

*Charlie Angus*

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Dean Mayo Moran  
Chair Oversight Committee - Independent Assessment Process  
Indian Residential Schools Adjudication Secretariat  
PO Box 1575, Station "B"  
Ottawa, ON K1P 0A9

June 4, 2014

Re: Compromised Process for Survivors of St. Anne's Residential School

Dear Dean Moran,

I am writing regarding the obligations of Oversight Committee in the Independent Assessment Process to safeguard the legal rights of the survivors of St. Anne's Indian Residential School.

Last year, I learned that the Federal government had produced a false evidence narrative for the adjudication of claims at St. Anne's. This evidence narrative stated categorically that there was no documentation of sexual abuse against children at St. Anne's. This was clearly false. Attempts by claimant lawyers to have this false evidence narrative addressed within the IAP were unsuccessful, as were requests for the government to present the thousands of pages of police testimony and court records dating back to the 1990s.

On July 3, 2013, I wrote to Minister Valcourt asking why the government had presented a false evidence narrative into the adjudication process. His response was surprising. He claimed that the government was well aware of the thousands of pages of police and court records but that, under the Settlement Agreement, this evidence was inadmissible to the IAP.

This statement was, on its face, untrue as The Terms of Agreement specifically refer to the admissibility of evidence previous criminal trials:

Relevant findings in previous criminal or criminal trials may be accepted without further proof. [Section H. vi. Pg. 12]

Nonetheless, with the issue then in the public eye, the government agreed to refer the matter to the Ontario Superior Court. When I attended at the hearing in Toronto, I also learned that the Department of Justice had in its possession the police and court documents going back to 2003. Mr. Justice Perell asked how the earlier narrative about St. Anne's that included reference to the OPP investigation and some of the criminal convictions, had been amended to remove that information in 2008 for the IAP process. We heard Ms. Coughlan say "I have no explanation. It must have been human error".

Documents obtained under Access to Information raise questions about this "human error" as I note that the Department began working on a revised evidence narrative on July 26, 2013 in a memo entitled: "Amendments to the St. Anne's Narrative – in response to Charlie Angus." I am sure that you will agree that the standard for production of valid evidence must be higher than simply responding to pressure from a politician.

The January 14, 2014 ruling by Justice J. Perrell was clear. He ordered the federal government to turn over all documents relating to the OPP investigation of crimes at St. Anne's Residential school, as well as relevant court evidence that led to convictions of a number of individuals. He specifically found that the Court will hear applications for re-hearings if the rights of any one IAP claimant have been prejudiced due to the non-disclosure.

Among the previous court records was evidence relating to the conviction of Anna Wesley. Her physical abuse of children included forcing children to eat their own vomit. This evidence, presented as part of the criminal court hearing against Ms. Wesley, bears directly on a number of past hearings and ongoing cases of the IAP.

However, I learn to my distress that, despite Justice Perrell's ruling, the Department of Justice lawyers continue to refuse to produce documents relating to crimes committed by Anna Wesley. I have also learned that they have argued against the admissibility of these documents when they were put forward for claimants by Counsel Fay Brunning. I have been advised that the Department of Justice is arguing against the admissibility of this court evidence in each individual hearing.

On top of this, I am advised by my constituents that numerous cases already adjudicated might be affected, where the Department of Justice failed to disclose the fact that they were in possession of documentary evidence directly relating to the abuse perpetrated by Anna Wesley. Many people in our region worked hard to ensure that Anna Wesley was criminally tried and convicted for her abuse of children at St. Anne's, forcing the children to eat their own vomit. It was criminal conduct, far below the standards of society and institutional operations. The IAP is the next step, to provide modest compensation for such criminal conduct to those who suffered.

I am sure that you would agree that failing to disclose evidence adverse in interest to a defendant presents a serious breach of legal obligation in civil matters. The fact that such behaviour by federal officials continues today in defiance of a very clear order by the Superior Court of Ontario raises many questions about the validity of this IAP. This ongoing obstruction has necessitated a second hearing before Justice Perrell slated for June 10.

The behavior of the Department of Justice lawyers in regards to violating the legal rights survivors of St. Anne's has become a black mark on the residential school settlement agreement. The residential school survivors in my region were hoping this "truth and reconciliation" had some meaning. They have a right to question why this happened and by whom, and the right to be assured there are safeguards in place to ensure compliance with the agreement.

I note that St. Anne's survivors through their organization Peetabeck Keway Keykaywin Association, have written to Minister MacKay observing that the hostility and obstruction by Department of Justice lawyers has poisoned the process.

The Oversight Committee is one of the authorities in charge of the IAP process. From my read of pages 16 and 17 of Schedule D, the Chief Adjudicator reports to your committee and your committee then makes recommendations to the National Administration Committee for proper operations of the IAP.

I refer you to Justice Perrell's clear admonition: "Canada's failure to produce the OPP documents about St. Anne's has compromised the IAP and denied the Claimants access to justice."

If the Federal government will not respect these rights, then the IAP people in authority must be seen holding the Department of Justice lawyers to account. Anything less would be another perpetuation of the abuse of rights that these survivors have suffered since agreeing to participate in a process that was supposed to be "non-adversarial."

Will the IAP insist that documents relating to crimes committed against children at St. Anne's are turned over to present adjudication hearings and also to claimants who have already gone through the adjudication process without the benefit of documents that relate to the trauma that they suffered?

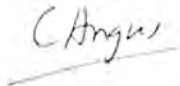
As well, will your Committee meet with the Peetabeck Keway Keykaywin Association to address their concerns that the Department of Justice lawyers removed from these hearings for their failure to uphold basic principles of justice?

The people of Canada have put faith in the people in charge of the Residential School Settlement Agreement to bring justice to the survivors of the residential schools. In the case of the survivors of St. Anne's this justice continues to be denied. You have the power to ensure that the vision of reconciliation laid out in the Residential School is

followed through on. As well, you have the duty to ensure due process for the survivors who have been prejudiced by the violation of this process.

I look forward to hearing what steps you will take to ensure their rights are put at the front and centre of IAP adjudication.

All the best,

A handwritten signature in cursive script that reads "C. Angus". The signature is written in dark ink and is positioned above a thin horizontal line.

Charlie Angus

cc: Edmund Metatawabin, Peetabeck Keway Keykaywin Association  
Grand Chief Stan Louttit, Mushkegowuk Council  
Justice Murray Sinclair, Truth and Reconciliation Commission  
Deputy Grand Chief Alvin Fiddler, Nishnawbe Aski Nation  
Chief Rex Knaypaysweet, Fort Albany First Nation  
Chief Theresa Spence, Attawapiskat First Nation  
Chief Derek Stephen, Kashechewan First Nation  
Chief Edmund Hunter, Peawanuck First Nation  
Chief Norm Hardisty, Moose Cree First Nation