

**IN THE MATTER OF THE CORNWALL PUBLIC INQUIRY  
THE HONOURABLE G. NORMAND CLAUDE, COMMISSIONER**

**PHASE 1 - WRITTEN SUBMISSIONS OF THE  
CHILDREN'S AID SOCIETY OF THE  
UNITED COUNTIES OF STORMONT, DUNDAS & GLENGARRY**

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## **I. INTRODUCTION**

This is the written submission of the Children’s Aid Society of the United Counties of Stormont, Dundas and Glengarry (“C.A.S.”) for the Cornwall Public Inquiry (the “Inquiry”).<sup>1</sup>

In its opening statement, the C.A.S. stated that if it had failed to respond appropriately to the matters addressed at the Inquiry, it wants to be told about it.

Over the course of the Inquiry, there have been hundreds of days of testimony and thousands of exhibits entered. The review of the evidence presented has provided the C.A.S. with a new perspective on its operations in the past.

The C.A.S. acknowledges that it is now apparent that, at times, the C.A.S. failed to respond appropriately to allegations of sexual abuse and physical abuse, or some aspects thereof. The C.A.S. also acknowledges that, at times, it failed to protect wards in its care from mistreatment. The C.A.S. deeply regrets any harm that may have been caused as a result of its shortcomings.

The C.A.S. also acknowledges that a number of former wards were dissatisfied with the record disclosure services they received from the agency. C.A.S. can appreciate their frustrations. The agency has long suffered from inadequate resources, and clarity to complete this important task. C.A.S. has learned from the various individuals who have testified about their experiences and their need for information about their past. The C.A.S. has already made changes to improve this service and will continue to strive to improve it to fully meet client needs.

This submission will argue that the totality of evidence submitted to the Inquiry illustrates that, having regard to the training, resources, and technology available at the time, the C.A.S. has

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<sup>1</sup> When the term C.A.S. is used in this document, it is meant to refer to the local agency, unless context or explanation indicates otherwise.

overall acted reasonably in matters reviewed at the Inquiry. Where it is clear that the C.A.S. acted inappropriately or not in accordance with the standards and that time, the C.A.S. will acknowledge its shortcomings.

Furthermore, it is submitted that generally, the C.A.S. and its employees acted with the requisite level of competence of the time, and acted in good faith and in accordance with its stated mandate. Again, where the actions of the C.A.S. or its employees fell below the level of competence of the day, it will acknowledge these missteps.

That being said, as was submitted in the opening statement of the C.A.S., the institutional response to allegations of mistreatment of young people has become more sophisticated over time. When viewed with today's eyes, some of the past actions of the C.A.S. and other institutions seem deeply flawed. However, it is respectfully submitted that the mandate of the Inquiry requires that the institutional response be viewed to determine if the response was appropriate *at that time*.

The Commission and the public can rest assured that the C.A.S. of today operates much differently than the agency of the past. Yet, despite the evolution of its response to allegations of child sexual abuse, the Inquiry has presented the C.A.S. with an opportunity to further reflect on its policies, procedures, and general framework relating to such allegations. As a result of evidence presented before the Inquiry, the Agency has already taken several steps to make its response to these issues more effective, which initiatives will be discussed later in this institution's Phase II submissions.

The Inquiry reviewed approximately ten C.A.S. case files. The files were not chosen randomly, but rather were based on the individuals who came forward to testify at the Inquiry. Every one of the approximately 20,000 case file C.A.S. has ever had has been retained. Those cases not reviewed at the Inquiry would paint a very different picture.

The C.A.S. provides a valuable public service and must be accountable to the public. However, the Inquiry process has impacted on this and many other institutions who continue to provide services to the public in the Cornwall area. In order for these institutions to continue to operate effectively, it is imperative that the Commission make findings and recommendations that will restore public confidence in the C.A.S. and maintain the integrity of it and the other institutions involved in the Inquiry.

The potential impact of the findings and recommendations is also important when having regard to the individuals who have testified before the Inquiry, whose personal and professional reputations are on the line, so to speak. The Commission cannot create theories and make assumptions based on the evidence. Any findings must be based on fact and evidence submitted before the Inquiry.

Restoring public confidence in institutions and individuals in the Cornwall area is important for the community as well. This Inquiry was intended to end the public speculation and rumours that have been circulating for some time. In order for the Commission's report to do so, it must be fair, balanced and rooted in fact.

## **II. BACKGROUND**

### **MANDATE OF THE CORNWALL PUBLIC INQUIRY**

Pursuant to O.C. 558/2005 [hereinafter the "order in council"], The Cornwall Public

Inquiry was established pursuant to the Public Inquiries Act, R.S.O. 1990, c. P.41, effective

April 14, 2005. The order in council establishing the Inquiry provides the mandate to be addressed. The mandate is to:

...inquire into and report on the institutional response of the justice system and other public institutions, including the interaction of that response with other public and community sections, in relation to:

- (a) allegations of historical abuse of young people in the Cornwall area, including the policies and practices then in place to respond to such allegations, and
- (b) the creation and development of policies and practices that were designed to improve the response of the allegations to abuse

in order to make recommendations directed to further the improvement of the response in similar circumstances.

In short, as stated in Commissioner Glaude's opening statement, the purpose of the Inquiry is to "find out what happened, what went wrong, and to look at what can be done to avoid similar occurrences." The C.A.S. has, throughout this Inquiry, supported this mandate, as is reflected by its full cooperation with the work of the Commission.<sup>2</sup>

- CPI, Vol. 1

Though the mandate of the Inquiry is to examine the conduct of the C.A.S. and its employees, it is submitted that certain principles should govern the findings of the Inquiry.

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<sup>2</sup> Transcripts of the Cornwall Public Inquiry will be cited in this document as "CPI, Vol. 123, p. 456".

Firstly, it is submitted that it is not the purpose of the Inquiry to conclude that someone has breached a legal standard, be it civil or criminal.

Secondly, while the Inquiry can make findings of misconduct where notice of alleged misconduct has been provided, it is submitted that such findings should only be made where they are *necessary* to fulfil the specific mandate of the Inquiry.

Lastly, in making any findings of misconduct, the Commission must recognize the limitations of the evidentiary record before the Inquiry. While there have been many witness and thousands of documents presented, there are certainly holes in the documentary and testimonial record that must be recognized.

## **THE HISTORY OF THE C.A.S. OF UNITED COUNTIES OF S.D. &G.**

### **Background**

The local C.A.S. has been in existence since 1908 and has recently celebrated its centennial anniversary. It has evolved considerably since that time, in terms of size, mandate, policies and procedures. C.A.S's current Mission Statement reads as follows:

*"The Children's Aid Society of Stormont, Dundas and Glengarry protects children from abuse and neglect, while supporting the safe and healthy development of children in their families and community."*

- Ex. 25, Tab 2

In the mid 1960's, the Society employed approximately 15 people, including an Executive Director, 2 Supervisors and two units of front line workers, administrative and clerical staff. At the time, one of the units performed the protection duties of investigation, follow up services and

looking after the needs of children in the temporary care of the Society. The second unit was charged with foster care, adoption and the needs of children in the permanent care of the society.

- CPI, Vol. 292 and Ex. 2419

The C.A.S.'s increase in size places it presently as a mid-sized agency, in relation to the rest of the Province. As of 2006, C.A.S employed 121 employees on a full or part-time basis, consisting of 21 managers, including the Executive Director, Clinical Director, 2 Service Managers, Director of Corporate Operations, 2 Special Assistants to the Executive Director, and front-line managers. In addition to this, there are 12 contract positions, both full and part time.

- CPI, Vol. 15

As of March 1<sup>st</sup>, 2006, there were 363 children in care, and 112 open foster homes.

- Ex. 27, Tab 2

The C.A.S. is a member of the Ontario Association of Children's Aid Societies ("OACAS"). OACAS is a membership organization that represents 52 of the 53 Children's Aid Societies in Ontario. It has been in operation since 1912. Membership in OACAS is voluntary.

- CPI, Vol. 15

There are now three major areas within the organization, being Protection Services, Child and Youth Services and Residential Services.

- Ex. 25, Tab 2

## **Protection Services**

Protection Services have evolved from one unit that covered all aspects of child protection to three separate but linked service components – Intake, Investigations and Family Services.

### **Intake**

There has been an evolution in the processing of intake referrals over the decades. Prior to 1979 there was no formal system in place that considered the severity of the matter being referred or the appropriate response time for the referral. The introduction of the *Standards and Guidelines for the Management of Child Abuse Cases under the Child Welfare Act (1978)* by the *Children's Aid Societies* in 1979 dictated that allegations of child abuse required a more prompt and comprehensive response compared to other referrals of child maltreatment. Specifically, investigations were to be initiated within an hour of receiving the referral. At that time, no specific changes were introduced with respect to the documentation of referrals and the categorization of referrals was still limited to the definitions of a child in need of protection.

- Ex. 25, Tab 2

In 1992, the “Revised Standards for the Investigation and Management of Child Abuse Cases (1992)” was introduced. This document maintained the practice of treating abuse cases differently from other forms of child maltreatment. Whereas in the previous Standards and Guidelines the “guidelines” were interpreted as best practice, but not mandatory, the Revised Standards made the identified measures mandatory.

- Ex. 25, Tab 2

In 1998, when Risk Assessment Model for Child Protection in Ontario ("ORAM") was introduced, the format for the management and the documentation of referrals became more structured through the use of the Eligibility Spectrum. The sub-categorization of referrals was expanded considerably with the introduction of ORAM. For example, allegations of sexual abuse went from two categories (allegations that a child had been sexually molested or risk that a child would be sexually molested) to eight categories of abusive sexual activity. Additionally, for the first time there was a section that specifically considered historical child maltreatment.

- Ex. 25, Tab 2

At the present time, documentation of the C.A.S.'s referral intakes, including the narrative section, is highly structured. The introduction of the ORAM can rightfully be considered as a major initiative in the history of child protection in Ontario.

ORAM (1997) was updated in 2000 (Risk Assessment Model for Child Protection in Ontario 2000 [hereinafter "ORAM 2000"]) and continues to be in effect. One of the most significant changes was that standards were extended beyond abuse cases to include all protection cases.

- Ex. 25, Tab 2

### Investigations

As with Intake, the response to investigations has evolved over the decades. As previously noted, prior to 1979 there were no standards or guidelines with respect to the management of child abuse cases. This changed with the introduction of the Standards and Guidelines in 1979 and continued when the Standards and Guidelines were replaced by the Revised Standards in 1992.

In 1998, ORAM and the accompanying recording format Intake and Family Recording System (IFRS) introduced a series of risk decisions that are made during the course of the investigation. Some key changes that emerged with ORAM were the introduction of a safety assessment at an early stage of the investigation, and a risk assessment component. In 2000, when ORAM was modified, separate risk decision points were created for the verification of allegations and the determination of whether a child was in need of protection. All of these above changes to ORAM brought greater structure and clarity to the investigation process.

- Ex. 25, Tab 2

### Family Services

As indicated above, the introduction of the Standards and Guidelines in 1979, followed by the Revised Standards in 1992 and ORAM in 1998 has assisted the C.A.S. and all other 's in the Province of Ontario to develop their responses to child maltreatment. This evolution included Family Services and the C.A.S.'s practices have evolved accordingly. Ongoing files (Family Services) rely heavily on an ongoing process of risk assessment compared to previous generations of ongoing intervention.

- Ex. 25, Tab 2

### **Recording Requirements and File Retention**

The practice of the Society's workers since the 1970's and potentially earlier, has always been to produce case notes for each and every activity associated with the case. In his evidence at the Inquiry, William Carriere testified that since he has been with the Society, they have always

endeavored to record all child protection recordings in accordance with provincial legislation, regulations, standards and guidelines.

- CPI, Vol. 15

Recording practices became standardized across the province in 1998 with the introduction of the Intake and Family Recording System (IFRS). This system consisted of a series of modules that workers complete to cover different aspects of their case activity.

- CPI, Vol. 15, esp. p. 35 – 36

With respect to the issue of file retention, Mr. Carriere testified that the Society has retained all files since the time the agency began, some of which have had to be transferred to microfiche in order to preserve their physical integrity. Tom O'Brien also testified that there are case files at the agency dating back to 1909.

- CPI, Vol. 15 and 293

## **DEVELOPMENT OF LEGISLATION, STANDARDS AND GUIDELINES RELATING TO CHILD PROTECTION IN ONTARIO<sup>3</sup>**

### **Legislation Generally**

The first piece of legislation dealing with the area of child protection was the *Child Protection Act, 1927*. This Act has since been repealed and has had numerous successors.

- CPI, Vol. 17, p. 10

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<sup>3</sup> For more information on this topic generally, see Ex. 25, Tab 2.

There have been sweeping reforms to Child Protection legislation from the 1960s to today, with respect to the definition of the functions and purpose of children's aid societies, the standards regarding management of child protection cases and the duty to report requirements. In fact, prior to 1960, "no legislation or standards related specifically to child sexual abuse existed."

- Ex. 2346A, page 31

In 1954, the *Child Welfare Act* was introduced, which replaces the *Child Protection Act, 1927*.

In 1960, an amendment to the *Child Welfare Act* provided for the establishment of children's aid societies with the following purposes:

(...) the protection of children from neglect, the care and control of neglected children, assistance to unmarried parents, the placement of children in adoption, the supervision of children placed in adoption until an order of adoption is made and generally the discharge of the functions of a children's aid society under this Act.

- *Child Welfare Act, R.S.O. 1960, c.53, s.6(1) Ex. 25, Tab 13*

The original incarnation of the Act did not provide for any duty to report, however, these were introduced in 1966 when section 41 was proclaimed in to force, setting out the duty to report as follows:

41. (1) every person having information of the abandonment, desertion, physical ill-treatment or need for protection of a child shall report the information to a children's aid society or Crown attorney.

(2) Subsection 1 applies notwithstanding that the information is confidential or privileged, and no action shall be instituted against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.

- *Child Welfare Act, 1965, S.O. 1965, c.14, s.41, Ex. 25, Tab 14*

At the time, there were no standards regarding the management of child protection cases available to assist and inform child protection workers.

The child protection landscape changed in the 1970's when the *Child Welfare Act* was amended to redefine the scope and purpose of children's aid societies to include the following:

- a. Investigating allegations or evidence that children may be in need of protection;
- b. Protecting children where necessary;
- c. Providing guidance, counseling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- d. Providing care for children assigned or committed to its care under this or any other Act;
- e. Supervising children assigned to its supervision under this or any other Act;
- f. Placing children for adoption;
- g. Assisting the parents of children born out of wedlock or likely to be born out of wedlock and their children born out of wedlock; and
- h. Any other duties given to it by this or any other Act.

- Child Welfare Act, R.S.O. 1970, c.64, s. 6(2), Ex. 25, Tab 15

During the 1970s, standards regarding the management of child protection cases finally came in to play, when the *Standards and Guidelines for the Management of Child Abuse Cases under the Child Welfare Act (1978)* by the *Children's Aid Societies* came into effect in 1979. At the time, however, there was no reference to historical abuse in these Standards and Guidelines.

- See Ex. 25, Tab 4 for 1981 Guidelines

It wasn't until 1978 that the *Child Welfare Act* was amended to include sexual molestation in the definition of an abused child. Further, the 1978 amendments to the *Child Welfare Act* included the formalization of the Child Abuse Register.

- Ex. 2346A, p. 32

Further, in 1979, the *Child Welfare Act, 1978* revised the requirements under the Duty to Report, as follows:

49. (1) Every person who has information of the abandonment, desertion or need for protection of a child or the infliction of abuse upon a child shall forthwith report the information to a society.

(2) Notwithstanding the provisions of any other Act, every person who has reasonable grounds to suspect in the course of the person's professional or official duties that a child has suffered or is suffering from abuse that may have been caused or permitted by a person who has had charge of the child shall forthwith report the suspected abuse to a society.

(3) This section applies notwithstanding that the information reported is confidential or privileged and no action for making the report shall be instituted against any person who reports the information to a society in accordance with subsection 1 or 2 unless the giving of the information is done maliciously or without reasonable grounds to suspect that the information is true.

(4) Nothing in this section shall abrogate any privilege that may exist between a solicitor and the solicitor's client.

- *Child Welfare Act, 1978*, S.O. 1978 c.85, s. 94(1(f)(ii), Ex. 25, Tab 16

In addition to these changes, for the first time, it was made an offence to contravene the duty to report suspicions of child abuse found in subsection 49(2) of the Act.

In 1980, further changes were made to s. 6(2) of the *Child Welfare Act*, once again revising the purposes of children's aid societies. The enumerated purposes were as follows:

Investigating allegations or evidence that children may be in need of protection;

- Protecting children where necessary;
- Providing guidance, counseling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- Providing care for children assigned or committed to its care under this or any other Act;
- Supervising children assigned to its supervision under this or any other Act;
- Placing children for adoption;
- Assisting the parents of children born or likely to be born outside of marriage and their children born outside of marriage; and
- Any other duties given to it by this or any other Act.

- *Child Welfare Act, R.S.O. 1980*, c. 66, s. 6(2), Ex. 25, Tab 17

The 1980 amendments to the *Child Welfare Act* made minor adjustments to the duty to report requirements at subsection 49(3). Subsection 49(3) now read as follows,

49. (3) This section applies notwithstanding that the information reported is confidential or privileged and no action for making the report shall be instituted against any person who reports the information to a society in accordance with subsection (1) or (2) unless the giving of the information is done maliciously or without reasonable grounds to suspect that the information is true.

- *Ibid.*, s.49(3)

Further minor amendments were also made to sub clause 94(1)(f)(ii).

Major changes to child protection legislation were brought about by the replacement of the *Child Welfare Act* with the *Child and Family Services Act* in 1984. The new Act defined the purposes of Children's Aid societies as follows:

- Investigate allegations or evidence that children who are under the age of sixteen years or are in the society's care or under its supervision may be in need of protection;
- Protect, where necessary, children who are under the age of sixteen years or are in the society's care or under its supervision;
- Provide guidance, counseling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children;
- Provide care for children assigned or committed to its care under this Act;
- Supervise children assigned to its supervision under this Act;
- Place children for adoption under Part VII; and
- Perform any other duties given to it by this or any other Act.

- *Child and Family Services Act*, S.O. 1984, c.55, s.15(3), Ex. 25, Tab 18

The duty to report requirements were also revised and are now found at s. 68 of the Act:

68. (1) In this section and in sections 69, 70 and 71, "to suffer abuse", when used in reference to a child, means to be in need of protection within the meaning of clause 37 (2) (a), (c), (e), (f) or (h).

(2) A person who believes on reasonable grounds that a child is or may be in need of protection shall forthwith report the belief and the information upon which it is based to a society.

(3) Despite the provisions of any other Act, a person referred to in subsection (4) who, in the course of his or her professional or official duties, has reasonable grounds to suspect that a child is or may be suffering or may have suffered abuse shall forthwith report the suspicion and the information on which it is based to a society.

(4) Subsection (3) applies to every person who performs professional or official duties with respect to a child, including,

(a) A health care professional, including a physician, nurse, dentist, pharmacist and psychologist;

(b) A teacher, school principal, social worker, family counselor, priest, rabbi, clergyman, operator or employee of a day nursery and youth recreation worker;

(c) A peace officer and a coroner;

(d) A solicitor; and

(e) A service provider and an employee of a service provider.

(5) In clause (4) (b), "youth and recreation worker" does not include a volunteer.

(6) A society that obtains information that a child in its care and custody is or may be suffering or may have suffered abuse shall forthwith report the information to a Director.

(7) This section applies although the information reported may be confidential or privileged, and no action for making the report shall be instituted against a person who acts in accordance with subsection (2) or (3) unless the person acts maliciously or without reasonable grounds for the belief or suspicion, as the case may be.

(8) Nothing in this section abrogates any privilege that may exist between a solicitor and his or her client.

Section 81 of the *Child and Family Services Act* (1984) contained the penalty provisions with respect to violations of the duty to report. The relevant portions of section 81 are as follows:

81. (1) A person who contravenes,

... (b) subsection 68(3) (reporting child abuse);

... and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or, except in the case of a contravention of subsection 68 (3), to imprisonment for a term of not more than one year, or to both.

The *Child and Family Services Act* (1984) was the first piece of legislation to refer to sexual abuse within the context of a child in need of protection. The CFSA also sets out the criteria for alleged abusers, in order that the abuse may fall under the purview of the society. At s.79(2), the Act prohibits anyone having charge of a child from inflicting abuse on that child or permitting that child to suffer abuse by failing to care and provide for or supervise and protect the child adequately. Essentially, this means that the abuse of a child by a person who is not in charge of that child or does not have responsibility for caring for that child is not reportable abuse as defined by the CFSA.

- *Ibid*, ss. 37(2)(c) and 37(2)(e)

In 1998 the Ministry of Community and Social Services introduced ORAM (1997). It featured three key components: (i) an eligibility assessment, (ii) a safety assessment and (iii) a risk assessment.

- Ex. 25, Tab 6

From 1998 to 2000, the Revised Standards continued to be in place for child abuse cases. In 2000, under ORAM (2000), a new set of standards was created to cover not only child abuse cases but all child protection matters.

- Ex. 25, Tab 8

### **Legislation and Policies Relating to Historical Sexual Abuse**

In their report “*Policies and Practices of Child Welfare Agencies in Response to Complaints of Child Sexual Abuse 1960-2006*), Professor Stalker et al., commented on the lack of documentation with respect to the area of historical child sexual abuse:

To examine how child welfare has previously responded to and presently responds to allegations of historical child sexual abuse, we conducted an extensive literature search using library electronic databases. We were surprised to find that no documents, other than previously mentioned child welfare legislation and Ministry standards and guidelines, addressed the topic of how child welfare agencies have responded to allegations of historical sexual abuse over the years.

- Ex. 2346A, p. 15

The position of Children's Aid Societies with respect to historical abuse cases has always been that their interest is in respect to any current risk posed to children by the alleged abuser. Historical abuse has never been directly included in any child welfare legislation in the province. These types of cases were first addressed in the "Revised Standards" which were released in 1992 and replaced the "Standards and Guidelines" which were introduced in the late 1970s and were silent with respect to past abuse cases.

The 1992 Standards stated that:

The person over the age of sixteen who reports past abuse should be encouraged to report the abuse to the police and should be helped to take advantage of whatever victim assistance, therapy, and legal assistance resources exist in the community. The society will initiate a further investigation only if there is an allegation or evidence that a child under the age of sixteen may be at risk or may have been abused.

- Ex. 25, Tab 5

The ORAM Eligibility Spectrum, introduced in 1998, includes a section entitled "Caregiver Has History of Abusing and Neglecting" . Given its inclusion in the Eligibility Spectrum this is perceived as a significant step in the identification and response to historical child maltreatment concerns. In his testimony, Mr. Carriere commented that the development of this Eligibility Spectrum was a very valuable tool for Children's Aid Societies, as it allowed them to consider various types of referrals, including historical cases, and determine whether or not they met the standards of eligibility. The Eligibility Spectrum breaks down the different types of cases of historical maltreatment of children and provides agencies and workers a mechanism to assess

these cases. Prior to this, there was no direction for agencies dealing with historical abuse or maltreatment cases.

- CPI, Vol. 14, p.26
- Ex. 25, Tab 7

The revisions to ORAM in 2000 provided for consideration of all types of child maltreatment, rather than being limited to cases of child abuse.

### **Definition of “Caregiver”**

There exists a common misperception that the C.A.S. will become involved any time a child is in need of protection. This is not entirely true. C.A.S. and its workers are limited by the current legislation, standards and guidelines to cases where the abuser or alleged abuser is perceived to be in charge of, or a caregiver to, the child.

The current definition of child abuse is contained in the *Child and Family Services Act*, at s.79 (2):

No person having charge of a child shall,

(a) inflict abuse on the child; or

(b) by failing to care and provide for or supervise and protect adequately,

(i) permit the child to suffer abuse, or

(ii) permit the child to suffer from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child’s development.

The challenge for Children’s Aid Societies is mainly in the interpretation of the phrase “having charge of”.

In following the Ministry’s Standards and Guidelines (1981), child protection workers are advised that,

...for a person to be found to have abused a child, that person must have a relationship with the child, and the abuse must occur within the context of this relationship. Normally, only someone who is in the role of parent or substitute parent can be found to be the abuser of the child in the intent of the legislation.

- Ex. 25, Tab 4, Bates page 6001903

In the context of the Eligibility Spectrum, “caregiver” can refer to any of the following:

- the primary caregiver; mother, father, caregiver exercising access contact, adult with a custody and control order for the child in question
- an assigned caregiver: day care worker, babysitter, a family member providing temporary substitute care, a partner of the caregiver (with no legal relationship to the child) etc.
- an assumed caregiver; the teacher, the children’s recreational group leader, the school bus driver, etc.

- Ex. 25, Tab 7, Bates page 6002110

Further, the Revised Standards and Guidelines (1992) state that,

...to be considered a person in charge of the child one need not be a parent or person exercising parental rights, but may also be anyone having responsibility for caring for a child. The determination of whether or not a person is in charge of the child will depend on the facts of each situation. Examples of persons who may fall into this category could include baby-sitters, teachers, Big Brother/Sister, recreation worker.

- Ex. 25, Tab 5, Bates pages 6001968-969

Child protection workers’ hands are tied in some cases where the abuser does not fit the definition of a caregiver or a person considered in charge of the child. The Revised Standards and Guidelines (1992) go on to say that “the abuse of a child by a person who is not in charge of the child is not reportable child abuse as defined by the *CFSA*.” [*sic*] As an example, the Revised Standards and Guidelines (1992) cite a situation of sexual molestation by a stranger. The C.A.S. could not get involved in this type of situation; rather it would be dealt with by the police, under the *Criminal Code*.

- Ex. 25, Tab 5, Bates page 6001969

The C.A.S. submits that a clarification in the definition is required in order to provide more certainty as to when the agency does or does not get involved in an allegation of abuse, particularly in extra-familial situations.

### **III. THEMES AND CONCERNS AT THE INQUIRY**

#### **EXPERT EVIDENCE ON CHILD ABUSE AT THE INQUIRY**

Numerous experts testified before the Cornwall Public Inquiry on a wide range of topics. In particular, the evidence of John Liston, Nico Trocme, David Wolfe and Nick Bala was relevant to the position of the C.A.S.

#### **Expert Evidence Regarding Extra-familial Child Sexual Abuse**

Mr. John Liston was qualified as an expert in the child welfare response to allegations of child sexual abuse. During his testimony, Mr. Liston spoke on the topic of extra-familial sexual abuse. He testified that in the 1970's and early 1980's there was no knowledge in agencies regarding how to respond to this type of situation. The legislation at the time spoke only to children in relation to their parents and perhaps other caregivers. As a result, incidences of extra-familial child sexual abuse were dealt with via police investigations.

- CPI, Vol. 7, p.8, p. 23

Liston testified with respect to the professionals' emotional reactions to child sexual abuse that they felt bewildered and unsure. Commissioner Glaude commented on Mr. Liston's testimony with respect to the professionals' reactions, stating that at the time, "the professionals...were learning".

- CPI, Vol. 7, p. 28

Dr. Wolfe testifies that in his understanding, "when the perpetrator is outside the family, it is almost always the police" who investigate allegations of extra-familial child sexual abuse.

Further, he explains that Child Welfare only becomes involved if the accused has any childcare responsibilities, such as a family member living in the home, or a babysitter who would also be caring for other children.

- CPI, Vol. 4, p. 82

In addition, Dr. Wolfe testified that a Children's Aid Society might become involved in a child sexual abuse investigation under various situations, for example if the child was a society or crown ward (whether or not the accused was a parent or foster parent), or if the alleged perpetrator were a parent, step-parent, sibling, grandparent, someone living in the home or someone who visited the home constantly. Also, if the police felt that someone at the Children's Aid Society would have more expertise, the police could also ask the agency to be involved in interviewing the children to assist with the investigation, even if it were an extra-familial situation.

- CPI, Vol. 5, p. 33

### **Expert Evidence Regarding Eligibility Spectrum and Extra-familial Child Sexual Abuse**

According to the Stalker Report, Ontario child welfare agencies were limited by the Eligibility Spectrum in terms of their involvement in extra familial child sexual abuse cases. The informants from Agency C (outside of Ontario) reported that a "C.A.S. worker and police officer normally interview all child victims of extra familial abuse jointly". This has not been the case in Ontario, where "involvement in cases that do not fall within the criteria of the Eligibility Spectrum (which includes many extra familial cases) is "discretionary"." The practice in Ontario is that a Children's Aid Society will only become involved in the interviewing of a child victim of extra familial abuse if the police request it.

