SUBMISSIONS OF THE COALITION FOR ACTION
PHASE I CORNWALL PUBLIC INQUIRY
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EXECUTIVE SUMMARY

The Coalition for Action believes that there was a general failure of the institutions to adequately deal with allegations of sexual abuse, and in particular the allegations of David Silmser and Jeanette Antoine, and the allegations against Earl Landry Junior. The Coalition believes that there was a combination of deliberate conspiracy and cover-up, combined with negligence, and in some cases a reluctance to take action against other institutions.

The Coalition will be making suggested changes with respect to each of the institutions. The motivation behind these proposals is to try to ensure that the community is safe from sexual offenders. The program that we are proposing is one that is designed to protect the community, and it is our view that this program and only this program can obtain the goal of community safety. Our recommendations will be based upon the following ten points:

1. **An independent and impartial body is needed to investigate allegations of conspiracy and corruption against high level public officials.** The Coalition takes the view that the Ontario Provincial Police and Ottawa Police investigations, of allegations of conspiracy, were so poor that the public can have no confidence in those investigations or their conclusions. There has to date been no adequate investigations of the issue of

whether there ever was a conspiracy. The Coalition for Action is suggesting that in the rare cases where there are conspiracy allegations against high level public officials, then they should be investigated either by a police force from outside the Province of Ontario, by a separate agency that has special protection in relation to tenure and salary, or by an outside police force under the direction of a judicial official or a retired judicial official.

2. **That the Diocese of Alexandria and Cornwall be subject to strict internal and external audits**. It is submitted that the Diocese has demonstrated, by its actions and inactions in the past, and by virtue of the fact that they have presented to the Commission an incredible version of the process of the Silmser settlement, that there is a public need to have a strict supervision. The Coalition acknowledges that the Diocese has guidelines dealing with complaints and that there is a provision for external audits. However, the present process is inadequate. There is a need for strict internal self-auditing and independent external audits that would go further than the present system by mandating audits of sexual abuse detection and compliance programs. Publication of policies, training programs, and criminal record checks of staff and volunteers must not only be in place but there must be auditing in place to ensure that these and other detection mechanisms are in place. Discipline measures in relation to the failure to implement these detection methods must also be in place and must be audited. Strong consideration should be given to imposing a statutory regime on the Diocese that would be a reasonable limit on religious freedom as it would be narrowly focused on the protection of children through means such as criminal records checks, proper record keeping, and audits. It would also be supported by the large body of historical evidence relating to the actions of

the Diocese. Such a statutory program is not without precedent; there is currently a proposed bill to govern the protection of minors in amateur sports which is proposed bill (Bill 30) that has passed first reading.

3. That Probation Services maintain regulations that define clear fraternization guidelines and obligations of all probation officers to report violations, and be subject to mandatory investigations in any serious sexual misconduct and serious fraternization cases involving probation officers, and mandatory reporting in relation to both the incident and the investigative conclusions to the Minster. In the event that there is a case of sexual abuse involving a probation officer then there should be a comprehensive review of the probation officer's files. The Coalition for Action believes that there should be increased political accountability in the system as it appears that the 1993 decision not to investigate Ken Seguin's action was contrary to the public interest. It is the position of the coalition that sexual misconduct cases should not only be reported to managers or Deputy Ministers, but they should also be reported to the Minister; in addition there should be a reporting of the outcome of such cases to the Minister. The Coalition has been of the view that Ministry regulations should make it clear that there is a duty of all probation officers to report violations of conflict of interest policies, whether it is their own conflict or a conflict of a co-worker. The Ministry appears to have made appropriate regulations to address this concern. The Ministry also appears to have addressed the issue of reviewing and auditing files in cases similar to those of Ken Seguin.

4. Confidentiality Clauses, in favour of institutions, that bind victims of sexual abuse should be banned in the Province of Ontario, or subject to judicial oversight. The Coalition for Action recognizes that there is a public interest in promoting the settlement of civil litigation; the cost of pursuing a matter to trial if a factor to consider. It is also important to consider the freedom of parties to resolve disputes without excessive government interference. On the other hand there is a societal interest in the public having as much information as possible in relation to the sexual abuse of minors. The public has an interest in knowing whether a possible child molester may be living in their community. The Church in the past has pursued a policy of secrecy in relation to the handling of sexual abuse allegations. The motivation, behind the policy of secrecy, has been to avoid scandal to the Church. This past policy has been contrary to the general public interest. The Coalition for Action believes that victims of abuse should have a statutory right to discuss any settlements with public institutions. Victims should also retain the right to seek confidentiality clauses, but they should also have a right to waive their right to confidentiality if they wish to do so.

5. Steps should be taken to minimize secrecy and lack of cooperation by public institutions. There should be some formal mechanism that promotes the sharing of information between public institutions such as the police, probation services and the Children's Aid Society. There should also be greater efforts to share information with the public. There were many examples of the failure to share information between institutions such as the failure of the Cornwall Police to advise Probation Services or the

Children's Aid Society of the allegations against Ken Seguin, and the failure of the Children's Aid Society to report the Second Street group home situation to the police.

