

House of Commons

Room 649D Centre Block
Ottawa, ON K1A 0A6
Tel: (613) 992-2919
Fax: (613) 995-0747



Chambre des communes

Piece 649D, Édifice du Centre
Ottawa, ON K1A 0A6
Tel: (613) 992-2919
Fax: (613) 995-0747

Charlie Angus

Member of Parliament for Timmins - James Bay
Député de Timmins - Baie James

Timmins

202-60 Wilson Avenue
Timmins, ON P4N 2S7
Tel: (705) 268-6464
Fax: (705) 268-6460

Kirkland Lake

201-30 Second Street
Kirkland Lake, ON P2N 3H7
Tel: (705) 567-2747
Fax: (705) 567-5232

Attorney General
Minister Wilson-Raybould
House of Commons
Ottawa, Ontario
K1A 0A6

May 25 2016

Re: Oversight of the IAP Process

Minister Wilson-Raybould,

I am writing regarding a case from Fort George Anglican Residential School that was undermined through the actions of Justice Department lawyers in failing to meet their legal obligations under the Indian Residential School Settlement Agreement. This was one of the many cases that were tossed out under the dubious 'administrative split'. However, the actions of the Justice department raise serious questions about the ongoing abuse of legal duty. Further, questions need to be asked about the legitimacy of the IAP oversight committee as it appears to have become a rubber-stamp for the interests of the defendants. The failures of the process are so egregious in this case that it is incumbent upon you as Justice Minister to take steps to remediate these breaches of legal, moral and professional standards.

In March 2014 your department had a case defeated regarding compensation for a survivor of Fort George Anglican School. At the hearing the government argued that the abuse did not take place in a residential school, but in fact at a day school. This was one of many cases where survivors of abuse were denied compensation based on the so-called "administrative split" argument. We have been promised remedial action by your government on this abuse of process but so far no steps have been taken.

In the case of this survivor, we learn that your government had in its possession at least 50 new documents that undermined the government's position that this institution was indeed just a day school. These documents were not disclosed to the IAP even though under the IRSSA agreement, the government is legally obligated to disclose such pertinent information. In fact, your government delayed the release of these documents for over nine months. In the meantime

this survivor's case was thrown out on appeal as the new evidence was not supplied for the hearing. And it is our understanding that other cases could have been impacted as well.

The minutes of the IAP oversight committee show that the matter was brought up to them in March 2015, before this information was disclosed. At that time, your departmental officials falsely stated that they had disclosed all documents in their collection in relation to Fort George Residential School. If your department did have these new documents, which would have affected the outcome of the hearings, then it would appear that your officials provided misleading information to the oversight committee.

The lawyer of the Fort George survivor raised the fact that your department misled the oversight committee. In response, your departmental officials hid behind a semantic distinction between disclosing school documents and narratives. And your department took the position that updating these school narratives is a slow process, even though the failure to update the narratives could have had effect on the appeal of Fort George survivors. Justice delayed is justice denied. In this case, however, it looks more like justice obstructed.

So, in summary, we have a case where the Adjudicator had the power to deny compensation for a Survivor by deciding the jurisdiction of a school, but the adjudicator did not have the full disclosure of documentation from the government in order to make that decision. To gain the facts of their case the Survivor was at the mercy of your department and your department appears to be following the pattern established with survivors of St. Anne's Residential School where pertinent evidence was suppressed with no consequence to the defendant Canada.

I don't know of any court process where, the defendant is in charge of the preparation of evidence or where the failure to disclose evidence does not contain legal penalties. I also have never heard of a legal process where the defendants are given a total veto over the oversight process for review. In fact of the 8 seats on the oversight committee, four positions are set-aside for the defendants (two for the government of Canada and two representing the Church). And in order for the oversight committee to make a decision, the process requires a seven to one vote, which gives both defendants, a veto.

This means that your departmental officials which used technical arguments to throw out the case, withheld documentation speaking to these technical arguments, and misled the oversight committee on the existence of these documents, also have a veto on whether the oversight committee will decide to look into the issues raised in this case or others like it.

This process was set up with the promise that it would provide justice to survivors. Instead, we are seeing a pattern where the interests of the defendants have been written into the very process and that efforts by the defendants to suppress evidence or mislead hearings have zero consequences.

As Justice Minister Canadians are looking to you to make this right. There are basic legal, moral and professional implications that need to be addressed. I look forward to hearing from you in this matter.

Sincerely,

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