- Ex. 2436A, p. 18

### **Expert Evidence Regarding Difficulty Believing Children**

During his testimony, Mr. Towndale indicated in the 1970s, when there was an allegation of abuse by a child, the tendency was to believe the adult, that was how things were at the time.

- CPI, Vol. 276, page 42

Dr. David Wolfe testified about the phenomenon of society to want to believe so-called “good” people over “bad” children, meaning that when a child makes an allegation of sexual abuse against an upstanding member of society, it is “human nature” to want to look at the accused and say “‘Well, there are all of these good things. How could they be this bad thing?’ And similarly, when a child makes an accusation, it’s typical to think, ‘Well, you know, he’s lied before. He can lie again.’”

- CPI, Vol. 4, p. 83

Professor Bala testified that during the eighties and nineties, as the number of child sexual abuse referrals increased, there was a greater awareness and increased sensitivity to these issues by front line staff. As a result, the reaction became one of “Well, we better investigate this more” as opposed to “oh, you might be lying”. Front line professionals were then able to provide more sensitive support to children.

- CPI, Vol. 5, p. 161

The Stalker Report indicated that “in the past, child victims were often not believed”, and many signs and symptoms of abuse, or attempts to disclose, were not recognized as they would be today.

- Ex. 2346A, p. 18

### **Expert Evidence Regarding Institutional Response to Allegations of Child Sexual Abuse**

Dr. Wolfe described the response to allegations of child sexual abuse as “an evolving process”, and stated that “no one can be blamed for not being as aware as we are today about how to address these problems because we simply didn’t know how pedophiles worked and some of the warning signs as well as we do today.”

- CPI, Vol.4, p. 135

### **Expert Evidence Regarding Reporting Historical Abuse**

Dr. Wolfe testified that the only obligation on someone to report a historical allegation of child sexual abuse is if there is still a present risk to children. Dr. Wolfe provided the example of a case where the alleged abuser was still a Scout leader, or a priest, and then there is an obligation on the individual to report. However, Dr. Wolfe stated that if the alleged abuser is retired, or gone, then it is the individual’s decision if he wants to report.

- CPI, Vol. 5, p. 86

### **Expert Evidence Regarding “Persons in a Position of Trust or Authority”**

Professor Nick Bala refers to the Badgley Report (1984) in opining that pre-1984 laws may not have give sufficient consideration to the scope of individuals who might be in positions of trust or authority.

- CPI, Vol. 5, p. 131

## **Expert Evidence Regarding Training of Child Protection Workers**

As stated by Professor Bala during his testimony on Feb. 14, 2006, there was considerably more training available in 1988 compared to 1978. He states that “if you compare 1988 to 1978 a huge – we’ve gone up a very steep slope and had enormous change. A lot more of this was available.”

In his evidence, Professor Bala evidence states that “child sexual abuse investigators must have appropriate training, up-to-date resources and adequate support so that they can understand the nature of child sexual abuse”. Clearly, this is an opinion that is or should be universally supported. Unfortunately, the areas of training, resources and support were severely lacking within the C.A.S. and the province as a whole until at least the late 1980’s.

- CPI, Vol. 4 and Ex. 17, Tab 6, bates page 6001514

In the Stalker Report, Professor Stalker notes that the first training program on child sexual abuse for child welfare workers in Ontario was offered in 1982 by the Ministry of Community and Social Services. Prior to this, there was no formal training available for child protection workers who were dealing with cases of child sexual assault.

- Ex. 2346A, p. 14

The Stalker Report examined three Child Welfare agencies – two from Ontario and one from outside of Ontario. All three of these agencies indicated a marked increase in referrals of cases of child sexual abuse in the mid 1980’s. The consensus among the agencies was the child welfare workers at the time had little to no training to deal with these referrals, and that they did not receive the training until at least the late 1980’s.

### **Expert Evidence Regarding Lack of Resources in Child Welfare**

It is widely acknowledged that in the 1970's and 1980's and even into the early 1990's, agencies were plagued by a severe shortage of resources to deal with cases of child sexual assault. Professor Stalker refers to this lack of resources in her report in concluding that "limited resources appeared to lead to restrictions in the involvement of CPS in cases of extra familial child sexual abuse, and limited availability of police in some regions to conduct joint child interviews."

### **Badgley Report**

Professor Bala referred in his evidence to what is widely referred to as the "Badgley Report" (The Report of the Committee on Sexual Offences Against Children and Youths). This was the first "significant Canadian research on the incidence of child sexual abuse." The Badgley Report reported that the incidence of child sexual abuse was higher than anyone was aware. According to the Professor Bala, the most significant recommendations to come out of The Badgley Report were:

- Recommendations to change the substantive offence provisions to more fully capture exploitation by persons in authority;
- Recommendations for changes to evidentiary and procedural law to facilitate the testimony of children in criminal prosecutions;
- Recommendations for eliminating corroboration of child witnesses;
- Recommendations regarding the improvement of investigation of child sexual abuse and better service provision for victims of child sexual abuse.

According to Professor Bala, “The *Badgley Report* led to a much greater focus on the issues and pressure for legal reform”.

- CPI, Vol. 5, p. 131

### **Expert Evidence Regarding Historical Abuse Cases**

In the Stalker Report, all three of the agencies interviewed currently limit their response to reports of historical abuse cases to “advising the adult survivor that he/she may contact police to report concerns; they also evaluate whether the alleged offender currently has access to children that presents a risk to specific identified children.”

- Ex. 2346A, p. 20

Further, Stalker Report noted that;

...all agencies, when historical abuse is reported to them and it is believed that a child under 16 years is at risk, do background checks, attempt to obtain police reports or past treatment reports on the alleged offender, and sometimes do a safety interview/screening with potential victims. The decision to take these steps depends on the degree of risk the alleged offender is perceived to pose, the availability of background information on the alleged offender, and the availability of staff to conduct safety assessments.

- Ex. 2346A, p. 21

The agencies interviewed in the Stalker Report all indicated that they had no formal policy or protocol with respect to responding to allegations of historical abuse and that responses to these allegations had to be individualized in each case, in order to “balance the rights of the alleged offender with the degree of risk to children.”

- Ex. 2346A, p. 21

## **RECORDS DISCLOSURE**

Many of the former wards of the C.A.S. who testified at the Inquiry expressed frustration at their attempts to have the C.A.S. records relating to their time in care disclosed.

- CPI, Vol. 69, 111, 112, 119 and 120

C.A.S. witness who testified indicated that in the past, disclosure of records was done almost on an *ad hoc* basis by Intake workers who worked on such requests as time permitted.

- CPI, Vol. 297

Further, resources for protection matters, which is the C.A.S.'s core mandate, were at issue at many times in the agency's history. As a result, there were insufficient resources directed to records disclosure.

- Ex. 2317

The policy in the past was that summaries of the file would be provided to a former ward, but that the file could not be reviewed and would not be provided to the individual. The individual would be invited to meet with a worker to discuss the content of the summary, or specific questions could be asked in advance. This practice was followed with all records requests and many past wards were satisfied with this procedure. The C.A.S. has consistently taken the position that the names and identifying information about third parties cannot be disclosed without consent.

- CPI, Vol. 296

Eventually, due in part to some of the former wards who testified at the Inquiry, the policy evolved so that redacted versions of the child care file would be provided. When this was initially done, the C.A.S. saw this as “breaking new ground”.

- CPI, Vol. 296

Resources and the lack of a position dedicated to records disclosure have been a problem, coupled with an increasing demand for disclosure. However, yet another problem in providing disclosure has been the lack of policies, procedures, guidelines and legislation regarding records disclosure.

In 2000, in anticipation of accreditation, the agency overhauled all of its policies and procedures and developed a policy regarding disclosure.

- CPI, Vol. 15

To date, there has been no guidance from the Ministry of Community and Social Services or the Legislature of Ontario regarding disclosure of child protection records. There is a very detailed protocol for the disclosure of records in Part VII of the *Child and Family Services Act*, 1990, c. C.13. This section has been in draft form in that Act since 1990, yet has not been proclaimed by the Legislature and thus has no legal force and effect. There has been no guidance from the Ministry of Community and Social Services as to whether or not Children’s Aid Societies should use this framework as a guideline.

If this section were proclaimed in full force and effect, it would provide an effective mechanism both for former wards to request their records, and for Children’s Aid Societies to have a consistent framework to work within for handling disclosure requests.

John Liston testified that there currently are and always have been issues regarding disclosure to former clients as well as other areas of information sharing. He stated that part of the problem is that the issue of records disclosure has not been clarified since the relevant section of the *Child and Family Services Act*, R.S.O. 1990, c. C.11 has not yet been proclaimed in force. This draft section will be discussed in more detail later in this submission.

- CPI, Vol. 6

## **DEVELOPMENT OF PROTOCOLS**

The development of protocols to coordinate child protection interventions is a positive development in the evolution of child protection. As the research papers commissioned by the Cornwall Public Inquiry, *A Historical Review of the Evolution of Police Practices, Policies and Training Regarding Child Sexual Abuse (Dr. J. Hornick)*, the “Hornick Report” and the Stalker Report state that communities across the province and the country have created protocols at different points in time. There is no single point in time where protocols were consistent or where even having a protocol at all was consistent. Protocols also varied substantially in content and detail. One of the protocols discussed in the Stalker Report was a few pages long, while the protocol ultimately developed in this area is very lengthy and detailed.

- Exhibit 2345A and 2326A

The three agencies reviewed in the Stalker Report each finalized protocols in 1985, 1988 and 1989 respectively (Exhibit 2346A). The Hornick Report established that by 1991 75% of the

communities with populations of 90,000 to 170, 000 people had protocols between the police and child protection agencies.

- Ex. 2345A

The Stalker Report also revealed that the development of protocols sometimes stretches over a lengthy period of time. Agency “B” for instance had a “Draft working agreement” in 1983 before a protocol was created in 1988.

- Ex. 2345A

Even before a formal child sexual abuse protocol was agreed to among the various agencies in the area, C.A.S. had a good rapport with all of these agencies. Mr. O’Brien testified that he felt comfortable calling these agencies and speaking to the heads of these agencies about child protection matters.

- CPI Vol. 292

Many witnesses at the Inquiry testified to the good rapport between C.A.S. and other agencies and many of the files reviewed at the Inquiry reflect the good collaboration between C.A.S. and other institutions.

C.A.S. played a significant leadership role in developing the first child sexual abuse protocol in Stormont, Dundas and Glengarry. The formation of the Child Abuse Prevention Council in 1986 was an initiative of the C.A.S., lead by Bill Carriere, then a front-line child protection worker. This led to the establishment of a sub-committee dedicated to the development of a child sexual abuse protocol for Stormont, Dundas and Glengarry.

- CPI, Vol. 278, p. 12

The sub-committee worked for several years at developing a protocol. For a period of time a representative of the Cornwall General Hospital lead the sub-committee in its work. After this individual left his employment, Bill Carriere took over. Many of the measures that ultimately became part of the signed protocol became standard practice among participating agencies long before the protocol was official. In particular, collaboration between the C.A.S., local police services, local hospitals and boards of education was greatly enhanced through the dialogue between agency representatives. Regrettably, with the demise of the Child Abuse Prevention Council, the work of the sub-committee came to a halt for several years.

- CPI, Vol. 278, p. 18

The written protocol remained incomplete until Bill Carriere again picked up the project in 1991 and finished the document. The document, *Child Sexual Abuse Protocol: A Co-ordinated Response in the United Counties of Stormont, Dundas and Glengarry*, was signed off by key representatives from police, education, health care and child protection in June, 1992. The end result child sexual abuse protocol served the community well for nine years.

- CPI, Vol. 278, p.17; Ex. 25, Tab 29

During his testimony of September 9, 2008, Mr. Carriere reviewed his role in the creation of the Child Sexual Abuse Protocol. Mr. Carriere acknowledged drift in finalizing the protocol and accepted responsibility for the delay in completion. He stated that at the time work pressures were overwhelming – a fact noted by Ross Dawson in his 1988 review of child protection services of the local C.A.S.

- CPI, Vol. 278

Mr. Carriere testified that faced with the work demands at the time, he should have considered other options to complete the work, those being, a) looking for funding to hire someone to complete the written protocol, b) requesting that he be permitted to take a paid leave of absence to write the document, c) canvassing other partners to determine if they could provide staff to complete the protocol, and d) creating a less detailed document.

- CPI, Vol. 278, p. 18

In the late 1990s, the idea of a regional child protection protocol was put forth. At that time, school boards across the province had changed substantially. The local school boards had become part of a much larger geographical territory. With several C.A.S.'s functioning within the territories of the new school boards it was necessary to revise the protocol to ensure the consistency of the child welfare response. Additionally, significant changes had taken place in child welfare in Ontario in the late 1990s. Ontario had introduced the Ontario Risk Assessment Model into practice and, with it, child welfare responses and processes were changed.

C.A.S., represented by Bill Carriere and senior counsel, Elizabeth MacLennan, actively participated in the development of the new protocol, a process that covered several years. Representatives from many agencies in Eastern Ontario met periodically to move the project along. In July, 2001, the protocol, *Child Protection Protocol, A Co-ordinated Response in Eastern Ontario*, came into effect.

- CPI, Vol. 278

- Ex. 54, Tab 6

In addition to the above indicated protocol, C.A.S. also participated in development of protocols and guidelines with a number of community organizations. As noted in the testimony of various

witnesses of the Diocese of Alexandria – Cornwall and the also the Upper Canada District School Board, the C.A.S. provided assistance in the development of guidelines for both bodies.

- CPI, Vol. 46, 266, 269, 270, 274

## **THE DAWSON REVIEW**

The “Dawson Review” was conducted in 1988, following a file review conducted by the Ministry of Community and Social Services. Ross Dawson conducted an audit and review of the protection services offered by the C.A.S and made 56 recommendations to improve the quality of services offered. Although Mr. Dawson found areas of deficit within the agency, he also found strengths and positives. Speaking about the management group, Mr. Dawson said the following,

In addition, from interviews undertaken with the management team and staff, and from direct observation, the management team is hardworking. All spend many extra hours each week attempting to fulfill their responsibilities. All make themselves readily available for support and assistance. Until this fall the workload for supervisors has been impossibly high. Despite the excessive workload the morale of the management group appears to be very positive.

- Ex. 2278, p. 23

Similarly, the Dawson Review acknowledged the strength of the front line staff, stating the following,

From interviews and direct observations it would appear that the staff group is hardworking and interested in their clients and their own professional development. In addition, they present as optimistic and energetic.

- Ex. 2278, p. 28

Focusing on caseloads and workloads, the Dawson Review found that caseload levels at the local C.A.S. were significantly higher than an established standard of 20 cases and that workload for supervisors exceeded accepted standards and ratios found elsewhere in the province.

- Ex. 2278, p. 23

Mr. Dawson stated the following in his report:

In addition to being higher than the provincial C.A.S. average, the staff to supervisor ratio was well above generally accepted social work standards which advocate an ideal ratio of 1-6, and a maximum ratio of 1-8. This supervisor to staff ratio, particularly at the point of intake, which is a high crisis orientated services, placed excessive demands on supervisors. It made it difficult to provide the level of supervision necessary with respect to the nature of the child protection cases served by the agency. It also contributed to some of the quality control and case management deficiencies identified in this report.

- Ex. 2278, p. 9

In his testimony before the Inquiry, Mr. Carriere provided details with respect to the Dawson Review and the implementation of the recommendations. Mr. Carriere agreed with the Dawson Review's finding that caseload sizes were excessive and workload demands for supervisors were "impossibly high". Mr. Carriere spoke of his own situation at the time. Mr. Dawson had identified that supervisors should ideally supervise 6 staff with a maximum of 8. Mr. Carriere indicated that he had supervised 10 staff and been responsible for a number of programs as well.

- Vol. 278

Mr. Carriere also testified about the fundamental problem that child protection workers faced in 1988 and still face today – doing the face to face work with clients and finding the time to complete the required documentation. Mr. Carriere agreed with Commission Counsel that there was also the issue of managing collateral contacts.

- Vol. 278, p. 75 – 76

Mr. Carriere noted that C.A.S. did have policies and procedures in 1988, but these policies and procedures lacked detail. In the Dawson Review, it did indicate that the C.A.S. had policies and procedures and that new staff were provided with a copy of the same.

- Ex. 2278

Mr. Carriere testified that many changes occurred in the C.A.S. following the Dawson Review. The Clinical Director position was created, a more comprehensive policy and procedure manual was written, a revised documentation system was introduced, a risk management process began, and elements of a quality assurance program were implemented. In addition, there was training and orientation that the C.A.S. received as part of the implementation of the Dawson Review.

- Vol. 278, p. 64-69

A number of recommendations came out of the Dawson review with respect to Policies and Procedures and Agency Committees. With respect to the C.A.S.'s Policies and Procedures, the report recommended that comprehensive and revised child protection and child abuse policies and procedures be developed immediately. This was completed by the C.A.S. In addition, the Dawson Report recommended that intensive training be given as soon as possible to all staff regarding child protection and child abuse policies and procedures. This recommendation was also fulfilled by the C.A.S.

- Ex. 2278

The Dawson Report also made a number of recommendations with respect to C.A.S. Committees. It recommended that the operation and composition of the Child Abuse Review Team (CART) be revised as quickly as possible to ensure that it is an effective resource for the management of child abuse and high risk cases. The revisions were to include: a revised composition to include representation from law enforcement and psychiatry; a clear definition of which type of cases are to be reviewed by the team, the establishment of procedures to ensure supervisory involvement, the provision of written background information, and more effective

case presentation. The report suggested that the Assistant Director be designated the chair person for this committee with responsibility for all quality control activities related to the effective operation of this committee.

- Ex. 2278

The C.A.S. implemented this recommendation, with the following results:

- they were unable to get a psychiatrist who was willing to be part of the team (there were only four psychiatrists in Cornwall);
- the police did not become full-time members of the team but were invited to attend as required;
- definitions of which cases were to be reviewed became part of policy and procedure manual;
- Staff were required to submit summary outlines in advance of case reviews, including the issues they wanted to address. Supervisors were required to make requests to CART in order to ensure their involvement; and
- The Clinical Director became responsible for CART.

- CPI, Vol. 278

Another observation made in the Dawson Review was the following, which related to C.A.S. not utilizing its Intake workers fully and thus taking on too many cases:

Firstly, many cases suffer from inadequate information gathering at the point of referral. In many case the complainant's information was simply recorded and the case opened. No probing for details took place, No checking with other potential sources of information before the case was assigned. This process tends to limit the telephone intake function to that of a clerical task since no real processing or assessment of the initial complaint is done at this stage. Consequently, cases are then assigned in many instances for intake follow up without sufficient information to properly determine if the case should be opened, or if it should be classified as a high, medium or low risk. In several cases the follow up resulted in valuable staff time being lost due to the investigation of allegations that were clearly without substance.

- Ex. 2278

## **RECRUITMENT, TRAINING, SCREENING, SUPERVISION, AND INVESTIGATION OF FOSTER PARENTS**

### **Recruitment**

From the 1960s to the early 1980s, the C.A.S. always had a need for additional foster homes. At the time, the methods of recruitment were limited largely to word of mouth. There was also some recruitment information passed on to the community via newspaper articles following annual meetings or interviews of staff members. There was no formal recruitment committee to speak of at the time, as the resources for such a committee were not available.

- Ex. 27, Tab 2, bates page no.6009307, see generally Tabs 5-9

Between 1983 and 2000 the C.A.S. continued to have a high need for foster parents and relied on word-of-mouth as well as annual testimonials of active foster parents, frequent ads taken out in local newspapers across Stormont, Dundas and Glengarry to notify the public about the task of fostering as well as its rewards.

- CPI, Vol. 15

In 2000, C.A.S. developed a recruitment committee comprised of foster parents, staff and representatives from the community. The recruitment committee was tasked with assessing the agency's need for foster parents and producing an annual recruitment plan and budget.

- Ex. 27, Tab 36, Tabs 23 and 24

In 2004, C.A.S. began the implementation of the Ontario P.R.I.D.E. (Parent Resources for Information Development and Education) initiative. P.R.I.D.E. is a program approved by the Ministry as a model for the recruitment, development and retention of foster parents. Ontario P.R.I.D.E. is still operational in the C.A.S. and across the province.

- CPI, Vol. 16

A further initiative was implemented by the Society in 2005, that being the Ministry approved assessment tool known as S.A.F.E. (Structured Analysis Family Evaluation). This tool was used

for assessments of Foster, Adoption, and Kin-in-care applicants. That program is fully also still operational at the local C.A.S. and across the province.

- CPI, Vol. 16

### **Screening**

Prior to 1984, the screening process for applicants to the Foster Parent Program included at least one home visit. Once C.A.S. received the appropriate references and medicals, and following a brief home study, a foster home file was opened for the applicants. C.A.S. was required to change this screening with the introduction of the *Child and Family Services Act (1984)*, which introduced more stringent screening requirements for new foster parent applicants. These requirements included police checks, pre-service training, interviews with birth children, interview with each applicant and the couple together and a health safety check of the applicants' home.

- CPI, Vol. 16

Prior to 1984, society policy was not to perform criminal records checks on foster parent applicants. This policy arose from two places. First, a 1976 memorandum from the Ministry of Community and Social Services recommended that until the C.A.S. heard further from them that the question of a criminal record should be explored in the screening interview. Then, in 1977, C.A.S. was advised that information for police checks on foster parents would not be supplied to C.A.S.. As a result the directive regarding criminal records checks was cancelled

- Ex. 27, Tab 25, Tab 26; CPI, Vol. 15, p. 142

An audit of the Society's open homes indicate that the agency began doing criminal records checks on foster home applicants and alternate caregivers (babysitters) at least as early as 1984.

Policy and procedures embedding the practice of performing criminal records checks were approved in April 1985.

- Ex. 27, Tab 16

The changes to the *Child and Family Services Act* in 1984 legislated that all applicants for foster and adoption parents must have a police record check as part of the screening process.

- Ex. 25, Tab 18, ss. 110 - 121

A 1995 memo from the Ministry of Community and Social Services required criminal reference checks for all volunteers, employees, and anyone providing direct service to children. C.A.S. records and files indicate Criminal Reference Checks were being performed for volunteers and adoptive parents since 1985. C.A.S. was “ahead of the curve” with respect to obtaining these checks.

- Ex. 27, Tab 27; CPI, Vol. 16, p. 11, 120

In 2005, new Foster Care Policies and Procedures directed that a police involvement/vulnerable sector reference check be completed on all adults in a prospective foster/adoptive family household and for all alternate caregivers over the age of majority.

- Ex. 27, Tab 17

C.A.S. has not been permitted to use Fast Track, a database used for child protection referencing as a cross-reference tool for foster or adoptive parent applicants or volunteers.

- CPI, Vol. 15, p.127

C.A.S. is also not able to search the Child Abuse Register while screening potential foster parents.

- CPI, Vol. 15

C.A.S. has required references from foster parent applicants as far back as the 1970s. A minimum of three references were required, and these usually included relatives, friends, and/or a member of the clergy. In some cases, parents of applicants were used as references. This practice was not considered unusual at the time and is still done today.

- CPI, Vol. 15, p. 127; Ex. 27, Tab 13

As of 2006, SAFE (Structured Analysis Family Evaluation) is the tool approved by the Ministry to augment home assessments for Foster and Adoptive families. SAFE is a strength based tool and provides for a uniformity of home assessments; for standardized questionnaire formats that can be used by Child Protection workers and private adoption social workers; and, for an assessment of competencies of families to care for children. It requires background checks to be conducted on all family members over eighteen living in a foster home, and on any other adult living in the home.

- Ex. 27, Tab 2, p. 13 - 14

In 1992, C.A.S. collaborated with nine other agencies in the Eastern Zone to sponsor training for those staff doing home studies. Professor Joyce Cohen from the University of Toronto School of Social Work led the training. From the training, a new template for home studies was born, which resulted in much more depth and substance to home studies, and included the McMaster Model of Parenting Assessment.

- CPI, Vol. 15, p. 147

C.A.S. has been through several iterations of internal cross-reference checks since its inception. From the 1960's through the 1990's, a cross- reference check would be completed internally

using the Agency's index-card system. During the 1990s, an internal child abuse registry was put in place, which was used to cross-reference an applicant. That system was limited, however, to internal files only and would indicate that the file was either a protection, foster or adoption file, and disclose the names of the adults and children, as well as their addresses and telephone numbers. In the late 1990's the Agency developed an electronic system called CWIS (Child Welfare Information System) which continues to be used today for cross-referencing internal records for all applicants to adopt, foster, kin-in-care and alternate care-givers.

- Ex. 27

### **Evolution of Foster Care Philosophy**

Early records and policies directed that foster parents were advised to treat C.A.S wards as they would their own children. The approach to fostering was a very exclusive approach, with little input from C.A.S., schools, legal professionals or the community. The foster parent was a valued agent of C.A.S. but was not involved directly in the planning for the child.

- CPI, Vol. 15, p. 149

- Ex. 27, Tab 17, p. 6 – 8

In 1985 with the introduction of "Plans of Care" for each ward, as well as licensing standards for foster parents, the model changed from being an 'exclusive' to an 'inclusive' model of fostering. Conferences with teachers, doctors, clergy, natural parents, psychologists, etc. were encouraged. Foster parents were also involved in these conferences.

- Ibid.

In 1992, Mr. MacLean developed the Partnership Relationship Statement to describe the partnership between the foster parents, child protection workers and all other collaterals. This

statement allowed foster parents to be involved in a meaningful way in the child's plan of care and to have their needs addressed by the Agency. Foster parents were also encouraged to become involved in many agency committees.

- Ex. 27, Tab 2. P. pages 21-23

### **Training and Support**

Prior to 1985 there was no pre-service training offered to foster parent applicants and there was little to no training offered to the active foster parents by the C.A.S.. The resources at the time did not allow for such training.

- CPI, Vol. 15, p. 101, 135; Ex. 27, Tab 2

The only training offered at that time was which was given by Ian MacLean to the Parent Model Group Home and Specialized Foster Parent Group between 1977 and 1984. This consisted of 3 hours of training and 3 hours of support monthly, to a group of about ten foster parents involved in the specialized program. Mr. O'Brien was the Executive Director at the time this training program was implemented and Mr. MacLean was hired specifically for his skills in developing Group Homes and Parent Model Foster Homes.

- CPI, Vol. 287, p. 294 and Vol. 16, p. 65 - 66

From 1982 to 2001, the C.A.S. hosted the Community Family Care Program ("CFCP"). CFCP parents were highly supported; having bi-weekly in-service training and support groups, and were seen as highly trained therapeutic foster parents.

- Ex. 27, Tab 2, p. 30-31

Staffing was an issue in terms of the foster parent program up until at least 1980. Until that time, the home finding department was a single worker department. In 1980, a second worker was hired to complete home studies. The lack of resources in the foster parent program continued to be an issue until the agency expanded in the late 1980s and 1990s.

- CPI, Vol. 15

As of 2006, there were six resource support workers, reporting to one Resource Supervisor with the assigned duties of recruitment, screening/assessment, training, support and placement work for 110 approved foster homes and seventeen Outside Paid Resources.

- CPI, Vol. 15; Ex. 27, Tab 2

From 1985 to 2004, a very comprehensive pre-service and core training program was developed and made mandatory to all its existing foster parents and those in the applicant stage. The pre-service and core training was enhanced with periodic in-service training and joint training with staff. A Training Calendar was developed annually, which was produced by the Training Committee. The Training Committee was established in 2000 and is comprised of foster parents and staff. The C.A.S. now presents the training as set out in the Ontario PRIDE programs along with mandatory car seat, CPR, and safeguarding training. Mr. O'Brien was the Executive Director of the agency when this training program was first implemented, and the program evolved over time. When the training program was first established in 1985, Mr. O'Brien took the step to hire a full time foster parent trainer.

- Ex. 27, Tabs 18 – 22

### **Supervision of Foster Homes**

Prior to 1984, workers who were following children in a foster home were required to enter on the foster home file an annual assessment as to how the foster parents were meeting the needs of their child and coping with their role as foster parents. The Inquiry heard that these annual reviews were sometimes not completed at all or late in completing. This was mainly due to resource and workload issues of the time.

- Vol. 289, p. 24

This changed in 1984, when the foster home licensing standards were introduced in the CFSA. The licensing standards provide for a mandatory annual review as part of the licensing process. This was the responsibility of the Resource Department and involved feedback from the foster parent and the workers involved in the home.

- CPI, Vol. 15

### **Investigations of Foster Parents**

In the late 1970's and early 1980's children who made allegations to the C.A.S. were believed and their allegations were investigated.

- CPI, Vol. 277

Former supervisor, Angelo Towndale's response to a ward's allegations led to the closure of the Barber foster home. Mr. Towndale also played an active role in the events surrounding the Second Street Group Home by responding to the allegations made by the children. Bryan Keough's testimony is another demonstration of C.A.S.'s response. Mr. Keough acted immediately upon hearing about the allegations against the Barber foster home.

