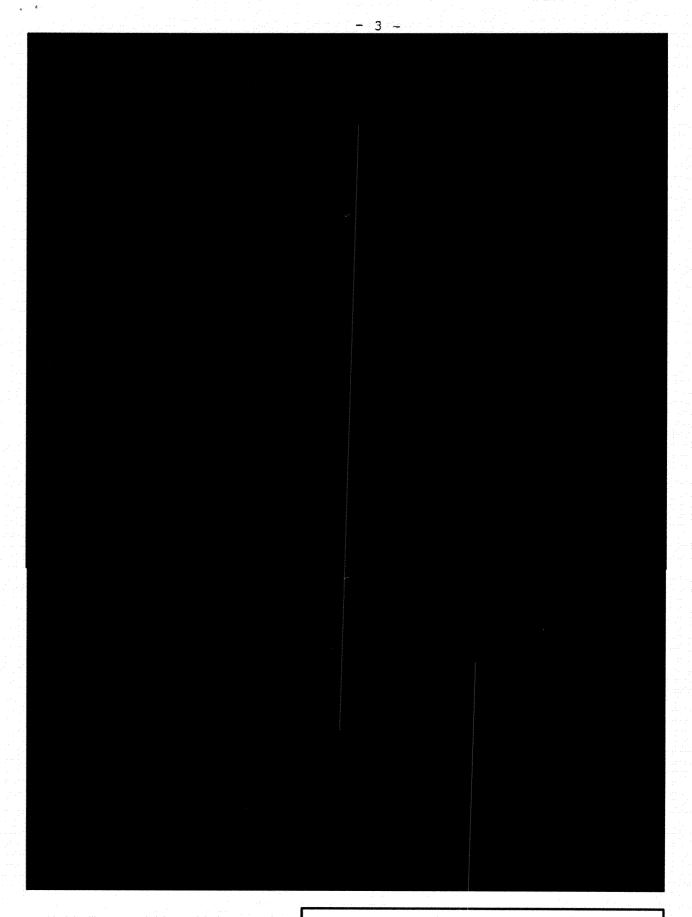
Debra Paulseth





5. Art Daniels Memo - Update

Janet Rowney advised that the memo which was addressed to all service providers regarding the role of the Official Guardian under the Child and Family Services Act had been signed by Michelle Noble and distributed. Ms. Rowney will send a copy of the signed memo to the OG.



ll. Rights and Responsibilities of C.A.S.'s

MCSS had provided at the May meeting a draft memo to C.A.S.'s regarding rights and responsibilities which a Society has towards its wards. Priti Sachdeva pointed out that the OG had commented to MCSS in June that the memo should address the issue of Society Wards as well as Crown Wards. MCCS staff advised that this memo was forwarded to Kevin Morris to obtain the signature of Mary McConville. Hopefully, this memo can be distributed to Executive Directors across the Province. MCSS will follow up on this

Next meeting Wednesday, November 21, 1990 at 10:00 a.m. Office of the Official Guardian, 180 Dundas Street West, 6th Floor, Boardroom.

PS:ew

This is Exhibit "ZZ" referred to in the affidavit of David Rosenfeld, sworn before me, this 11th day of September, 2015

A Commission for Taking Affidavits

Garth Myers

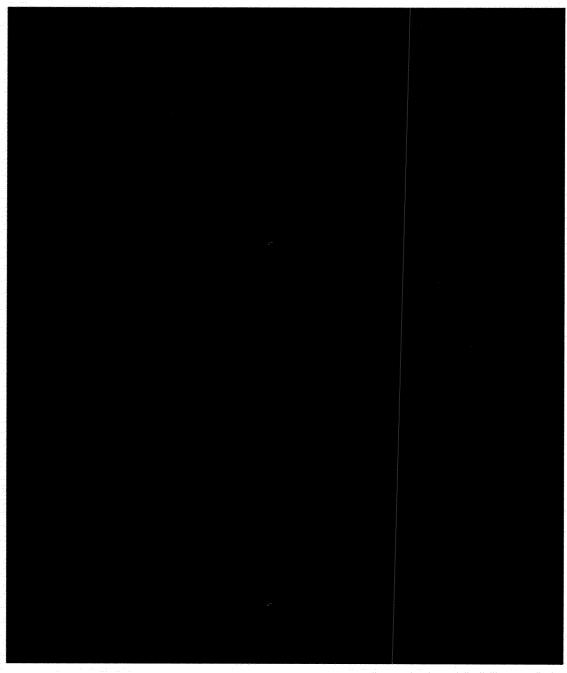
MINUTES OF OFFICIAL GUARDIAN MINISTRY OF COMMUNITY & SOCIAL SERVICES LIAISON COMMITTEE MEETING

