

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

WRITTEN SUBMISSIONS OF GERALDINE FITZPATRICK

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I. Introduction

1. Geraldine Fitzpatrick, a Child Protection Worker for the Children's Aid Society of Stormont, Dundas and Glengarry, testified at the Cornwall Public Inquiry on October 7, 8 and 10, 2008. Following her testimony, Ms. Fitzpatrick was served a *Notice of Alleged Misconduct*, pursuant to ss. 5(2) of the *Public Inquiries Act* (the "Act"). The particulars of the misconduct alleged therein are as follows:

- 1) Fitzpatrick failed to keep proper notes and records of her contacts with and her investigation into allegations of sexual abuse made by Jeanette Antoine.
- 2) Fitzpatrick failed to properly brief her supervisors on the investigation into allegations of sexual abuse made by Jeanette Antoine.
- 3) Fitzpatrick interviewed Jeannette Antoine outside of any authorized Children's Aid Society investigation.

Pursuant to her right to reply to these allegations of misconduct as set out in ss. 5(2) of the *Act*, Ms. Fitzpatrick makes the following written submissions. In short, it is Ms. Fitzpatrick's position that the evidence before the Commissioner does not provide the basis for a finding of misconduct and, as result, no finding of misconduct should be made against her in the Commissioner's report.

II. Summary of Relevant Evidence

2. Ms. Fitzpatrick has been a front-line Child Protection worker with the Children's Aid Society ("CAS") of Stormont, Dundas and Glengarry since December 6, 1986. Her work in this area has garnered her numerous awards and recognitions. At the relevant time (late 1993 to early 1994), Ms. Fitzpatrick's supervisor was Bill Carriere. Between 1986 and the present, Ms. Fitzpatrick, as part of her mandate as a CAS worker, participated in approximately 50 joint investigations of child abuse and

sexual abuse with the Cornwall Police Service. Prior to the interview of Jeanette Antoine on November 12, 1993, Ms. Fitzpatrick had worked on a successful and “textbook” joint investigation with Cornwall Police Service Constable Heidi Sebalj (“Const. Sebalj”).

**Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282 pp.4-8; 18 and 20-22
Exhibit P-2344, CV of Geraldine Fitzpatrick**

3. Fitzpatrick and Sebalj interviewed former CAS ward Jeanette Antoine at Cornwall Police Service Headquarters on November 12, 1993 (the “Antoine Interview”). This interview was set up by Const. Sebalj, subsequent to Const. Sebalj’s contact with Ms. Antoine on another matter. The Antoine Interview took place during Ms. Fitzpatrick’s days off work from the CAS, which she had previously booked off for Christmas shopping with her family. The Antoine Interview was conducted by Ms. Fitzpatrick with Const. Sebalj in attendance, and recorded on two audio cassette tapes. Const. Sebalj had asked Ms. Fitzpatrick to conduct the Antoine Interview because she had completed ISOC training (training in methods of interviewing victims of child abuse) and Const. Sebalj had not. During her interview, Ms. Antoine detailed allegations of physical and sexual abuse that she and others had suffered at the hands of CAS workers while in CAS custody at the Second Street Group Home.

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, pp. 37; 44-45 and 49

Exhibit 2351A Audiotape of Interview with Antoine, Sebalj and Fitzpatrick, Part 1, dated November 12, 1993

Exhibit 2351B - Transcription (Unofficial) of Interview with Antoine, Sebalj and Fitzpatrick, Part 1, dated November 12, 1993

Exhibit 2352A - Audiotape of Interview with Antoine, Sebalj and Fitzpatrick, Part 2, dated November 12, 1993

Exhibit 2352B - Transcription (Unofficial) of Interview with Antoine, Sebalj and Fitzpatrick, Part 2, dated November 12, 1993

4. During her interview, Ms. Antoine also told Ms. Fitzpatrick and Const. Sebalj that she had previously relayed her allegations of abuse and sexual

abuse at the Second Street Group Home to CAS workers including Richard Abell Greg Bell and Carleen Cummings. Ms. Antoine told Ms. Fitzpatrick that both Mr. Bell and Ms. Cummings told her that they believed her allegations and wanted to help her, but ultimately, nothing happened. In a later discussion between Ms. Cummings and Ms. Fitzpatrick, Ms. Cummings confirmed that Ms. Antoine had previously brought her allegations to Ms. Cummings and Mr. Abell.