- CPI, Vol. 275, 284

Other workers also took allegations of abuse very seriously. For instance, Mr. MacLean and Ms. Miller were quick to respond to the allegations in the Lapensee Group Home and later to Roberta Judd concerning her allegations against Brian Lapensee.

- CPI, Vol. 287 - 289

Although the outcomes finally ended in the closure of the homes, except for the Second Street Group Home, the investigative process initiated by C.A.S. staff members varied. Nonetheless, the investigation was usually conducted with the approval of the Supervisor, ended with consultations with the Crown Attorney's Office and notification via a Serious Occurrence Report to the Ministry.

- CPI, Vol. 283, 287 and 292

During each investigative process, C.A.S. remained focused on its goal, being the protection children. As such, Mr. Keough testified that "it was never our intention that the children not be protected. Again, we were doing the best that we could at that time". It was common practice of the day for C.A.S. to consult with the local Crown Attorney and seek his advice as to whether they should go further in the investigation or notify the police. In fact, letters were often sent to Executive Director, Tom O'Brien directly from the Crown Attorney indicating his opinion on a particular case and whether or not to proceed. The investigative process was also characterized by the completion of Investigation Reports, which were submitted as Serious Occurrence Reports to the Ministry. Mr. O'Brien's correspondence with Lenore Jones from the Ministry clearly shows that the C.A.S. was open to receive recommendations or suggestions.

- CPI, Volume 284, page 26 and 292

In the 1980's, C.A.S. developed the practice of notifying the police and jointly conducting an investigation or proceeding to interview with the police approval. Planning for the immediate safety of the alleged victim was a top priority. If the perpetrator was still in the home, the children were removed. Statements were carefully recorded and shared with police and results of such investigations were not always relayed back to the foster parent. Either the foster home worker or the child's worker would be the one assigned as the investigator. But this practice evolved to the point where all investigations of a child protection nature were assigned to Intake and to a worker who was not known to the child or the foster home.

- CPI, Vol. 283 and 288

In 1992, the C.A.S. initiated and developed policies and procedures with respect to the investigation of Child Protection allegations against foster parents as well as investigations into allegations of bad practice. Although it has been revised on a couple of occasions the basic process remains. There are five stages to the process:

1. Planning Conference
2. Investigation
3. Disposition Conference
4. Follow-up Meeting
5. Resolution Conference

- Ex. 27, Tab 2, p. 24 -25 and Tab 17, p. 54 - 60

The C.A.S. has consistently tracked the outcomes of allegations against foster parents. Reports on foster parent investigations are presented to the Board of Directors.

- Ex. 27, See Tab 40, page 5 and Tab 53.

## **TRAINING, SCREENING, SUPERVISING OF EMPLOYEES**

### **Training**

No benchmark evidence was heard at the Cornwall Public Inquiry as to what would constitute an acceptable level of training regarding child sexual abuse during the periods surveyed at the Cornwall Public Inquiry.

Further, no evidence was offered at the Inquiry to reflect that any limitations in the level of training at the local C.A.S. at certain points in its history were any different than other child protection agencies of the day. The training processes have evolved over time, as more resources were made available to the agency.

The Stalker Report indicates that

Prior to the 1980's no formal training on how child welfare agencies should handle reports of child sexual abuse were offered on a provincial level.

- Exhibit 2346A, p.67

The Stalker report further states that the first training program for C.A.S. staff was written in 1982. The paper does not provide any details as to when this specific training program was implemented. It is significant to note that in the outline of the curriculum that the authors of the above paper indicated that there was no indication that extra-familial abuse or historical child sexual abuse was included in the curriculum.

- Exhibit 2346A, p.70

Similarly, the authors of this report, in providing details of the outlines of the curricula for the three Child Sexual Abuse courses show no evidence that extra-familial child sexual abuse or

historical child sexual abuse were part of the curricula. The first mention of extra-familial child abuse appears in the curriculum for the Investigation of Sexual Offenses Against Children, a course that was developed in 1996.

The Stalker Report indicates that in the late 1980's another training program designed specifically for C.A.S. workers was developed and delivered by the Institute for the Prevention of Child Abuse. In terms of the local C.A.S., the findings of Ross Dawson in his child protection review of the agency indicate that the C.A.S. made good use of external training opportunities at least up until 1988. Mr. Dawson stated

Although no regular in house staff training program is in operation, staff do have the opportunity to attend various conferences, workshops, and training programs. Every effort is made to ensure that all protection staff attend the various child protection training programs offered through the Institute for the Prevention of Child Abuse. It would appear that the staff have external training opportunities which are at least equal to those provided in other agencies.

- Exhibit 2278

The local C.A.S., like most other C.A.S.s in the province does not have a staff position for staff training. No discrete funding has ever been provided to the C.A.S. for such a position.

In 1996 the Ontario Child Welfare Training System along with the Ontario Police College developed the five-day joint training program entitled "Investigation of Sexual Offences Against Children". Bill Carriere testified that C.A.S. took every opportunity to send staff to this course. Mr. Carriere testified that it was difficult to get staff into the course because of its popularity and also the fact that only half of the spaces were for C.A.S. staff, the other half being reserved for police officers. Mr. Carriere also said that the demise of this course in 2003 was, in his opinion, a great loss for child welfare and policing services.

- CPI, Volume 14

In 2004/2005 the Ontario Association of Children's Aid Societies (OACAS), under the direction of the Ministry of Child and Youth Services developed a forensic interviewing course. C.A.S. not only arranged to have staff attend this training at courses already scheduled by OACAS but contracted with OACAS to have this specific training program delivered in Cornwall, exclusively for C.A.S. protection staff. This training event was coordinated by Bill Carriere. The Upper Canada District School Board kindly assisted the C.A.S. with an important aspect of the training event. This training was carried out in 2005.

- CPI, Volume 14

The C.A.S. has made it part of their policies and procedures that before staff can be assigned a child sexual abuse investigation they have to have completed the Forensic Interviewing course.

- Exhibit 25

### **Screening**

No evidence was presented at the Cornwall Public Inquiry as to what would constitute proper screening for child protection staff and volunteers during the various time periods that were reviewed. No direct evidence was heard at the Cornwall Public Inquiry as to the practices of other child welfare organizations.

The various screening mechanisms that have been used for foster parents were used for employees and volunteers as well.

The Stalker Report only discusses current hiring and recruitment practices, and, even then, it is done very superficially, essentially stating that police record checks are completed.

- Exhibit 2346A

As with all organizations, the screening of staff and volunteers has evolved at C.A.S. It is our submission that C.A.S. has employed recruitment practices that are common to most organizations of this nature.

Applicants for positions are required to submit resumes which detail their education, experience, knowledge and skills. This practice has been in place for many years. C.A.S. has an expressed preference for applicants who have formal training in social work, either a Bachelor of Social Work or a Master of Social Work. In addition, the society has been requiring police record checks from applicants for employment for many years. All staff hired by C.A.S. are on "probationary employment" with the Society for a six month period.

- CPI, Vol. 14, pp 78-80, 83

C.A.S. places great importance on reference checks. Applicants are required to submit several references and these references are always checked before an applicant is hired. C.A.S. will also check its own records to determine if there is any local child protection history with the applicant, however, the agency is limited by the fact that they are not permitted to check the provincial data base, Fast Track, to determine if the applicant has any child protection history.

- CPI, Vol. 14, p 79

It is our submission that the screening and hiring practices outlined in the Stalker Report are consistent with the practices that C.A.S. has used for a number of years.

### **Supervision**

No benchmark evidence was heard at the Cornwall Public Inquiry with respect to acceptable standards of supervision for the periods covered by the Cornwall Public Inquiry.

## CORPORAL PUNISHMENT PHILOSOPHY AND LAW

There is a clear distinction, now and in the 1970s, between corporal punishment and child abuse. This distinction lies within the intention or motivation behind the use of physical force on the child. The motivation behind corporal punishment is to correct behaviour, not to cause injury.

Using today's standards, any methods of corporal punishment seem unacceptable, however it must be remembered that society's standards were very different thirty years ago, when corporal punishment was a largely accepted method of correction. In fact, prior to 1990, there was no written law prohibiting the use of corporal punishment by foster parents or service providers. With the revision of the *Child and Family Services Act* in 1990, foster parents and service providers were finally expressly prohibited from using corporal punishment on children.

- Ex. 25, Tab 19, s. 101

The main legal issue here is that the force of s.101 of the *Child and Family Services Act* can be diluted by sometimes conflicting federal legislation. Specifically, s. 43 of the *Criminal Code of Canada* states that:

Every schoolteacher, parent or person standing in the place of a parent is justified in using force by way of correction toward a pupil or child, as the case may be, who is under his care, if the force does not exceed what is reasonable under the circumstances.

The term "standing in the place of a parent" has been interpreted by the courts in *R. v. Ogg-Moss*, to mean an individual who has assumed "all the obligations" of parenthood, including financial support. The Court confirmed that parental authority is delegable. *Ogg-Moss* dealt with the case of a mental retardation counsellor in a residential setting who was charged with assaulting a residential patient by hitting him in the head repeatedly with a metal spoon to punish him for spilling his milk. The accused argued that the facts fit in to the protection afforded under

s.43 of the *Criminal Code* in that he stood in the place of a parent in relation to this resident. The Supreme Court stated that in order for Mr. Ogg-Moss' argument to succeed, it must be shown not only that the parents of the resident had delegated (either specifically or impliedly) parental authority to the Ministry responsible for the residence, but that "the power must then have moved from the minister to Mr. Ogg-Moss". In this case, the court held that the power had not been delegated to the counsellors, but had that there was instead "evidence of non-delegation in the form of the prohibition in personnel directive M.R. 17 forbidding the striking of any resident for any reason whatsoever."

- *R. v. Ogg-Moss*, [1984] 2 S.C.R. 173, see esp. p. 190

There were no policies in place with respect to discipline of group home residents and foster children. The argument could be made that as these children were wards of the state, the parental authority was necessarily delegated to the state, who then in turn delegated it to those running the group homes. As a result, the group home employees would be saved by section 43, at least prior to its redefinition by the SCC in 2004.

Section 43 of the Criminal Code has been challenged on constitutional grounds in *Canadian Foundation for Children, Youth & the Law v. Canada* and was upheld as constitutional by the Supreme Court of Canada, with the following limitations:

- (1) only parents are protected by section 43 in using reasonable physical punishment. Teachers are limited to the use of reasonable force to "remove a child from a classroom or to secure compliance with instructions, but not merely as corporal punishment;
- (2) children under the age of two and teenagers may not be punished using physical force;
- (3) one may not use force on children "incapable of learning from [it] because of disability or some other contextual factor";
- (4) only "minor corrective force of a transitory and trifling nature" may be used;
- (5) "blows or slaps to the head" are not reasonable forms of discipline;

- (6) “degrading, inhuman or harmful conduct is not protected”
- (7) the use of physical punishment must be “corrective, which rules out conduct stemming from the caregiver’s frustration, loss of temper or abusive personality”;
- (8) “the gravity of the precipitating event is not relevant”; and
- (9) What is reasonable under the circumstances requires an “objective” and “must be considered in context and in light of all the circumstances of the case.” (Ensom et. al. need page reference)

- *Canadian Foundation for Children, Youth & the Law v. Canada*, 2004 S.C.C. 4

On January 11, 1978, shortly after the Second Street group home incidents, which will be discussed later in this submission, the C.A.S. Board of Directions approved a “Child Care Policy”. Section III entitled “Pertaining to Workers and the Discharge of their Duties” aimed to inform workers with respect to discipline of children by foster parents. The section cautioned social workers to be watchful of “over-zealous foster parents whose disciplinary measures border on, or are brutal in severity”.

- Ex. 25, Tab 25

- Ex. 27, Tab 41

A further policy was introduced and approved by the C.A.S. Board on May 17<sup>th</sup>, 1978, entitled “Principles of Care for Children in Placement”. This policy defines discipline, spanking and outlines the negative results and concerns related to spanking.

- Ex. 27, Tab 42

In February of 1983 that the C.A.S. Board approved a Policy entitled “Group Home Policy Manual”. This policy, which was revised on November 1, 1983, set out the “Approved Disciplinary Procedures” for group homes and also contained provisions which expressly prohibited the use of corporal punishment of a resident by group home parents, employees or residents.

- Ex. 27, Tab15

In January, 1984, a further policy entitled “Child Care Policies and Procedures” was approved by the Board. As part of this policy, a Discipline Policy was approved in April 1985. This policy specifically outlines the Agency’s position against any form of corporal punishment and includes a list of approved methods of discipline, a list of methods that will never be used on our children in care, plus procedural consequences for alleged violations of the Disciplinary Policy. This practice, policy and procedure continues to the present.

- Ex. 27, Tab 43

## **THE CHILD ABUSE REGISTER**

The first registry of child abusers in Ontario was introduced in 1966. This registry was in place until 1979, when the current Child Abuse Register was introduced. Kevin Morris, a senior policy analyst with the Ministry of Children and Youth Services of Ontario, testified with respect to the original registry as well as the Child Abuse Register. According to Mr. Morris’s evidence, from 1966 to 1979, there was no requirement that child protection workers report all abuse situations.

- CPI, Vol. 17

Mr. Morris identified a number of concerns about the registry that began to surface in the early 1970s. The lack of “standard requirements related to the investigation of abuse between 1966 and 1979” were a problem. Individual agencies were using their own best practices in order to conduct investigations. This resulted in a “lot of inconsistency” because each society made decisions about whether or not to place an alleged abuser on the registry based on its own

criteria. As a result, the registry was not seen as a very valuable research tool or informational source.

- CPI, Vol. 17, p. 41

Mr. Morris further identified “inconsistency in reporting” as another major flaw in the registry as it then was. Further concerns were identified surrounded the security of the information contained in the registry.

- CPI, Vol. 17, p. 41

As a result of these concerns, a new registry, the Ontario Child Abuse Register, was created in 1978 and proclaimed in to force in 1979, pursuant to amendments to the *Child Welfare Act*. The Register is a confidential record containing information on all verified cases of child abuse that have occurred in Ontario since June 15, 1979. None of the names that were registered in the previous registry between 1966 and 1979 were carried over to the new Register.

- CPI, Vol. 17, p. 49

Once a complaint of alleged abuse is received by the Society, the Society must verify that they believe that abuse has occurred, and within 14 days of this verification, the Society must report to the Child Abuse Register, using the proscribed form. This report contains the name of the child victim, the name and address of the alleged abuser, the relationship between the two, the location of the alleged abuse, as well as some information regarding the child’s living situation at the time of the alleged incident. In terms of verifying a complaint, the commentary which accompanies the Child Abuse Register states that after investigating the complaint, if the Society believes that there are “...reasonable grounds to believe that the child is or has been abused or

that a strong ongoing potential for abuse exists in the child's environment" then they must report the case to the Register within 14 days.

- CPI, Vol. 17, p. 49

When a report of abuse comes in to the Society, they must then check the Register within three business days to ascertain whether or not the alleged abuser is already on the Register. At that point, the Society must contact the Society had originally placed the abuser on the Register in order to get the full details.

Professor Bala was commissioned to review the Ontario Child Abuse Register in 1987. Professor Bala's report, which was released in 1988, recommended that the Register undergo a number of fundamental changes, or be shut down altogether.

- CPI, Vol. 4

A major problem with the current system is the inability to use the registry as a job screening tool. Someone who is on the register, but who was not convicted, would have their history of abuse caught on criminal records check upon applying for a job working with children. A criminal records check "is not sufficient" as "there will be many people who have, in fact, abused children, who will not appear on a criminal record or CPIC check."

- CPI, Vol. 5, p. 81

Amendments to the *Child and Family Services Act* made in 1999 repealed the Sections dealing with the Child Abuse Register, however, those amendments have yet to be proclaimed in to force and as a result, the Register is still operating.

- CPI, Vol. 5

Kevin Morris referred to the Fast Track Information System, which was developed as part of the Child Welfare Reform from 1998 to 2000. Fast Track was developed due in large part to requests on the part of Children's Aid Societies for a system that could provide them with access to information regarding individuals who had been a risk to children in the past or could potentially present an ongoing risk to children.

- CPI, Vol. 17, p.64-65

The current Fast Track system did not entirely address the concern of the societies, in that it is very limited in terms of the information that it provides access to. At the present time, Fast Track enables child protection workers to perform a search on an individual name to determine whether or not that name is contained in the records of any C.A.S. in the province. In addition to this search, the worker is required to request a separate search of the Child Abuse Register to see if the individual's name is on the register.

- CPI, Vol. 17, p. 65

William Carriere identified various issues with the Child Abuse Register, including limitations on searching the Register prior to hiring C.A.S. employees. At the present time, the Society is unable to search the Register or do a provincial Fast Track check for the purposes of background checks on potential hires, foster parents, board members or volunteers. Mr. Carriere cited the Fast Track guidelines which indicate the following:

Use of the FTIS [Fast Track Information System] for purposes other than conducting prior contact checks in response to information received by a C.A.S. that a child is or may be in need of protection is prohibited.

- Ex. 26, Tab 13, CPI, Vol. 278

Other problems inherent in the current Child Abuse Register are illustrated in Mr. Carriere's testimony with respect to the Society's attempt to register Milton MacDonald as a verified

abuser. Milton MacDonald pled guilty to abusing several young people, and yet the Child Abuse Register would not accept his registration. The reasons for the rejection of the Milton MacDonald registration were twofold. First, they did not perceive that Milton MacDonald was “in charge of”, or a caregiver to the children. Second, the victim’s family did not want his name on the register. The Society attempted to complete the registration with non-identifying information; however, the Ministry refused the registration. In the end, not wanting to “re-victimize” the victim, the Society respected the family’s wishes and did not go ahead with the registration.

- CPI, Vol. 280, p.133-135

According to Mr. Carriere, the requirement of identification of victims’ name, their parents’ names, etc. was a major deterrent to victims and their families. They are often hesitant to provide their consent to having their child’s name and identifying information recorded on the Register. As a result, a number of verified abusers were never placed on the Child Abuse Register.

- CPI, Vol. 278, p. 118-119

## **IV. CASES REVIEWED AT THE INQUIRY**

### **EARL LANDRY JR.**

#### **1985 Referral**

Earl Landry Jr. first came to the attention of the C.A.S. in 1985. It was referred to the C.A.S. some time after the Cornwall Police Service had taken investigation steps. The matter that was referred to the C.A.S. related to two brothers who had been sexually assaulted by two individuals, one being Earl Landry Jr. and the other being Gary Seguin. It was the view of the C.A.S. at the time that the matter pertaining to Mr. Landry did not fit the mandate of the agency. Mr. Landry was not a caregiver for the two boys, nor a family member. These two factors are important determinations in whether the agency will accept a referral for service, and are still a consideration today. The worker assigned to the investigation at that time was Jean Dupuy. Mr. Dupuy was not called to testify at the Inquiry.

During an investigation of another alleged abuser, one of the victims of that individual mentioned that he had also been abused by Mr. Landry. This is how the information came to the attention of the Cornwall Police Service and the C.A.S.

- CPI, Vol. 278, p. 131

When this matter was reviewed by the Cornwall Police Service at a much later date, Sgt. Bryan Snyder interviewed Mr. Dupuy regarding the Landry investigation in 1985. Mr. Dupuy was not given any information to refresh his memory on this file prior to this interview.

- CPI, Vol. 229, p. 147

Mr. Dupuy was asked in this interview why there was no investigation into the matter in 1985. He indicated that the police did not direct him to not do an investigation. He had no recollection at the time as to whether or not he had shared the letter the agency received from Dr. Malcolm Parks on a related file, where Mr. Landry is identified as an abuser.

- Ex. 1622, bates pages 7179308-9, Ex. 1353

During his investigation of the 1985 Landry investigation, Sgt. Snyder interviewed a number of individuals and no one ever recalled that the letter from Dr. Park was not shared with the Cornwall Police Service.

- CPI, Vol. 229, p. 163

Mr. Dupuy later provided a statement to Sgt. Snyder. In that statement, Mr. Dupuy indicates that normal practice would have been to share all relevant information with police, but without case notes, he cannot confirm if it was or was not passed on to the Cornwall Police Service. When he testified, Sgt. Derochie indicated that the Cornwall Police Service also did not have a proper file on the Landry investigation in 1985.

- Ex. 1637, Ex. 1348

Mr. Carriere confirmed in his testimony that a document such as the letter from Dr. Parks would, in normal practice, be shared with a supervisor. This was one of the stronger letters regarding abuse that Mr. Carriere has seen from a physician and it is certainly something that would have been shared with him and the content would have been shared with police. Mr. Carriere further confirmed that Mr. Dupuy worked often with the police and based on his normal practice, this would be something he would have brought to their attention.

- CPI, Vol. 278, p. 150-2

Mr. Dupuy also discusses in his statement that in the 1980s era, the investigations of abuse by alleged abusers within the community was relatively new. C.A.S. only investigated where an individual was a care provider, while all other persons are investigated solely by the police, unless the alleged offender has care and custody of children.

- Ex. 1637, CPI, Vol. 278, p.146

As discussed earlier in this submission, Dr. Wolfe testified that in his understanding, “when the perpetrator is outside the family, it is almost always the police” who investigate allegations of extra-familial child sexual abuse. The actions of Jean Dupuy are consistent with Dr. Wolfe’s statement.

- CPI, Vol. 4, p. 82

Mr. Carriere also discussed this distinction in his testimony and indicated if an alleged offender is not a caregiver, or seen to be in charge of the victim, they did not investigate. Mr. Carriere also spoke of abuse at the time being seen as within the family. In the 1980s, it was Mr. Carriere who broke new ground as a supervisor to expand the definition of who was considered a caregiver to include more than just a family relationship. Mr. Carriere further indicated that if he encountered this case today, he would consider Mr. Landry a caregiver because of his employment at a park which was frequented by children.

- CPI Vol. 278, p. 135 and 142

The 1985 investigation which identified Mr. Landry was acknowledged to have deficiencies by Mr. Carriere. The recording should have had more details, including information concerning Mr. Landry. Mr. Carriere also spoke about how the filing system was inadequate at the time because file cards were not created for alleged or suspected offenders, only the families of victims. That

practice continues in Ontario today, but the information retrieval system currently in place in Ontario picks up the names of alleged and suspected offenders. Clearly, the filing system did fail because the agency did not find any reference to the 1985 allegations when Mr. Landry later applies to be a foster parent.

- CPI, Vol. 278

### **1993 Referral and Investigation**

#### Referral from Dr. Nadler

The second time the agency became aware that child had allegedly been abused by a man named Earl Landry Jr. was on September 13, 1993, when the agency received a phone call from Dr. Nadler, who reported that one of his patients was sexually abused by this man as a child. The complainant was encouraged to contact the police.

- CPI, Vol. 294, p. 36 to 37

Prior to this complaint, the agency had received an application from the Landry family to be provisional foster parents for Mrs. Landry's brother, C-54. The application was made in May of 1993 and an internal cross reference check was done shortly following the application, as was a criminal records check.

- CPI, Vol. 294, p. 37, Vol. 288, p. 151 and 182

At the time of the 1993 complaint, neither Mr. Abell nor the staff dealing with the foster parent application or the intake staff was aware of the 1985 complaint. Although the cross reference check was done, the agency's prior involvement with Mr. Landry was not revealed by that search because that file in 1985 had not been opened as a perpetrator file. At the time of the 1993

complaint, the Cornwall Police Service did not proceed with an investigation, though they were advised of this new information.

- CPI, Vol. 294, p.38, Vol. 288, p. 151 and 152, Vol. 278

#### No Knowledge of Landry Family Connections

Mr. Abell testified that he was not aware of Earl Landry Jr.'s family connections until the case was referred to the agency in the 1990s. Mr. MacLean testified that he was also not aware of Mr. Landry's history with the Cornwall Police Service until some time after the agency was already involved. While Earl Landry Sr. had provided a letter of reference for the foster parent application, Mr. MacLean indicated the fact that he was the retired chief of police would not have had any significant weight. It was and is common to ask for family members to provide a reference.

- CPI, Vol. 296, p.9, Vol. 288, p. 148, Vol. 288, p. 155 and 156

#### Landry Foster Parent Application, C-54 and Landry Child

The Landry foster parent application was approved by way of a letter dated September 20, 1993. The connection between the complaint and the foster parent application was not made until the following day. At this time in the history of the C.A.S., there were two offices, the protection and foster parent branches were in different office locations and had to travel to the other building to meet.

- CPI, Vol. 294, p. 38, Vol. 294, p. 39, Vol. 288, p. 185-86

While there was an internal cross referencing system that was done on foster parent applicants, that system clearly did not identify the 1985 complaint that had been made against Earl Landry

Jr. This missed information and the delay in the information regarding the new complaint being shared with the foster parent application side of the agency were attributed to human error by Mr. Abell, because generally the systems worked well. The 1985 complaint only came to light at the agency by information provided by the Cornwall Police Service after the new allegation was referred to them.

- CPI, Vol. 294, p. 40, Vol. 294, p. 41, Vol 294, p. 42

When the initial connection was made between the complaint and the foster parent status of the Landry's, the agency wanted to remove C-54 from the home. At the time he was 16 years old and refused to move, and was adamant that he stayed with the Landry's. The agency had made arrangements for him to move and he could have made that decision at any time. As he was 16, the agency could not force him to move. A decision was made to continue with C-54's status as a ward, but to close the Landry home as a provisional foster home. A plan was made to ensure consistent contact and support of C-54. C-54 was interviewed and denied he had been molested by Mr. Landry.

- CPI, Vol. 288, p. 160 – 161, Vol. 278, p. 241-2

As well, there was also a concern about the Landry child. Mr. Landry left the home for some time but Mrs. Landry required assistance following their son's surgery and Mr. Landry was allowed back into the home. Again, a plan was made to ensure the child was protected and the importance of compliance was stressed upon the Landry family.

- CPI, Vol. 278

## Identifying Earl Landry Jr. and Notifying the Employer

From the beginning of this second referral, there was a concern over getting a victim to identify Mr. Landry as the perpetrator. The first victim wished to remain anonymous, so the agency re-interviewed the complainant from 1985, C-51 to see if he could recall the name. Despite various attempts, this victim could not recall the name. There were also physical similarities between Mr. Landry and another perpetrator, Bernie Campbell, who volunteered with Mr. Landry, so there was a legitimate concern in ensuring the perpetrator was properly identified. Later, the victim does provide information to indicate that his abuse was Mr. Landry, although he does not recall the name.

- CPI, Vol. 278

Following significant activity on both the investigation and the foster parent side, at a Risk Management Conference on October 29, 1993, a decision is made to advise Earl Landry Jr.'s employer and determine if there are any special relationships between he and any youths at the arena. While a worker did make a call to the employer, the actual notification was never completed.

- Ex. 2227, bates page 1074445 front

At a later Risk Management Conference on January 12, 1994, the decision is again made to contact Mr. Landry's employer, but not until Mr. Abell seeks advice from the Ministry. At this point there had been verification of the abuse.

- Ex. 2460

Mr. Abell testified that the agency got off track in this case and did not do what should have been done, which was to notify the employer of the alleged offender. It is a very serious decision to go to the employer and one not taken lightly. The agency wanted to ensure they had the right individual, but the issue of identity was given far too much weight. Although all of the information ultimately fell into place, no one who testified can recall exactly why they did not “pull the trigger” and notify Mr. Landry’s employer. Mr. Carriere also confirmed that the agency developed “tunnel vision” on the issue of having C-51 identify Mr. Landry as the abuser.

- CPI, Vol. 296, p. 11, Vol. 294, p. 56, Vol. 278

Mr. Abell testified and was very clear in his position that the failure to notify the employer had nothing to do with Mr. Landry’s family connections. Mr. Carriere also testified that at no time were the actions of the C.A.S. influenced by the fact that Mr. Landry was the son of the former Chief of Police.

- CPI, Vol. 294, p. 58 and 64

Mr. Abell recalled that they felt that the alleged perpetrator that was being reported was Earl Landry Jr., but the concern was whether or not they could withstand a challenge on that. Mr. Abell agreed that this was not the finest hour for the agency on more than one occasion during his testimony. Both Mr. Abell and Mr. Carriere agreed that they would handle this matter differently now that they have had the opportunity to reflect upon it.

- CPI, Vol. 296, p. 12 and 13

At the time, and still today, all decisions to notify an employer are made on a case-by-case basis. Generally, where an allegation was made in the course of the alleged offender’s employment and the individual still had access to children through employment, there would have been a

notification. If there would be no notification at that point, there would be notification after the abuse had been verified.