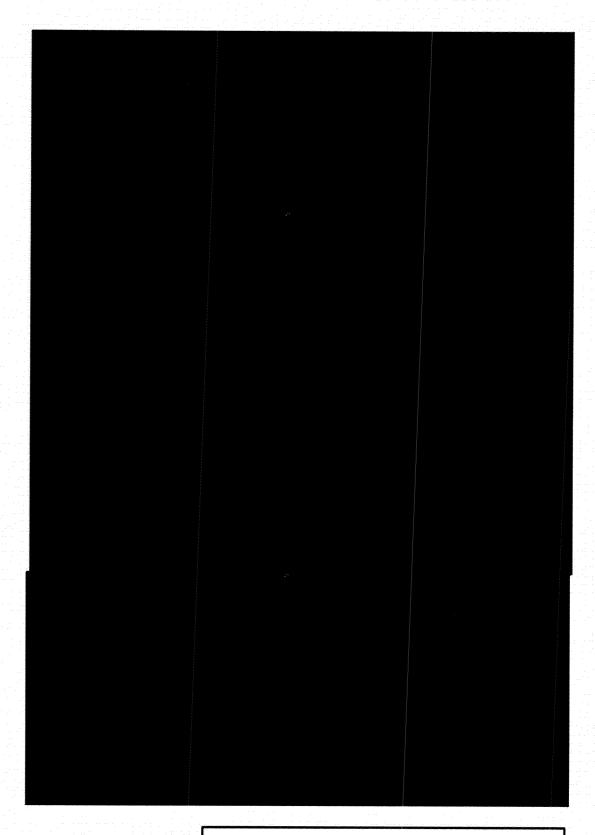
MEETING: November 21, 1990

PRESENT: Peter Gooch, Sandra Thompson, John Calcott,

Kevin Morris, Janet Rowney, Andrea Walker, Willson McTavish, Debra Paulseth, Priti

Sachdeva



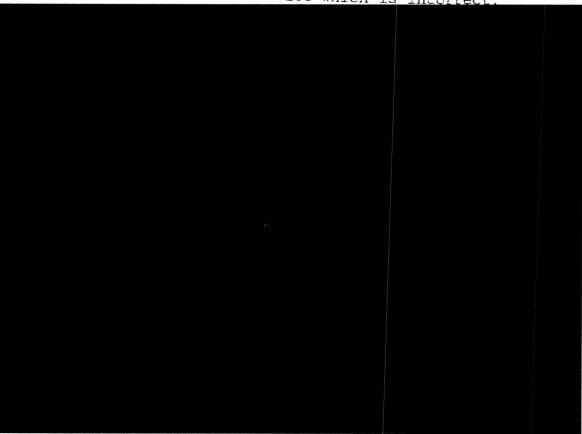


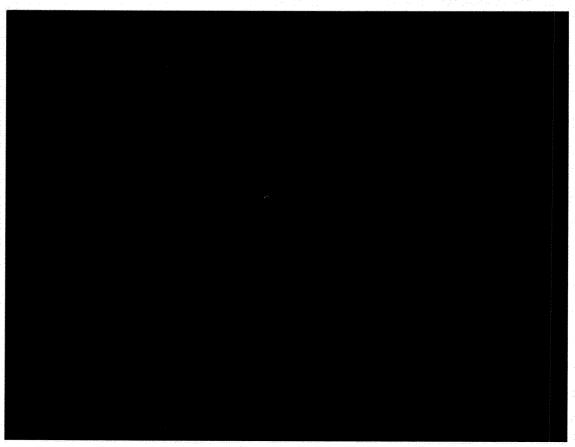
Exempt: Section: Not Responsive

4.(a) Michele Noble memo- This memo which outlines the various roles of the O.G. under the Child and Family Services Act has been signed and distributed to service providers.



(c) Memo to CAS directors re rights and responsibility to wards-Janet Rowney distributed a copy of a memo dated October 25, 1990 which has been forwarded to all Executive Directors regarding children in care as victims of crime. This memo was sent out by the Ontario Association of Children's Aid Society's. Priti Sachdeva pointed out that the memo refers to the Criminal Injuries Compensation Board as being part of the Official Guardian's Office which is incorrect.





The meeting was then adjourned.

Next Meeting: Wednesday, February 27, 1991 at MCSS. 10:00 a.m.

PAPASSAY, ET AL.

and

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

Plaintiffs

Defendant

Court File No.: CV-14-0018

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Thunder Bay Proceeding under the *Class Proceedings Act*, 1992

CERTIFICATION MOTION RECORD Volume 2

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Lawyers for the Plaintiffs