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, pp.64-69; 80-81 and 94-95

5. At the end of the Antoine Interview, Ms. Fitzpatrick testified that she wanted to tell her supervisor about Ms. Antoine's allegations, but Const. Sebalj told Ms. Fitzpatrick that she could not do so, as she would be obstructing a police investigation. Ms. Fitzpatrick had no reason to doubt Const. Sebalj and behaved accordingly.

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, p. 75

6. It is Ms. Fitzpatrick's evidence that she did not take notes or open up a file at the CAS regarding the Antoine Interview because Const. Sebalj had the notes, and because it would be Const. Sebalj who opened up the investigation file. Indeed, not only had the entire Antoine Interview been recorded, but Const. Sebalj had also taken notes throughout.

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, p. 79

7. At the end of the Antoine Interview, it was left for Const. Sebalj to follow-up with Ms. Antoine. After November 12, 1993, Const. Sebalj never again contacted Ms. Fitzpatrick about the Antoine affair.

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, pp. 74; 81 and 112

8. Ms. Fitzpatrick was asked on direct examination by Commission Counsel, Mr. Dumais, whether or not she should have advised her supervisors or opened up a CAS file regarding Ms. Antoine's allegations involving the CAS. Ms. Fitzpatrick responded, and it is her evidence, that she was not

aware of needing to take such steps. It is Ms. Fitzpatrick's further evidence that she did not conduct the Antoine Interview in an official CAS capacity or in the capacity of a Child Protection Worker, but that she was doing so in order to help Const. Sebalj validate or rule out what Ms. Antoine was telling them about allegations of abuse at the Second Street Group Home. In her interview of February 20, 2008 by Mr. Carriere, Ms. Fitzpatrick also stated that she believed that her actions with regard to Ms. Antoine were under the authority of the Police. Later, in re-examination by her own counsel, Ms. Fitzpatrick testified that in conducting the Antoine Interview, she was not aware of having breached any CAS rules or regulations.

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, pp. 48-50; October 10, Transcript Vol. 285, p. 277

Exhibit P-2353, Interview Summary - 20 Feb, 08 bates p. 7181398

9. When asked by the Commissioner why she did not do something about Ms. Antoine's allegations with the CAS, Ms. Fitzpatrick's response was because [Ms. Antoine's] making the allegations against the Children's Aid Society and because she's saying they already know and they've been told in the eighties and they were told later in the eighties. This was already news to them. They already knew this, so why would I go back and tell them when Heidi [Sebalj] said to me, "You'll be obstructing an investigation."

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, pp. 84-85

10. It was Ms. Fitzpatrick's further evidence that once Ms. Antoine's allegations became public through the media in January of 1994, she did not approach the CAS with the information that she had regarding Ms. Antoine because she "wanted [the Antoine matter] to be a pure investigation."

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, p. 99

11. When Const. Sebalj did not contact Ms. Fitzpatrick by December 1993, Ms. Fitzpatrick resolved to either go to a lawyer or tell her supervisor about Ms. Antoine's allegations. On December 26, 1993, Ms. Fitzpatrick

relayed the information received from Ms. Antoine during their interview to her step-daughter's husband, former RCMP officer Wayne Murphy ("Mr. Murphy"). Ms. Fitzpatrick sought his advice, as a member of law enforcement, on how she should proceed. Mr. Murphy told Ms. Fitzpatrick that he would check a few things out and then get back to her. Ms. Fitzpatrick would later learn that Mr. Murphy actually worked for the Canadian Security Intelligence Service (CSIS) at that time. In a later telephone call, Mr. Murphy told Ms. Fitzpatrick that he had spoken to people he knew inside the legal system. It is Ms. Fitzpatrick's evidence that Mr. Murphy then told her:

"[Ms. Antoine's allegations are] a lot bigger than you know". He said, "I just want you to know you've done a really good job, *but now your part is over. We're taking over.* We're going to keep your name out of this, but we're setting up three task forces." And one task force was to investigate the group home, one task force was to investigate the police, and one task force was to -- okay, so what was -- was the priest situation...[*Emphasis added*]

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, pp. 88-89

12. Under cross-examination by Ms. Daley, counsel for Citizens for Community Renewal, Ms. Fitzpatrick further clarified why she did not later bring Ms. Antoine's allegations to someone in authority. Ms. Fitzpatrick testified:

Because I knew that CSIS had the case, and I knew that they were doing the investigation, and I was waiting and -- and I knew the Inquiry was coming. So I was -- I felt that I had done my part, I had handed over the information where it needed to go [to CSIS].