- CPI, Vol. 296, p. 14

There are many issues to consider when notifying an employer. Obviously, the agency's first concern is protection of children. However, privacy interests of individuals, including victims, must be considered. The interests of the accused are also a concern. There would always be a balance when notifying the employer between these interests while also ensuring that the employer had enough information to act.

- CPI, Vol. 296, p. 50

There was no evidence tendered during the inquiry to indicate that the Ministry had ever pronounced standards or guidelines regarding notifying employers of allegations of abuse. There was also no evidence tendered as to what was and is the norm for C.A.S. agencies around the Province of Ontario. The only evidence was the previous practice of the local agency, who had notified the employer of Bernie Campbell when abuse was verified.

- CPI, Vol. 297

It must also be remembered that the late 1993 to 1994 era was an extremely busy one for the C.A.S. In addition to being involved in the Landry investigation, which was significant, the Project Blue investigation was also running concurrently. Further, there was some evidence as the investigation continued that Mr. Landry was on sick leave and was not intending to resume his employment.

- CPI, Vol. 279, p. 224, Vol. 278

## **1995 Referral**

### C-52

The next intake regarding Earl Landry Jr. is in 1995, where C-52 reports to the agency that he was abused by this individual. Carole Leblanc took the intake and contacted the police with the allegation and assisted the police in their investigation as requested. At the time of this Intake, Ms. Leblanc was not aware of the prior complaints against Mr. Landry, yet she became aware following internal cross-reference checks.

- CPI, Vol. 297, p. 9

Although with intake in late 1995, the complainant was not anonymous and was clearly identifying Earl Landry Jr. as their abuser, there was still some hesitation to notify the employer. Mr. Landry is still employed and still has access to children. As Mr. Abell and Mr. Carriere testified, the agency should have notified the employer at that time.

- CPI, Vol. 294, p. 62 and Vol. 279, p. 12

There are Risk Management Conferences on this matter, although Mr. Landry is not charged until spring of 1997. In the interim, C.A.S. determined that this most recent allegation was verified abuse, as were the previous two allegations. A decision is made not to register Mr. Landry in the Child Abuse Register since the complainants are all adults and the registry would not allow a registration for an individual who was an adult at the time of registration.

- Ex. 2294

## Protection Investigation

The Landry file was transferred to Greg Bell in June of 1997. Mr. Landry had been recently charged and Mr. Bell was tasked with assessing the possible risk to his own children. At this point, Mr. Landry had been charged with assaults on three now adult men for offences when they were boys and there was the prospect of further charges.

- CPI, Vol. 291, p. 48, Ex. 2416, bates page 1074797 front

In addition to the concern over the risk to the Landry children, there was also the secondary risk to children to whom Mr. Landry might have had access as a result of his employment.

- CPI, Vol. 291, p. 75

The Cornwall Police Service did notify Mr. Landry's employer shortly following the laying of charges. Mr. Landry was not actively working at that time, as he was on sick leave.

- CPI, Vol. 227, p. 144-45

During his testimony, Mr. Bell indicated that he was not aware of Mr. Landry's father had been Chief of Police. He indicated that he learned that some time later.

- CPI, Vol. 291, p.74

During Mr. Bell's investigation, Ms. Landry indicated that Mr. Landry, from whom she was separated, had admitted to the abuse. Ms. Landry also indicated that there may be times when Mr. Landry would be with the children alone. This was not an acceptable risk and a plan was worked out so that Mr. Landry would never be alone with this children.

- Ex. 2416, bates page 1074797 front

In August of 1997, C-54 disclosed that he had been abused by Mr. Landry. In light of the new allegations, Mr. Bell continued his investigation and interviewed the Landry children and ensured they were not alone with Mr. Landry.

- Ex. 2416, bates page 1074797 front

There was an instance where Mr. Landry was seen alone with his children at the drive thru by a member of the Cornwall Police Service and Mr. Landry contacted the C.A.S. himself to report that. Mr. Landry was interviewed as part of the ongoing investigation and made admissions in that interview. Mr. Bell stressed to Mr. Landry that, considering his admissions, his access to his children must be supervised 100% of the time. These admissions were passed along to the Cornwall Police Service. Throughout this period of time, there was a lot of information sharing between the Cornwall Police Service and the C.A.S.

- Ex. 2416, bates page 1074799 front, CPI, Vol. 291, p. 52

By September of 1998, it appeared that Mr. and Mrs. Landry had reconciled and Mr. Landry was spending lots of time at the family residence. He was arrested at the home one evening for being away from his parents' home after 23:00 hours. The agency was still monitoring the situation and had advised Mrs. Landry that if there were unsupervised access to the children by Mr. Landry, they would be apprehended.

- Ex. 2416, bates page 1074799 front, Ex. 1610, bates page 1074601 front, CPI Vol. 291, p. 58

On January 6, 1999, a Cornwall Police Service officer advised the C.A.S. that the Landry family was living in Ottawa, but there was no proof that the children were being left alone. The officer subsequently called on May 14, 1999 to advise that he had information that the children had been left alone with Mr. Landry. This information was relayed to the Ottawa agency later that day.

## **JEAN-LUC LEBLANC**

### **1986 Referral**

Jean-Luc Leblanc first came to the attention of the agency when a referral was received from the public school board. Scott Burgess had disclosed sexual abuse by Mr. Leblanc and in his disclosures it was revealed that Jason Tyo was also a victim.

- Ex. 1559 and C-99

Mr. Leblanc was an extra-familial offender and in the 1980s, the agency was working under Eligibility Spectrum policy that they only investigated abuse if the individual was a caregiver or had access to children.

The C.A.S. contacted the Cornwall Police Service on the same day of the referral (Ex. 1559 and C-99). The intervention of the agency was successful in stopping the abuse for the Burgess children. There was verification that Mr. Leblanc had molested children. The original complainant and several other children who were identified in the course of the investigation were interviewed.

Some of the children interviewed were Scott Burgess, Jody Burgess and Jason Tyo. When the Burgess brothers were interviewed, they did not identify anyone else in their family as a victim, although they did identify friends as victims. The agency had no other information at the time to indicate that other children in the Burgess family had been harmed. The practice at that time was to attempt to identify victims of extra-familial offenders.

- CPI, Vol. 279

The current standards in investigations mandate that all children in a family be interviewed. At the time of this investigation in 1986, neither the C.A.S. nor the Cornwall Police Service interviewed any other children in the Burgess home. The investigating officer testified that when he met with the family, Cindy Burgess was present and was aware of the officer's visit. At that time, she did not disclose any abuse and, in fact, did not disclose she was abused until the Project Truth investigation some fifteen years later.

- CPI, Vol. 279 and 224

During this investigation, the agency took all the steps it could to identify Mr. Leblanc is a verified offender.

- Ex. 1559 and C-99

Treatment was either arranged or offered to the known victims of Mr. Leblanc. Where counselling was offered and refused, the worker would encourage counselling and provide information, but counselling could not be forced on an individual.

- Ex. 1559, C-99, 2296 and C-105, CPI Vol. 279, 281 and 279

During his testimony, the investigating officer, Brian Payment, could not recall the details, although reviewing materials for the Inquiry had refreshed his memory. The investigator from the C.A.S., Bruce Duncan, was not called to testify at the Inquiry. Though Mr. Duncan was not called to testify, other C.A.S. employees who did testify indicated that standard practice was for notes to be taken concurrently or within 24 hours of the event. Mr. Duncan has dates and times on his notes for the Burgess/Tyo investigation and it appears that the notes were made

concurrently. There was no conclusive evidence the Bruce Duncan did not share with Cst. Payment the details of the abuse, specifically, that anal intercourse had occurred.

- CPI Vol. 224, Ex. 1559

### **1994 Referral**

In October of 1994, a school principal called about a student, later identified as C-82, who was spending a lot of time with a 54 year old man who is always buying gifts for him. The agency spoke with C-82's parents who indicated that nothing had happened with the man, who was only identified as Jean-Luc at the time. The mother refused to provide the last name of the man.

- Ex. 2297, CPI Vol. 279, Ex. 2298

The file was closed at the time because it was determined not acceptable for service, based on the Eligibility Spectrum. The staff at the time did not connect the name "Jean-Luc" to the individual they had dealings with eight years prior in 1986, "Jean-Luc Leblanc", and in fact, this connection was not made until the Inquiry.

- CPI Vol. 279

### **1995 Referral**

The next referral to the agency regarding Mr. Leblanc came nine years later. In the interim, there had been no reports to the C.A.S. about Mr. Leblanc specifically. In the interim, there have been additional complaints made regarding C-82, but not in relation to sexual abuse or Mr. Leblanc.

- Ex. 2299 and 2300

At the time of the initial referral, no names were provided with respect to the children alleged to have been seen with Mr. Leblanc and no information was provided with respect to addresses of the children or the address of Mr. Leblanc.

- Ex. 2301, CPI Vol. 279

The assigned intake worker to the referral, Francoise Lepage, attempted to find the whereabouts of Mr. Leblanc by conducting a records search, calling the Cornwall Police Service, Probation and the Court. The only address the agency had at the time was from nine years prior.

- Ex. 2301, CPI Vol. 279

The decision to terminate the file at that time was made by the supervisor, Mr. Carriere, because the children or Mr. Leblanc could not be located. Upon reflection, Mr. Carriere indicated that there may have been other mechanisms for searching for Mr. Leblanc's particulars.

- Ex. 2301, CPI Vol. 279

At that time, again the connection is not made between the 1994 referral and this referral. An Intake worker deals with constant phone calls to the agency and obviously many names. Ms. Lepage was a responsible, diligent worker and this oversight was due simply to the volume of work and the fact that she did not have complete names or particulars.

- CPI Vol. 279

### **1998 Referral**

The third referral regarding Mr. Leblanc is made in 1998. This was the first new report since 1995. In this referral, Mr. Leblanc was again seen in the company of children, yet there was still no indication that any children had been harmed by Mr. Leblanc. This time the agency was

provided with an address for Mr. Leblanc, or an indication that he lived in the Newington area. The source of the referral was a Burgess family member. The Cornwall Police Service advised that they would refer the matter to the Ontario Provincial Police.

There is a referral again weeks later that Mr. Leblanc is seen in the company of young children, this time by the Cornwall Police Service. A decision is made to contact Mr. Leblanc about his contact with young children and to contact the O.P.P. However, this interview is not done, nor is further work done at the time due to workload issues.

- Ex. 2303, CPI Vol. 279

Mr. Carriere in his testimony indicated that in hindsight, such a case should not have been left with an Intake worker; it should have been referred to investigation. The Intake worker has many other duties in addition to chasing down information to determine what Mr. Leblanc's present circumstances were, as they receive all of the referrals for the agency. An investigator could have been assigned to commence the work promptly.

- CPI Vol. 279

### **1999 contact with O.P.P.**

The O.P.P. contacts C.A.S. for additional information regarding their past involvement with Mr. Leblanc in early 1999. The agency cooperates with the O.P.P. in assisting them with their investigation.

Further, C.A.S. provides access to files and assists the O.P.P. in locating some alleged victims, as they had the contact information for some of the victims.

The agency also communicated with the O.P.P. to ensure that no children were presently at risk of abuse by Mr. Leblanc.

- Ex. 2305, CPI Vol. 279

### **Mr. Leblanc's interaction in other C.A.S. files**

Evidence was heard at the Inquiry which illustrated that Mr. Leblanc had contact with other families known to the C.A.S.

One of these families was the family of C-81. He was a child who was running away from his home to the home of a man named Jean-Luc Leblanc. The referral was a concern over neglect and did not refer to sexual abuse. The case was assigned to an investigator, as it was a neglect matter and the worker attended at Mr. Leblanc's residence and spoke with C-81. There were no allegations or reports of concern, the family of C-81 was aware of where he was staying and the worker had not come away with any concerns. The child was back at home shortly after the initial contact.

- CPI Vol. 286

At that time, and now, it is a judgement call as to whether names of individuals who have contact with a child are searched in C.A.S. records. The worker at the time could have checked the records and would have found reference to the prior allegations against Mr. Leblanc and then history would have taken a different turn. A worker in the course of a day encounters names of many individuals who have contact with children and not all are checked.

- CPI Vol. 286

## **Jason Tyo**

During his testimony, Mr. Tyo indicated that he attempted to call the C.A.S. concerning his sexual abuse by Jean Luc Leblanc and physical abuse by his parents but was not assisted by the C.A.S. worker. Mr. Tyo asserted that the C.A.S. had failed to protect him. Mr Tyo further asserted that the C.A.S. failed to provide him with treatment.

- CPI Vol. 60

The C.A.S. has no record of Mr. Tyo contacting the Society on a Friday night at around 7:00 p.m. Mr. Tyo is unable to specify the exact date or year but it appears to be that he is referring to January 3, 1986.

- CPI Vol. 60

Duirng his testimony, Mr. Tyo agreed that nowhere in his family C.A.S. file is there a record of him contacting the C.A.S. on January 3<sup>rd</sup>, 1986 or any other time.

- CPI Vol. 61

Mr. Tyo confirmed that when he was interviewed by the Ontario Provincial Police on February 3<sup>rd</sup>, 2000 he did not disclose to the officers interviewing him that he had previously disclosed to the C.A.S. that he was being abused. He confirmed in his testimony that he never told the Ontario Provincial Police on February 3<sup>rd</sup>, 2000 that he had previously called the C.A.S. Mr. Tyo confirmed that in his application for standing and funding at the Cornwall Public Inquiry he never identified the C.A.S. as an institution that had failed him. Mr. Tyo confirmed that in the same affidavit there is no reference to reporting the abuse by Jean-Luc Leblanc to the C.A.S.

- CPI Vol. 61

Mr. Tyo testified that he only made one call to the C.A.S. on the Friday night. He was insistent that he did not get a call back that evening, but did get one back a couple of weeks later. Mr. Tyo was unable to name the person he allegedly spoke with at C.A.S. and testified that no name was given to him. Mr. Tyo testified that his conversation with the C.A.S. worker lasted less than five minutes and that he told C.A.S. that was that he was being sexually abused outside the home and physically abused at home. He testified that he doesn't recall telling who was doing this to him.

- CPI Vol. 60 and 61

With respect to the response of the C.A.S., Mr. Tyo said it wasn't positive but he's not sure. He subsequently stated that he thought the lady took down his name and number. He didn't recall if there was discussion about follow-up and that he is not sure when he next spoke to someone from C.A.S.

- CPI Vol. 60

Mr. Tyo testified that there was follow up by the C.A.S. by telephone. He can not specify when it occurred but suggested that it was after he told Dawn Raymond about the abuse. He testified that he can't remember much about the call, other than it was short. He testified that he told the C.A.S. worker that he had disclosed the matter to his teacher and that it was being dealt with.

- CPI Vol. 61

Jason Tyo testified that from that phone call "he had lost all hope with the C.A.S.". Mr. Tyo had previously pointed out that that alleged phone call was less than five minutes long.

- CPI Vol. 61

Jason Tyo was unable to explain his testimony to Peter Engelmann the previous week when he stated “They shut the door on me again.”

- CPI Vol. 61

Mr. Tyo acknowledged that he does not remember the involvement of the C.A.S. in 1986. He testified that he was led to believe by his mother that there was no C.A.S. involvement. Subsequently he had read that C.A.S. was involved.

- CPI Vol. 60

Mr. Tyo confirmed that he never told Mrs. Raymond about being physically abused at home. Jason Tyo could not provide an explanation for not doing so. Mr. Tyo confirmed that other than the alleged call to the C.A.S. on January 3, 1986 he never told the C.A.S. that his mother was abusive to him.

- CPI Vol. 61

There is nothing in the C.A.S. file for Jason Tyo’s family that indicates that the C.A.S. ever received any referrals from any sources indicating that Mr. Tyo was a victim of physical abuse in his home. There is no information on file to indicate that Mr. Tyo disclosed being abused by his parents. There was one notation indicating conflict with his caregivers. A subsequent notation indicates that he retracted his allegations. There is nothing in the file recording or case notes completed by Bruce Duncan that indicates that Jason Tyo ever told him that he had contacted the C.A.S. several weeks earlier about being physically and sexually abused.

- Ex. C-105 and 2296

The case notes of Bruce Duncan written on February 3, 1986 indicate that Jason Tyo told him that he was not abused and he does not need counseling.

- Ex. 2296

The case notes completed by Bruce Duncan based on a telephone conversation with Cst. Brian Payment of CPS on January 27, 1986 indicate that Cst. Payment told him that Mr. Tyo reportedly said that he liked the sexual relationship, didn't want to be a "fink" and that Jason gave a statement "but it was like pulling teeth". Jason Tyo agreed that his mother, along with Cst. Brian Payment struggled to get Jason to talk about the abuse by Jean Luc Leblanc when Jason was interviewed.

- Ex. 1159, CPI Vol. 61

Bruce Duncan noted in his case notes for the Burgess family file that Brian Payment found Ms. Moyes (Jason Tyo's mother) to be appropriate and concerned.

- Ex. 1559

Dawn Raymond's Will State indicates that when Jason Tyo first disclosed abuse by Jean Luc Leblanc to her on January 7, 1986, Jason alleged that Jean Luc had molested Scott Burgess and that "he (Jean Luc Leblanc) tried to do it to him (Jason) but he wouldn't let him." On that date, Mr. Tyo did not disclose being abused by Jean Luc Leblanc. In fact, he denied it when Mrs. Raymond asked him. Jason Tyo disclosed being abused on a subsequent occasion.

- CPI Vol. 60 and 62

Jason confirmed that he did not tell Dawn Raymond about calling the C.A.S. on January 3, 1986 when he met with her on January 7, 1986. He testified that he did not think it was necessary to

tell her at the time. He stated he was “more concerned about getting the abuse off my shoulders”. In light of this statement, it is noteworthy that Mr. Tyo did not disclose his physical abuse to Mrs. Raymond at that time.

- CPI Vol. 60

Dawn Raymond testified that Jason Tyo never told her about being abused by his parents. Jason spoke very favourably about Dawn Raymond, identifying her as someone he could trust and felt comfortable to confide in.

- CPI Vol. 60, 61, 62

Jason Tyo acknowledged in his testimony that he has read where C.A.S. did offer him treatment for his sexual abuse by Jean Luc Leblanc. File recordings and case notes indicate that Jason Tyo and his mother were offered treatment by Bruce Duncan, Bob Smith and Lynn LeBreton – the C.A.S. workers assigned to the case file. Treatment offers consisted of the Family Sexual Abuse Treatment Program and the Family Action Program. Jason declined to participate in these programs.

- CPI Vol. 60, Ex. C-105 and 2296

Jason Tyo agreed that it is possible that he met with Lynn Lebreton. And, that Ms. LeBreton’s recording that she met with Jason Tyo and that he did not feel the need for counseling was not something that he could disagree with. Jason Tyo agreed that he would not have wanted to be forced by the C.A.S. to attend treatment.

- CPI, Vol. 61

Bill Carriere testified that there are various problems associated with forcing a victim to attend counseling against their will. Mr. Carriere indicated that it would have required a court order to get the child to be found in need of protection. Mr. Carriere said that forcing a child to attend a group against his will would likely have not done any good and would have been damaging to the group. Mr. Carriere also testified that forcing someone to attend counseling before they are ready could also put them off counseling in the future. Bill Carriere did agree that maintaining regular contact with the individual and encouraging them to attend over a period of time would be advised.

- CPI Vol. 279

## **PROJECT BLUE**

In September 1993, Richard Abell had series of interactions with Perry Dunlop that lead to Mr. Dunlop providing Mr. Abell with a copy of David Silmsers' statement of alleged abuse at the hands of Father Charles MacDonald and Ken Seguin. Mr. Dunlop had obtained the statement during the course of his employment at the Cornwall Police Services and was concerned that children were at risk of harm.

- CPI Vol. 293 - 7

Mr. Abell reviewed the statement with senior staff members at the C.A.S. and there was unanimous consensus that a child protection investigation should be initiated based on the information contained in the Silmsers statement, in particular the details pertaining to Father Charles MacDonald.

- Ex. 2461

A series of meetings took place prior to the initiation of the child protection investigation. Mr. Abell had several meetings with Cornwall Police Service, most notably with then Chief Claude Shaver. Mr. Abell explained that he had discussions with Chief Shaver about obtaining the Silmsser statement and the need for an investigation.

- CPI Vol. 293 - 7

Richard Abell, Bill Carriere and Angelo Towndale also met with Bishop Eugene Larocque. Concerns regarding Father Charles MacDonald were conveyed to Bishop Larocque and he agreed to remove Father MacDonald from active parish duties for a period of time. Bishop Larocque also provided the C.A.S. with some details concerning Father Macdonald, notably that there had been a previous complaint against Father Charles and that Father Charles had admitted that he was homosexual and had engaged in sexual activity with adults and young people, although not recently. Bishop Larocque also indicated that the C.A.S. could expect to receive his cooperation on this matter but he expected the C.A.S. to deal with this matter expeditiously, indicating he wanted the matter completed within two weeks.

- CPI Vol. 293 – 7; Ex. 2324

A project team was formed, consisting of Bill Carriere as the supervisor, Greg Bell as the lead investigator and Pina DeBellis as an assistant investigator to Mr. Bell. Clerical support was assigned to the team. Due to the fact that we anticipated that this investigation would be complex, it was given a title of “Project Blue”. The title had no relevant significance to the day to day operations of the C.A.S. A determination was made that the project team would meet on a regular basis, with the core team members being joined by Richard Abell, the Executive Director

and Elizabeth MacLennan, lead counsel for the C.A.S. Planning for Project Blue was initiated early in October 1993. Bill Carriere and Greg Bell met and developed a detailed plan of intervention

- CPI Vol. 293 – 7; Ex. 2324

At the beginning stages of the investigation, Bill Carriere and Greg Bell met with Cst. Heidi Sebalj and Sgt. Luc Brunet. C.A.S. was advised that the Silmsler investigation had terminated with respect to Father Charles MacDonald because Mr. Silmsler no longer wished to pursue the matter. Similarly, Mr. Bell and Mr. Carriere were advised that the investigation with respect to Ken Seguin had not proceeded as Mr. Silmsler was not longer a complainant. Mr. Bell and Mr. Carriere were allowed to see various witness statements that CPS had obtained from individuals. Mr. Carriere and Mr. Bell were permitted to dictate the information onto a tape recorder, but were not allowed to make photocopies. No photographing of the material took place. Mr. Bell and Mr. Carriere were not provided with any statements that CPS had obtained through interviews with Mr. Silmsler. C.A.S. was not aware of the existence of these statements until the Cornwall Public Inquiry.

- Ex. 2324

In October 1993, Bill Carriere and Greg Bell met with Officer Ron Wilson of the Ontario Provincial Police (Long Sault Detachment). Officer Wilson was provided a copy of the David Silmsler statement and advised that the C.A.S. was proceeding to conduct an investigation based on the concerns expressed in the document. Officer Wilson was asked if the Ontario Provincial Police would join the C.A.S. in this investigation as the alleged abuser, Father Charles MacDonald currently resided in Ontario Provincial Police territory. Officer Wilson completed a

CPIC record search for Father MacDonald and found no record. Officer Wilson indicated that the Ontario Provincial Police would not join the investigation at that time because there was no complainant, indicating that if that situation changed the Ontario Provincial Police would reconsider their position.

- Ex. 2324

C.A.S. proceeded to conduct the investigation on its own. The names of all the current altar servers at St. Andrews Parish were obtained from the Diocese. Mr. Bell and Ms. DeBellis contacted all families and requested an interview with their child/ alter server. A large number of parents and children agreed to be interviewed and Mr. Bell and Ms. DeBellis conducted audio-taped, "Step-Wise" interviews with the children, followed by meetings with the parent(s) and child. A small number of families declined to have their children interviewed and, in the absence of any indication that these children had been abused or were at risk of abuse, these positions were respected. None of the children interviewed reported that they had been abused and there was no evidence to the contrary. All families received letters from the C.A.S. following the interviews, thanking them for their cooperation.

- Ex. 2324

C.A.S. also attempted to obtain information relevant to Father Charles MacDonald. Requests were made for the copy of the financial settlement that Mr. Silmsler had reached with the Diocese. Jacques Leduc, then counsel for the Diocese, took the view that this document could not be shared with the C.A.S. C.A.S. ultimately obtained a copy of the settlement, with the financial figures removed, from Malcolm MacDonald, the lawyer for Father Charles MacDonald. C.A.S. also requested and received copies of assessments that had been carried out on Father

Charles MacDonald at Southdown, a treatment facility. Efforts to obtain copies of minutes of a meeting that the Diocese reportedly conducted with David Silmser were unsuccessful as the members of the Diocese indicated that the minutes had been deleted from a computer and not hard copies had been made.

- Ex. 2324

As a result of reading statements that various adults had written with respect to their childhood experiences with Father Charles MacDonald, C.A.S. made efforts to speak directly with those individuals. C.A.S. made several requests of the Cornwall Police Service to provide the names of these individuals. Ultimately, C.A.S. was unsuccessful in obtaining these names as the CPS indicated that disclosing the names would be in violation of the privacy of the individuals and also contrary to the understandings that they had with the individuals. It is our understanding that the CPS did make efforts to contact these individuals to determine if they would be prepared to come forward and meet with the C.A.S. Regrettably, they did not wish to do so.

- Ex. 2324

C.A.S. made various efforts to interview Father Charles MacDonald as part of their investigation. Father Charles Macdonald was residing at Southdown throughout the investigation. C.A.S. did extend an invitation to Father Charles MacDonald to meet with C.A.S. Malcolm MacDonald advised the C.A.S. that Southdown did not permit residents to leave the program. Ultimately, C.A.S. wrote a letter to Father Charles asking if he had ever sexually molested a child and, if so, to provide details regarding the matter. After some delay, Father Charles responded by stating an emphatic “no” to the original question. Father Charles provided no further details. C.A.S. did not consider traveling to Southdown to interview Father Charles as

it understood that due to his residency at Southdown he was unavailable. At no time was C.A.S. advised by Father Charles MacDonald or Malcolm MacDonald that this option was possible.

- Ex. 2324, Ex. 2325, CPI Vol. 287

Once all information pertinent to the investigation had been gathered the C.A.S. proceeded to conduct a verification review, involving the Project Blue team members. As Bill Carriere detailed in his testimony, the C.A.S. considered factors that supported a finding that Father Charles MacDonald had sexually molested David Silmsler as well as factors that argued against this outcome. As Mr. Carriere detailed in his testimony the C.A.S. came to the conclusion that on a balance of probabilities test, more evidence supported a finding that Father Charles had sexually molested David Silmsler as a child than not. Mr. Carriere outlines some of the critical factors that had been considered in the process, including ones that stood out as more striking.

- CPI Volume 280

Throughout the time that C.A.S. was involved in the Project Blue investigation it was cognizant of statements that David Silmsler had made with respect to Ken Seguin and Marcel Lalonde being perpetrators of sexual abuse. The C.A.S. made many efforts to meet with David Silmsler to gather more information with respect to these individuals but were ultimately unsuccessful. Greg Bell scheduled meetings with David Silmsler, only to have Mr. Silmsler fail to appear. The C.A.S. also communicated with Mr. Silmsler's lawyer in an effort to obtain information. This too, met with no success. The C.A.S. wrote letters to Mr. Silmsler, through his counsel, requesting that Mr. Silmsler speak with us further on the matter. Again, nothing was achieved from these efforts. Finally, the C.A.S. wrote to Mr. Silmsler suggesting to him that if he was uncomfortable speaking with the C.A.S. about these matters he could contact the police or the school board.

- Ex. 2324

The C.A.S. took the position that it did not have the grounds to conduct investigations on Ken Seguin and Marcel Lalonde because it lacks sufficient grounds to do so. As Bill Carriere pointed out in his testimony, Ross Dawson had been critical of the C.A.S. in his 1988 review that the C.A.S. was proceeding with investigations without establishing the grounds to do so. The following excerpt is from the Dawson Review:

Firstly, many cases suffer from inadequate information gathering at the point of referral. In many cases the complainant's information was simply recorded and the case opened. No probing for details took place, no checking with other potential sources of information before the case was assigned. This process tends to limit the telephone intake function to that of a clerical task since no real processing or assessment of the initial complaint is done at this state. Consequently, cases are then assigned in many instances for intake follow up without sufficient information to properly determine if a case should be opened, or if it should be classified as a high, medium or low risk. In several cases the follow up resulted in valuable staff time being lost due to the investigation of allegations that were clearly without substance.

- Ex. 2278

As Mr. Carriere detailed in his testimony on September 11, 2008, the C.A.S. did not feel it had the grounds to advise Mr. Seguin or Mr. Lalonde's employers about these concerns based on the limited information it had obtained with respect to these individuals. Mr. Carriere agreed with Mr. Engelmann's statement that the C.A.S. "had a lot less information than you had for Bernie Campbell and Earl Landry Jr."