6. The duty to report child abuse in cases of historical sexual assaults should be clarified in legislation. There should also be consideration to a broader duty to report risks of child abuse between government agencies than between members of the general public and the Children's Aid Society. The case of Police Complaints Commissioner v. Dunlop (1995), 26 O.R. 582 (Ont. Ct. Gen. Div. Divisional Court) seems to suggest that there is a duty to report historical sexual abuse. The Coalition suggests that this duty be clearly codified by amendments to the Child and Family Services Act.

7. Conflicts of interest of police departments, investigating crimes, should be subject to formal guidelines. There should also be a mechanism, for members of the public, to object to the actions of a police force that is investigating a matter where they have a conflict of interest. The Coalition for Action takes the position that there should be a clearly articulated guideline that indicates when a police force or police officer is in conflict of interest. The guideline should be available to the public and there should be a process by which a complainant, such as Shelley Price, Keith Ouellette, or one of the victims of Earl Landry Junior, can object to the police acting in an apparent conflict of interest. There have been multiple cases where the Cornwall Police insisted on investigating serious allegations against present or former members of the Cornwall Police, or in the case of Earl Landry Junior they investigated the son of a former Chief of the Cornwall Police. Inevitably the result will be a loss of trust by complainants when

there are no charges or, in the case of Earl Landry Junior where there are initially no charges and then there were further allegations of abuse.

8. Persons who were in the care of the Children's Aid Society, and in particular those who alleged abuse while in care, should have statutory right to request their records. There is no doubt that there will be debate over what precisely can be released, but this debate should be dealt within the context of a statutory scheme that sets out timelines for which there must be responses by the Children's Aid Society. There is presently a statutory system within the Child and Family Services Act that sets out timelines similar to freedom of information legislation. However, this portion of the Child and Family Services Act is not in force. The Coalition suggests that it should be in force with any appropriate modifications. In the cross-examination by the Coalition of Bill Carriere, of the Children's Aid Society, Mr. Carriere appeared to support some form to statutory right to records. The testimony of a number of witnesses dealt with difficulties in obtaining information from the Children's Aid Society. This difficulty was acknowledged by Ian MacLean in his evidence. (volume 288, page 166)

9. Crown attorneys or police officers, who are the subject of misconduct allegations in the course of criminal proceedings, should in some cases have the right to apply for legal standing in order that they may defend their reputations. The Coalition is not suggesting that every courtroom dispute should result in orders of standing. However, in the rare cases where there are serious allegations of misconduct, which are being used as the basis to stay a charge, then standing should be considered. The case of Shelley Hallett is one where the Ontario Court of Appeal commented on the failure of the trial

judge, Justice Chadwick, to advise Shelley Hallett that she might consider the need to remove herself and possibly testify if the unworn explanation of Ms. Hallett was not going to be accepted by the court. Perhaps a new Crown Attorney could have protected Shelly Hallett's interests. On the other hand a new Crown Attorney would still have to prosecute the case and deal with Inspector Hall who was potentially odds with Ms. Hallett. In these very unusual circumstances, where the police appear to be hostile to the Crown Attorney, perhaps Shelley Hallett should have had standing. In the case of Perry Dunlop, in the second Leduc trial, it is certainly debatable whether Perry Dunlop's interests were in any way protected by the Crown Attorney who agreed to call him in chief so that he could be cross-examined by the defence, and who did not call any Crown Attorneys as witnesses. While all witnesses have the protection of the Charter of Rights and the Canada Evidence Act, this does not necessarily protect the reputation of a public officer who is being challenged in order to stay a criminal charge. It is reasonable to conclude that the prosecution, in the second Leduc trial, was at best indifferent to the interests of Perry Dunlop. In exceptional circumstances such as this case where the delay at issue is either at the hands of Crown Attorneys, Ontario Provincial Police Officers or Perry Dunlop, the Crown Attorney is not necessarily in a position to present the matter free from some appearance of bias. Limited standing, should have been available as an option to persons such as Ms. Hallett and Mr. Dunlop who find themselves in exceptional circumstances.

10. Whistleblowers protection should be clearly extended to police officers. Presently it is unclear what statutory remedy, if any, someone in the position of Perry Dunlop

would have. The Public Service Act protections do not appear to apply to police officers. It is in the public interest that public servants or police officers report any serious misconduct by other public servants or police officers. It is suggested that a statutory process is needed to protect police officers who are acting as whistleblowers. The components of such a process would have to include a statutory body responsible for complaints, powers of investigation, penalties for non-compliance, and protection for whistleblowers. The Coalition also supports the creation by statute of a legal cause of action to sue for damages, in a trial by judge and jury, caused to a police officer who is wrongfully treated as a result of whistleblower activity.