Evidence of Geraldine Fitzpatrick, October 8, 2008, Transcript Vol. 283, p. 73

13. When asked by Mr. Paul, counsel for Coalition for Action, in cross-examination whether or not Ms. Fitzpatrick's "investigation" of Ms. Antoine's allegations was authorized by the CAS, Mr. Carriere, Ms. Fitzpatrick's supervisor at the time of the Antoine Interview, replied:

I think, from my reading of the notes, and my awareness of Ms. Fitzpatrick, she is someone that has always struck me as being very child-focused and someone who wants to be helpful. My understanding,

and I would believe this, that she was asked to participate in this by Constable Sebalj.

Testimony of Bill Carriere, September 12, 2008, Transcript Vol. 281, p. 168

14. The details of Ms. Fitzpatrick's involvement with and interview of Ms.

Antoine did not surface publically until the testimony of Ms. Antoine at the Cornwall Public Inquiry on June 5, 2007. Prior to that time, no police agency contacted Ms. Fitzpatrick about her involvement in the Antoine affair and Ms. Fitzpatrick never took part in another investigation regarding Ms. Antoine's allegations. This, despite the fact that the participation by Ms. Fitzpatrick in the Antoine Interview had already been included in the Cornwall Police Service's *Supplementary Occurrence Report* dated February 14, 1994. On February 20, 2008, Mr. Carriere and CAS worker Anne McKinnon ("Ms. McKinnon") interviewed Ms. Fitzpatrick with regard to her involvement with Ms. Antoine. At the beginning of this interview, Ms. Fitzpatrick asked if she should have a lawyer or union representative present, to which Mr. Carriere and Ms. McKinnon replied "no". Ms. Fitzpatrick proceeded with this interview, at the beginning of which Mr. Carriere advised Ms. Fitzpatrick that "no disciplinary action [against Ms. Fitzpatrick] will be taken."

Evidence of Jeanette Antoine, June 5, 2007, Transcript Volume 114 p. 42

Exhibit P-1285, Supplementary Occurrence Report, Cornwall Police Service, 14 Feb, 93, bates p. 7175553

Evidence of Geraldine Fitzpatrick, October 7, 2008, Transcript Vol. 282, p. 112; October 8, 2008, Transcript Vol. 283, p. 7

Exhibit P-2353, Interview Summary - 20 Feb, 08, bates p. 7181292

III. Responses to Allegations of Misconduct

A. Fitzpatrick failed to keep proper notes and records of her contacts with and her investigation into allegations of sexual abuse made by Jeanette Antoine.

15. As detailed in the evidence, at all material times, the investigation of Ms. Antoine's allegations was not a CAS investigation or an investigation by Ms. Fitzpatrick as a case assignment on behalf of the CAS, but an investigation of the Cornwall Police Service, headed by Const. Sebalj. As such, it was not for Ms. Fitzpatrick, who by her own evidence was only assisting Const. Sebalj in the Antoine investigation, to maintain proper notes and records or to open an investigation file at the CAS. As Ms. Fitzpatrick testified, her only role was to make use of her ISOC interview training in order to assist Const. Sebalj with her interview of Ms. Antoine, and in order to help Const. Sebalj test the validity of Ms. Antoine's allegations. In such circumstances, it is established practice that the interviewer (Ms. Fitzpatrick) does not take notes as the interview is unfolding, but that notes are taken by a third party. In any event, Ms. Fitzpatrick's only role in the investigation of Ms. Antoine's allegations was to help Const. Sebalj conduct her interview, which was audio-taped. Const. Sebalj, the third party present during the Antoine Interview, also took her own notes as the interview unfolded. The audio-tapes of the Antoine Interview are now filed with the Cornwall Public Inquiry as exhibits, and these provide the best record of all into the allegations of abuse made by Ms. Antoine and relayed to Ms. Fitzpatrick and Const. Sebalj.

B. Fitzpatrick failed to properly brief her supervisors on the investigation into allegations of sexual abuse made by Jeanette Antoine.

16. As stated by Ms. Fitzpatrick in her evidence, her immediate reaction to Ms. Antoine's allegations of abuse at the hands of CAS workers was to tell her supervisor, who at the time was Mr. Carriere. However, Const. Sebalj, the officer conducting the investigation, prevented Ms. Fitzpatrick from

doing so, stating that if Ms. Fitzpatrick went to her superiors she would be obstructing a police investigation. Clearly, as a seasoned Case Worker and veteran of dozens of joint investigations with the Cornwall Police Service, Ms. Fitzpatrick understood by Const. Sebalj's statement that Ms. Fitzpatrick could not tell her supervisors at the CAS, because to do so would be to break the law and likely taint Const. Sebalj's investigation of Ms. Antoine's allegations.