- CPI Volume 280

At the end of the investigation C.A.S. advised all parties of their conclusions, including CPS, Ontario Provincial Police, Father Charles MacDonald, and the Diocese of Alexandria-Cornwall. The C.A.S. put forth the position with the Diocese that it viewed Father Charles MacDonald to pose a risk to children as the situation presently stood. In a letter written to Father Charles

MacDonald, the C.A.S. offered to assist him with direction concerning any treatment he might wish to pursue. The C.A.S. never heard back from Father Charles on this matter.

- Ex. 2324

With respect to David Silmsler, the C.A.S. offered him support throughout the investigation. He was counseled by Greg Bell to not take blame for the suicide death of Ken Seguin. C.A.S. also offered to help Mr. Silmsler with any treatment needs he might have.

- Ex. 2324

During the course of the Project Blue investigation the C.A.S. made numerous efforts to meet with Cst. Perry Dunlop. Officer Dunlop had alluded to the fact that he had information that a ring of pedophiles was operating in the area. Officer Dunlop had stated that Malcolm MacDonald was part of that "ring" A number of efforts were made to get Cst. Dunlop to share any information that he had concerning this matter. As Bill Carriere stated in his testimony, he had Greg Bell call Cst. Dunlop and advise him of his duty to report any suspicions of child abuse. Mr. Carriere testified that Mr. Bell did that and also advised Cst. Dunlop that he would be protected under the CFSA. Despite this measure, Mr. Dunlop did not contact the C.A.S. to provide the requested information. In his testimony, Bill Carriere indicated that he wished, in hindsight that the C.A.S. had written to Perry Dunlop or requested a meeting with his then employer, CPS to obtain the information. Mr. Carriere did add that he had no doubt that Cst. Dunlop understood what was being requested of him.

- Ex. 2324

Based on the fact that C.A.S. had no details to form any basis that Malcolm MacDonald had sexually molested any child or that any child under the age of 16 was in his care or at risk in his presence, the C.A.S. did not proceed with an investigation.

- Ex. 2324

## **NELSON BARQUE**

### **Background**

Nelson Barque was a member of the Child Abuse Prevention Council in the mid 1980s. Mr. Barque was a staff member of L'Equipe Psycho-Sociale at the time. During the time that Mr. Barque participated as a member of the Child Abuse Prevention Council there were no reports of child maltreatment made against him.

- CPI Vol. 278

There was no screening process for those interested in joining the Council. Bill Carriere presumed that all members of Child Abuse Prevention Council had been previously screened by their organizations.

- CPI Vol. 278, p. 15

Mr. Barque participated on the Public Awareness sub-committee of the Child Abuse Prevention Council. Bill Carriere testified that he was not aware of any complaints or concerns about Mr. Barque while he was a member of this sub-committee. Mr. Barque ceased to be a member of the

Child Abuse Prevention Council in 1986 when he left his employment at L'Equipe Psycho Sociale.

- CPI Vol. 278, p. 14

### **Allegations concerning Nelson Barque**

The C.A.S. did not receive any referral indicating that Nelson Barque had ever harmed a child under the age of sixteen. Shortly after Mr. Barque left the employ of L'Equipe Psycho-Sociale, Mr. Carriere testified that he recalls receiving information from an individual who advised him of a rumor that years ago Mr. Barque had left the employ of Probation Services because he had become involved with a male probationer and there had been a sexual relationship. Mr. Carriere recalls being told that Mr. Barque was given the choice of leaving Probation Services or there would be an investigation into the allegations. Bill Carriere also testified that he recalls being told that there were incriminating pictures found in Mr. Barque's desk after he left.

- CPI Vol. 279, p. 222

In 1986, around the same time that the above-matter was made known to Mr. Carriere, C.A.S. received a report from a client who indicated that she had previously not allowed her son to be counseled by Mr. Barque because she had heard a rumor that Mr. Barque had previously molested a child. At this point Mr. Barque was no longer employed by L'Equipe Psycho-Sociale. Child Protection Worker Greg Bell was assigned to contact L'Equipe Psycho to determine if there was any substance to the report. Mr. Bell did speak to manager Mario Sarda at L'Equipe Psycho-Sociale and was advised that there was no information that Nelson Barque had sexually abused a client or that his departure from L'Equipe was connected to any allegation of abuse.

- CPI Vol. 279, p. 219

On November 1994, Sgt. Luc Brunet contacted C.A.S. and spoke with intake worker Fran Lepage concerning information that had come to their attention. A former probationer (who was over 16 years old at the time of the report), Albert Roy, had disclosed that his probation officer, Nelson Barque, had sexually molested him when he was sixteen. Fran Lepage's notes of her conversation with Sgt Brunet indicate that Sgt Brunet did not see the need for C.A.S. to become involved in the investigation. Ms. Lepage's notes indicate that Sgt. Brunet said he was calling because he had learned that Nelson Barque was currently supply teaching.

- CPI Vol. 279, p. 215 and Ex. 1468

Bill Carriere gave evidence that subsequent to Ms. Lepage's conversation with Sgt. Brunet, he spoke with Sgt. Brunet and made notes of his conversation with both Sgt. Brunet and Executive Director Richard Abell. Mr. Carriere testified that he has no independent recollection of the conversations he had with Sgt. Brunet or Richard Abell on this matter. However, the notes that Mr. Carriere completed at the time indicate an understanding with Sgt. Brunet that Cornwall Police Service would be following up with the school and advise C.A.S. accordingly. Mr. Carriere testified that in hindsight the matter may have better been handled differently, with C.A.S. and the Cornwall Police Service jointly approaching the school board with the concern. C.A.S. had no subsequent involvement with Nelson Barque.

- CPI Vol. 279, p. 218

## **MALCOLM MACDONALD**

Malcolm MacDonald represented Father Charles MacDonald with respect to sexual abuse allegations against Father Charles made by David Silmser. C.A.S. staff, in particular Greg Bell, had numerous interactions with Malcolm MacDonald during the course of the Father Charles MacDonald investigation.

- Ex. 2324

Throughout their involvement with Malcolm MacDonald and beyond, C.A.S. never received any referral reporting that Malcolm MacDonald had maltreated or abused a child.

Perry Dunlop advised the C.A.S. that he had information indicating that a pedophile ring was operating in Cornwall and that Malcolm MacDonald was a member of that ring. Numerous efforts were made to get Perry Dunlop to provide details with respect to that assertion without success.

- Ex. 2324

Further, the C.A.S. had no information indicating that Malcolm MacDonald had any contact with children under the age of sixteen, and as a result, he would fall outside of the eligibility spectrum in any case.

- Ex. 2324

On February 11, 1994, Ontario Provincial Police officers, Genier and McDonell, requested records disclosure with respect to Ken Seguin in the form a warrant that specifically requested information pertaining to Ken Seguin. After consulting with C.A.S. legal counsel on February 11, 1994, a decision was made to not share the information with respect to Perry Dunlop's

allegation regarding Malcolm MacDonald at that time because the warrant did not include Malcolm MacDonald. C.A.S. counsel explained that there were legal constraints imposed on the C.A.S. under the limitations of the warrant.

- Ex. 2324, bates page 7082040 and 7082041; CPI Vol. 280, p. 104 – 106

At no time did Project Truth investigators advise the C.A.S. of any situations where children were perceived to be at risk by Malcolm MacDonald. (Volume 280, page 110).

## **MILTON MACDONALD**

Prior to 1994, C.A.S. did not receive any allegations or reports concerning Milton MacDonald and alleged child abuse. In 1994, when the C.A.S. was made aware of the allegations concerning Milton MacDonald, Bill Carriere and Richard Abell informed the Ontario Provincial Police that they had some information that the force might find relevant.

- CPI Vol. 280, p. 117

Shortly after, C.A.S. obtained information from the Ontario Provincial Police indicating that a child under the age of sixteen had allegedly been molested by Milton MacDonald. C.A.S. commenced an investigation concerning this matter and verified that the sexual abuse had taken place

- CPI Vol. 280, pages 120-122; Vol. 280, page 132

Following Milton MacDonald's guilty plea to the charges of sexual assault, C.A.S. attempted to register him on the Child Abuse Register but was unable to do so because the register wanted the

name of the victim on the form and the victim did not want his name disclosed. The C.A.S. respected the wishes of the victim.

- CPI Vol. 280, pages 134–136

The Milton MacDonald case was an example of a situation where the Ontario Provincial Police and the C.A.S. cooperated effectively on a historical sexual abuse matter.

## **BILL MACKINNON**

Bill MacKinnon's name emerged in the course of the Scott Burgess investigation in 1986. Members of the Burgess family spoke about Bill MacKinnon and his involvement with and molestation of children.

- Ex. 1559, Bates pages 7157916-7157918

Cst. Payment of the Cornwall Police Service met with Bill MacKinnon and, according to Bruce Duncan's notes, Cst. Payment found Mr. MacKinnon to be "so senile", and indicated that not much could be done with Mr. MacKinnon because of his mental state.

- Ex. 1559, Bates page 7157920

Mr. Carriere testified that he did not recognize the name Bill MacKinnon when he read the case notes for the Burgess file in preparation for the Cornwall Public Inquiry. Mr. Carriere further testified that C.A.S. took no action with respect to Mr. MacKinnon; however he believes that the Bill MacKinnon matter should have followed up on, and Mr. Carriere, as supervisor, takes responsibility for this lack of response.

## **PROJECT TRUTH AND OTHER RELATED MATTERS**

### **Perry Dunlop and Charles Bourgeois**

As noted previously in this submission, Perry Dunlop advised the C.A.S. that he had information that a “pedophile ring” was operating the area. Repeated efforts to get Officer Dunlop to provide details on this matter were unsuccessful and, following a discussion of the matter at a risk management conference, the C.A.S. determined that it would no longer pursue the matter with Mr. Dunlop as the previous efforts had reaped no results.

- Ex. 2324

In December 1996, Charles Bourgeois, a lawyer later known to be representing Perry Dunlop, contacted Richard Abell and provided him with a list of individuals he deemed to be pedophiles. Through both telephone conversations and written communication, Richard Abell attempted to get Mr. Bourgeois to provide details to support Mr. Bourgeois’ claim that the various individuals were pedophiles and that they posed a risk to children. The C.A.S. was unsuccessful in obtaining that information from Mr. Bourgeois and no investigative action was taken.

- CPI, Vol. 151, 152, 153, 154, 293, 294, 295, 296

In the later part of 1996 and early 1997, a civil action launched by Perry Dunlop played a major role for the local organizations. Most unusually, the C.A.S. was contacted by several priests from the Diocese of Alexandria-Cornwall and their legal counsel indicating that they had been named in claim launched by Perry Dunlop. As part of the claim these individuals had been identified as child molesters. The priests and their counsel believed they had an obligation to

report these matters to the C.A.S. and to cooperate fully with the Society. The C.A.S. advised these individuals that their information would be shared with the Ontario Provincial Police. This action was taken and the information was provided to the Ontario Provincial Police. The C.A.S. did not receive any referrals from any individuals indicating that they had been sexually molested by any of the members of the Diocese

Coinciding with the above interactions with members of the Diocese of Alexandria-Cornwall, the C.A.S. was also contacted by the then Chief of Police for the City of Cornwall, Anthony Repa. Chief Repa advised that he had received information that was part of a statement of claim and, as this information alleged child abuse, he was bringing the information to the attention of the CAS. At the same time as this information was being received the C.A.S. was contacted by the Ontario Provincial Police. Inspector Tim Smith contacted Richard Abell to advise him that the Ontario Provincial Police had formed a project team called “Project Truth” and they would be proceeding to conduct an extensive investigation in the Cornwall and surrounding area.

On May 21, 1997, representatives of the Ontario Provincial Police, including Inspector Smith, met with members of the C.A.S. – Richard Abell, and Bill Carriere. Details of the Project Truth investigation were presented and discussed. It was understood that each party would keep each other informed and the Ontario Provincial Police would advise the C.A.S. of any situations where they believed children to be at risk.

- Ex. 2463

Over the ensuing years the Ontario Provincial Police Project Truth Team members and various members of the C.A.S. had communication with each other. Periodically, meetings were held with the Ontario Provincial Police providing the C.A.S. with updates on their investigation. It

became a fairly common practice for either Pat Hall or Tim Smith to contact the C.A.S. just prior to laying charges. On occasion, the Ontario Provincial Police would contact the C.A.S. to have names of individuals checked on the C.A.S. database. In all instances these requests were followed up on and details provided to the Ontario Provincial Police. In one instance the C.A.S. was asked to look at photographs of young people to determine if any of the children could be identified.

Throughout the years of involvement with the Ontario Provincial Police Project Truth team there were no instances where the Ontario Provincial Police advised the C.A.S of individuals that they believed currently posed a risk to children.

In his testimony, Richard Abell reflected on the relationship that existed between the C.A.S. and the Project Truth team. Mr. Abell stated that in hindsight he wished that he had formalized the relationship between the Ontario Provincial Police Project Truth team and the C.A.S., putting in place a protocol or a written understanding.

It is the view of the C.A.S. that the actions of the C.A.S. during this period were consistent with the directions laid out in the MCSS “Revised Standards”. Those standards speak of historical abuse and the role of the C.A.S. in such cases.

- Ex. 25, Tab 2

## **JEANNETTE ANTOINE AND THE SECOND STREET GROUP HOME**

Jeannette Antoine is a former ward of the C.A.S. who was first placed into the care of the C.A.S. in February of 1962, when she was less than two years old. Ms. Antoine stayed in the care of the C.A.S. until August of 1978. Over the course of her years in care, Ms. Antoine was placed with

several foster parents. She was sent to two foster homes on adoption probation, however, neither placement worked out. Ms. Antoine also spent part of her youth living in the Second Street Group Home and the Anson Group Home in Minden, Ontario.

When Ms. Antoine testified in June of 2007, counsel for the C.A.S. extended an apology to Ms. Antoine with respect to a number of areas. The apology that was delivered to Ms. Antoine was with respect to: (i) having to delay her appearance as a witness because of the late discovery of documents that were relevant to her, (ii) the inappropriate and demeaning child-care measures that were used in the Second Street Group Home while she resided there, (iii) the fact that, while the C.A.S. recording reflects harsh disciplinary practices, it does not have sufficient detail to outline the experience that Ms. Antoine had in the Second Street Group Home and (iv) the fact that Ms. Antoine was not able to experience permanence and stability while in the care of the C.A.S.

### **The Reynen Foster Home**

During the course of her evidence, Ms. Antoine alleged that she was physically and sexually abused by a number of individuals. Ms. Antoine first went to the foster home of Bill and Betty Reynen in 1966, when she was just shy of her sixth birthday. With the exception of a four month period, Ms. Antoine stayed with the Reynen family until 1975. Ms. Antoine alleged that she was physically abused by both foster parents as well as the foster parents' daughter. She further alleged that she was sexually abused at the Reynen foster home by her foster father.

Ms. Antoine alleged that she told her C.A.S. worker, Mavis Nixon, bits and pieces of the physical abuse that she allegedly suffered at the Reynen foster home. She also alleged that she

told her school teachers, Ms. Clancy and Mr. Seguin, that she had broken her wrist as a result of physical abuse by Mr. Reynen. Ms. Antoine stated that she believed that the C.A.S. was contacted with respect to this incident because a social worker, whom she believed to be Bryan Keough, showed up at her school.

Ms. Antoine alleged that she was present when her sister told Mr. Keough that she had been raped by her foster father. Ms. Antoine testified that Mr. Keough responded to her sister's disclosure by moving her out of the foster home and leaving Ms. Antoine in the home. Ms. Antoine alleged that Mr. Keough knew that she was also being sexually abused and that the sexual abuse continued after her sister had moved out of the Reynen foster home.

Mr. Keough testified that Ms. Antoine's sister made no such disclosure to him.

### **The Looyen Home**

Ms. Antoine stated that, while living with the Reynens, she would periodically stay with the Looyen family. She alleged that while at the Looyen home, she was physically abused by Mrs. Looyen and sexually abused by Mrs. Looyen's father. In addition, Ms. Antoine alleged that she was sexually abused by a handyman who worked for the Looyens.

It was Ms. Antoine's position that, while she did not initially report the alleged abuse that she suffered at the Looyen home, she later told C.A.S. employees Bryan Keough, Fran Lepage and Angelo Towndale of the abuse.

Mr. Keough denied that he ever had a discussion with Ms. Antoine wherein she disclosed that she had been abused at the Looyen home.

### **The Heemskerk Home**

Ms. Antoine testified that she also suffered physical abuse at the Heemskerk home. It was her position that she reported this abuse to Bryan Keough when he picked Ms. Antoine and her sister up at the Heemskerk home to bring them back to the Reynens.

A review of exhibit 507 indicates that Ms. Antoine was on adoption probation at the Heemskerk home from March 22, 1968 until July 16, 1968, when she returned to the Reynen home. However, it was Bryan Keough's evidence that he did not commence his employment with the C.A.S. until 1971; a number of years after the Heemskerk adoption placement broke down.

### **The Second Street Group Home**

Exhibit 507 indicates that Ms. Antoine entered the Second Street Group Home on September 15, 1975. Ms. Antoine testified that, when she first arrived at the Second Street Group Home, it was operated by Rod Rabey. She testified that the atmosphere in the group home changed for the worse when Mr. Rabey died and the operation of the group home was taken over by Derry Tenger.

Ms. Antoine described being subjected to physical and sexual abuse in the group home. Specifically, she alleged that Bryan Keough: punched her in the mouth, administered beatings with a strap, forced her to walk around in her bra and panties and that he would clip the girls' bra straps with scissors.

Ms. Antoine also allege that Bryan Keough fondled her while she was in bed and stated that she observed Bryan Keough have sex with one of the female residents. When asked why she did not

report Mr. Keough, Ms. Antoine testified that the workers who were there knew about Mr. Keough's actions.

Ms. Antoine's testimony is at odds with exhibit 514, her statement of August 18, 1989. At Bates page 7175602, Ms. Antoine stated,

Another time . . . [C-75] [C-85] and I were in our bedroom and talking when . . . [C-85] said that Brian was touching her places. He had never actually touched me.

When asked about the above passage during cross-examination, Ms. Antoine stated that she could not recall who she was talking about. She stated that she was not aware of any other Bryan, other than Bryan Keough, who worked on the staff of the Second Street Group Home.

Ms. Antoine testified that the abuse came to an end in March of 1976 when the children ran away from the group home.

After running from the group home, Ms. Antoine testified that she and the other children broke into a cottage in Summerstown and stayed there for a number of days. She said that she eventually called the C.A.S. and agreed to return. She stated that the police picked up the children and took them to the C.A.S. office in Cornwall.

#### The Meeting at the C.A.S. Office

Ms. Antoine stated that, upon arrival at the C.A.S. office in Cornwall, Bryan Keough put her in the trunk of his car. She stated that she fell asleep in the trunk and stayed there until she was taken inside the C.A.S. building to the conference room. Mr. Keough denied that he put Ms. Antoine in the trunk of his car.

Ms. Antoine stated that when she was taken into the conference room, the other children were present as well as some 20 C.A.S. workers including Bryan Keough, Michael Keough, Heather Tenger, Derry Tenger, Angelo Towndale, Fran Lepage, Cam Copeland, Greg Bell, Sister Theresa Quesnelle and Mary Gratton.

Ms. Antoine testified that C-75 showed the workers a bruise on her breast. Ms. Antoine stated that Bryan Keough "had practically bit her nipple off". Ms. Antoine testified that she saw Mr. Keough bite C-75's breast. Ms. Antoine then said that Bryan Keough walked behind everybody in the room and smacked C-75 in the back of the head and not one worker did anything.

Ms. Antoine testified that all of the children showed their bruises to the workers. She stated that her back and butt were full of bruises and that she pulled her pants down and showed the bruises to Mr. Towndale. Ms. Antoine testified that she and the other children talked about the physical and sexual abuse that they suffered. Ms. Antoine testified that C-75 showed the bruises on her chest and that Ms. Antoine had bruises all over her, including her face.

Ms. Antoine testified that she was taken from the C.A.S. office and placed in the trunk of Mr. Keough's car and taken to a receiving home in St. Andrews. It was her evidence that, the following day, she was taken to another group home in Minden, Ontario.

### The Alleged Broken Arm

In exhibit 513, the August 17, 1989 notes of C.A.S. worker Susie Robinson which were signed by Ms. Antoine, Ms. Antoine suggested that on the day that she ran from the Second Street Group Home, she and Bryan Keough got into a fight which resulted in Ms. Antoine suffering a broken arm. She stated that she did not have the arm put in a cast until she arrived in Minden.

Bates page 7175133 of Exhibit 2356, indicates that Ms. Antoine was examined by Dr. Gajadhar on March 26, 1976. There is no suggestion that Ms. Antoine was suffering from a broken arm. The recording indicates that Ms. Antoine had a sore throat and that an antibiotic was prescribed.

The February 14, 1978 note marked as exhibit 2432 indicates that, on that date, Mr. O'Brien had a meeting with Dave Devlin and Robert Penny, a supervisor with the Child Welfare Branch. The meeting related to a letter that David Phillips of the Anson Group Home had written to the Minister about several wards in the home who had commented on their treatment in other settings. The document indicated that Ms. Antoine had apparently stated that she had been in a group home of the C.A.S. where corporal punishment was used and that the agency had, at one point, fired the staff of the group home and the person in charge of the group home was working for another society.

There is no mention in exhibit 2432 of Ms. Antoine arriving at the Anson Group Home with a broken arm. For that matter, there is no mention of any allegations of sexual abuse.

It is respectfully submitted that if the operator of a group home wrote to the Ministry about a C.A.S. ward's complaint of corporal punishment in a former placement, he would also mention that the same ward had arrived at his facility with an untreated broken arm.

#### The Anson Group Home

Ms. Antoine testified that Bryan Keough was her assigned worker after she went to the Anson Group Home in Minden. Exhibit 507 suggests otherwise. Exhibit 507 states that Mr. Keough stopped being Ms. Antoine's worker on June 3, 1974 and that Fran Lepage was Ms. Antoine's worker in March of 1976.

Ms. Antoine spoke of travelling from Minden to attend her sister's wedding in St. Andrews. It was her evidence that Mr. Keough drove her from Minden to the wedding and that he put her in the trunk of her car. Ms. Antoine changed her position the following day and stated that there were no issues between her and Mr. Keough on the way to the wedding and she denied that Mr. Keough had put her in the trunk of his car. However, on the third day of her testimony, Ms. Antoine took the position that Mr. Keough put her in the trunk of his car.

It was also Ms. Antoine's evidence that she was placed in the trunk of the car for the return trip from St. Andrews to Minden. However, the suggestion that she went back to Minden in Mr. Keough's vehicle does not accord with her evidence that when she arrived at the wedding, she took off and did not go back. Ms. Antoine testified that she was found three months after taking off and the courts ordered her to go back.

Mr. Keough testified that he did not transport Ms. Antoine to her sister's wedding.

In exhibit 504, Ms. Antoine's witness statement of January 21, 1990, Ms. Antoine stated, at Bates page 7175551 that the group home boss, David, drove her all the way back to Cornwall to see her sister get married.

#### Ms. Antoine's Allegations Against Ernest Lapointe

Ms. Antoine alleged that she was sexually abused by her father, Ernest Lapointe. As a result of her allegations, her father was charged and had a trial.

Mr. Keough testified at Mr. Lapointe's trial on January 18, 1996. According to Ms. Antoine's evidence, Mr. Keough testified, with respect to the alleged sexual assault on the part of her

father, that: (i) nothing happened, (ii) Ms. Antoine was lying and (iii) if anything did happen, she deserved it.

Mr. Keough denied saying such things at Mr. Lapointe's trial. Exhibit 2359, the transcript of Mr. Keough's evidence at the trial, clearly demonstrates that Mr. Keough did not say what Ms. Antoine suggested that he said.

### Ms. Antoine's Credibility

It is respectfully submitted that, as a result of the contradictions in the record, and the incredible testimony that Ms. Antoine gave, she is not a credible person and should not be believed with respect to any contentious issue. It is respectfully submitted that it is unsafe to make any findings of fact based upon Ms. Antoine's evidence.

### C-75

A review of exhibit 2213, the Admission Social History of C-75, reveals that C-75 was first placed in a foster home on October 1, 1975. Before coming into care, C-75 came to the CAS on several occasions asking to be admitted into care.

- Exhibit 2213, Bates page 1170043

It would appear, from the record, that C-75's mother and step-father had a difficult time controlling C-75 and that she became very unmanageable and uncontrollable. It was further noted that it was very difficult to influence C-75 and to set reasonable controls.

- Exhibit 2213, Bates page 1170041

The record also reveals that temporary wardship with respect to C-75 was granted on October 29, 1975 and was in effect until June 29, 1976. At the time that the temporary wardship order was granted, the court heard evidence that C-75 had been suspended from school.

- Exhibit 2213, Bates page 1170043

C-75 ran away from her first foster home on December 19, 1975. On December 22, 1975, C-75 ran to another foster home in Chesterville, Ontario

- Exhibit 2213, Bates page 1170043

Mr. Keough testified that he became involved with C-75 one Saturday afternoon when he got a call from the Ontario Provincial Police in Long Sault to pick up a teenage girl that was a runaway. Mr. Keough testified that he went to the detachment and put C-75 in his car. He described C-75 as being very agitated and very aggressive. He stated that on several occasions, C-75 tried to unstrap her seatbelt and open up the door.

- CPI, Vol. 284, pp. 98-99

Mr. Keough testified that C-75 appeared to be under the influence of an illicit substance

- CPI, Vol. 284, p. 178 and Vol. 285, pp. 147-148

Mr. Keough testified that he brought C-75 to Mrs. Matte's receiving home shortly after lunch and took C-75 to a room and asked her to disrobe and put a housecoat on. He then testified that he tied her to the bed and left the room. Mr. Keough testified that C-75 was put in a housecoat so that she could not run away. Upon leaving the receiving home, Mr. Keough was sure that he had seen C-75 in the doorway as he was leaving.

- CPI, Vol. 284, p. 99 and p. 174

Mr. Keough testified that later that day he telephoned his supervisor, Mr. Devlin and told Mr. Devlin what he had done. Mr. Keough testified that Mr. Devlin immediately reprimanded him and told him that Mr. Keough's response was totally inappropriate and unacceptable. Mr. Keough acknowledged that he had made an error in judgment by doing something that was totally inappropriate.

- CPI, Vol. 284, p. 99 and pp. 174 to 176

During his testimony, Mr. Keough acknowledged that there were a number of better options that he could have chosen with respect to his dealings with C-75 that afternoon. He stated that he should have taken her to the mental health floor of the Cornwall General Hospital to have her examined or taken her to the Cornwall police station

- CPI, Vol. 284, pp. 178-179

Mr. Keough testified that he documented what had taken place in the 24-hour duty roster and that he picked C-75 up later that night, at roughly 8:00 p.m., to take her to the group home. Mr. Keough testified that he apologized to C-75 for his actions earlier in the day and told her that they had been inappropriate and that he should not have done what he did.

- CPI, Vol. 284, p. 100, p. 179 and p. 187

The apprehension of C-75 is referenced in exhibit 2212, the April 1, 1976 report of the CAS Personnel Committee (Bates page 114876). Mr. Keough testified that he did not recall his involvement with C-75 in the way it is set out in exhibit 2212. For instance, Mr. Keough testified that he did not wrestle or take C-75's clothes off and that the door at the Matte Receiving Home was not locked.

- CPI, Vol. 284, pp. 98-99

Mr. Keough testified that he observed corporal punishment being used on C-75 when he brought her to the Second Street Group Home. Mr. Keough observed C-75 get strapped on her buttocks four or five times over her clothing by a male worker by the name of Gerry. Mr. Keough testified that the punishment had been sanctioned by Mr. Tenger.

- CPI, Vol. 284, pp. 84-86

Mr. Keough testified that he considered the strapping of C-75 at the Second Street Group Home that he had observed to be inappropriate but he did not intervene nor did he call Mr. Devlin to inform him what he had seen.

- CPI, Vol. 284, pp. 171-172

Mr. Keough testified that he remembered, after the night that C-75 was strapped, saying to himself that he needed to talk to Mr. Tenger about what Mr. Keough had observed. He also wanted to talk to Mr. Tenger about Mr. Tenger's anger and about punishing a child who was coming into the group home for something that they did prior to arriving at the home. Mr. Keough testified that he did not act on his intention to speak with Mr. Tenger before the other matters at the group home transpired.

