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HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

Peter Grant

Chair of the IAP's National Administration Committee  
[pgrant@grantnativelaw.com](mailto:pgrant@grantnativelaw.com)

January 26<sup>rd</sup>, 2014

**Re: Role of IAP in ensuring fair hearings for survivors of St. Anne's Residential School**

Mr. Grant,

I am writing you regarding the ongoing breaches of the St. Anne's Residential School Survivor's rights in the Independent Assessment Process. I am sure you were as concerned as I was when the Ontario Superior Court ruled that the IAP failed to protect the claimants' rights when the defendant -- the government of Canada -- suppressed thousands of pages of evidence and introduced falsified evidence narratives. This falsified narrative was used in numerous hearings based on the government's false position that there was no evidence to back up the survivors' claims. In his ruling Justice Perrell was unequivocal that, "*Canada's failures to produce the OPP documents about St. Anne's has compromised the IAP and denied the claimant's access to justice.*"

And yet, despite this ruling's findings that the IAP has been compromised I have been unable to receive assurances from any of the senior people in charge of oversight that these are breaches in need of remediation. I have written to the IAP's Chief Adjudicator Daniel Shapiro, the Chair of the Oversight Committee Mayo Moran and the Attorney General Peter Mackay regarding the continuing violation of the rights of the St. Anne's Residential School Survivors. Given the gravity of the breach, the responses from these officials have been disturbingly insufficient.

The fact that claimants are returning to court for a **third** time to fight for the protection of their rights under the IAP is certainly an appalling indictment of the behaviour of the Department of Justice. But it is also a sad commentary on the unwillingness of the IAP to ensure that their legal rights will be protected. It should concern everyone involved that these breaches appear to be continuing and it should create urgency for action to fix the settlement process.

It is also concerning that Justice Perrell's ruling for full disclosure was not limited to the cases involving the Survivors of St. Anne's: "*This court orders that Canada shall by June 30, 2014, produce for the IAP: (c) any other relevant and non-privileged documents in the possession of*

*Canada to comply with the proper reading and interpretation of Canada's disclosure obligations under Appendix VIII;"*

Given the pattern of obstruction utilized against the St. Anne's survivors it must be asked if there are claimants from other schools who have had evidence withheld by the Justice Department. The court has mandated that this question must be answered. What steps has the IAP taken to ensure that there has been full compliance on this issue?

If we look back on how the process was compromised I understand that the adjudication process had been warned that a false evidence narrative was being used in hearings. I am told that individual claimant hearings were also warned that key evidence that was in the hands of the Justice Department had not been disclosed. Both issues appear to be breaches, not only of the IRSSA but of the legal, professional and moral obligations of the lawyers involved.

However, the IAP did not take steps to address these breaches which led the matter to be referred to Ontario Superior Court. And yet, in the wake of this ruling, it appears the IAP has shown little willingness to re-examine cases that were heard using the false evidence narrative. Chair Ms. Moran has responded that the Oversight Committee either does not have the power or authority required to rectify these matters.

In the case of the ongoing efforts by claimant lawyers to seek compliance with the ruling of the Ontario Superior Court, Chief Adjudicator Shapiro has informed me that he sees this as a dispute between two parties. One of these parties, however, is both defendant and the Department of Justice of Canada. The other "party" is the survivors who lacked the bus fare to attend the hearings of Justice Perrell.

While I agree with Mr. Shapiro that these concerns fundamentally lie with the federal government's failures to properly comply with the IRSSA, there are also substantive concerns regarding the IAP's role in enforcing the settlement and correcting legal breaches. Why else would the National Administration Committee have the ability to amend the agreement in Schedule D Section R to ensure a proper administration of the process?

The unwillingness to remediate these breaches is disturbing considering that Chief Adjudicator Ish set a precedent for acting beyond what some may consider the role of the IAP in going after claimant lawyers who failed in their legal obligations to claimants. However, the IAP and the Oversight Committee seem to have taken a hands off approach when dealing with the obstruction of justice by government lawyers.

The Federal government's proven and repeated breaches in the settlement process raise serious questions as to the administration and validity of this settlement process. As Justice Winkler suggested, these legal breaches have the potential to taint the entire process due to a

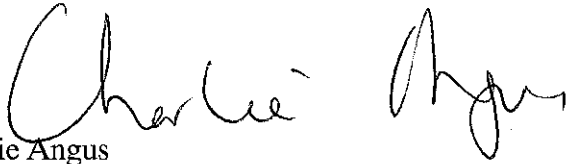
perception and claim of bias and partiality based on an apparent conflicts of interest in having the government act as both defendant and administrator of documents.

Justice Winkler's warnings have come to pass in the case of the breach of rights for St. Anne's survivors. This has impacted both the credibility and legal standing of the IAP. **Therefore, I write to you as Chair of the Independent Assessment Process National Administration Committee to explain this troubling *laissez-faire* response to breaches of the law. Either the IAP is unwilling to challenge the Justice Department or the IAP does not believe it has the legal power to ensure that each and every claimants' rights are protected.**

Either scenario is troubling. I am sure that you will agree that a legal adjudication process that is based on the goodwill of the defendant is no legal process at all. That the defendant in this case is the government of Canada does not excuse the Justice Department or the IAP from the legal, professional and moral obligations to uphold standards of legal fairness. The federal government cannot opt to put itself above the law of the land. The procedural and substantive rights of the claimants must be protected. To ensure the moral and legal integrity of the process, there is an obligation to act.

The mistreatment of the children at St. Anne's Residential School is a black mark on the history of Canada. The IAP has been entrusted with the task of bringing some closure to this dark chapter. I look forward to hearing your view on how this compromised process can be rectified.

Sincerely,



MP Charlie Angus  
Timmins-James Bay

cc: Chief Adjudicator Daniel Shapiro  
Zeynep Onen, Law Society of Upper Canada  
Mayo Moran, Chair of IAP Oversight Committee  
Justice Murray Sinclair, Truth and Reconciliation Commission  
Deputy Grand Chief Alvin Fiddler, Nishnawbe Aski Nation  
Edmund Metatawabin, Peetabeck Keway Keykaywin Association  
Grand Chief Stan Louttit, Mushkegowuk Council  
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