17. Unable to brief her supervisors, Ms. Fitzpatrick relied on Const. Sebalj to follow through with her police investigation of Antoine's allegations –an investigation which never materialized. Frustrated, Ms. Fitzpatrick turned to another law-enforcement official, Mr. Murphy for guidance, whom Ms. Fitzpatrick understood at the relevant time to be with the RCMP. Mr. Murphy in turn contacted other law enforcement officials, which resulted in three task forces being launched, one of which was to look into Ms. Antoine's allegations about the Second Street Group Home. As noted above, in his final contact with Ms. Fitzpatrick on this issue, Mr. Murphy told Ms. Fitzpatrick that "you've done a really good job, *but now your part is over. We're taking over*". Faced and relieved with the knowledge gained from a law enforcement official that the proper investigations were now under way, it was then open and proper for Ms. Fitzpatrick to conclude that she had done her duty with regard to Antoine's allegations, and that no further action in this regard needed to be taken by Ms. Fitzpatrick. As Ms. Fitzpatrick testified, "I felt that I had done my part, I had handed over the information where it needed to go [to CSIS]." In any event, Ms. Fitzpatrick's involvement with Ms. Antoine was by this time known to the Cornwall Police Service, but no law enforcement agency ever contacted Ms. Fitzpatrick about her involvement with Ms. Antoine.

18. It is also important to point out that according to the evidence, the CAS and its supervisors had been made aware of Ms. Antoine's allegations

well before the Antoine Interview. This fact was later confirmed by Ms. Fitzpatrick's co-worker and friend, Ms. Cummings.

C. Fitzpatrick interviewed Jeannette Antoine outside of any authorized Children's Aid Society investigation.

19. No evidence was presented at the Cornwall Public Inquiry by either the CAS or any other party that Ms. Fitzpatrick's action in assisting Const. Sebalj in her investigation of Ms. Antoine's allegations contravened any CAS rules or regulations respecting employee conduct as existed at the relevant time (1993 to 1994). Ms. Fitzpatrick herself testified that she did not believe that in conducting the Antoine Interview outside of the CAS's authority that she had violated any CAS rules or regulations. Again, the interview of Ms. Antoine was conducted on Ms. Fitzpatrick's day off, and was part of a Cornwall Police Service investigation carried out by Const. Sebalj. Ms. Fitzpatrick's only motivation in participating in the interview of Ms. Antoine was to render assistance to Const. Sebalj, and the evidence does not suggest that she was conducting a CAS investigation without CAS authority, or that Ms. Fitzpatrick required CAS approval to assist Const. Sebalj in conducting the Antoine Interview.

20. Mr. Carriere was Ms. Fitzpatrick's supervisor at the relevant time and his evidence is instructive on this issue. In response to the question put to Mr. Carriere about whether or not Ms. Fitzpatrick's interview of Ms. Antoine was authorized by the CAS, Mr. Carriere's reply was that he believed Ms. Fitzpatrick was trying to be helpful, and that he believed that Ms. Fitzpatrick was asked to participate in the Antoine Interview by Const. Sebalj. Important as well, when Ms. Fitzpatrick was interviewed by Mr. Carriere on February 20, 2008 regarding the Antoine Interview, Mr. Carriere told Ms. Fitzpatrick that the CAS would not be taking any disciplinary action against Ms. Fitzpatrick in this matter.

21. Surely, had the CAS felt in February 2008 that Ms. Fitzpatrick was guilty of any kind of misconduct in her dealings with the Antoine matter, disciplinary action could have been taken. As no disciplinary action regarding the Antoine incident has been taken, it is appropriate to infer that Ms. Fitzpatrick violated no rules or regulations of the CAS in interviewing Ms. Antoine, and that her conduct regarding Ms. Antoine can in no way be considered misconduct on the part of Ms. Fitzpatrick.
22. Finally, no evidence was presented at the Cornwall Public Inquiry showing that the CAS was harmed in any way by Ms. Fitzpatrick's conduct, or that her conduct in assisting Const. Sebalj with her investigation of Ms. Antoine's allegations resulted in harm to any other party to these proceedings.

IV. Conclusion

23. Given the foregoing, it is submitted, based on the evidence presented at the Cornwall Public Inquiry and the assumptions that can properly be made with regard thereto, that a finding of misconduct on the part of Fitzpatrick should not be made by the Commissioner in his report.

ALL OF WHICH IS RESPECTFULLY SUBMITTED, this 19th Day of February, 2009.

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