- CPI, Vol. 284, pp. 172-173

The April 1, 1976 Report of the Personnel Committee indicated that Sister Theresa Quesnelle and Mrs. Follon examined bruises on C-75's buttocks which were still remaining after one week. With respect to exhibit 2212, Mr. Keough testified that he did not have any doubt in his mind that it is a correct record of what Mrs. Follon and Sister Quesnelle saw.

- CPI, Vol. 284, p. 166, Exhibit 2212, Bates page 1148762

With respect to the strapping of C-75 that Mr. Keough witnessed at the Second Street Group Home, Mr. Keough testified that he would not describe it as a beating. He testified that the strapping that he observed was not severe enough to cause any bruising. Mr. Keough stated that the bruising on C-75 that Mrs. Follon and Sister Quesnelle observed was definitely not the result of the strapping that he witnessed. Mr. Keough recalled a record which indicated that, following Mr. Keough's departure from the Second Street Group Home on the night in question, C-75 received more strappings both that night and the following day.

- CPI, Vol. 284, pp. 169-170

Mr. Keough agreed that, regardless as to when the strapping occurred, it was excessive if it was severe enough to leave bruises.

- CPI, Vol. 284, p. 170

Bates page 1170044 of exhibit 2213, indicates that C-75 left the group home on March 10, 1976. On the same date, C-75 was in court and was found guilty of an offence under the Education Act. The Admission Social History indicates that, due to extreme disciplinary measures, the judge recommended that the CAS terminate C-75's wardship.

- Exhibit 2213, Bates pages 1170043 to 1170044

It would appear that when C-75 attended court on March 17, 1976, her parents now had a plan for C-75. Both the parents and the CAS were in agreement with the application that was made before Justice Lalande. It would appear that the Admission Social History of C-75 quoted the endorsement made by Judge Roch Lalande. The March 17, 1976 endorsement stated as follows

This child appeared in Juvenile Court on March 10/76, charged under the Education Act. She was found guilty and returned home, subject to a period of probation with the Court Probation officer. The parents now have a plan for this child and in fact the child has been returned to them. The

parents are in agreement with the Application being made today and so is the Society. The Court feels it is in the best interest of the child that this ORDER be made.

- Exhibit 2213, Bates page 1170043 to 1170044

### The C.A.S. Response To Issues Arising From The Second Street Group Home

In exhibit 2210, Angelo Towndale's witness statement provided to Cst. White of the Cornwall Community Police Service on or about September 23, 1994, Mr. Towndale stated that the Second Street Group Home was used for children who had serious behaviour problems and who could not function in a traditional home. Mr. Towndale noted that the operation of such a home was the agency's first attempt to provide alternate care for children who, until then, were expected to function in regular foster homes or in paid institutions outside of the area.

Mr. Towndale testified that in the fall of 1975, he did not hear any complaints or concerns with respect to the treatment of children in the Second Street Group Home and that he heard positive feedback.

- CPI, Vol. 275, p. 39

Mr. Towndale testified that the CAS had a number of children in the Second Street Group Home when Mr. Rabey died in December of 1975. The CAS then looked at the staff of the CAS and chose Derry Tenger to take over the operation of the group home. Mr. Towndale stated that Mr. Tenger was selected because of the interest he had shown in establishing facilities such as the Laurencrest Youth Residence.

- CPI, Vol. 275, p. 41

Mr. Towndale testified that, prior to Mr. Tenger's placement in the group home, the CAS did not have any concerns and that it considered Mr. Tenger to be a good worker.

- CPI, Vol. 275, pp. 42-43

Mr. Towndale stated that Mr. Tenger hired staff members, such as Heather Tenger, Michael Keough and Jerry MacGillis to work in the group home. Mr. Towndale testified that Bryan Keough remained as a social worker at the C.A.S. and that Mr. Keough had a regular caseload and assisted at the group home on a need basis.

- CPI, Vol. 275, p. 43

Mr. Towndale stated that he was asked by the CAS board of directors to be the acting executive director when Thomas O'Brien went on sick leave for about three months commencing in February of 1976. Mr. Towndale noted that he also carried out his normal duties as a supervisor at the same time. Mr. Towndale indicated that the additional responsibilities required extensive time carrying out the administrative duties of the director doing such things as preparing the budget and preparing for the annual meeting.

#### March 4, 1976 Staff Meeting

Mr. Towndale noted that the first indications of concern with respect to the Second Street Group Home came to Mr. Towndale's attention at a staff meeting on March 4, 1976 which was attended by Steve Charko, the program supervisor for the Ministry of Community and Social Services. Mr. Towndale stated that, at that meeting, Mr. Charko, Peggy Follon and some staff members expressed surprise to Mr. Towndale to see the entire group home staff dressed in black. Mr. Towndale noted that, while Mr. Tenger was accustomed to wearing black or dark clothing, this was the first time that he noticed that all the group home staff was wearing black or dark clothing.

Mr. Towndale made inquiries to other staff and it was at that time that he discovered that some of the methods of discipline used at the Second Street Group Home were questionable. Mr. Towndale cited examples such as children being required to move snow from one pile to another in the middle of the night, children being made to wash the floor with a tooth brush, being made to kneel on beads and some corporal punishment.

Following his discovery, Mr. Towndale brought the matter to the attention of some of the board members. Mr. Towndale noted, at the time, that the CAS had no written policy on corporal punishment.

#### March 5, 1976 Meeting With Group Home Staff

Mr. Towndale stated that a meeting was held on March 5, 1976 in order to discuss the use of physical punishment at the Second Street Group Home. The following participants attended the meeting: Mr. Towndale, Dave Devlin, Canon Irwin, Mr. Tenger, Mike Keough and Bryan Keough.

- Exhibit 2212, Bates page 1148761

#### March 8, 1976 Meeting With Group Home Staff

Mr. Towndale stated that a second meeting was held on March 8, 1976. On that date, Mr. Towndale was approached by Mr. Tenger and Michael Keough for permission to strap three girls who ran away from the Second Street Group Home. Exhibit 2212 states that Mr. Towndale refused to give his permission to strap the girls. Mr. Towndale testified that his position on that issue was firm; he was not in favour of the use of corporal punishment

- CPI, Vol. 275, p. 64, lines 3 to 18, Exhibit 2212, Bates page 1148761

## March 8, 1976 Interviews With Children From The Group Home

Mr. Towndale testified that he wanted to have feedback from the children of the Second Street Group Home before he attended a Personnel Committee meeting that Ms. Labekovski had arranged for March 9, 1976. As a result, he and Mrs. Gratton interviewed the boys from the group home while Sister Quesnelle and Mrs. Follon interviewed the female residents of the group home. Mr. Towndale testified that the residents of the group home were interviewed individually. During the course of the interviews the children made allegations about the way that they were treated at the Second Street Group Home.

- Exhibit 2212, Bates pages 1148761 to 1148762, CPI Vol. 275, pp. 64-67

Mr. Towndale testified that he never heard any allegations of sexual abuse at the group home. Mr. Towndale testified that he was focused on the issue of corporal punishment and that he did not ask about sexual abuse or sexual misconduct during the interviews that he conducted.

- CPI, Vol. 275, pp. 70-71

Mr. Towndale testified that, in 1976, the issue of sexual abuse was not at the forefront of his mind in the CAS. He stated that physical abuse and physical punishment was at the forefront at that time.

- CPI, Vol. 275, pp. 74-75

Mr. Towndale was very disappointed to hear of the treatment reported to him by the children. He stated that the reported treatment was "demeaning, quite harsh and unacceptable".

- CPI, Vol. 275, pp. 71-72

Personnel Committee Meeting of March 9, 1976

Mr. Towndale testified that a Personnel Committee Meeting was held on March 9, 1976. Bates page 1148763 of exhibit 2212 indicates that a report of the children's interviews was read to the Personnel Committee. The exhibit also indicates that the Personnel Committee heard from John McKee, the director of Laurencrest and Ron Adams, the C.A.S. lawyer.

Mr. Towndale stated that the response to the information with respect to the children was divided in that some thought that difficult children and children need discipline.

- CPI, Vol. 275, pp. 77-78

Mr. Towndale testified that the CAS board of directors was divided on the issue of corporal punishment.

- CPI, Vol. 275, p. 61 - 62

Mr. Towndale testified that Mr. Tenger, Michael Keough and Bryan Keough then joined the March 9 Personnel Committee meeting. Mr. Towndale stated that there was a discussion and the group home staff took the position that discipline is needed and that there is improvement in children when discipline is used.

- CPI, Vol. 275, pp. 78-79

Records indicate that Mr. Tenger and the Keough brothers felt that their actions were justified and, in their opinion, the behaviour of the children at home and at school had greatly improved.

- Exhibit 2212, Bages page 1148763

Mr. Towndale stated that the March 9, 1976 Personnel Committee meeting concluded with a motion put forth that the staff of the home refrain from strapping children and that, if isolation of

children was required, it should be no longer than 24 hours and the child should be provided with a bed and bedclothes.

- Exhibit 2212, Bates page 1148763

With respect to the motion, Mr. Towndale felt that the word "refrain" in the motion was not strong enough. He also testified that he felt 24 hours of isolation was too long.

- CPI, Vol. 275, p. 80

Mr. Towndale testified that the Personnel Committee was of the view that there was a need for further discussion. The Personnel Committee felt that this was a much bigger issue than originally thought and that further investigations and policies were required. The Personnel Committee also felt that they should talk with the entire staff of the group home to discuss their ideas about punishment.

- CPI, Vol. 275, p. 80, Exhibit 2212, Bates page 1148763

#### The March 10, 1976 Run From The Group Home

Bates page 1148763 of exhibit 2212 indicates that on March 10, 1976, five children, including Jeannette Antoine, ran away from the group home. The report indicates that Ms. Antoine and C-84 returned to the CAS and asked to speak to Sister Theresa Quesnelle and Mrs. Follon. The report further indicates that Mrs. Follon and Mrs. Labekovski talked with the two children. The report goes on to indicate that Jeannette Antoine and C-84 were afraid to go back to the group home, so they went to Mrs. Follon's house for supper.

While at supper, C-84 and Jeannette Antoine told Mrs. Follon that the other three children were hiding in a cottage in Summerstown. C-84 and Jeannette Antoine then agreed to go with Mr.

Devlin and Sister Quesnelle and show Mr. Devlin where the other children were. Mr. Devlin found the children at the cottage and they were all returned to the group home.

#### The Replacement of the Group Home Staff

Mr. Towndale testified that, on March 11, 1976, he decided to move Mr. Tenger from the Second Street Group Home and ask Mr. Tenger to return to his former position as a childcare worker at the C.A.S. As Mr. Tenger did not want to return to his former position, Mr. Towndale gave him a week to consider his position.

- CPI, Vol. 275, pp. 87-89

Mr. Towndale testified that, when he moved Mr. Tenger from his position in the group home, the group home staff also got upset, so Mr. Towndale also moved the staff out of the group home.

- CPI, Vol. 275, p. 89, lines 3 to 22

#### March 17, 1976 Meeting Between Personnel Committee and Group Home Staff

Mr. Towndale testified that he attended a March 17, 1976 meeting between the Personnel Committee and the group home staff. He described the meeting as being very emotional. Mr. Towndale stated that the meeting was an opportunity for the group home staff to come tell the Personnel Committee about their philosophy on punishment and other matters of discipline, but the staff did not seem to be interested in employing different methods.

- CPI, Vol. 275, pp. 90-91

Bates pages 1148764 to 1148765 of exhibit 2212 indicate that the Personnel Committee felt that the group home staff could never work with a new director who would try to use behaviour modification and other less negative forms of discipline. The Personnel Committee also

concluded that the group home staff was not willing to learn new ways of discipline and concluded that the staff voiced contempt for other, more positive theories suggested to them. It was also noted that the group home staff showed hostility and contempt for the Personnel Committee and the way that the whole matter had been handled.

The Personnel Committee found that Heather Tenger, Mike Keough, Jerry McGillis and Ann Jaeger should submit their resignations to the board immediately and, if they refused, they would be immediately suspended and the matter would be brought to a full board meeting within fourteen days. The resignations of these staff members, along with Mr. Tenger, were received on March 18, 1976.

- Exhibit 2212, Bates page 1148765

Mr. Towndale noted that Mr. Tenger and Bryan Keough were offered their former positions within the C.A.S. and that Bryan Keough returned to his former position as a social worker in the child care department while Mr. Tenger resigned.

#### March 24, 1976 C.A.S. Annual Meeting

During Mr. Towndale's evidence in chief, exhibit 2215, the minutes of the C.A.S. annual meeting held on March 24, 1976 was put to him. Mr. Towndale stated that he arranged for the panel, which consisted of Fred Chafe, John McKee, Gordon Bryan and Cam Copeland to attend

- Exhibit 2215, Bates page 1169820, Vol. 275, pp. 102-103

The panel discussed the use of corporal punishment in the disciplining of children. It was noted in the minutes that "[t]his was a most controversial topic and sparked a great deal of response from the audience."

The concluding paragraph of exhibit 2215, the March 24, 1976 minutes of the annual meeting, state as follows,

"In summing up, Father Villeneuve remarked that Corporal Punishment has been used by a large majority of our society in the raising of children, and it will take a great deal of education as to its harmfulness [sic], before it is seen as a practice of the past."

### New Group Home Directors

Mr. Towndale stated that the C.A.S. placed Dick Mulligan, another social worker at the C.A.S. in charge of the Second Street Group Home until a new group home director could be put in place. Mr. Towndale stated that several social workers at the C.A.S. assisted Mr. Mulligan until permanent staff could be hired.

Mr. Towndale stated that at some point in 1976, Ian MacLean applied to the agency for a position. He stated that Mr. MacLean was hired as a social worker and was put in charge of the group home at that time.

Mr. Towndale stated that the Second Street Group Home was eventually closed down and Mr. MacLean started developing specialized foster homes that could accommodate children who would otherwise have gone into group homes.

### Allegations Against John Primeau

During the course of the 1994 Cornwall Police Service investigation into the allegations made by Jeannette Antoine, allegations against John Primeau, a former staff member employed at the

Second Street Group Home, surfaced. During the course of his investigation, Cst. White took statements from C-83 and C-87 alleging that Mr. Primeau had abused one of the residents of the Second Street Group Home during the post Derry Tenger era.

- Exhibit 2210, Bates pages 7175341 to 7175342, 7175346

During the course of the 1994 investigation, Ian MacLean provided a statement to Cst. White.

- Exhibit 2210, Bates pages 7175441 to 7175442

Mr. MacLean stated that when he started at the Second Street Group Home, there were three group home workers, one of whom was John Primeau. In his statement, Mr. MacLean stated that Mr. Primeau was a stubborn individual who liked to do everything his own way. Mr. MacLean stated that one of Mr. Primeau's practices was to take a child from the group home on outings. Mr. MacLean stated that he did this, especially with the girls, and, in particular, C-87. Mr. MacLean stated that he was against this practice and advised Mr. Primeau to refrain from doing it. However, Mr. Primeau did not always comply.

- Exhibit 2210, Bates pages 7175441 to 7175442

Mr. MacLean indicated that he had no recollection of anyone ever making a complaint against Mr. Primeau for any wrongdoing. During the course of his testimony, Mr. MacLean stated that he had concerns with respect to Mr. Primeau.

- CPI, Vol. 288, pp. 9-10

Mr. MacLean stated that one of his first goals was to develop a teamwork atmosphere amongst the staff. Mr. MacLean stated that, after the staff members had decided on a daily routine for the

home, Mr. MacLean would come back and find that Mr. Primeau had not followed the routine that the staff had agreed to.

- CPI, Vol. 288, p. 10

Mr. MacLean testified that he did not observe Mr. Primeau leaving the premises with wards but would discover that Mr. Primeau had done this by reading the log.

- CPI, Vol. 288, p. 11

Mr. MacLean stated that he confronted Mr. Primeau individually and the other staff members would confront him during group meetings as well. Mr. MacLean indicated that he told Mr. Primeau that it was dangerous to take the wards away from the group home. Mr. MacLean testified that he made his supervisor, Dave Devlin, aware of what Mr. Primeau was doing. Mr. MacLean does not believe that he brought this issue to the attention of Mr. Devlin's supervisor, Mr. O'Brien.

- CPI, Vol. 288, pp. 13

#### C.A.S. Position With Respect To The Second Street Group Home

In the mid 1970's, the C.A.S. entered into a new area of operations when it decided to operate local group homes.

It is clear from the evidence that, once the C.A.S. determined that there was a problem with respect to the administration of harsh discipline in the group home, it took decisive action to meet with the children, hear what they had to say and then addressed the issue by removing the group home staff from the home.

While the treatment that some of the children in the group home received is, no doubt, harsh by today's standards, when considering the issue, one must keep in mind that society's views concerning corporal punishment were far different then than what they are today.

As indicated in the evidence, there were no standards for the C.A.S. to turn to at the time. There was also no policy with respect to conducting investigations of its staff members. The local police were not involved as, according to the evidence, it was not the practice to do so back then.

Looking back at the events relating to the Second Street Group Home, one can see that, as time went on, the C.A.S. refined its response. While, in 1976, the C.A.S. did not turn to outside agencies for assistance, that was no longer the case in 1989, when Mr. O'Brien sought the assistance of the local Crown Attorney and the local police.

It is respectfully submitted that, in 1994, the C.A.S. cooperated fully with the investigation conducted by Cst. White of the Cornwall Community Police Service.

In looking back on the Second Street Group Home events, the C.A.S. certainly learned a number of important lessons with respect to how to deal with such allegations. If such allegations were to surface today, one would see an entirely different response whereby the police and, perhaps, an outside society was involved. While the C.A.S.'s institutional response was by no means perfect by today's standards, it is respectfully submitted that the society's response was not out of line with the expectations that existed in the mid 1970's.

## **CIESLEWICZ FOSTER HOME**

### **Background**

This home was a foster home and a receiving home from 1972 until 1978. The home was closed because the foster father had made inappropriate sexual advances on several of the female wards in the home.

This case pre-dates any child protection and child care standards in Ontario. As well, it was not until 1978 that child welfare legislation was amended to include sexual molestation as a form of abuse. The evolution of standards and legislation was discussed in great detail earlier in this submission.

### **C-78 Allegations**

In March of 1976 Bryan Keough conducted an investigation in the home, as he was a worker for one of the wards at the time. Mr. Keough could not recall if he had read the foster home file prior to becoming the worker for C-76 or if it were even required to do so. Generally, the workers were required to make some input into the foster home file, but it was not reviewed regularly by them or in supervision. Mr. Keough could not recall ever reviewing the foster home file with his supervisor of the day, Mr. Towndale.

- Ex. 2227, bates pages 1072406 front to 1072407 front; CPI Vol. 285, p. 12-14

When questioned about this home, Mr. Towndale indicated he had no recollection of the file.

- CPI Vol. 276, page 31

The investigation reveals that the foster father asked C-78, a ward in the home, to remove her shirt, which she did. There was no touching involved. The foster mother moved from the home with all the children until the matter could be worked out. Mr. Keough advised both David Devlin and Angelo Towndale, who was then Acting Director, of this matter.

- Ex. 2227, bates page 1072406 back

One of the wards who supported C-78's allegations, C-76, later recanted her story, yet Mr. Keough continued with his investigation and the children were not to be alone with the foster father until the investigation was concluded. The home ultimately did remain open. The file refers to a re-assessment of foster homes form, which does not appear to be in the file.

- Ex. 2227, bates page 1072406 back - 1072407 front

Mr. Keough did not recall if he specifically discussed these allegations with Mrs. Gratton, the foster home finder, but is certain those discussions would have taken place since the foster home file was her responsibility.

- CPI Vol. 284, page 3

### **C-77 Allegations**

During Mr. Keough's testimony, a marital problem that occurred between the foster parents before the investigation regarding C-78 was discussed. Although not mentioned in the foster home file, that marital problem appears to be related to another ward, C-77, making a complaint that the foster father had fondled her breasts. This connection was not made by Mr. Keough at the time and it is not clear if he was advised of this instance at the time it occurred.

- Ex. 2227, bates page 1072407 front; Vol. 284 page 6; Vol. 285, page 17

It appears that C-77 made that complaint and was then removed from the home. The entry made some years later in the foster home file indicates that this complaint was not investigated since C-77 was known to lie frequently. The entry made years later also indicates that C-78 was removed from the home following the allegation that Mr. Keough had investigated.

- Ex. 2227, bates page 1072407 front

Although it is not indicated in the file, Mr. Keough testified that he asked one of the natural daughters some questions about the father. Mr. Keough also indicated that his practice would have been to interview C-76 during his investigation, although he cannot specifically recall this.

- CPI Vol. 284, p. 10 - 12

Mr. Keough does recall speaking with Mr. Towndale about the matter because he felt he required assistance, but cannot recall exactly what was discussed. Mr. Towndale was Acting Director at the time, as Mr. O'Brien was away. This was the same time period after the Second Street Group Home issues, and the closure of the Barber Foster Home. Mr. Towndale was Acting Director in addition to maintaining all of his duties as supervisor during this three month period and he had a lot of responsibilities during that period. At this time, Mr. Towndale was only one of two supervisors at the agency.

- CPI Vol. 284, p. 10 – 12; Vol. 276, page 33; Vol. 277, page 11 – 13; Vol. 281, page 6

### **C-79 Allegations**

C-79 was a ward from Quebec who had run away and was temporarily placed in the Cieslewicz home for two nights. She indicated that Mr. Cieslewicz had ejaculated on her and she had wiped it away with the sleeve of her shirt. When workers spoke with her, there did appear to be a dried

substance on her sleeve. It states in file that C-79's allegations were not investigated because of her "bad reputation".

- Ex. 2227 bates page 1072407 back

Mr. Keough does not recall being involved in any investigation relating to the complaints made by C-79. He does not even recall the C-79 allegations and thus likely was not advised of them at the time.

When asked his opinion about the failure to investigate C-79's allegations, Mr. Keough indicated that if the same scenario had occurred in the eighties, there would have been a much different result. In the seventies, there was no training for sexual abuse, they had no idea what indicators to look for and all workers had high case loads. Any mistakes that were made at the time were not made intentionally and workers were trying to do the best they could. Mr. Keough further suggests that if such allegations were made of natural parents in the same situation, he is not sure that the results would be different.

- CPI Vol. 285, pages 25-26, 34

Mr. Towndale was also asked about the failure to investigate C-79's allegations. He agreed that, given that there may have been some evidence, her allegations should have been looked at more carefully.

- CPI Vol. 276, page 45

### **Ministry Involvement with C-78**

In February of 1978, C-78 was in Anson home, outside of the C.A.S.'s jurisdiction and had complained to someone at the home of sexual abuse while in the care of the agency. As a result,

Mr. Devlin and Mr. O'Brien met with Robert Penney, a Supervisor with the Child Welfare Branch to discuss the matter. At this point, the Cieslewicz home was still open. Mr. O'Brien's notes indicate that he explained the allegations made by C-78, that she had been removed from the home and the matter had been investigated and could not be proven or disproven. Mr. Penney was aware that the foster home was still being used as both a foster home and receiving home and was satisfied with the explanations given. Mr. Penney indicated he would use the information provided to provide a report to the Minister

- Ex. 2432

### **C-76 Allegations**

The allegation which finally closed the home was that made by C-76, the ward in the home whom Mr. Keough supervised. This disclosure was made on October 16, 1978 and C-76 was removed on October 20. Mr. Keough specifically recalls this disclosure and, although not indicated in the file, counselling and support was offered to C-76 following the removal from the home. Mr. Keough recalls that these allegations were not taken lightly and the intention was to protect the children.

- Ex. 2227, bates page 1072408 back; CPI Vol. 284, page 18

### **Interactions with Ministry and Crown Attorney**

Following the closure of the home, the Ministry was advised. At the advice of the Ministry, the Crown Attorney was also advised. The Ministry supported the agency contacting the Crown Attorney of the matter and did not request police involvement.

- Ex. 2337; Ex. 2228

Mr. Keough does not recall being at a meeting with the Crown Attorney, although notes indicate he was present. The report to the Ministry was made by Mr. O'Brien, who likely wrote the report after meeting with the workers involved and the supervisors involved.

- CPI Vol. 284, page 20

Mr. O'Brien had no independent recollection of this home when he testified at the Inquiry. The report of the meeting with the Crown was sent to the Ministry, advising them that no charges would be laid. Mr. Towndale also did not have any independent recollection of meeting with the Crown Attorney.

- CPI Vol. 292, page 18; Ex. 2338

Mr. O'Brien did recall in his testimony that he would speak to the Crown Attorney about matters because this was a small town, he knew the individual well, as there were only one or two Crown Attorneys, and he felt comfortable proceeding in that manner. While Mr. O'Brien provided the information to the Crown Attorney, he felt that if more information was needed, the Crown Attorney would advise him.

- CPI Vol. 292, pages 86-87

At the time of the referral to the Crown Attorney, no one from the C.A.S. was advised by the Crown Attorney to contact the police. Mr. Towndale indicated that although, in hindsight, the agency should have seen it as a police matter, they were following the instructions of the Ministry in referring it to the Crown Attorney.

- CPI Vol. 277, page 72 - 73

Mr. Keough was questioned as to whether or not he thought the agency handled the Cieslewicz matter properly, even for the standards of the seventies. Mr. Keough's reply was that "we did the best we could".

- CPI Vol. 285, page 99

There was no thought of contacting the other children who had been in the Cieslewicz home following its closure. It is unlikely that would occur even today. The agency simply does not have the resources to contact all former placements. As well, some wards do not want to have C.A.S. contacting them once they leave care.

- CPI, Vol. 284, page 22

When the Crown Attorney of the day, Donald Johnson, testified at the Cornwall Public Inquiry, he was asked by Dallas Lee as to whether or not the agency had a vested interest in not seeing the Cieslewicz matter go any further. Mr. Johnson replied that Mr. O'Brien was an honest individual doing the best he could with the resources he had.

- CPI Vol. 329, page 63

### **Tendency to Disbelieve Complaints**

During his testimony, Mr. Towndale indicated that at the time, the tendency was to believe the adult, that was how things were at the time. Societal thinking of the day about the belief that children were lying was confirmed by experts who testified at the Inquiry, such as Dr. Wolfe and Professor Bala. The Stalker Report also confirms that this was the assumption of the time regarding disclosures by children.

- CPI, Vol. 276, page 42; CPI, Vol. 4, p. 83; CPI, Vol. 5, p. 161; Ex. 2346A, p. 18

## **Lack of Training for Sexual Abuse Investigations**

Mr. Keough reveals in his testimony how ill-prepared he was for an investigation into sexual abuse of a foster child. He specifically remembered meeting with the foster parents to discuss the allegations because he “didn’t have a clue” what he was doing. He felt unsure of himself and did not know how to proceed. He felt completely inept. They had not had any training on dealing with these matters in the seventies.

- CPI, Vol. 284, page 9

Mr. Keough’s feeling at the time is confirmed by experts who testified at the Inquiry that in the 1970’s and early 1980’s there was no knowledge about how to respond to this type of situation and the professionals of the day were bewildered over these new situations, they were learning as they went.

- CPI, Vol. 7, p.8, p. 23; CPI, Vol. 7, p. 28

Mr. Keough testified that if this matter had come up in the eighties, after C.A.S. staff had appropriate training, it would not have been handled the way it was. Prior to receiving any training on sexual abuse investigations, the staff did the best they could

- CPI Vol. 284, p. 10

## **C-14**

The individual with the moniker of C-14 was a ward of the C.A.S from 1972 until 1980. C-14 testified that he was physically and sexually abused while in C.A.S. care. Further, C-14 was dissatisfied with the disclosure process when he requested access to his C.A.S. file.

### **Barber Foster Home**

C-14 was in the Barber Foster Home from 1972 to 1977. In his testimony he described that he and other wards were severely beaten by both the foster mother and foster father. During cross-examination, C-14 indicated that he was also physically and sexually abused by Arthur Sypes, a challenged adult who resided with the Barbers.

- CPI Vol. 116, pages 18-20

This is another case which pre-dates any child protection and child care standards in Ontario, as discussed in greater detail earlier in this submission.

There is no information in C-14's child care file to indicate that the C.A.S. was aware of his mistreatment in the home until the latter part of 1977, when information about harsh physical treatment by the Barbers came to light as a result of an initiative by Angelo Towndale.

- Ex. 538

On several occasions during his testimony, C-14 disputed the contents of his child care file stating that the notes the worker had written at the time were simply untrue. Not all of C-14's former workers were called to testify at the Inquiry and those that were called indicated that their notes were accurate. Several C.A.S. witnesses testified that the practice regarding note-taking was that notes be made concurrently or within 24 hours of an event.

C-14 testified that he ran away from the home on several occasions and when he had to return his foster parents told him that he would not find another placement. There is no record in C-14's child care file of him running away from this home.

- CPI Vol. 116 p. 20-21

C-14 suggested in his testimony that doctors saw his bruises but that his foster mother explained them away. During an unscheduled hospital stay after C-14 contracted pneumonia he did not disclose the abuse at that time and there was no abuse reported to the agency by any of the medical professionals who treated him during his three week stay. Following this hospital stay, there were three subsequent medical appointments and it does not appear that C-14 made any disclosures to these physicians.

- CPI Vol. 116, p. 22-23

C-14 further suggested that teachers never asked him about bruises or marks, which would have been visible. None of C-14's school information contained in his file revealed any suggestions of abuse.

- CPI Vol. 116

In his testimony, C-14 indicated that he started having headaches as a result of beatings at the Barber home and that he did not receive treatment for these. The file for C-14 does indicate that he was referred to a doctor for headaches. Other than the headaches and the hospitalization for pneumonia, C-14's child care recording reveals no other significant health problems.

- CPI Vol. 116. p. 25; Ex. 538, esp. bates page 1072610 front

C-14 testified that he was sexually abused by Arthur Sypes, a mentally challenged ward that lived with the Barbers. The abuse ended when C-14 was old enough to defend himself, yet he still had to share a room with his alleged abuser. There is no information in the file that indicates what the sleeping arrangements were at the Barber foster home at the time. There is also no mention in the file that any of the workers were ever aware that any sexual abuse occurred in the home, and C-14 indicated in his testimony that he did not disclose the abuse at that time.

- CPI Vol. 116. p. 25-28

C-14 testified that Arthur Sypes was put in charge of him when the foster parents were away from the home. The file does not reflect that the agency was aware of this allegation and C-14 did not indicate in his testimony that he ever disclosed this to anyone with the C.A.S.

- Ex. 538

C-14 testified that he disclosed physical abuse to Rod Rabey, his worker from 1972 to 1974. He was asked by this worker if his foster father had used the strap on him and he said yes. C-14 does not indicate he went into further details. He stated that nothing was done and that Mr. Rabey told him not to exaggerate things. There is no mention in the child care recordings of this incident.

- CPI Vol. 116. p. 29

In the period of 1972 to 1974, strapping was still seen as an appropriate method of discipline in the home and in educational institutions. It is unlikely that a C.A.S. worker would have determined that use of the strap equalled physical abuse at the time. This was confirmed during the testimony of Bryan Keough and school board witnesses. Such a disclosure would be viewed as abuse in the present day.

While a ward of the C.A.S., C-14 indicates that his parents were not allowed to visit him or contact him and that his mother sent him letters and gifts which were hidden from him.

- CPI Vol. 116, p. 31-33

The child care recording does indicate that C-14 visited with his family and that a plan was made for a further parent-sibling visit. There is no mention in the child care recording of any issues regarding visits with C-14's family, be it a desire for more visits or any problems with visits until an unscheduled visit which prompted C-14's move from the home.

- Ex. 538, bates page 1072604 front, 1072605 back, 1072607 back

Further, the recording suggests that C-14 was aware of the mail being sent yet did not acknowledge it. Since it is mentioned in the child care recording, it is likely that the issue of the letters would have been discussed by the worker with C-14. C-14 disputes these sections of his file and denies that this issue was ever discussed with him.

- Ex. 538, bates page 1072604 back, 1072606 front

During his testimony, C-14 indicated that his workers did not speak with him alone. Yet, his file reveals that he was visited at school, he was at a camp with his worker, and that C-14 was seen separately at the home. C-14 disputes many of these entries in his file.

- Ex. 538, bates page 1072604 front and back, 10672607 back

During his testimony, Mr. Keough indicated that the pattern with C-14 was the same with other wards: he would meet with the foster parent(s), then with the child, and then everyone together. Mr. Keough further confirmed that his goal was to meet with the child out of earshot of the foster parents.

- CPI Vol. 285

When requesting records disclosure as an adult, C-14 admitted to a C.A.S. supervisor that he did trust Mr. Rabey. Only in cross-examination did C-14 indicate he had made disclosure of abuse while still a youth. This would have occurred at summer camp and he alleged that his worker, Mr. Rabey, dismissed his revelation.

- Ex. 528

C-14 indicated in his testimony that there were many arguments between him and his foster mother and that when Bryan Keough was his worker there would be many sessions at the kitchen table. C-14 alleges that Mr. Keough told the foster mother to “knock his f’ing teeth down his throat until he learns to shut his mouth”. During his testimony at the Inquiry, Mr. Keough stated that he does not use foul language, even in a moment of anger, and he would not have said such a thing. C-14 also alleged that Mr. Keough was there for a visit one day and there was blood coming from his mouth. Mr. Keough did not recall this ever occurring.

- CPI Vol. 285

C-14 felt that his workers supported the actions of the Barbers. As indicated previously, there is no indication that any of C-14’s workers were aware of any abuse prior to his disclosure in 1977. Although C-14 had a number of behavioural problems and required discipline, the challenges he presented were not unusual for teens. In fact, C-14 had a nervous tick when he entered care, and it seemed to disappear after a couple of years. This was confirmed by Mr. MacLean in his testimony, that C-14 was presenting some difficulties, but could still live in the foster system

- Ex. 538, bates page 1072606; Vol. 290

Following his departure from the Barber home as a result of his disclosures, C-14 is placed in the Hubert Foster Home, where he indicates he disclosed the physical abuse he suffered previously to his new foster mother, Mrs. Hubert. While C-14's recollection of the events is not exactly what is revealed in the child care file or in the testimony of other witnesses, all witnesses agree that Mr. Keough, Mr. Angelo Towndale and Mrs. Mary Gratton were all aware of C-14's complaints regarding the Barber home.

When Mr. Towndale testified, he indicated that C-14's harsh physical treatment in the Barber home was made known as a result of a questionnaire, which was sent to all teenage wards and was intended to get a feel for what is happening with the foster care system and how they were being treated. This was following the issues regarding physical punishment in the Second Street group home. Mr. Towndale had taken the initiative to determine if any other teens were not being treated appropriately in foster homes or group homes. There is no indication that anyone at the agency was aware of any improper treatment of C-14 until this questionnaire was received.

- CPI Vol. 275, pages 151-152

C-14 was the only individual who replied to the survey and it disclosed the abuse he suffered at the Barber home. Mr. Towndale contacted C-14 about the survey and told him that he believed him, that he was upset with the treatment C-14 had received and that the home would not be used any longer. This information was received on Mr. Towndale's last day of work before a leaving to attend to a serious family matter overseas, yet Mr. Towndale ensured that he called C-14 to validate his disclosure and say that he was believed. Further, Mr. Towndale acted upon what C-14 had disclosed to him, by ordering that the home be closed. This was noted in his testimony,

the fact that Mr. Towndale generally believed what a child was saying, although that may not have been the prevailing sensibility at the time

- CPI Vol. 275, page 154-6, Vol. 277.

While Mr. Towndale was away, though not directed to do so, Mr. Keough conducted an investigation into the Barber home. Mr. Towndale testified that, in hindsight, perhaps the Protection Department should have conducted an investigation, instead of Mr. Keough. When Mr. Keough testified, he indicated at the time that the workers did the investigations, as he had with another home. Mr. Keough confirms that no one ever told him it was improper for him to do an investigation, even though C-14 had alleged he failed him as a worker. Mr. Keough indicated that he continued with the investigation once C-14 asked for Mr. Keough to remain his worker.

- CPI Vol. 275, page 157; Vol. 285

Mr. Keough normally would have reported this situation to his supervisor, which was Mr. Towndale, but he was away for an extended period. It is unclear if Mr. Keough received instructions from the other supervisor, David Devlin, to conduct this investigation or if Mr. Devlin was advised of the results of the investigation. Mr. Devlin was not called to testify at the Inquiry.

It is possible that Mr. Keough spoke with the director of the day, Tom O'Brien, although there is no indication in the file that this occurred. When Mr. O'Brien testified, he indicated that he did not recall C-14 and this situation. Mr. O'Brien testified that he had full confidence in the employees who were dealing with the situation and that they may not have come to him with the matter. Mr. O'Brien further emphasized that he is and was comfortable with how Mr. Towndale handled the situation and that it did not need to come to his attention.

- CPI Vol. 292, page 102; Vol. 293

Mr. O'Brien further indicated that there was no policy on whose ultimate authority the decision whether or not to involve the police or Crown Attorney in a matter was made. He did not have to authorize all contacts to the police or Crown Attorney.

- CPI Vol. 292

In his testimony at the Inquiry, Mr. Keough indicated that he did recall the investigation into the Barber home. When he first was made aware of the mistreatment, he did feel as if he failed C-14 for not picking up on the abuse. Any worker assigned to protect children who finds out they failed to protect them, no matter what effort was made, would feel the same. Despite these issues, the file recording illustrates that C-14 asked Mr. Keough to remain his worker.

- Ex. 538; CPI Vol. 283

Though Mr. Keough had some concerns about discipline being reactive, he had not observed any bruises on C-14 and, for the most part until the end, things in the home were fairly positive. There is one line in the recordings where Mr. Keough referred to C-14 getting "a good slap". Mr. Keough in his testimony indicated that he meant this was not a slap in the face, but a tap to the back of the head, a wakeup call.

- CPI Vol. 283

In the closing summary for the home, Ms. Gratton does not make reference to Mr. Towndale's instructions to close the home. In his testimony, Mr. Towndale indicated that he clearly recalls ordering that the home be closed.

- CPI Vol. 275, page 161

Following the disclosure of abuse in the Barber home, C-14 indicated he was not offered any counselling. C-14 indicates that he did not disclose the sexual abuse in the home.

In his testimony and following the disclosure of his redacted file in the 1990s, C-14 indicated he was not satisfied with the investigation that had taken place after he disclosed abuse in the Barber home. Specifically, he was not satisfied that the police had not been involved.

- CPI Vol. 116

When Mr. Keough testified, he indicated that he left the decision regarding closing the home and any further action to his superiors.

- CPI Vol. 283

C-14 testified that he called Mr. Keough in 1981 or 1982 and told him about the abuse at the Barbers, both physical and sexual and that Mr. Keough was unresponsive. There is no record of this phone call in the file. Later, when C-14 contacted Lorenzo Murphy of the agency, he indicates that he had not previously disclosed the sexual abuse. Mr. Keough had no recollection of such a phone call.

- Ex. 529; CPI Vol. 285

### **Lapensee Home**

There were some problems with C-14 and other wards at the Hubert foster home, so he was moved to the Lapensee Group Home in March, 1978. Upon the move to this home, C-14's new worker was Ian MacLean.

C-14 testified that he had an altercation with one of the elder sons of the group home parents where he was threatened and thrown to the ground. This altercation is not identified in the file, and C-14 does admit that he did not report it because he felt that no one would listen.

- CPI Vol. 116

It was a brief period between the disclosure of the incidents in the Barber home and the incident in the Lapensee home. C-14's disclosures about the Barbers were believed by Mr. Keough, Mr. Towndale, Ms. Gratton, and the Hubert foster parents. We cannot know what would have happened had the Lapensee altercation been disclosed, but the established pattern suggests that C-14 would have been believed.

C-14 indicated in his testimony that this incident traumatized him and he started sleepwalking. He also stated that the group home father was threatening to send him to the Alfred Training school. He ran away from the Lapensee home as a result of these problems.

### **MacIntosh Home**

While in the MacIntosh Home, C-14 testified that he was sexually abused by a friend of the foster parents, a Mr. Rolland. This individual had obtained permission from the C.A.S. to travel with C-14 to Montreal. C-14 alleges he was abused on this visit. He testified that he did not disclose the abuse because no one would believe him. Again, C-14's disclosures about the Barber home were believed by several adults. That event suggests that this disclosure would have been believed as well.

- CPI Vol. 116

C-14's testimony was that he only went on one trip to Montreal, yet the file and the recollection of his worker at the time suggests there as more than one visit. C-14 further states that he only recalled this abuse in flashbacks some years later.

- CPI Vol. 116, 288

Ian MacLean was C-14's worker at the time and provided the consent to allow C-14 to travel. Angelo Towndale would have been the supervisor, but in his testimony, he did not recall this issue.

- CPI Vol. 276

Mr. MacLean testified that he did interview Mr. Rolland prior to providing the consent. He was friends of the foster parents and they had known him for years. Mr. MacLean did not conduct any reference check at the time. In the 1970s, police checks were not possible to obtain for such purposes, as discussed earlier in this submission

- CPI Vol. 288

Ian MacLean specifically recalled meeting with C-14 alone on at least two occasions during the time he was his worker.

- CPI Vol. 289

There is an entry in the recording about Mr. Rolland describing some sexualized behaviour on the part of C-14. Mr. MacLean recalled meeting with him about this. Mr. MacLean does not recall if he spoke to C-14 about this but it was the first instance of such behaviour being exhibited by C-14 and he may have decided to only monitor things instead of speak with him . Mr. MacLean did not take this to be an indication of sexual abuse

Mr. MacLean's lack of awareness regarding the possibility of sexual abuse is reflected in the testimony by many experts at the Inquiry. These experts confirmed that in the 1970s there was little training or awareness on sexual abuse and thus workers were not likely to pick up on possible indicators of abuse.

### **Counselling**

C-14 was referred to Dianne Latreille, a psychologist at the local hospital. C-14 testified that she told him she was affiliated with the C.A.S. This was not the case, though he had been referred to her by the C.A.S. He indicated that he attended two brief meetings and nothing came of it and that he did not trust her.

During cross-examination, C-14 did say he remembers that he was told by Ms. Latreille that he could contact her if he wanted to discuss anything and that he did not follow up on this.

Ian MacLean in his testimony stated that he had referred C-14 to obtain a psychological assessment because of some of the behaviours he had started to exhibit in the Lapensee home, the wandering at night, et cetera, as well as C-14's past history.

C-14 further stated that it was C.A.S.'s responsibility for him to get counselling following a criminal conviction when he was 17. The file does not indicate that this was the responsibility of the agency, but rather, that obligation fell to C-14's parole officer.

- CPI Vol. 116; Ex. 538

C-14 also wanted the C.A.S. to provide counselling as an adult when he came forward with the allegations of abuse. It is unlikely that such funding was available for adult victims of sexual abuse.

- CPI Vol. 276

### **Records Disclosure**

C-14's first request for disclosure came in 1991, when he was provided with a Background Social History, which had been prepared by an Intake Worker. C-14 felt that he was blamed for what happened during his time in care.

- Ex. 526

C-14 called the agency in summer 1991 and spoke to Lorenzo Murphy. C-14 takes issue with the accuracy of the content of those notes. Mr. Murphy was not called to testify at the Inquiry, and thus all we have to rely upon is the notes for accuracy purposes. C.A.S. witnesses who testified indicated that notes were taken contemporaneously or within 24 hours of an event.

- Ex. 528

In 1994 C-14 retained counsel to assist with accessing his C.A.S. records. There were a series of letters between C.A.S. and his counsel regarding obtaining records. C-14 and his lawyer wanted access to his entire record. The position of the C.A.S. at the time and presently is that the full record cannot be disclosed. Any information about third parties is blacked out of the file.

- CPI Vol. 295

Ultimately, in March of 1995, C-14 and his lawyer do view a redacted version of the file. What was viewed on that date was not entered as an exhibit at the Inquiry but presumably it would be similar to the final disclosure that would have been provided to Cathy Sutherland, as this was the fullest disclosure that the agency would allow.

- CPI Vol. 295

C-14 seems to suggest in his testimony that his file was tampered with, but no evidence was submitted at the Inquiry to corroborate that allegation.

- CPI Vol. 116

When the Executive Director from that time, Richard Abell testified, he indicated that it was not the typical practice at the time to allow a former ward to review a redacted version of the file. Typically they would provide a summary and sit down with the individual and discuss content. Providing an opportunity to come into the office to review the file was a new direction at that time.

- CPI Vol. 295

Another disclosure request is made in 1996, when C-14 retains new counsel. Again, the entire file would not be released. Ultimately the redacted version of the child care file is provided to C-14's new counsel. This was a new direction for the agency again.

- Ex. 2477; CPI Vol. 295

## **ROBERTA ARCHAMBAULT (NEE JUDD)**

### **Background**

Roberta Archambault was a ward of the C.A.S. from the age of 5 to the age of 19, which is from 1970 until 1984.

During her testimony at the Inquiry, Ms. Archambault alleged that she was physically, mentally and sexually abused while in the care of the C.A.S. Ms. Archambault alleges that she advised a C.A.S. worker, Bryan Keough, of some of these allegations in 1980.

### **Hubert Foster Home**

In her testimony, Ms. Archambault alleged that she was sexually and physically abused while a foster child ward in this home from 1970 to 1980. Her sister was also a ward in that home during the same period.

Ms. Archambault alleges she suffered physical abuse at the hands of both foster parents, while her sister was only physically abused twice. Ms. Archambault testified that she did not bruise easily and she further alleged that the foster parents would not take her to a doctor, except for her yearly physical, so no one saw physical evidence of abuse.

- CPI Vol. 69, page 20 and 21

Ms. Archambault alleges that the sexual abuse did not occur until she was about seven or eight. She testified that she did not recall being sexually abused until a couple of months before she was called to testify at the Inquiry. She suggests that this revelation was as a result of counselling. Ms. Archambault alleged that when she was around 11, the foster mother started

punching her in the stomach and saying she was going to make sure she never reproduced, which led her to believe that her foster mother knew about the sexual abuse by her foster father. There was no other indication in her testimony that Ms. Archambault advised anyone of the sexual abuse, and she does not even know if her sister, who also lived in the home, was aware

- CPI Vol. 69, pages 5, 22 - 25

Ms. Archambault alleged that she did not see her siblings for some time after she and her older sister entered care. She recalled only seeing her brothers one time after entering care. She also recalls seeing her mother only one or two times. She alleged that she was given no information about her family and that her grandparents were told to stay away. The child care file for Ms. Archambault reflects that her mother was encouraged to visit, that visits did occur, and that the grandmother visited as well.

- CPI Vol. 69, p. 9, 10, 19, 20; Exhibit 2393, bates pages 7170619, 7170622, 7170627-30.

Ms. Archambault's recollection is that in the Hubert foster home, she was verbally abused commencing shortly after her arrival in the home. She further alleges that she was not allowed to speak with her sister at the home, and if they were caught doing so there would be physical punishment. Ms. Archambault alleges that punishment was for one sibling to watch the other be beaten.

- CPI Vol. 69, p. 15 and 16

The Hubert foster home file was not entered as an exhibit at the Inquiry. It is impossible to review that file to see what level of supervision there was for the workers in that home. However, the notations in Ms. Archambault's child care file indicate that her file was reviewed by a supervisor, as would the files of other children in the home.

- Ex. 2393

The child care file for Ms. Archambault does not reveal any indications of problems in the foster home until Ms. Archambault is an adolescent, at which time she was having difficulty getting along with the foster mother. There are no indications in the file that Ms. Archambault, her sister, or any adults with whom Ms. Archambault interacted made any reports of abuse or suspicion of abuse. There were no investigations into the home since no reports requiring an investigation ever surfaced.

- Ex. 2393

Another ward that was in that home testified at the Inquiry as well. C-14 indicated that he did not see any issues of physical or sexual abuse and that the Huberts were a nice family.

- CPI Vol. 117, p. 94 and 95

During his testimony, Mr. Keough said that for most of her placement in the home, Ms. Archambault was doing very well, as is indicated in her file. Mr. Keough testified that if he would have been told anything by the child about abuse, he would have put it in the file and dealt with the matter. This is the pattern of conduct that occurred when Mr. Keough found out that C-14 had disclosed abuse in the Barber foster home. The child care file for Ms. Archambault file reflects that she had stability and good care at the Hubert home.

- CPI Vol.285, page 135; Ex. 2393

Ms. Archambault testified that there was an opportunity for her and her sister to be adopted, but that her sister was told to say no by the Hubert's. There is no indication in the child care file that Ms. Archambault and her sister were presented to adoption by any family other than the Huberts.

- CPI Vol. 69, p. 14, 15, 21

Ms. Archambault alleges that she was admitted to hospital when she was 11 years old because she tried to commit suicide by taking prescription pills. Ms. Archambault admits that she did not disclose her suicide attempt at the time, because she believed that everyone already knew. Mr. Keough, her worker at the time, has no recollection of this being a suicide attempt, nor is it recorded as such in the case file. On the contrary, Ms. Archambault's file and the medical records contained therein show that the hospital stay was a result of a cheerleading injury

- CPI Vol. 69, p. 25-29; Ex. 2393, bates page 7170630

Under cross-examination, the witness agreed that she was examined at the hospital when she was 11 and that she had no knowledge as to whether the doctors and nurses made any observations with respect to any bruises or other indications of abuse at this unplanned visit.

- CPI Vol. 69, p. 123

Ms. Archambault testified that she ran away from the Hubert home during an abusive episode when she was 12 or 13. She says she ran to a friend's house and told the mother about the abuse and that the mother called the foster parents and she was returned home. There is no record on file of this mother making a report of abuse to the agency, nor is there any indication in her file that she ran away from the foster home.

- CPI Vol. 69, p. 31-32

Ms. Archambault admits that she never disclosed the physical abuse to her C.A.S. worker, suggesting that her foster parents were always within ear shot. She did not feel that she was alone with her worker when they met.

- CPI Vol. 69, p. 53

During much of the time in the Hubert home, Bryan Keough was Ms. Archambault's worker. During his testimony, Mr. Keough testified that his usual practice when he visited a ward was to interview the foster parents, then the ward separately and then all of the individuals together. His goal was to always have interviews with children out of earshot of the foster parents. This pattern is reflected in the case recordings.

- Ex. 2393; CPI Vol. 283, page 233

Ms. Archambault acknowledges that there were regular visits by her C.A.S. worker, as is reflected in her file. The file also reflects that Ms. Archambault was visited at school at least annually or semi-annually and was contacted by phone as well.

- Ex. 2393

Ms. Archambault testified that she did finally tell her C.A.S. worker, Bryan Keough, about the abuse at the Hubert home, after calling him from her high school one day. She testified that following this disclosure, the worker met with her at school almost every afternoon, or at least once or twice a week for three months. She said Mr. Keough signed her out of class.

- CPI Vol. 69, page 33 - 37

In these sessions, Ms. Archambault alleges that she spoke of her abuse at the Hubert foster home. She alleges that Mr. Keough told her he would get her out of this home. She says that she showed him her bruises, about having a shotgun held to her head weekly and being attacked with a knife. She testified that Mr. Keough told her he would investigate everything. None of these visits or disclosures of abuse are reflected in Ms. Archambault's child care file.

Mr. Keough in his testimony indicated that it would be unusual for him to meet a child in his car outside of the school. He further testified that he was never told by Ms. Archambault about the abuse she alleges occurred in the Hubert home. He also testified that he did not meet with Ms. Archambault regularly at the school. This would not have occurred because schools did not look kindly onto children being taken out of school so often. Mr. Keough further has no recollection of Ms. Archambault telling him she attempted suicide or showing him marks and bruises or discussing any shotgun being held to her head. Such disclosures would have been in the child care file and would have been reported to a supervisor, whether they were believed or not.

- CPI Vol. 285, page 133 - 135

Prior to her move from the Hubert home, there was a period in the summer where her relationship with Mrs. Hubert seemed to improve, and there is a note in her file that she requested to stay at the home. Ms. Archambault did not take the first opportunity to leave a home in which she alleges she was sexually and physically abused and terrorized by having a shotgun held to her head weekly.

- Ex. 2393, Bates page 7170633

Mr. Keough reviewed during his testimony the sections of Ms. Archambault's child care file and recognized that there were some difficulties between her and her foster mother. While Ms. Archambault did leave the home because of these difficulties, it is noted in the file that there was a plan for her to return to that home. During this time of turmoil, there were frequent visits and the file reflects that the worker met with both Ms. Archambault and the foster mother alone.

- Ex. 2393, Bates page 7170635

## Lapensee Home

### Placement in the Home

Following her move from the Hubert home, Ms. Archambault was placed in the Lapensee Group Home. She lived at that home from 1980 to 1983, with a brief period away to live with her mother. During her time at this home, Ian MacLean was the supervisor in charge. However, he was not directly responsible for the children in the home as his role was to supervise those workers.

- CPI, Vol. 288, p. 30

The notes of a placement committee meeting were reviewed by Mr. Keough in his testimony. This is a meeting where Ms. Archambault's problems were reviewed and attempt to create a solution was made. Discussed at this meeting was the need to address some of the problems Ms. Archambault was facing. The decision was made to place Ms. Archambault into the Lapensee Group Home. The move from a regular foster home to the group home is an attempt by the agency to assist with these difficulties and was intended as a therapeutic measure for the adolescent.

- Ex. 2393, bates page 7170635

The problems Ms. Archambault was facing at the time were not exceptional and not beyond the realm of what could be handled by foster parents/group home parents, child protection workers and the school. Further, the issues she faced were not in themselves indicative of physical or sexual abuse, and, as a result were not viewed in this manner by her caseworkers.

Mr. MacLean, as supervisor of the home, was never made aware that Ms. Archambault alleged abuse in the Hubert home until he was preparing for the Inquiry.

- CPI, Vol. 288, p. 65

During her time at the Lapensee home, Ms. Archambault was visited regularly and was contacted weekly by phone.

- Ex. 2393

Ms. Archambault alleges that the Lapensee's and Mary Miller knew about the alleged abuse at the Hubert foster home, or at least about the shotgun incidents. She testified that she told the Lapensees many things when she first went to the home, such as third degree burns on her hands that were never treated, the incident where she was cut on the nose with a knife. She also testified that she disclosed these things to Mary Miller over the course of her first few meetings with her at the Lapensee home. None of this information is reflected in the file and there is no indication in any file that there was any communication relating to abuse of Ms. Archambault in the Hubert Foster Home.

- CPI Vol. 69, page 141 - 145

### Brian Lapensee

Ms. Archambault testified that inappropriate advances from Brian Lapensee commenced shortly after her move to the Lapensee home, in the spring of 1981. She testified that the foster parents on occasion left her alone with Brian on purpose. She further testified that it was well known that Brian Lapensee had gotten some wards pregnant and that at least one of them had been taken to Montreal to have an abortion. Ms. Archambault suggests that abuse or advances from Brian

occurred almost every weekend, as she was one of the only wards who stayed at the home. This version of the facts is not reflected in the file for Ms. Archambault or in the Lapensee group home file.

- CPI Vol. 69, page 49 - 51

There is some suggestion that the workers involved with the home at the time were aware that Brian had a child with another female ward who had been in the home. At the time, this was viewed as an isolated incident and the foster parents were given stern warnings regarding their son's actions. In retrospect, this should have been a warning sign and this, coupled with the inappropriate advances Brian had made, should have been taken more seriously. However, it does not appear that this information was in the foster home file and the information at the time may not have been shared.

- CPI, Vol. 288, p. 73

Following the first incident of inappropriate sexual contact with the female wards in the Lapensee home by Brian Lapensee, he was placed under strict conditions and was to have no contact with female wards. This first complaint had resulted in an investigation and a Serious Occurrence Report, completed by Mr. MacLean. C.A.S. advised the Ministry of Community and Social Services of the Serious Occurrence and the conditions put in place to protect the wards, and the Ministry's representative replied that he was satisfied the children in the home were no longer at risk. Mr. MacLean and the workers in the home viewed the log of the home to ensure that Brian Lapensee had no contact with the wards. The incident was also reported to the Crown and no charges were laid. Neither the Crown nor the Ministry advised the C.A.S. to contact the police about this incident.

- Ex. 2396, 2397 and 2395; CPI Vol. 288, p. 68 – 92; Vol. 289, p. 111

An exception to the strict rules governing Brian Lapensee was allowed during Christmas of 1982. Again, firm restrictions were placed on Roberta's Christmas visit to the Lapensee home in order to ensure her protection. Given what is known about what Brian Lapensee's actions at a later date, in hindsight, this decision seems inappropriate. However, given the considerations at the time, the workers involved felt that this was best for Ms. Archambault, that she celebrate the holiday with the foster family instead of staying in the group home alone.

- Ex. 2399

Ms. Archambault acknowledges that, when asked about inappropriate behaviour by Brian Lapensee, she denied it. Ms. Archambault acknowledges that Mary Miller made her aware of the conditions imposed upon Brian Lapensee. There was no disclosure of any abuse by Brian until Easter of 1983 where, following an incident between her, Brian and some other family members, Ms. Archambault attempted suicide.

- Ex. 2394

Following the suicide attempt, Ms. Archambault disclosed the abuse by Brian to her worker. As a result of these disclosures, there was an investigation and the home was closed and Ms. Archambault was moved to another home.

- Ex. 131

Ms. Archambault alleges that she was told by her worker that the O.P.P. would be investigating the Lapensee home. This is not reflected in the file. Rather, there was a Serious Occurrence reported to the Ministry and the Crown was advised about the situation and the decision by the Crown was that no further police involvement was required. The Crown never advised the

workers involved to be in touch with the police or that it was inappropriate to be seeking advice from the Crown Attorney, nor did the Ministry. The Ministry approved of the way the matter was handled, in regards to both Serious Occurrences. There was no policy in effect at the time regarding contact the police or specifying under what circumstances the police would be advised of an incident.

- Ex. 133, 134, 129, 130 and 132; CPI Vol. 288, p. 122, Vol. 289, p. 111

Following this second Serious Occurrence, the decision was made that the foster home would be closed. Even after this second Serious Occurrence, the Ministry did not express disapproval at how the original allegations were handled.

- CPI Vol. 288, p. 113; Vol. 289, p. 111

Brian Lapensee was never a worker in the home and would not have been considered a caregiver by the agency at the time of these occurrences. At the time, there was no training available to workers nor a written policy to assist in dealing with the allegations made against Brian Lapensee by wards in care.

- CPI Vol. 289, p. 111

### Larry Lapensee

During cross-examination by Dallas Lee, Mr. MacLean reviewed another child care file which indicated that another ward in the home had become impregnated, not by Brian Lapensee, but by his elder brother, Larry in late 1976. It was very clear during the testimony that Mr. MacLean was unaware of this information until he had already commenced his testimony.

Mr. MacLean was not involved in the care of this ward. He testified that he was never advised of this situation, even though it was serious and, as supervisor of the home, he should have been made aware of this. Mr. MacLean recalls that Larry Lapensee was a supervisor in the Group Home and had he had knowledge that Larry Lapensee had sexual relationship with one of the wards, the home would likely have been closed.

- CPI Vol. 289, p. 19 - 30

### Counselling

Ms. Archambault suggests that she was not offered any counselling following her departure from the Lapensee home. However, her file reflects notes about ongoing counselling and bi-weekly sessions with a social worker named Claudette Johnson, as well as consultations with Dr. Ahmed and Dr. Manigat, and plans to see Dr. Manigat again if Claudette Johnson felt it was necessary. As well, there is a letter to Ms. Archambault's family doctor requesting a referral to Dr. Manigat or another psychiatrist.

- Ex. 2339, bates page 7170648 – 650; Ex. 2425

### Discharge from Care

Ms. Archambault was discharged from care following her 18<sup>th</sup> (19<sup>th</sup>) birthday. She suggests that she was told she had three months to find a place to live. Ms. Archambault testified that she was ill-prepared for life on her own. She felt that wards that have been in care long term should have some assistance on adjusting to “real” life following the termination of care.

- CPI Vol. 69, page 62

She admitted that the C.A.S. made an application to extend her care until she finished high school and that the Deronde's helped her find an apartment. C.A.S. also advocated on Ms. Archambault's behalf to attain additional funding for her post-secondary education.

- Ex. 2423 and 2424

### **Ms. Archambault's Involvement with C.A.S. as a Parent**

After having her own children, Ms. Archambault was investigated by the C.A.S. in 1992 and alleges that she advised her worker at that time that she was physically, sexually and emotionally abused while in care.

Ms. Archambault did acknowledge that the C.A.S. did a good job in helping her and her family and in conducting the investigation.

### **Request for File Disclosure**

Ms. Archambault testified that she requested her file because she wanted to know what had happened to her. When she first obtained disclosure, she felt that she would be getting her entire file and was unhappy with only a summary. She testified she was told it was against the rules to look at her entire file. In his testimony, Richard Abell, the former Executive Director, testified that it was the policy at the time that complete files were not disclosed.

- CPI Vol., page 70

Ms. Archambault testified that she felt the summary made her look like a problem. There was nothing in her summary that referred to abuse. The file did not reflect her view of her time and the Hubert home or what she alleged she had disclosed to Bryan Keough. A review of Ms.

Archambault's child care file shows that there is no reference to abuse in the Hubert home, the only reference to abuse is in the Lapensee home as a teen.

Following the delivery of the summary to Ms. Archambault, the C.A.S. did not hear further from the witness until they were contacted by Myron Breslow, who was a lawyer representing Ms. Archambault. At that time the agency still did not provide the entire file, as that was not and is still not the policy of the agency. However, C.A.S. did indicate they would answer any questions she had. This was an attempt by the agency to reduce the amount of time spent on the file, as resources to do this work were limited.

- CPI Vol. 279, p. 153 - 169

Ms. Archambault then met with Rick Abell and asked him about what she told Bryan Keough when he met her at her high school. She alleges that Rick spoke with Bryan on the phone in her presence and Bryan said that he did not write what she told him down because she was a liar. There are no notes to reflect such a phone call.

Ms. Archambault testified that there was evidence in her file that "something was wrong" because her personality changed. She says that she was not protected. She alleges that she has panic attacks and cannot work because of the abuse she suffered.

Ms. Archambault admits that there are concerns with third party information in her files but does not agree with it. The agency took the position that it could not release information about third parties and had received complaints in the past where individuals felt this policy was not complied with.

File disclosure requests at the time were handled by Intake Workers, who had other primary duties. The problems encountered by Ms. Archambault and other former wards are a reflection of the limited resources available at the time, as resources were directed primarily at fulfilling the agency's mandate to protect children.

## **CATHERINE SUTHERLAND**

Ms. Sutherland was a ward of the C.A.S. in the 1950s, when she was a toddler, and then again as an adolescent. All of the matters to which Ms. Sutherland testified predate any child protection standards or child care standards. No workers who were directly involved in Ms. Sutherland's file were called to testify at the Inquiry.

### **Virgin Foster Home**

Ms. Sutherland was a ward in the foster home of Carl and Beverly Virgin for approximately one year when she was in her early teens.

Ms. Sutherland testified about alleged sexual abuse by Mr. Virgin and indicated that she told friends, her worker and Dr. Burns of the abuse.

- CPI Vol. 111, p. 64

There is no information in any C.A.S. file that states that anyone ever reported that Ms. Sutherland had disclosed sexual abuse by Mr. Carl Virgin or that there was any suspicion of such abuse.

Mr. Grundy was a worker to whom Ms. Sutherland alleges she disclosed the sexual abuse. Mr. Grundy was not called to testify at this Inquiry to provide his evidence. The only evidence we have of Mr. Grundy's knowledge is what is contained in the child care file, and there is no mention of sexual abuse in the file. The foster home file of Mr. Carl and Beverly Virgin was also not entered as an exhibit in this Inquiry.

- Exhibit 479

Derry Tenger is the second worker Ms. Sutherland indicates she told of the sexual abuse by Mr. Virgin. Again, such a disclosure is not reflected in her file. Mr. Tenger has passed away and thus could not be called as a witness of at this Inquiry.

- CPI Vol. 111, page 86

There is no record on file that Dr. Burns, Ms. Sutherland's psychiatrist at the time, reported that Ms. Sutherland disclosed any sexual abuse. Dr. Burns does submit a report during the relevant time period and no reference to sexual abuse is contained in the report.

- Exhibit 479

Ms. Sutherland further indicated that she made disclosures of the abuse by Mr. Virgin to subsequent foster parents. Again, there is no referral from these sources indicated in any C.A.S. file.

- CPI Vol. 111, p. 89

Lastly, Ms. Sutherland indicates that she told her grandmother about the sexual abuse. There is no record in any file that Ms. Sutherland's grandmother contacted the agency to report this alleged sexual abuse. It seems unlikely that, if her grandmother were aware that the child was

being abused, that she would not contact the C.A.S. about it. This was the pattern that had occurred in the past. Ms. Sutherland's grandmother contacted the agency on many occasions when she was concerned about her granddaughter. It should be noted that at that time, Ms. Sutherland's grandmother was seeking to have her granddaughter placed in her home but that request was denied because it was not a suitable home. Had Ms. Sutherland's grandmother known that her granddaughter had been abused while in C.A.S. care, she surely would have advised the agency.

- CPI Vol. 111, page 90; Ex. 479, bates page 7173649

In her examination in chief, the series of questioning around Ms. Sutherland's disclosure of alleged sexual abuse suggests that she may not have been clear in her disclosures. She says she told people things like "he wouldn't leave me alone" when referring to Mr. Virgin.

- CPI Vol. 111, p. 86-89

Ms. Sutherland was a ward in the Virgin home in the late 1960s, over 40 years ago. Despite Ms. Sutherland's assertion that reports of her sexual abuse were shared with many individuals and in fact were circulating in the community, the C.A.S. has no record of anyone contacting the agency concerning this matter. It is quite possible that what was a disclosure in her mind was not seen as such by the individuals she was speaking with. Ms. Sutherland alleges to have told a number of adults about sexual abuse and it would be odd if none of them acted upon these disclosures, had they actually been aware the youth had been sexually abused.

Mr. Thomas O'Brien was the director at the time that Ms. Sutherland was a ward in the Virgin foster home. Mr. O'Brien testified for two days at the Inquiry. Mr. O'Brien was not asked any questions in examination-in-chief, or in cross examination about the Virgin foster home. It would

be most unlikely that the Executive Director at the time would have been involved with Ms. Sutherland's placement in the home, let alone have any knowledge of allegations that did not appear in the child's file.

However, Mr. O'Brien did testify as to what knowledge C.A.S. workers would have had about sexual abuse during the time that Ms. Sutherland was in the Virgin foster home. Mr. O'Brien testified that it would not have been until the late seventies that workers would have begun to be aware of sexual abuse of children.

- CPI Vol. 239, page 45

Ms. Sutherland applied to the Criminal Injuries Compensation Board in relation to the alleged abuse she suffered at the hands of her mother and Carl Virgin. There is no indication in any of the C.A.S. files relating to Ms. Sutherland that the agency was ever contacted to provide any corroborating information to the Board.

Ms. Sutherland indicates that she was never offered counselling as a child or youth. However, in her testimony and in her file, numerous referrals to professionals are indicated, including sessions with a psychiatrist and counsellors at a time when there were few resources of this nature in the community.

- CPI Vol. 111, page 147; Ex. 479 bates page 7173644; Ex. 491

**Joan Kelly (also known as Joan Shaver and Joan Donnelly)**

Ms. Sutherland testified that she suffered both physical and sexual abuse at the hand of her mother. When C.A.S. first became involved with her as a young child, Ms. Sutherland feels that she was not protected appropriately by the C.A.S. .

It must be remembered that these events occurred over half a century ago, where the legislation, standards, and attitudes toward child protection were nowhere near what they are today. It is clear upon a review of the child care file for Ms. Sutherland that plans were made to protect her and that there was a significant amount of involvement with the family. While a plan made today would be significantly different, we must judge the actions of the agency by the standards of the day. That being said, the child care file reveals extensive interaction between the agency, Catherine and her mother in the early days, and also the involvement of professionals to assist in the situation.

The sequence of events revealed in Ms. Sutherland's family file is not quite as recounted by Ms. Sutherland. On March 6, 1958, a relative of Ms. Sutherland's attends at the worker's home and advises that Ms. Sutherland's feet had been burned by scalding water and the relative suspected it was on purpose and not accidental. The worker assured the relative that the situation was being monitored closely and that they would investigate the next day. It does not state what time of day the worker was visited, but if it was at their home it was presumably after the end of the business day.

- Exhibit 482, bates pages 7173470 and 7173471

The worker then attends at the house the next day and stays there over an hour while she waits for Mrs. Donnelly to call a doctor for Catherine. When Mrs. Donnelly says she cannot get a doctor, the worker calls and the doctor advises he will attend that evening or first thing the next morning. The worker's last entry for that day states that "Worker tried to emphasize to Mrs. Donnelly the danger of infection setting in, in a severe burn like this and that we could not leave the house without knowing that medical attention would be coming."

- *Ibid.*

Catherine is then hospitalized and the worker speaks with the attending doctor at the hospital and the former family doctor to confirm that Mrs. Donnelly did not appear to be providing proper medical care to the child. This occurred on March 12, 1958, and it was decided on March 14, 1958 that the society apply for temporary ward ship following Catherine's release from the hospital.

- *Ibid.*

Following extensive interactions with the family and with Catherine, she was returned to her mother in 1960 and the society maintained regular contact, as Catherine was still a ward. Her mother served a prison sentence during this time and Catherine stayed with her grandmother, and regular contact continued. Ward ship was terminated in October of 1961, yet the society remained involved with the mother and continued to monitor the situation.

- Ex. 482, bates pages 7173491 to 7173500

Later, when Ms. Sutherland was seeking to have the contents of her file from the agency, she wrote many letters outlining her recollections of her childhood. Many of the allegations made some letters are not supported by the documentation in the file. For example, Ms. Sutherland refers to a series of surgeries to un-web her toes, and there is no mention of this in the child care file. There is no mention of any such procedures in the recording in Ms. Sutherland's child care file and it would be remarkable were they not recorded, since they would have been fairly significant interventions in the young girl's life. As well, the records that Ms. Sutherland obtained from Winchester Memorial Hospital, do not mention these procedures.

- Ex. 467; CPI Vol. 112, pages 25-7

Ms. Sutherland recounted in her testimony at the Inquiry and in correspondence of having her hand placed under boiling water, and receiving other burns to her hands. It would be remarkable that adults with whom she interacted would not notice these injuries and even that she would be able to function at all without being in intolerable, excruciating pain. Further, Ms. Sutherland's medical records do not reveal any problems with her hands and feet.

- Ex. 467; CPI Vol. 111, pages 28 to 36

In her testimony and in documents which were filed as exhibits, Ms. Sutherland alleges that her mother murdered her infant brother in 1963. The file reveals that there was an inquest completed following this death and those results were never shared with the C.A.S., despite the agency's involvement with the family. Ms. Sutherland in her testimony suggested that the coroner thought Mrs. Donnelly was an "evil" person. If that was the case, this concern was never shared with the C.A.S. at the time.

- Ex. 452, bates page 7173502; Ex. 479, bates page 7173646; CPI Vol. 111, pages 31 and 32

After the initial intervention when Ms. Sutherland was a pre-schooler, there is some continued involvement with the family, but there does not appear to be another referral in relation to Catherine's file until 1967, where someone from Family Service Bureau contacts the agency over a number of concerns with Cathy.

- Ex. Bates page 7173644

Ms. Sutherland testified about some of her history at school. Other than the schools attended and what information is in Ms. Sutherland's child care file, the C.A.S. had no knowledge about much of what Ms. Sutherland discussed in her testimony. There is no reference in her file of a bus

driver speaking with the school, nor of bizarre appearance or wounds. There are no indications that if this information was observed by a teacher or principal that this information was shared with the agency.

- CPI Vol. 111, p. 76

Ms. Sutherland's first reference to sexual abuse at the hands of her mother seems to be in a letter to the C.A.S. There is no mention of sexual abuse in Ms. Sutherland's child care file and it is unclear if the C.A.S. was aware of any of these allegations until they were brought out in Ms. Sutherland's testimony at the Cornwall Public Inquiry.

- Ex. 467; CPI Vol. 111, page 63

Ms. Sutherland discusses sexual abuse that occurred at a home in Cornwall which was somehow orchestrated by her mother. There is no indication that this abuse was ever disclosed to the C.A.S. prior to the Cornwall Public Inquiry.

- CPI Vol. 111, page 143

Temporary ward ship for Ms. Sutherland was again granted in July, 1968. During her testimony, Ms. Sutherland spoke of running away and having a friend bring food for her, this is reflected in the file as well, although it does not indicate that the police were involved with this apprehension or that Catherine was left at her mother's home after this incident. The file reflects that she was taken into care. There is also no indication in the file that Catherine was hospitalized following this incident.

- Ex. 452, bates page 7173505

## **Records Disclosure**

Ms. Sutherland expressed great frustration and anger at her attempts to get her file disclosed to her. However, the methods of disclosure she was provided were consistent with the policies and practices of the time. As well, the promptness of disclosure was tied to the resources available at the time. During the time Ms. Sutherland sought disclosure, the work was done by Intake workers who worked on such requests as time permitted, in addition to dealing with all child protection referrals at the agency.

Further, during the period of time in which Ms. Sutherland was requesting her disclosure, there was a general concern about having enough staff to deal with the agency's child protection mandate, let alone enough staff to deal with disclosure requests.

- Ex. 2317

The first contact from Ms. Sutherland regarding access to her file was in 1987. Regrettably, despite a worker attempting to locate the file and contacting another agency, the file could be located at that time. The agency cannot provide an explanation for this unfortunate mistake. At that time, the C.A.S. did have an extensive file on Ms. Sutherland.

- Ex. 2314, Ex. 2315

The next communication regarding access to records is in 1995, wherein Ms. Sutherland requests her file be transferred to Hamilton and given to a "third party". It is not the policy of the agency to transfer files to another agency, and there is further correspondence at that time which required Ms. Sutherland to provide identification, which was the usual practice of the agency at the time.

- Ex. 451, Ex. 485

Another letter is sent to request that Ms. Sutherland ask for medical information specifically. Ms. Sutherland felt that the agency was making her “jump through hoops”. However, this request may have been suggested as a mechanism for Ms. Sutherland’s request to be given priority, as medical requests were the highest level of priority for disclosure, and Ms. Sutherland was experiencing seizures at the time.

- Ex. 453

Ms. Sutherland became frustrated because she was directed to seek her medical records from the hospital. Ms. Sutherland testified to writing a letter to the local hospital and that the hospital referred her back to the C.A.S. to obtain the medical records. There is no record of this correspondence in her C.A.S. file. There was no exhibit entered when this testimony was being given.

- CPI Vol. 111, page 25 and 26

Ms. Sutherland spoke to a worker named Mark Boisvenue in 1996, and he replied to her questions by letter, which contained a file summary. Ms. Sutherland had requested information from Mr. Boisvenue on sexual abuse that occurred when she was 13. Ms. Sutherland said in her testimony that she already knew the chronology of her placements and the summary she was provided confirmed it. The policy at the time was that a summary of the child care file was provided to former wards, and the same policy was followed for Ms. Sutherland.

- Ex. 454

The next request for additional disclosure is by way of letter written in March, 1996, and a further letter was sent in June. The reply to these letters is sent in October, where Mr. Boisvenue

indicates that more time is required to fulfil her request, as the file is being reviewed by a second worker. The letter further indicates that no commitment can be made as to how long it will take to fulfil her request but that the worker will do his best expedite the request.

- Ex. 455, Ex. 456, Ex. 457

In a letter to Mr. Abell from Ms. Sutherland requesting medical records from the Cornwall General Hospital. In the letter and in her testimony, Ms. Sutherland indicates that the hospital had provided consents to the agency to release the information. This is not reflected in the file. However, it does not appear that anyone responded to Ms. Sutherland's letter at that time, which is unfortunate.

- Ex. 461

Ms. Sutherland indicated in her testimony that in late December, 1996 or early 1997, she contacted the Program Supervisor for the Ministry of Community and Social Services and she understood that individual contacted the local agency.

- CPI Vol. 111

Correspondence is sent to the agency in February, 1997 by Wenda Hodson, Program Supervisor for the Ministry of Community and Social Services. This letter is essentially advising the agency of Ms. Sutherland's contacts with Ms. Hodson, but does not provide instructions that disclosure be provided.

- Ex. 490

A letter and additional summary and an apology for the delay is sent to Ms. Sutherland by Richard Abell, Executive Director, shortly following Ms. Hodson's correspondence to the

agency. A further letter is sent on February 25, 1997 by Mr. Abell, indicating that a worker will be meeting with Ms. Sutherland in Hamilton to review her file. This is the first time in the history of this agency that such a meeting has been arranged.

- Ex. 459; Ex. 460

The case notes of the meeting with Ms. Sutherland and the assigned C.A.S. worker in Hamilton indicate that Ms. Sutherland was advised to contact the police if she felt that a crime had been committed and that the worker assisted Ms. Sutherland in dictating some of the record. When he testified, Richard Abell indicated that for the agency, this level of disclosure was “breaking new ground”. The difficulties Ms. Sutherland encountered at the time were a result of the policies that existed at the time and were not unique to her.

- Ex. 488

Ms. Sutherland indicates that when she reviewed her file, there was so much blacked out and several pages were missing and that she was given very little time to review it and she was rushed. The worker indicated that some information was blacked out that may have been upsetting but that should she want this information, she could obtain it from the agency.

- Vol. 111, page 45 - 49

Exhibit 2486 is the document that was provided to Ms. Sutherland when she met with a worker from C.A.S. SDG in Hamilton in 1997. The document does start at page 8, as the witness indicated. It was the worker’s discretion that led to the first few pages being removed from the file, but Ms. Sutherland was welcome to request those files at a later date. Aside from the missing pages, a review of the document reveals that there is little information blacked out. Third

party names are blacked out and there are very few paragraphs blacked out. These were blacked out, again, at the discretion of the worker involved.

Ms. Sutherland disclosed during her testimony that she wrote to the Minister of Justice at the time as well as the Minister of Community and Social Services in 1999. It is unclear if the C.A.S. was aware of these communications prior to the Cornwall Public Inquiry.

Further, Ms. Sutherland testified of a letter to the area manager of the Ministry of Community and Social Services regarding her request for her file, which letter was entered as exhibit 467. There are many allegations made in this letter that are not reflected in the file for Ms. Sutherland, which were discussed earlier in this submission.

Ms. Sutherland then wrote to the Board of Directors. In the letter there are again several allegations made which are not reflected in the child care file for Ms. Sutherland. In this letter, Ms. Sutherland expresses displeasure at the interaction between the agency and her psychiatrist years before. It does not appear that the agency was aware that she was dissatisfied with that particular interaction procedure before this point.

- Ex. 469

Following the letter to the Board of Directors, Ms. Sutherland was provided with a paper copy of her file, which was a similar to what she had reviewed in Hamilton some years before. The letter which enclosed the file is at Exhibit 471 and the actual file provided to her is Exhibit 2370. Ms. Sutherland indicates that most of the file was blacked out, but a review of Exhibit 2370 illustrates that this is not the case. The full file is provided, with no missing pages, and where there is information blacked out, a code is provided to indicate what is blacked out. The only

items blacked out were identities of third parties, addresses of third parties and information about third parties. For comparison purposes, the unredacted version of Ms. Sutherland's child care file was entered as exhibit 479.

This was the first time a file had ever been provided directly to a former ward. Ms. Sutherland indicates in her testimony that she was still not satisfied with the disclosure provided, in that information about third parties was not disclosed to her, even though she suggests that she was aware of that information already. It was not and is still not the policy of the agency to disclose identifying information about third parties. There is no provincial legislation or policies to govern the disclosure of information to former wards and the society has developed a policy which is intended to balance the rights of wards to their information and the rights of other individuals to have their privacy protected.

Ms. Sutherland indicates that she never received some of the medical reports she had requested. There were few medical reports on file and the agency still takes the position that it can only disclose its own records unless there is a consent by a third party to disclose its records. There was no information or request in the file by any hospital for C.A.S. to deliver the records.

- CPI Vol. 111, page 73

Ms. Sutherland indicates that she did not get true access to her file until the Inquiry. It appears from her knowledge of the files that she would have been allowed to read the entire, unredacted child care file, the family file, as well as foster home files. C.A.S. takes the position that it cannot make such disclosure to its wards. There must be a balance between providing necessary information to a former ward, and protecting the information of third parties. Today's privacy legislation requires no less.

- CPI Vol. 111

Ms. Sutherland suggests that she was misled by C.A.S. workers about what was in her file. That would not be the case. It is the position of the C.A.S. that staff did their best, given the available resources and the child protection mandate of the agency, to provide Ms. Sutherland either with a summary or with a redacted version of what it was believed could be shared.

- CPI Vol. 111

Ms. Sutherland also suggests that the agency attempted to conceal culpability on its part. When Mr. Carriere testified, he indicated that he had never been directed to tailor records disclosure to consider possible lawsuits against the agency. Ms. Sutherland was provided with all of her file, with certain portions redacted to protect third party interests, not the interest of the agency.

- CPI Vol. 111

A letter to Ms. Sutherland from the Renfrew C.A.S. outlines that a certain amount of information was deleted from her file since she did not have the consent of a third party. That has been the consistent position of the C.A.S. with Ms. Sutherland.

- Ex. 493

## **GERALDINE FITZPATRICK**

Geraldine Fitzpatrick is a current employee of the C.A.S. and first joined the agency in 1986.

In her testimony at the Cornwall Public Inquiry, Ms. Fitzpatrick made several misstatements, or may have been provided with misinformation from other sources. Many of the inconsistencies in

Ms. Fitzpatrick's testimony were reviewed by counsel for Fr. Charles McDonald during cross-examination.

- CPI Vol. 283, pages 146 – 200

Ms. Fitzgerald recounted information she was provided by Cst. Heidi Sebalj regarding the investigation into Father Charles McDonald. This information was provided to Ms. Fitzpatrick during a chance encounter with Cst. Sebalj at the Cornwall Police Service in late 1993.

Ms. Fitzgerald's testimony was that Greg Bell, an investigator with the C.A.S., had attended at the police station and had taken pictures of Cst. Sebalj's file. It was actually Bill Carriere and Greg Bell who attended at the station to review the file. The testimony of Mr. Bell and Mr. Carriere indicates that they dictated notes of the file using a tape recorder borrowed from CPS, but no photographs were taken.

- CPI Vol. 282, page 23; Vol. 287; Vol. 291

In related testimony, Ms. Fitzpatrick testified that Cst. Sebalj had advised her that David Silmser, the original complainant against Fr. Charles McDonald, had contacted the C.A.S. before going to the police. Ms. Fitzpatrick further testified that Cst. Sebalj's information was that the worker told him to contact the police about the allegation. Cst. Sebalj allegedly advised Ms. Fitzpatrick that the worker who took the intake was Carole Leblanc.

- CPI Vol. 282, page 24 to 27

Later on in her testimony, Ms. Fitzpatrick alleged that she had a conversation with Ms. Leblanc in which Ms. Leblanc confirmed she had in fact taken an intake from Mr. Silmser. Ms. Fitzpatrick could not recall any details about this alleged conversation with Ms. Leblanc.

- CPI Vol. 282, page 28; Vol. 285

Ms. Fitzpatrick's information that Mr. Silmsler came to the C.A.S. before reporting the alleged abuse to the police does not coincide with the testimony of many other individuals.

When Mr. Silmsler himself testified, he indicated that his first report of the alleged abuse was to the O.P.P. Mr. Bell, who interviewed Mr. Silmsler, indicated that Mr. Silmsler never indicated that he had contacted the agency first. Rather, when contacted by the agency, Mr. Silmsler wondered how they had gotten his information. Mr Silmsler testified on January 30, 2007 that the first time he was interviewed by C.A.S. it was by Mr. Bough (Bell) and Ms. Debellis.

- CPI Vol. 85, page 77; Vol. 291; Volume 86, page 201

Mr. Carriere also conducted a search of records at the C.A.S. to determine if there was any documentation regarding an intake for Mr. Silmsler, and no record was found. Mr. Carriere further indicated that any referral of this nature would have a documentary record.

- CPI Vol. 287, pages 242 – 244

Lastly, Ms. Leblanc testified and categorically denied having taken an intake from Mr. Silmsler and having a conversation with Ms. Fitzpatrick about such alleged intake. Ms. Leblanc also confirmed that any communication to the C.A.S. regarding abuse of a child, historical or not, would have a documentary record.

- CPI Vol. 297

Ms. Fitzpatrick also testified that she had advised her supervisor in 1986 that Ken Seguin had sexually molested a youth who was on probation to him. Ms. Fitzpatrick is inconsistent in her testimony on this matter. Ms. Fitzpatrick says she didn't make an official report on the matter,

stating that she said something to Bill Carriere as she was walking out a door one evening. CPI counsel, Pierre Dumais had the following final exchange with Ms. Fitzpatrick on the subject;

Mr. Dumais: All right. And did you ever identify the name of Ken Seguin?

Ms. Fitzpatrick: Not that I recall because I – you know.

Mr. Dumais: Right. Those are all my questions, Geraldine.

- CPI Vol. 282, page 119

## **V. CONCLUSION**

The C.A.S. acknowledges that, at times, it has failed to respond appropriately to allegations of sexual abuse and physical abuse, or some aspects thereof. The C.A.S. acknowledges that, at times, it failed to protect wards in its care from mistreatment.

When considering the institutional response of the C.A.S. to allegations of historical abuse of young people in the Cornwall area, it is important to take into account the training, resources and technology that was available to the C.A.S. at the time.

The evidence heard at this public inquiry has demonstrated that the C.A.S. of today, is not the same institution that it was 30, 40 and 50 years ago. Today's C.A.S. is composed of a team of well-trained workers, foster parents and volunteers. It is a public institution with the public can have faith.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 19th day of February, 2009.

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